



**Notice of Meeting of the Port Commission of the
Port of Corpus Christi Authority of Nueces County, Texas, on
Tuesday, July 18, 2017, at 9:00 AM
At the Solomon P. Ortiz International Center
402 North Harbor Drive, Corpus Christi, Texas**

**The Agenda for this meeting of the Port Commission ("Commission") of the Port of
Corpus Christi Authority ("PCCA") is set forth below.**

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Sherry DuBois at 885-6174 at least 48 hours in advance so that appropriate arrangements can be made.

Si usted se dirige a la junta y cree que su inglés es limitado, habrá un intérprete inglés español en la reunión de la junta para ayudarle.

Members of the audience will be provided an opportunity to address the Port Commission. Please speak into the microphone located at the podium and state your name and address. Your presentation will be limited to three minutes.

PUBLIC NOTICE is given that the Commission may go into executive session at any time during the meeting to discuss matters listed on the agenda when authorized to do so by the provisions of Section 418.183 or Chapter 551 of the Texas Government Code. In the event the Commission elects to go into executive session regarding any agenda item, the presiding officer will publicly announce the section or sections of the Texas Government Code authorizing the executive session.

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- 1. Call to Order**
 - 2. Safety Briefing**
 - 3. Pledge of Allegiance**
 - 4. Invocation**
 - 5. Receive Conflict of Interest Affidavits**
 - 6. Minutes**
 - 6.a. Approve minutes of the June 20, 2017 Commission meeting.**

7. **Public Comment (Each speaker is limited to 3 minutes.)**
8. **Receive report from Security Committee**
9. **Receive Report from Audit Committee**
10. **Receive Report from Long-Range Planning Committee**
11. **Receive report from the Office Building Committee.**
12. **Chairman's appointment of PCCA representatives for the San Patricio County Economic Development Corporation.**
13. **Approve letter opposing proposed sanctions on Venezuela.**
 - 13.a. Letter opposing proposed sanctions.
[Sanctions - Letter](#)
14. **Presentations**
15. **Open Agenda**
 - 15.a. Approve a Professional Engineering Services Contract in the amount of \$111,300 with Govind Development, LLC for Engineering Services associated with Design of Bulk Liquid Handling Facility at Bulk Terminal Dock 3.
[Govind Bulk Dock 3 - Memo](#)
[Govind Bulk Dock 3 - Exhibit](#)
[Govind Bulk Dock 3 - Contract](#)
 - 15.b. Award a Construction Contract in the amount of \$3,148,221 to JM Davidson Ltd., the lowest and best bidder, for bids received on June 20, 2017, for Bulk Terminal storm water quality improvements.
[JM Davidson Storm Water - Memo](#)
[JM Davidson Storm Water - Bid Tab](#)
 - 15.c. Approve agreement to renew, extend, and restate existing agreement with voestalpine Texas Holdings, LLC regarding the handling of Mechanics and Materialmen's Liens under the terms of Lease Agreement dated May 1, 2013 between PCCA and voestalpine.
[voestalpine - Memo](#)
[voestalpine Plan of Action dated May 17, 2016](#)
[voestalpine Plan of Action dated July 12, 2017](#)

15.d. Approve a Professional Services Contract with Freeman Schroder Architects in an amount not to exceed \$213,360 for coordinating architect services associated with the development of a new Port of Corpus Christi Authority Office facility.

[Freeman Schroder - Memo](#)

[Freeman Schroder - Contract](#)

15.e. Approve an amendment to Tariff 100-A, Section V - LOADING, UNLOADING AND WHARFAGE RATES.

[Tariff 100-A - Memo](#)

16. Consent Agenda - *The Port Commissioners have been furnished with supporting documentation and staff's recommendation for each of the following items. All Consent Agenda items will be approved, in accordance with the respective staff recommendations, by one vote without being discussed separately unless a Port Commissioner requests otherwise.*

16.a. Adopt a Resolution approving an Amendment to the Local Project Advance Funding Agreement with Texas Department of Transportation for Phase II of the Nueces River Rail Yard Project to Include the Track A Extension.

[TxDOT NRRY - Memo](#)

[NRRY - Resolution](#)

[TxDOT NRRY - Funding Agreement](#)

16.b. Approve an Easement and Right-Of-Way Agreement with AEP Texas, Inc. for replacement, relocation and upgrade of existing overhead distribution power lines located along the Joe Fulton International Trade Corridor.

[AEP Joe Fulton Corridor - Memo](#)

[AEP Joe Fulton Corridor - Exhibit](#)

[AEP Joe Fulton Corridor - Summary](#)

[AEP Joe Fulton Corridor - Easement Agreement](#)

16.c. Approve a letter agreement with the Texas Department of Transportation agreeing to provide relocation assistance services for owners of residential rental properties (Landlords) in connection with the Hillcrest and Washington-Coles Voluntary Acquisition and Relocation Program.

[TxDot - Memo](#)

[TxDot - Letter Agreement](#)

16.d. Approve the Second Amendment to the Contract with Del Richardson & Associates to Amend the Contractor's Services to Include Relocation Assistance Services for Owners of Residential Rental Properties (Landlords) in connection with the Hillcrest and Washington-Coles Voluntary Acquisition

and Relocation Program.

[DRA - Memo](#)

[DRA - Amendment](#)

- 16.e. Approve a Professional Engineering Services Contract in the amount of \$123,000 with Govind Development, LLC for engineering services associated with the structural repairs, cathodic protection, and escape route at Oil Dock 4 Project.

[Govind OD4 Design - Memo](#)

[Govind OD4 Design - Exhibit](#)

[Govind OD4 Design - 3-PSC](#)

- 16.f. Approve a Change Order in the amount of \$160,434 with Russell Marine, LLC, for payment of allowable overdepth dredging and modifications and additional work associated with the construction of the Oil Dock 15 Project.

[Russell Marine CO OD15 - Memo](#)

[Russell Marine CO OD15 - Contract](#)

- 16.g. Approve Amendment to Consulting Services Contract with SMART Development in an amount not to exceed \$30,000 for additional Scope of Work related to Organizational Leadership Development and Effectiveness through December 31, 2017.

[SMART - Memo](#)

[SMART - Agreement](#)

17. Executive Director's and Commissioners' Comments

- 17.a. Receive Executive Director's Report on upcoming community events, PCCA event and the activities of the following PCCA departments during the preceding month: business development, community relations, government affairs, operations, engineering services, accounting and human resources.

[Executive Director's Report](#)

- 17.b. Receive Commission comments on any of the agenda items for this meeting, the Port's activities during the preceding month, upcoming PCCA events, and suggestions for future agenda items.

18. Recess Open Meeting and Convene Executive Session - *The Port*

Commissioners will deliberate the purchase, exchange, lease or value of real property in executive session only if deliberation in an open meeting would have a detrimental effect on PCCA's position in negotiations with a third person.

- 18.a. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing land on the north side of the

Inner Harbor.

- 18.b. The Commission will go into executive session pursuant to §551.074 of the Texas Government Code to deliberate the evaluation of the Executive Director and the Deputy Executive Director & Chief Operating Officer.
- 18.c. The Commission will go into executive session pursuant to §551.072 of the Texas Government Code to deliberate leasing land in the north side of the Industrial Channel of the Inner Harbor.
- 18.d. The Commission will go into executive session pursuant to §551.072 and 551.087 of the Texas Government Code to deliberate offering financial or other incentives to a company that PCCA seeks to have locate in San Patricio County, and with which PCCA is conducting economic development negotiations, and to deliberate leasing land in San Patricio County to this company.
- 18.e. The Commission will go into executive session pursuant to §551.071 of the Texas Government Code to receive advice from PCCA's attorneys regarding pending litigation.

19. Reconvene Open Meeting and Resume Regular Agenda

- 19.a. Approve a Lease Agreement with Maverick Terminals Corpus LLC for land on the north side of the Inner Harbor.
 - [Maverick - Memo](#)
 - [Maverick - ME Allison Financial Review Letter](#)
 - [Maverick - Exhibit A - Legal Description](#)
 - [Maverick - Exhibit B, page 1 - Plat](#)
 - [Maverick - Exhibit B, page 2 - Property Map](#)
 - [Maverick - Exhibit C - Property Parcels Map](#)
 - [Maverick - Additional Tank Pipelines - Conceptual Layout](#)
- 19.b. Approve Lease Agreement with GCCM Holdings, LLC for Land on the North Side of the Industrial Channel of the Corpus Christi Ship Channel in the Inner Harbor.
 - [GCCM - Memo](#)
 - [GCCM - Lease Summary](#)
 - [GCCM - Agreement](#)
- 19.c. Approve an amendment to the employment agreement of the Executive

Director.
[Executive Director Contract](#)

19.d. Approve an amendment to the employment agreement of the Deputy Executive Director & Chief Operating Officer.

19.e. Approve Amendment to Lease Agreement with NuStar Energy for Oil Dock 15.
[NuStar - Memo](#)
[NuStar - Agreement](#)

20. Adjourn

**OFFICIAL MINUTES OF PORT COMMISSION MEETING
JUNE 20, 2017**

The Port Commissioners of the Port of Corpus Christi Authority convened at the Solomon P. Ortiz International Center, 402 Harbor Drive, Corpus Christi, Texas, on Tuesday, June 20 2017 at 9:00 a.m., for the regular monthly meeting of the Port Commission.

Present: Mr. Charles Zahn
Mr. Wayne Squires
Ms. Barbara Canales
Mr. David P. Engel
Mr. Richard Valls
Mr. Richard L. Bowers
Mr. Wes Hoskins

Present: Mr. John P. LaRue
Mr. Sean Strawbridge
Mr. Dennis DeVries
Mr. Jarl Pedersen
Mr. Kent Britton
Mr. Darrin Aldrich
Ms. Patricia Cardenas
Ms. Rosie Collin
Mr. Russell Cordo
Mr. Tyler Fuhrken
Ms. Sarah Garza
Mr. David Krams
Mr. Ruben Medina
Ms. Sandra Terrell-Davis
Ms. Nelda Olivo
Mr. Gilbert Acevedo
Ms. Lynn Angerstein
Mr. Steven Ashley
Mr. Eric Battersby
Mr. Bland Chamberlain
Ms. Audre Debler
Ms. Sherry DuBois
Mr. Sam Esquivel
Mr. Brett Flint
Ms. Natasha Fudge
Mr. James Haley
Mr. T.J. Gonzalez
Mr. Erin Hall
Ms. Donna James-Spruce
Mr. Dan Koesema

Ms. Sonya Lopez
Mr. Dave Michaelson
Ms. Leslie Ruta
Mr. David Villarreal
Mr. Bennie Benavides
Ms. Sandy Escobar
Ms. Teresa Longoria
Ms. Jennifer Powell
Mr. Jesse Samu
Ms. Pamela Mota
Mr. Miguel Rivera
Mr. Michael Cross
Mr. Austin DeGaish
Ms. Annie Archuleta
Mr. Craig Smith
Mr. Thomas Rios
Ms. Veronica Ramos
Ms. Rita Arriaju

Others Present:

Mr. Leo J. Welder, Jr.
Mr. Dane Bruun

Others Present:

Capt. Jay Rivera
Capt. Benjamin Watson
Capt. Henry de la Garza
Aransas/CC Pilots Assn.
Capt. Joe Harrington
Valero
Mr. Kenny Turner
Ms. Gail Turner
CC Battery Co.
Mr. Kevin Miller
Mr. David Cave
CITGO
Mr. Howard Gillespie
Ingleside on the Bay
Mr. Rob Tully
Exxon Mobil
Mr. Mark Sisson
Mr. Joelle Francois
Mr. Joseph Berlin
AECOM
Mr. Xavier Valverde
G&H Towering
Mr. Larry Perryman
Bay Houston Towing Co.

Mr. Roger TenNapel
Flint Hills Resources
Ms. Adrianna Escamilla
San Patricio EDC
Mr. Oliver Jones
Russell Marine
Mr. Gary Moore, Sr.
City of Portland
Mr. Dan Kane
Port of Long Beach
Mr. Chris Ramirez
Caller-Times
Mr. William Goldston
ACEL
Mr. Scott Harris
LAN
Ms. Jane Gimler
Ingleside Chamber of Commerce
Mr. Ronald Berglund
RIDC
Ms. Jody Bickel
MSUSA
Mr. Cary Campbell
Carter Douglas Co.
Mr. Richard Pittman
Bath Engineering
Mr. Jay Bryaux
Derrick Construction Co.
Ms. Doreen Harrell
KCS/PR
Mr. Terry Arnold
Consultant
Ms. Sue Zimmermann
Zimmermann Consultants
Mr. Sonny Boyd
Boyd-Campbell Co.
Mr. Shane Eisland
Portland News
Mr. Jeff McWilliams
Manson Construction
Mr. Rick Ott
San Patricio County
Mr. Robert Morris
Security Title
Mr. Dan Korus
Del Mar

1. **Meeting called to order.**
2. **Safety briefing presented.**
3. **Pledge of Allegiance recited.**
4. **Invocation given.**
5. **Conflict of Interest Affidavits:** None were submitted.
6. **Minutes:**
 - 6a. On motion made by Mr. Squires and seconded by Mr. Valls, the Commission approved the minutes of the May 9 and June 13, 2017 Commission meetings, in the form presented to the meeting.
7. **Public Comments:** None were received.
8. **Security Committee Report:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
9. **Audit Committee Report:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
10. **Long-Range Planning Committee Report:** The Chairman of the committee reported on the committee's activities since the last regular Commission meeting.
11. **Ad Hoc (Office Building) Committee Final Report:** The Chairman of the committee, Mr. Valls, stated this would be the committee's final report to the Commission. He said it was the committee's final recommendation that the Ortiz Center not be repurposed as PCCA's new office building. He said this recommendation was based on a thorough investigation of the facility. The Commission voted to accept the ad hoc committee's recommendation.
12. Mr. Zahn then announced the establishment of a new Office Building Committee and appointed the following Commissioners to that special committee:
 - Mr. Valls – Chairman
 - Mr. Bowers – Member
 - Mr. Squires - Member
13. **Presentations:**
 - 13a. Staff introduced PCCA summer interns to the Commission.

13b. On motion made by Mr. Squires and seconded by Mr. Bowers, the Commission adopted the following resolution:

**RESOLUTION OF APPRECIATION
FOR
LUIS ARTURO SAENZ**

WHEREAS, for 32 years, Luis has worked diligently for the Port of Corpus Christi Authority, at the Grain Elevator and in the Maintenance Department; and

WHEREAS, on July 5th 1984, Luis Saenz was hired as a Laborer at the Grain Elevator, and after 11 years of dedicated service, was promoted to Assistant Operator; and

WHEREAS, on February 1, 1996, Luis was transferred to the Maintenance Department as a Maintenance Worker, and worked as a Groundskeeper and Welder Assistant for a total of 21 years at the Maintenance Department; and

WHEREAS, Luis scrupulously performed the duties required of each responsibility, setting the bar high for his colleagues and doing his part to ensure our community prospered, and our port's vision realized; and

WHEREAS, Luis Saenz has performed such duties with fairness, honesty, and integrity; and

WHEREAS, Luis was known for his composed demeanor, his reliability, and his unfailing work ethic; and

NOW THEREFORE BE IT RESOLVED, upon his retirement, effective May 16, 2017, the Port Commission of the Port of Corpus Christi Authority, for itself and on behalf of the Port staff and the Port community as a whole, expresses its sincere gratitude and appreciation for the decades of services that Luis Arturo Saenz has given to the Port of Corpus Christi Authority, the citizens of the Coastal Bend, and to the maritime industry; and

BE IT FURTHER RESOLVED this resolution be made a part of the permanent minutes of this Port Commission meeting, June 20th 2017 and that a signed original of this Resolution be furnished to Luis Saenz and presented to Luis, his spouse, Maria Saenz and their two sons Arturo and Abraham Saenz.

May God Bless and Keep You on Your Journey.

13c. The Commission received a presentation from AECOM on the Waterway Planning Study.

13d. The Commission received a report from PCCA's Director of Government Affairs on the 2017 regular session of the legislature. PCCA's state lobbyists, Hugo Berlanga and Brian Yarbrough, also reported on the session.

13e. The Commission received a presentation on Hurricane preparedness from PCCA's Emergency Management Manager.

14. Regular Agenda:

14a. PCCA's First Quarter Financial Report: The Audit Committee recommended Commission approval of PCCA's First Quarter Financial Report.

Action: On motion made by Mr. Engel and seconded by Mr. Valls, the Commission approved PCCA's 2017 First Quarter Financial Report.

14b. PCCA's First Quarter Investment Report: The Audit Committee recommended Commission approval of PCCA's First Quarter Investment Report.

Action: On motion made by Mr. Engel and seconded by Mr. Valls, the Commission approved PCCA's 2017 First Quarter Investment Report.

14c. The Waterway Planning Study of the Corpus Christi Ship Channel System: Staff recommended Commission approval of the Fourth Amendment to the Professional Consulting Services Contract with AECOM in an amount not to exceed \$15,000 and time extension through June 30, 2017, to complete additional scope of work related to the Waterway Planning Study of the Corpus Christi Ship Channel System. Staff further recommended that it be granted a contingency of \$15,000 should it be required to amend the scope of work to finalize the project.

Action: On motion made by Mr. Squires and seconded by Mr. Valls, the Commission approved Staff's recommendations.

14d. Tariff 100-A, Item 265 (Transshipment or Reshipment of Cargo): Staff recommended deletion of Item 265 from Tariff 100-A.

Action: On motion made by Mr. Bowers and seconded by Mr. Squires, the Commission approved Staff's recommendation.

14e. Bulk Terminal Paving Improvements Project: Staff recommended the award of a contract to Garrett Construction Company in the amount of \$544,924.20 for the Base Bid and Additive Bid Item 2 for the Bulk Terminal paving improvements project. Staff further recommended that the Director of Engineering Services be granted a 4% contingency (\$21,796.97) in accordance with the PCCA's standard contingency guidelines for general construction projects.

Action: On motion made by Mr. Bowers and seconded by Mr. Squires, the Commission approved Staff's recommendations.

14f. Viola Barge Basin Bulkhead Addition Project: Staff recommended the award of a contract to Derrick Construction Company, Inc. in the amount of \$665,048 for the Base Bid, construction of approximately 225 feet of steel sheet pile bulkhead in the Viola Barge Basin. Staff also recommends award of Additive Bid Item 1 (standby charges of \$3,200/day). Staff further recommended that the Director of Engineering Services be granted a 7% contingency in accordance with the PCCA's standard contingency guidelines for marine and rehabilitation projects.

Action: On motion made by Ms. Canales and seconded by Mr. Engel, the Commission approved Staff's recommendations.

14g. Oil Dock 3 Barge Breasting Structure: Staff recommended the award of a construction contract to J.M. Davidson LTD for the replacement of the barge breasting structure at Oil Dock 3 and other marine waterfront repairs and maintenance works at Oil Dock 3 in the amount of \$664,244 for the Base Bid and Additive Bid Item 1 at a rate of \$8,200 for each 10' section of pipe pile added to the new breasting structure should it be required during construction, and the acceptance of Additive Bid Item 2 for standby charges in the amount of \$3,200/day. Staff also requests approval of an allowance of \$25,600 for payment of standby (8 days @ \$3,200/day) should it be needed during the project. Staff further recommended that the Director of Engineering Services be granted a 7% contingency (\$46,497.08) in accordance with the PCCA's standard contingency guidelines for marine and rehabilitation projects.

Action: On motion made by Mr. Valls and seconded by Mr. Hoskins, the Commission approved Staff's recommendation.

14h. Dredge Material Placement Areas No. 1, 2, and 10, and South Shore Dredge Material Placement Area, Cells A & B: Staff recommended the approval of a payment to the U.S. Army Corps of Engineers in an amount not to exceed \$2,521,000 for the PCCA's required Operations and Maintenance (O&M) cost-share for the U.S. Army Corps of Engineers construction contract to increase capacity and perform maintenance activities at Dredge Material Placement Areas No. 1, 2, and 10, and South Shore Dredge Material Placement Area, Cells A & B.

Action: On motion made by Mr. Valls and seconded by Mr. Engel, the Commission approved Staff's recommendation.

14i. New Port of Corpus Christi Office Facility: Staff recommended the use of the Design-Build delivery method for constructing a new PCCA office facility because it provides the best value for PCCA. Using this method, Staff would issue a Request for Qualifications to select a short list of Design Build teams followed by a Request for Proposals to make a final selection of a team to design and construct a new office facility.

Action: On motion made by Mr. Engel and seconded by Mr. Bowers, the Commission approved the use of the Design-Build delivery method for PCCA's new office facility because, in the Commission's opinion, it provides the best value for PCCA.

14j. Air Monitoring Network at La Quinta: The Chairman announced this agenda item would be considered after the Executive Session.

14k. 3 Hour Notice to Harbormaster for Vessel Movements: Staff recommended the approval of a temporary rule change to Tariff 100-A that would require a three (3) hour notice to the Harbormaster for vessel movements at deep draft docks for a 120-day trial period beginning July 1, 2017.

Action: On motion made by Mr. Bowers and seconded by Mr. Valls, the Commission approved Staff's recommendation.

14l. Oil Dock 15 Project: PCCA had previously entered into a contract with Russell Marine LLC for the construction of the Oil Dock 15 project. Staff recommended the approval of a Change Order to this Russell Marine LLC contract, in the amount of \$162,327 for additional work associated with providing modifications to the dock safety unit platform and to provide foundations and supports for pipe and cable trays for the Oil Dock 15 project. A copy of the Change Order was presented at the meeting.

Action: On motion made by Mr. Valls and seconded by Mr. Squires, the Commission approved Staff's recommendation.

14m. Bulk Dock 3 Layberth: Staff recommended the approval of a Professional Services Contract with Govind Development, LLC for engineering services to develop a liquids handling facility at the former Bulk Dock 3 layberth for use in unloading and transferring petroleum products to rail cars at a cost not to exceed \$235,000. Staff further recommends that the Director of Engineering Services be granted a 5% contingency (\$11,750) to cover any minor changes in the scope of work during design phase of the project such as providing additional provisions in the design to address operational requirements for other potential customers as commercial and technical details develop. A copy of the contract was presented to the meeting.

Action: On motion made by Mr. Squires and seconded by Ms. Canales, the Commission approved Staff's recommendation. Mr. Valls abstained from voting on this item.

15. Consent Agenda: Individual Commissioners requested that Consent Agenda Item 15f, be considered separately. Then, Mr. Valls moved the approval of the remaining Consent Agenda Items by one vote (the "Consent Agenda Motion"), in accordance with the respective staff recommendations and agreements furnished to the Commission at the meeting. Mr. Bowers seconded the motion and the motion passed without objection.

15a. By approval of the Consent Agenda Motion, the Commission approved a Professional Engineering Services Contract for an amount of \$75,710 with Cardno, Inc. for Procurement Advisory Services and Document Support for Crane Procurement for Bulk Dock 1.

15b. By approval of the Consent Agenda Motion, the Commission approved a Pipeline Easement with Southcross CCNG Transmission LTD for a 12 inch natural gas pipeline crossing Port of Corpus Christi Authority properties on the north and south side of the Inner Harbor.

15c. By approval of the Consent Agenda Motion, the Commission approved Service Order No. 6 in the amount of \$40,002 with Platinum Environmental Solutions, LLC, under Professional Services Master Agreement No. 10-16, for Environmental Consulting Services to conduct soil and groundwater sampling activities at La Quinta.

15d. By approval of the Consent Agenda Motion, the Commission adopted the following resolution:

**RESOLUTION APPROVING A MEMORANDUM OF
AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY
AND THE PORT OF CORPUS CHRISTIAUTHORITY OF NUECES
COUNTY, TEXAS CONCERNING WORK USING FUNDS MADE
AVAILABLE PURSUANT TO SECTION 2106 OF THE WATER
RESOURCES REFORM AND DEVELOPMENT ACT OF 2014**

WHEREAS, Section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238) authorizes the Secretary of Army to provide funds to Donor Ports and Energy Transfer Ports to be used for certain purposes; and

WHEREAS, the Port of Corpus Christi qualifies as an Energy Transfer Port;
and

WHEREAS, funds have been appropriated in Fiscal Year 2017 to carry out Section 2106 and may be appropriated in subsequent fiscal years; and

WHEREAS, the Port of Corpus Christi Authority of Nueces County, Texas (hereinafter referred to as "PCCA") desires that the Department of the Army (hereinafter referred to as the "Government") retain funds provided under Section 2106 for the Government to carry out expanded uses, as that term is defined in Section 210(f) of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2238(f)), or environmental remediation related to dredging berths and Federal navigation channels; and

WHEREAS, a Memorandum of Agreement between the Department of the Army and the Port of Corpus Christi Authority of Nueces County, Texas, Concerning Work Using Funds Made Available Pursuant to Section 2106 of the Water Resources Reform and Development Act of 2014 (hereinafter referred to as the "MOA") has been presented to PCCA's Port Commission for approval; and

WHEREAS, PCCA is authorized by Section 60.152 of the Texas Water Code, as amended, to enter into the MOA; and

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS, THAT:

Section 1. The Port Commission hereby finds and determines that it is necessary and advisable that PCCA enter into the MOA in substantially the form presented to this meeting.

Section 2. The MOA in substantially the form presented to this meeting is hereby approved, and the Executive Director is hereby authorized and directed, for and on behalf of PCCA, to execute the MOA.

Section 3. The Chairman, the Vice Chairman, the Secretary, and the Executive Director are each hereby severally authorized and directed to execute, attest, seal and deliver any and all additional certificates, documents or other papers and to do any and all things deemed necessary to carry out the intent and purposes of this Resolution, including the preamble hereto.

15e. By approval of the Consent Agenda Motion, the Commission approved a Professional Engineering Services Contract in the amount of \$154,887 with BathGroup, Inc. dba Bath Engineering Company for engineering services associated with the electrical upgrades at Public Oil Docks 1, 2, 3, 4, 5, 7, 11 and 12.

15f. After discussion, by separate motion duly made and seconded, the Commission awarded a Construction Contract to Garrett Construction Company, the lowest and best bidder based on bids received on May 18, 2017, in the amount of \$193,100 for the Nueces Bay Shoreline Revetment project.

15g. By approval of the Consent Agenda Motion, the Commission approved an amendment to a Professional Services Contract with Hanson Professional Services, Inc. in the amount of \$32,370 (for a total of \$84,130) for the Roadways and Parking Lot Repairs Project to add repairs to Harbor Drive within the Southside Storage Yard.

15h. By approval of the Consent Agenda Motion, the Commission ratified the TxDOT HSIP grant application for safety improvements along Joe Fulton International Trade Corridor.

16. Executive Director Report and Commissioner Comments:

16a. The Executive Director submitted his report on upcoming community events, PCCA events and activities of the following PCCA departments during the preceding month – Safety, Community Relations, Communications, Government Affairs, Business Development, Foreign Trade Zone, Ortiz Center, Human Resources, Security, Operations, Engineering Services, Finance, Real Estate, and Environmental.

16b. Mr. Zahn then asked for comments from the Commissioners.

17. Recess Open Meeting and Convene Executive Session: At 11:41 a.m., Mr. Zahn announced the Commission would go into executive session pursuant to §551.071 and §551.072 of the Texas Government Code to receive legal advice regarding the contract described in agenda item 14j and to deliberate agenda items 17a and 17b, which were described in the agenda of the meeting as follows:

17a. The Commission will go into executive session pursuant to §551.071 of the Texas Government Code to consult with PCCA's attorney regarding *Blake Chapman, Individually and on behalf of all others similarly situated, v. voestalpine USA Corp., voestalpine Texas Holding LLC, and voestalpine Texas LLC*, Cause Number 2-L17-cv-00174, in the United States District Court for the Southern District of Texas – Corpus Christi Division.

17b. The Commission will go into executive session pursuant to §551.071 and §551.072 of the Texas Government Code to deliberate the purchase, sale, exchange, and value of certain real property in Nueces County and receive legal advice from PCCA's attorneys regarding the possible purchase, sale, and exchange of this property.

- 18. Reconvene Open Meeting and Resume Regular Agenda:** The Chairman reconvened the meeting in open session at 1:22 p.m., to consider agenda items 14j and 18a.

14j. On motion made by Mr. Valls and seconded by Mr. Squires, the Commission tabled consideration of a Consulting Services Contract with AECOM for installation, operation and maintenance of Air Monitoring Network at La Quinta.

18a. The Commission took no action on a contract for the purchase of certain real property in Nueces County.

- 19. Adjourn:** On motion duly made and seconded, the meeting was adjourned at 1:23 p.m.



PORTCORPUSCHRISTI

July 18, 2017

President Donald Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President:

It has come to our attention that your Administration is considering sanctions to address the troubling political and humanitarian developments in Venezuela. As you consider the national interests at stake, we are compelled to draw your attention to the significant negative implications trade sanctions may have on U.S. industry and the economy. If unilateral sanctions were to include a full or partial ban on crude oil imports from Venezuela, it is projected to result in significant negative impact on U.S. petroleum refiners and consumers. The U.S. economy and trade balance is also expected to be impacted negatively by U.S. sanctions on crude oil imports from Venezuela.

In 2016, the US imported over 271 million barrels of crude oil from Venezuela or about 9.4% of total US crude oil imports. Sanctions that would limit U.S. imports of crude oil from Venezuela would disadvantage many US refineries, including refineries at the Port of Corpus Christi that have made large capital investments to process discounted heavy crude oil from Venezuela. US produced crude oil (mostly very light) is not a suitable replacement for the heavier crude oil that Gulf Coast and East Coast refineries have been designed to use. Therefore, it would be costly and take time to modify these refineries and replace Venezuelan crude with US crude. Without modifications, US refineries may have to pay a premium for heavy crude oil from other sources or potentially might have to reduce output. The result would be a negative impact on the US economy and trade balance because the US is exporting refined petroleum products. Restricting the supply of crude oil from Venezuela could also impact the price that U.S. consumers and businesses pay for gasoline, diesel, jet fuel, etc.

As one of the Port of Corpus Christi's largest refinery customers, representing about 25% of total cargo tonnage, CITGO is an important company for the South Texas region. CITGO is one of the largest crude oil refiners in the US, refining 749,000 barrels per day of crude oil producing about 4% of the amount of refined petroleum products that America needs on a daily basis to make our economy work. CITGO was founded in 1910 and has refining facilities in Texas, Louisiana and Illinois. CITGO employs 5,500 Americans, and contributes tens of millions of dollars to charities and local community groups across the country. CITGO is an affiliate of Venezuela's state-owned Petroleo de Venezuela SA (PDVSA), but continues to be an American company and is essential to the US economy.

Moreover, because crude oil is traded on international markets and easily shipped to global destinations, there is no guarantee that sanctions against Venezuelan crude oil would have the desired effect of punishing the Maduro regime. In the event of unilateral sanctions, Venezuelan crude oil currently exported to the U.S. could simply be diverted to other nations, most likely trade competitors in Asia. In that case, the sanctions would be ineffective and would only harm U.S. interests.

Furthermore, it is likely that the Maduro regime immediately would retaliate with a ban on US crude oil supply to all crude oil refineries directly or indirectly operated by PDVSA such as Operator Refineria Isla Curaçao BV – a crude oil refinery on the Lesser Antilles island of Curaçao, which was the no. 2 destination for US crude oil export in 2016. As a consequence, exporters of US crude oil would have to ship to alternative destinations that could add transportation costs and potentially make US crude oil less competitive on export markets and negatively impact US crude oil producers, the trade balance and the economy.

In summary, heavy crude oil from Venezuela continue to play an important role in the ecosystem of the American petroleum refining industry, producing both economic and security benefits. While placing unilateral sanctions on crude oil imports from Venezuela would not deny access for this internationally traded commodity to other international markets, it would hurt US producers, refiners, consumers, businesses, as well as the trade balance and the economy.

Therefore, any potential actions that the US might take to impact the political process in Venezuela should be carefully created in a way that protects US interests with regard to US refiners including CITGO.

Similarly, restricting either access to or the ability to pay for crude oil supplies from Venezuela will not only impact CITGO, but also have direct and indirect impacts on refinery operations and pricing for all US refiners – and ultimately on US consumers and businesses.

Sincerely,

Charles W. Zahn, Jr.
Chairman
Port of Corpus Christ Authority

DATE: July 18, 2017

TO: Port Commission

FROM: David L. Krams, P.E.
Director of Engineering Services
krams@pocca.com
361-885-6134

ANTICIPATED STAFF PRESENTER: Brett F. Flint, P.E.
Chief of Planning and Design

Approve a Professional Engineering Services Contract in the amount of \$111,300 with Govind Development, LLC for Engineering Services associated with Design of Bulk Liquid Handling Facility at Bulk Terminal Dock 3.

SUMMARY: Staff requests approval for a Professional Services Engineering Contract with Govind Development, LLC (Govind), at a cost not to exceed \$111,300 for professional engineering services associated with developing petroleum liquids and vapor handling facilities at Bulk Terminal Dock 3 to support a tenant development on property to the east of the Bulk Terminal.

BACKGROUND: On June 20, 2017, the Commission approved a professional services contract in the amount of \$235,000 with Govind Development for developing a liquids handling facility at the former Bulk Dock 3 layberth dock. The contract scope included the development of contract documents to construct and commission a petroleum liquids transfer facility specifically to load rail cars from inland barges at the Bulk Terminal. Since that time, negotiations with an additional confidential customer have identified additional needs to add capacity for the transfer of petroleum products to and from storage tanks on the property east of the Bulk Terminal. The proposed operation will transfer refined petroleum products to and from barges and ocean going vessels berthed at Bulk Dock 3. The facilities necessary to support the planned operations will include a Vapor Combustion Unit (VCU) currently owned by the Port.

Given Govind's ongoing engineering at Bulk Dock 3, staff negotiated the attached Contract to provide the design and construction contract documents for this project as well. Engineering services will be performed on a time and materials basis and will generally include evaluating and incorporating recently acquired equipment into the project, coordinating with potential customers to evaluate operational needs, developing and evaluating alternatives to meet the operational requirements, and providing design and construction documents, for piping, valves, support structures and other equipment necessary for a completed and working system.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #2B – Provide Public Docks and Support Private Facilities to Facilitate Maritime and Industrial Development, Action #4 – Develop Process to Support Private Customer Projects).

EMERGENCY: Although this is not an emergency action, engineering and design services are required to provide contract documents to construct an operating system on a schedule that will meet the commercial needs of the customer.

FINANCIAL IMPACT: The 2017 Engineering Services Budget included \$1,250,000 for a strategic capital project in anticipation of negotiating an agreement with a new customer and constructing an oil dock facility on the property east of the Bulk Terminal. Improvements to Bulk Dock 3 to handle bulk liquids is included in the provisions of the proposed lease on the adjacent property, which also includes provisions for construction of a ship oil dock in the future.

STAFF RECOMMENDATION: Staff recommends approval of a Professional Engineering Services Contract with Govind Development, LLC in an amount not to exceed \$111,300 for engineering services associated with designing petroleum liquids and vapor handling facilities at Bulk Terminal Dock 3 to support tenant development on the property east of the Bulk Terminal.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering
Reviewed & Approved	David Krams Brett Flint Carlos Martinez
Legal Senior Staff	Standard Professional Services Contract John LaRue Sean Strawbridge Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Professional Engineering Services Contract
Map Exhibit

PROFESSIONAL ENGINEERING SERVICES CONTRACT

**PROJECT NAME: BULK LIQUID HANDLING FACILITY AT
BULK TERMINAL DOCK 3
PROJECT NUMBER: 17-033B**

THIS CONTRACT (the “Contract”) is made and entered into effective as of the 18th day of July, 2017 (“Effective Date”) by and between the Port of Corpus Christi Authority of Nueces County, Texas (“Authority”), and Govind Development, LLC. (“Engineer”), each a “Party” and collectively as “Parties”.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. CONTRACT: Authority hereby engages the Engineer and the Engineer hereby accepts its engagement for the purpose of providing to Authority the engineering services (“Services”) as are generally described in the “Scope of Services” set forth in Exhibit A to this Contract which is incorporated herein by reference. Engineering designs, reports, drawings and specifications prepared hereunder will be sealed by a Registered Professional Engineer licensed to practice in the State of Texas and in accordance with applicable provisions of the Texas Engineering Practice Act and Rules of the Texas Board of Professional Engineers.

2. PERIOD OF SERVICE: The Engineer shall complete the Services on or before April 30, 2018 (the “Deadline”), unless the Authority agrees to extend the Deadline for good reason; provided, however, that the Authority may terminate this Contract at any time in accordance with Section 14. Time is of the essence in performance of this Contract. There will be no obligation established between Authority and the Engineer for performance of the Services until Authority provides the Engineer with a written notice to proceed which shall be issued upon execution of this Contract and receipt by the Authority of appropriate Certificates of Insurance and other documentation as may be required herein. The term of this Contract (“Term”) shall begin on the Effective Date and shall end on the first to occur of the following: (1) the Deadline, as the same may have been extended by the Authority, (2) the date on which, in the opinion of Authority, all of the Services have been rendered, (3) the date on which this Contract is terminated by the Authority pursuant to Section 14, or (4) the date on which this Contract is terminated by the Engineer pursuant to Section 14.

3. COORDINATION OF SERVICES BY AUTHORITY: Authority shall designate a Project Representative who will, on behalf of Authority, coordinate with the Engineer and administer this Contract. It shall be the responsibility of the Engineer to coordinate all assignment-related activities with the Project Representative.

For the purposes of this Contract, the Project Representative shall be:

Carlos Martinez, P.E.
222 Power Street

Corpus Christi, Texas, 78401
Phone: 361.885.6692
E-mail: carlos@pocca.com

Authority may change the Project Representative at any time by giving the Engineer written notice of such change.

4. NOTICES: Notices, demands, requests or other formal communication related to the Contract shall be deemed to have been given when received, whether delivered personally or mailed. E-mail communications may be considered as formal notification provided the e-mail message states the message is intended as a formal notice and the receiving Party acknowledges receipt of the message as a formal notification. Notices shall be addressed as follows:

If to the Authority: John P. LaRue
Executive Director
Port of Corpus Christi Authority
222 Power Street
Corpus Christi, Texas 78401
E-mail: john@pocca.com

If to the Engineer: Ajmer S. Kular, P.E., PMP
Vice President, Civil/Structural Engineering
Govind Development, LLC.
9359 IH 37, Suite A
Corpus Christi, Texas 78409
E-mail: akular@govinddevelopment.com

Either Party may change the mailing or E-mail address for notifications by providing written notice of such change to the other Party.

5. CHANGES: This Contract may be changed or modified at the request of either the Engineer or the Authority, provided both Parties agree to the requested change, and a written amendment or modification of this Contract is prepared and executed by the Parties.

6. ENGINEER'S RESPONSIBILITIES: In addition to all other obligations contained herein, the Engineer agrees, warrants, and represents that:

6.1 The Engineer will furnish all material, equipment, labor and supplies in such quantities and of the proper quality to professionally and timely perform the Services, except as otherwise mutually agreed by the Parties;

6.2 The Engineer shall perform the Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license;

6.3 The Engineer will comply with the provisions of all federal, state, and local laws, regulations, ordinances, requirements and codes which are applicable to its performance of Services;

6.4 The Engineer is not and will not be bound by any agreement and has not assumed nor will assume any obligation which would, in any way, restrict its ability to perform the Services or be inconsistent with the Services;

6.5 In performing the Services, the Engineer will not use any third party's confidential or proprietary information, or infringe the rights of another party, nor will the Engineer disclose to the Authority, or bring onto the Authority's premises, or induce the Authority to use any third party's confidential or proprietary information;

6.6 The Engineer does not have the authority to act for the Authority, bind the Authority in any respect, or incur any debts or liabilities in the name of or on behalf of the Authority, except as otherwise expressly authorized in writing by the Authority;

6.7 Engineer's Opinions of probable cost or other forms of cost estimates will be based on the Engineer's experience, the design, and current market conditions to the extent practicable. Authority hereby acknowledges that Engineer cannot warrant that estimates of probable cost provided by Engineer will not vary from actual market prices obtained by Authority;

6.8 Engineer is an independent contractor for the performance of his duties under this Contract. Accordingly, the Engineer shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Engineer's activities in accordance with this Contract. Engineer is responsible for payment of the compensation, including any withholding, Social Security, or other taxes on such compensation, of any subcontractors retained by Engineer, or Engineer's employees performing work on the Project;

6.9 Engineer has and hereby retains full control of any supervision over the Engineer's obligations hereunder and over any persons employed or subcontracted by the Engineer for performing Services hereunder;

6.10 Engineer will in no way be considered an agent, partner, joint venturer, or employee of Authority at any time during the Term. Engineer will only render advice to Authority and will not undertake to commit Authority to any course of action in relation to a third party unless expressly requested and authorized to do so by the Authority in writing.

6.11 As of the Effective Date and at all times while providing Services hereunder, the Engineer shall possess and maintain in good standing any and all licenses or other authorizations and approvals necessary to perform the Services consistent with its status as an independent contractor and in compliance with all applicable laws and regulations;

6.12 Engineer may, with prior written approval of Authority, use representations of designs or other engineering services provided hereunder for promotional purposes.

Authority reserves the right to review and approve, in advance of any publication or use, promotional materials containing reference to or images related to the work produced under this Contract.

7. COMPENSATION: The compensation to be paid Engineer for providing the Services shall be the compensation described in Exhibit B hereto, which is incorporated herein by reference; provided, however, the total paid to Engineer for the Services shall not exceed One Hundred Eleven Thousand Three Hundred Dollars (\$111,300.00). Engineer will obtain the approval of Authority's Project Representative relative to incurring travel and other expenses before incurring such costs.

8. INVOICE PROCEDURE AND PAYMENT: Engineer shall submit invoices monthly to the Authority for work performed during the preceding calendar month. Such invoices shall be due and payable by Authority on or before thirty (30) days from receipt by Authority. Monthly compensation will be for the Services actually performed during the billing period, invoiced in accordance with the Fee Schedule included in Exhibit B. Invoices shall also describe any work performed by subcontractors retained by Engineer and reimbursable costs. Subcontractor cost mark-up shall not exceed five percent (5%). Engineer will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At the Authority's request, Engineer will provide additional backup such as signed time sheets, invoices for materials and subcontracted service or other documentation sufficient to establish the accuracy of the invoices. Invoices are to be submitted in a format previously approved by Authority.

9. INSURANCE: Engineer shall procure and maintain at its sole expense, for as long as Engineer is obligated to provide Services under this Contract, the policies of insurance described in Exhibit C attached hereto and in at least the minimum amounts specified in Exhibit C to protect Engineer from claims which may arise out of or result from Engineer's Services pursuant to this Contract, whether such operations be by Engineer, by any subcontractor of Engineer, by anyone directly or indirectly employed by Engineer or Engineer's subcontractor, or by anyone for whose acts Engineer or Engineer's subcontractor may be liable. At least five (5) days prior to execution of this Contract, Engineer will provide to Authority's Risk Program Manager certificates of insurance issued by each insurance company providing any of the required insurance coverage, and the text entered in each certificate must be acceptable to Authority. The requirement to provide acceptable certificates of insurance is a material condition of this Contract, and work under this Contract will not commence until certificates of insurance have been received, reviewed, and accepted by Authority. The minimum limits of liability and coverage for the insurance required are set forth in Exhibit C attached hereto, which is incorporated herein by reference.

10. INDEMNIFICATION AND RELEASE. Engineer hereby releases and discharges Authority and its agents, servants, representatives, employees, officers, directors, and Port Commissioners (collectively, the "Authority Parties") from liability for and assumes the risk of loss or damage to the property of Engineer and the injury or death of any person employed by Engineer. Engineer shall defend, indemnify and hold harmless the Authority Parties from and against all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorneys' fees and the cost of defense), in connection with any action,

proceeding, demand or claim but only to the extent caused by the negligent acts, errors, or omissions of the Engineer, its employees, agents, or subconsultants, or others for whom the Engineer is legally liable, in the performance of Services under this Contract. The Engineer is not obligated under this paragraph to indemnify the Authority Parties for the negligent acts of the Authority Parties.

Engineer shall defend, indemnify and hold harmless the Authority Parties from and against all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorneys' fees and the cost of defense), in connection with any action, proceeding, demand or claim arising out of a violation of any environmental law or regulation in effect during the Term of the Contract by the Engineer, its employees, agents, or subconsultants, or others for whom the Engineer is legally liable, in the performance of Services under this Contract. The Engineer is not obligated under this paragraph to indemnify the Authority Parties for the negligent acts of the Authority Parties.

Engineer's indemnity obligations under this Section 10 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Engineer to any employee of Engineer under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. The obligations of the Engineer under this Section 10 shall survive the end of the Term of the Contract.

11. LIMITATION OF LIABILITY: Except as otherwise expressly provided herein, neither Party shall be liable or responsible to the other Party for any indirect, incidental or consequential loss or damage of any nature whatsoever (including, but not limited to, contract, negligence or tort liability) of the other Party, including without limitation, any actual or anticipated profits, loss of time, inconvenience, commercial loss or any other damages, even if the Party has advance notice of the possibility of such damages.

12. DISCLOSURE OF INTERESTED PARTIES: Engineer will comply with the provisions of Section 2252.908 of the Texas Government Code and Chapter 46 of the Texas Ethics Commission Rules by preparing a Texas Form 1295, "Certificate of Interested Parties" and submitting the signed and notarized form to Authority at the time Engineer submits the signed contract to Authority.

13. ASSIGNMENT: Neither Authority nor Engineer will assign or transfer its interest in this Contract without the written consent of the other.

14. SUSPENSION OR TERMINATION: Authority may suspend or terminate this Contract for convenience with seven (7) days prior written notice to Engineer of such action. Upon termination of this Contract in accordance with this paragraph, Authority will have no further obligation to the Engineer hereunder except to pay the Engineer unpaid fees and expenses which the Engineer can reasonably show to have been earned under this Contract. **Under no circumstances may Engineer claim or recover consequential damages from Authority.**

In the event of suspension of Services, the Engineer shall resume the full performance of the Services when directed in writing to do so by Authority. Suspension of the Services for reasons other than the Engineer's negligence or failure to perform shall not affect the Engineer's compensation as provided for in this Contract. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to this Contract to reflect the suspension.

Either Party may terminate this Contract by giving written notice to the other Party if the other Party ("Defaulting Party"): (a) materially breaches any term, condition or provision of this Contract and fails to cure the breach to the satisfaction of the notifying Party within ten (10) days after the Defaulting Party receives a written notice of the breach from the notifying Party, or (b) becomes the subject of any proceedings under state or federal law for the relief of debtors or otherwise becomes insolvent, or bankrupt, or makes any assignments for the benefit of one or more creditors.

15. DISPUTES: Each Party agrees that any dispute between the Parties relating to this Contract will first be submitted in writing to a panel of two senior executives of the Authority and Engineer, who shall promptly meet and confer in an effort to resolve such dispute through good faith consultation and negotiation. Each Party's executive shall be identified by notice to the other Party, and may be changed at any time thereafter also by notice to the other. Any decisions of the executives will be final and binding on the Parties. In the event the executives are unable to resolve any dispute within thirty (30) days after submission to them, either Party may then refer such dispute to mediation.

If the Parties refer to mediation any controversy or claim arising out of or relating to this Contract or the existence, validity, breach or termination thereof, whether during or after its term, they shall select a mutually acceptable mediator within forty-five (45) days thereafter. Neither Party shall unreasonably withhold consent to the selection of a mediator. The Parties shall share equally the costs of mediation. If the Parties agree, they may substitute other forms of alternative dispute resolution. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available at law or in equity.

16. ATTORNEY'S FEES, DEFAULT: In the event Engineer or Authority breach any of the terms of this Contract and the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting Party agrees to pay reasonable attorney's fees and costs incurred by the prevailing Party.

17. STAFFING: Engineer will designate in writing to Authority its project representative, and the manner in which it will provide staff support for the project, which must be approved by Authority. Engineer must notify Authority's Project Representative of any change in personnel assigned to perform work under this Contract, and the Authority's Project Representative has the right to reject the person or persons assigned to fill the position or positions. The Authority's Project Representative shall also have the right to require the removal of the Engineer's previously assigned personnel, including Engineer's project representative, provided sufficient cause for such removal exists. The criteria for requesting removal of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position's qualifications,

failure to perform, poor attendance, ethics violation, unsafe work habits, or damage to Authority or other property. Upon notice for removal, Engineer shall replace such personnel with personnel substantially equal in ability and qualifications for the positions and shall submit the proposed replacement personnel qualification and abilities to the Authority, in writing, for approval.

18. OWNERSHIP OF WORK PRODUCT: Studies, plans, reports, surveys, drawings, specifications, cost estimates, computations and other information (collectively “Work Product”) and documents prepared by the Engineer, subconsultants, and/or suppliers under this Contract will remain the Authority’s property upon completion. This provision does not apply to pre-existing proprietary information of Engineer, subconsultants, and/or suppliers.

19. CONFIDENTIAL INFORMATION: It is understood that information developed by or communicated to Engineer in the performance of this Contract, as well as any and all information in whatever form or medium supplied to Engineer in connection herewith which is not generally available to the public is proprietary to the Authority and constitutes confidential information of the Authority. Engineer will make no oral or written disclosure of such information to third parties either during or after the term of this Contract, except as approved in writing by the Authority’s Project Representative or as otherwise required by law. In the event the Engineer becomes aware that confidential information must be disclosed under a legal requirement, Engineer will notify Authority of the requirement and the affected information.

20. FORCE MAJEURE: Neither Party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is delayed by any cause beyond the reasonable control of the affected Party. In the event of such a delay, the time for performance for the affected Party shall be extended for a period equal to the time lost during the delay, or the Contract may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the Authority.

21. SEVERABILITY and WAIVER: If any part of this Contract is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Contract, and this Contract shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Contract. Further, the failure of either Party in any one or more instances to insist upon strict performance of any of the terms and provisions of this Contract or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms, provisions or options on any future occasion.

22. GOVERNING LAW: This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The Parties agree that venue of all claims and lawsuits arising out of this Contract shall lie in Nueces County, Texas.

23. OPEN RECORDS: The Authority is a governmental body subject to the requirements of the Texas Public Information Act (Texas Government Code, chapter 552), and as such the Authority is required to disclose to the public (upon request) this Contract and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, the Engineer agrees that the disclosure of this Contract or any other information or

materials related to the consummation of the transactions contemplated hereby to the public by the Authority as required by the Texas Public Information Act or any other applicable law will not expose the Authority (or any party acting by, through or under the Authority) to any claim, liability or action by the Engineer.

24. NO ORGANIZATIONAL CONFLICT OF INTEREST: Engineer hereby certifies that it has no actual or potential Organizational Conflict of Interest. “Organizational Conflict of Interest” means that because of other activities or relationships with other persons or entities, the Engineer is unable or potentially unable to render impartial assistance or advice to Authority or the Engineer’s objectivity in performing the services under this Contract is or might otherwise be impaired. Engineer agrees to immediately notify Authority of any actual or potential Organizational Conflict of Interest that develops during the term of this Contract. Engineer agrees that Authority may terminate this Contract immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Contract.

25. DEFAMATION: The Parties covenant and agree that in no event, and at no time during the Term or at any time thereafter, shall either of them disparage, denigrate, slander, libel or otherwise defame the other or the other’s businesses, services, properties or assets, or employees, personnel, agents, or representatives.

26. HEADINGS: All Section headings or other titles used in this Contract are used solely for convenience and shall not affect or be used in connection with the interpretation or construction of this Contract.

27. ENTIRETY OF CONTRACT: This writing embodies the entire Contract and understanding between the Parties hereto, and there are no other contracts or understandings, oral or written, between them with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change, or modification of the terms of this Contract shall be valid unless made in writing and signed by both Parties hereto.

[Signature page follows this page]


IN WITNESS WHEREOF, this Contract is made effective as of the Effective Date.

**PORT OF CORPUS CHRISTI AUTHORITY OF
NUECES COUNTY, TEXAS**

By: _____
Name: John P. LaRue
Title: Executive Director
Date: _____

“Authority”

Govind Development, LLC.

By:  P.E.
Name: Ajmer S. Kular, P.E.
Title: Vice President
Date: 7/10/17

“Engineer”

EXHIBIT A

SERVICES

The Engineer will perform the following services in accordance with the terms and conditions set forth in this Contract:

Scope of Work:

1. Coordinate a kick-off meeting with PCCA staff to establish project goals and identify any special needs or considerations necessary to establish the requirements for design of the Bulk Liquids handling facility. Subsequent meetings will occur as agreed to and directed by PCCA to ensure project goals and specifications are outlined thoroughly.
2. Review of information provided by PCCA to include:
 - a. Available Geotechnical Data
 - b. Available survey Data
 - c. Available Pipelines and Utilities in the area
 - d. As-built and / or design information for any underground lines / assets from Joe Fulton Corridor to Dock Facility to determine potential interferences
3. Evaluate existing site survey and geotechnical data for adequacy in supporting the design and, recommend additional survey, geotechnical or other site investigations necessary to support development of final designs.
4. Inspection and evaluation of the various existing components for utilization in the new planned facility.
5. Coordination with the Authority and potential Customers to identify operational parameters and expectation.
6. Engineering and design of the vapor recovery system including utilization of the John Zink Vapor Combustion Unit (VCU) skid which will be moved to the location. Also utilized will be the Dock Safety Unit (DSU) existing on the bulk liquid handling facility.
 - a. Utilities required at the site include instrument air (IA), nitrogen (N₂), and natural gas (NG). The natural gas will be introduced from a city header located on the Joe Fulton Corridor. The NG header will need to be extended by the provider and will need to include a meter skid with pressure regulation, flow measurement, isolation capabilities and overpressure protection if necessary. GDL will design extension of the NG piping to the loading facility as needed and will regulate and measure flow to the various users including the thermal oxidizer. GDL will also provide the design for a separate line from the NG main to the DSU.

EXHIBIT A SERVICES

- b. Develop specifications for the instrument air skid which will be required for controls of instruments at the site including isolation valves and instrumentation at the thermal oxidizer and the DSU. IA piping will be sized by and routing designed by GDL.
 - c. Develop the specifications for a nitrogen storage and evaporation skid supplied by a gas vendor. This will be required for daily operations and ongoing maintenance at the site and will be needed in the operation of the DSU. N2 piping will be sized by and routing designed by GDL.
 - d. Design routing of the gas vent from the barge loading system. During the loading process, the vapors within the barge will be displaced by the liquid being loaded into the barge, collected and passed through the DSU. The vent gas will contain hydrocarbons and will therefore need to be routed to a thermal oxidizer for conversion to carbon dioxide and water. All thermal oxidizer controls are assumed to be local and contained within the skid.
 - e. All electrical, instrumentation, and control design for all items listed above is included in GDL scope.
7. Engineer will prepare construction plans and specifications for the selected options and provide 60% and 90% review sets and final Issued for Bid Documents incorporating PCCA comments.
 - a. Preparation of project schedule and construction sequencing.
 - b. Preparation of bid and construction drawings, specification and documents.
8. Preparation of an opinion with updates provided with each submittal, if necessary, of probable construction cost.
9. Provide technical support for the pre-bid meeting.
 - a. Respond to bidder questions and provide technical support for preparation of bid addendum, as requested by PCCA.
 - b. Provide technical review of bids, as requested and incorporate issued addenda into drawings and technical specifications to produce Issued for Construction Documents and update the Opinion of Probable Cost and Construction Schedule, as necessary.
10. Preparation of opinions of probable construction cost.

EXHIBIT A

SERVICES

Deliverables:

1. Survey work completed in conjunction with this project. Final reports to be sealed by a Registered Professional Surveyor.
2. 60% Submittal to include layouts and details, preliminary technical specifications, Opinion of Probable Cost (OPC) and a conceptual construction schedule.
 - a. Drawings, Specifications, and OPC (1 - 11x17 copy)
 - b. Drawings, Specifications, and OPC (PDF)
3. 90% Submittal to include final layouts, details and specifications for final review, and phase alternatives as necessary. The Engineer's Opinion of Probable Cost and construction schedule should be updated to reflect the final design.
 - a. Drawings, Specifications, and OPC (1 - 11x17 copy)
 - b. Drawings, Specifications, and OPC (PDF)
4. Issued for Bid Drawing and Specifications sealed by a Registered Professional Engineer licensed to practice in the state of Texas.
 - a. Drawings, Specifications, and OPC (3 - 11x17 copies)
 - b. Drawings, Specifications, and OPC (PDF)
 - c. Drawings, Specifications, and OPC (AutoCAD)
5. Issued for Construction Drawings and Specifications incorporating addendums and modifications resulting from bidder questions. Construction Drawings and Specifications sealed by a Registered Professional Engineer licensed to practice in the state of Texas and updated opinion of probable cost, as appropriate.
 - a. Drawings, Specifications, and OPC (3 - 11x17 copies)
 - b. Drawings, Specifications, and OPC (PDF)
6. Drawings, Specifications, and OPC (3 - 11x17 copies)
 - a. Drawings, Specifications, and OPC (PDF)
 - b. Drawings, Specifications, and OPC (PDF)
 - c. Drawings, Specifications, and OPC (AutoCAD)

Schedule:

- Data Collection Deliverable 1 week after Notice to Proceed
- Topographic Survey 2 weeks after PCCA Authorization
- Preliminary Design 1 week after Design Kickoff Meeting
- Design 60% Review 2 weeks after PCCA Preliminary Design Approval
- Design 90% Review 1 week after 60% PCCA Review comments transmitted
- Final Design IFC Package 1 week after 90% PCCA Review comments transmitted

EXHIBIT B

FEE SCHEDULE

The Engineer will perform the Services described in Exhibit A in accordance with the terms and conditions of this Contract on an hourly fee basis; provided, however, that the total fee for services rendered under this Agreement will not exceed \$111,300.00 without Authority's written approval. This amount includes 5% (\$5,300.00) contingency as approved at the PCCA's sole discretion for changes in the scope of work. Services provided by Engineer will be billed at the hourly rates specified in Exhibit B. These fees will cover all of Engineer's overhead costs, including but not limited to, office rent, long distance telephone charges, postage, payroll and copying charges.

The Authority agrees to reimburse the Engineer for certain authorized and approved travel expenses incurred by the Engineer during the Term and directly resulting from the Engineer's performance of the Services under this Contract. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found at: <http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Authority will also reimburse the Engineer for document production costs and other direct costs (collectively, "Direct Costs") incurred by the Engineer in performing the Services. The Engineer shall submit proper documentation of any such approved travel expenses and Direct Costs to Authority from time to time, and such costs and expenses shall be billed to Authority at Engineer's actual cost.

Not later than the twentieth (20th) day of each calendar month, Engineer shall submit to Authority detailed invoices for all services performed and Direct Costs incurred, if any, pursuant to this Agreement during the prior calendar month. The invoices shall describe in detail the Services performed during the prior month and shall list the days and hours worked, the hourly rates charged, pre-approved Direct Costs, milestone achievements, tasks performed or completed, and the Services performed during each day of the prior month. Authority shall review the invoices and notify Engineer in writing (including email) within twenty (20) days of any disputed amounts.

Should this Contract be terminated for any reason, the Engineer will be paid all fees earned up to the termination date and any approved direct expenses incurred.

Fees listed below will remain in effect throughout the duration of this contract.

EXHIBIT B

FEE SCHEDULE



9510 Leopard Street
 Corpus Christi, Texas 78410
 Phone: (361) 241-2777
 Fax: (361) 356-4384

GOVIND DEVELOPMENT, LLC

Professional Services - Schedule of Hourly Rates by Personnel Classifications

Effective January 1, 2017 - December 31, 2017

CLASSIFICATION	EXEMPT(E) OR HOURLY(H)	Standard Time RATE	Over Time RATE
Project Consultant II	E	\$190.00	\$190.00
Project Consultant I	E	\$170.00	\$170.00
Project Manager II	E	\$130.00	\$130.00
Project Manager I	E	\$117.00	\$117.00
Project Engineer / Coordinator IV	E	\$100.00	\$100.00
Project Engineer / Coordinator III	E	\$90.00	\$90.00
Project Engineer / Coordinator II	E	\$80.00	\$80.00
Project Engineer / Coordinator I	E	\$70.00	\$70.00
Engineer VII	E	\$170.00	\$170.00
Engineer VI	E	\$155.00	\$155.00
Engineer V	E	\$135.00	\$135.00
Engineer IV	E	\$100.00	\$100.00
Engineer III	E	\$90.00	\$90.00
Engineer II	E	\$80.00	\$80.00
Engineer I	E	\$70.00	\$70.00
Designer V	E	\$130.00	\$130.00
Designer IV	H	\$110.00	\$140.25
Designer III	H	\$90.00	\$114.75
Designer II	H	\$85.00	\$108.38
Designer I	H	\$65.00	\$82.88
Technician III	H	\$60.00	\$76.50
Technician II	H	\$45.00	\$57.37
Technician I	H	\$35.00	\$44.63
Document Control III	H	\$70.00	\$89.25
Document Control II	H	\$60.00	\$76.50
Document Control I	H	\$40.00	\$51.00
Secretary III	H	\$64.00	\$81.60
Secretary II	H	\$52.00	\$66.30
Secretary I	H	\$40.00	\$51.00
Controls Manager	E	\$104.00	\$104.00
Project Estimator III	H	\$110.00	\$140.25
Project Estimator II	H	\$90.00	\$114.75
Project Estimator I	H	\$70.00	\$89.25

EXHIBIT B
FEE SCHEDULE

CLASSIFICATION	EXEMPT(E) OR HOURLY(H)	Standard Time RATE	Over Time RATE
Project Planner/Scheduler III	E	\$120.00	\$120.00
Project Planner/Scheduler II	H	\$100.00	\$127.50
Project Planner/Scheduler I	H	\$80.00	\$102.00
Clerk II	H	\$40.00	\$51.00
Clerk I	H	\$30.00	\$38.25
Architect	E	\$140.00	\$140.00
Construction Manager	E	\$115.00	\$115.00
Construction Coordinator	H	\$84.00	\$107.10
Safety Manager	H	\$80.00	\$102.00
Safety Coordinator	H	\$64.00	\$81.60
Registered Surveyor	E	\$135.00	\$135.00
Survey Chief	H	\$92.00	\$117.30
Survey Crewman	H	\$60.00	\$76.50

EXHIBIT C

INSURANCE

Without limiting the indemnity obligations or liabilities of Engineer or its insurers, provided herein, Engineer agrees to carry and maintain at its sole expense policies of insurance ("the Policies") of the types and in the minimum amounts as follows:

	<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
A.	Workers' Compensation	Statutory
B.	Employer's Liability	\$500,000 per Occurrence \$500,000 Aggregate
C.	Commercial General Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate

The CGL Policy will provide contractual liability coverage at the aforementioned limits.

D.	Business Automobile Liability	\$1,000,000 per Occurrence
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Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.

E.	Professional Liability	\$2,000,000
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Engineer will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Contract caused by any error, omission, or act for which the Engineer is legally liable. Policies written on a claims-made basis shall have an extended reporting period of at least two (2) years beyond termination of the Contract.

F.	Umbrella Liability	\$5,000,000 per Occurrence
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Umbrella liability coverage will apply to Employer's Liability, Commercial General Liability, and Business Automobile Liability.

G.	Railroad Protective Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate
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Each policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the Authority, its Port Commissioners, officers and employees ("Authority Parties"). Additionally, the Authority Parties shall be designated as an Additional Insured either by a blanket additional insured or a specific

endorsement on all policies, except for Worker's Compensation, Employer's Liability, and Professional Liability. In the event that the work of Engineer's employees fall within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Engineer shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts.

Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insureds with respect to claims arising under this Contract.

The insurance required as listed above, shall apply to any contractor or subcontractor performing for or on behalf of Engineer, and Engineer shall ensure that any such subcontractor is aware of and is in compliance with the insurance requirements during any period such contractor is performing work under this Contract.

The minimum insurance required may be increased periodically upon request by Authority to commercially reasonable limits. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII".

Engineer's liability shall not be limited to the specified amounts of insurance required herein.



DATE: July 18, 2017
TO: Port Commission
FROM: Sarah L. Garza, Director of Environmental Planning & Compliance
sarah@pocca.com
(361) 885-6163

Award a Construction Contract in the Amount of \$3,148,221 to JM Davidson Ltd., the Lowest and Best Bidder, for Bids Received on June 20, 2017, for Bulk Terminal Storm Water Quality Improvements.

SUMMARY: Staff recommends the award of a construction contract to JM Davidson Ltd. for Storm Water Quality Improvements at the Bulk Terminal. On June 20, 2017, one bid was received in response to the Notice to Bidders (see attached Bid Tabulation). JM Davidson Ltd submitted a bid of \$3,148,221.00. Additionally, Additive Bid Item No. 1 for standby charges was bid at \$15,250.00 per day. Staff believes this is unusually high and since the work is not on the dock and not likely to be impacted by the terminal operations, does not recommend award of this item.

BACKGROUND: The Texas Commission on Environmental Quality (TCEQ) regulates pollutants in storm water runoff through the Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR050000 which covers eligible storm water and certain types of non-storm water discharges into waters of the State from industrial activities. At the Bulk Terminal, significant quantities of petroleum coke and large volumes of storm water runoff at one time is the biggest challenge to preventing pollutants in storm water runoff from the facility and meeting the permit requirements.

The storm water concrete ditch system at the Bulk Terminal was originally constructed with the intention of capturing the petroleum coke and filtering the water prior to runoff in the ship channel. This is inefficient, requires significant maintenance man-hours, and reduces the capacity of the ditches for storm water runoff. Current annual maintenance costs for the ditch system are estimated at \$582,400 per year.

In 2014, PCCA commissioned a study at the Bulk Terminal to identify long-term improvements in the storm water management system necessary to effectively control contribution of pollutants to the ship channel from storm water runoff. The recommendations were separated into two phases of design and implementation. The scope of work for this project covers the Phase I recommendations. These improvements as well as the environmental improvements already captured in the 2016 lease amendments for the tenant pads will significantly improve the storm water quality and streamline maintenance operations.

One of the recommendations was to provide infrastructure improvements for the existing storm water system to allow for efficient removal of petroleum coke. Proposed modifications will increase the detention volume within the existing concrete ditch footprint to limit the petroleum coke getting into the ditch, allow settling to minimize the transport of petroleum coke laden storm water runoff into the ship channel, and reduce the maintenance requirements for this system. This will be accomplished with this project by:

- Controlling the locations at which storm water is allowed to enter the concrete drainage ditch;
- Providing filtration at specific inlet points at which runoff is allowed to enter the concrete ditch;
- Reducing the velocity of runoff thereby allowing pet coke to settle on the street after slow dissipation of storm waters following a storm event for ease of removal by street sweeping equipment;
- Replacing trapezoidal geometry of the concrete ditch with a rectangular shaped ditch to allow additional storage capacity for runoff during a rain event without having to pump to other areas in the facility or create additional storage area within the terminal;
- Providing a series of baffles and weirs within the concrete ditch to detain storm water (via weirs) and allow further settling of petroleum coke in runoff (via baffles); and
- Providing ramps and a widened concrete ditch, for easier access into the ditch with appropriate equipment that can efficiently remove pet coke left behind the weirs and baffles after a storm event.

The second recommendation in Phase I was to restore the capacity of the storm water detention ponds at the Public Pads to the original design capacity. The ponds have not had maintenance in some years. In addition, the ponds are currently being used for interim storage of storm water runoff during rain events to allow for additional settling of petroleum coke without risking flooding of other areas of the facility.

CONFORMITY TO PORT POLICY: Conforms to Strategic Plan Goal #5 (Be An Environmental Leader), Strategic Objective 5B (Continue to Meet and Exceed Regulatory Standards), Action Item 1 (Implement Environmental Standards Port-wide). The storm water quality improvements at the Bulk Terminal also support the Port's Environmental Policy promoting environmental sustainability and water quality improvements.

FINANCIAL IMPACT: This amount is below the 2017 budgeted amount for this project. Additionally, capital costs are expected to be recovered through reduced maintenance costs over time.

STAFF RECOMMENDATION: Staff recommends the award of a construction contract to JM Davidson Ltd, in the amount of \$3,148,221.00 for Storm Water Quality Improvements at the Bulk Terminal. Staff further recommends that a 5% contingency (\$157,411.05), in accordance with the PCCA's standard contingency guidelines for rehabilitation projects, be granted.

DEPARTMENTAL CLEARANCES:

Originating Department	Environmental Planning & Compliance
Reviewed By	Sarah Garza
	Eric Battersby
	Beatriz Rivera
	Lou Donato
	Brett Flint
Legal	Use Port's Standard Construction Contract Template
Senior Staff	John LaRue
	Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

Bid Tab



**BID TABULATION FOR
STORM WATER SYSTEM QUALITY IMPROVEMENT
PROJECT NO. 15046A
Bid Opening: June 20, 2017 at 2:00 PM**

Company Name	Bid Bond or Check	Base Bid	Additive Bid Item 1	Addendum 1	Addendum 2	Addendum 3	Time of Delivery*
JM Davidson Ltd.	5%	\$3,148,221.00	15,250.00/day	x	x	x	270
							270
							270
							270
							270
							270
							270
							270
							270
							270

*Time of Delivery Not to Exceed 270 Calendar Days

Base bid - Lump sum price for modifications which will require temporary storm water pollution prevention, removing and replacing concrete channels, removing driveway bridge structure, weirs, headwalls, misc. demolition, adding retaining walls, slabs, weirs, ramps, storm pipes, inlets, headwalls, pavement, curbs, asphalt humps, fencing, site grading, temporary and permanent relocation of various utilities, and adjustment of existing utilities.

Additive Bid Item 1 - Unit Price for Standby charges will be paid to the Contractor if and when facility operations prevents the Contractor from working a minimum of 16 days within any one calendar month. Refer to Special Conditions, Sections 1.05 & 1.06

Read By: Lynn Angerstein
Tabulated By: Beatriz Rivera
Checked & Prepared By: Leslye Cavazos
Date: June 20, 2017



DATE: July 18, 2017
TO: Port Commission
FROM: John P. LaRue
Executive Director
john@pocca.com
(361) 885-6189

Approve agreement to renew, extend, and restate existing agreement with voestalpine Texas Holdings, LLC regarding the handling of Mechanics and Materialmen’s Liens under the terms of Lease Agreement dated May 1, 2013 between PCCA and voestalpine.

SUMMARY: Staff requests Commission approval to enter into an agreement to renew, extend, and restate an existing agreement with voestalpine Texas Holdings, LLC (“Voestalpine”) regarding handling of Mechanic’s and Materialmen’s Liens under the terms of Voestalpine’s lease with PCCA. The agreement postpones PCCA’s right to demand the immediate release of all Mechanic’s and Materialmen’s Liens (“M&M Liens”) to allow time for Voestalpine to arbitrate disputes with its contractors. Voestalpine is requesting a twelve-month extension of that agreement upon similar terms.

BACKGROUND: PCCA on May 1, 2013 entered into a lease agreement (the “Lease Agreement”) whereby Voestalpine leased a large portion of PCCA’s La Quinta property (the “Leased Premises”) for the construction and operation of a hot briquetted iron (“HBI”) manufacturing facility. Section 7.05 of the Lease Agreement, prohibits the placement of any M&M Liens upon the Leased Premises and requires any such lien against the Leased Premises to be promptly released upon demand by PCCA. Payment disputes between Voestalpine’s affiliate voestalpine Texas, LLC (“Developer”) and certain contractors arose during the construction of Voestalpine’s facilities. Because of those disputes, Voestalpine in the first quarter of 2016, approached PCCA seeking an agreement under which PCCA would agree for a period of 15 months (the “Forbearance Period”) to not demand the prompt release of M&M Liens placed against the Leased Premises to allow Developer time to arbitrate the disputes with its contractors. On May 19, 2016, the PCCA contractually agreed to Voestalpine’s request (the “Existing Agreement”). Voestalpine under the terms the Existing Agreement agreed to provide adequate protections to PCCA and further agreed to pay for attorney’s fees incurred due to M&M Liens being asserted, claimed or filed against PCCA or the Leased Premises during the Forbearance Period. The Existing Agreement further requires Voestalpine upon the expiration of the Forbearance Period to procure releases (by bonding or otherwise) of all M&M Liens. Currently, Voestalpine’s Developer is arbitrating with 4 separate entities with payment disputes collectively exceeding \$60,000,000. The arbitration proceedings are ongoing and are expected to continue until well after the expiration of the Forbearance Period

(August 19, 2017). Voestalpine has therefore requested that the PCCA agree to renew, extend and restate the Existing Agreement to effectively extend the Forbearance Period for one additional year (August 19, 2018) (the “Renewal Agreement”). A copy of the Existing Agreement is attached hereto as Exhibit A and a copy of the Renewal Agreement is attached hereto as Exhibit B.

ALTERNATIVES: Allow the Existing Agreement to expire effectively requiring Voestalpine to incur the expense to bond around approximately \$60,000,000 of asserted M&M Liens in order to avoid a default under the terms of the Lease Agreement while the arbitration proceedings are ongoing.

EMERGENCY: No

FINANCIAL IMPACT: The financial impact of this agreement is anticipated to be revenue neutral to PCCA.

STAFF RECOMMENDATION: Staff recommends the Port Commission approve the Renewal Agreement.

DEPARTMENTAL CLEARANCES:

Originating Department Real Estate Services

Reviewed & Approved Darrin Aldrich

Senior Staff John LaRue
 Sean Strawbridge
 Jarl Pedersen

Legal Review Bruce Hawn

LIST OF SUPPORTING DOCUMENTS:

Exhibit A: Existing Agreement
Exhibit B: Renewal Agreement

Port of Corpus Christi Authority
222 Power Street
Corpus Christi, TX 78401
Attention: John P. LaRue
Executive Director

May 17, 2016

Subject: **Plan of Action in the Event of Mechanic's and Materialmen's Lien Filing**

Dear Mr. LaRue:

Reference is made as to that certain Lease Agreement dated May 1, 2013 (the "**Lease**") by and between Port of Corpus Christi Authority of Nueces County, Texas ("**Landlord**") and voestalpine Texas Holding LLC ("**Tenant**"). As Phase 1 of the Go West HBI project (the "**Project**") comes to completion, certain disputes have arisen between Tenant's affiliate, voestalpine Texas, LLC ("**Developer**") and some of the contractors providing goods and services to Developer relating to the Project, either as a direct contractor to Developer, or as a supplier or subcontractor to any such direct contractor (each, a "**Disputing Contractors**"). Notwithstanding the terms of Section 7.05 and 7.06 of the Lease, Landlord and Tenant wish to enter into this side-letter agreement to the Lease, which is intended to provide greater flexibility to Tenant in dealing with any mechanics and materialmen's liens ("**M&M Liens**") that may be filed by any of the Disputing Contractors against the Project.

Accordingly, Landlord and Tenant agree as follows:

1. Tenant promptly shall notify Landlord of each M&M Lien filing, if any. Tenant shall contest any such M&M lien by having Developer initiate (or defend against) arbitration proceedings pursuant to the contract(s) between Developer and the applicable Disputing Contractor ("**Dispute Resolution Proceedings**"). With regard to any M&M Liens attempted to be filed by any Disputing Contractors who are subcontractors or suppliers (each, a "**Derivative Claimant**") to any such Disputing Contractors who are in privity with Developer (each, a "**Direct Contractor**"), as part of any such Dispute Resolution Proceedings Developer shall direct, or shall cause each Direct Contractor to direct each Derivative Claimant to assert any such claims of such Derivative Claimant (including M&M Lien claims) against the payment and performance bonds secured by the Direct Contractors for the Project (each a "**Payment Bond for Derivative Claims**"). Tenant will cause Developer to commence and to diligently pursue such Dispute Resolution Proceedings to their final conclusion, and shall promptly pay any sums agreed to or awarded to a Direct Contractor (or, to the extent applicable, to a Derivative Claimant) pursuant to such Dispute Resolution Proceedings, upon the conclusion of any applicable appeal periods.
2. As part of Tenant's undertakings, Tenant shall cause (i) any M&M Lien(s) filed by a Derivative Claimant and not released or caused to be released by a Payment Bond for Derivative Claims, (ii) any M&M Lien claim asserted by a Direct Contractor, as well as (iii) any M&M Lien filed against Landlord under §2253.027 of the Texas Government Code ("**Claim(s) Against Landlord**") to be discharged of record within fifteen (15) months from the "Effective Date" of this letter agreement (as herein defined), except as such period may be extended, as herein provided. In consideration of the undertakings of

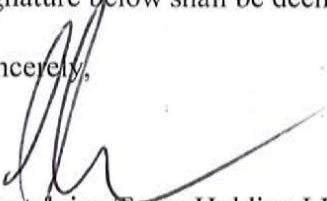
Tenant hereunder, Landlord agrees to forbear on its right to demand the prompt release of any such M&M Lien(s) or Claim(s) Against Landlord as provided in Section 7.05 of the Lease for a period of fifteen (15) months from the Effective Date hereof (the "**Forbearance Period**"). Tenant will, however, continue to have the right, but not the obligation (except as otherwise provided herein) to release any such M&M Lien(s) or Claim(s) Against Landlord by the filing of a bond, as provided by law, during the course of the Forbearance Period for each such M&M Lien or Claim Against Landlord. Upon the date of the expiration of the Forbearance Period, or upon the date of expiration of any Stay Period (defined below), for each M&M Lien and each Claim Against Landlord that remains unreleased, Tenant will, at Tenant's expense, cause each such M&M Lien and Claim Against Landlord to be promptly released (each a "**Required Release**") by the filing of a bond or by other means as allowed by law. Tenant's failure to promptly secure a Required Release shall be an "Event of Default" by Tenant under the Lease, providing Landlord with all rights and remedies, as provided in the Lease.



3. Notwithstanding the foregoing, should any of the Disputing Contractors file M&M Lien(s) and thereafter during the term of the Forbearance Period commence judicial foreclosure proceedings to foreclose on their M&M Lien(s) ("**Foreclosure Proceedings**"), or should a Disputing Contractor commence a judicial proceeding asserting Claim(s) Against Landlord ("**Payment Bond Proceedings**"), then within not more than sixty (60) days after the commencement of such Foreclosure Proceedings or Payment Bond Proceedings, Tenant shall cause the Developer to either (i) secure from the court conducting the Foreclosure Proceedings and/or the court conducting the Payment Bond Proceedings, a stay against the pursuit of such proceedings until the conclusion and the rendering of any final arbitral award in any Dispute Resolution Proceedings (the "**Stay Period**"), or (ii) to release any such M&M Lien(s) subject to Foreclosure Proceedings by the filing of a bond, as provided by law; and to otherwise release the Claim(s) Against Landlord asserted in a Payment Bond Proceeding including, but not limited to the filing of a bond by Tenant to remove any lien claimed on Landlord's property in any such Payment Bond Proceedings. Unless such 60-day period shall be extended in writing by Landlord, in its sole discretion, the failure of Developer to take the actions under either (i) or (ii) above, or the failure of Developer to diligently and in good faith pursue any Dispute Resolution Proceedings to conclusion shall be deemed an automatic termination of the Forbearance Period and any Stay Period, and an "Event of Default" by Tenant under the Lease, providing Landlord with all rights and remedies, as provided in the Lease.
4. Nothing in this letter shall be deemed a release of Tenant's indemnity obligations in Section 7.06 of the Lease, such that at all times Tenant shall fully indemnify Landlord from any such M&M Liens, and from any such Claim(s) Against Landlord to the extent provided in the Lease. Tenant further agrees to reimburse Landlord all attorney's fees reasonably incurred by Landlord in responding to or defending against any lien notices, liens, suits, claims, encumbrances or judgments arising out of or related to Tenant's failure, or the failure of anyone acting by through or under Tenant, including but not limited to Developer and Developer's contractors and their sub-contractors, to pay for labor or materials provided to the Leased Premises.

- 5. Nothing in this letter is intended to create any third-party beneficial rights, and specifically, nothing in this letter is intended to give any Disputing Contractors any greater rights, or to give any Derivative Claimants any direct rights against Developer, Tenant or Landlord.
- 6. Except with respect to the agreements between Landlord and Tenant set forth herein, the Lease is hereby ratified and confirmed as being in full force and effect.

Should the foregoing accurately reflect the agreement between Landlord and Tenant regarding any M&M Lien(s) that may be filed against the Project and regarding any Claim(s) Against Landlord, then please so indicate by signing this letter in the space indicated below. The date of Landlord's signature below shall be deemed the "**Effective Date**" of this letter agreement for all purposes.

Sincerely,


voestalpine Texas Holding LLC
Gottfried Simhofer
Head of Finance, IT & Logistics


voestalpine Texas Holding LLC
Roland Radhuber
Head of Legal, HR & Procurement
(Signed with permission by Jonas Chupe) 

Agreed to and accepted this
19 day of May, 2016:

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

By: 

John P. LaRue
Executive Director

Port of Corpus Christi Authority
222 Power Street
Corpus Christi, TX 78401
Attention: John P. LaRue
Executive Director

July 12, 2017

Subject: **Plan of Action in the Event of Mechanic's and Materialmen's Lien Filing**

Dear Mr. LaRue:

Reference is made as to that certain Lease Agreement dated May 1, 2013 (the "**Lease**") by and between Port of Corpus Christi Authority of Nueces County, Texas ("**Landlord**") and voestalpine Texas Holding LLC ("**Tenant**"). As Phase 1 of the Go West HBI project (the "**Project**") comes to completion, certain disputes have arisen between Tenant's affiliate, voestalpine Texas, LLC ("**Developer**") and some of the contractors providing goods and services to Developer relating to the Project, either as a direct contractor to Developer, or as a supplier or subcontractor to any such direct contractor (each, a "**Disputing Contractors**"). Notwithstanding the terms of Section 7.05 and 7.06 of the Lease, Landlord and Tenant wish to enter into this side-letter agreement to the Lease, which is intended to provide greater flexibility to Tenant in dealing with any mechanics and materialmens liens ("**M&M Liens**") that may be filed by any of the Disputing Contractors against the Project. All other claims for mechanics and materialmen's liens claimed against the Project or against the real property that is subject to the Lease or against Landlord shall hereinafter be referred to as "**Other M&M Liens**". This side letter renews, extends and restates the agreements of Landlord and Tenant related to the subject matter hereof, as previously set forth in the original side letter between the parties dated effective as of May 19, 2016 ("**Original Agreement**"), and expiring August 19, 2017.

Accordingly, Landlord and Tenant agree as follows:

1. Tenant promptly shall notify Landlord of each M&M Lien claim or filing and of each Other M&M Lien claim or filing, if any. Tenant shall contest any such M&M lien by having Developer initiate (or defend against) arbitration proceedings pursuant to the contract(s) between Developer and the applicable Disputing Contractor ("**Dispute Resolution Proceedings**"). With regard to any M&M Liens attempted to be filed by any Disputing Contractors who are subcontractors or suppliers (each, a "**Derivative Claimant**") to any such Disputing Contractors who are in privity with Developer (each, a "**Direct Contractor**"), as part of any such Dispute Resolution Proceedings Developer shall direct, or shall cause each Direct Contractor to direct each Derivative Claimant to assert any such claims of such Derivative Claimant (including M&M Lien claims) against the payment and performance bonds secured by the Direct Contractors for the Project (each a "**Payment Bond for Derivative Claims**"). Tenant will cause Developer to commence and to diligently pursue such Dispute Resolution Proceedings to their final conclusion, and shall promptly pay any sums agreed to or awarded to a Direct Contractor (or, to the extent applicable, to a Derivative Claimant) pursuant to

- such Dispute Resolution Proceedings, upon the conclusion of any applicable appeal periods.
2. As part of Tenant's undertakings, Tenant shall cause (i) any M&M Lien(s) filed by a Derivative Claimant and not released or caused to be released by a Payment Bond for Derivative Claims, (ii) any M&M Lien claim asserted by a Direct Contractor, as well as (iii) any M&M Lien and Other M&M Lien filed against Landlord under §2253.027 of the Texas Government Code ("**Claim(s) Against Landlord**") to be discharged of record by August 19, 2018. In consideration of the undertakings of Tenant hereunder, Landlord agrees to forbear on its right to demand the prompt release of any such M&M Lien(s) or Claim(s) Against Landlord as provided in Section 7.05 of the Lease for that period of time between May 19, 2016 thru August 19, 2018 (the "**Forbearance Period**"). Tenant will, however, continue to have the right, but not the obligation (except as otherwise provided herein) to release any such M&M Lien(s) or Claim(s) Against Landlord by the filing of a bond, as provided by law, during the course of the Forbearance Period for each such M&M Lien or Claim Against Landlord. Upon the date of the expiration of the Forbearance Period, or upon the date of expiration of any Stay Period (defined below), for each M&M Lien and each Claim Against Landlord that remains unreleased, Tenant will, at Tenant's expense, cause each such M&M Lien and Claim Against Landlord to be promptly released (each a "**Required Release**") by the filing of a bond or by other means as allowed by law. Tenant's failure to promptly secure a Required Release shall be an "Event of Default" by Tenant under the Lease, providing Landlord with all rights and remedies, as provided in the Lease.
 3. Notwithstanding the foregoing, should any of the Disputing Contractors file M&M Lien(s) and thereafter during the term of the Forbearance Period commence judicial foreclosure proceedings to foreclose on their M&M Lien(s) ("**Foreclosure Proceedings**"), or should a Disputing Contractor, or person asserting an Other M&M Lien commence a judicial proceeding asserting Claim(s) Against Landlord ("**Payment Bond Proceedings**"), then within not more than sixty (60) days after the commencement of such Foreclosure Proceedings or Payment Bond Proceedings, Tenant shall cause the Developer to either (i) secure from the court conducting the Foreclosure Proceedings and/or the court conducting the Payment Bond Proceedings, a stay against the pursuit of such proceedings until the conclusion and the rendering of any final arbitral award in any Dispute Resolution Proceedings (the "**Stay Period**"), or (ii) to release any such M&M Lien(s) or Other M&M Lien(s) subject to Foreclosure Proceedings by the filing of a bond, as provided by law; and to otherwise release the Claim(s) Against Landlord asserted in a Payment Bond Proceeding including, but not limited to the filing of a bond by Tenant to remove any lien claimed on Landlord's property in any such Payment Bond Proceedings. Unless such 60-day period shall be extended in writing by Landlord, in its sole discretion, the failure of Developer to take the actions under either (i) or (ii) above, or the failure of Developer to diligently and in good faith pursue any Dispute Resolution Proceedings to conclusion shall be deemed an automatic termination of the Forbearance Period and any Stay Period, and an "Event of Default" by Tenant under the Lease, providing Landlord with all rights and remedies, as provided in the Lease.

- 4. Nothing in this letter shall be deemed a release of Tenant’s indemnity obligations in Section 7.06 of the Lease, such that at all times Tenant shall fully indemnify Landlord from any such M&M Liens, Other M&M Liens, and from any such Claim(s) Against Landlord to the extent provided in the Lease. Tenant further agrees to reimburse Landlord all attorney’s fees reasonably incurred by Landlord in responding to or defending against any lien notices, liens, suits, claims, encumbrances or judgments arising out of or related to Tenant’s failure, or the failure of anyone acting by through or under Tenant, including but not limited to Developer and Developer’s contractors and their sub-contractors, and any of sub-contractors and materialmen of such sub-contractors to pay for labor or materials provided to the Leased Premises; as well as for all reasonable attorney’s fees and expenses of Landlord in responding to an open records request filed by anyone asserting an M&M Lien, Other M&M Lien, or any Claim(s) Against Landlord.
- 5. Nothing in this letter is intended to create any third-party beneficial rights, and specifically, nothing in this letter is intended to give any Disputing Contractors any greater rights, or to give any Derivative Claimants any direct rights against Developer, Tenant or Landlord.
- 6. Except with respect to the agreements between Landlord and Tenant set forth herein, the Lease is hereby ratified and confirmed as being in full force and effect.

Should the foregoing accurately reflect the agreement between Landlord and Tenant regarding any M&M Lien(s) that may be filed against the Project and regarding any Claim(s) Against Landlord, then please so indicate by signing this letter in the space indicated below.

Sincerely,

voestalpine Texas Holding LLC

voestalpine Texas Holding LLC

By: _____

By: _____

Title: _____

Title: _____

Agreed to and accepted this
__ day of July 2017:

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

By: _____

John P. LaRue
Executive Director



DATE: July 20, 2017

TO: Port Commission

FROM: David L. Krams, P.E.
 Director of Engineering Services
Krams@pocca.com
 (361) 885-6134

ANTICIPATED STAFF PRESENTER: Brett F. Flint, P.E.
 Chief of Planning and Design

Approve a Professional Services Contract with Freeman Schroder Architects in an Amount Not to Exceed \$213,360 for Coordinating Architect Services Associated with the Development of a New Port of Corpus Christi Authority Office Facility.

SUMMARY: Staff requests Commission approval of a Professional Services Contract with Freeman Schroder Architects to provide Coordinating Architect Services for a new Port of Corpus Christi Authority (PCCA) Office Facility in an amount not to exceed \$213,360.

BACKGROUND: At the June 20, 2017 meeting the Commission provided approval of a Design-Build delivery method for a new PCCA Office Facility, issuance of a Request for Qualifications to select a short list of Design-Build teams, and a Request for Proposals to make a final selection of a Design-Build team to design and construct a new office facility.

In light of the current staff workload, absence of a staff architect, and the unique nature of this project, staff has negotiated a Professional Services Contract with Freeman Schroder Architects to provide Coordinating Architect Services to support staff through the initial development of the project and procurement of a Design-Build Team. The Scope of Work for Freeman Schroder will include: revising and updating the space and needs study for the office building, providing assistance in preparing a Request for Qualifications to be used to develop a short list of Design-Build teams, developing a program of needs and performance requirements for the new office building (Bridging Document for the Design-Build Contract), assistance in developing the Request for Proposals, evaluation criteria, and presentation format for the short list of Design-Build Teams, development of a Design-Build Contract, and technical support through the procurement, selection, and contracting a team to design and construct the new office facility. Freeman Schroder Architects will act essentially as a staff extension to support this project and will work closely with PCCA staff and administration to ensure a successful project.



ALTERNATIVES: In following Commission direction, large PCCA projects are evaluated for Design-Build delivery over the traditional design-bid-build methods. Use of the service of a Coordinating Architect to support and oversee the Design-Build process is a common practice.

CONFORMITY TO PORT POLICY: The Design-Build project delivery method is an alternate method available for contracting as per Subchapter O of the Texas Water Code. The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #3A – Build & Sustain Productive Stakeholder Relationships – Our Employees in this case).

EMERGENCY: No; however, current building conditions are rapidly deteriorating.

FINANCIAL IMPACT: This project is included in the 2017 Capital Budget with \$500,000 identified to be expended this year.

STAFF RECOMMENDATION: Staff recommends approval of a Professional Services Agreement with Freeman Schroder Architects to provide Coordinating Architect Services for a new Port of Corpus Christi (PCCA) Office Facility in an amount not to exceed \$213,360.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams Brett Flint Sonya Lopez-Sosa
Legal	Standard Contract Form
Senior Staff	John LaRue Sean Strawbridge Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Professional Services Contract

CONSULTING SERVICES CONTRACT

PROJECT NAME: NEW PORT OFFICE FACILITY

PROJECT NUMBER: 14-036A

THIS CONTRACT (the “Contract”) is made and entered into effective as of the 18th day of July, 2017 (“Effective Date”) by and between the Port of Corpus Christi Authority of Nueces County, Texas (“Authority”), and Freeman Schroeder Architects. LLC (dba fresch architects) (“Consultant”), each a “Party” and collectively as “Parties”.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. CONTRACT: Authority hereby engages the Consultant and the Consultant hereby accepts its engagement for the purpose of providing to Authority the consulting services (“Services”) as are generally described in the “Scope of Services” set forth in Exhibit A to this Contract which is incorporated herein by reference. All designs, reports, drawings and specifications prepared hereunder will be sealed, if required by law, by a Consultant licensed to practice in the State of Texas.

2. PERIOD OF SERVICE: The Consultant shall complete the Services on or before June 30, 2018 (the “Deadline”), unless the Authority agrees to extend the Deadline for good reason; provided, however, that the Authority may terminate this Contract at any time in accordance with Section 14. Time is of the essence in performance of this Contract. There will be no obligation established between Authority and the Consultant for performance of the Services until Authority provides the Consultant execution of this Contract and receipt by the Authority of appropriate Certificates of Insurance and other documentation as may be required herein. The term of this Contract (“Term”) shall begin on the Effective Date and shall end on the first to occur of the following: (1) the Deadline, as the same may have been extended by the Authority, (2) the date on which, in the opinion of Authority, all of the Services have been rendered, (3) the date on which this Contract is terminated by the Authority pursuant to Section 14, or (4) the date on which this Contract is terminated by the Consultant pursuant to Section 14.

3. COORDINATION OF SERVICES BY AUTHORITY: Authority shall designate a Project Representative who will, on behalf of Authority, coordinate with the Consultant and administer this Contract. It shall be the responsibility of the Consultant to coordinate all assignment-related activities with the Project Representative.

For the purposes of this Contract, the Project Representative shall be:

Brett F. Flint, P.E.
222 Power Street, Corpus Christi, TX 78401
Phone: 361-885-6125
E-mail: brett@pocca.com

Authority may change the Project Representative at any time by giving the Consultant written notice of such change.

4. NOTICES: Notices, demands, requests or other formal communication related to the Contract shall be deemed to have been given when received, whether delivered personally or mailed. E-mail communications may be considered as formal notification provided the e-mail message states the message is intended as a formal notice and the receiving Party acknowledges receipt of the message as a formal notification. Notices shall be addressed as follows:

If to the Authority: John P. LaRue
Executive Director
Port of Corpus Christi Authority
222 Power Street
Corpus Christi, Texas 78401
E-mail: john@pocca.com

If to the Consultant: Sheldon Schroeder, AIA
418 Peoples Street; Suite 101
Corpus Christi, Texas 78401
E-mail: sheldon@frescharch.com

Either Party may change the mailing or E-mail address for notifications by providing written notice of such change to the other Party.

5. CHANGES: This Contract may be changed or modified at the request of either the Consultant or the Authority, provided both Parties agree to the requested change, and a written amendment or modification of this Contract is prepared and executed by the Parties.

6. CONSULTANT'S RESPONSIBILITIES: In addition to all other obligations contained herein, the Consultant agrees, warrants, and represents that:

6.1 The Consultant will furnish all material, equipment, labor and supplies in such quantities and of the proper quality to professionally and timely perform the Services, except as otherwise mutually agreed by the Parties;

6.2 The Consultant shall perform the Services with the professional skill and care ordinarily provided by competent consultants practicing in the same or similar locality and under the same or similar circumstances and professional license;

6.3 The Consultant will comply with the provisions of all federal, state, and local laws, regulations, ordinances, requirements and codes which are applicable to its performance of Services;

6.4 The Consultant is not and will not be bound by any agreement and has not assumed nor will assume any obligation which would, in any way, restrict its ability to perform the Services or be inconsistent with the Services;

6.5 In performing the Services, the Consultant will not use any third party's confidential or proprietary information, or infringe the rights of another party, nor will the Consultant disclose to the Authority, or bring onto the Authority's premises, or induce the Authority to use any third party's confidential or proprietary information;

6.6 The Consultant does not have the authority to act for the Authority, bind the Authority in any respect, or incur any debts or liabilities in the name of or on behalf of the Authority, except as otherwise expressly authorized in writing by the Authority;

6.7 Consultant is an independent contractor for the performance of his duties under this Contract. Accordingly, the Consultant shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Consultant's activities in accordance with this Contract. Consultant is responsible for payment of the compensation, including any withholding, Social Security, or other taxes on such compensation, of any subcontractors retained by Consultant, or Consultant's employees performing Services consistent with its status as an independent contractor and in compliance with all applicable laws and regulations;

6.8 Consultant has and hereby retains full control of any supervision over the Consultant's obligations hereunder and over any persons employed or subcontracted by the Consultant for performing Services hereunder;

6.9 Consultant will in no way be considered an agent, partner, joint venturer, or employee of Authority at any time during the Term. Consultant will not undertake to commit Authority to any course of action in relation to a third party unless expressly requested and authorized to do so by the Authority in writing.

6.10 As of the Effective Date and at all times while providing Services hereunder, the Consultant shall possess and maintain in good standing any and all licenses or other authorizations and approvals necessary to perform the Services.

7. COMPENSATION: The compensation to be paid Consultant for providing the Services shall be the compensation described in Exhibit B hereto, which is incorporated herein by reference; provided, however, the total paid to Consultant for the Services shall not exceed **Two Hundred Thirteen Thousand Three Hundred Sixty Dollars (\$213,360)**. Consultant will obtain the approval of Authority's Project Representative relative to incurring travel and other expenses before incurring such costs.

8. INVOICE PROCEDURE AND PAYMENT: Consultant shall submit invoices monthly to the Authority for work performed during the preceding calendar month. Such invoices shall be due and payable by Authority on or before thirty (30) days from receipt by Authority. Monthly compensation will be for the Services actually performed during the billing period,

invoiced in accordance with the Fee Schedule included in Exhibit B. Invoices shall also describe any work performed by subcontractors retained by Consultant and reimbursable costs. Consultant will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At the Authority's request, Consultant will provide additional backup such as signed time sheets, invoices for materials and subcontracted service or other documentation sufficient to establish the accuracy of the invoices. Invoices are to be submitted in a format previously approved by Authority.

9. INSURANCE: Consultant shall procure and maintain at its sole expense, for as long as Consultant is obligated to provide Services under this Contract, the policies of insurance described in Exhibit C attached hereto and in at least the minimum amounts specified in Exhibit C to protect Consultant from claims which may arise out of or result from Consultant's Services pursuant to this Contract, whether such operations be by Consultant, by any subcontractor of Consultant, by anyone directly or indirectly employed by Consultant or Consultant's subcontractor, or by anyone for whose acts Consultant or Consultant's subcontractor may be liable. At least five (5) days prior to execution of this Contract, Consultant will provide to Authority's Risk Program Manager certificates of insurance issued by each insurance company providing any of the required insurance coverage, and the text entered in each certificate must be acceptable to Authority. The requirement to provide acceptable certificates of insurance is a material condition of this Contract, and work under this Contract will not commence until certificates of insurance have been received, reviewed, and accepted by Authority. The minimum limits of liability and coverage for the insurance required are set forth in Exhibit C attached hereto, which is incorporated herein by reference.

10. INDEMNIFICATION AND RELEASE. Consultant hereby releases and discharges Authority and its agents, servants, representatives, employees, officers, directors, and Port Commissioners (collectively, the "Authority Parties") from liability for and assumes the risk of loss or damage to the property of Consultant and the injury or death of any person employed by Consultant. Consultant shall defend, indemnify and hold harmless the Authority Parties from and against all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorneys' fees and the cost of defense), in connection with any action, proceeding, demand or claim but only to the extent caused by the negligent acts, errors, or omissions of the Consultant, its employees, agents, or subconsultants, or others for whom the Consultant is legally liable, in the performance of Services under this Contract. The Consultant is not obligated under this paragraph to indemnify the Authority Parties for the negligent acts of the Authority Parties.

Consultant's indemnity obligations under this Section 10 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Consultant to any employee of Consultant under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. The obligations of the Consultant under this Section 10 shall survive the end of the Term of the Contract.

11. LIMITATION OF LIABILITY: Except as otherwise expressly provided herein, neither Party shall be liable or responsible to the other Party for any indirect, incidental or consequential loss or damage of any nature whatsoever (including, but not limited to, contract,

negligence or tort liability) of the other Party, including without limitation, any actual or anticipated profits, loss of time, inconvenience, commercial loss or any other damages, even if the Party has advance notice of the possibility of such damages.

12. DISCLOSURE OF INTERESTED PARTITES: Consultant will comply with the provisions of Section 2252.908 of the Texas Government Code and Chapter 46 of the Texas Ethics Commission Rules by preparing a Texas Form 1295, “Certificate of Interested Parties” and submitting the signed and notarized form to Authority at the time Consultant submits the signed contract to Authority. This provision will only apply to contracts approved by the Port of Corpus Christi Authority Port Commission.

13. ASSIGNMENT: Neither Authority nor Consultant will assign or transfer its interest in this Contract without the written consent of the other.

14. SUSPENSION OR TERMINATION: Authority may suspend or terminate this Contract for convenience with seven (7) days prior written notice to Consultant of such action. Upon termination of this Contract in accordance with this paragraph, Authority will have no further obligation to the Consultant hereunder except to pay the Consultant unpaid fees and expenses which the Consultant can reasonably show to have been earned under this Contract. **Under no circumstances may Consultant claim or recover consequential damages from Authority.**

In the event of suspension of Services, the Consultant shall resume the full performance of the Services when directed in writing to do so by Authority. Suspension of the Services for reasons other than the Consultant’s negligence or failure to perform shall not affect the Consultant’s compensation as provided for in this Contract. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to this Contract to reflect the suspension.

Either Party may terminate this Contract by giving written notice to the other Party if the other Party (“Defaulting Party”): (a) materially breaches any term, condition or provision of this Contract and fails to cure the breach to the satisfaction of the notifying Party within ten (10) days after the Defaulting Party receives a written notice of the breach from the notifying Party, or (b) becomes the subject of any proceedings under state or federal law for the relief of debtors or otherwise becomes insolvent, or bankrupt, or makes any assignments for the benefit of one or more creditors.

15. DISPUTES: Each Party agrees that any dispute between the Parties relating to this Contract will first be submitted in writing to a panel of two senior executives of the Authority and Consultant, who shall promptly meet and confer in an effort to resolve such dispute through good faith consultation and negotiation. Each Party’s executive shall be identified by notice to the other Party, and may be changed at any time thereafter also by notice to the other. Any decisions of the executives will be final and binding on the Parties. In the event the executives are unable to resolve any dispute within thirty (30) days after submission to them, either Party may then refer such dispute to mediation.

If the Parties refer to mediation any controversy or claim arising out of or relating to this Contract or the existence, validity, breach or termination thereof, whether during or after its term,

they shall select a mutually acceptable mediator within forty-five (45) days thereafter. Neither Party shall unreasonably withhold consent to the selection of a mediator. The Parties shall share equally the costs of mediation. If the Parties agree, they may substitute other forms of alternative dispute resolution. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available at law or in equity.

16. ATTORNEY'S FEES, DEFAULT: In the event Consultant or Authority breach any of the terms of this Contract and the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting Party agrees to pay reasonable attorney's fees and costs incurred by the prevailing Party.

17. STAFFING: Consultant will designate in writing to Authority its project representative, and the manner in which it will provide staff support for the project, which must be approved by Authority. Consultant must notify Authority's Project Representative of any change in personnel assigned to perform work under this Contract, and the Authority's Project Representative has the right to reject the person or persons assigned to fill the position or positions. The Authority's Project Representative shall also have the right to require the removal of the Consultant's previously assigned personnel, including Consultant's project representative, provided sufficient cause for such removal exists. The criteria for requesting removal of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position's qualifications, failure to perform, poor attendance, ethics violation, unsafe work habits, or damage to Authority or other property. Upon notice for removal, Consultant shall replace such personnel with personnel substantially equal in ability and qualifications for the positions and shall submit the proposed replacement personnel qualification and abilities to the Authority, in writing, for approval.

18. OWNERSHIP OF WORK PRODUCT: Studies, plans, reports, surveys, drawings, specifications, computations and other information (collectively "Work Product") and documents prepared by the Consultant, subconsultants, and/or suppliers under this Contract will remain the Authority's property upon completion. This provision does not apply to pre-existing proprietary information of Consultant, subconsultants, and/or suppliers.

19. CONFIDENTIAL INFORMATION: It is understood that information developed by or communicated to Consultant in the performance of this Contract, as well as any and all information in whatever form or medium supplied to Consultant in connection herewith which is not generally available to the public is proprietary to the Authority and constitutes confidential information of the Authority. Consultant will make no oral or written disclosure of such information to third parties either during or after the term of this Contract, except as approved in writing by the Authority's Project Representative or as otherwise required by law. In the event the Consultant becomes aware that confidential information must be disclosed under a legal requirement, Consultant will notify Authority of the requirement and the affected information.

20. FORCE MAJEURE: Neither Party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is delayed by any cause beyond the reasonable control of the affected Party. In the event of such a delay, the time

for performance for the affected Party shall be extended for a period equal to the time lost during the delay, or the Contract may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the Authority.

21. SEVERABILITY and WAIVER: If any part of this Contract is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Contract, and this Contract shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Contract. Further, the failure of either Party in any one or more instances to insist upon strict performance of any of the terms and provisions of this Contract or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms, provisions or options on any future occasion.

22. GOVERNING LAW: This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The Parties agree that venue of all claims and lawsuits arising out of this Contract shall lie in Nueces County, Texas.

23. OPEN RECORDS: The Authority is a governmental body subject to the requirements of the Texas Public Information Act (Texas Government Code, chapter 552), and as such the Authority is required to disclose to the public (upon request) this Contract and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, the Consultant agrees that the disclosure of this Contract or any other information or materials related to the consummation of the transactions contemplated hereby to the public by the Authority as required by the Texas Public Information Act or any other applicable law will not expose the Authority (or any party acting by, through or under the Authority) to any claim, liability or action by the Consultant.

24. NO ORGANIZATIONAL CONFLICT OF INTEREST: Consultant hereby certifies that it has no actual or potential Organizational Conflict of Interest. “Organizational Conflict of Interest” means that because of other activities or relationships with other persons or entities, the Consultant is unable or potentially unable to render impartial assistance or advice to Authority or the Consultant’s objectivity in performing the services under this Contract is or might otherwise be impaired. Consultant agrees to immediately notify Authority of any actual or potential Organizational Conflict of Interest that develops during the term of this Contract. Consultant agrees that Authority may terminate this Contract immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Contract.

25. DEFAMATION: The Parties covenant and agree that in no event, and at no time during the Term or at any time thereafter, shall either of them disparage, denigrate, slander, libel or otherwise defame the other or the other’s businesses, services, properties or assets, or employees, personnel, agents, or representatives.

26. HEADINGS: All Section headings or other titles used in this Contract are used solely for convenience and shall not affect or be used in connection with the interpretation or construction of this Contract.

27. ENTIRETY OF CONTRACT: This writing embodies the entire Contract and understanding between the Parties hereto, and there are no other contracts or understandings, oral or written, between them with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change, or modification of the terms of this Contract shall be valid unless made in writing and signed by both Parties hereto.

[Signature page follows this page]

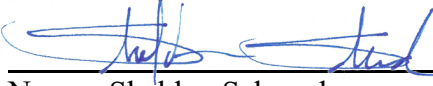
IN WITNESS WHEREOF, this Contract is made effective as of the Effective Date.

**PORT OF CORPUS CHRISTI AUTHORITY OF
NUECES COUNTY, TEXAS**

By: _____
Name: John P. LaRue
Title: Executive Director
Date: _____

“Authority”

FRESCH ARCHITECTS

By:  _____
Name: Sheldon Schroeder
Title: Principal
Date: 7/13/2017

“Consultant”

EXHIBIT A SCOPE OF SERVICES

The Consultant will perform the following services in accordance with the terms and conditions set forth in this Contract:

SCOPE OF WORK

Consultant (fresch architects) shall provide professional consulting services to assist the Authority (PCCA/Owner) in developing and executing a selection process to identify the Best Value Design Build Entity (DBE) to construct a new Office Building adjacent to the Solomon P. Ortiz Center. It is the non-binding intent of both parties that this agreement be followed at a later date with a separate services agreement for the Consultant to serve as a representative of the Authority during the Design Build contract phase of the Project.

This contract scope is intended to be a framework for the Consultant's pre-construction phase services through the DBE selection and contract negotiation process. This agreement may be amended, expanded or otherwise altered as mutually agreed (in writing) by Authority and Consultant. This initial agreement establishes the general scope of the Consultant responsibilities including services and associated compensation to manage and coordinate sub-consultants (consultants hired by fresch architects under this contract) and Authority's Other Consultants (Consultants hired directly by the Authority under separate contract). This agreement includes an allowance for compensation for Sub-Consultants to be hired by the Consultant, as required, to support development of a Program of Requirements and /or other project documentation. Sub-consultants may be contracted to the Consultant as an amendment to this agreement. Addition of Consultant's Sub-consultants scope and compensation must be mutually agreed to in writing by Authority and Consultant prior to sub-consultant participating on the project.

Services to be provided by the Consultant team may include but shall not be limited to the following:

1. Meet with Authority Staff and selected Commissioners to coordinate services and present information developed.
2. Coordinate and assist the Authority in development of a selection process to identify the best value Design Build Entity (DBE). This process shall be a two-step selection process to include a Request For Qualification (RFQ) process to identify a short list of 3 to 4 prospective DBE respondents to participate in an Request For Proposal (RFP) process to select the Best Value DBE.
3. With assistance from Authority, the Consultant shall develop a Program of Requirements (POR) for the Project. The foundation of the POR is the Basis of Design document which outlines the fundamental elements of the project as defined by the Authority. The Consultant shall coordinate development of Basis of Design with the Authority team and use it as the guide to defining and developing the POR and DB selection process.

4. As a component of the POR a space use program shall be developed. The Consultant shall utilize previously developed preliminary facility program information in conjunction with new information and interviews of Authority Administration and Staff to develop this space use program. This space use program shall serve as the basis for scoping the size and budget for the new facility.
5. The Consultant's team shall utilize the POR (particularly the space use program component) to develop a Conceptual Cost Estimate. This Conceptual Cost Estimate (early phase project budget) shall be utilized by the Authority and Consultant to prioritize the components of the POR within the RFP and provide a basis of expectation for the overall Design Build project.
6. The Consultant and their sub-consultants shall develop performance specifications supporting the POR. The performance specifications shall establish the parameters for building materials and systems available to the DBE in developing the design. In addition to applicable codes and ordinances the performance specifications shall establish the minimum standards for building systems and materials performance desired by the Authority.
7. Assist Authority in evaluating, selecting, and incorporating sustainable design objectives. At a minimum, the Consultant shall establish RFP requirements supporting compliance with the 2015 International Energy Conservation Code (IECC). NOTE: this contract scope does not include services necessary to manage, or document participation in any third party sustainable certification program. Should the Authority desire for the project to participate in a sustainable certification program an additional scope of service and commensurate compensation may be developed and added to this agreement.
8. Evaluate existing topographic, boundary and sub-surface information and make recommendations for additional topographic and subsurface surveys and investigations that may be necessary to support the Design Build process.
9. Identify applicable code, ordinance and permitting requirements for inclusion in the RFP. Facilitate communication between the DBE and Authorities Having Jurisdiction (AHJ). Consultant shall, on behalf of the Authority, assist the DBE in navigating the permit application process. Final responsibility for procuring permits for the project shall be the responsibility of the DBE.
10. Develop, with Authority input and direction:
 - a. A timeline for selecting a Design Build Team
 - b. Design Phase Milestone Dates
 - c. Construction Phase Milestone Dates
 - d. Other schedule dates and milestones as appropriate
11. Consultant shall coordinate development and execution of the RFQ / RFP documents and processes. Authority staff, legal counsel and other parties identified by the Authority as participants in the process shall be responsible for contributing or developing specific elements of the documents or process related to their expertise.

12. Consultant shall coordinate development of review, interview, and scoring criteria for the RFQ / RFP evaluation process. Authority staff, legal counsel and other parties designated by Authority shall contribute expertise in these review and scoring (ranking) processes. Consultant shall serve as a non-scoring advisory resource to the Authority selection committee during the RFQ & RFP evaluation and ranking processes. This includes review and technical support for questions submitted by responding Design Build Teams and preparation of Addendums to the RFQ and RFP, as appropriate and requested by Authority.
13. The Consultant shall be the primary coordinator in development of the RFP. The Consultant, in collaboration with the Authority's team shall vet the proposed Design Build selection process with State of Texas "Water Code" and other laws and ordinances regulating Authority procurement. At minimum, the Authority RFP process intends to include the following elements and Consultant services consistent with the above procurement regulations:
 - a. A schematic design component illustrating the proposed building approach.
 - b. Technical requirements for design and construction.
 - c. Consultant shall coordinate and participate in One-on-one meetings between the Authority's designated team and each prospective DBE team to provide information and address specific questions, as allowable under applicable procurement regulations.
 - d. Consultant shall provide technical assistance in responding to questions and comments on the RFP and preparation of addendums as may be necessary.
 - e. Consultant shall facilitate presentations by each prospective DBE to the Selection Committee.
 - f. Consultant shall develop, with input from Authority, evaluation and selection criteria which shall be utilized by the Selection Team in ranking the proposals from prospective DBE respondents.
 - g. The RFP shall include a cost component as appropriate, and/or a timeline for establishing a Guaranteed Maximum Price.
 - h. Stipend to be paid to unsuccessful teams.
 - i. Best and Final offer from Design Build Teams (as appropriate).
14. Consultant shall select and sub-contract sub-consultants as necessary to execute the Consultant project scope including creation of the Program of Requirements and design and construction review. These specialized engineering sub-consultants may include but shall not be limited to: Civil, Structural, Mechanical, Electrical, Plumbing, Building systems commissioning, and landscaping. The scope of these sub-consultant services shall be coordinated and scoped to provide the expertise required by the Consultant to meet the requirements of this contract scope. In the event that the mutually agreed scope and budget for sub-consultants exceeds the allowance identified here-in, this agreement, subject to the Port Commission approval, will be modified by a written amendment to reflect the actual sub-consultant scope and budget.
15. Assist Authority in the development of the Design Build Contract to control the design and construction of the new office facility.
16. Assist Authority staff in contract negotiations with the apparent successful Design Build Entity.

17. Provide regular updates to the Port Commission, Commission Committee, and Port Management and prepare and present updates at Committee and public commission meetings as requested and directed by the Authority.

SCHEDULE

The following contract schedule is preliminary and based on limited information available at time of Contract execution. This schedule shall be amended by mutual agreement between the Authority and Consultant, as necessary, through the course of project development.

<u>Milestone</u>	<u>Weeks From Notice To Proceed (NTP)</u>
1. Draft Request for Qualifications	Three Weeks
2. Issue Request for Qualifications	Six Weeks
3. Select Short List of DBE Firms	Thirteen Weeks
4. Draft Program of Requirements	Eight Weeks
5. Final Program of Requirements	Twelve Weeks
6. Draft Request for Proposals	Four Weeks
7. Issue Request for Proposals	Thirteen Weeks
8. Select DBE Firm	Thirty weeks
9. Draft Design Build Contract	Ten Weeks
10. Final Design Build Contract	Twenty Weeks

DELIVERABLES

1. Draft Request for Qualifications
2. Final Request for Qualifications
3. Draft Program of Requirement
4. Final Program of Requirements
5. Draft Request for Proposals
6. Final Request for Proposals
7. Draft Design Build Contract
8. Final Design Build Contract

Draft Deliverables will be provided in electronic reproducible format (PDF) and native file format as appropriate.

Final Deliverables will be provided in both electronic reproducible format and executable native file format, and no more than two bound hard copies, if requested by Authority.

**EXHIBIT B
FEE SCHEDULE**

The Consultant will perform the Services described in Exhibit A in accordance with the terms and conditions of this Contract on a fixed rate or an hourly fee basis; provided, however, that the total fee for services rendered under this Contract will not exceed **\$213,360**, without Authority’s written approval. Services provided by Consultant will be billed as specified in Exhibit B. These fees will cover all of Consultant’s overhead costs, including but not limited to, office rent, long distance telephone charges, postage, payroll and copying charges.

The Authority agrees to reimburse the Consultant for certain authorized and approved travel expenses incurred by the Consultant during the Term and directly resulting from the Consultant’s performance of the Services under this Contract. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found at: <http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Authority will also reimburse the Consultant for Direct Costs incurred by the Consultant in performing the Services. The Consultant shall submit proper documentation of any such approved travel expenses and Direct Costs to Authority from time to time, and such costs and expenses shall be billed to Authority at Consultant’s actual cost.

Not later than the twentieth (20th) day of each calendar month, Consultant shall submit to Authority detailed invoices for all services performed and Direct Costs incurred, if any, pursuant to this Agreement during the prior calendar month. The invoices shall describe in detail the Services performed during the prior month and shall list the days and hours worked, approved Direct Costs, milestone achievements, tasks performed or completed, and the Services performed during each day of the prior month. Authority shall review the invoices and notify Consultant in writing (including email) within twenty (20) days of any disputed amounts.

Should this Contract be terminated for any reason, the Consultant will be paid all fees earned up to the termination date and any approved direct expenses incurred.

This base fee proposal for Consultant services is based on a time and materials not-to-exceed compensation structure at a rate of \$160 per hour for services performed by architects. As of the initiation of this Consultant agreement the Project scope and budget are substantially undefined and the fee structure presented is generally based on an estimated project scope and budget.

RFQ phase	\$ 33,340
RFP phase (including evaluation & DBE contract negotiation)	<u>100,020</u>
Consultant Total Not-to-exceed	\$ 133,360
Sub-Consultants (estimated allowance)	
RFQ / RFP phase	<u>80,000</u>
Total Not to Exceed Budget	\$ 213,360

Additional Scope and Compensation – Should the Authority determine additional scope be added to the Consultant’s services additional compensation shall be proposed by the Consultant based on a time and materials basis with a “not to exceed” budget and for a time estimated to be required to complete the additional scope.

Additional compensation for sub-consultants shall be calculated based on the sub-consultant’s hourly rate fee schedule which shall be provided and approved by Authority at the time sub consultant services are retained.

**EXHIBIT C
INSURANCE**

Without limiting the indemnity obligations or liabilities of Consultant or its insurers, provided herein, Consultant agrees to carry and maintain at its sole expense policies of insurance ("the Policies") of the types and in the minimum amounts as follows:

	<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
A.	Workers' Compensation	Statutory
B.	Employer's Liability	\$500,000 per Occurrence \$500,000 Aggregate
C.	Commercial General Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate

The CGL Policy will provide contractual liability coverage at the aforementioned limits.

D.	Business Automobile Liability	\$500,000 per Occurrence
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Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.

E.	Professional Liability	\$1,000,000
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Consultant will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Contract caused by any error, omission, or act for which the Consultant is legally liable. Policies written on a claims-made basis shall have an extended reporting period of at least two (2) years beyond termination of the Contract.

Each policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the Authority, its Port Commissioners, officers and employees ("Authority Parties"). Additionally, the Authority Parties shall be designated as an Additional Insured either by a blanket additional insured or a specific endorsement on all policies, except for Worker's Compensation, Employer's Liability, and Professional Liability. In the event that the work of Consultant's employees fall within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Consultant shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts.

Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insureds with respect to claims arising under this Contract.

The insurance required as listed above, shall apply to any contractor or subcontractor performing for or on behalf of Consultant, and Consultant shall ensure that any such subcontractor is aware of and is in compliance with the insurance requirements during any period such contractor is performing work under this Contract.

The minimum insurance required may be increased periodically upon request by Authority to commercially reasonable limits. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII".

Consultant's liability shall not be limited to the specified amounts of insurance required herein.



DATE: July 18, 2017

TO: Port Commission

FROM: Sean Strawbridge – Deputy Executive Director/Chief Operating Officer

Amendment to Tariff 100-A Section V
 LOADING, UNLOADING AND WHARFAGE RATES

New Item

Item 501 D. Monoethylene Glycol (MEG) \$1.00 per 42 gallon barrel

SUMMARY:

Tariff 100-A Section V – LOADING, UNLOADING AND WHARFAGE RATES.

Staff recommends an update to Section V to include a new wharfage rate for commodity Monoethylene Glycol (MEG) as Item 501 D at \$1.00 per 42 gallon barrel.

BACKGROUND: Realization of importance to include Monoethylene Glycol (MEG) as new Wharfage Tariff Item.

ALTERNATIVES: No

CONFORMITY TO PORT POLICY: Supports Strategic Goal 4: FOSTER COMPATIBLE INDUSTRIAL AND MARITIME DEVELOPMENT; Strategic Objective 4A: Proactively Pursue Diversified * Port-related Economic Development Opportunities; Action Item 3: Identify and Pursue General Cargo and Dry Bulk Diversification Opportunities.

EMERGENCY: No

STAFF RECOMMENDATION: Inclusion of Monoethylene Glycol (MEG) wharfage rate within Tariff 100-A.

DEPARTMENTAL CLEARANCES: John LaRue – Executive Director; Sean Strawbridge – Deputy Executive Director/COO; Jarl Pedersen – CCO; Dennis DeVries - CFO

LIST OF SUPPORTING DOCUMENTS: None



DATE: July 18, 2017

TO: Port Commission

FROM: David L. Krams, P.E.
 Director of Engineering Services
Krams@pocca.com
 (361) 885-6134

ANTICIPATED STAFF PRESENTER: Dave L. Michaelsen, P.E.
 Chief Engineer

Adopt a Resolution Approving an Amendment to the Local Project Advance Funding Agreement with Texas Department of Transportation for Phase II of the Nueces River Rail Yard Project to Include the Track A Extension.

SUMMARY: For the Texas Department of Transportation (TxDOT) to formally approve the work associated with the “Track A Extension” on the Nueces River Rail Yard – Phase II (NRRY-II) project, the existing Local Project Advance Funding Agreement (LPAFA) needs to be amended to expand the project’s limits and scope of work. Therefore, staff requests the adoption of a resolution to amend the LPAFA to include the Track A Extension.

BACKGROUND: At the May 9, 2017 meeting, the Commission approved a Change Order with W.T. Byler, the PCCA’s construction contractor for the NRRY-II project, to extend Track A eastward approximately 7,000 feet. Once complete, the Track A extension will tie the Nueces River Rail Yard into the PCCA’s previous interchange yard (Tule Rail Yard) to allow two-way rail traffic and benefit future developments at that site and those rail facilities further east. TxDOT has approved this Change Order, so the entire \$22 million in TxDOT grant funds will be utilized on the NRRY-II project. In review of the LPAFA, it was determined that a portion of paragraph 4 “Scope of Work,” which includes the project limits, needs to change expand the reach of the from 5.5 miles to 7.8 miles, and Exhibit B (Project Location Map) would need to be amended to include the area that the Change Order encompassed. These two changes to the LPAFA document and an environmental review (per NEPA requirements) of the area will allow work on this Change Order to proceed.

ALTERNATIVES: N/A. TXDOT requires this amendment to move forward with the change order and receive associated grant funding.

CONFORMITY TO PORT POLICY: Conforms to Strategic Plan Goal #2 (Provide Facilities & Services to Meet Customer Needs), Strategic Objective 2C (Provide Surface Infrastructure and Services to Support Maritime and Industrial Development), Action Item

3 (Continued Improvement of Rail Access to Support Waterborne Commerce and Port-related Industry).

EMERGENCY: No; however, the amendment is required to proceed with TXDOT's environmental study and ultimately the construction of Track A Extension.

FINANCIAL IMPACT: Approving this Amendment to the LPAFA and with the previously approved Change Order in May 2017 allows for the expenditure of approximately \$2.5 Million in additional TXDOT grant funding, approximately \$680,000 in PCCA cost-share, and another estimated \$720,000 in PCCA funds toward the NRRY-II project.

STAFF RECOMMENDATION: Staff recommends the Commission approve adoption of the attached Resolution approving an amendment to the Local Project Advance Funding Agreement with the Texas Department of Transportation for Phase II of the Nueces River Rail Yard Project to include Track A Extension.

DEPARTMENTAL CLEARANCES:

Originating Department Engineering Services

Reviewed & Approved David Krams
 Dave Michaelson
Legal Jimmy Welder
Senior Staff John LaRue
 Sean Strawbridge
 Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Resolution
Amendment

***Resolution Approving Amendment #1 to the
Local Transportation Project Advance Funding Agreement
for Phase II of the Nueces River Rail Yard Project***

WHEREAS, the Port of Corpus Christi Authority of Nueces County, Texas (“**PCCA**”), and the State of Texas, acting through the Texas Department of Transportation (the “**State**”), entered into a Local Transportation Project Advance Funding Agreement dated March 4, 2013, for the construction of Phase II of the Nueces River Rail Yard project (the “**Original Agreement**”); and

WHEREAS, PCCA and the State now wish to expand the scope of services under the Original Agreement to provide for the extension of Track A eastward approximately 7,000 feet (the “**Track A Extension**”); and

WHEREAS, Amendment #1 to the Original Agreement, which amends the scope of work under the Original Agreement to include the Track A Extension, has been presented to the Port Commission for review and approval;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION, that Amendment #1 to the Original Agreement, in substantially the form presented to this meeting, is hereby approved, and that the Executive Director is hereby authorized and directed to sign Amendment #1 to the Original Agreement for and on behalf of PCCA with such changes therein as he shall approve, his execution thereof to constitute conclusive evidence of such approval.

The undersigned Chairman of the Port Commission of the Port of Corpus Christi Authority of Nueces County, Texas, does hereby certify that the foregoing resolution was duly adopted at a regular meeting of the Port Commission held on July 18, 2017, and that the resolution remains in full force and effect.

Charles W. Zahn, Jr.,
Port Commission Chairman

DRAFT

County: Nueces
CSJ: 0916-35-172
Project No: Construction of the
Nueces River Rail Yard Phase II
Federal Highway Administration
CFDA#20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
AMENDMENT #1**

THIS AMENDMENT IS MADE BY AND BETWEEN the State of Texas, acting through the Texas Department of Transportation, hereinafter called the State, and the Port of Corpus Christi Authority of Nueces County, Texas (PCCA), acting by and through its duly authorized officials, hereinafter called the Local Government.

WITNESSETH

WHEREAS, the State and the Local Government executed a contract on March 4, 2013 to effectuate their agreement to construct a rail yard approximately 2.5 miles in length; and,

WHEREAS, it has become necessary to amend that contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Description of Amended Items

The Local Government has requested and the State has agreed to amend paragraph 4 “Scope of Work” to the following:

4. Scope of Work

The scope of work for this LPAFA is described as the construction of the Phase II portion of the Nueces River Rail Yard along the Joe Fulton International Trade Corridor from 3.0 miles east of the IH-37 / Carbon Plant Road overpass to 7.8 miles east along the Joe Fulton International Trade Corridor, and along the south side of the existing Joe Fulton International Trade Corridor as shown in ATTACHMENT B REV.1.

Article 2. Attachment B:

Amend the Local Agreement with the attached ATTACHMENT B REV.1.

All other provisions of the original contract are unchanged and remain in full force and effect.

Article 3. Signatory Warranty

The signatories to this amendment warrant that each has the authority to enter into this agreement on behalf of the organization they represent.

DRAFT

IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT have executed duplicate counterparts to effectuate this agreement.

THE LOCAL GOVERNMENT

Name of Local Government

By: _____
Signature

Printed Name

Title

Date

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating established and/or policies carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

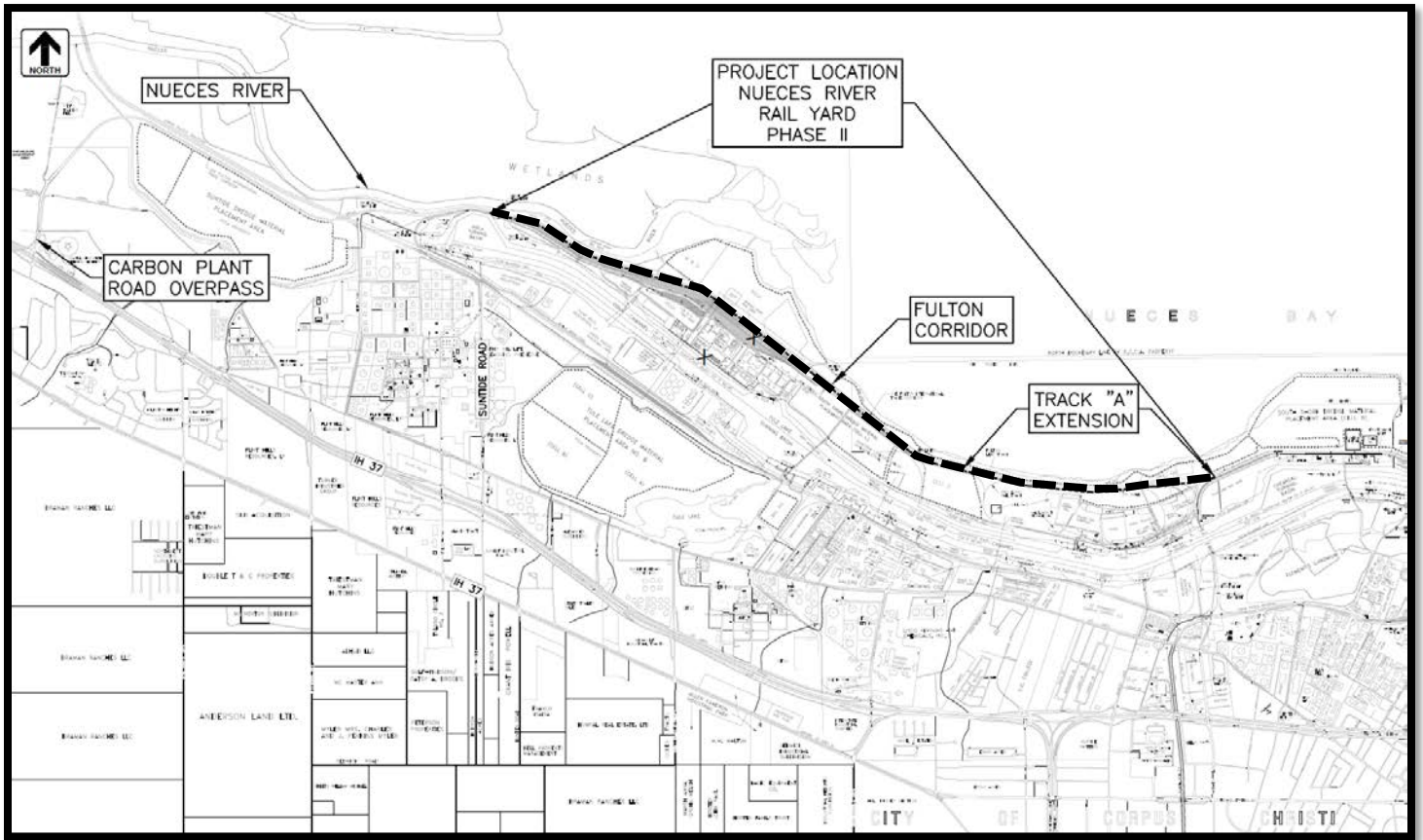
By: _____
Name

Title

Date

CSJ #0916-35-172
District #CRP 16
Code Chart 64 # 62136
Project: Construction of the Nueces
River Rail Yard Phase II
Federal Highway Administration
CFDA#20.205
Not Research and Development

ATTACHMENT B REV.1 PROJECT LOCATION MAP





DATE: July 18, 2017

TO: Port Commission

FROM: Darrin Aldrich, Director of Real Estate
Darrin@pocca.com
 (361) 885-6169

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Replacement, Relocation and Upgrade of Existing Overhead Distribution Power Lines located along the Joe Fulton International Trade Corridor

SUMMARY: AEP Texas, Inc. (AEP) representatives have requested an Easement and Right-of-Way agreement for replacement and upgrade of existing overhead distribution power lines located along the Joe Fulton International Trade Corridor (Fulton Corridor). The project includes the replacement of cables, conduits and poles on the north and south side of Fulton Corridor. As part of negotiations for the easement AEP has agreed to relocate and increase line clearances for crossings along Fulton Corridor to better serve transportation needs of PCCA customers. The proposed upgrades will improve voltage and capacity for existing AEP customers along the Fulton Corridor.

BACKGROUND: AEP currently has a 2.24 mile distribution line from Gila substation to the entryway of Bulk Terminal. The route currently travels 1.89 miles west from the Gila Substation on the north side of the Fulton Corridor then transverses the Fulton Corridor and travels .26 miles west along the south of the Fulton Corridor and then transverses back to the north side and travels .14 miles west, only to transverse the Fulton Corridor again to the Bulk Dock Terminal entryway. The proposed route will decrease current and future crossing by moving the distribution line to the south side of Fulton Corridor beginning at Kirby Inland Marine and terminating at the entrance to the Bulk Dock Terminal. The proposed portion on south side of the Fulton Corridor will eliminate the number of crossing thereby decreasing overhead obstructions along the Fulton Corridor, the proposed easement is depicted in the attached map.

ALTERNATIVES: Maintain the current stagger route along Fulton Corridor.

CONFORMITY TO PORT POLICY: This project is consistent with the PCCA Strategic Plan (Strategic Goal #2 – Provide facilities and services to meet customer needs to provide surface infrastructure and services to support maritime and industrial development).

EMERGENCY: N/A

FINANCIAL IMPACT: None – No fees are assessed for AEP electrical service easements granted to serve PCCA customers.

STAFF RECOMMENDATION: Staff recommends approval of the Easement and Right of Way Agreement with AEP Texas, Inc.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Darrin Aldrich David Krams, P.E.
Legal	R. Bryan Stone
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Easement and Right of Way Agreement
Easement and Right of Way Agreement Summary

Approve an Easement and Right of Way Agreement with AEP Texas, Inc. for Replacement, Relocation and Upgrade of Existing Overhead Distribution Power Lines located along the Joe Fulton International Trade Corridor

Legend

AEP_EASEMENTS_LINE

- Existing
- Proposed



**PORT OF CORPUS CHRISTI AUTHORITY
RIGHT OF WAY SUMMARY**

Grantee: AEP Texas Inc.
P.O. Box 2121
Corpus Christi, TX 78403

Easement Location: As depicted on the attached drawing

Use: For the distribution of electrical service to PCCA facilities and tenants along the Fulton Corridor

Term: The terms of the agreements are contingent upon AEP's operation of the distribution line. Upon AEP's cessation of the easement area, or abandonment of the same for a period of twelve consecutive months, the easements and right of ways shall automatically cease and terminate and the rights granted shall revert automatically to the PCCA.

Options: None

Start Date: July 18, 2017

Fee: For and in consideration of Ten&00/100 Dollars (\$10.00), and other good and valuable consideration to Grantor

Easement Contact: AEP Texas Inc.
P.O. Box 2121
Corpus Christi, TX 78403
Robert Saenz, Right of Way Agent
Office: 361-881-5419
Cell: 361-537-7650
rasaenz@aep.com

EASEMENT AND RIGHT OF WAY

PORT OF CORPUS CHRISTI AUTHORITY (“Grantor”), for and in consideration of Ten & 00/100 Dollars (\$10.00), and other good and valuable consideration to Grantor in hand paid by **AEP TEXAS INC.**, a Delaware corporation, whose address is P.O. Box 2121, Corpus Christi, Texas 78403 (“Grantee”) the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD, and CONVEYED, and by these presents does GRANT, SELL, and CONVEY unto Grantee, its successors and assigns, a non-exclusive easement and right of way for electric distribution lines, consisting of poles made of wood, metal, or other materials, crossarms, static wires, guys, wire circuits, underground cables and conduits, communication circuits, metering equipment and all necessary or desirable appurtenances (including, but not limited to, transformers, meters, vaults, and service pedestals) over, under, across, and upon the following described land located in Nueces County, Texas, to wit:

More specifically, the strip of land covered by this Easement and Right of Way shall be 10 feet in width, 5’ on each side of a centerline as described by GPS waypoints and depicted in the Exhibit “A, Pages 1-4”, attached and made a part hereof and incorporated herein for all applicable purposes (the “Easement Area”). Notwithstanding the foregoing, the actual “as built” location of the electric line shall locate, define, and establish the centerline of the Easement Area.

Together with the right of ingress and egress over, under, across and upon the Easement Area and Grantor’s adjacent land for the purpose of constructing, operating, reconstructing on poles or burying and replacing underground cables and conduits (including necessary ditching and backfilling), enlarging, inspecting, patrolling, repairing, maintaining, upgrading and removing said lines, circuits, underground cables and conduits, poles, wires and appurtenances; which lines shall maintain a minimum clearance of 36 feet at the lowest point of the conductor; the right to relocate along the same general direction of said lines, cables, and conduits; and the right to remove from the Easement Area all structures, obstructions, and trees and parts thereof, using generally accepted vegetation management practices, (whether from the Easement Area or that could grow into the Easement Area) which may, in the reasonable judgment of Grantee, endanger or interfere with the safe and efficient operation and/or maintenance of said lines, cables, conduits or appurtenances or ingress and egress to, from or along the Easement Area.

As part of this distribution line relocation project, AEP will construct and maintain a 40 ft. height clearance on the Navigation Boulevard crossings. For the guy and anchor locations, AEP will install an 8 ft. reflective cover for the guy wires. Grantee agrees it shall bury and maintain all electric distribution lines located between the two points highlighted and depicted on page 1 of Exhibit A according to Grantor’s standards.

Grantor reserves the right to use the Easement Area subject to said Easement and Right of Way in any way that will not interfere with Grantee’s exercise of the rights hereby granted. However, Grantor shall not construct or permit to be constructed any house or other aboveground structure on or within the Easement Area containing Grantee’s improvements without the express written consent of Grantee.

Upon Grantee’s cessation of use of the Easement Area, or abandonment of same for a period of twelve (12) consecutive months, this Easement and Right of Way shall automatically cease and terminate, and the rights herein granted shall revert automatically to Grantor. Upon written request received from Grantor, within sixty (60) days of termination of this Easement, Grantee shall file a document releasing the Easement and Right of Way in the Real Property Records of Nueces County, Texas.

TO HAVE AND TO HOLD the above described easement and rights unto the Grantee, its successors and assigns for so long as this agreement remains in force and effect.. Grantor binds itself, assigns, and legal representatives to warrant and forever defend all and singular the above described easement and rights unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

[The rest of this page intentionally blank, signature page follows]

EXECUTED this ____ day of _____, 2017.

GRANTOR:

PORT OF CORPUS CHRISTI AUTHORITY

By: _____
John P. LaRue, Executive Director

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF NUECES §

This instrument was acknowledged before me on this ____ day, _____, 2017, by John P. LaRue, Executive Director of the Port of Corpus Christi Authority.

Notary Public, State of Texas

Commission Expires: _____

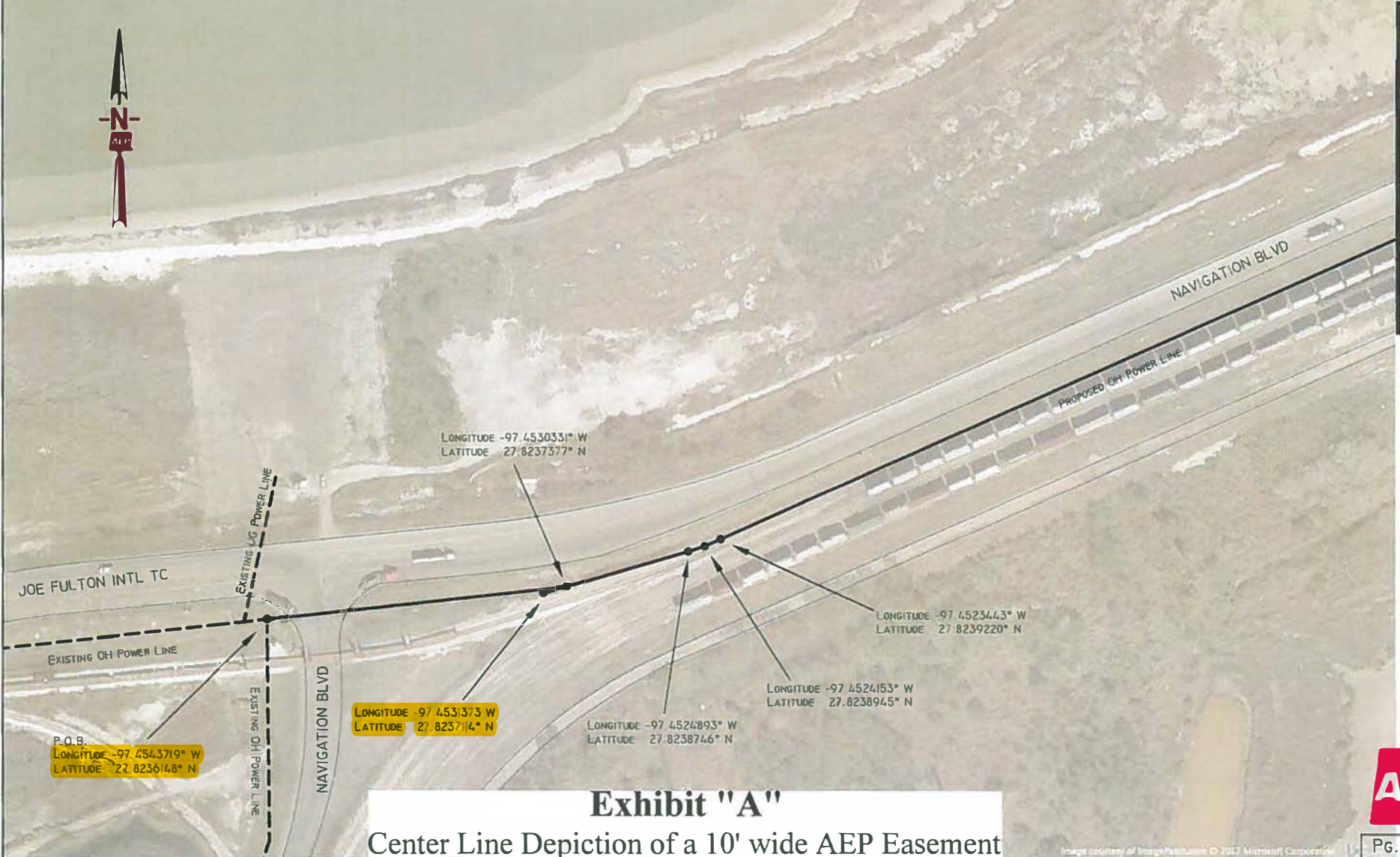
AFTER RECORDING, PLEASE RETURN TO:

AEP
% Distribution Right-Of-Way Agent
P.O. Box 2121
Corpus Christi, Texas 78403

100ft North of the Joe Fulton Corridor & Navigation Blvd intersection

Town: Corpus Christi
 County: Nueces
 WR: 60711576 FB
 System: Lat/Long
 Datum: WGS 1984

ELECTRICAL LEGEND	
DESCRIPTION	SYMBOL
PROPOSED POWER LINE	—●—●—●—
EXISTING POWER LINE	---



LONGITUDE -97.4530331° W
 LATITUDE 27.8237377° N

LONGITUDE -97.4523443° W
 LATITUDE 27.8239220° N

LONGITUDE -97.4524153° W
 LATITUDE 27.8238945° N

LONGITUDE -97.4524893° W
 LATITUDE 27.8238746° N

LONGITUDE -97.4531373 W
 LATITUDE 27.8237114° N

P.O.B.
 LONGITUDE -97.4543719° W
 LATITUDE 27.8236148° N

MATCHLINE "A"
 SHEET 2 OF 4

Exhibit "A"
 Center Line Depiction of a 10' wide AEP Easement



Town: Corpus Christi
County: Nueces
WR: 60711576 FB
System: Lat/Long
Datum: WGS 1984

98



MATCHLINE "A"
SHEET 1 OF 4

MATCHLINE "B"
SHEET 3 OF 4



Town: Corpus Christi
County: Nueces
WR: 60711576 FB
System: Lat/Long
Datum: WGS 1984

28



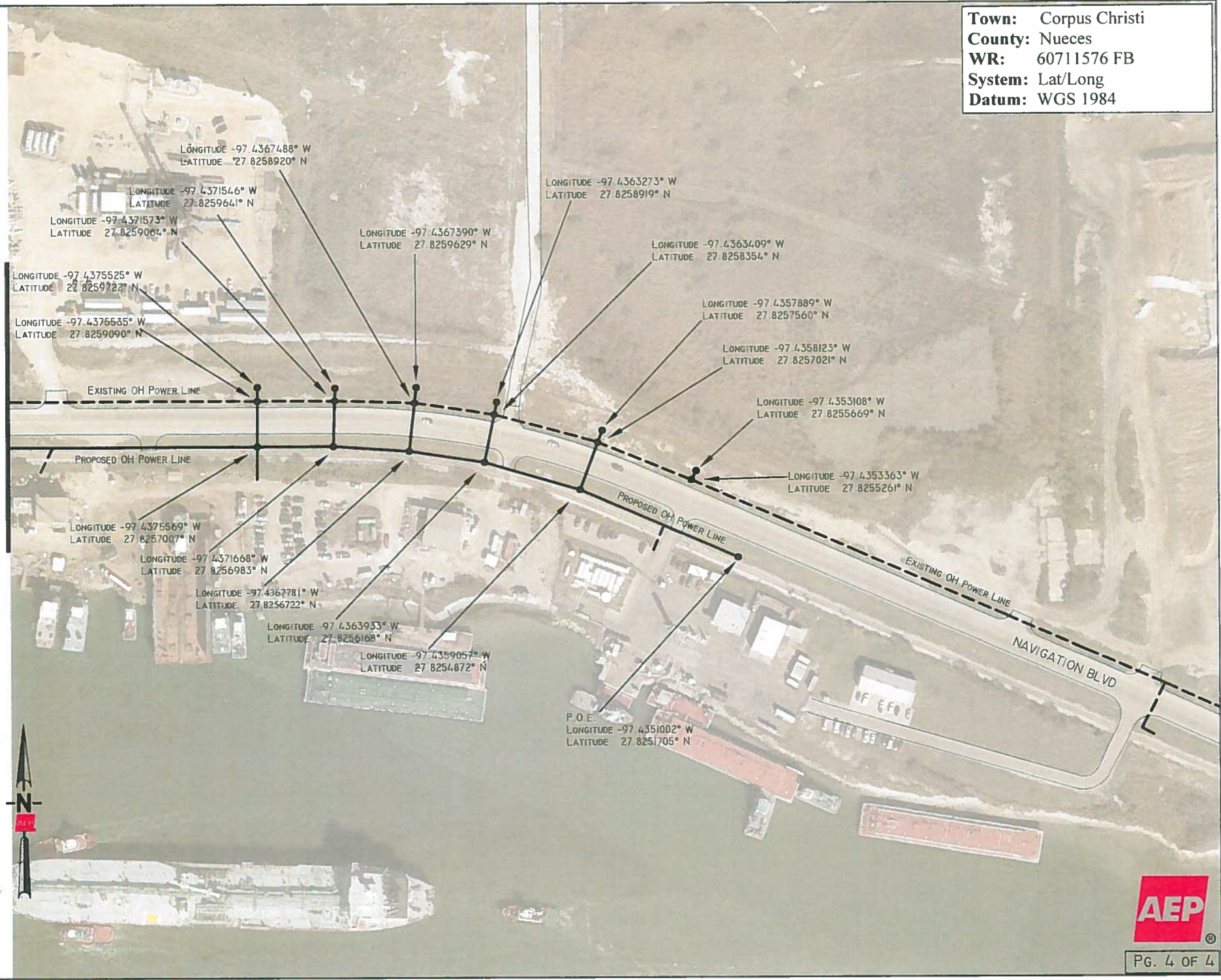
MATCHLINE "B"
SHEET 2 OF 4

MATCHLINE "C"
SHEET 4 OF 4



Town: Corpus Christi
County: Nueces
WR: 60711576 FB
System: Lat/Long
Datum: WGS 1984

MATCHLINE "C"
SHEET 3 OF 4





DATE: July 18, 2017

TO: Port Commission

FROM: Darrin Aldrich, Director of Real Estate
Darrin@pocca.com
 (361) 885-6134

Approve a letter agreement with the Texas Department of Transportation agreeing to provide relocation assistance services for owners of residential rental properties (Landlords) in connection with the Hillcrest and Washington-Coles

SUMMARY: TxDOT provided an additional letter agreement to the Port to further clarify the scope of benefits that must be extended to landlords pursuant to the Two-Party Agreement, the Four Party Agreement, the February 3 Letter Agreement, and the April 17 Letter Agreement. Furthermore, this additional scope clarification requires the Port to modify the Del Richardson and Associates, Inc. contract to include these landlord relocation services referenced in agenda item 15 d.

BACKGROUND: In December 2015, the Port of Corpus Christi Authority (PCCA) entered into a Four Party Agreement with the Texas Department of Transportation (“TxDOT”) which delegated TxDOT’s responsibility for the Hillcrest/Washington-Coles Voluntary Real Estate Acquisition and Relocation Program (“Hillcrest Program”).

On February 3, 2017, TxDOT and the Federal Highway Administration (“FHWA”) entered into a letter agreement allowing for relocation benefits for eligible Tenants of Landlords who do not wish to participate in the Hillcrest Program and clarified relocation assistance for Owners of Residential Rental Property (Landlords). Subsequently, on April 17, 2017, TxDOT and the Port entered into a letter agreement clarifying how the February 3 Letter Agreement would affect how the Port will carry out its work under the Four Party Agreement, including the relocation benefits to be extended to landlords.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Yes – Conforms to Strategic Goal #3 – Sustain Productive Stakeholder Relationships

EMERGENCY: N/A

FINANCIAL IMPACT: These required supplemental services are 100% reimbursable by TxDOT. In addition, TxDOT will not seek reprogramming of funds for the Landlord Expenses from the Corpus Christi Metropolitan Planning Organization under the Agreement on Reprogramming Funds of December 17, 2015.



STAFF RECOMMENDATION: Staff recommends approval of the letter agreement with the Texas Department of Transportation agreeing to provide relocation assistance services for owners of residential rental properties (Landlords) in connection with the Hillcrest and Washington-Coles

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Darrin Aldrich Sam Esquivel
Legal	Jimmy Welder
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Contract Amendment

July __, 2017

Mr. John P. LaRue
Executive Director
Port of Corpus Christi Authority
222 Power Street
Corpus Christi, Texas 78401

RE: Harbor Bridge Replacement Project – Benefits to be Extended to Owners of Residential Rental Properties (“Landlords”)

Dear Mr. LaRue:

The Texas Department of Transportation (“TxDOT”), the Port, the City of Corpus Christi, and the Corpus Christi Housing Authority entered into an agreement in December 2015 regarding the Project (“Four Party Agreement”). Under that agreement, the Port is carrying out in the Hillcrest and Washington-Coles neighborhoods of Corpus Christi a Neighborhood Acquisition Plan, Relocation Program, and Voluntary Restrictive Covenant Program. (The capitalized terms used in this letter are as defined in the Four Party Agreement.)

As you know, the Four Party Agreement implemented the requirements of a separate agreement between TxDOT and the Federal Highway Administration (“FHWA”) to resolve a civil rights complaint concerning the Project. The Voluntary Resolution Agreement (“Two Party Agreement”) between TxDOT and FHWA was entered into on December 17, 2015. TxDOT and FHWA further entered into a letter agreement on February 3, 2017, which resolved disputes concerning the proper amendment and implementation of the Two Party Agreement. Then, on April 17, 2017, TxDOT and the Port entered into a letter agreement clarifying how the February 3 Letter Agreement would affect how the Port will carry out its work under the Four Party Agreement, including the relocation benefits to be extended to landlords.

The purpose of this letter agreement is to further clarify the scope of benefits that must be extended to landlords pursuant to the Two Party Agreement, the Four Party Agreement, the February 3 Letter Agreement, and the April 17 Letter Agreement.

Landlord Relocation Benefits

The February 3 Letter Agreement described the relocation benefits to be extended to Landlords, including “applicable relocation assistance advisory services as provided in 49 C.F.R. § 24.205(c).” A question has arisen regarding the scope of these advisory services. Discussion between the Port and TxDOT has resulted in agreement that such services should be limited as follows:

49 C.F.R. § 24.205(c)(1)

- Section 24.205(c)(1) requires that advisory services must comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063.

49 C.F.R. § 24.205(c)(2)

- Landlords must be offered nonresidential advisory services, as applicable to their individual circumstances, in accordance with section 24.205(c)(2)(i). This includes determining the Landlord's relocation needs and preferences, and explaining potential relocation benefits and associated procedures and eligibility requirements. This process must include a personal interview with each Landlord to discuss the applicable factors listed in section 24.205(c)(2)(i). However, this would not include the factors in subsections 24.205(c)(2)(i)(B) and (F), because they relate to benefits to which Landlords are not entitled under the February 3 Letter Agreement.
- Section 24.205(c)(2)(ii) does not apply, because Landlord displacements are not residential displacements.
- Section 24.205(c)(2)(iii) requires that the Port provide "current and continuing information" on the availability and prices of potential replacement locations (for example, through an accessible database of properties), and assist in the provision of information regarding obtaining a replacement location.
- Section 24.205(c)(2)(iv) requires the Port to "minimize hardships" to persons adjusting to relocation, including "such other help as may be appropriate." This requirement may vary widely from case to case, depending on individual circumstances. The Port should make a good faith effort to determine when good cause exists to extend assistance to a Landlord that is not otherwise specifically required by section 24.205(c).
- Section 24.205(c)(2)(v) does not apply to a Landlord's nonresidential displacement.

However, note that a Landlord is not required to accept these benefits, and may decline any or all of them.

The Four Party Agreement states in Exhibit C that "The sellers of a Residential Rental Property will not be provided relocation benefits." Thus, the Port is not obligated to pay the costs of the Landlord relocation benefits described above and in the February 3 and April 17 Letter Agreements or the fees Del Richardson & Associates (DRA) will charge for providing the specified relocation services to Landlords (collectively, the "Landlord Expenses"). Since the Landlord Expenses are not Acquisition Costs, TxDOT will reimburse the Port for all Landlord Expenses the Port incurs upon receipt of the Port's invoices for these expenses. Further, TxDOT will not seek reprogramming of funds for the Landlord Expenses from the Corpus Christi Metropolitan Planning Organization under the Agreement on Reprogramming Funds of December 17, 2015.

Because the Port is the entity who has contracted with DRA to provide relocation services, the Port will negotiate with DRA to determine a reasonable additional fee for providing relocation assistance to Landlords.

If you agree with this proposal, please sign and return one copy of this letter to us. A scanned copy will be sufficient for our purposes.

Sincerely,

James M. Bass
Executive Director

Agreed to and accepted this ____ day of _____, 2017, by the PORT OF CORPUS CHRISTI AUTHORITY.

By: _____
John P. LaRue
Executive Director

DRAFT



DATE: July 18, 2017

TO: Port Commission

FROM: Darrin Aldrich, Director of Real Estate
Darrin@pocca.com
 (361) 885-6134

Approve a Second Amendment to the Contract with Del Richardson & Associates to Amend the Contractor’s Services to Include Relocation Assistance Services for Owners of Residential Rental Properties (Landlords)

SUMMARY: The Del Richardson & Associates, Inc. (“DRA”) contract for the Hillcrest Neighborhood Acquisition & Relocation Program Management Services requires a contract amendment as a result of the February 3rd 2017 agreement between Federal Highway Administration (FHWA) and the Texas Department of Transportation (TxDOT). The modified scope of work now includes certain personal property relocation assistance services for Owners of Residential Rental Properties (Landlords). The amendment will include a two thousand-dollar (\$2,000) per case rate fee for these additional services.

The case rate fee will contain three milestone payments at 30%, 50% and 80% completion, based on the level of relocation services provided to the landlord. A 30% milestone payment will be achieved when notification of eligibility and appeals process documents are provided to the landlord in the purchase offer. The second milestone payment of 50% is achieved when an interview, advisory services, and move plan are complete. The final 80% milestone payment is achieved when the applicable case activity is complete and documented in a case file.

BACKGROUND: In December 2015, the Port of Corpus Christi Authority (PCCA) entered into a Four Party Agreement with the Texas Department of Transportation (“TxDOT”) which delegated TxDOT’s responsibility for the Hillcrest/Washington-Coles Voluntary Real Estate Acquisition and Relocation Program (“Hillcrest Program”).

On February 3, 2017, TxDOT and the Federal Highway Administration (“FHWA”) entered into a letter agreement allowing for relocation benefits for eligible Tenants of Landlords who do not wish to participate in the Hillcrest Program and clarified relocation assistance for Owners of Residential Rental Property (Landlords). Subsequently, on April 17, 2017, TxDOT and the Port entered into a letter agreement clarifying how the February 3 Letter Agreement would affect how the Port will carry out its work under the Four Party Agreement, including the relocation benefits to be extended to landlords.

On June 22, 2017, TxDOT provided an additional letter agreement to the Port to further clarify the scope of benefits that must be extended to landlords pursuant to the Two-Party

Agreement, the Four Party Agreement, the February 3 Letter Agreement, and the April 17 Letter Agreement.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Yes – Conforms to Strategic Goal #3 – Sustain Productive Stakeholder Relationships

EMERGENCY: N/A

FINANCIAL IMPACT: These required supplemental services are 100% reimbursable by TxDOT. In addition, TxDOT will not seek reprogramming of funds for the Landlord Expenses from the Corpus Christi Metropolitan Planning Organization under the Agreement on Reprogramming Funds of December 17, 2015.

STAFF RECOMMENDATION: Staff recommends approval of the Second Contract Amendment to the Del Richardson & Associates, Inc. Agreement.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Darrin Aldrich Sam Esquivel
Legal	Jimmy Welder
Senior Staff	John LaRue Sean Strawbridge Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

Contract Amendment

**SECOND AMENDMENT TO THE AGREEMENT FOR REAL PROPERTY
ACQUISITION AND RELOCATION ASSISTANCE SERVICES IN CONNECTION
WITH THE HARBOR BRIDGE REPLACEMENT PROJECT**

This SECOND AMENDMENT TO THE AGREEMENT FOR REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE SERVICES IN CONNECTION WITH THE HARBOR BRIDGE REPLACEMENT PROJECT (the "*Amendment*") is made and entered into effective as of July 18, 2017 ("*Amendment Date*"), by and between DEL RICHARDSON & ASSOCIATES, INC. ("*Contractor*") and the PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS ("*Port Authority*"), each a "*Party*" and, collectively, the "*Parties*."

RECITALS

WHEREAS, the Port Authority and Contractor entered into THE AGREEMENT FOR REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE SERVICES IN CONNECTION WITH THE HARBOR BRIDGE REPLACEMENT PROJECT (the "*Original Agreement*") dated April 1, 2016; and

WHEREAS, on July 19, 2016 the Parties amended the Original Agreement to modify the insurance requirements for professional real estate appraisal services provided pursuant to the Original Agreement to be more consistent with the minimum insurance coverages required by the Texas Department of Transportation for professional real estate appraisal services; and

WHEREAS, the Original Agreement as amended by the amendment on July 19, 2016, is referred to herein as the "*Agreement*," and

WHEREAS, the Parties wish to amend the Agreement to modify Section 1. Contractor's Services to include relocation assistance services for Owners of Residential Rental Properties ("*Landlords*"); and

WHEREAS, the Parties wish to amend the Agreement to modify Section 6. Contract Fees to include a fee and milestone payments for relocation assistance services for Owners of Residential Rental Properties (Landlords);

NOW, THEREFORE, for and in consideration of the Recitals and the covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Attachment Two to the Agreement is entitled **SERVICES**. **Part VII** of Attachment Two is entitled **Relocation Assistance Services**. Currently **Part VII** contain Items A through Z. Effective as of the Amendment Date, **Part VII** of Attachment Two to the Agreement is amended by adding the following additional Relocation Assistance Services to Part VII after Item Z:

AA. The Contractor will provide the following relocation assistance services on behalf of Owners of Residential Rental Properties (Landlords):

- (1) The Contractor will establish and maintain a record and file for each landlord property.

(2) The Contractor will notify landlord of the limited relocation benefits available under the program at the time of the initial offer.

(3) The Contractor will complete an interview with each landlord to establish the extent of needed advisory services and personal property to be moved.

(4) The Contractor will establish a physical and photo inventory of items to be moved and ensure no duplication of payments with acquisition payments.

(5) The Contractor will prepare actual or negotiated self-move claim forms and supporting documentation as appropriate to the personal property being moved, will secure signatures of claimants, and process payments through POCCA.

(6) The Contractor will provide information on the availability and prices of potential replacement locations, and assist in the provision of information regarding obtaining a replacement location.

(7) If requested by landlord or if determined to be necessary to avoid hardship, the Contractor will provide advisory services including referrals to available properties to re-purchase or other advisory services.

2. **Attachment Four** to the Agreement is entitled **CONTRACT FEES**. Effective as of the Amendment Date, the Fee Schedule in **Attachment Four** is amended by adding the following a per case rate fee for services on behalf of Owners of Residential Rental Property (Landlords):

Service Area	Fee Schedule
Relocation Case Landlord	\$2,000 / per case

3. **Attachment Five** to the Agreement is entitled **PAYMENT MILESTONES**. Currently Attachment Five includes Payment Milestones for eight categories of fees. Effective as of the Amendment Date, **Attachment Five** is amended by adding the following Payment Milestones for a ninth category of fees entitled **Landlord Relocation Services** at the end of **Attachment Five**:

9) Relocation Fee for Landlord (based on a case being each landlord property)

- a) Payment milestone of **30%** paid upon:
 - i) Notification of eligibility document and appeals process to landlord which accompanies a landlord offer to purchase.
- b) Payment milestone of **50%** paid upon:
 - i) Completion of landlord interview form, further explanation of eligible benefits, and (as applicable) an inventory of items to be moved.
 - ii) Completion (as applicable) of a move plan for items to be moved.
 - iii) Completion (if requested) of lists of available properties for purchase and other advisory assistance as may be requested.

c) Payment milestone of 20% paid upon:

- i) Preparation, processing and payment of move claim(s) for personal property (as applicable).
- ii) Submittal of completed file to Port Authority with documents filed by date of activity. Completed file must contain all contacts with eligible landlord, completed interview, completed claim forms, copies of payment submissions for relocation assistance, and a closure memorandum stating that all available benefits have been made available and explained to them.
- iii) If no claims were needed and filed, a "declination of benefits" form must be included signed by the landlord or the relocation agent acknowledging a refusal by landlord to sign and/or an indication that the landlord has no personal property to move.

4. Except as specifically amended hereby, all terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflict between the terms and conditions of this Amendment and the terms and conditions of the Agreement, the terms and conditions of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by them or their duly authorized representative's effective as of the Amendment Date.

Port Authority:

**Port of Corpus Christi Authority
of Nueces County, Texas**

By: _____

Name: John P. LaRue

Title: Executive Director

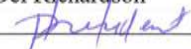
Date Signed: _____

Contractor:

Del Richardson & Associates, Inc.

By:  _____

Name: Del Richardson

Title:  _____

Date Signed: 7.12.17



DATE: July 18, 2017

TO: Port Commission

FROM: David L. Krams, P.E.
 Director of Engineering Services
Krams@pocca.com
 (361) 885-6134

ANTICIPATED STAFF PRESENTER: Jacob Morales, P.E.
 Senior Project Engineer

Approve a Professional Engineering Services Contract in the Amount of \$123,000 with Govind Development, LLC for Engineering Services Associated with the Structural Repairs, Cathodic Protection, and Escape Route at Oil Dock 4 Project.

SUMMARY: Staff requests approval of a Professional Engineering Services Contract with Govind Development, LLC in the amount of \$123,000 to design, develop contract documents, and provide services during construction for a project to perform various repairs and provide an alternate escape route for PCCA Oil Dock 4.

BACKGROUND: Oil Dock 4, constructed in 1961, is located at Avery Point and serves Citgo, Valero, and Magellan. The main dock structure has two levels and consists primarily of driven precast piles and cast-in-place reinforced concrete pile caps and superstructure components. In the mid-1990s, concrete structural repairs were performed with pneumatically placed concrete (shotcrete), and then a zinc metalizing cathodic protection was applied atop many of the above water components to extend the dock’s service life. Recent inspections have revealed the need to perform similar repairs again. Oil Dock 11, which has nearly an identical design and was also constructed in the 1960s, underwent like repairs in the early 1990s and again in 2013. The dock facilities at Avery Point, as well as others in the Inner Harbor built about the same time, have reached the age and condition in which they require more frequent maintenance and repairs.

The above water concrete components currently exhibit cracks, corroded reinforcing steel, and concrete spalling primarily on the beams, columns and underside of the deck. Though staff believe the cathodic protection has been effective, it has not eliminated the corrosion that exists in this aggressive marine environment. In addition, the steel pile supported ship breasting structures and independent inland barge fendering system are in need of repairs consisting primarily of removing corrosion, preparing the steel surfaces, and recoating.

To address these dock maintenance items, a project was included in the 2017 budget to design and initiate construction of these repairs. Also in the budget for this dock facility is a capital project to add an additional means of access to/from the lower level of the dock. Presently there is only one access point and it consists of stairs to go from the lower level to the upper level of the dock. For safety concerns, the customers and dock operators using Oil Dock 4 have requested additional access that goes directly between the lower dock level and the shore. Similar secondary dock access was constructed at Oil Dock 11 in 2012.

For design efficiency and to minimize disruptions to Oil Dock 4 during construction, the capital and maintenance projects have been combined, and staff has negotiated a scope and services for Govind Development, LLC to design the improvements and develop the associated contract documents. Govind will, in general, design the secondary access or escape route and then also perform a detailed inspection to develop a comprehensive structural concrete repair plan, identify the most suitable cathodic protection plan (taking into consideration any new proven products and methods), develop rehabilitation plans for barge and ship fender panels and rubber elements, and address other areas of the dock in need minor repairs. These design services which will include preparation of the specifications and contract documents will be performed on a time and material basis with a total not to exceed amount of \$93,000 (approximately \$23,000 for capital and \$70,000 for maintenance).

Staff has also requested an expanded level of engineering services during construction for this project and included an allowance of \$30,000 in Govind's scope of work. Expanded construction phase services are primarily associated with providing detailed inspections while the contractors are performing the concrete repairs to better control repair limits, measure/confirm pay quantities since this will likely be a unit cost contract, and ensure repair surfaces are properly prepared for application of shotcrete.

ALTERNATIVES: N/A.

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #2B – Provide Public Docks and Support Private Facilities to Facilitate Maritime and Industrial Development, Action #2 – Upgrade and Maintain Existing Docks and Facilities).

EMERGENCY: No; however, delaying repairs to concrete cracks and spalls of structural members may result in accelerated corrosion and a higher cost level of repairs or rehabilitation.

FINANCIAL IMPACT: The 2017 budget included the design of a Capital Supporting Infrastructure Project for Escape Routes at Oil Docks 4 and 7 in the amount of \$65,000, and the design of a Maintenance Expenditure Project for Structural Repairs and Cathodic

Protection at Oil Dock 4 and 7 in the amount of \$150,000. Work on Oil Dock 7 will be performed in a separate project.

STAFF RECOMMENDATION: Staff recommends approval of a Professional Engineering Services Contract with Govind Development, LLC in the amount of \$123,000 (NTE of \$93,000 for design and \$30,000 allowance during construction) for engineering services associated with structural repairs, cathodic protection, construction of an escape route, and other dock facility marine repairs at Public Oil Dock 4.

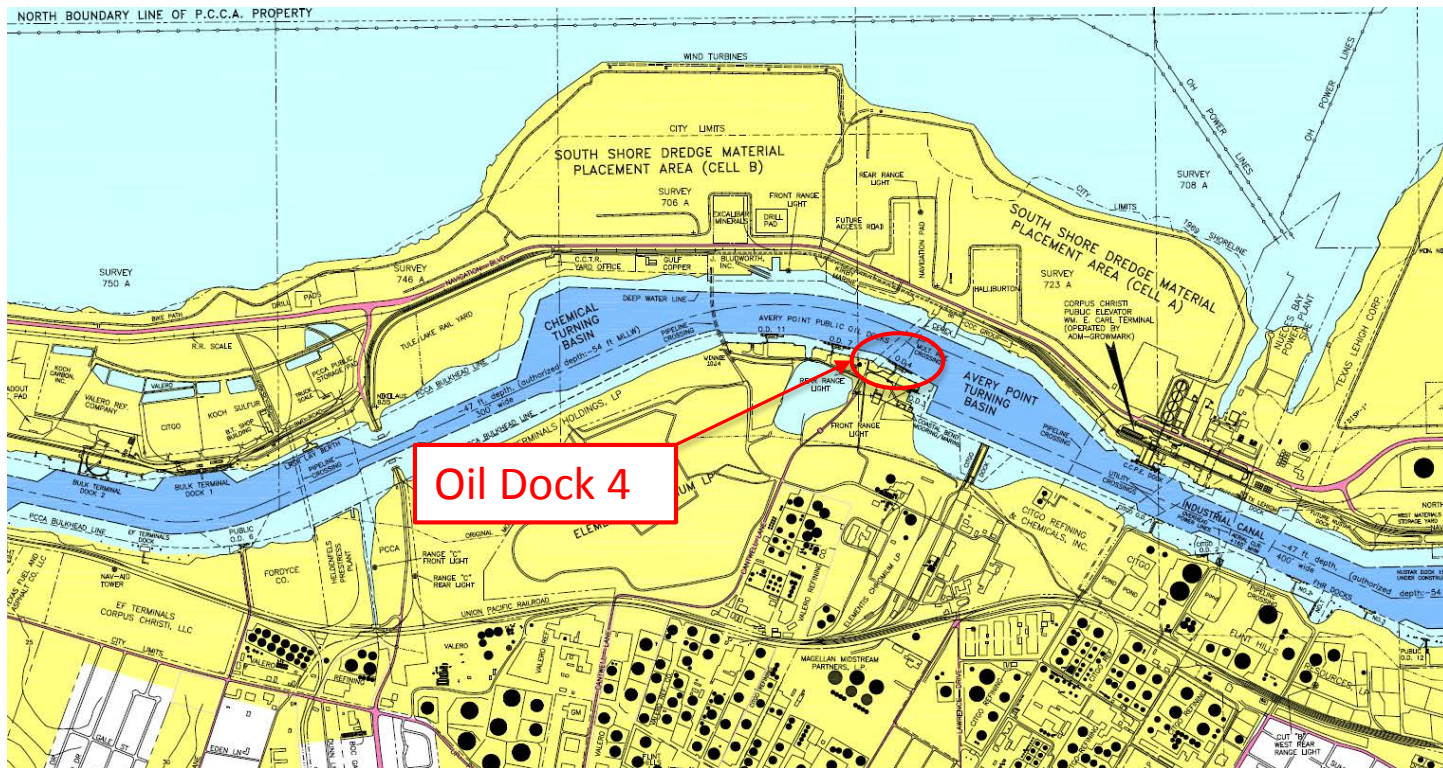
DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams Dave Michaelson Jacob Morales
Legal Senior Staff	Used Standard Contract Template John LaRue Sean Strawbridge Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Professional Engineering Services Contract

Structural Repairs, Cathodic Protection, and Secondary Escape Route at Oil Dock 4



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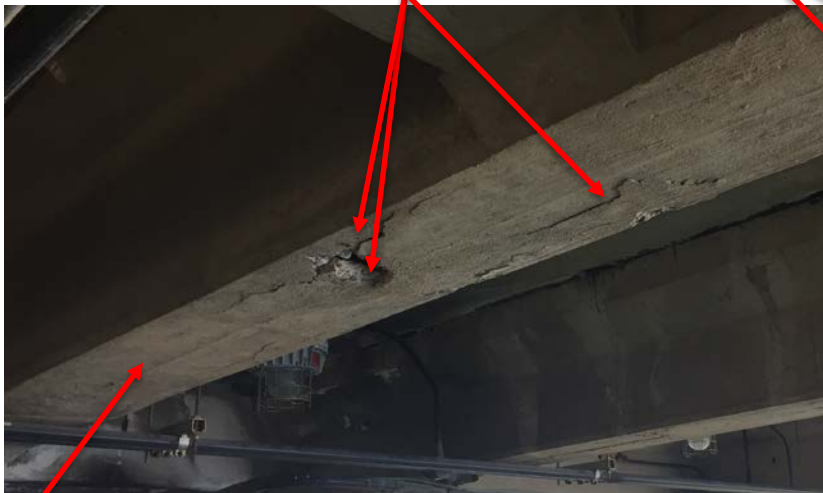
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Structural Repairs, Cathodic Protection, and Secondary Escape Route at Oil Dock 4

Concrete cracks & spalls (Typical)



Deck Beams (Typical)



Structural Repairs, Cathodic Protection, and Secondary Escape Route at Oil Dock 4

Corroded Ship Breasting Structure Fender Panel and Damaged Rubber Element

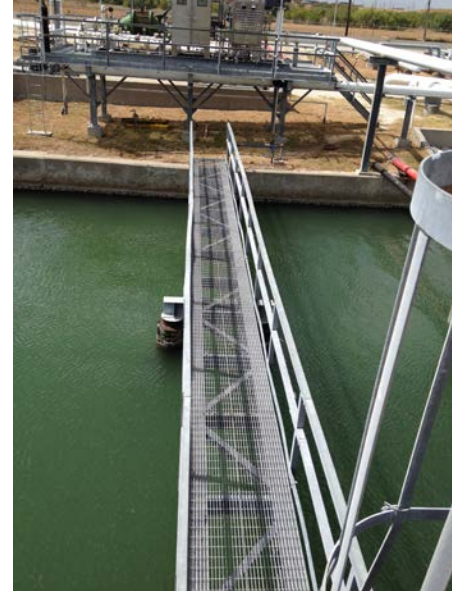


Corroded and Misaligned Barge Fender Panel Systems



Structural Repairs, Cathodic Protection, and Secondary Escape Route at Oil Dock 4

- Similar Secondary Escape Route Constructed at Oil Dock 11 in 2012



PROFESSIONAL ENGINEERING SERVICES CONTRACT

PROJECT NAME: ESCAPE ROUTE AT OIL DOCK 4

PROJECT NUMBER: 17-016A

AND

PROJECT NAME: STRUCTURAL REPAIRS AND CATHODIC

PROTECTION AT OIL DOCK 4

PROJECT NUMBER: 17-016B

THIS CONTRACT (the “Contract”) is made and entered into effective as of the 18th day of July, 2017 (“Effective Date”) by and between the Port of Corpus Christi Authority of Nueces County, Texas (“Authority”), and Govind Development, LLC. (“Engineer”), each a “Party” and collectively as “Parties”.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. CONTRACT: Authority hereby engages the Engineer and the Engineer hereby accepts its engagement for the purpose of providing to Authority the engineering services (“Services”) as are generally described in the “Scope of Services” set forth in Exhibit A to this Contract which is incorporated herein by reference. Engineering designs, reports, drawings and specifications prepared hereunder will be sealed by a Registered Professional Engineer licensed to practice in the State of Texas and in accordance with applicable provisions of the Texas Engineering Practice Act and Rules of the Texas Board of Professional Engineers.

2. PERIOD OF SERVICE: The Engineer shall complete the Services on or before July 31, 2018 (the “Deadline”), unless the Authority agrees to extend the Deadline for good reason; provided, however, that the Authority may terminate this Contract at any time in accordance with Section 14. Time is of the essence in performance of this Contract. There will be no obligation established between Authority and the Engineer for performance of the Services until Authority provides the Engineer with a written notice to proceed which shall be issued upon execution of this Contract and receipt by the Authority of appropriate Certificates of Insurance and other documentation as may be required herein. The term of this Contract (“Term”) shall begin on the Effective Date and shall end on the first to occur of the following: (1) the Deadline, as the same may have been extended by the Authority, (2) the date on which, in the opinion of Authority, all of the Services have been rendered, (3) the date on which this Contract is terminated by the Authority pursuant to Section 14, or (4) the date on which this Contract is terminated by the Engineer pursuant to Section 14.

3. COORDINATION OF SERVICES BY AUTHORITY: Authority shall designate a Project Representative who will, on behalf of Authority, coordinate with the Engineer and administer this Contract. It shall be the responsibility of the Engineer to coordinate all assignment-related activities with the Project Representative.

For the purposes of this Contract, the Project Representative shall be:

Jacob Morales, P.E.
222 Power Street
Corpus Christi, Texas 78401
Phone: 361.885.6131
E-mail: jacob@pocca.com

Authority may change the Project Representative at any time by giving the Engineer written notice of such change.

4. NOTICES: Notices, demands, requests or other formal communication related to the Contract shall be deemed to have been given when received, whether delivered personally or mailed. E-mail communications may be considered as formal notification provided the e-mail message states the message is intended as a formal notice and the receiving Party acknowledges receipt of the message as a formal notification. Notices shall be addressed as follows:

If to the Authority: John P. LaRue
Executive Director
Port of Corpus Christi Authority
222 Power Street
Corpus Christi, Texas 78401
E-mail: john@pocca.com

If to the Engineer: Ajmer S. Kular, P.E., PMP
Vice President, Civil/Structural
Engineering Govind Development, LLC.
9359 IH 37, Suite A
Corpus Christi, Texas 78409
E-mail: akular@govinddevelopment.com

Either Party may change the mailing or E-mail address for notifications by providing written notice of such change to the other Party.

5. CHANGES: This Contract may be changed or modified at the request of either the Engineer or the Authority, provided both Parties agree to the requested change, and a written amendment or modification of this Contract is prepared and executed by the Parties.

6. ENGINEER'S RESPONSIBILITIES: In addition to all other obligations contained herein, the Engineer agrees, warrants, and represents that:

6.1 The Engineer will furnish all material, equipment, labor and supplies in such quantities and of the proper quality to professionally and timely perform the Services, except as otherwise mutually agreed by the Parties;

6.2 The Engineer shall perform the Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license;

6.3 The Engineer will comply with the provisions of all federal, state, and local laws, regulations, ordinances, requirements and codes which are applicable to its performance of Services;

6.4 The Engineer is not and will not be bound by any agreement and has not assumed nor will assume any obligation which would, in any way, restrict its ability to perform the Services or be inconsistent with the Services;

6.5 In performing the Services, the Engineer will not use any third party's confidential or proprietary information, or infringe the rights of another party, nor will the Engineer disclose to the Authority, or bring onto the Authority's premises, or induce the Authority to use any third party's confidential or proprietary information;

6.6 The Engineer does not have the authority to act for the Authority, bind the Authority in any respect, or incur any debts or liabilities in the name of or on behalf of the Authority, except as otherwise expressly authorized in writing by the Authority;

6.7 Engineer's Opinions of probable cost or other forms of cost estimates will be based on the Engineer's experience, the design, and current market conditions to the extent practicable. Authority hereby acknowledges that Engineer cannot warrant that estimates of probable cost provided by Engineer will not vary from actual market prices obtained by Authority;

6.8 Engineer is an independent contractor for the performance of his duties under this Contract. Accordingly, the Engineer shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Engineer's activities in accordance with this Contract. Engineer is responsible for payment of the compensation, including any withholding, Social Security, or other taxes on such compensation, of any subcontractors retained by Engineer, or Engineer's employees performing work on the Project;

6.9 Engineer has and hereby retains full control of any supervision over the Engineer's obligations hereunder and over any persons employed or subcontracted by the Engineer for performing Services hereunder;

6.10 Engineer will in no way be considered an agent, partner, joint venturer, or employee of Authority at any time during the Term. Engineer will only render advice to Authority and will not undertake to commit Authority to any course of action in relation to a third party unless expressly requested and authorized to do so by the Authority in writing.

6.11 As of the Effective Date and at all times while providing Services hereunder, the Engineer shall possess and maintain in good standing any and all licenses or other

authorizations and approvals necessary to perform the Services consistent with its status as an independent contractor and in compliance with all applicable laws and regulations;

6.12 Engineer may, with prior written approval of Authority, use representations of designs or other engineering services provided hereunder for promotional purposes. Authority reserves the right to review and approve, in advance of any publication or use, promotional materials containing reference to or images related to the work produced under this Contract.

7. COMPENSATION: The compensation to be paid Engineer for providing the Services shall be the compensation described in Exhibit B hereto, which is incorporated herein by reference; provided, however, the total paid to Engineer for the Services shall not exceed **One Hundred Twenty Three Thousand Dollars (\$123,000)**. Engineer will obtain the approval of Authority's Project Representative relative to incurring travel and other expenses before incurring such costs.

8. INVOICE PROCEDURE AND PAYMENT: Engineer shall submit invoices monthly to the Authority for work performed during the preceding calendar month. Such invoices shall be due and payable by Authority on or before thirty (30) days from receipt by Authority. Monthly compensation will be for the Services actually performed during the billing period, invoiced in accordance with the Fee Schedule included in Exhibit B. Invoices shall also describe any work performed by subcontractors retained by Engineer and reimbursable costs. Subcontractor cost mark-up shall not exceed five percent (5%). Engineer will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At the Authority's request, Engineer will provide additional backup such as signed time sheets, invoices for materials and subcontracted service or other documentation sufficient to establish the accuracy of the invoices. Invoices are to be submitted in a format previously approved by Authority.

9. INSURANCE: Engineer shall procure and maintain at its sole expense, for as long as Engineer is obligated to provide Services under this Contract, the policies of insurance described in Exhibit C attached hereto and in at least the minimum amounts specified in Exhibit C to protect Engineer from claims which may arise out of or result from Engineer's Services pursuant to this Contract, whether such operations be by Engineer, by any subcontractor of Engineer, by anyone directly or indirectly employed by Engineer or Engineer's subcontractor, or by anyone for whose acts Engineer or Engineer's subcontractor may be liable. At least five (5) days prior to execution of this Contract, Engineer will provide to Authority's Risk Program Manager certificates of insurance issued by each insurance company providing any of the required insurance coverage, and the text entered in each certificate must be acceptable to Authority. The requirement to provide acceptable certificates of insurance is a material condition of this Contract, and work under this Contract will not commence until certificates of insurance have been received, reviewed, and accepted by Authority. The minimum limits of liability and coverage for the insurance required are set forth in Exhibit C attached hereto, which is incorporated herein by reference.

10. INDEMNIFICATION AND RELEASE. Engineer hereby releases and discharges Authority and its agents, servants, representatives, employees, officers, directors, and Port Commissioners (collectively, the "Authority Parties") from liability for and

assumes the risk of loss or damage to the property of Engineer and the injury or death of any person employed by Engineer. Engineer shall defend, indemnify and hold harmless the Authority Parties from and against all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorneys' fees and the cost of defense), in connection with any action, proceeding, demand or claim but only to the extent caused by the negligent acts, errors, or omissions of the Engineer, its employees, agents, or subconsultants, or others for whom the Engineer is legally liable, in the performance of Services under this Contract. The Engineer is not obligated under this paragraph to indemnify the Authority Parties for the negligent acts of the Authority Parties.

Engineer shall defend, indemnify and hold harmless the Authority Parties from and against all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorneys' fees and the cost of defense), in connection with any action, proceeding, demand or claim arising out of a violation of any environmental law or regulation in effect during the Term of the Contract by the Engineer, its employees, agents, or subconsultants, or others for whom the Engineer is legally liable, in the performance of Services under this Contract. The Engineer is not obligated under this paragraph to indemnify the Authority Parties for the negligent acts of the Authority Parties.

Engineer's indemnity obligations under this Section 10 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Engineer to any employee of Engineer under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. The obligations of the Engineer under this Section 10 shall survive the end of the Term of the Contract.

11. LIMITATION OF LIABILITY: Except as otherwise expressly provided herein, neither Party shall be liable or responsible to the other Party for any indirect, incidental or consequential loss or damage of any nature whatsoever (including, but not limited to, contract, negligence or tort liability) of the other Party, including without limitation, any actual or anticipated profits, loss of time, inconvenience, commercial loss or any other damages, even if the Party has advance notice of the possibility of such damages.

12. DISCLOSURE OF INTERESTED PARTIES: Engineer will comply with the provisions of Section 2252.908 of the Texas Government Code and Chapter 46 of the Texas Ethics Commission Rules by preparing a Texas Form 1295, "Certificate of Interested Parties" and submitting the signed and notarized form to Authority at the time Engineer submits the signed contract to Authority.

13. ASSIGNMENT: Neither Authority nor Engineer will assign or transfer its interest in this Contract without the written consent of the other.

14. SUSPENSION OR TERMINATION: Authority may suspend or terminate this Contract for convenience with seven (7) days prior written notice to Engineer of such action. Upon termination of this Contract in accordance with this paragraph, Authority will have no further

obligation to the Engineer hereunder except to pay the Engineer unpaid fees and expenses which the Engineer can reasonably show to have been earned under this Contract. **Under no circumstances may Engineer claim or recover consequential damages from Authority.**

In the event of suspension of Services, the Engineer shall resume the full performance of the Services when directed in writing to do so by Authority. Suspension of the Services for reasons other than the Engineer's negligence or failure to perform shall not affect the Engineer's compensation as provided for in this Contract. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to this Contract to reflect the suspension.

Either Party may terminate this Contract by giving written notice to the other Party if the other Party ("Defaulting Party"): (a) materially breaches any term, condition or provision of this Contract and fails to cure the breach to the satisfaction of the notifying Party within ten (10) days after the Defaulting Party receives a written notice of the breach from the notifying Party, or (b) becomes the subject of any proceedings under state or federal law for the relief of debtors or otherwise becomes insolvent, or bankrupt, or makes any assignments for the benefit of one or more creditors.

15. DISPUTES: Each Party agrees that any dispute between the Parties relating to this Contract will first be submitted in writing to a panel of two senior executives of the Authority and Engineer, who shall promptly meet and confer in an effort to resolve such dispute through good faith consultation and negotiation. Each Party's executive shall be identified by notice to the other Party, and may be changed at any time thereafter also by notice to the other. Any decisions of the executives will be final and binding on the Parties. In the event the executives are unable to resolve any dispute within thirty (30) days after submission to them, either Party may then refer such dispute to mediation.

If the Parties refer to mediation any controversy or claim arising out of or relating to this Contract or the existence, validity, breach or termination thereof, whether during or after its term, they shall select a mutually acceptable mediator within forty-five (45) days thereafter. Neither Party shall unreasonably withhold consent to the selection of a mediator. The Parties shall share equally the costs of mediation. If the Parties agree, they may substitute other forms of alternative dispute resolution. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available at law or in equity.

16. ATTORNEY'S FEES, DEFAULT: In the event Engineer or Authority breach any of the terms of this Contract and the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting Party agrees to pay reasonable attorney's fees and costs incurred by the prevailing Party.

17. STAFFING: Engineer will designate in writing to Authority its project representative, and the manner in which it will provide staff support for the project, which must be approved by Authority. Engineer must notify Authority's Project Representative of any change in personnel assigned to perform work under this Contract, and the Authority's Project Representative has the right to reject the person or persons assigned to fill the position or positions. The Authority's

Project Representative shall also have the right to require the removal of the Engineer's previously assigned personnel, including Engineer's project representative, provided sufficient cause for such removal exists. The criteria for requesting removal of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position's qualifications, failure to perform, poor attendance, ethics violation, unsafe work habits, or damage to Authority or other property. Upon notice for removal, Engineer shall replace such personnel with personnel substantially equal in ability and qualifications for the positions and shall submit the proposed replacement personnel qualification and abilities to the Authority, in writing, for approval.

18. OWNERSHIP OF WORK PRODUCT: Studies, plans, reports, surveys, drawings, specifications, cost estimates, computations and other information (collectively "Work Product") and documents prepared by the Engineer, subconsultants, and/or suppliers under this Contract will remain the Authority's property upon completion. This provision does not apply to pre-existing proprietary information of Engineer, subconsultants, and/or suppliers.

19. CONFIDENTIAL INFORMATION: It is understood that information developed by or communicated to Engineer in the performance of this Contract, as well as any and all information in whatever form or medium supplied to Engineer in connection herewith which is not generally available to the public is proprietary to the Authority and constitutes confidential information of the Authority. Engineer will make no oral or written disclosure of such information to third parties either during or after the term of this Contract, except as approved in writing by the Authority's Project Representative or as otherwise required by law. In the event the Engineer becomes aware that confidential information must be disclosed under a legal requirement, Engineer will notify Authority of the requirement and the affected information.

20. FORCE MAJEURE: Neither Party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is delayed by any cause beyond the reasonable control of the affected Party. In the event of such a delay, the time for performance for the affected Party shall be extended for a period equal to the time lost during the delay, or the Contract may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the Authority.

21. SEVERABILITY and WAIVER: If any part of this Contract is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Contract, and this Contract shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Contract. Further, the failure of either Party in any one or more instances to insist upon strict performance of any of the terms and provisions of this Contract or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms, provisions or options on any future occasion.

22. GOVERNING LAW: This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The Parties agree that venue of all claims and lawsuits arising out of this Contract shall lie in Nueces County, Texas.

23. OPEN RECORDS: The Authority is a governmental body subject to the requirements of the Texas Public Information Act (Texas Government Code, chapter 552), and as such the Authority is required to disclose to the public (upon request) this Contract and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, the Engineer agrees that the disclosure of this Contract or any other information or materials related to the consummation of the transactions contemplated hereby to the public by the Authority as required by the Texas Public Information Act or any other applicable law will not expose the Authority (or any party acting by, through or under the Authority) to any claim, liability or action by the Engineer.

24. NO ORGANIZATIONAL CONFLICT OF INTEREST: Engineer hereby certifies that it has no actual or potential Organizational Conflict of Interest. “Organizational Conflict of Interest” means that because of other activities or relationships with other persons or entities, the Engineer is unable or potentially unable to render impartial assistance or advice to Authority or the Engineer’s objectivity in performing the services under this Contract is or might otherwise be impaired. Engineer agrees to immediately notify Authority of any actual or potential Organizational Conflict of Interest that develops during the term of this Contract. Engineer agrees that Authority may terminate this Contract immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Contract.

25. DEFAMATION: The Parties covenant and agree that in no event, and at no time during the Term or at any time thereafter, shall either of them disparage, denigrate, slander, libel or otherwise defame the other or the other’s businesses, services, properties or assets, or employees, personnel, agents, or representatives.

26. HEADINGS: All Section headings or other titles used in this Contract are used solely for convenience and shall not affect or be used in connection with the interpretation or construction of this Contract.

27. ENTIRETY OF CONTRACT: This writing embodies the entire Contract and understanding between the Parties hereto, and there are no other contracts or understandings, oral or written, between them with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change, or modification of the terms of this Contract shall be valid unless made in writing and signed by both Parties hereto.

[Signature page follows this page]

IN WITNESS WHEREOF, this Contract is made effective as of the Effective Date.

**PORT OF CORPUS CHRISTI AUTHORITY OF
NUECES COUNTY, TEXAS**

By: _____
Name: John P. LaRue
Title: Executive Director
Date: _____

“Authority”

GOVIND DEVELOPMENT, LLC.

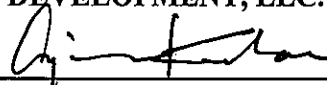
By:  P.E.
Name: Ajmer S. Kular, P.E.
Title: Vice President
Date: 7/13/17
“Engineer”

EXHIBIT A

SERVICES

The Engineer will perform the following services in accordance with the terms and conditions set forth in this Contract:

SCOPE OF WORK:

Professional Services related to detailed design, development of bid documents, development of construction plans and specifications, Engineer’s Opinion of Probable Costs, and assistance with contract documents for the structural concrete repairs, cathodic protection, secondary access route, fender system repairs and marine maintenance of Oil Dock 4. Services to include at a minimum:

Design Services:

- Secondary Access Route at Lower Level (Capital Improvements) \$23,000
 - o Research existing facility drawings and perform field inspections to determine the best suitable location for an egress route from lower level dock structure to shore.
 - o Design and develop detailed foundation support, upper level access ladder, and secondary access route catwalk.

- Structural Concrete Repairs and Cathodic Protection System (Maintenance) \$45,000
 - o Research existing facility drawings and underwater inspection reports. This would include gathering available data about the original dock construction, the previous repair/upgrades drawings and identification of at/near waterline concrete structure deficiencies.
 - o Perform field inspections to identify and quantify the cracks and spalls in existing above water concrete structure. Refer to underwater inspection report to quantify cracks and spalls for areas not visible from topside.
 - o Design and develop a concrete repair plan.
 - o Design and develop a cathodic protection system for the repaired areas. The consideration of new proven product(s) for cathodic protection in like applications will be included.

- Design Services for Barge Fendering Panels (Maintenance) \$15,000
 - o Research existing barge fender drawings and perform field inspection of seven existing barge fender panels to assess condition. Determine course of action for each panel as required. Provide repair options and develop repair plan(s) that take into consideration the anticipated limited work schedule. Develop design drawings and technical specifications.

- Design Services for Ship Breasting Structure Fendering Panels (Maintenance) . . . \$10,000
 - o Review existing record drawings furnished by PCCA and perform field inspections of east and west outer breasting structures steel fender panels, assess condition and

propose repair and/or replacement solution that will take into consideration the anticipated limited work schedule. Determine appropriate size and capacity of fender panels equivalent to existing fender and rubber elements based on current loading criteria. Develop design drawings and technical specifications.

Design Services will extend through Issued for Construction drawings milestone at a not-to-exceed amount of \$93,000

Construction Services:

- Provide assistance with submittal reviews and requests for information during construction phase.
- Provide construction inspection support for selective structural concrete demolition, determine extent of reinforcing steel repair/replacement, shotcrete repairs, generating and maintaining tabulation records of structural concrete repairs as required or directed by PCCA.
- Provide recommendations for additional concrete repairs beyond those identified in bid documents.
- Provide inspection of application of cathodic protection system and electrical continuity work.
- Analyze pile driving data to determine design pile capacity is achieved.
- Provide minor field design modifications during construction phase.
- Perform intermittent inspections of progress of work.

Construction Services allowance for time and materials not-to-exceed \$30,000

Record Documents:

- Review construction contractor red-line drawings and provide as-built documentation.
- Develop and maintain documentation of concrete repairs quantity tabulation sheets, field notes and observations, Contractor reports, and pile driving data analysis.

SERVICE SCHEDULE:

- Estimated time for completion of above listed tasks up to the 100 percent design package submittal is 14 weeks after Notice to Proceed. Individual tasks to be completed as noted below.

- Biweekly design progress meetings between Engineer and PCCA to be conducted during the design services duration.
- Weekly construction progress meetings during the performance of critical work – concrete repairs, cathodic protection system application, and pile driving operations. Additional meetings as warranted during construction phase.

DELIVERABLES:

- 60% design drawing and technical specification submittals to be provided to PCCA for review 8 weeks after Notice to Proceed. Deliverables will be furnished in electronic format.
- 90% design drawing and technical specification submittals to be provided to PCCA for review 4 weeks after receipt of PCCA 60% design package comments. Deliverables will be furnished in electronic format.
- Engineer’s opinion of probable construction cost for the proposed repairs will be provided with 90% design package in electronic format.
- 100% issued for bid drawings and technical specifications to be provided to PCCA 2 weeks after receipt of PCCA 90% design package comments. Final drawings will be sealed and signed by a professional engineer registered to practice in the State of Texas. Furnished in in PDF file format, native file format, and one (1) hard copy.
- Quantity Tabulation Sheets will be maintained and updated by Engineer during construction and provided to PCCA on a weekly basis. Records must be updated daily during associated execution of work and be available upon request to PCCA beyond the weekly submittal schedule. Final tabulation quantities must be incorporated into record documents.
- Update and provide record “As Built” drawings 2 weeks after submittal of “red-line” drawings from Contractor. Will include Engineer field notes and actual repair quantities performed.

EXHIBIT B

FEE SCHEDULE

The Engineer will perform the Services described in Exhibit A in accordance with the terms and conditions of this Contract on a time and materials basis; provided, however, that the total fee for services rendered under this Agreement will not to exceed **\$123,000**, without Authority's written approval. Services provided by Engineer will be billed at the hourly rates specified in Exhibit B. These fees will cover all of Engineer's overhead costs, including but not limited to, office rent, long distance telephone charges, postage, payroll and copying charges.

The Authority agrees to reimburse the Engineer for certain authorized and approved travel expenses incurred by the Engineer during the Term and directly resulting from the Engineer's performance of the Services under this Contract. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found at: <http://www.defensetravel.dod.mil/site/perdiemCalc.cfml>. Authority will also reimburse the Engineer for document production costs and other direct costs (collectively, "Direct Costs") incurred by the Engineer in performing the Services. The Engineer shall submit proper documentation of any such approved travel expenses and Direct Costs to Authority from time to time, and such costs and expenses shall be billed to Authority at Engineer's actual cost.

Not later than the twentieth (20th) day of each calendar month, Engineer shall submit to Authority detailed invoices for all services performed and Direct Costs incurred, if any, pursuant to this Agreement during the prior calendar month. The invoices shall describe in detail the Services performed during the prior month and shall list the days and hours worked, the hourly rates charged, pre-approved Direct Costs, milestone achievements, tasks performed or completed, and the Services performed during each day of the prior month. Authority shall review the invoices and notify Engineer in writing (including email) within twenty (20) days of any disputed amounts.

Should this Contract be terminated for any reason, the Engineer will be paid all fees earned up to the termination date and any approved direct expenses incurred.

The fees listed on Exhibit B will remain in effect throughout the duration of this contract.

Compensation:

Overall Project:		Distribution:	
Design	\$93,000.00	Capital	\$29,000.00 (Secondary Access)
Construction	\$30,000.00	Maintenance	\$94,000.00 (Repairs)



9510 Leopard Street
 Corpus Christi, Texas 78410
 Phone: (361) 241-2777
 Fax: (361) 356-4384

GOVIND DEVELOPMENT, LLC

Professional Services - Schedule of Hourly Rates by Personnel Classifications
 Effective January 1, 2017 - December 31, 2017

CLASSIFICATION	EXEMPT(E) OR HOURLY(H)	Standard Time RATE	Over Time RATE
Project Consultant II	E	\$190.00	\$190.00
Project Consultant I	E	\$170.00	\$170.00
Project Manager II	E	\$130.00	\$130.00
Project Manager I	E	\$117.00	\$117.00
Project Engineer / Coordinator IV	E	\$100.00	\$100.00
Project Engineer / Coordinator III	E	\$90.00	\$90.00
Project Engineer / Coordinator II	E	\$80.00	\$80.00
Project Engineer / Coordinator I	E	\$70.00	\$70.00
Engineer VII	E	\$170.00	\$170.00
Engineer VI	E	\$155.00	\$155.00
Engineer V	E	\$135.00	\$135.00
Engineer IV	E	\$100.00	\$100.00
Engineer III	E	\$90.00	\$90.00
Engineer II	E	\$80.00	\$80.00
Engineer I	E	\$70.00	\$70.00
Designer V	E	\$130.00	\$130.00
Designer IV	H	\$110.00	\$140.25
Designer III	H	\$90.00	\$114.75
Designer II	H	\$85.00	\$108.38
Designer I	H	\$65.00	\$82.88
Technician III	H	\$60.00	\$76.50
Technician II	H	\$45.00	\$57.37
Technician I	H	\$35.00	\$44.63
Document Control III	H	\$70.00	\$89.25
Document Control II	H	\$60.00	\$76.50
Document Control I	H	\$40.00	\$51.00
Secretary III	H	\$64.00	\$81.60
Secretary II	H	\$52.00	\$66.30
Secretary I	H	\$40.00	\$51.00
Controls Manager	E	\$104.00	\$104.00
Project Estimator III	H	\$110.00	\$140.25
Project Estimator II	H	\$90.00	\$114.75
Project Estimator I	H	\$70.00	\$89.25

CLASSIFICATION	EXEMPT(E) OR HOURLY(H)	Standard Time RATE	Over Time RATE
Project Planner/Scheduler III	E	\$120.00	\$120.00
Project Planner/Scheduler II	H	\$100.00	\$127.50
Project Planner/Scheduler I	H	\$80.00	\$102.00
Clerk II	H	\$40.00	\$51.00
Clerk I	H	\$30.00	\$38.25
Architect	E	\$140.00	\$140.00
Construction Manager	E	\$115.00	\$115.00
Construction Coordinator	H	\$84.00	\$107.10
Safety Manager	H	\$80.00	\$102.00
Safety Coordinator	H	\$64.00	\$81.60
Registered Surveyor	E	\$135.00	\$135.00
Survey Chief	H	\$92.00	\$117.30
Survey Crewman	H	\$60.00	\$76.50

EXHIBIT B
3/3

EXHIBIT C

INSURANCE

Without limiting the indemnity obligations or liabilities of Consultant or its insurers, provided herein, Consultant agrees to carry and maintain at its sole expense policies of insurance ("the Policies") of the types and in the minimum amounts as follows:

	<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
A.	Workers' Compensation	Statutory
B.	Employer's Liability	\$500,000 per Occurrence \$500,000 Aggregate
C.	Commercial General Liability	\$1,000,000 per Occurrence \$2,000,000 Aggregate
	The CGL Policy will provide contractual liability coverage at the aforementioned limits.	
D.	Business Automobile Liability	\$500,000 per Occurrence
	Automobile liability insurance coverage will include all owned, non-owned, and hired vehicles.	
E.	Professional Liability	\$1,000,000
	Consultant will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Contract caused by any error, omission, or act for which the Consultant is legally liable. Policies written on a claims-made basis shall have an extended reporting period of at least two (2) years beyond termination of the Contract.	
F.	Protection & Indemnity (P&I) Insurance	\$1,000,000
	Should any of the work require marine operations, the subcontractor(s) shall provide Protection & Indemnity insurance with respect to bodily injury and/or property damage arising from marine operations. The Authority Parties shall be designated as an additional insured either by a blanket additional insured or a specific endorsement.	

Each policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the Authority, its Port Commissioners, officers and employees ("Authority Parties"). Additionally, the Authority Parties shall be designated as an Additional Insured either by a blanket additional insured or a specific

endorsement on all policies, except for Worker's Compensation, Employer's Liability, and Professional Liability. In the event that the work of Consultant's employees fall within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, Consultant shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts.

Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insureds with respect to claims arising under this Contract.

The insurance required as listed above, shall apply to any contractor or subcontractor performing for or on behalf of Consultant, and Consultant shall ensure that any such subcontractor is aware of and is in compliance with the insurance requirements during any period such contractor is performing work under this Contract.

The minimum insurance required may be increased periodically upon request by Authority to commercially reasonable limits. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least "A-, VII".

Consultant's liability shall not be limited to the specified amounts of insurance required herein.



DATE: July 18, 2017

TO: Port Commission

FROM: David L. Krams, P.E.
 Director of Engineering Services
Krams@pocca.com
 (361) 885-6134

ANTICIPATED STAFF PRESENTER: Bert Perez, P.E.
 Senior Project Engineer

Approve a Change Order in the Amount of \$160,434 with Russell Marine, LLC, for Payment of Allowable Overdepth Dredging and Modifications and Additional Work Associated with the Construction of the Oil Dock 15 Project.

SUMMARY: Staff requests approval of the attached Change Order with Russell Marine LLC, in the amount of \$160,434 for payment of allowable overdepth dredging and modifications and additional work associated with the Oil Dock 15 project.

BACKGROUND: On May 17, 2016, the Commission approved a lease agreement for the construction and operation of a new Oil Dock 15. This new oil dock, which will be used exclusively by NuStar Logistics, L.P., will support NuStar’s liquid bulk loading operations that has now ceased at Cargo Dock 10 due to the construction of the New Harbor Bridge. The proposed Oil Dock 15 will be located just west of NuStar Oil Dock 16. On September 29, 2016, the Port Commission awarded the construction contract to Russell Marine, LLC in the amount of \$17,001,600 for the Oil Dock 15 project.

PCCA staff has been working with NuStar to make design changes to the dock structure and the crude loading facilities that will meet their needs for interim and future operations. Port Commission has, in recent months, approved amendments to design agreements for making NuStar’s mechanical, electrical, and instrumentation request changes, and change orders have been approved for Russell Marine to implement some of those changes to the dock construction.

The attached Change Order primarily addresses the deletion of 250 linear feet of precast concrete traffic rail located along the approach ramp and the west side of the main dock perimeter and adding a dock substructure to support a large opening in the dock near the marine loading arms to better accommodate NuStar’s larger pipelines. Cost for these work items are an additional \$136,822 for the new substructure and a \$50,000 credit to

delete the traffic rail. A different rail system will be constructed later in the project to replace the deleted concrete railing.

The other item in this Change Order is for payment for 6,692 cubic yards (CY) of allowable overdepth dredging which occurred within the project slip as part of a previously Commission approved additive bid item. The unit cost for Additive Bid Item 5 for overdepth dredging is \$11.00 per cubic yard; therefore the Change Order includes \$73,612 (6,692 CY at \$11.00 per CY) for this additional work.

Therefore, the total amount of the attached Change Order is \$160,434.00.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan (Strategic Goal #2 – Provide Facilities and Services to Meet Customer Needs, Strategic Objective #2B – Provide Public Docks and Support Private Facilities to Facilitate Maritime and Industrial Development, Action #2 – Upgrade and Maintain Existing Docks and Facilities).

EMERGENCY: None.

FINANCIAL IMPACT: The currently approved contingency on this project is \$510,048.00. To date, \$305,513.28 of the contingency has been expended, leaving a balance of \$204,534.72 available for extra work as required.

STAFF RECOMMENDATION: Staff requests approval of the attached Change Order to Russell Marine LLC, in the amount of \$160,434 for payment of allowable overdepth dredging, deleting of 250 linear feet of concrete railing, and modifications to the dock structure associated with the Oil Dock 15 project.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	David Krams
	Dave Michaelson
	Bert Perez
Legal	Used standard template
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

Change Order

CHANGE ORDER

Change Order No. 17

Date: July 18, 2017

Page: 1 of 2

PROJECT: Construction of Oil Dock 15
PROJECT NUMBER: 16-033A
CONTRACTOR: Russell Marine, LLC.

This contract is modified to include the changes listed below, and the contract price and/or contract time will be changed to reflect these modifications:

See attached description of modifications and breakdown of charges on Page 2.

Increase in Contract Price:	\$ 160,434.00
Increase in Contract Time:	0 days

Original Contract Amount:	\$ 17,001,600.00
Total Amount of Previous Change Orders:	\$ 825,735.78
Amount of this Change Order:	\$ 160,434.00
Revised Contract Amount:	\$ 17,987,769.78

Notice to Proceed Date:	October 27, 2016
Original Contract Time (Substantial Completion):	180 days
Previous Changes in Contract Time:	88 days
Calendar Days for this Change Order:	0 days
Revised Contract Time (Substantial Completion):	268 days
Required Substantial Completion Date:	July 22, 2017
Required Completion Date (60 days after Substantial Completion):	September 20, 2017

The change in contract price incorporates all costs for this Change Order including but not limited to the following—direct and indirect costs, overhead, profit, insurance, bonds, labor, materials, equipment, supervision, and delays. This Change Order is accepted and executed by the Port of Corpus Christi Authority and Russell Marine, LLC. as signed by their duly authorized representatives below.

Port of Corpus Christi Authority

Russell Marine, Inc.

By: _____
Bert Perez, P.E.
Project Engineer

By: _____
Greg Harner
Regional Vice President

By: _____
David L. Krams, P.E.
Director of Engineering Services

Date: _____

Date: July 18, 2017

PROJECT: Construction of Oil Dock 15
PROJECT NUMBER: 16-033A
CONTRACTOR: Russell Marine, LLC.

1. Delete 250 linear feet of T221 Concrete Traffic Rail from contract at a rate of \$200 per linear foot from the approach dock ramp and portion of the dock perimeter, as requested by NuStar.

Decrease	\$ <50,000.00>
Decrease	0 Days

2. Add bent 2A and perform associated connections to adjacent beams as shown on revised drawings 16-033A-029 and 16-033A-033B to accommodate dock opening for piping, as requested by NuStar.

Increase	\$ 136,822.00
Increase	0 Days

3. Cost for 6,692 cubic yards of allowable overdepth dredging between -47 foot MLT and -49 foot MLT, based on Additive Bid Item 5 rate at \$11.00 per cubic yard.

Increase	\$ 73,612.00
Increase	0 Days

TOTAL INCREASE IN CONTRACT PRICE	\$ 160,434.00
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TOTAL INCREASE IN CONTRACT TIME	0 Days
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DATE: July 18, 2017

TO: Port Commission

FROM: Sean Strawbridge, Deputy Executive Director & Chief Operating Officer
sstrawbridge@pocca.com
 (361) 885-6133

Approve Amendment to Consulting Services Contract with SMART Development in an amount not to exceed \$35,000 for additional Scope of Work related to Organizational Leadership Development and Effectiveness through December 31, 2017.

SUMMARY: Staff requests the approval of amendment #1 to the Consulting Services Contract in an amount of \$35,000 and time extension through December 31, 2017, with SMART Development to expand organizational leadership development and effectiveness coaching for additional Port staff, primarily Supervisor level staff.

BACKGROUND: Peter McLees of SMART Development was introduced to the PCCA in September, 2016, as facilitator of a 2-day offsite Management Retreat for Executive, Senior and Management staff. The purpose of the retreat was to introduce and elevate collaborative, team building and overall leadership effectiveness on an organizational level. The positive impact of this experience has led to the desire to expand into additional levels of PCCA staff. A Consulting Services Contract was executed for the period of February 1, 2017, through July 31, 2017, at a cost not to exceed \$25,000. To extend service through December 31, 2017, may exceed the statutory limit of \$50,000; therefore, staff requests Commission approval of an amendment to the Consulting Services Contract.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Strategic Goal #6A – Implement Comprehensive Human Resources Strategy, Action #2b-3 Incorporate coaching, goal setting objectives for supervisors, Action #2c Promote Career Development and Action #2c-3 Create on-going training program.

EMERGENCY: No

FINANCIAL IMPACT: Up to \$35,000 additional expense to Professional Services.

STAFF RECOMMENDATION: Staff recommends approval of the First Amendment to Consulting Services Contract with SMART Development in an amount not to exceed

\$35,000 for additional Scope of Work related to Organizational Leadership Development and Effectiveness through December 31, 2017.

DEPARTMENTAL CLEARANCES:

Originating Department	Deputy Executive Director & Chief Operating Officer
Reviewed & Approved	Sean Strawbridge
Legal	Dane Bruun
Senior Staff	John LaRue
	Sean Strawbridge
	Dennis DeVries
	Jarl Pedersen

LIST OF SUPPORTING DOCUMENTS:

First Amendment to Consulting Services Contract

FIRST AMENDMENT TO CONSULTING SERVICES CONTRACT

This First Amendment to Consulting Services Contract (the “*Amendment*”) is made effective as of July 18, 2017 (“*Amendment Date*”) by and between the Port of Corpus Christi Authority of Nueces County, Texas, a navigation district operating under Article XVI, Section 59 of the Texas Constitution (“*Authority*”), and SMART Development (“*Consultant*”). Authority and Consultant are sometimes individually referred to herein as a “*Party*” and collectively as the “*Parties*”.

WHEREAS, Authority and Consultant entered into a Consulting Services Contract dated February 1, 2017 (the “*Agreement*”), under the terms of which the Consultant agreed to perform the services described in the Scope of Services attached to the Agreement as **Exhibit A**; and

WHEREAS, the Authority and Consultant have agreed (i) to expand the Services to be provided under the Agreement, (ii) to increase the compensation payable to Consultant under the Agreement, and (iii) to extend the deadline for performing the Services;

NOW, THEREFORE, for a good and valuable consideration, the Parties hereby agree as follows:

- A. Section 1 of the Agreement is amended to include additional scope of services described in and set forth in **Exhibit A-1** to this Amendment which is incorporated herein by reference.
- B. Section 2 of the Agreement is amended to complete the Services on or before December 31, 2017 (the “Deadline”).
- C. Section 7 of the Agreement is amended to read as follows:

7. COMPENSATION: The compensation to be paid Consultant for providing the Services shall be the compensation described in **Exhibit B** hereto, which is incorporated herein by reference; provided, however, the total paid to Consultant for the Services shall not exceed Sixty Thousand Dollars (\$60,000.00). Consultant will obtain the approval of Authority's Project Representative relative to incurring travel and other expenses before incurring such costs.
- D. **Exhibit B** of the Agreement shall be deleted and replaced with **Exhibit B** to this Amendment.
- E. This Amendment shall be binding on the successors and assigns of the Parties
- F. Except as specifically amended hereby, all terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflict between the terms and conditions of this Amendment and the terms and conditions of the Agreement, the terms and conditions of this Amendment

shall control.

- G.** This Amendment maybe executed in multiple counterparts, each of which will be considered to be an original. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document. The Parties may provide signatures to this Amendment by facsimile or Adobe “.pdf” file and such facsimile or Adobe “.pdf” file signatures shall be deemed to be the same as original signatures.

In Witness Whereof, the Parties have caused this Amendment to be executed by their duly authorized representatives effective for all purposes as of the 18th day of July, 2017.

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

By: _ John P. LaRue, Executive Director

Date: _____

SMART DEVELOPMENT

By: _ Peter C. Mclees
Owner

Date: _____

Exhibit A-1 Scope of Services

The Consultant will perform the following services in accordance with the terms and conditions of the contact.

Service	Activities	Delivery/Location	Time	Fee
SMART Organizational Consulting	<ul style="list-style-type: none"> • Assess POCCA's organizational and leadership effectiveness, • Help build a coaching culture that improves trust, performance, leadership, accountability, learning, communication, knowledge and skills, conflict resolution, teamwork, self-awareness and confidence, • Help determine the cost/ benefit of establishing a POCCA Leadership and Team Academy, • Provide input on the performance management system, • Offer recommendations for the succession planning program, • Create a pilot individual/team coaching program, • Help improve and sustain employee engagement, • Help to create 5-7 core operating values that will <i>guide</i> and <i>align</i> decision making throughout the Port, • Develop and deliver a leadership and employee training program. • Help with other projects to improve organizational, team and individual effectiveness. 	Onsite and Primarily through Phone, Skype and Email	Up to 20 hours per month Five-month Term- (8.1. to 12.31.17)	\$1,850 monthly retainer <i>Subtotal</i> \$9,250
SMART Leadership Training Session 1	Leadership training design and presentation. Divide the management team into A & B groups. Each group will attend two half-day sessions.	Off-site or On-site 3rd Quarter 2017	5 Days	<i>Subtotal</i> \$7,375
SMART Leadership Training Session 2	Leadership training design and presentation. Divide the management team into A & B groups. Each group will attend two half-day sessions.	Off-site or On-site 4th Quarter	2 Days	<i>Subtotal</i> \$2,950

SMART Coaching Initial Session	On-site individual Coaching (This will be the initial 1 hour session for each manager enrolled in the pilot program up to six managers)	Onsite In-person	1 Day	<i>Subtotal</i> \$1,750
SMART Coaching 10 Weekly Sessions	Coaching sessions for each of the six managers enrolled in the pilot program	Telephone /Skype	10 Forty-Five Minute Weekly Sessions	\$750 per manager <i>Subtotal</i> \$4,500
Customized Off-Site Retreat	Design, facilitate and follow up. Includes pre- and post-meetings to design, deliver and follow up	Location TBD	2 Days	\$4,750

EXHIBIT B

FEE SCHEDULE

The Consultant will perform the Services described in **Exhibit A** and **Exhibit A-1** in accordance with the terms and conditions of this Contract on a fixed fee or hourly fee basis; provided, however, that the total fee for services rendered under this Contract will not to exceed Sixty Thousand Dollars (\$60,000.00), without Authority's written approval. Services provided by Consultant will be billed as specified in **Exhibit B**. These fees will cover all of Consultant's overhead costs, including but not limited to, office rent, long distance telephone charges, postage, payroll and copying charges.

The Authority agrees to reimburse the Consultant for certain authorized and approved travel expenses incurred by the Consultant during the Term and directly resulting from the Consultant's performance of the Services under this Contract. Reimbursement for lodging and meals may not exceed the maximum allowable per diem rates for domestic or foreign travel as set by the U.S. Department of Defense, Defense Travel Management Office. Lodging and meal per diem rates for specific locations (foreign and domestic) may be found at: <http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Authority will also reimburse the Consultant for Direct Costs incurred by the Consultant in performing the Services. The Consultant shall submit proper documentation of any such approved travel expenses and Direct Costs to Authority from time to time, and such costs and expenses shall be billed to Authority at Consultant's actual cost.

Not later than the twentieth (20th) day of each calendar month, Consultant shall submit to Authority detailed invoices for all services performed and Direct Costs incurred, if any, pursuant to this Agreement during the prior calendar month. The invoices shall describe in detail the Services performed during the prior month and shall list the days and hours worked, the hourly rates charged (if applicable), approved Direct Costs, milestone achievements, tasks performed or completed, and the Services performed during each day of the prior month. Authority shall review the invoices and notify Consultant in writing (including email) within twenty (20) days of any disputed amounts.

Should this Contract be terminated for any reason, the Consultant will be paid all fees earned up to the termination date and any approved direct expenses incurred.



DATE: July 18, 2017
TO: Port Commission
FROM: John LaRue, Executive Director
john@pocca.com
361.816.3604

EXECUTIVE DIRECTOR'S REPORT

SAFETY

OH&S Management System

EnSafe has completed the Gap Assessment with significant progress in PCCA's Safety Program, as part of PCCA's Strategic Plan Initiative #6 *Fostering a Safe and Healthy Workplace* and consistent with our objective to continually improve, both the Gap Assessment and Hazard Survey were evaluated against applicable elements of the new ISO 45001 standard. The results of these two completed tasks have been submitted via a memorandum to Executive Staff June 1, 2017.

Professional Development

The Safety Coordinator and Safety Intern were able to participate in the HIPPA Privacy Training. A lot of great information over privacy was covered.

SafetyMirror

Future plans are to provide an ongoing SafetyMirror Workshop to all new employees. This program enables employees to make better choices in potential exposure situations and allow them the opportunity to make our workplace a safer environment.



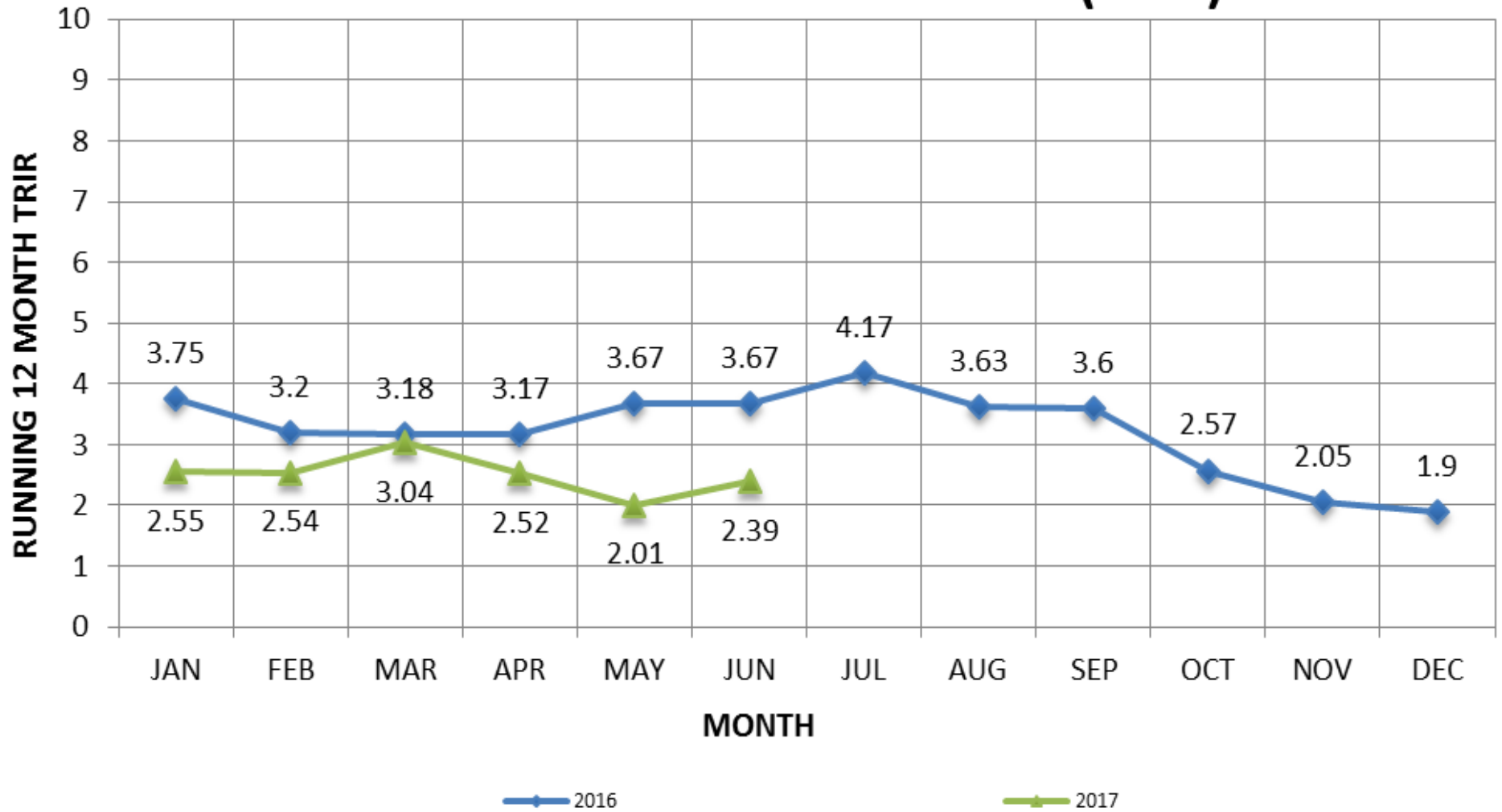
Port of Corpus Christi Authority

Monthly Safety Data Report

June 2017

Safety	POCCA Employees Total		BMD Personnel		Maintenance Personnel		PD Personnel		Admin. & Annex Personnel		
	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	
Number of Employees	228		22		44		49		113		
Work Hours	48,381	202,930	5,851	23,224	9,592	39,211	10,916	47,285	22,022	93,210	
First Aid Cases	1	6	0	0	1	5	0	2	0	1	
Recordable Injuries	2	4	0	1	1	2	1	1	0	0	
Recordable Illnesses	0	0	0	0	0	0	0	0	0	0	
Lost Time Cases	2	3	0	1	1	1	1	1	0	0	
Number of Days Lost	5	8	0	3	3	3	2	2	0	0	
Restricted Cases	0	1	0	1	0	0	0	0	0	0	
Number of Days Restricted	0	0	0	0	0	0	0	0	0	0	
TOTAL RECORDABLES	2	4	0	1	1	2	1	1	0	0	
INCIDENT RATE (YTD)		3.94		8.61		10.20		4.23		0.00	
Types of Injuries											
Slips/Trips/Falls	0	2	0	0	0	0	0	1	0	1	
Struck By	2	2	0	0	1	1	1	1	0	0	
Strains/Sprains	0	2	0	0	0	2	0	0	0	0	
Cuts/Lacerations/Punctures	0	2	0	0	0	1	0	1	0	0	
Back Injuries	0	0	0	0	0	0	0	0	0	0	
Heat Stress	1	1	0	0	1	1	0	0	0	0	
Insect Bites	0	0	0	0	0	0	0	0	0	0	
Other	0	3	0	1	0	2	0	0	0	0	
TOTAL	3	12	0	1	2	7	1	3	0	1	
Days Since Last Lost Time Case	Hours Since Last Lost Time Case		Days Since Last Recordable Injury/Illness				Hours Since Last Recordable Injury/Illness				
10	80		11				88				
Date of Last Lost Time Case	Date of Last Recordable		12 Month Rolling Average								
Wednesday, June 21, 2017	Tuesday, June 20, 2017		July 2016 - June 2017:				416,774	Manhours Worked			
			Total Recordable Incident Rate (TRIR):				2.39				

12 MONTH AVG Total Recordable Incident Rate (TRIR)





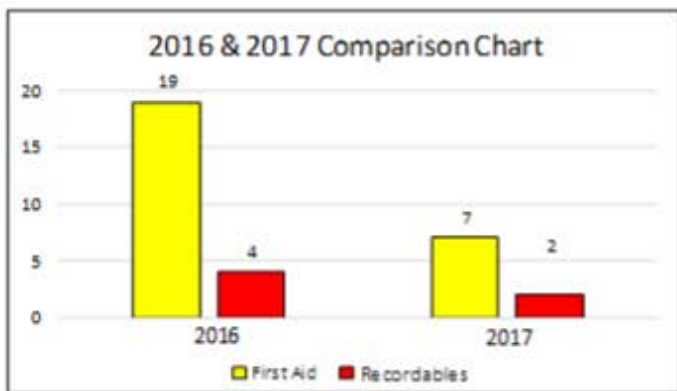
Incident Report for the Month of May

Incident 1

An employee was changing lamps and while looking up and removing parts to replace the lamp the employee got dust particles in the left eye. Employee then immediately reported the incident to their supervisor.

Injury Prevention

- Job Safety Analysis
- Aware of surroundings
- Proper Protection Equipment



May Port TRIR: 2.01
 2017 Injuries:
 Slips/Trips/Falls = 2
 Struck By = 0
 Strain/Sprain = 2
 Cuts/Lacerations = 2
 Other = 3

Safety Suggestions

- Place surveillance cameras in stairwells.
Status: Researching
- Have the Port offer a Self-Defense class
Status: Researching
- Install spotlights for working in the Maintenance Department
Status: Complete
- Maintenance to install notification lights to alert drivers of crosswalk
Status: In Process
- Storm water drain at Maintenance is galvanized, suggest Stainless Steel. Also needs a ladder to access Storm Water Filter System
Status: Researching
- Car lift needs an alarm when raising/lowering so employees can hear beeps
Status: In Process



GOVERNMENT AFFAIRS

LOCAL

- Attended United Chamber Government Affairs committee meeting.
- Attended PICC Public/Government Affairs committee meeting.
- Attended United Chamber Mi Casa Su Casa.
- Attended Community Notification System with port stakeholders.
- Attended Rotary Club meeting in Beeville at invitation of County Judge, provided port update on projects.

STATE

- Hosted the TXDOT Freight Plan meeting at Ortiz Center.
- Meeting with TXDOT to discuss possible projects for Port Connectivity Study/future grant funding.
- The Governor has called legislators for a special session on July 18th. Government Affairs will continue to monitor issues affecting port.

FEDERAL

- The President released his 2018 budget proposal that reflects significant decreases in port related programs. Congress held hearings throughout the month hoping to pass appropriation bills before the August recess. Government Affairs will be monitoring trade, tax reform, EPA, port security grant program, US Coast Guard funding, National Estuary Program funding, infrastructure package, WRDA and Harbor Maintenance Tax reform, etc.
- Held meetings with port industry stakeholders, congressional offices and Office of Management and Budget to discuss federal funding to advance our channel improvement project.
- USDOT announced the Infrastructure for Rebuilding America (INFRA) grants (formerly FASTLANE) application period on June 29th. The funding level of \$850 million remains the same. Government Affairs is working with our grants team to submit port project.



MEMORANDUM

To: Nelda Olivo
From: Hugo Berlanga
Re: June Report
Date: July 10, 2017

Below, please find an update on issues of interest to the Port. Also, please find a brief summary of those activities conducted by Berlanga Business Consultants on behalf of the Port:

Governor Abbott signed Senate Bill 1, the budget bill, and line item vetoed \$120 million from the \$216 billion legislation. Some of the line item's vetoed included funding for the Houston Crime Stoppers program, assisting Texans living in colonias, the Low-Income Vehicle Repair Assistance Program, and a study on brackish groundwater.

The Governor also vetoed 50 bills passed by legislators this session. Governor Abbott vetoed some bills because according to him, they were unnecessary, too costly or too burdensome. Five House bills were vetoed at the request of the bill's author because a similar Senate bill was preferred.

Speaker Joe Straus (R-San Antonio) said the Texas House of Representatives will continue to focus on public education in the upcoming special session. This statement ensures that the special session will be interesting, as things will continue to be tense between the House and Senate.

Mike Collier, a Democratic businessman from Houston, announced his campaign for Lieutenant Governor.

- Attended a luncheon for Congressman Henry Cuellar, at the Ortiz Center, on June 19, 2017;
- Attended the PORT Board Meeting held on June 20, 2017;
- Attended a reception for Rep. Todd Hunter on June 29, 2017;
- BBC will continue communication with the members and staff of Senate IGR, Senate Natural Resources, Senate State Affairs, the Lt. Governor's office and House Transportation & Speaker's Office;
- BBC will continue to send notices regarding meetings and articles of interest to the Port via fax and/or e-mail.

ERBEN & YARBROUGH

807 BRAZOS STREET, SUITE 402

AUSTIN, TEXAS 78701

(512) 472-1682

**Memorandum for Nelda Olivo
Director of Government Affairs, Port of Corpus Christi Authority**

From: Brian Yarbrough and Janiece Crenwelge

Date: June 30, 2017

Re: Activities on behalf of Port Corpus Christi during June 2017

June 2: Review of Texas Register for state agency actions relating to POCCA and transmittal to staff. Teleconference with Office of the Governor policy staff regarding navigation district legislation.

June 5: Research and review on the relationship, if any, between SB 1133, relating to the exemption from taxes and special assessments of property of a navigation district, and HB 2610 by Rep. Ryan Guillen (D-Rio Grande City), relating to the term for a lease of land owned by certain navigation districts.

June 9: Review of Texas Register for state agency actions relating to POCCA and transmittal to staff.

June 13: Correspondence with Nelda Olivo related to acquiring a signed copy of SB 1131, relating to the powers and duties of a designated officer of a navigation district, for the Port's Chief Financial Officer.

June 13-14: Preparation of end of session review comments for June 20 Port Commission meeting. Correspondence with Port staff regarding timelines for the Governor to take action on bills passed by the Legislature.

June 15: Teleconference with Office of the Governor legislative staff regarding SB 1129, relating to franchises granted by navigation districts.

June 16: Review of Texas Register for state agency actions relating to POCCA and transmittal to staff.

June 19: Meeting with Rep. Abel Herrero and staff at lunch event.

June 20: Travel to Corpus Christi to attend Port Commission meeting. Provide a legislative update to the Commission.

June 23: Review of Texas Register for state agency actions relating to POCCA and transmittal to staff.

June 27: Meeting with Rep. Todd Hunter and staff regarding Port issues at lunch event.

June 29: Meeting with Sen. Chuy Hinojosa and staff at lunch event.

June 30: Review of Texas Register for state agency actions relating to POCCA and transmittal to staff.

June 1-30: Conferences with the offices of Sen. Hinojosa, Reps. Hunter, Herrero, and Lozano regarding Port issues. Conduct review of and legal research on legislation enacted by the 85th Texas Legislature of interest to Port of Corpus Christi activities and operations. Weekly transmission of relevant rulemakings and public notices to John LaRue and Nelda Olivo.

BORSKI ASSOCIATES, LLC

5023 South Convent Lane, Unit J
Philadelphia, PA 19114
(215) 327-5600 (Cell)

1655 North Fort Myer Drive
Suite 950
Arlington, VA 22209
(202) 459-0804 (Office)

To: Port of Corpus Christi
From: Borski Associates
Date: July 3, 2017
Re: Monthly Report

Ship Channel Improvement Project

We participated in a meeting with Congressman Farenthold and project stakeholders to develop a strategy to secure political support for funding the Corpus Christi Ship Channel Improvement Project. Following this meeting, we discussed upcoming decision points and a series of actions necessary to prepare for these moments.

We believe the next critical step is securing funding through the FY18 Army Corps work plan, which will be released after the FY18 appropriations bill is signed into law. We advised that POCCA ask Senator Cornyn to personally call the White House about this project and appeal for help. We also believe that the Governor and Congressman Farenthold should communicate with the White House.

In preparation for an upcoming hearing on the Army Corps FY18 budget, we worked with POCCA's consultant on the Army Corps to develop questions about the CCSCIP to be asked at that hearing. We further edited talking points about the project to be used by the Governor in his conversations with the White House.

FY18 Appropriations

We believe the FY18 Appropriations bill will be delayed again this year. Congress will need to address a budget plan, as well as raise the debt limit, before completing work on the appropriations bills. The overarching budget agreement, as well as the debt limit plan, will need to be bipartisan and thus will take extra time due to negotiations. Neither the House nor the Senate has started work on the Energy and Water Appropriations bill, which funds Army Corps programs.

FASTLANE (INFRA) Grants

The Administration has issued new criteria for evaluating FASTLANE Grants. Further, the Administration rename these grants as INFRA Grants. These grants are statutorily funded grants that fund freight mobility projects. We provided POCCA with a notice and outline of the changes. POCCA will need to resubmit any previous application by the end of October.

CASSIDY&ASSOCIATES

733 Tenth Street, N.W., Suite 400
Washington, DC 20001-4886

Tel: (202) 347-0773
Fax: (202) 347-0785
www.cassidy.com

Firm Client: Port of Corpus Christi Authority, Texas
Primary Client Team: Barry Rhoads, Steven McKnight, & Charles Brittingham II
Services Period: June 1-30, 2017

Summary of Services on behalf of Port of Corpus Christi Authority, Texas:

- Substantive consulting on federal government issues on behalf of PCCA
 - ▶ Multiple conversations with Corps of Engineers officials about Corpus Christi Channel Improvement Project, status of draft Project Partnership Agreement (PPA), data needed for economic update required for PPAS, and prospects for future funding in FY2018 workplan and FY2019 budget.
 - ▶ Arranged and participated in client meeting with senior Corps of Engineers officials at the Pentagon.
 - ▶ Reviewed prior correspondence between Corps of Engineers and Office of Management and Budget on Project.
 - ▶ Provided updated information about status of Administration infrastructure and tax reform plans.
- Legislative Liaison and Monitoring
 - ▶ Edited draft Questions For the Record (QFRs) relating to Corps of Engineers appropriations subcommittee hearing
 - ▶ Arranged for Senate staff to submit QFRs on behalf of Senator and Port
 - ▶ Edited background and talking points documents for use with in meetings with Members of Congress & staff, as well as Office of Governor of Texas.
 - ▶ Helped revise talking points for Member of Congress to use in discussing Port projects with Office of Management and Budget (OMB) Director Mulvaney.
 - ▶ Accompanied Port staff to reception for Texas Member of Congress.
- Client Contact and Team Coordination
 - ▶ Engaged in regular telephone and e-mail contact on PCCA matters with Executive Director John LaRue and Government Relations Manager Nelda Olivo.
 - ▶ Participated in Port strategy meeting with Port commissioners, Port staff, other Port consultants, Port client representatives, Corps of Engineers, and Member of Congress.
 - ▶ Help plan meetings for Port Commissioners and staff for July DC trip.
 - ▶ Reviewed news media coverage of new developments at Port and other PCCA activities.

BUSINESS DEVELOPMENT

WIND ENERGY CARGO

- Vessel calls during June: Wind energy cargo vessels: 4
- Staff continued collaboration with Chinese wind manufacturer regarding 2017 project near Austin and re-confirmed POCC as port of discharge.
- Staff attended regular update meetings with local stevedore for cooperative planning purposes.
- Staff continued collaboration with external wind consultant regarding future projections.
- Staff collaborated with stevedore and internal departments regarding laydown opportunities at industrial park site.
- Staff collaborated with stevedore, wind cargo surveyor and internal department regarding Rincon laydown site issue.
- Staff collaborated with wind manufacturer, stevedore and internal department regarding long-term storage of import wind components.

PROJECT CARGO

- Vessel calls during June: Project cargo vessels: 2
- Staff attended and provided report for Railway Industrial Clearances Association (RICA) annual conference in Indian Wells, CA

DRY BULK CARGO

- Analyzed Bulk Terminal Strategic Plan Draft and provided comments
- Completing final design for brochures with Communications Dept.
- Supporting expansion of tenant yard for aggregates.
- Working with existing tenant on expansion of site.
- Working with logistic company for dry bulk in super sacks.

GENERAL CARGO

- Continue to work with pipe coating entity on storage needs for construction of new facility in Robstown and imports of pipe for 2017 delivery.
- Continue to work on pipe projects, Valley Crossing, on various shipments for Northside terminal.
- Supporting pipe and distribution yards at Rincon Industrial Park, TG Mercer laydown area
- Support Military deployment out of CD 8 for future deployments in Aug. Working on logistics and storage requirements

- Working to support mooring relocation of barges due to bridge development
- Continue on logistics for moving containers via barge to Houston.
- Meetings with UP and KSC with Port tour and update
- More continued interest for pipeline logistic companies visiting
- Joined EDC in marketing area for new manufacturing developer
- Working with strategic plan in support of analyzing projects and business opportunities.

LATIN AMERICA TRADE

- The Port was present within the largest logistics and trade conference in Mexico City. Our COO spoke within the Maritime Forum depicting PCC's strategic location for the handling of refined petroleum products to Mexico and the world. We had a booth and various important importers of refined products met with us for additional Port information. A few of them have plans to use PCC as their source area for refined products. Our Commissioners Chairman was also present within this event.
Taking the opportunity of attending ExpoCarga we also had outside meetings with a couple of multimillion dollar companies who are interested in using this Port to import into Mexico thousands of barrels of refined products via rail and/or via "ocean-going-barges".
- One of our Class I rail companies visited the port areas where they may pursue an expansion of their rail capabilities to handle large volumes of refined products.

GENERAL ACTIVITIES

- Assisting the University of Texas-Austin (Center for Transportation Research) with a Transportation Policy Brief depicting Texas Ports and trade via the Panama Canal.
- Continue to work on various projects which will soon allow us to perform transloading operations of finished refined products onto railroad tank-cars.
- Continue working on the various tasks depicted within PCC's Strategic Plan to Foster Compatible Industrial and Maritime Development.
- Continue to support environmental and Business Development strategic plans
- Met with Military Command for 842nd in Beaumont,
- Visited Howard Energy rail facility in Pt Arthur
- Attended Keys to Success Training
- Managing Bd3 opportunities for liquid bulk cargo with various clients
- Staff continued regular communications regarding on-going projects with designated carriers, agents and logistics providers towards seamless operational procedures.

- Staff assisted with wind and project cargo identification for accurate billing of monthly open yard and covered storage.
- Staff coordinated conference call with external consultant regarding tariff review towards Final Draft Report.
- Staff continued collaboration with Commercial team member towards successful laydown yard projection report.
- Staff collaborated with internal department to provide Port presentation to Beeville Rotary Club.
- Staff collaborated with internal department and all licensed stevedores towards resolution of dust issue at industrial park site.
- Staff collaborated with internal departments towards potential improvements at Rincon site towards additional laydown area.
- Staff initiated July agenda item regarding Tariff 100-A, Section II.

FOREIGN TRADE ZONE

Voestalpine continues to work with FTZ Board and CBP for approval to modify and add additional by-products for production activity to their active FTZ site. Interim authority was granted and voestalpine will start to move out some these by-products while approval is pending.

POCCA Real Estate department has issued M&G a formal Notice of Termination Lease for Warehouses 26 & 27. FTZ Manager continues to work with M&G and CBP to move all cargo to new temporary FTZ site at Cargo Dock# 9.

FTZ Manager is working with POCCA Accounting department to update and revise FTZ #122 Zone and Fee Schedule in order to be in FTZ regulation compliance.

ORTIZ CENTER - OVATIONS

The month of June was another great month for the Ortiz Center as we progress with the conversion of the interior lighting to LED.

We were pleased to welcome to the Ortiz Center for the first time Emerson Automation and KW Commercial Properties. We were very excited to participate in this year's first ever PRIDE Downtown event and showcase our ballroom and plaza for the Diva Showcase, as well as hosting the rehearsal dinner for the winners of the social media campaign; highlighting our Kleberg Room and amazing food and of course the gorgeous Pavilion the following day for the wedding. The Ortiz Center was also pleased to work with the USO of South Texas for the first annual Hiring Our Hero's Job Fair.

We also welcomed back our friends from the Girls Club Debutantes for their annual Debutant Ball, the CCISD Retirement Dinner, CSC Annual Safety Awards Banquets, the State Bar of Texas, Christus Spohn Physicians Education Conference, Driscoll Children's Hospital Graduation Dinner, Junior Achievement Luncheon, the CC Apartment Associations Trade Show and the 2nd Annual Big Wigs for Charity event.

We were also pleased to participate in the Corpus Christi United Chamber Foundations Mi Casa Es Su Casa event honoring Gaye White with Representative Todd Hunter's Office, **hosted by John and Diane LaRue.**

As part of our commitment to the community, we are pleased to report that Spectra and the Ortiz Center provided over \$27,000 in discounts and sponsorships to various not for profit and Community Based Organizations this month. The support given by the Ortiz Center assists these wonderful groups in their ability to generate the resources needed to provide their services throughout the Coastal Bend region.

Below are 2016 totals and numbers to-date for 2017 activity.

2016	Guest Attendance	Number of Events	Revenue	2017	Guest Attendance	Number of Events	Revenue
January	4,621	41	\$149	January	3,712	40	\$152,998
February	4,366	39	\$204	February	5,875	45	\$227,214
March	4,553	59	\$199	March	6,761	56	\$296,571
1st Quarter	13,540	139	\$554	1st Quarter	16,348	141	\$676,783
April	5,033	47	\$207	April	5,019	42	\$190,831
May	5,980	47	\$190	May	4,998	54	\$187,993
June	4,342	44	\$213	June	6,504	60	\$238,244
2nd Quarter	15,355	138	\$612	2nd Quarter	16,521	156	\$617,068
July	2,634	33	\$113	July			
August	5,045	53	\$183	August			
September	4,490	39	\$180	September			
3rd Quarter	12,169	125	\$477	3rd Quarter			
October	4,732	38	\$125	October			
November	6,008	54	\$249	November			
December	4,722	35	\$214	December			
4th Quarter	15,462	127	\$590	4th Quarter			
YTD Total	56,526	529	\$2,230	YTD Total	32,869	297	\$1,293,851

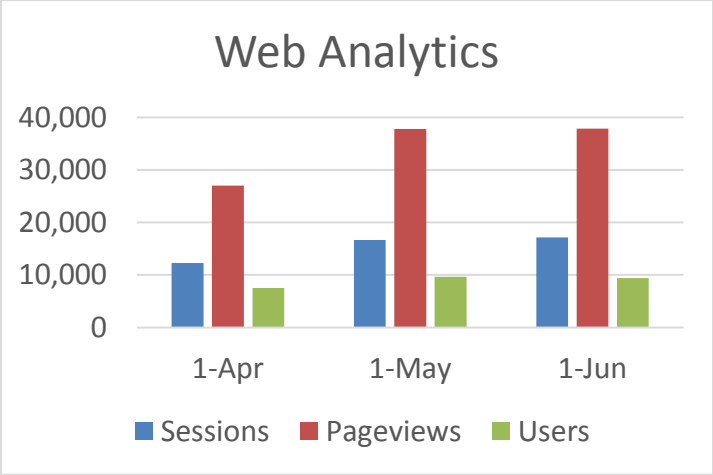
COMMUNICATIONS

May Staff & Employee Events:

- Participated at AAPA Communications Seminar
- EMS External audit
- Wellness luncheon
- Participated in Latin America Ports Forum
- Visit to Buckeye
- Worked on Hillcrest TXDoT monthly report
- Mid-Year Health Risk Assessment
- Various wellness related meetings
- Planning of annual golf tournament
- Strategic Plan update Goal 3 meetings
- Participated at annual Portland Chamber of Commerce Banquet
- Supported & participated STEER Press conference
- Supported the visit of the NYT reporter
- Working on planning of upcoming participation at FALL conferences and tradeshow
- Working on new set of videos for the Port
- Working of a new set of clips for interns in social media
- Supported different interviews with local TV stations
- Participated in TCDRS informative luncheon
- Participated in various staff leadership training events
- Supported tour of Chinese Sorghum port tour
- Hosted STEER Millennium's Committee
- Submitted TXDOT-Hillcrest Report
- Supported staff for different conferences and events local, regional and international (see attached file)

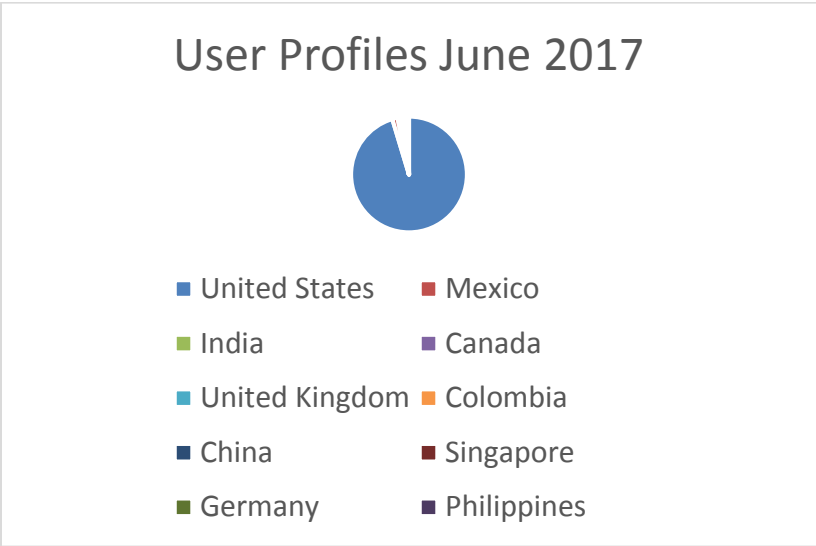
New Media Marketing Management

- **PortOfCorpusChristi.com (June 1 – 30, 2017)**
 - Website Analytics
 - 17,139 Sessions
 - 37,887 Pageviews
 - 9,428 Users



- User Profiles

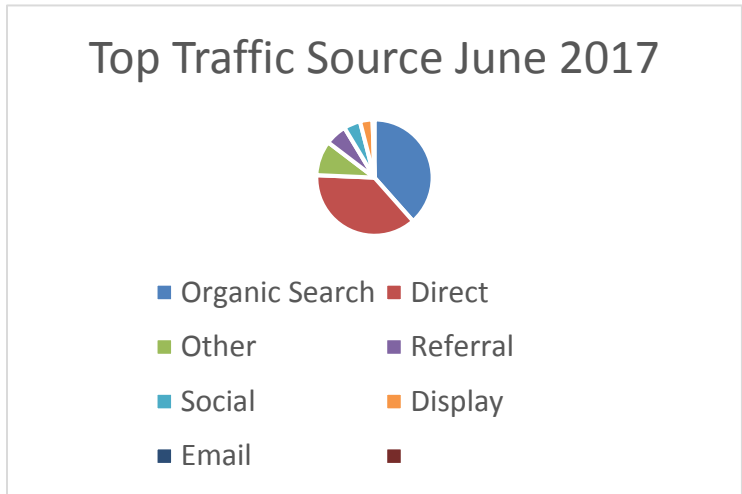
<u>Country</u>	<u>Sessions</u>	<u>% Sessions</u>
United States	15,742	91.85%
Mexico	245	1.43%
India	118	0.69%
Canada	103	0.60%
United Kingdom	93	0.54%
Colombia	55	0.32%
China	45	0.26%
Singapore	40	0.23%
Germany	37	0.22%
Philippines	36	0.21%



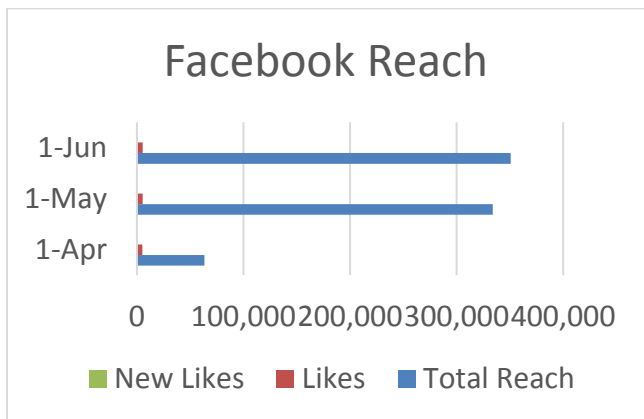
- Top Traffic Source

<u>Source</u>	<u>Sessions</u>
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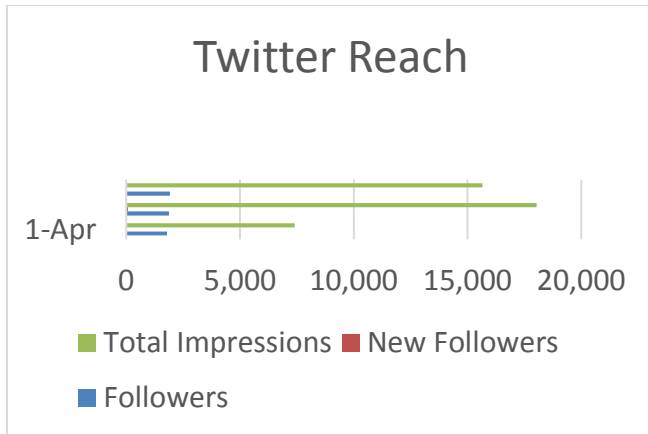
Organic Search	6,591
Direct	6,379
Other	1,659
Referral	1,030
Social	790
Display	600
Email	90



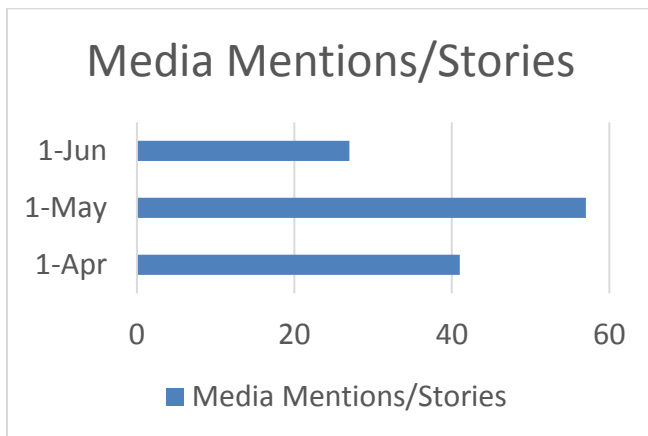
- SOCIAL MEDIA – (June 1 - 30, 2017)
 - Facebook
 - 5,432 Likes
 - 86 New Likes
 - 350,799 Total Reach



- Twitter
 - 1,871 Followers
 - 78 New Followers
 - 18,036 Impressions (Organic)



- Media Mentions/Web Stories (June 1 - 30, 2017)
- 27 Mentions (Communications - News and Social - EDR – June 2017)



Photo/Video/Documentary

- Employee images
- Summer Interns
- Operations
- UAV photos of Inner Harbor areas

Media, Marketing, Community & Public Relations

- Coordinating interviews with media
- Coordinating Publication/Release of Employee Newsletter

Agency

Marketing Recap: In June, MDR worked on several projects including:

- Expo Carga Booth Design / Graphics
- Latin American Ports Forum ads & banners
- Summer Internship Collateral for HR
- Bulk Terminal One Sheet
- Commissioner Business Cards
- Safety Lunch 'n Learn e-blast
- Safety Signs for Bulk Terminal

- Lone Star Port Invitational e-vites
- Op Ed – overall port activity
- June & July Media Ads

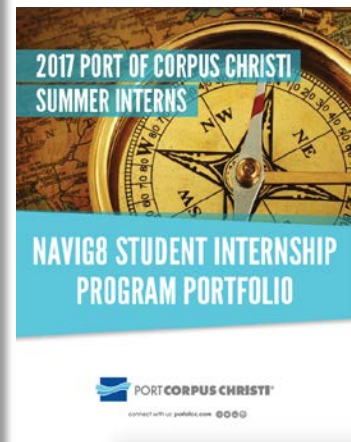
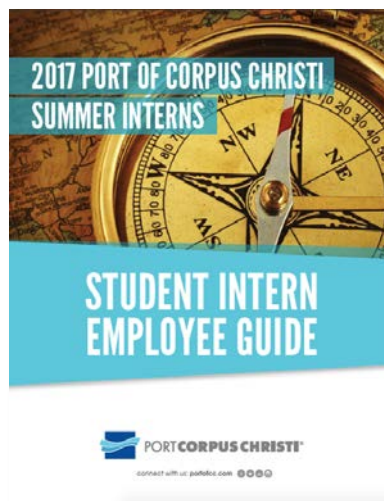
Upcoming projects include the Breakbulk Conference and AAPA booth designs.

MDR also produced new :15 videos and online banner ads featuring the VLCC ANNE. These will run on social media, pre-roll, and online.

MDR is currently in production for a new series for the Port's Summer Interns. Stay tuned.



Latin American Ports Forum



Moving America's Energy – Business to Business Ad Campaign

2017 Digital Campaign: Purchased \$114,361 | Negotiated Added Value \$ \$192,420

<i>Apr '17</i>	<i>May '17</i>	<i>Jun '17</i>
ajot.com breakbulk.com Latin Trade eNewsletter NACleanEnergy.com seatrade-maritime.com T21.com.mx	ajot.com America Economia eNewsletter breakbulk.com International Transport Journal eNewsletter Latin Trade eNewsletter NACleanEnergy.com seatrade-maritime.com T21.com.mx	ajot.com America Economia eNewsletter breakbulk.com DryCargoMag.com Expo Carga Conference Targeting International Transport Journal eNewsletter Latin Trade eNewsletter NACleanEnergy.com seatrade-maritime.com T21.com.mx
Impressions: 721,616 Avg. CPM: \$6.85	Impressions: 1,408,283 Avg. CPM: \$5.11	Impressions: TBD* Avg. CPM: TBD*

*Reports not available at the time of this report.

2017 Print Campaign: Purchased \$65,834 | Negotiated Added Value \$ \$107,295

<i>Apr '17</i>	<i>May '17</i>	<i>June '17</i>
Breakbulk Magazine – Dist. at Breakbulk Europe Conference Global Trade Magazine – Pick Your Port Journal of Commerce – Mexico Trade & Logistics Southern Business & Development – Co-op with CCREDC	AWEA Member Directory NASCO Brochure North American Clean Energy SHALE Magazine Site Selection Magazine T21 Revista	Global Trade – Why We Love These 20 Ports Journal of Commerce – Panama Canal 1 Yr Ltr Maritime Logistics Professionals
Circulation: 82,011 Avg. CPM: \$143.52	Circulation: 109,511 Avg. CPM: \$99.52	Circulation: 77,058 Avg. CPM: \$81.73

CPM = Cost Per Thousand

Expo Carga Conference Targeted Ads

CONNECT WITH US!

Visit us at Booth #2306
and see all the ways we're
building partnerships around the globe.

PORTCORPUS CHRISTI® portofcc.com

Journal of Commerce – Panama Canal Expansion 1 Year Later

BUILT TO MOVE AMERICA'S ENERGY.

Port Corpus Christi puts its energy into what matters most—the needs of our customers. And with our latest expansion project, we're putting more energy than ever into meeting the rising demands of crude oil, natural gas, wind energy and beyond.

PORTCORPUS CHRISTI®

connect with us: portofcc.com

Feel the Energy – Community Awareness Campaign

The Feel the Energy campaign is a community campaign that runs in the Corpus Christi Designated Market Area (DMA). The campaign features: 15 videos about port operations, values, and statistics, and includes online banner ads.

Media Recap (as of 6.25.17)

<i>Print</i>	<i>Online</i>	<i>Ride in Theater Outdoor Movie Sponsorship</i>	<i>HOOKS Homestands</i>	<i>Movie Theaters</i>
<i>Caller-Times</i> <i>Aransas Pass Progress</i> <i>Ingleside Index</i> <i>Portland News</i> <i>San Patricio News</i> <i>Coastal Bend Herald</i> <i>Port A South Jetty</i> <i>Island Moon</i> <i>Nueces County Record</i> <i>Star</i>	Facebook Brand Exchange YouTube	June – The Outsiders	April - 13 May - 15 June - 12	Century 16 NorthShore Cinema
Circulation: 57,753 CPM: \$232.17	Impressions: 1,260,209 CPM: \$12.87	Attendees: 450 Impressions: 900 CPM: \$1699	Not available at time of report	Not available at time of report

	<i>Videos</i>	<i>Online Banners</i>
April – Commerce		
May – Efficiency		
June - Reliability		



PORTCORPUSCHRISTI

EDR Major Event Tracker: June 2017

Date	Event	Location
June 1, 2017	Wellness Luncheon	Ortiz
June 2, 2017	LNG Global Congress Americas	Houston
June 6, 2017	Visit to Buckeye	Houston
June 7, 2017	TCDRS Retirement Luncheon	Ortiz
June 12, 2017	AAPA PR & Economic Development Conference	Portland, OR
June 13, 2017	Audit Committee & Special Commission Meeting	Port Facilities
June 13, 2017	Meeting with Union Pacific	Port Facilities
June 14, 2017	Beeville Rotary	Beeville, TX
June 18, 2017	Commission Meeting	Ortiz
June 20, 2017	Port Infrastructure & Mexico Energy Supply	San Antonio
June 20, 2017	Eagle Ford Shale Consortium	San Antonio
June 20, 2017	Wellness Committee	Port Facilities
June 21, 2017	Delegation to Washington, D.C.	Washington, DC
June 21, 2017	STEER Press Conference	Ortiz
June 24, 2017	Trans Law Professionals	
June 26, 2017	Expo Carga	Mexico City
June 28, 2017	2nd Latin American Ports Forum	Panama
June 29, 2017	Hurricane Readiness Meeting	Ortiz

HILLCREST

Port of Corpus Christi

(a) Summary of activities

In June, we presented offers on 17 parcels bringing the new total offers presented to 98. In addition 19 offers were accepted during the month of June (8 from offers presented in June) bringing the new total offers accepted to 82. The total number of parcels acquired by the Port , through June 2017, is 10 as 6 additional parcels closed in June .

Personal meetings with the community are continuing with Team DRA and each owner or occupant was provided with information and guidance to address each inquiry.

Below is a summary of meetings and events held in addition to the walk-in and telephone calls received from community members.

Date	Activity
6/1/2017	PORT/DRA Hillcrest/Harbor Bridge Program Status Call
6/1/2017	Hillcrest/Harbor Bridge Project Conference Call
6/1/2017	R. & C. Garcia program overview
6/2/2017	A. Marquez program overview
6/4/2017	Hillcrest Voluntary Acquisition & Relocation Program weekly conference call
6/7/2017	D. & G. Garza program overview
6/8/2017	PORT/DRA Hillcrest/Harbor Bridge Program Status Call

6/8/2017	Hillcrest/Harbor Bridge Project Conference Call
6/12/2017	Offer presented parcel #0590
6/13/2017	Offer presented parcel #1046
6/13/2017	Offer presented parcel #1034
6/13/2017	Offer presented parcel #0617
6/13/2017	Offer presented parcel #0616
6/14/2017	Offer presented and accepted parcel #0876
6/14/2017	Offer presented and accepted parcel #0681
6/15/2017	Closed parcel #0460
6/15/2017	Closed parcel #0545
6/15/2017	Offer presented parcel #0867
6/15/2017	Meeting with HUD and Bart B. to discuss building new home
6/15/2017	PORT/DRA Hillcrest/Harbor Bridge Program Status Call
6/15/2017	Hillcrest/Harbor Bridge Project Conference Call
6/16/2017	Offer presented parcel #0863
6/16/2017	Offer presented and accepted parcel #0521
6/19/2017	Property owner attorney came to the office to discuss his client citizenship concerns
6/19/2017	Juneteenth celebration at Solomon Coles
6/20/2017	Offer presented parcel #0765
6/20/2017	Offer presented parcel #0659

6/21/2017	Offer presented parcel #0420
6/22/2017	Closed parcel #0650
6/22/2017	PORT/DRA Hillcrest/Harbor Bridge Program Status Call
6/22/2017	Hillcrest/Harbor Bridge Project Conference Call
6/22/2017	Lenders program overview and discussion
6/26/2017	Offer accepted parcel #0765
6/27/2017	Offer presented parcel #0949
6/27/2017	Offer accepted parcel # 0863
6/27/2017	Closed parcel #1099
6/27/2017	Closed parcel #0752
6/27/2017	H. Jones program overview
6/27/2017	Community outreach event
6/27/2017	Lenders program overview
6/28/2017	Offer accepted parcel #0420
6/28/2017	Offer presented and accepted parcel #0892
6/28/2017	Closed parcel #0948
6/29/2017	Offer presented parcel #1189
6/29/2017	Offer presented parcel #1186
6/29/2017	Offer accepted parcel #0949
6/29/2017	PORT/DRA Hillcrest/Harbor Bridge Program Status Call

6/29/2017	Hillcrest/Harbor Bridge Project Conference Call

- (b) Total parcels acquired by ROW Contractor /total eligible parcels
10 parcels have been purchased
- (c) Information on appraisals performed on specific properties

Approved Appraisals

No.	Owner Ref.	0573	Marroquin	0699	Alvarez
0410	Tovar-Rodriguez	0579	Coleman	0702	Ovalle
0420	Cursillo Inc	0581	Jenkins	0709	Banda
0430	Milligan	0582	Jefferson	0710	Marruffo
0437	Allen	0587	Coleman	0718	Chapa
0460	Mumphord	0590	Lopez	0722	Garcia
0473	Mazeda	0593	Garcia	0744	Sanchez-Parker
0477	Banda	0612	Guzman	0748	Garza
0481	Drake	0615	Gonzalez	0752	Garza-Landeros
0487	Aguilar-DeLeon	0616	Martinez	0765	Lawson
0488	Aguilar	0617	Martinez	0769	Seeclouds Invest
0491	Silva-Garcia	0619	Quintero	0775	Escobar
0492	Rodriguez	0621	Rodrigues	0777	Horcol Inc
0501	Alcorta-Gallegos	0634	Wilson	0780	Vargas
0508	Internal Industries	0637	Jenkins	0793	Ramirez-Parra
0510	Hill, et al.	0644	Vazquez	0796	Perez-Rivera
0515	Alviar	0650	Reyes	0797	Izaguirre-Castro
0517	Lloyd	0654	Smith	0802	Pittman-
0521	Robbins-Woods	0659	Olivarez	0803	Gutierrez
0526	Ortiz	0660	Trevino	0810	Guy
0533	Banda	0661	Berry-Roberts	0817	Hudgens
0541	Fuentes	0667	Rodriguez	0818	Dominguez
0544	Casarez	0671	Yancey	0824	Wolfson
0545	Brown	0675	Carter	0826	Porter
0547	Lopez	0678	Wolfson	0828	Jackson
0560	Flores (prev.	0681	Martinez	0830	Thomas
0562	Enriquez	0683	Gonzales-Dinn	0836	Guy
0565	Ray	0691	Taylor (prev. Haven	0837	Castillo
0567	Block Realty LLP	0696	Alvarez	0839	Orshanski LLP

0840	Orshanski LLP	0951	Osswald-Murphy	1041	Valdez, et al
0845	Lott	0952	Villarreal	1042	Sanchez
0856	Guzman	0953	Salas	1043	Rodgers
0858	Wolfson	0954	Calderon	1045	Mircovich-Montoya
0859	Cornelius	0961	DKJS Invest LLC	1046	Hall
0860	Grande	0968	Clacken	1051	Osswald
0862	Kinney	0969	Clacken	1052	Ayala
0863	Jones	0974	Reyna	1099	Mungia
0865	Grant	0978	Youngblood	1100	Powell
0867	Hicks	0981	Johnson	1104	Armstead-White
0875	Delagarza	0982	Aranda	1118	Garcia
0876	Perez	0983	Livingston	1120	Salinas
0879	Wolfson	0984	Claeys	1148	Maxwell
0885	Washington	0993	Williams	1158	Martinez
0888	Guerrero-Lozano	1000	Ramirez	1160	Alvarado-Longoria-
0892	Perez Estate	1002	Smith, et al	1161	Cervantes
0909	Johnson	1009	Garcia	1162	Rosales
0911	Johnson	1012	Hernandez-	1163	Aranda
0912	Bolden	1014	Rodriguez	1178	Galvan
0923	Clark	1015	Rodriguez	1179	Galvan Estate
0938	Banda	1016	Barrera	1186	Galvan
0940	Lozano	1018	Markham Bros	1187	Galvan
0944	Ortiz	1024	Perez	1189	Galvan
0946	Urrutia, et al	1032	Naranjo	M001	Navarro
0948	Torres	1034	Perry	M003	Parra
0949	Padron	1035	West	Count 165 (6/30/17)	
0950	Fry	1036	Heirs of Stewart		

Appraisals Initiated But in Process and/or Not Yet Approved by TxDOT

Parcel ID	Owner Reference
0468	Robledo
0470	Cortez
0536	Bradley
0548	Flores
0715	Mosquera-Bardon
0833	Double Dare LLC

Count 6 (6/30/17)

(d) Relocation assistance provided and to whom (owner or tenant)

“Mandatory Tenants”: June marks the start of activity for so-called “mandatory tenants” (of landlords who have accepted offers) with the relocation team interviewing tenants and starting to prepare eligibility and entitlement packages.

“Elective Tenants”: In accordance with updated project direction the “July 1 tenant letter” was mailed out. The mailing consisted of two groups, one addressed to “occupant” and mailed to all landlord properties. The 2nd group consisted of tenant names and addresses secured during the community survey, workshops and office walk-in tenants. Relocation staffing is in equilibrium and matches the need based on the number of acquisition offers being made and offers accepted. Owner-occupants are continuing to want to secure a new home before committing to sell their property to the Port but their 60 days to accept/reject is starting to come due. Searching for comparable and actual replacement housing is an ongoing activity. Through June, 98 Notices of Eligibility have been presented to date and 10 families have relocated.

(e) Title work performed

To date a total of 291 title commitments have been ordered and 275 have been received and under review. In the pre-appraisal phase, we are working with property owners to resolve heirship issues that should be cleared before they elect to sell to the Port. In the post-offer phases, preparing for closing, we have been working with the assigned title companies and aiding owners with heirship, liens, and other title clearance issues to enable closing. So far, no title issues have prevented closing but we do anticipate that there will be.

(f) Other services related to relocation during reporting period

With the approved programmatic change to provide advisory services and limited benefits to non-occupant owners (landlords), DRA team prepared and sent eligibility notifications to all landlords and has started providing advisory services to them as well.

(g) Summary of Port’s ROW Contractor Disadvantaged Business Enterprise (DBE) % Goal

DRA is not aware of a DBE goal set for this project. However, it should be noted that DRA and one of its subcontractors are both certified DBE firms.

Community Outreach

1 community event was conducted in the month of June.

- June 27th Bingo Night City Program, Owner and Tenant Program Overview

The bingo event had over 70 people in attendance. This event had the largest number of tenant representation seen to date for the program.

In June the DRA office had 260 visitors and 364 phone calls received.

Several households have identified 2 major issues impacting their ability to take advantage of the voluntary program; 1.) the inability to get financing to cover debt associated with the subject property and 2.) the inability to work with estranged family members on title issues.

Community outreach has taken the lead to mediate family issues, and create relationships with secondary financing companies to further assist residents that may have challenging financial needs.

Acquisition

In June, the program presented 17 additional offers through the 30th of month, bringing the total offers presented to 98. Eighteen (18) offers were accepted in the month of June (8 from offers presented in June) bringing the new total offers accepted to 83. The Port acquired 6 additional parcels in June raising the total to 10 parcels.

The Acquisition Team has been working with Stewart, Bay Area, San Jacinto and First Title to focus primarily on acquisition curative items needed to close or get to appraisal. We continue to follow up with title companies on Heirship Affidavits and other Statements of Information and Affidavits. We are clearing many title issues before appraisals are ordered (a function that typically occurs after offers are accepted but for the limited timeline available to close.)

Relocation

During the month of June, the relocation team continued to meet and interview on-site owners whose properties are currently being appraised and provided eligibility and resources to owners contemplating selling their property to the Port. Additionally, because some landlords have accepted purchase offers, the team have started to interview tenants ("Mandatory Tenants") who must move in order for their landlords to close. With the July 1 letter in circulation, many

tenants (“Elective Tenants”) have expressed their willingness to participate in the program absent the participation of their landlord.

The DRA team continues to update the “Comp Book” twice weekly. Because of the rapid pace of the market, the contents of the comp book changes frequently but generally contain:

No. Bedrooms	No. of <i>Active</i> , DSS Listings in Comp Book	Range of Ask Prices
2	About 30	\$72.5k-\$149k (normal distribution within range)
3	About 200	\$75k to \$175k (50% between \$115k-145k)
4	About 150	\$79k to \$205k
5+	About 10	\$140k-\$270k (generally above \$200k)

There are over 900 properties in the comp book many of which are unavailable due to sale, pending contracts, or not being DSS. The team is working with 390 useable active “for sale” properties that have been determined to be DSS.

Additionally, there are 173 SFR rental comps in the comp book ranging in price from \$700 to \$2,800 according to size, quality, and bedroom count.

The relocation team continues to prepare relocation packages for TXDOT to review and approve. A total of 98 NOE’s have been approved and presented to date, an increase of 17 this month. Relocation activities continue to consist of; preparing and presenting relocation packages, conducting inspections on comparable housing, processing claims, monitoring moves, and delivering benefits checks.

Of the 17 NOEs issued in the month of June, 7 were to onsite owners and 10 to landlords. Agents have also met with tenants and continue to gather information on tenants in preparation for tenant relocation.

Appendix B: Port of Corpus Christi Supplemental Information

- B.1. 6.22.17 Pre-Conference agenda
- B.2. 6.22.17 Conference agenda

- B.3. 6.29.17 Pre-Conference agenda
- B.4. 6.29.17 Conference agenda
- B.5. 6.01.17 Pre-Conference agenda
- B.6. 6.01.17 Conference agenda
- B.7. 6.08.17 Pre-Conference agenda
- B.8. 6.08.17 Conference agenda
- B.9. 6.15.17 Pre-Conference agenda
- B.10. 6.15.17 Conference agenda
- B.11. Finance Report

COMMUNITY RELATIONS

- WBA Membership Breakfast with Sean Strawbridge, Keynote Speaker
- PICC Public Affairs Committee meeting
- United Corpus Christi Chamber of Commerce Board of Trustees Meeting
- United Corpus Christi Chamber of Commerce Weekly Executive Board
- Del Mar College Foundation Board of Trustees Meeting
- Ingleside Chamber of Commerce, Jane Gimler, meeting
- Strategic Planning meeting
- Terry Mills, NAACP
- Eagle Ford Shale event planning meeting
- Mayor's Interagency Breakfast Meeting
- United Corpus Christi Chamber of Commerce Board of Trustees meeting
- Pam American Golf Association children's event
- Small, Diverse & Emerging Business Council meeting
- Rail Yard Phase II Ribbon Cutting event
- EFCI Regional Meeting Agenda
- Education and Workforce Committee meeting
- Port Industries Public Affairs meeting
- Del Mar College Foundation Board of Directors meeting
- World Affairs Council luncheon
- Port RAPPORT Town Hall planning meeting
- United Corpus Christi Chamber of Commerce Board meeting
- Texas A&M University-Corpus Christi
- United Corpus Christi Foundation Trustees meeting
- Texas A&M University-Corpus Christi
- United Chamber President Interviews
- Community Options
- Bart Braselton, affordable housing
- Special Commission Meeting
- Industry Notification luncheon
- "Mi Casa Es Su Casa" United Corpus Christi Chamber of Commerce Foundation honoring Gaye White

- Board of Trustees, Del Mar College Foundation
- Board of Directors, Workforce Solutions of the Coastal Bend
- Coaching session with Peter McLees
- Strategic Plan Updates, Goal 3, “Sustain Stakeholder Meetings”
- Access Database Meeting
- STEER Press Conference
- Portland Chamber of Commerce Annual Luncheon with Senator Judith Zaffirini
- Laredo Chamber of Commerce Vision Speakers Series with Former Mexican President Vicente Fox
- Meeting on semi-annual community giving report
- Sandra Alvarez, Consultant
- Ron Berglund, RIDC
- Women’s Shelter: “Great Expectations”
- Junior Achievement Annual event
- Youth Summit
- DRA Hillcrest Voluntary Acquisition and Relocation meeting
- Intern meeting (s)
- NAACP Executive Board
- LULAC Council #: Feria de las Flores Scholarship Banquet
- Pan American Golf Association: 45th Annual Jr. Golf Clinic for underserved children

INFORMATION TECHNOLOGY

Status of Information Technology Programs & Initiatives

- Helpdesk – 367 IT helpdesk tickets submitted and 323 tickets resolved in June.
- Vessel Traffic Information System (VTIS) – The existing VTIS has reached its end of life and the company who supported it is no longer in business. The system is in need of immediate replacement. IT and HMO staff are conducting a needs analysis to build an RFP for VTIS selection. The goal is to select and install the replacement system by the end of 2017.
- Data Center Colocation – All equipment from the on premise backup data center has been moved to Cyrus One. Data between Cyrus One and our local data center is in sync and ready for a data center fail over should the need arise. A bubble test failover has successfully been completed from the primary data center (Corpus Christi) to the backup data center (San Antonio). The next step is to conduct a live data center fail over in the production environment. This is tentatively scheduled for September 22.
- Video Conferencing – IT staff are currently evaluating three video conferencing systems to be used for commission meetings and general business. Product demonstrations and hands on testing have been conducted for Cisco, Polycom and LifeSize systems. The Cisco system was selected and is currently being procured. Cisco provided the best integration with our existing systems and was competitively priced to the others compared.
- JD Edwards Upgrade – Reviewing upgrade options for the JD Edwards Platform (JDE). IT staff is evaluating JDE upgrade assessment proposals from three Texas DIR vendors. The assessment will conduct a detailed analysis of existing system and what it will take to upgrade to JDE Enterprise One. Workshop held on May 1 to evaluate upgrade paths and system platforms. Goal of project is to update system for an improved user interface, improve business processes for efficiency and add additional modules to accomplish strategic plan goals such project and asset management.
- Granicus – Peak agenda management continues to be used for agenda creation. Training is underway for the tablet application, video archiving and minutes modules. Video archiving was tested in May and determined that further testing is needed. Video archiving and minutes modules will be tested at the June commission meeting. June testing was successful and the system will run in parallel with existing recording systems in July.
- NIST 800-53 Controls – Implementation of the National Institute of Standards and Technology security controls. NIST 800-53 are catalog of security controls designed for federal information systems. While the Port is not required to adopt these controls, we feel it's important to follow a control set for the department's policies and procedures. Relevant controls have been selected and adapted to

port operations. Final documents are complete and implementations into IT procedures is underway.

- Network Redundancy – The Admin building and all remote facilities are connected via a single fiber optic cable that routes through PD. This single point of failure would ideally be backed up with a leased line from a telecommunications provider. However, to receive adequate bandwidth the link would cost as much as \$5000 per month. IT is evaluating wireless options with no reoccurring costs for this solution.
- Phone System Replacement – Phase one of project is complete. Phase two will occur in 2017 to migrate service from AT&T PRI (Phone Rate Interface) to SIP (Session Initiation Protocol) trunks.
- PD Network Redesign – Network redesign to convert analog network to digital has begun. The first phase is complete and new switches and cameras at Oil Dock 14 and the PD data center have been installed. A digital network will improve image quality, allow for easier software and firmware maintenance and replace the existing aging equipment. This project is on hold due to clarity needed on Department of Public Safety (DPS) Texas Law Enforcement Telecommunications System (TLETS) regulations. IT is in the process of receiving DPS approval for the section of the network the interfaces with TLETS.

2017 Budgeted Projects

- HMO Radio Upgrade – Replacement of dated radio system for the Harbormasters Office. Radios have reached end of life and it is becoming harder to find parts for repair. *Estimated project completion: 05/01/17*
- VTIS/AIS Replacement – This project will replace the Vessel Traffic Information System/ Automatic Identification System (VITS/AIS). The existing system is no longer supported by the manufacturer and parts are not available. Modern VTIS/AIS systems have the ability to integrate with our existing vessel management system for greater efficiencies. Both HMO and security departments will utilize the new system for greater awareness. *Estimated project completion: 11/01/17*
- JD Edwards Upgrade – Upgrade from JD Edwards World to JD Edwards Enterprise One. The existing JDE installation has a 'green screen' user interface that is not intuitive. This system run on IBM hardware that is ready for replacement. JDE Enterprise One greatly improves the user interface and expands our financial system into other areas are existing JDE World could not accommodate. In addition to all existing functions we will look to JDE Enterprise one to handle capital program management, asset management and a more streamlined procurement workflow. *Estimated project completion: TBD*
- Network Replacement (Port PD) – As identified in the Transportation Technology Associates Security Technology Master Plan, the network infrastructure for Port PD needs to be upgraded. Most equipment has reached end of life and is no longer supported by the manufacturer. This upgrade would allow for the transition from analog to digital cameras. *Estimated project completion: 08/01/17*

OPERATIONS

HARBORMASTER

Ship Arrivals	Tankers	Freighters	Year to Date Ships
June 2017	116	30	947
June 2016	104	34	785

Ocean Going Barge Arrivals	Ocean Going Tank Barges	Ocean Going Freight Barges
June 2017	29	1
June 2016	41	2

Barge Arrivals	Tank Barges	Freight Barges	Year to Date Barges
June 2017	257	18	2302
June 2016	235	0	2301

Shifting	Tankers	Freighters	Ocean Going Tank Barges	Ocean Going Freight Barges	Tank Barges	Freight Barges
June 2017	23	4	15	4	814	26
June 2016	16	3	21	0	769	0

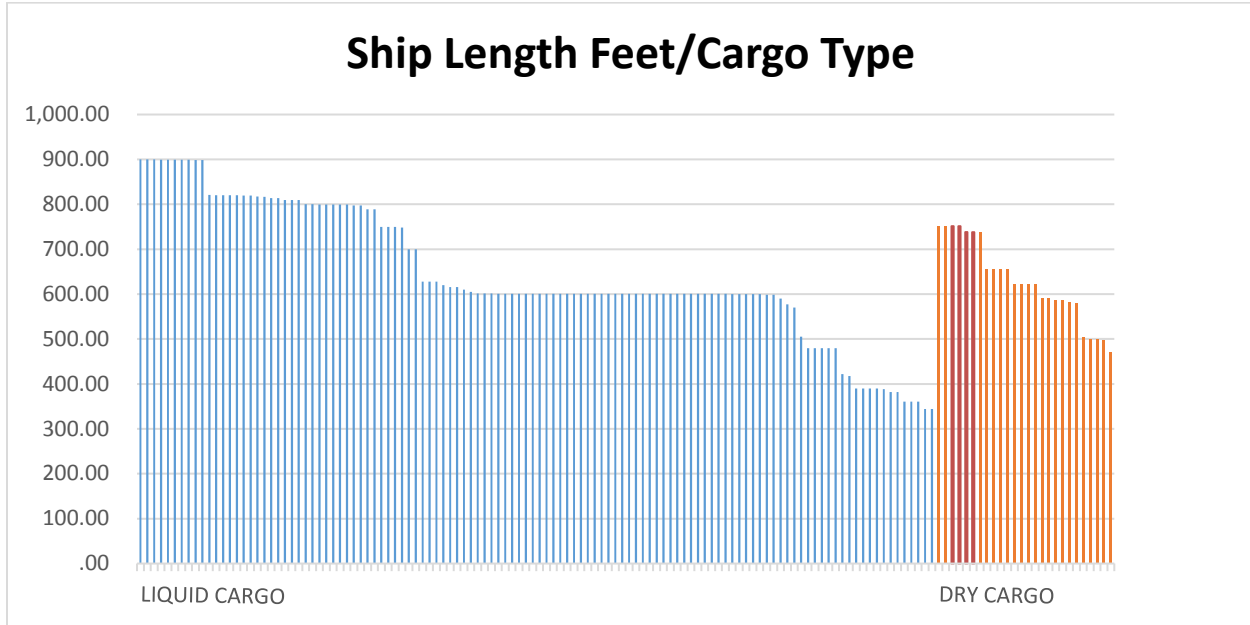
	Average Daily Ship Arrivals	Average Daily Barge Arrivals
2017	4.87	10.17
2016	4.60	9.27

Channel Disruptions

Channel Disruptions	Total Hours	Wind	ADM/ Citgo 1 Restriction	Rig	CD 8	Dead Ship Transit
June 2017	77.25	12.5	45.75	--	8	11
June 2016	19.00	8.27	11.8	19.00	--	5.17

Delays	Inbound Delays	Outbound Delays
June 2017	7	7
June 2016	4	7

June 2017



YARDS & RAIL

- Rail traffic slowing with ADM doing **1797** railcars, milo maize/wheat in June, ship at dock, 1 at anchorage
- AHMSA/UPRR
HBI pad to rail at BMD ongoing, HBI cargo on pads – **103** railcars loaded outbound in June
- **2365** total revenue rail cars in June 2017 compared to **1812** revenue cars in June 2016
- Working on Agreement (Restated CCPN 1997 Operating) with Welder, Strawbridge and Class 1 RR's in Port legal review
- North Bank storage yard wind components departing by truck and rail, no issues
- North Storage yard project cargo and wind cargo departing by trucks, FTZ areas set up for M&G cargo
- T G Mercer pipe yard at Rincon – pipe 42 and 48 inch diameter projected to run through August 2017 no issues
- Warehouses 26/27, Acreage by ADM, CD 14 warehouse, BMD and Rincon have cargo for M&G
- South side yard – wind towers to Al Speight yard – space tight, yard by CD 8 – space available - TXDOT ROW established in yard
- USNS Mendonca now at CD14/15 until September 2017

- South side laydown yard TXDOT ROW cleared for fence installation, laydown space affected
- NRRY Phase II and M&G construction, rail yard connections to JFC main line are complete, tamping and field welding completed. Phase II running slightly behind scheduled completion date.

CARGO DOCKS

- CD 10 - warehouse foundation TXDOT contractor fenced off ROW
- CD 8 – 04 vessels arrived June
- CD 9 – 10 vessels arrived June
- CD 15 – warehouse has over 200 pallets bottled water stored for City of Corpus Christi

BULK TERMINAL

Current Projects

- Dust control for all pads and roads
- Preparing for paving projects by shiploader and CB2
- Bulk Terminal Master Plan ongoing
- BMD2 Trestle Replacement is ongoing
- BMD1 Crane Replacement Study is ongoing
- Storm Water Improvement Project Planning ongoing
- Rebuilding Transfer Points on Conveyor System
- Re-wire Conveyor Belt No. 2

Activity (short tons)

Railcars

- Load rail cars: 0 railcars loaded
- Unload rail cars: 0 railcars unloaded

Bulk Dock #1

- 53,659.73 Barite

Bulk Dock #2

- 157,733.25 Pet Coke

Pads

- 111,815.72 Pet coke
- 12,108.37 Sulfur

MAINTENANCE

Ortiz center

- Replaced CC3 cores in chef's office door.
- Restarted chiller after failure; monitored throughout day.
- Repaired water leak.
- Continued with lighting retrofit and attend update and changes meeting.
- Repaired chemical feed leak on chiller.
- Assisted with monthly Chiller inspections and report findings.
- Removed hurricane shutters from upper loft windows.
- Met with Carol to discuss and attain cost to paint ash trays and trash cans amongst others.
- Checked roof for leaks, could not locate areas of water penetration.
- Conducted monthly lift station pump inspections and created deficiency report.
- Assisted with repairs to urinal.

Commissioners Court

- Set up and tear down stage.

Guard houses

- Repaired inside lighting at Stroman guardhouse.
- Replaced sink drain piping behind wall and re-patched and painted affected area at Avery.

Administration building

- Assisted procurement with various request for storage or removal of property from turner storage buildings.
- Replaced dimming switch in 3rd floor break room.
- Remodeled and repainted several offices in 3rd floor.
- Assisted various personnel with office moves.
- Repaired lighting in accounting offices.
- Consulted with contractor to attain bid to install stair well in atrium area.
- Investigated inoperable parking lot lighting; lights belong to AEP who is working on it.
- Replaced pneumatic a/c thermostat in Rosie's office.
- Installed new hardware and locking mechanism in front door.

Annex building

- Cleaned A/C vents in Eileen's office.
- Assisted engineering with furniture relocation.
- Remodeled 1st floor engineering office space; removed wall and re-do ceiling grid and relocated electrical and computer wires.
- Painted caution lines on rear entrance sidewalk curb.
- Installed carpet rug atop rear entrance stairs.
- Reapplied non-skid tape to rear entrance stairs.
- Repaired ice machine at HMO.
- Cleaned and prepared office at HMO for new director of operations.

Port Security/PD

- Replaced bunk cable on east boat lift and adjusted all others.
- Assisted with requested furniture moves.
- Painted offices as requested.
- Secured entrance driveway security cable.
- Snaked and cleared sewer drain line from women's restroom.
- Replaced key core in Chief's office.
- Repaired dispatch room access control door.
- Installed electrical box and pulled electrical wire to newly relocated trailer for IT.

BMD

- Assisted with water leak repairs.
- Assisted with Crane lift operations.
- Repaired a/c unit in locker room.
- Strapped down and secured Morgan storage building.

Cargo Docks

- Repaired #2 overhead door track at CD 14.
- Troubleshoot and repaired CD 8 outside lighting.
- Repaired potable water leak at meter at CD 9.
- Remodeled restroom at CD 9; replaced plumbing fixtures, doors and painted in and out.
- Repaired waste water force main leak at CD 9.
- Repaired water line leak west of CD 15; water line services G&H towing and OD 12.
- Started installing lighted exit signs on emergency exit doors at CD 14.

Oil Docks

- Adjusted lift station controller and replaced toilet wax ring at OD 5.
- Repaired and serviced a/c unit at OD 4.
- Reset 480-volt breaker at OD 3, investigated ownership and it belongs to user.
- Repaired and secured East dolphin gangway at OD 7.
- Repaired cofferdam catwalk at OD 4.
- Installed and leveled sewer holding tanks at Avery.

Fire Barge

- Met with Gulf Copper to attain quote for gangway repairs.
- Checked and repaired all lighting below deck.
- Replaced forward void hatch drain valve.

Fire Boat

- Met with Gulf Copper to attain quote for new gangway install.
- Assisted with removal of hydraulic motor pump.

Gates, Fences, signs and Roads

- Filled in pot holes in Gulf Stream storage yard near gate 122.
- Repaired and adjusted gate 133.
- Back filled pot holes on the KB Hutchinson road in Gregory.

Property (Other)

- Replaced U.S., Texas and Port flags at Columbus observation tower by water taxi.
- Repaired storm drain gate on Navigation near coast guard.
- Cleaned out storm drain culverts and drains as requested by Environmental Department.
- Assisted environmental with storm drain cover removal and reinstallation.
- Relocated IT and Accounting trailers; reinstalled electrical power, re strapped and checked all operations.
- Assisted Danielle Hale with loading bottle water pallets to city trucks.
- Repaired NRRY area high mast pole lights.
- Repaired door frame in men's restroom at water taxi.

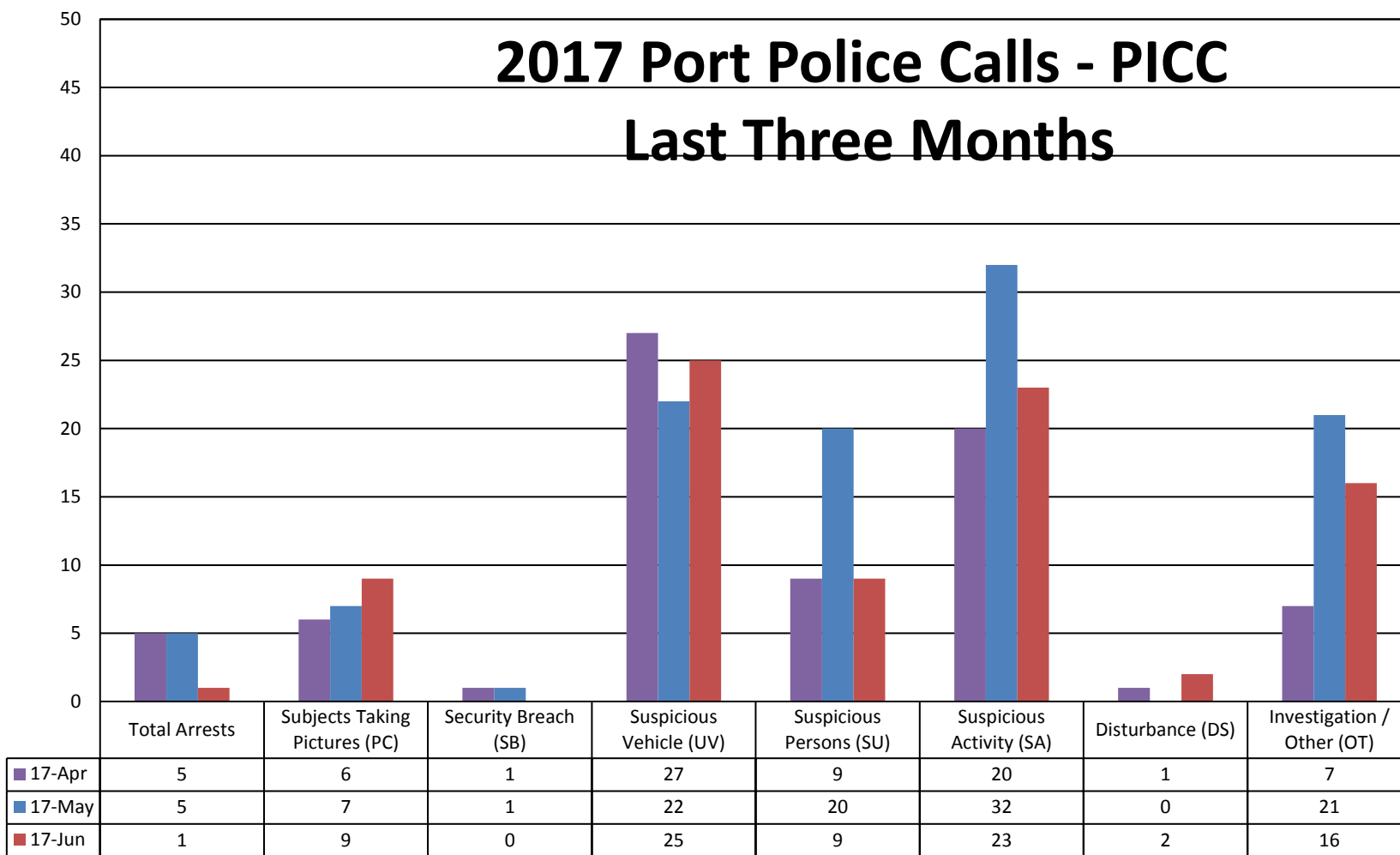
Maintenance Routine

- Janitorial services Port wide.
- Maintenance and repairs of vehicles and equipment.
- Lighting pm throughout Port facilities.
- Mowing maintenance Port wide.
- Monthly fire alarm and sprinkler test on all warehouses.
- Monthly flush and test of all potable ship outlets at Cargo and Oil Docks.
- Conducted monthly sub water meter readings.
- Monthly Irrigation sprinkler test and inspections at Annex, Admin, PD and Ortiz.
- Conducted weekly departmental Safety Meetings.
- Conducted Monthly EMS meetings.
- Monthly emergency generator test and inspections at Annex, Admin, PD, Stroman, La Quinta and Harbor Island.
- Conducted monthly test and inspections of sanitary sewer lift stations Port wide.

Maintenance Personnel

- A new Groundskeeper began employment with PCCA on June 6, 2017.

2017 Port Police Calls - PICC Last Three Months



EMERGENCY MANAGEMENT

Planning, Organization, Equipment, Training, Exercises (POETE)

Planning

- Attended Engineering meetings to discuss Tule Lift Bridge demolition and fire system review for OD15
- Participated in Port led meeting with San Patricio County partners to discuss community notification options
- Disaster finance planning team continues to meet
- Ongoing planning and coordination activities related to spill/release notification and response procedures (jointly with Environmental, Risk, Safety and Port PD)
- Participated in direct planning and coordination activities with the following partners:
 - Ortiz Center/Spectra
 - City of Portland
 - Cheniere
 - United States Coast Guard
 - Nueces County
 - City of Corpus Christi
 - Aransas-Corpus Christi Pilots
- Documents Submitted for Review:
 - City of Corpus Christi-Nueces County LEPC Standard Messaging
- Documents in Progress:
 - Hazard Mitigation Action Plan- pending approval
 - Hurricane Readiness Plan Revision- pending approval
 - Emergency Action Plan Revision
 - Marine Firefighting Standard Operating Procedure
 - Disaster Finance Plan

Organization

- Participated in strategic plan review with Risk
- Committees/Boards Attended
 - Safety Committee
 - Gulf Coast Growth Ventures Construction Advisory Group
 - City of Corpus Christi-Nueces County LEPC Risk Awareness Subcommittee
 - City of Corpus Christi-Nueces County LEPC Finance Subcommittee
 - City of Corpus Christi-Nueces County LEPC General Membership

Equipment

- Participated in FY17 Port Security Grant Program investment justification project and application review.
- Updated GETS user accounts and distribution list
- Port Alert user accounts updated and system familiarization ongoing

Training

- NIMS Implementation Phase Two Online Training Ongoing
- Training/Outreach Conducted
 - Chlorine Chemical & Physical Properties Webinar- June 1
 - Mandatory Hurricane Readiness Staff Meetings with Human Resources (3 deliveries)
 - Hurricane Briefing at Port Commission Meeting- June 20
 - Infrastructure Damage Assessment Course- June 23
 - City of Corpus Christi-Nueces County LEPC Joint Presentation with Environmental Planning & Compliance- June 27
- Attended
 - Defensive Driving- June 6
 - National Weather Service Hurricane Season Messaging Workshop- June 8
 - Port & Vessel Security for Public Safety and Maritime Personnel- June 16
 - Infrastructure Damage Assessment Course- June 23

Exercises

- Coastal Bend Regional Hurricane Exercise After Action Review- June 1

Incident Coordination

- Weather Potential/Awareness- 1
- Tropical/Hurricane- 1
- Utility Outage- 1
- Industry- 2

Emergency Management in the Community

Emergency Management coordinated the delivery of an infrastructure damage assessment course taught by the Texas Division of Emergency Management. Over 40 students from throughout the area attended including the cities of Aransas Pass, Corpus Christi, Portland, Robstown and Nueces County along with 14 Port personnel representing the Engineering, Environmental, Harbor Master, Information Technology and Risk Departments.



Port Police, Environmental and Emergency Management joined up with the Corpus Christi Fire Department to conduct a site familiarization visit for the ongoing Harbor Bridge Construction Project on the Northside Terminal.



City of Corpus Christi-Nueces County LEPC general membership meeting was well attended for a joint presentation with Sarah Garza to highlight the efforts of the Port's emergency management and environmental programs.



ENVIRONMENTAL PLANNING & COMPLIANCE

Environmental Stewardship Measurements

Program Area	June 2017
Electrical – Green Energy Purchased (10% of Total KWHs) – (only thru May 2017)	215,944 KWHs
Spent Liquids Recycled	236 gallons
Materials Recycled	4,530 lbs
Components Recycled	148
Regional Air Quality (EPA Standard of 70 ppb)	~64 ppb
Community Complaints Regarding Port Operations	0
Notice of Violations Against Port Operations	0
Tenant Audits Completed	16
Bulk Terminal Air Monitoring Alerts (North Network-Bulk Terminal)	17
Bulk Terminal Air Monitoring Alerts (South Network-Dona Park)	4

The Governor vetoed the Rider 17 funding which provided funding for the regional air monitoring network that Texas A&M University – Kingsville is currently operating and maintaining, as well as, the outreach efforts that the Pollution Prevention Partnership through Texas A&M – Corpus Christi, including the AutoCheck program. The community is attempting to identify local monies to contribute to keep both of these programs going while lobbying the state to include these in the future budget. Additionally, the Regional Health Awareness Board passed a resolution that recommends for the Port Authority and the Local Emergency Planning Committee to develop additional air and water monitoring and to develop ongoing health monitoring and assessment for San Patricio County.

Environmental Initiatives Dashboard

Listed below are the environmental initiatives planned or underway and the status of each:

Program	Description of Activities	Target Completion Date	% Complete	Status
Environmental Management System	Development of updated EMS video.	8/31/2017	35%	Ongoing
	ISO 14001 Certification: Surveillance Audit	7/2/2017	100%	Completed
	Green Marine Self Evaluation	4/30/2016	100%	Completed
Tenant Audit Program	Conduct routine annual audits of all leases on PCCA facilities.	12/31/2017	15%	Ongoing
	Conduct routine lease-ending audits of terminated or completed lease agreements.	12/31/2017	15%	Ongoing
	Conduct baseline assessments of properties as applicable for new lease agreements.	12/31/2017	0%	Not Started
Storm Water	Conduct routine inspections and monitoring and sampling in accordance with applicable permits.	12/31/2017	50%	Ongoing
	Complete annual reports for previous year in accordance with applicable permits.	1/30/2017	100%	Completed

Program	Description of Activities	Target Completion Date	% Complete	Status
Ozone Advance	Participation in Air Quality Committee and Ozone Advance Working Groups.	12/31/2017	75%	Ongoing
	Provide input to Annual Ozone Advance Report.	4/30/2017	100%	Completed

Environmental Projects Dashboard

Listed below are the budgeted capital, maintenance and professional services projects and the status of each:

<u>Project Description (Proj. #)</u>	<u>Consultant Agreement Type</u>	<u>Description of Activities</u>	<u>Target Completion Date</u>	<u>% Complete</u>	<u>Status</u>
Purchase of Software for EMS Recordkeeping (15-057A)	MA 05-14 E2 ManageTech, SO#4,5,6	RFP for software vendors.	1/29/2016	100%	Completed
		Vendor demonstrations.	3/11/2017	100%	Completed
		Negotiations with Successful Vendor.	4/15/2016	100%	Completed
		Commission approval of software purchase and implementation contract with successful vendor.	6/21/2016	100%	Completed
		Purchase/implementation of EMIS software.	8/31/2017	40%	Ongoing
General Electrical Consumption Reduction Projects (13-013A/16-704A)	Pending	Negotiating project scope with electrical engineering firm.	03/31/2016	NA	Cancelled – Not Needed
		Design electrical consumption reduction improvements.	06/30/2016	15%	Started
		Advertise RFQ for design-build.	6/30/2017	75%	Started
		Award contract.	8/15/2017	0%	Not Started
Investigation and Remediation of Contamination from La Quinta Pipeline Removal/Relocation (14-002B)	MA –Platinum Environmental Solutions, LLC, SO# 1	Construction of project.	12/31/2017	0%	Not Started
		Prepare and submit Groundwater Classification and Drinking Water Survey Reports to TCEQ.	3/7/2016	100%	Completed
		Prepare and submit APAR to TCEQ.	01/31/2017	100%	Completed
		Receive and respond to TCEQ comments.	9/7/2017	20%	Started
		Submit Response Action Plan	9/7/2017	0%	Not Started
Investigation of Property Near Lift Bridge (14-002C)	MA – 06-14 Apex TITAN, SO# 1,2,3	Response Action Implementation	9/7/2019	0%	Not Started
		Case closure with TCEQ.	12/31/2019	0%	Not Started
		Additional fieldwork to collect groundwater samples and verification soil samples.	3/28/2016	100%	Completed
		Prepare and submit APAR to TCEQ.	5/31/2016	100%	Completed
Bulk Terminal Master Plan (16-009A)	Professional Services Agreements – Market Study Moffitt Nichol led by Commercial and Master Plan Cardno, Inc. led by Internal Bulk Terminal Project Team	Respond to TCEQ comments.	9/22/2017	50%	Started
		Case closure with TCEQ.	6/1/2018	0%	Not Started
		Commission Approval for RFP for Market Study.	4/19/2016	100%	Completed
		Advertise RFP for Market Study	4/30/2016	100%	Completed
		Shortlist firms and negotiate scope of work and fees.	5/25/2016	100%	Completed
		Commission approval of agreement	6/17/2016	100%	Completed
		Market Study Final Report	8/31/2016	100%	Completed
		Advertise RFQ for Master Plan	9/30/2016	100%	Completed
Shortlist firms and negotiate scope of work and fees.	10/6/2016	100%	Completed		
MA 04-14 RSA, SO# 8	Fieldwork to conduct upland sampling per sampling plan.	Commission approval of agreement	10/18/2016	100%	Completed
		Master Plan	6/30/2017	75%	Ongoing

<u>Project Description</u> <u>(Proj. #)</u>	<u>Consultant Agreement</u> <u>Type</u>	<u>Description of Activities</u>	<u>Target Completion</u> <u>Date</u>	<u>% Complete</u>	<u>Status</u>
Sampling to Support OD-3 Expansion Plans (14-058A)		Prepare final report including recommendations for management of upland soils during construction project.	12/31/2016	100%	Completed
		Conduct source investigation/delineation of hot spots.	6/30/2016	5%	Placed On Hold
		Develop final report summarizing source investigation and delineation of hot spots.	7/31/2016	0%	Placed On Hold
Bulk Terminal Storm Water Quality Improvements (15-046A)	MA 14-01 LAN, SO# 3,7	95% Design submittal for Task 1a and Task 2	02/26/2016	100%	Completed
		100% design submittal and contract documents for advertisement for Task 1a and Task 2.	5/4/2017	100%	Ongoing
		Advertise for bid.	5/15/2017	100%	Completed
		Commission approval for construction.	7/18/2017	100%	Completed
Bulk Dock 2 Air Permit (16-030A)	Pending Commission Approval	Construction completed.	8/31/2018	0%	Not Started
		Negotiate Master Agreement and Service Order.	3/15/2016	100%	Completed
		Prepare and submit air permit authorization for salt at Bulk Dock 1.	5/31/2016	100%	Completed
		Prepare technical memo regarding removal/lowering of moisture content from existing permits.	6/30/2017	20%	Started
		Support Master Planning activities at the Bulk Terminal.	6/30/2017	35%	Started

Environmental Consultant Master Agreements and Service Orders

Listed below are the Environmental Consultant Master Agreements and associated Service Order values:

Consultant (MA#)	2016 Service Order Amounts	2017 Service Order Amounts
RPS, Inc. (02-14)	\$49,918	\$3,690
Trinity Consultants (03-14)	\$48,000	\$0
Rosengarten Smith and Associates, Inc. (04-14)	\$0	\$49,783
E2 ManageTech Inc. (05-14)	\$140,622	\$0
Apex TITAN, Inc. (06-14)	\$119,844	\$0
TRICORD Consulting, LLC (07-16)	\$76,069	\$30,900
Alan Plummer Associates, Inc. (08-16)	\$62,604	\$29,800
Cardno (09-16)	\$49,343	\$0
Platinum Environmental Solutions, LLC (10-16)	\$96,837	\$110,844
Total MA's	\$643,237	\$138,948

ENGINEERING SERVICES

As of June 26, 2017 (billing through May 31, 2017), the Port of Corpus Christi Authority Department of Engineering Services had invoicing of \$5,924,712 for projects in progress. These projects consist of 65 Capital, 26 Maintenance, and 21 Professional Service projects. Below is a table detailing the 2017 budgeted amounts and the expended amount “to date” for on-going capital, maintenance, and professional services projects.

Engineering Services June 2017 Report (through May)		
Project Type	2017 Budget Amount	Expended to Date
Capital	\$65,133,769	\$26,587,081
Maintenance	5,080,000	\$181,180
Professional Services	834,000	\$656,892
Total	\$71,047,769	\$27,425,153

**Includes federal, state & other grants/funds by others – No land or software.*

UPCOMING BIDS (PROJECTS > \$50,000) / REQUEST FOR PROPOSALS

Mike Carrell Road Construction	(15-050A)
Fire System Pressurization Upgrades at North Bank Oil Terminal Facilities	(14-023A)
Viola Barge Basin Maintenance	(17-018A)
General Improvements to Cargo Dock 9 Transfer Facility	(16-032A)

MASTER AGREEMENTS AND SERVICE ORDERS**

Listed below are the Master Agreements implemented, including values of Service Orders, Contracts, and Amendments issued per year:

	<u>2016*</u>	<u>2017*</u>
HDR, Inc. (13-01)	\$363,100	\$56,921
Freese and Nichols, Inc. (13-02)	\$491,303	\$469,493
Govind Development, LLC (13-03)	\$49,900	\$291,700
Hanson Professional Services, Inc. (formerly Naismith) (13-04)	\$51,760	--
CH2M Hill (13-05)	\$1,623,780	\$649,225
LNV, Inc. (13-07)	\$137,690	--
Coast & Harbor Engineering d/b/a Mott MacDonald (14-03)	\$107,097	\$43,589
LJA Engineering, Inc. (16-01)	\$198,724	\$35,000

**Includes separate Professional Services Contracts*

**** as of 7/6/17**

Corpus Christi Ship Channel - Channel Improvement Project (CCSC-CIP)

- Project Elements:
 - Widening and Deepening the CCSC to -52 feet MLT
 - Adding barge shelves on both sides of the ship channel across Corpus Christi Bay
 - Extending the La Quinta Channel 1.4 miles at -39 feet MLT
 - Constructing Ecosystem Restoration projects near Port Aransas and Ingleside on the Bay

- CCSC-CIP Status
 - Construction of Ecosystem Restoration Complete (2012)
 - La Quinta Extension Complete (2013)
 - Memorandum of Understanding with the Galveston District of the Corps of Engineers to Perform Sediment Testing Services Associated with Dredging the Entrance Channel of the Corpus Christi Ship Channel Channel Improvement Project (September 2016)
 - Allows for sediment sampling and analysis for dredge material from Contract 1 (Gulf of Mexico to Harbor Island) to be performed by the PCCA and those PCCA expenditures to be eligible for credit toward the PCCA's cost-share requirement for the CCSC-CIP.
 - Cooperative Research and Development Agreement with U.S. Army Engineer Research and Development Center (November 2016)
 - Sediment Testing and Analysis for Entrance Channel Reach
 - Start Date: January 3, 2017
 - Estimated Completion Date: September, 2017

- Authorizations:
 - Water Resources Development Act (WRDA) of 2007 - Project Authorized
 - Water Resources Reform and Development Act (WRRDA) of 2014 - Project Re-Authorized
 - Water Infrastructure Improvements for the Nation (WIIN) Act signed into Law December 16, 2016
 - Increases the channel depth for the 25% non-federal cost share from 20' – 45' to 20' – 50'
 - Increases the channel depth for the 50% non-federal cost share from depths in excess of 45' to depths in excess of 50'
 - Includes language that clarifies the remaining separable elements of the Channel Improvement Project which will allow the Army Corps of Engineers to continue work on the Channel Improvement Project and allow it to be considered for construction appropriations during the Federal budget process.
 - Authorizes feasibility studies to investigate the widening and deepening of the La Quinta Channel from 45 feet to 52 feet and construction of a new turning basin near the entrance to the Inner Harbor, to provide a more effective, safe and efficient waterway.

Ongoing Ship Channel and PCCA Dock Slip Maintenance Dredging

- Corpus Christi Ship Channel to Viola Turning Basin/La Quinta Channel

- Includes Upper Bay, Portions of Inner Harbor, Portions of La Quinta and PCCA Oil Docks 1, 2, 4, 7, 8, & 11, Cargo Docks 8 & 9, and Bulk Terminal Dock 2
- Current Schedule:
 - Start Date: December, 2016
 - Estimated Completion Date: September, 2017

PCCA Channel Improvement Business Plan Study

Develop a planning document and business plan for the Corpus Christi Ship Channel System to provide a cogent, codified planning and informational document to assist PCCA in making planning decisions for the PCCA's waterways, dredge material placement areas and beneficial use sites.

- Start Date: November, 2016
- Estimated Completion Date July, 2017

La Quinta Property Buffer Area Development

Design is 35% complete. Final design scheduled to be complete in September, 2017. Construction contract award scheduled in October, 2017.

**Department of Engineering Services
Project Design & Construction Status Report
DESIGN PROJECTS**

Project No.	Project Title	Project Manager	% Completed
<u>Capital</u>			
14-036A	Ortiz Center Redevelopment Project (Preliminary Phase)	BF	20
14-061A	Maintenance Building Relocation	BF	10
15-016A	Tule Lake Rail Yard Upgrades and Modifications	BF	30
14-023A	Fire System Pressurization Upgrades at Oil Docks	BP	90
14-028B	Equipment Storage Building	BP	50
14-030A	Public Storage Pads Upgrade	BP	80
15-047A	Chiller Replacement at Ortiz Center	BP	
16-032A	General Improvements to Cargo Dock 9 Transfer Facility	BP	90
14-037A	La Quinta Terminal 600-FT Dock Development and 10-AC Yard	CM	90
09-019A	New Access Road to Good Hope DMPA	DJK	90
14-045B	Construction of 8-inch Water Line at La Quinta Property	DJK	50
15-043A	New Operator's Cab for Gantry Crane	DLM	90
15-050A	Mike Carrell Road Construction	DLM	90
15-061D	Security Grant 15 - Security Lighting along Fulton Corridor (25/75)	DLM	60
14-024A	Hoist Foundation & Gangway Support at Oil Dock 7	JEM	60
17-016B	Structural Improvements and Cathodic Protection at Oil Dock 7	JEM	60
14-030B	Improvements to Pad 6 at the Bulk Terminal	LGD	10
15-040A	Concrete Paving Under Conveyor Belt 2	LGD	60
16-039A	Construction of Acceleration & Deceleration Lanes at La Quinta Terminal	LGD	90
15-041A	Improvements to Fire Protection Systems at Oil Docks 4, 7, 11	NEF	50
14-047A	La Quinta Gateway Terminal Upland Buffer Area	PDC	30
<u>Maintenance</u>			
16-018A	Roadway and Parking Lot Repairs (2016)	EM	60
16-047A	Resurfacing of North Side Open Storage Area	EM	40
16-023A	Main Water Line Vault Valves (\$100,000) Replacement at Ortiz Center	JEM	10
15-032A	Bulk Dock 1 (\$120,000) Storage Building Upgrades	LGD	100
15-032B	Bulk Dock 1 Storage Building Demolition	LGD	90
16-027A	Kay Bailey Hutchinson Road Maintenance	LGD	90

**Department of Engineering Services
Project Design & Construction Status Report
CONSTRUCTION PROJECTS**

Project No.	Project Title	Project Manager	% Completed
Capital			
14-028A	Bulk Terminal Office Renovation	BP	100
15-053A	Reconstruction of Sam Rankin Road (24/76)	BP	100
16-033A	New Public Oil Dock 15	BP	40
15-061C	Security Grant 15 – Perimeter Fencing at Bulk Terminal (25/75)	CM	100
16-035A	Viola Barge Basin Bulkhead Addition	DC	
07-046C	Tule Lake Foundation Removal	DLM	20
13-032A	Construction of Oil Dock 14	DLM	100
13-043A	Nueces River Rail Yard Phase - II	DLM	90
15-035A	Upgrades and Repairs to Bulk Dock 2 Marine Structures	EM	50
15-030A	General Improvements to Oil Dock 6	JEM	100
12-031B	La Quinta Terminal Mitigation – Aquatic Habitat – Phase II	PDC	80
Maintenance			
15-037B	Repair Bridge to Oil Dock 12	EM	10
15-039B	Marine Improvements at Oil Dock 2	JEM	90
16-049A	Maintenance Painting at BT	JEM	100

Port of Corpus Christi Authority

MONTHLY FINANCIAL RESULTS

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May 2017



PORT CORPUS CHRISTI™

PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

KEY METRICS

OPERATING REVENUES	OPERATING EXPENSES	NET INCOME(LOSS)	TONNAGE	SHIPS AND BARGES	CAPITAL PROJECTS
\$ 37,250,737	\$ 21,707,443	\$ 11,367,900	42,984,814	2,784	\$ 27,699,894
↑ 18% Actual	↑ 20% Actual	↑ 17% Actual	↑ 14% Actual	↑ 4% Actual	
↓ -3% Budget	↓ -17% Budget	↑ 51% Budget			↑ 39% Budget

ALL METRICS

METRIC	YTD 2017 ACTUAL	YTD 2016 ACTUAL	% CHANGE	YTD 2017 BUDGET	% CHANGE
ASSETS	\$ 700,882,779	\$ 634,906,809	↑ 10%		
CASH & INVESTMENTS	\$ 192,928,308	\$ 165,462,613	↑ 17%		
ACCOUNTS RECEIVABLE	\$ 25,324,947	\$ 10,433,261	↑ 143%		
RESTRICTED ASSETS	\$ 67,839,451	\$ 81,946,952	↓ -17%		
LIABILITIES	\$ 169,767,704	\$ 140,605,147	↑ 21%		
NET POSITION	\$ 536,463,324	\$ 496,260,551	↑ 8%		
OPERATING REVENUES	\$ 37,250,737	\$ 31,573,653	↑ 18%	\$ 38,295,056	↓ -3%
OPERATING EXPENSES	\$ 21,707,443	\$ 18,103,111	↑ 20%	\$ 26,252,326	↓ -17%
NET OPERATING INCOME (LOSS)	\$ 15,543,294	\$ 13,470,542	↑ 15%	\$ 12,042,730	↑ 29%
NON OPERATING REVENUE (EXPENSES)	\$ (4,175,394)	\$ (3,790,475)	↓ -10%	\$ (4,532,562)	↓ -8%
NET INCOME (LOSS)	\$ 11,367,900	\$ 9,680,067	↑ 17%	\$ 7,510,168	↑ 51%
TONNAGE	42,984,814	37,705,070	↑ 14%		
SHIPS	793	641	↑ 24%		
BARGES	1,991	2,032	↓ -2%		
SHIPS & BARGES	2,784	2,673	↑ 4%		
RAIL CARS	16,554	6,812	↑ 143%		
CAPITAL PROJECTS	\$ 27,699,894			\$ 19,908,625	↑ 39%

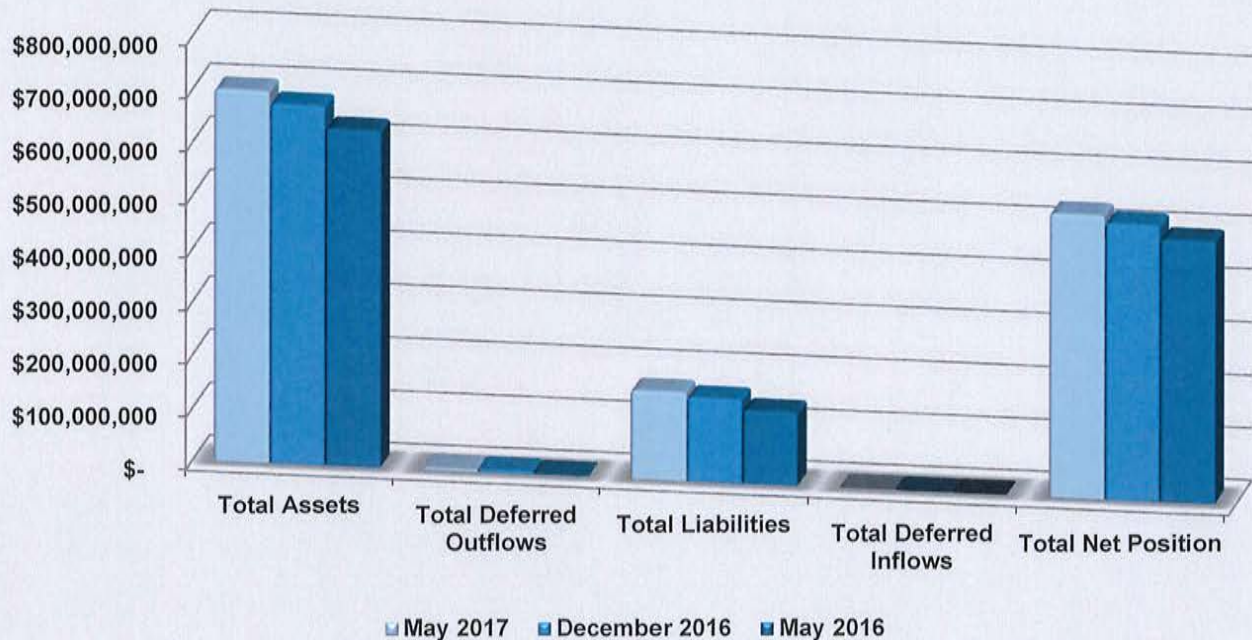
PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

STATEMENT OF NET POSITION

	May	December	Annual Change	%	May	Year-Over-Year Change	%
	2017	2016			2016		
Cash/ Investments	\$ 192,928,308	\$ 185,629,316	\$ 7,298,992	4%	\$ 165,462,613	\$ 27,465,695	17%
A/R	\$ 25,324,947	\$ 28,733,764	\$ (3,408,817)	-12%	\$ 10,433,261	\$ 14,891,686	143%
Restricted Assets	\$ 67,839,451	\$ 70,859,926	\$ (3,020,475)	-4%	\$ 81,946,952	\$ (14,107,501)	-17%
P P & E, net	\$ 412,575,935	\$ 390,123,868	\$ 22,452,067	6%	\$ 370,449,971	\$ 42,125,964	11%
Other	\$ 2,214,138	\$ 1,772,905	\$ 441,233	25%	\$ 6,614,012	\$ (4,399,874)	-67%
Total Assets	\$ 700,882,779	\$ 677,119,779	\$ 23,763,000	4%	\$ 634,906,809	\$ 65,975,970	10%
Deferred Outflows-Pension	\$ 5,529,207	\$ 5,529,207	\$ -	0%	\$ 1,958,889	\$ 3,570,318	182%
Total Deferred Outflows	\$ 5,529,207	\$ 5,529,207	\$ -	0%	\$ 1,958,889	\$ 3,570,318	182%
Current Liabilities	\$ 8,451,999	\$ 9,817,273	\$ (1,365,274)	-14%	\$ 6,923,077	\$ 1,528,922	22%
Unearned Income	\$ 44,889,190	\$ 34,146,050	\$ 10,743,140	31%	\$ 14,247,660	\$ 30,641,530	215%
Long-term Debt	\$ 110,640,000	\$ 110,640,000	\$ -	0%	\$ 115,000,000	\$ (4,360,000)	-4%
Other	\$ 5,786,515	\$ 5,781,876	\$ 4,639	0%	\$ 4,434,410	\$ 1,352,105	30%
Total Liabilities	\$ 169,767,704	\$ 160,385,199	\$ 9,382,505	6%	\$ 140,605,147	\$ 29,162,557	21%
Deferred Inflows-Pension	\$ 180,958	\$ 180,958	\$ -	0%	\$ -	\$ 180,958	100%
Total Deferred Inflows	\$ 180,958	\$ 180,958	\$ -	0%	\$ -	\$ 180,958	100%
Investment in Net Assets	\$ 325,006,904	\$ 306,107,673	\$ 18,899,231	6%	\$ 292,892,045	\$ 32,114,859	11%
Restricted Net Position	\$ 36,754,709	\$ 36,031,915	\$ 722,794	2%	\$ 36,034,065	\$ 720,644	2%
Unrestricted Net Position	\$ 174,701,711	\$ 179,943,241	\$ (5,241,530)	-3%	\$ 167,334,441	\$ 7,367,270	4%
Total Net Position	\$ 536,463,324	\$ 522,082,829	\$ 14,380,495	3%	\$ 496,260,551	\$ 40,202,773	8%

Statement of Net Position



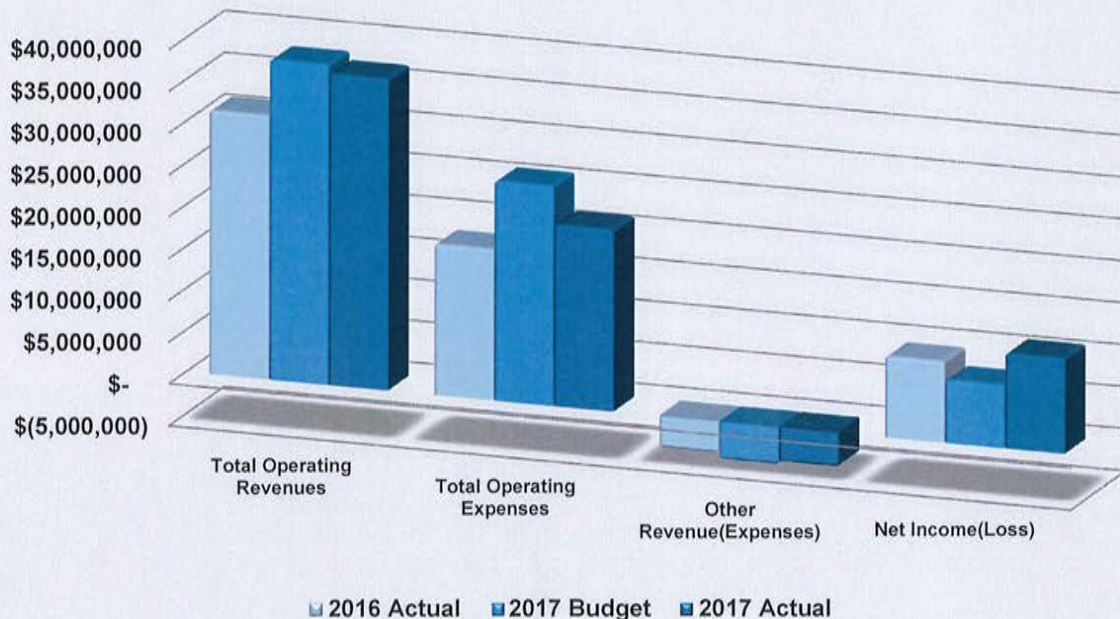
PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

STATEMENT OF REVENUES AND EXPENSES

	May YTD			Change			
	2017		2016	Budget	%	Actual	%
	Actual	Budget	Actual				
Wharfage	\$ 19,691,312	\$ 20,303,594	\$ 16,578,964	\$ (612,282)	-3%	\$ 3,112,348	19%
Dockage	\$ 5,631,701	\$ 5,478,200	\$ 4,807,880	\$ 153,501	3%	\$ 823,821	17%
Security	\$ 2,809,734	\$ 3,282,599	\$ 2,398,270	\$ (472,865)	-14%	\$ 411,464	17%
Other Shipping Services	\$ 4,032,183	\$ 4,156,388	\$ 2,973,996	\$ (124,205)	-3%	\$ 1,058,187	36%
Building and Land Rental	\$ 5,085,807	\$ 5,074,275	\$ 4,814,543	\$ 11,532	0%	\$ 271,264	6%
Total Operating Revenues	\$ 37,250,737	\$ 38,295,056	\$ 31,573,653	\$ (1,044,319)	-3%	\$ 5,677,084	18%
Employee Services	\$ 9,054,269	\$ 9,910,348	\$ 6,952,110	\$ (856,079)	-9%	\$ 2,102,159	30%
Maintenance	\$ 1,339,404	\$ 3,681,600	\$ 1,653,305	\$ (2,342,196)	-64%	\$ (313,901)	-19%
Utilities/ Telephone	\$ 580,038	\$ 528,161	\$ 475,949	\$ 51,877	10%	\$ 104,089	22%
Insurance	\$ 622,956	\$ 693,934	\$ 576,108	\$ (70,978)	-10%	\$ 46,848	8%
Prof/ Contracted Services	\$ 2,517,824	\$ 3,410,493	\$ 2,092,902	\$ (892,669)	-26%	\$ 424,922	20%
Operator/ Event Expenses	\$ 715,544	\$ 682,815	\$ 517,805	\$ 32,729	5%	\$ 197,739	38%
Admin/Trade Dvlp/Other	\$ 1,643,172	\$ 1,874,934	\$ 1,451,715	\$ (231,762)	-12%	\$ 191,457	13%
Depreciation	\$ 5,234,236	\$ 5,470,041	\$ 4,383,217	\$ (235,805)	-4%	\$ 851,019	19%
Total Operating Expenses	\$ 21,707,443	\$ 26,252,326	\$ 18,103,111	\$ (4,544,883)	-17%	\$ 3,604,332	20%
Net Operating Income(Loss)	\$ 15,543,294	\$ 12,042,730	\$ 13,470,542	\$ 3,500,564	29%	\$ 2,072,752	15%
Interest Income	\$ 1,668,310	\$ 676,125	\$ 862,506	\$ 992,185	147%	\$ 805,804	93%
Other Revenue	\$ 107,286	\$ 105,935	\$ 76,418	\$ 1,351	1%	\$ 30,868	40%
Gain(Loss) Disposal of Assets	\$ (1,728)	\$ -	\$ -	\$ (1,728)	-100%	\$ (1,728)	-100%
Interest/Bond Expense	\$ (1,714,821)	\$ (1,715,658)	\$ (1,729,399)	\$ 837	0%	\$ 14,578	-1%
Other Expense	\$ (4,234,441)	\$ (3,598,964)	\$ (3,000,000)	\$ (635,477)	18%	\$ (1,234,441)	41%
Other Revenue(Expenses)	\$ (4,175,394)	\$ (4,532,562)	\$ (3,790,475)	\$ 357,168	8%	\$ (384,919)	-10%
Net Income(Loss)	\$ 11,367,900	\$ 7,510,168	\$ 9,680,067	\$ 3,857,732	51%	\$ 1,687,833	17%

Statement of Revenues & Expenses



PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

<u>Public Oil Docks</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 10,698,653	\$ 11,192,267	\$ (493,614)
Operating Expenses	\$ (780,324)	\$ (1,392,464)	\$ 612,140
Net Operating Income(Loss)	\$ 9,918,329	\$ 9,799,803	\$ 118,526
Other Revenue(Expenses)	\$ (416,523)	\$ (416,523)	\$ -
Net Income(Loss)	\$ 9,501,806	\$ 9,383,280	\$ 118,526

<u>Private Oil Docks</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 8,012,745	\$ 7,624,130	\$ 388,615
Operating Expenses	\$ (20,296)	\$ (21,427)	\$ 1,131
Net Operating Income(Loss)	\$ 7,992,449	\$ 7,602,703	\$ 389,746
Other Revenue(Expenses)	\$ -	\$ -	\$ -
Net Income(Loss)	\$ 7,992,449	\$ 7,602,703	\$ 389,746

<u>Dry Cargo Docks</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 4,494,433	\$ 5,016,046	\$ (521,613)
Operating Expenses	\$ (1,033,736)	\$ (1,077,062)	\$ 43,326
Net Operating Income(Loss)	\$ 3,460,697	\$ 3,938,984	\$ (478,287)
Other Revenue(Expenses)	\$ -	\$ -	\$ -
Net Income(Loss)	\$ 3,460,697	\$ 3,938,984	\$ (478,287)

<u>Bulk Terminal</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 4,042,277	\$ 3,911,836	\$ 130,441
Operating Expenses	\$ (2,451,294)	\$ (3,688,594)	\$ 1,237,300
Net Operating Income(Loss)	\$ 1,590,983	\$ 223,242	\$ 1,367,741
Other Revenue(Expenses)	\$ 38	\$ 415	\$ (377)
Net Income(Loss)	\$ 1,591,021	\$ 223,657	\$ 1,367,364

<u>Conference Center</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 1,076,625	\$ 947,960	\$ 128,665
Operating Expenses	\$ (1,096,149)	\$ (1,033,555)	\$ (62,594)
Net Operating Income(Loss)	\$ (19,524)	\$ (85,595)	\$ 66,071
Other Revenue(Expenses)	\$ 5,912	\$ 2,700	\$ 3,212
Net Income(Loss)	\$ (13,612)	\$ (82,895)	\$ 69,283

PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

<u>Property and Buildings</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 3,631,952	\$ 3,653,461	\$ (21,509)
Operating Expenses	\$ (1,653,354)	\$ (2,454,013)	\$ 800,659
Net Operating Income(Loss)	\$ 1,978,598	\$ 1,199,448	\$ 779,150
Other Revenue(Expenses)	\$ (1,918,664)	\$ (1,285,959)	\$ (632,705)
Net Income(Loss)	\$ 59,934	\$ (86,511)	\$ 146,445

<u>Other Facilities</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 1,997,207	\$ 2,214,910	\$ (217,703)
Operating Expenses	\$ (662,053)	\$ (869,079)	\$ 207,026
Net Operating Income(Loss)	\$ 1,335,154	\$ 1,345,831	\$ (10,677)
Other Revenue(Expenses)	\$ (3,614,073)	\$ (3,607,204)	\$ (6,869)
Net Income(Loss)	\$ (2,278,919)	\$ (2,261,373)	\$ (17,546)

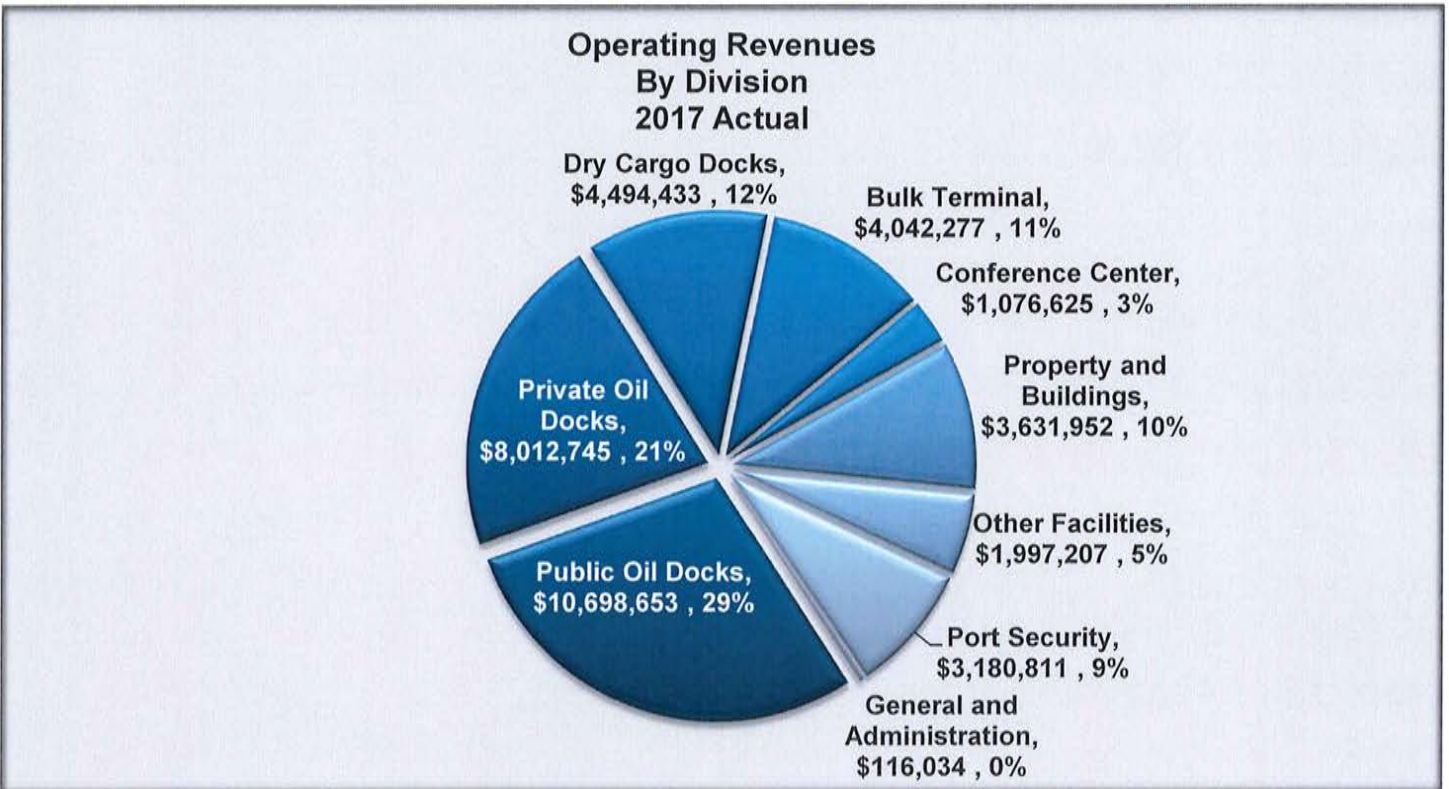
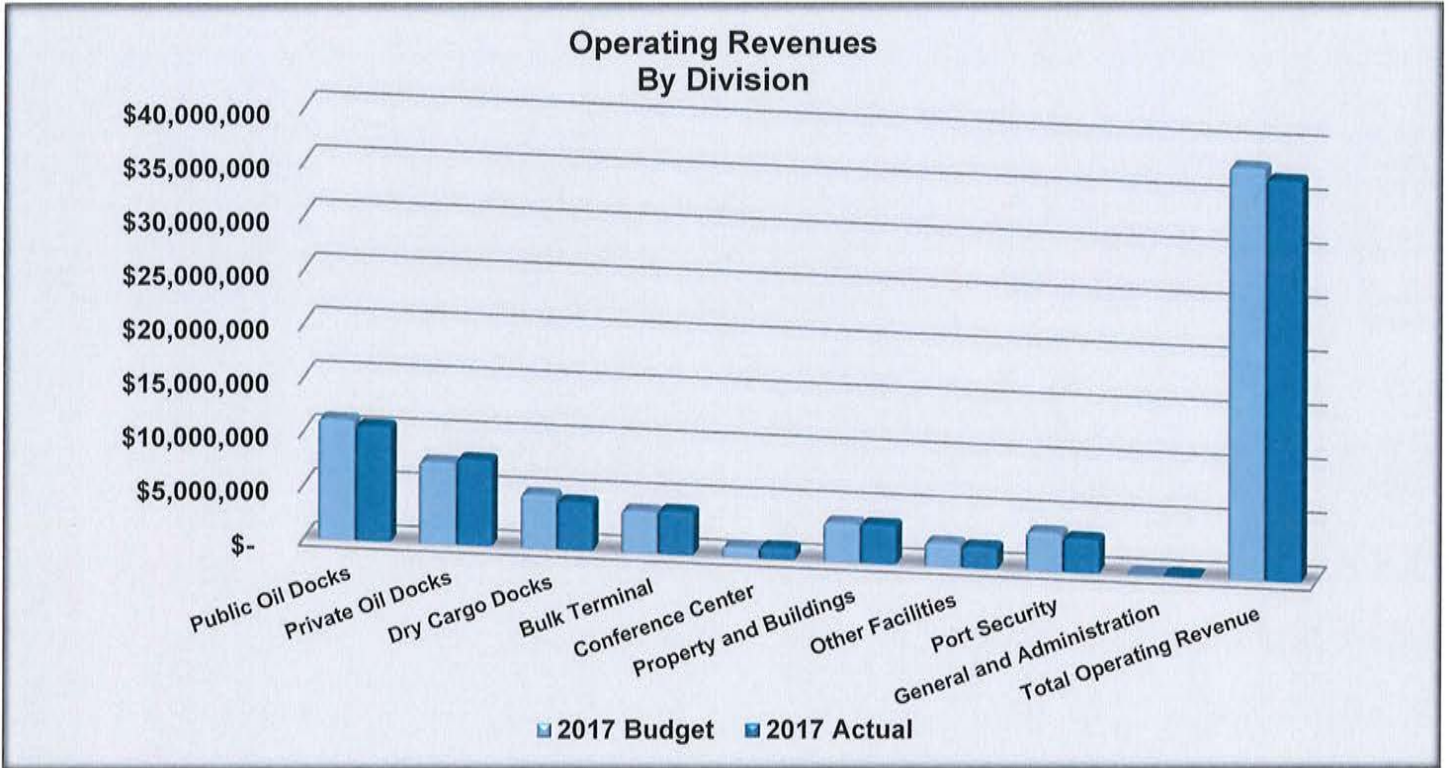
<u>Port Security</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 3,180,811	\$ 3,618,204	\$ (437,393)
Operating Expenses	\$ (4,036,113)	\$ (4,332,117)	\$ 296,004
Net Operating Income(Loss)	\$ (855,302)	\$ (713,913)	\$ (141,389)
Other Revenue(Expenses)	\$ 7,366	\$ -	\$ 7,366
Net Income(Loss)	\$ (847,936)	\$ (713,913)	\$ (134,023)

<u>General and Administration</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 116,034	\$ 116,242	\$ (208)
Operating Expenses	\$ (9,974,124)	\$ (11,384,015)	\$ 1,409,891
Net Operating Income(Loss)	\$ (9,858,090)	\$ (11,267,773)	\$ 1,409,683
Other Revenue(Expenses)	\$ 1,760,550	\$ 774,009	\$ 986,541
Net Income(Loss)	\$ (8,097,540)	\$ (10,493,764)	\$ 2,396,224

<u>Total</u>	May YTD		
	2017		Variance
	Actual	Budget	
Operating Revenues	\$ 37,250,737	\$ 38,295,056	\$ (1,044,319)
Operating Expenses	\$ (21,707,443)	\$ (26,252,326)	\$ 4,544,883
Net Operating Income(Loss)	\$ 15,543,294	\$ 12,042,730	\$ 3,500,564
Other Revenue(Expenses)	\$ (4,175,394)	\$ (4,532,562)	\$ 357,168
Net Income(Loss)	\$ 11,367,900	\$ 7,510,168	\$ 3,857,732

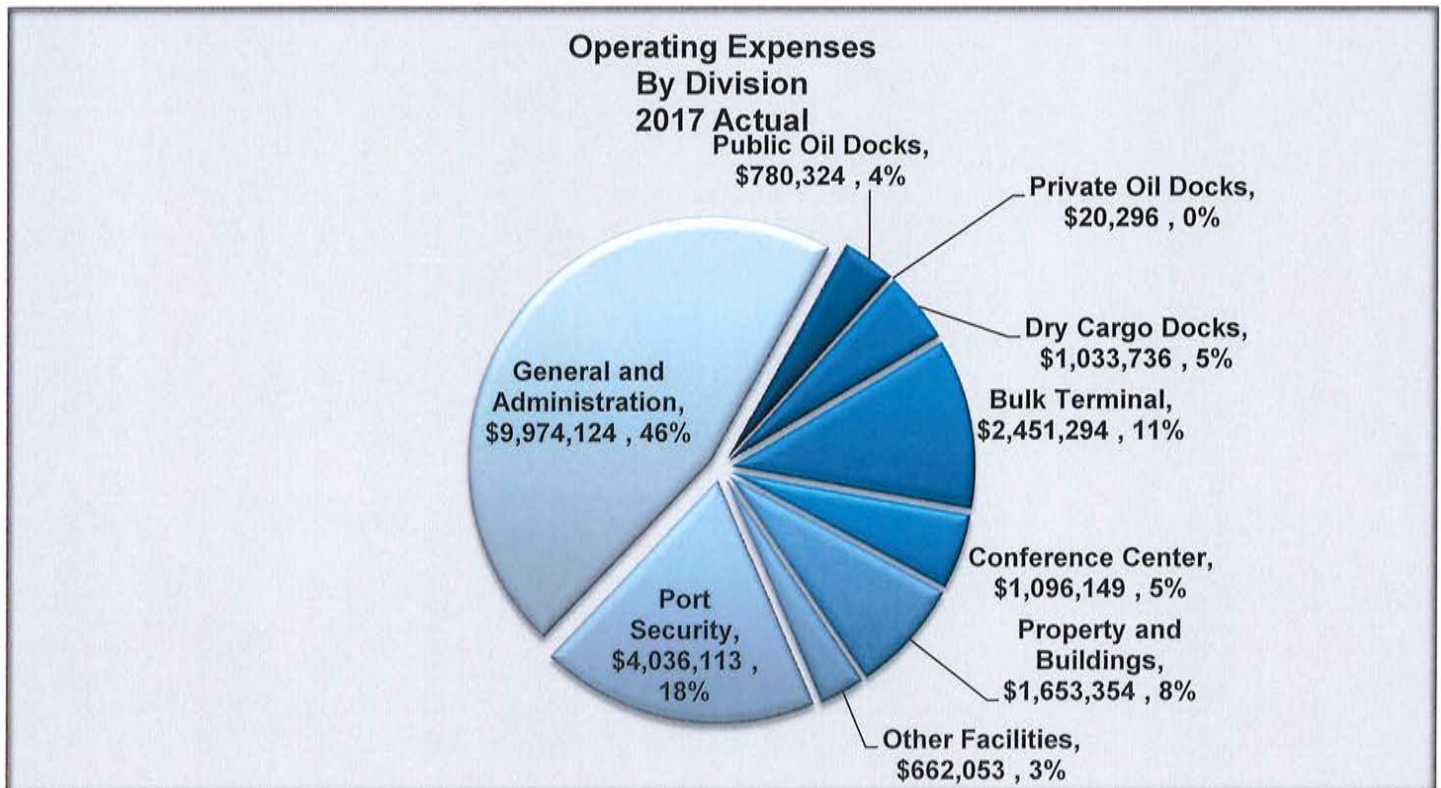
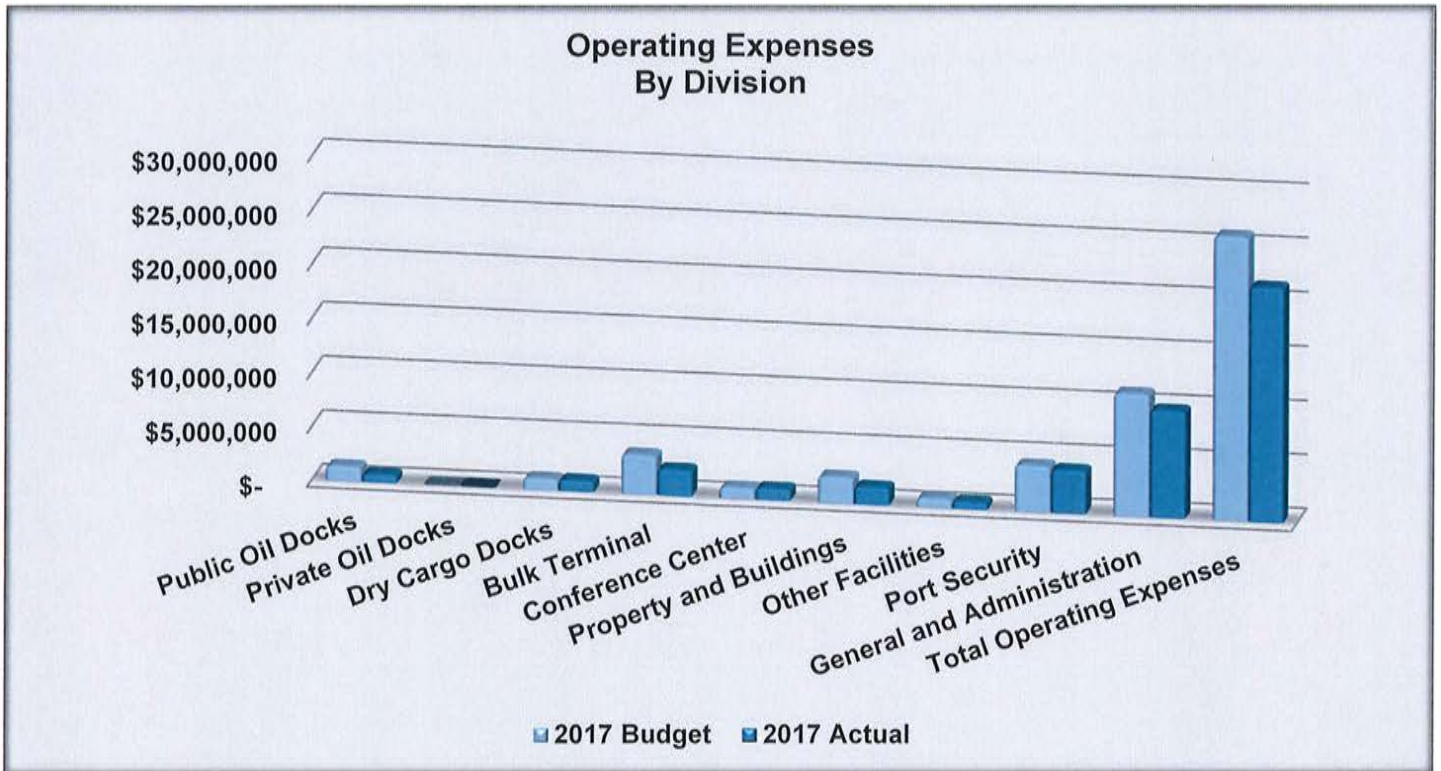
PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS



PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

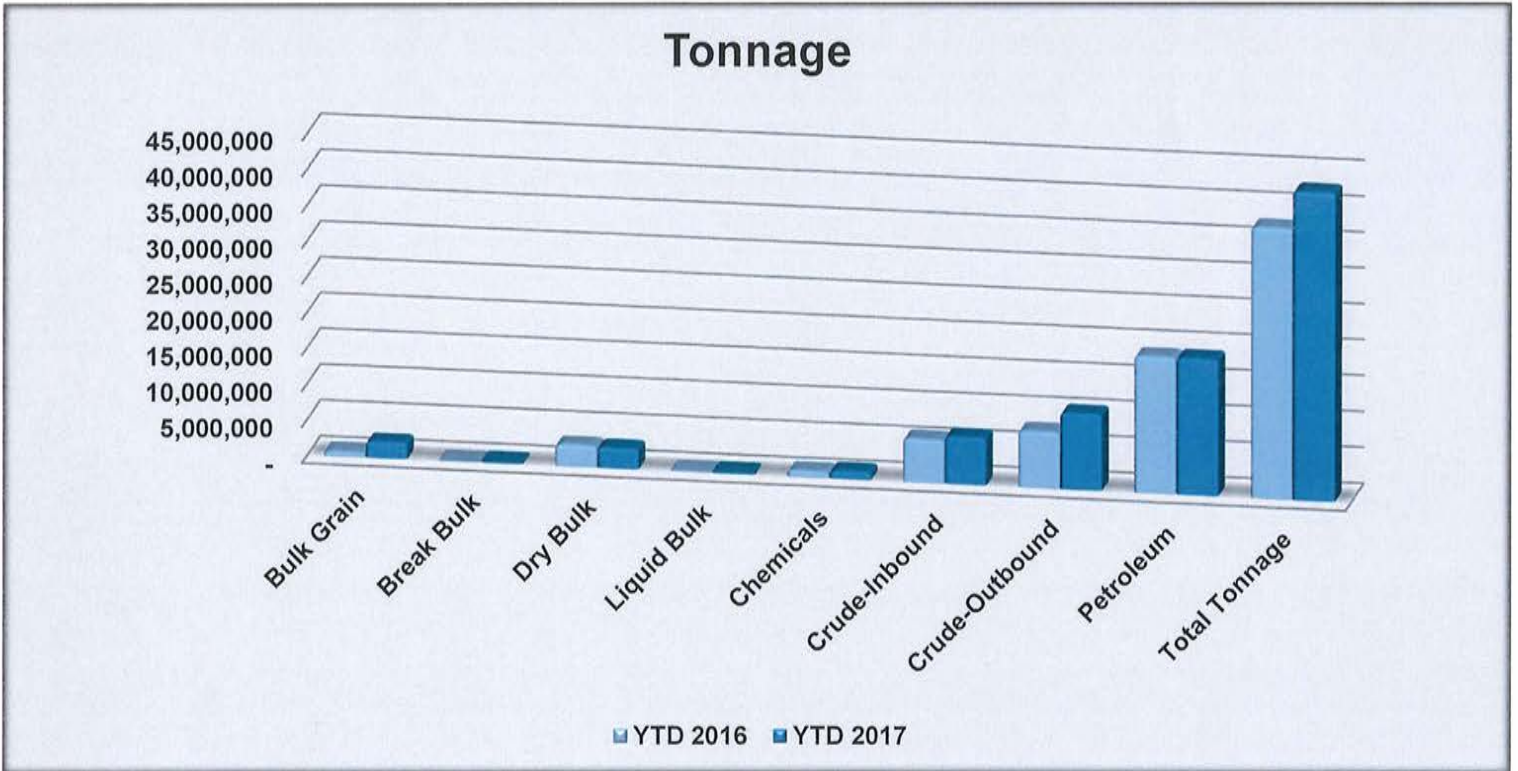


PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

TONNAGE

	May		Mth Over Mth Change	%	YTD		Year Over Year Change	%
	2017	2016			2017	2016		
Bulk Grain	440,598	228,714	211,884	93%	2,254,225	656,203	1,598,022	244%
Break Bulk	55,987	17,382	38,605	222%	262,717	93,248	169,469	182%
Dry Bulk	630,460	554,284	76,176	14%	2,844,803	3,008,075	(163,272)	-5%
Liquid Bulk	43,893	46,309	(2,416)	-5%	299,877	209,624	90,253	43%
Chemicals	257,973	123,654	134,319	109%	1,096,986	878,456	218,530	25%
Crude-Inbound	1,340,054	1,296,721	43,333	3%	6,602,879	6,035,152	567,727	9%
Crude-Outbound	2,169,391	1,395,822	773,569	55%	10,617,825	7,845,577	2,772,248	35%
Petroleum	3,974,418	3,724,348	250,070	7%	19,005,502	18,978,735	26,767	0%
Total Tonnage	8,912,774	7,387,234	1,525,540	21%	42,984,814	37,705,070	5,279,744	14%



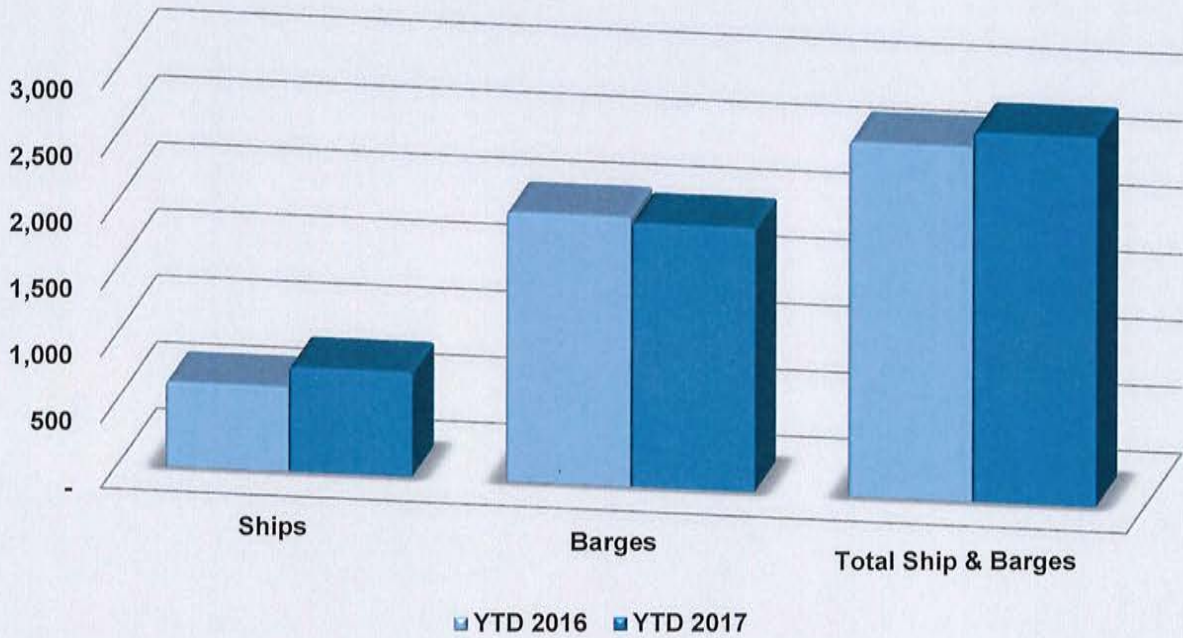
PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

SHIP & BARGE MOVEMENTS

	May		Mth Over Mth Change	%	YTD		Year Over Year Change	%
	2017	2016			2017	2016		
Ships	167	116	51	44%	793	641	152	24%
Barges	380	385	(5)	-1%	1,991	2,032	(41)	-2%
Total Ship & Barges	547	501	46	9%	2,784	2,673	111	4%

Ships & Barges

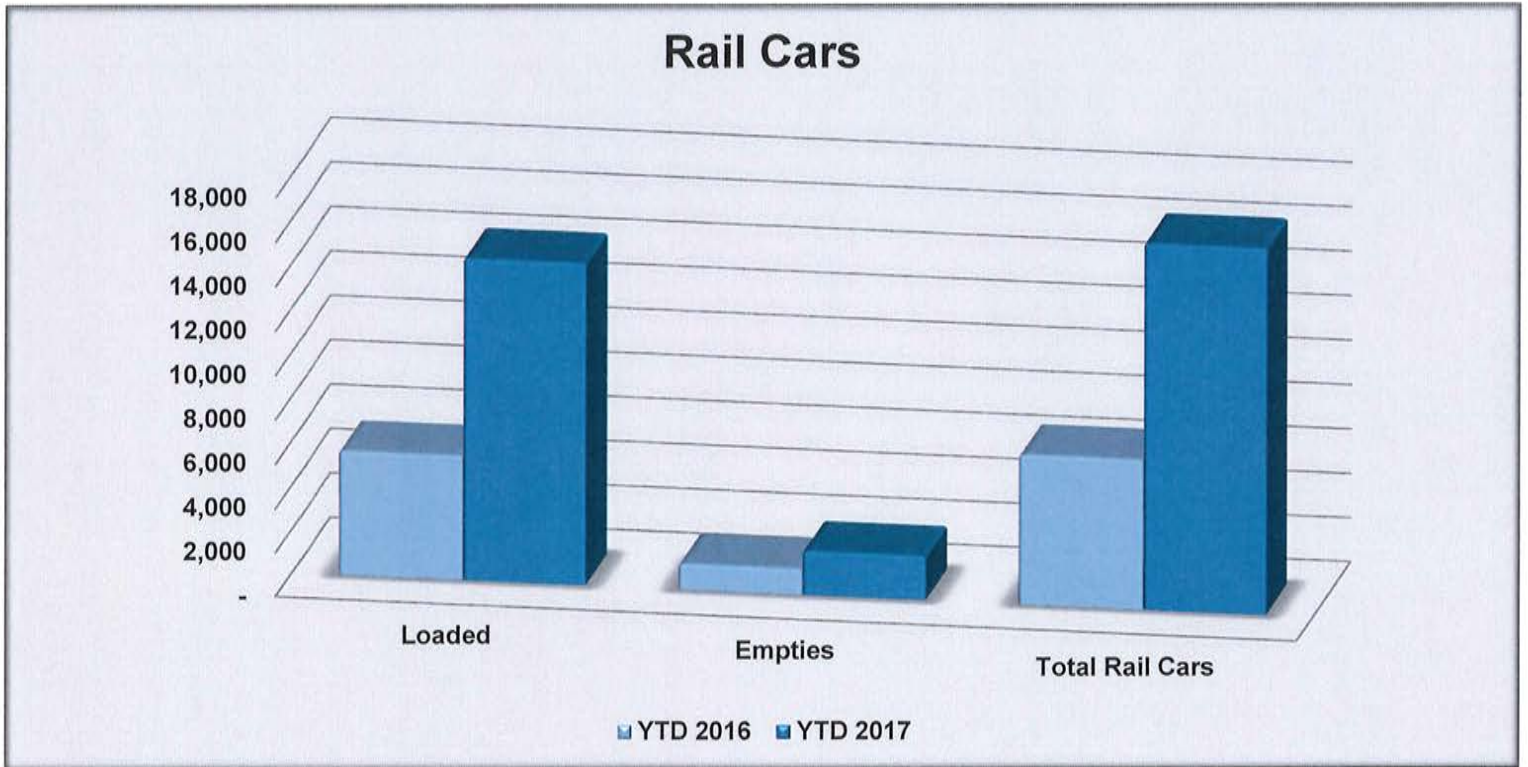


PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

RAIL CARS

	May		Mth Over Mth Change	%	YTD		Year Over Year Change	%
	2017	2016			2017	2016		
Loaded	2,907	1,284	1,623	126%	14,535	5,631	8,904	158%
Empties	717	251	466	186%	2,019	1,181	838	71%
Total Rail Cars	3,624	1,535	2,089	136%	16,554	6,812	9,742	143%

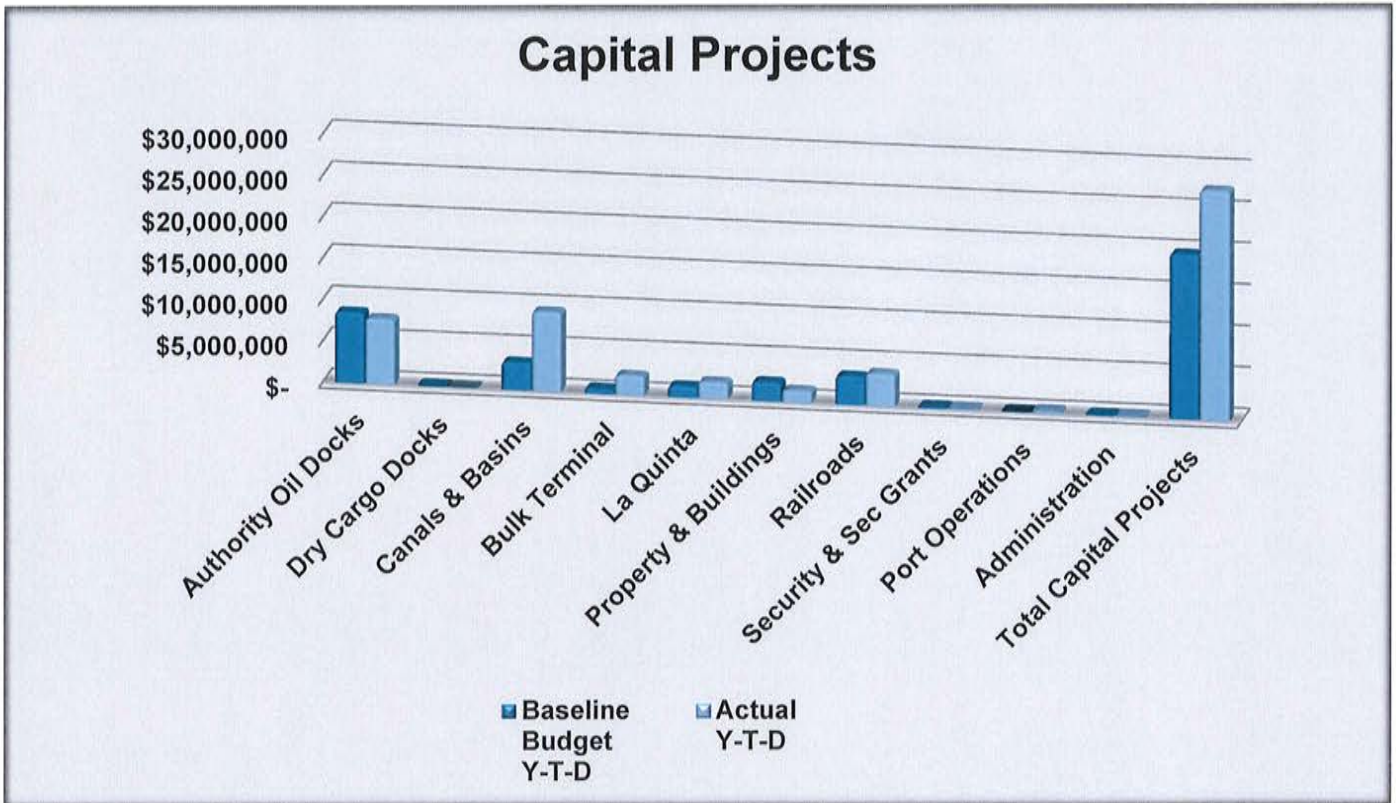


PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

CAPITAL PROJECTS

	Annual Budget	Actual Y-T-D	Balance Remaining	Baseline Budget Y-T-D	Actual Y-T-D	Variance
Authority Oil Docks	\$ 21,529,100	\$ 7,879,169	\$ 13,649,931	\$ 8,529,821	\$ 7,879,169	\$ (650,652)
Dry Cargo Docks	\$ 3,800,000	\$ 13,795	\$ 3,786,205	\$ 40,000	\$ 13,795	\$ (26,205)
Canals & Basins	\$ 14,040,000	\$ 9,592,223	\$ 4,447,777	\$ 3,365,332	\$ 9,592,223	\$ 6,226,891
Bulk Terminal	\$ 11,925,303	\$ 2,358,702	\$ 9,566,601	\$ 613,333	\$ 2,358,702	\$ 1,745,369
La Quinta	\$ 4,200,000	\$ 2,024,869	\$ 2,175,131	\$ 1,369,164	\$ 2,024,869	\$ 655,705
Property & Buildings	\$ 46,930,744	\$ 1,443,984	\$ 45,486,760	\$ 2,301,556	\$ 1,443,984	\$ (857,572)
Railroads	\$ 6,100,000	\$ 3,900,096	\$ 2,199,904	\$ 3,445,000	\$ 3,900,096	\$ 455,096
Security & Sec Grants	\$ 1,291,208	\$ 101,616	\$ 1,189,592	\$ 149,529	\$ 101,616	\$ (47,913)
Port Operations	\$ 377,000	\$ 281,886	\$ 95,114	\$ 27,000	\$ 281,886	\$ 254,886
Administration	\$ 2,105,159	\$ 103,554	\$ 2,001,605	\$ 67,890	\$ 103,554	\$ 35,664
Total Capital Projects	\$ 112,298,514	\$ 27,699,894	\$ 84,598,620	\$ 19,908,625	\$ 27,699,894	\$ 7,791,269



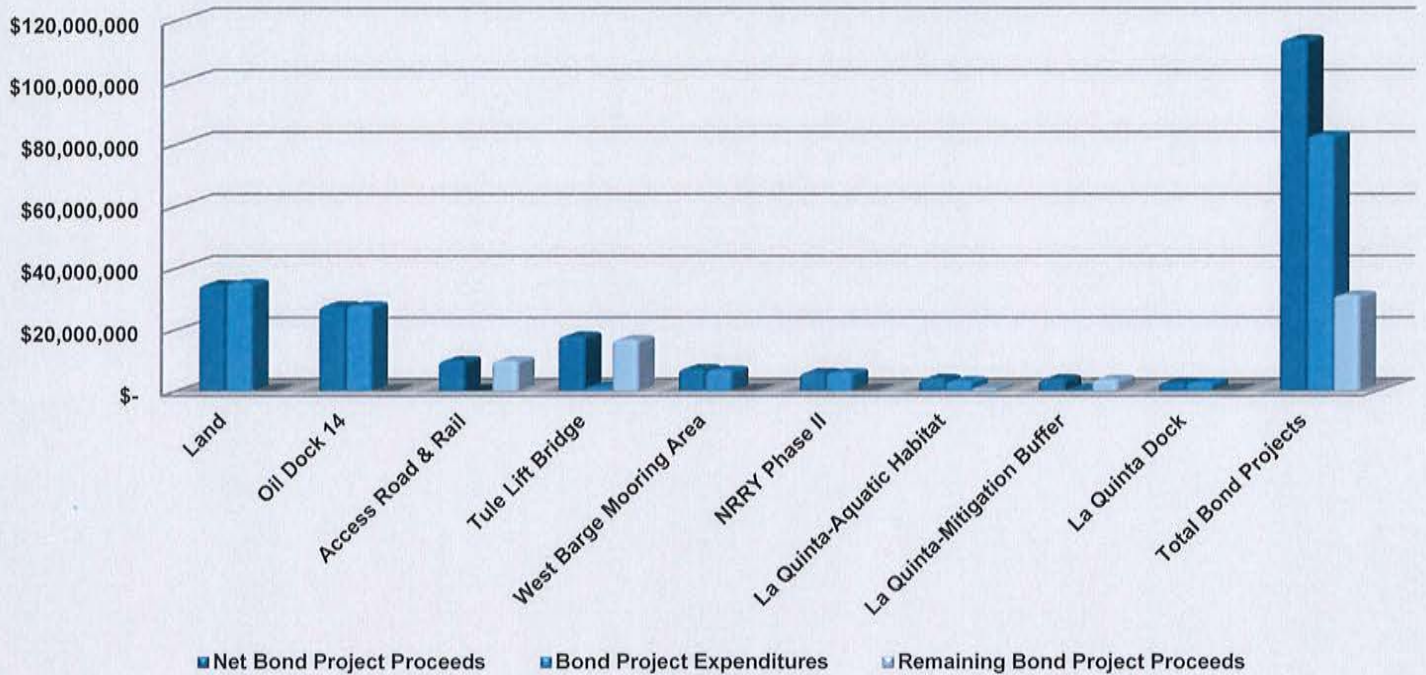
PORT OF CORPUS CHRISTI AUTHORITY

FINANCIAL RESULTS

BOND PROJECT PROCEEDS - (As of May, 2017)

	Bond Project Proceeds	Bond Issuance Expenses	Net Bond Project Proceeds	Bond Project Expenditures	Transfer Remaining Proceeds on Closed Projects	Remaining Bond Project Proceeds
Land	\$ 34,960,000	\$ (346,544)	\$ 34,613,456	\$ (35,075,365)	\$ 461,909	\$ -
Oil Dock 14	\$ 28,000,000	\$ (277,552)	\$ 27,722,448	\$ (27,722,448)	\$ -	\$ -
Access Road & Rail	\$ 10,000,000	\$ (99,126)	\$ 9,900,874	\$ (60,076)	\$ -	\$ 9,840,798
Tule Lift Bridge	\$ 18,000,000	\$ (178,426)	\$ 17,821,574	\$ (1,165,128)	\$ -	\$ 16,656,446
West Barge Mooring Area	\$ 7,280,000	\$ (72,164)	\$ 7,207,836	\$ (6,745,927)	\$ (461,909)	\$ -
NRRY Phase II	\$ 6,000,000	\$ (59,475)	\$ 5,940,525	\$ (5,940,525)	\$ -	\$ -
La Quinta-Aquatic Habitat	\$ 4,020,000	\$ (39,849)	\$ 3,980,151	\$ (3,170,828)	\$ -	\$ 809,323
La Quinta-Mitigation Buffer	\$ 3,940,000	\$ (39,055)	\$ 3,900,945	\$ (179,341)	\$ -	\$ 3,721,604
La Quinta Dock	\$ 2,800,000	\$ (27,755)	\$ 2,772,245	\$ (2,715,674)	\$ -	\$ 56,571
Total Bond Projects	\$ 115,000,000	\$ (1,139,946)	\$ 113,860,054	\$ (82,775,312)	\$ -	\$ 31,084,742

Bond Project Proceeds (As of May, 2017)





DATE: July 18, 2017

TO: Port Commission

FROM: Sean Strawbridge – Deputy Executive Director & Chief Operating Officer
 sstrawbridge@pocca.com | (361) 885-6133

AGENDA ITEM NO. 18.a.

Approve New Lease Agreement with Howard Midstream Energy Partners, LLC d/b/a Maverick Terminals Corpus LLC, for approximately 41 acres of both improved and unimproved land on the north side of the Corpus Christi Inner Harbor Ship Channel

SUMMARY: Staff recommends approval of a long term (30 year) lease agreement with Maverick Terminals Corpus LLC (“Maverick”), a Howard Energy Midstream Partners LLC (“HEP”) subsidiary, for approximately 41 acres of land on the north side of the Corpus Christi Ship Channel in the Inner Harbor, to construct and operate a rail terminal, a petroleum and petroleum products storage facility, a transcontinental pipeline to Mexico, and an new oil dock (known hereafter as Oil Dock 20 or OD20).

Under the terms of the Lease Agreement, PCCA will design and construct OD20 while Maverick will construct the rail loading facility, the storage infrastructure, and the pipelines connecting the Maverick Terminal to Mexico. Maverick is committing significant guaranteed throughput volumes for up to 30 years (10 years plus four 5 year option periods) which are underwritten in part by an HEP parent guaranty and an irrevocable letter of credit.

In the initial period, Maverick will use the Bulk Terminal Dock 3 location for the unloading of barges and MR vessels of finished transportation fuels and transloading into rail tank cars destined to the Mexico markets.

A summary of the lease terms is included with the memo.

BACKGROUND: With the expansive growth in both Eagle Ford and Permian Basin productions and the growing global energy demand in general and in particular, Mexico, Corpus Christi is fast emerging as the Energy Port of the Americas. As the largest refining center closest to Mexico, Corpus Christi continues to see large investments in supporting the transportation of US energy to Mexican consumers. HEP has emerged as a strong player in the energy midstream space and continues to demonstrate leadership in developing terminals on both sides of the border.

The OD20 facility will initially serve Mexico's transportation fuel demands by rail, with an estimated target of at least two to three unit trains per week. Once the cross border pipeline approvals have been achieved, significantly more volume is anticipated. Further, OD20 is targeting crude exports to international markets and will have Suez-max capability.

The attached OD20 Lease Agreement is the result of lengthy negotiations between HEP and PCCA and represents a mutually beneficial opportunity to serve the growing market demands. HEP Executive Leadership have indicated their approval of the attached Lease Agreement and Work Letter Terms and Conditions and will recommend to its Board of Directors the approval of the Lease Agreement.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The Lease Agreement supports the following Strategic Goals and Objectives:

Strategic Goal 2: Provide Facilities and Services to Meet Customer Needs

Strategic Objective 2B: Provide public docks and support private facilities to facilitate maritime and industrial development

Strategic Goal 4: Foster Compatible Industrial and Maritime Development

Strategic Objective 4A: Proactively pursue diversified Port related economic development opportunities

EMERGENCY: No.

FINANCIAL IMPACT: The Lease payments, and throughput fees associated with the long term minimum volume commitments and the escalation factors over the entire 30 year tenure at today's PCCA tariff fees represents over \$200 million in additional revenues for the Port of Corpus Christi Authority.

STAFF RECOMMENDATION: Staff recommends approval of the lease.

DEPARTMENTAL CLEARANCES:

Reviewed & Approved	David Krams Dave Michaelson Darrin Aldrich Sarah Garza (as to environment sections of the lease) Donna James-Spruce (as to insurance sections of the lease)
Legal	Jimmy Welder
Senior Staff	John LaRue Sean Strawbridge Jarl Pederson

LIST OF SUPPORTING DOCUMENTS:

Map of Project Location
Lease Summary
Lease
Work Letter
Guaranty
ME Allison Financial Review Letter

M. E. Allison & Co., Inc.
INVESTMENT BANKERS
950 East Basse Road, Second Floor
San Antonio, Texas 78209-1831

June 14, 2017

Mr. Dennis DeVries
Finance Director
Port of Corpus Christi Authority

Re: Howard Midstream Energy Partners, LLC.

Mr. DeVries

At your request, I have examined the financial capability of Howard Midstream Energy Partners, LLC. regarding a potential lease agreement with The Port of Corpus Christi Authority. I have reviewed audited Balance Sheet and Income Statements for the Howard Midstream Energy Partners, LLC. I have also reviewed supporting documents that have been provided to me by the company and conducted calls to address questions with Finance Officers of Howard Midstream Energy Partners, LLC.

Based upon my review of the financial statements and supporting documents, I believe that Howard Midstream Energy Partners, LLC. has the financial capability of meeting all financial terms in the contemplated lease agreement.

Sincerely,



Christopher R. Allison, C.P.A.
President

EXHIBIT A – LEGAL DESCRIPTION OF
LEASED PREMISES OR LAND
MAVERICK TERMINALS CORPUS TRACT

STATE OF TEXAS
COUNTY OF NUECES

40.79 ACRES

Field notes of a 40.79 acre tract of land out of the submerged land patented to Nueces County Navigation District No. 1 and referred to by records of the Texas General Land Office (GLO) as Patent 84, recorded in Book 5, Pages 257-260 out of Nueces County Surveyors office, issued to Nueces County Navigation District No. 1, and out of a portion of Patent 381, a 390.56 acre tract issued to Nueces County Navigation District No. 1, recorded in Volume 380, Page 586, deed records of Nueces County, Texas. Said TRACT further described as follows:

Commencing at brass disk monument "CCTA 1992" found at N: 17,190,273.52, E: 1,324,574.58;

Thence S 73°28'36" E, a distance of 195.61' to the **point of beginning** at N: 17,190,217.89, E: 1,324,762.11;

thence S 66°03'00" W a distance of 1281.65';
thence S 10°19'30" W a distance of 555.72';
thence S 63°32'14" W a distance of 304.10';
thence S 26°27'46" E a distance of 125.00';
thence S 63°32'14" W a distance of 400.00';
thence S 26°27'46" E a distance of 175.00';

thence S 63°32'17" W a distance of 1100.00'; parallel and 25 feet northwest of the PCCA North Bulkhead line, to a point at N: 17,188,078.41, E: 1,322,009.82, from which monument "Nikolaus", N: 17,188,397.50, E: 1,322,390.47, bears N 50°01'40" E, a distance of 496.70';

thence N 26°28'43" W a distance of 174.98';
thence N 63°32'14" E a distance of 402.27' to a point for corner, from which the centerline of track #802 bears N 76° E, 15.3';
thence N 16°11'06" W a distance of 56.69';
thence N 09°51'29" W a distance of 45.19';
thence N 05°05'05" W a distance of 60.87';
thence N 01°51'06" W a distance of 76.68' to a point between track #800 and #801;
thence N 00°22'45" E a distance of 280.81';
thence N 06°00'49" E a distance of 87.08';
thence N 10°01'10" E a distance of 51.05';
thence, continuing parallel and between track #800 and #801, with a curve turning to the right with an arc length of 628.94', with a radius of 790.76', with a chord bearing of N 32°48'17" E, with a chord length of 612.49';

thence N 67°32'34" E a distance of 117.10' to a point between tracks #801 and #802;
thence N 66°01'54" E, continuing parallel and between tract #801 and #802 a distance of 1677.06', to a point;

EXHIBIT A – LEGAL DESCRIPTION OF
LEASED PREMISES OR LAND
MAVERICK TERMINALS CORPUS TRACT

STATE OF TEXAS
COUNTY OF NUECES

40.79 ACRES

thence with a curve turning to the right with an arc length of 438.65', with a radius of 1050.00', with a chord bearing of N 77°59'59" E, with a chord length of 435.47', to a point;

thence N 89°58'04" E a distance of 169.15';

thence S 83°09'00" E, crossing railroad track #651, a distance of 141.33', to a point between tracks #650 and #651;

thence N 89°57'46" E, continuing between tracks #650 and #651, a distance of 1299.18' to a point;

thence N 89°35'19" E a distance of 78.38';

thence N 84°22'48" E, crossing track #651, a distance of 88.42';

thence N 85°44'09" E a distance of 80.64';

thence N 87°52'04" E a distance of 11.05';

thence S 02°07'56" E, crossing track #651 east of the switch to track #650, at 6.5' crossing track #650, a total distance of 15.00';

thence S 87°52'04" W a distance of 10.77';

thence S 85°44'09" W a distance of 80.18';

thence S 84°22'48" W a distance of 88.92';

thence S 89°35'20" W a distance of 79.16';

thence S 89°57'46" W a distance of 355.23';

thence S 00°14'52" W a distance of 14.03';

thence S 89°57'46" W a distance of 491.36';

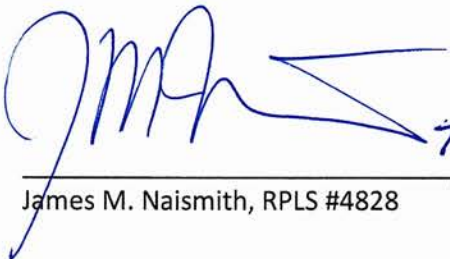
thence N 89°55'18" W a distance of 189.02';

thence N 85°43'43" W a distance of 188.17';

thence S 89°53'37" W a distance of 317.30';

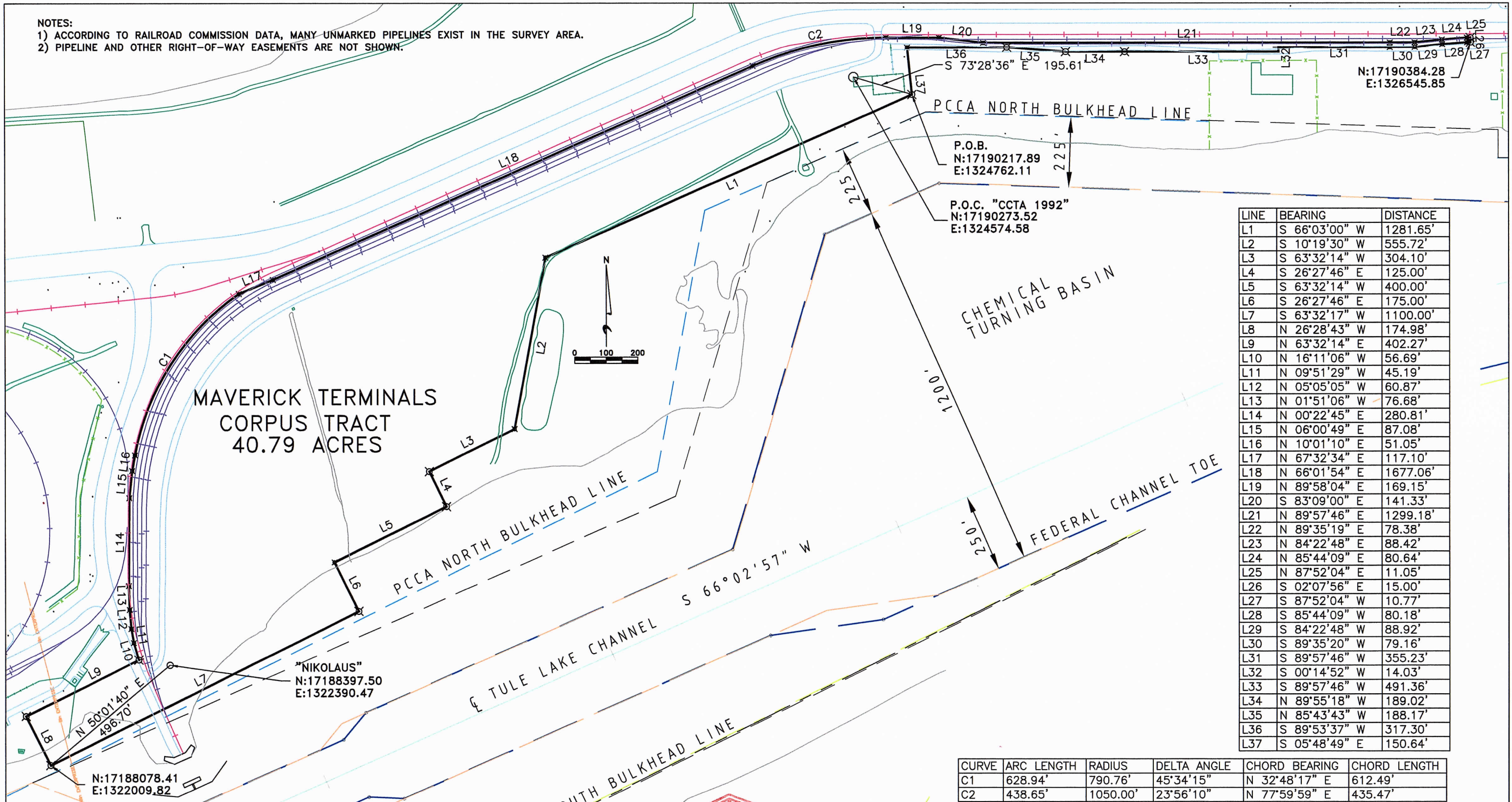
thence S 05°48'49" E a distance of 150.64'; to the **point of beginning**, having an area of 1,756,200 square feet, 40.79 acres, more or less

Bearings and distances are grid, Texas Coordinate System NAD 1983 (2011), South Zone. Reference plat dated July, 2017 for additional information.


James M. Naismith, RPLS #4828



NOTES:
 1) ACCORDING TO RAILROAD COMMISSION DATA, MANY UNMARKED PIPELINES EXIST IN THE SURVEY AREA.
 2) PIPELINE AND OTHER RIGHT-OF-WAY EASEMENTS ARE NOT SHOWN.



LINE	BEARING	DISTANCE
L1	S 66°03'00" W	1281.65'
L2	S 10°19'30" W	555.72'
L3	S 63°32'14" W	304.10'
L4	S 26°27'46" E	125.00'
L5	S 63°32'14" W	400.00'
L6	S 26°27'46" E	175.00'
L7	S 63°32'17" W	1100.00'
L8	N 26°28'43" W	174.98'
L9	N 63°32'14" E	402.27'
L10	N 16°11'06" W	56.69'
L11	N 09°51'29" W	45.19'
L12	N 05°05'05" W	60.87'
L13	N 01°51'06" W	76.68'
L14	N 00°22'45" E	280.81'
L15	N 06°00'49" E	87.08'
L16	N 10°01'10" E	51.05'
L17	N 67°32'34" E	117.10'
L18	N 66°01'54" E	1677.06'
L19	N 89°58'04" E	169.15'
L20	S 83°09'00" E	141.33'
L21	N 89°57'46" E	1299.18'
L22	N 89°35'19" E	78.38'
L23	N 84°22'48" E	88.42'
L24	N 85°44'09" E	80.64'
L25	N 87°52'04" E	11.05'
L26	S 02°07'56" E	15.00'
L27	S 87°52'04" W	10.77'
L28	S 85°44'09" W	80.18'
L29	S 84°22'48" W	88.92'
L30	S 89°35'20" W	79.16'
L31	S 89°57'46" W	355.23'
L32	S 00°14'52" W	14.03'
L33	S 89°57'46" W	491.36'
L34	N 89°55'18" W	189.02'
L35	N 85°43'43" W	188.17'
L36	S 89°53'37" W	317.30'
L37	S 05°48'49" E	150.64'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	628.94'	790.76'	45°34'15"	N 32°48'17" E	612.49'
C2	438.65'	1050.00'	23°56'10"	N 77°59'59" E	435.47'

N:17188078.41
E:1322009.82

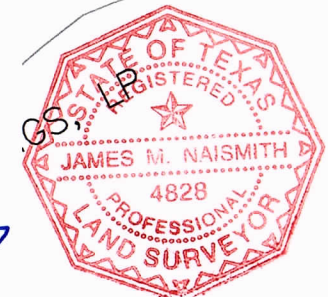
"NIKOLAUS"
N:17188397.50
E:1322390.47

NOTES:
 1) GROUND SURVEY WAS PERFORMED BY NAISMITH MARINE SERVICES ON JUNE 9, 2017. REFERENCE METES & BOUNDS DATED JULY 2017.
 2) HORIZONTAL DATUM: NAD83, TEXAS SOUTH ZONE, US FEET.
 3) VERTICAL DATUM: NAVD88, REFERENCE MONUMENT "NIKOLAUS"
 N: 17,188,397.47
 E: 1,322,390.47
 ELEV: 8.6' NAVD88

I, JAMES M. NAISMITH HEREBY STATE THAT THIS DRAWING REPRESENTS A SURVEY THAT IS CORRECT AND MADE IN THE FIELD UNDER MY DIRECT SUPERVISION AND CONTROL. THIS SURVEY IS FOR A LEASE BOUNDARY ONLY AND DOES NOT LOCATE UNDERLYING TRACT BOUNDARIES, EASEMENTS, OR OTHER AGREEMENTS.

JAMES M. NAISMITH, RPLS #4828

JMN 7/13/2017



Naismith Marine
 Hydrographic · Geophysical
 Environmental
 www.naismithmarine.com
 (361) 945-0248
 FIRM #10078500

NO	DATE	REVISION

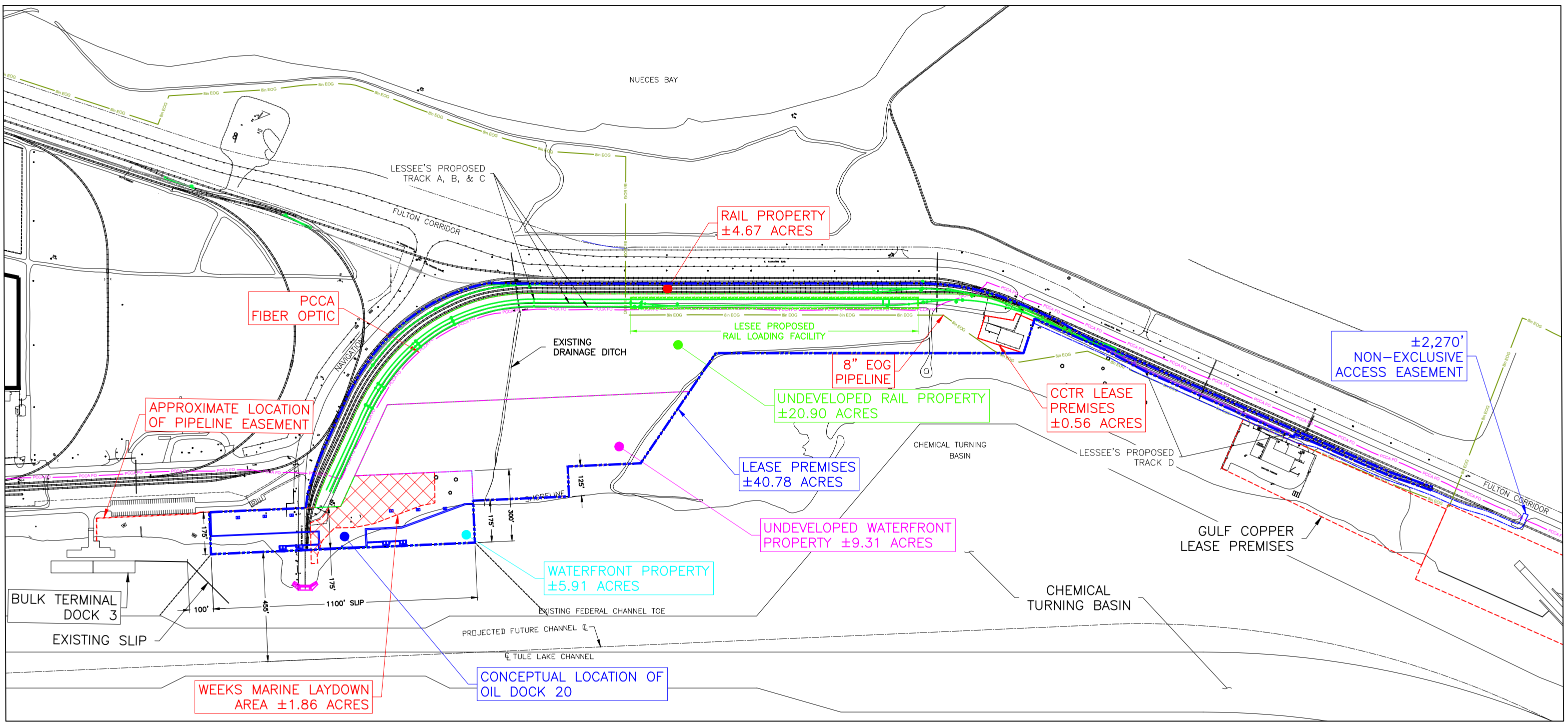
EXHIBIT B
 MAP OF LEASED PREMISES OR LAND

SCALE: 1" = 300'
 DWN BY: JMN

SHEET 1 OF 2

DATE: JULY 2017

H:\BEN VASQUEZ\DRAWINGS & EXHIBITS\Project Long Property Boundary - Exhibit B.dwg 7/13/2017 11:58 AM

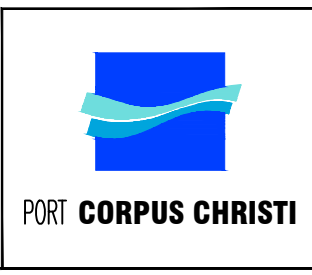


 - LEASE PREMISES ±40.79 ACRES



01 SITE PLAN
208
200' 400'

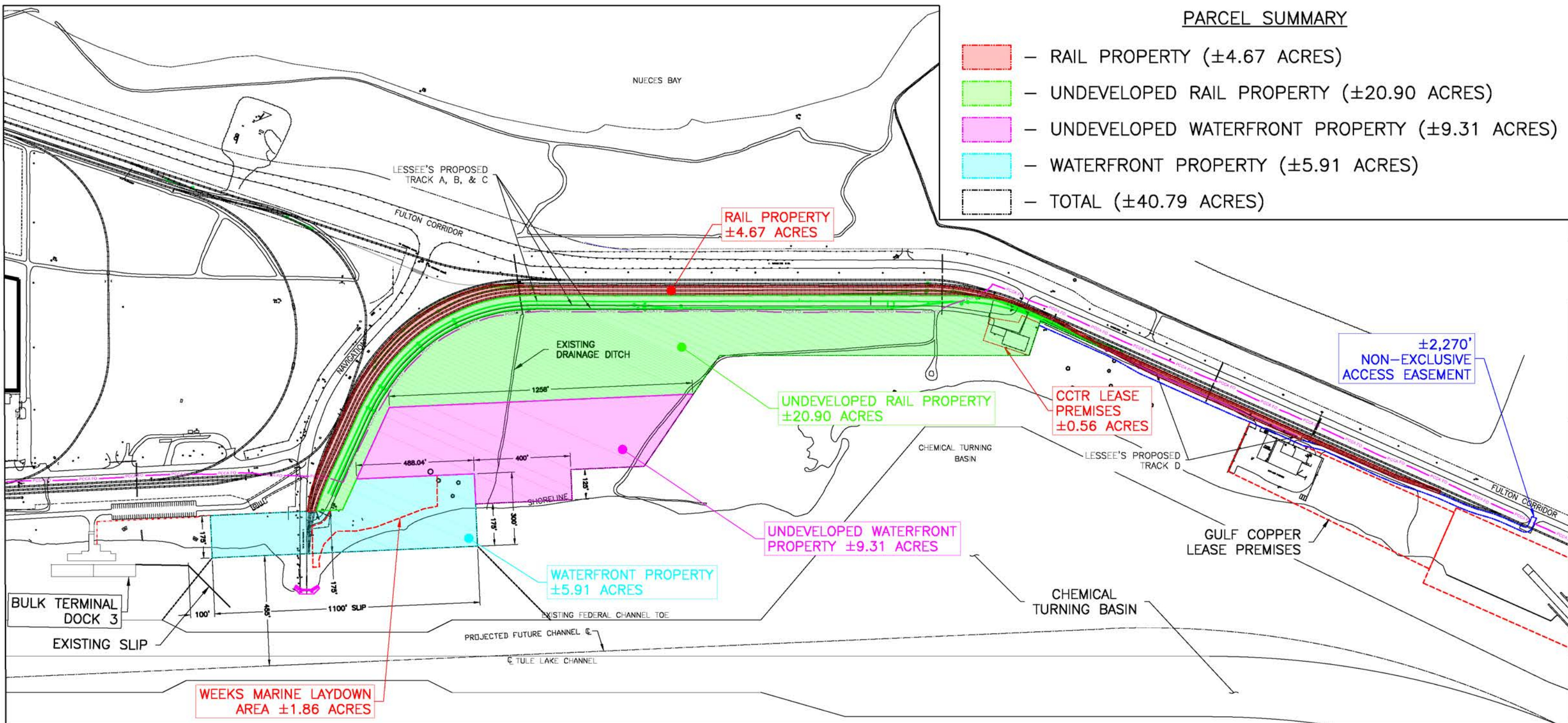
THIS DOCUMENT WAS PREPARED AS A DRAFT EXHIBIT UNDER THE AUTHORITY OF THE PORT OF CORPUS CHRISTI ON 7/13/17. IT IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMITTING PURPOSES.



PORT OF CORPUS CHRISTI AUTHORITY		
EXHIBIT B MAP OF LEASED PREMISES OR LAND		
SCALE: GRAPHIC	DATE: 7/13/2017	
DWN. BY: BLV	SHEET 2 OF 2	TIME: 11:58:43 AM

PARCEL SUMMARY

- RAIL PROPERTY (±4.67 ACRES)
- UNDEVELOPED RAIL PROPERTY (±20.90 ACRES)
- UNDEVELOPED WATERFRONT PROPERTY (±9.31 ACRES)
- WATERFRONT PROPERTY (±5.91 ACRES)
- TOTAL (±40.79 ACRES)



H:\BEN VASQUEZ\DRAWINGS & EXHIBITS\Project Long Property Boundary - Exhibit C.dwg 7/13/2017 11:52 AM



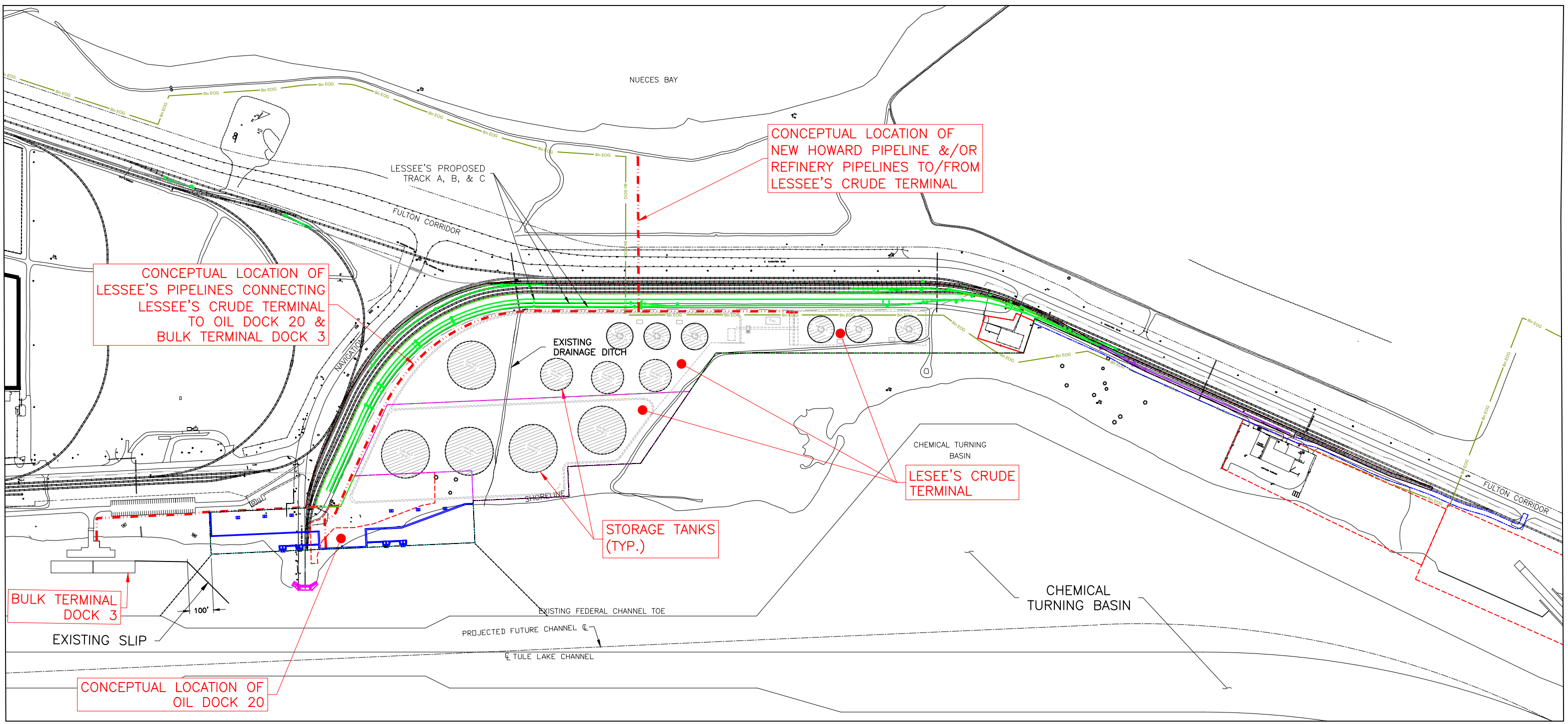
01 SITE PLAN
209
200' 400'

THIS DOCUMENT WAS PREPARED AS A DRAFT EXHIBIT UNDER THE AUTHORITY OF THE PORT OF CORPUS CHRISTI ON 7/13/17. IT IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMITTING PURPOSES.



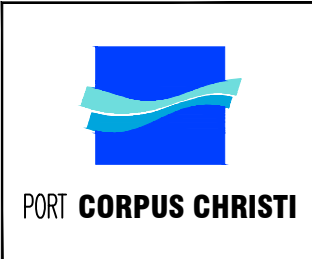
PORT OF CORPUS CHRISTI AUTHORITY		
MAP OF RAIL PROPERTY, UNDEVELOPED RAIL PROPERTY, UNDEVELOPED WATERFRONT PROPERTY AND WATERFRONT PROPERTY		
SCALE: GRAPHIC	EXHIBIT C	DATE: 7/13/2017
DWN. BY: BLV		TIME: 11:52:39 AM

H:\BEN VASQUEZ\DRAWINGS & EXHIBITS\Project Long\Project Long Conceptual Layout of Additional Tanks & Pipelines.dwg 7/13/2017 11:55 AM



01 SITE PLAN
 210
 200' 400'

THIS DOCUMENT WAS PREPARED AS A DRAFT EXHIBIT UNDER THE AUTHORITY OF THE PORT OF CORPUS CHRISTI ON 7/13/17. IT IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMITTING PURPOSES.



PORT OF CORPUS CHRISTI AUTHORITY		
CONCEPTUAL LAYOUT OF ADDITIONAL TANKS & PIPELINES		
SCALE: GRAPHIC	SCHEDULE 2	DATE: 7/13/2017
DWN. BY: BLV		TIME: 11:55:28 AM



DATE: July 18, 2017

TO: Port Commission

FROM: Jarl Pedersen
jarl@pocca.com
 361-885-6698

Approve Lease Agreement with GCCM Holdings, LLC for Land on the North Side of the Corpus Christi Turning Basin in the Inner Harbor

SUMMARY: Lease of about 8.8 acres total comprising about 4.5 acres for construction of a Cargo Dock and installation and operation of the Company’s ship unloader and conveyor system for uploading of dry bulk vessels transporting cement to the Cargo Dock, and about 4.3 acres for a distribution terminal for loading of railcars and trucks.

BACKGROUND: The Lease Agreement will provide the Company with a lease of about 4.5 acres (Tract One) of unimproved land on the North Side of the Corpus Christi Turning Basin in the Inner Harbor. Authority will enter into a design build contract for construction of a Cargo Dock for the exclusive use by the Company. The Company will install a 1,500 ton/hour uploading crane and fully enclosed conveyer system between the Cargo Dock and another lease area of about 4.3 acres (Tract Two) where the Company will construct and operate a cement distribution terminal.

ALTERNATIVES: The Company and Authority staff evaluated other solutions. However, it was determined that the proposed site provides benefits due to ability to use Authority’s existing permit for construction of dock and berth at this location.

CONFORMITY TO PORT POLICY: The Lease Agreement supports the following Strategic Goals and Objectives:

Strategic Goal 2: Provide Facilities and Services to Meet Customer Needs

- Strategic Objective 2B: Provide public docks and support private facilities to facilitate maritime and industrial development

Strategic Goal 4: Foster Compatible Industrial and Maritime Development

- Strategic Objective 4A: Proactively pursue diversified Port related economic development opportunities

EMERGENCY: No

FINANCIAL IMPACT: During the Construction Period, Company shall pay to the Authority approximately \$14,000 per month in rent.

During the Initial Term, Lessee shall pay to Authority an Annual Base Rent equal to about \$352,000.

The Minimum Guaranteed Throughput is 150,000 tons per year in the first two years and 300,000 tons per year in the following years, and Company guarantees that the Actual Throughput for each Lease Year will equal or exceed the Minimum Guaranteed Throughput for that Lease Year.

The estimated total annual revenue including Base Rent, Wharfage, Dockage and Security Surcharge based on 300,000 tons per year Minimum Guaranteed Throughput is about \$926,000.

Authority will select a design-build contractor for construction of the cargo dock and Company will reimburse Authority for the cost. The cost for construction of the cargo dock will be supported by a Letter of Credit.

STAFF RECOMMENDATION: Staff recommends approval of the attached Lease Agreement with GCCM Holdings, LLC.

DEPARTMENTAL CLEARANCES:

Originating Department:	Office of the Chief Commercial Officer
Reviewed & Approved by:	Jarl Pedersen
Legal	Jimmy Welder
Finance	Dennis DeVries
Environmental	Sarah Garza
Engineering	David Krams
Real Estate	Darrin Aldrich
Executive Staff	John LaRue
	Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

Lease Summary
Lease Agreement

**PORT OF CORPUS CHRISTI AUTHORITY
LEASE AGREEMENT SUMMARY**

- Company: GCCM Holdings LLC
112 E Pecan Street, Suite 3000
San Antonio, TX 78205-1516
- Premises and Use: Exclusive use of 4.5 acres, more or less of upland and submerged land (“**Tract One**”) for construction of a Cargo Dock. Exclusive use of 4.3 acres, more or less of improved upland (“**Tract Two**”) for a distribution terminal.
- Term: 20 Years
- Options: Lease shall have the right and option to extend:
Four (4) additional periods for five (5) years.
- Construction: The Authority will enter into a design build contract to construct a Cargo Dock and Cargo Dock Berth (Cargo Dock Facilities) on Tract One.
- The Company will install a ship unloader on the Cargo Dock and build a conveyor system from the Cargo Dock to Tract Two, where the Company will build a distribution terminal and railroad tracks for loading of railcars and truck trailers.
- Capital Recovery: As a material inducement for the Authority to enter into this Agreement and construct the Cargo Dock Facilities, Company hereby agrees to pay to the Authority an amount equal to (i) the Actual Total Project Cost, less (ii) the Excess Other Project Costs, if any (said amount being referred to herein as the “**Capital Recovery Fee**”). Company shall pay the Capital Recovery Payment to the Authority in two installments:
- The first installment of the Capital Recovery Fee shall equal 90% of the Estimated Total Cost of the Cargo Dock Facilities (“**First Installment Payment**”) and is due 30 days after the Cargo Dock delivery date.
- The second installment of the Capital Recovery Fee shall equal the amount by which the Capital Recovery Fee exceeds the First Installment Payment (“**Second Installment Payment**”) and due 120 days after the delivery date.
- Letter of Credit: The Company shall provide Authority with an irrevocable standby letter of credit (the “**Initial Letter of Credit**”) in the amount of the successful bid for the design build contract for the Cargo Dock Facilities.
- Monthly Base Rent: During Construction: During the Construction Period, Company shall pay

to the Authority a Monthly Base Rent of approximately \$14,000.

Initial Term: During the Initial Term, the Company shall pay to the Authority an Annual Base Rent of approximately \$352,000 per year.

Additional Fees: Company will pay applicable Wharfage, Dockage, Security Surcharge and Harbor Safety Fees per the Authority Tariff 100-A.

Annual Revenue: The estimated total revenue based on the Minimum Guaranteed Throughput of 300,000 tons per year is about \$926,000 per year.

Wharfage Deficit Payment for Insufficient Actual Dry Bulk Cargo Throughput

If the Actual Throughput for any Lease Year is less than the Minimum Guaranteed Throughput for that Lease Year, Lessee agrees to make a Wharfage Deficit Payment to the Authority equal to the product of (A) the number of Tons by which the Minimum Guaranteed Throughput for such Lease Year exceeds the Actual Throughput for such Lease Year, multiplied by (B) the Authority's Wharfage Rate for Dry Bulk Cargo on the last day of such Lease Year.

Variable Monthly Rent:

The Variable Monthly Rent for each calendar month shall equal the sum of the following amounts:

The product of (A) the total number of tons of Dry Bulk Cargo transported into the Leased Premises during such month by railcars, trucks, or other means of ground transportation LESS the total number of tons of Dry Bulk Cargo loaded onto Vessels by or on behalf of Lessee during such month at the Cargo Dock, multiplied by (B) the Authority's Wharfage Rate on Dry Bulk Cargo in effect on the first day of such month.

\$100.00 for each railcar of Dry Bulk Cargo unloaded by or on behalf of Lessee during such month while spotted on a spur track on the Leased Premises or an Authority-owned sidetrack adjacent to the Leased Premises. On the fifth anniversary of the Completion Date and on the first day of each Extension Period, this \$100 fee will be increased by the same percentage the CPI has increased during the preceding five-year period; and

\$25.00 for each truck of Dry Bulk Cargo unloaded on the Leased Premises during such month. On the fifth anniversary of the Completion Date and on the first day of each Extension Period, this

\$25 fee will be increased by the same percentage the CPI has increased during the preceding five-year period.

LEASE AGREEMENT WITH EASEMENTS

Between

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**
("Authority")

And

GCCM HOLDINGS, LLC
("Lessee")

August 1, 2017

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ATTACHMENTS:

Exhibit “A”	Legal Description of Tract One
Exhibit “A-1”	Legal Description of Tract Two
Exhibit “A-2”	Plat of Tract One and Tract Two
Exhibit “B”	Map of Land, Berth and Overhead Conveyor Easement
Exhibit “C”	Declaration
Exhibit “D”	Insurance Requirements for Lessee’s Contractors
Exhibit “E”	Unrecorded Easements or Rights-of-Way
Exhibit “F”	Lessee’s Insurance Requirements
Exhibit “G”	Legal Description of Rail Access Easement
Exhibit “G-1”	Plat of Rail Access Easement

APPENDICES:

Appendix One	General Design Criteria for Cargo Dock
Appendix Two	General Design Criteria for Cargo Dock Berth
Appendix Three	General Design Criteria for Ship Unloader and Conveyor System
Appendix Four	General Design Criteria for Cement Distribution Terminal

SCHEDULES:

Schedule 1	Estimate of Other Project Costs
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LEASE AGREEMENT WITH EASEMENTS

This **LEASE AGREEMENT WITH EASEMENTS** is made effective this first day of August, 2017 (the “*Effective Date*”), by and between the **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, a political subdivision of the State of Texas (hereinafter called “*Authority*”), and **GCCM HOLDINGS, LLC**, a Texas limited liability company with a permit to do business in Texas, whose principal address is 112 E. Pecan Street, Suite 3000, San Antonio, Texas 78205 (hereinafter called “*Lessee*” or “*Company*”). This Lease Agreement together with all renewals, extensions, and modifications is referred to herein as the “*Lease Agreement*”, or the “*Lease*”.

RECITALS:

(a) Authority owns the surface estate of a tract of land in Nueces County, Texas, containing 4.57 acres, more or less, of unimproved upland and submerged land on the north side of the Industrial Canal of the Corpus Christi Ship Channel in the Inner Harbor of the Port of Corpus Christi, which tract is more particularly described in **Exhibit A** attached hereto (“*Tract One*”). A plat of *Tract One* is attached hereto as **Exhibit A-2**.

(b) Authority desires to construct a dry bulk cargo dock on Tract One that meets the general design criteria attached hereto as **Appendix One** (“*Cargo Dock*”) and lease Tract One and the Cargo Dock to Lessee under the terms and conditions set forth below. The Cargo Dock includes the dock platform, fendering system, dock approachway, crane rail, breasting structures, mooring structures, footings, piers, pilings, shoreline protection, and the supporting structure for the portion of the conveyor system along the dock structure.

(c) Lessee wishes to lease Tract One and the Cargo Dock from the Authority under the terms and conditions set forth in this Lease and install a 1,500 tons/hour cement unloader and conveyor system and related equipment on the Cargo Dock that meets the general design criteria attached hereto as **Appendix Three**.

(d) Subject to the terms and conditions of this Agreement, the Authority will dredge a berth for the Cargo Dock at the location shown on **Exhibit B** attached hereto (“*Cargo Dock Berth*”). The Cargo Dock Berth will have a length of approximately 790 feet and an initial water depth of 47 feet Mean Lower Low Water (“*Initial Water Depth*”) to accommodate up to 60,000 deadweight ton vessels up to 658 feet long by 106 feet wide for Lessee’s dry bulk cargo. The Cargo Dock Berth will not be part of the Leased Premises described in the Lease, but will be for the exclusive use of the Lessee hereunder during the Term of this Lease.

(e) Authority also owns the surface estate of a separate tract of land in Nueces County, Texas, containing 4.3 acres, more or less, of improved upland approximately 500 feet north of Tract One, which tract is more particularly described in **Exhibit A-1** attached hereto (“*Tract Two*”). A plat of *Tract Two* is attached hereto as **Exhibit A-2**.

(f) Lessee wishes to lease Tract Two from the Authority under the terms and conditions set forth in this Lease and construct and operate a cement distribution terminal thereon that meets the general design criteria attached hereto as **Appendix Four** (“*Cement Distribution Terminal*”).

NOW, THEREFORE, for and in consideration of the covenants and agreements set forth herein, Authority and Lessee agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. Certain Definitions

As used in this Lease, each of the following terms shall have the meaning set forth or referred to in this Section:

“*Actual DBC Throughput*” means, with respect to any Lease Year, the actual number of Tons of GCCM Dry Bulk Cargo loaded onto or unloaded from Vessels at the Cargo Dock during that Lease Year.

“*Actual Design-Build Contract Price*” has the meaning given to that term in Section 3.03(b).

“*Actual Other Project Costs*” has the meaning given to that term in Section 3.03(c).

“*Actual Total Cost of the Cargo Dock Facilities*” means the sum of the Actual Design-Build Contract Price plus the Actual Other Project Costs.

“*Additional Charges*” has the meaning given to it in Section 4.12.

“*Affiliate*” means, with respect to Lessee, any other business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, Lessee. For purposes of this definition, “control” means (1) the beneficial ownership of fifty percent (50%) or more of the outstanding voting ownership interests of another Person, or (2) the ability to direct the day-to-day management and long-term policies of another Person, whether by contract or otherwise.

“*Annual Base Rent*” means, with respect to any Lease Year, the annual rent for that Lease Year stated in or calculated in accordance with Section 4.02 or Section 4.03, as the case may be.

“*Annual CPI Adjustment Factor*” means, with respect to any Lease Year, a fraction, the numerator of which is the most current CPI available as of the first day of such Lease Year, and the denominator of which is the CPI for the same month of the prior year; provided, however, that the Annual CPI Adjustment Factor for any Lease Year shall never be less than one.

“*Applicable Laws*” means all applicable limitations, restrictions, conditions, standards, prohibitions and requirements of any law, statute, ordinance, rule, regulation, order or determination of any Governmental Authority or any board of fire underwriters (or other body exercising similar functions), or any restrictive covenant or deed restriction (recorded or

otherwise) affecting the Leased Premises, including but not limited to all applicable zoning ordinances and building codes, flood disaster laws and health laws and regulations.

“**Approved Plans**” has the meaning given to it in Section 6.01(b).

“**Authority**” has the meaning given to it in the introductory paragraph of this Lease Agreement.

“**Authority’s Notice to Proceed**” has the meaning given that term in Section 3.03(d).

“**Authority Parties**” means the Authority, its Port Commissioners, directors, managers, employees and agents.

“**Authority’s Tariff**” means the Authority’s Tariff 100-A naming rules, rates and regulations applying to the public and private wharves in the Port of Corpus Christi, or any successor tariff published by the Authority from time to time.

“**Authority’s Wharfage Rate on Dry Bulk Cargo**” means, as of any given day, the wharfage rate for Dry Bulk Cargo as published in the Authority’s Tariff on that day.

“**Bankruptcy Laws**” has the meaning given to that term in Section 14.01(4).

“**Business Day**” means any day other than Saturday or Sunday or any other day on which banks in Texas are permitted or required to be closed.

“**Capital Recovery Fee**” has the meaning given to that term in Section 3.06(a).

“**Capital Recovery Letter of Credit**” means the Initial Letter of Credit issued to the Authority pursuant to Section 3.06(b) and any renewal or replacement letter of credit conforming to the requirements of Section 3.07(b).

“**Cargo Dock**” has the meaning given to that term in paragraph (b) of the Recitals.

“**Cargo Dock Berth**” has the meaning given to that term in paragraph (d) of the Recitals.

“**Cargo Dock Facilities**” means the Cargo Dock and the Cargo Dock Berth, collectively.

“**Casualty Termination Notice**” has the meaning given to it in Section 10.03.

“**Cement Distribution Terminal**” has the meaning given to that term in paragraph (f) of the Recitals.

“**Cement Distribution Terminal Facilities**” means all improvements constructed or installed on Tract Two by Lessee in connection with Lessee’s Cement Distribution Terminal, including, but not limited to rail tracks, roadways, loading facilities, and cement silos.

“**Claims**” means all liabilities (including strict liability), actions, demands, damages, penalties, fines, losses, claims, costs, expenses (including reasonable attorneys’ and experts’ fees and expenses), suits, settlements or judgments of any nature whatsoever (including claims for personal injury, bodily injury, real and personal property damage and economic loss).

“**Commencement Date**” means the first day of the calendar month next following the first to occur of (i) the Commencement of Commercial Operations, or (ii) one hundred eighty (180) days after the Delivery Date.

“**Commencement of Commercial Operations**” means that Lessee has commenced transporting cement to the Leased Premises via truck, rail, or conveyor system from Cargo Dock. Lessee will promptly give notice to Authority when the Commencement of Commercial Operations occurs.

“**Company**” means GCCM Holdings, LLC, and its permitted successors and assigns.

“**Company’s Contractor**” means the contractor or contractors selected by the Company to construct or install the Ship Unloader and Conveyor System on the Cargo Dock, the Cement Distribution Terminal Facilities on Tract Two, the railroad infrastructure within the Rail Access Easement, and the conveyors in the Overhead Conveyor Easement.

“**Construction Period**” means the period beginning on the Effective Date or the Last Permit Application Date, whichever is later, and ending on the day before the Commencement Date.

“**Contractor**” means (i) the Design-Build Contractor in the case of the Authority, and (ii) the Company’s Contractor in the case of the Company.

“**CPI**” means the Consumer Price Index for All Urban Consumers (CPI-U), Not Seasonally Adjusted, for the U.S. City Average for All Items 1982-84=100 (Unadjusted), published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau of Labor Statistics of the United States Department of Labor ceases to exist or to publish statistics concerning the purchasing power of the consumer dollar during the Term of this Lease, then any successor index shall replace CPI for the remainder of the Term, however, should CPI cease to exist without a known successor, then the remaining CPI adjustments called for in this Lease will be made by using the most nearly comparable statistics published by a recognized financial authority, as shall be mutually agreed by the Parties.

“**Delivery Date**” has the meaning given to it in Section 3.03(e).

“**Design-Build Contract**” means a single contract with a Design-Build Firm for the design and construction of the Cargo Dock Facilities, including any change orders to the contract approved by the Authority and Lessee pursuant to Section 3.02(d).

“**Design-Build Contractor**” means the Design-Build Firm selected by the Authority for the design and construction of the Cargo Dock Facilities.

“Design-Build Firm” means a partnership, corporation, or other legal entity or team that includes an engineer and builder qualified to engage in building construction in Texas.

“Design Criteria Package” means a set of documents prepared by the Authority that provides sufficient information to permit Design-Build Firms to prepare a response to the Authority’s request for qualifications and any additional information requested, including criteria for selection. The Design Criteria Package will specify criteria the Authority considers necessary to describe the Cargo Dock Facilities.

“Draw Proceeds” means the cash proceeds of any draw or draws made by the Authority under the Capital Recovery Letter of Credit.

“Dry Bulk Cargo” or **“DBC”** means cement.

“Effective Date” has the meaning given to it in the introductory paragraph of this Lease Agreement.

“Equalization Value of the Land” or **“Equalization Value”** has the meaning given to it in Section 4.04.

“Estimated Other Project Costs” has the meaning given to that term in Section 3.01(d).

“Estimated Total Cost of the Cargo Dock Facilities” has the meaning given to that term in Section 3.01(e).

“Event of Default” has the meaning given to it in Section 14.01.

“Excess Other Project Costs” means the amount by which the Actual Other Project Costs exceed one hundred twenty percent (120%) of the Estimated Other Project Costs.

“Extension Period” has the meaning given to it in Section 2.02(b).

“Final Plans and Specifications” means the final plans and specifications for the Cargo Dock Facilities contained in the Design Build Contract.

“Final Statement” has the meaning given to it in Section 3.06(b).

“First Installment Payment” has the meaning given to that term in Section 3.06(c).

“First Lease Year” means the twelve-month period beginning on the Commencement Date.

“force majeure” has the meaning given to that term in Section 8.13.

“GCCM Dry Bulk Cargo” means Dry Bulk Cargo (i) which is owned by Lessee or in which Lessee otherwise has an ownership interest, or (ii) which Lessee is purchasing or selling in

connection with the shipment of such Dry Bulk Cargo in the Port of Corpus Christi, or (iii) in the possession of Lessee for loading onto or unloading from Vessels at Cargo Dock.

“Governmental Authority” means any municipality, county, state, the United States of America, or any other governmental body, subdivision, agency, or authority, but expressly excluding the Port of Corpus Christi Authority of Nueces County, Texas.

“Indemnified Event” has the meaning given to that term in Section 9.01(a).

“Initial Letter of Credit” has the meaning given to that term in Section 3.06(b).

“Initial Term” has the meaning given to it in Section 2.02(a).

“Initial Water Depth” has the meaning given to that term in paragraph (d) of the Recitals

“Investment Grade” means having a long-term debt credit rating of at least “BBB-” or higher by Standard & Poor’s or a long-term debt credit rating of at least “Baa3” or higher by Moody’s Investors Service, Inc., if rated by both agencies, or by either of such agencies if only rated by one.

“Issuer” means, with respect to the Capital Recovery Letter of Credit, that bank that issued the Letter of Credit.

“Land” means Tract One and Tract Two, collectively, together with the improvements thereon as of the Effective Date.

“Last Permit Application Date” means the first day of the calendar month next following the month in which the Authority has submitted all applications and any amendments necessary for the federal permits required for construction of the Cargo Dock Facilities.

“LC Delivery Deadline” has the meaning given to that term in Section 4.02(a).

“Lease Payments” means, collectively, the Monthly Base Rent, Annual Base Rent, Wharfage Deficit Payments, Additional Charges and any other payments required under this Lease, except the Capital Recovery Fee.

“Lease Year” means the First Lease Year and each successive twelve-month period thereafter during the Term of this Lease.

“Leased Premises” has the meaning given to it Section 2.01

“Lessee” means GCCM Holdings, LLC, and its permitted successors and assigns.

“Lessee Facilities” means all improvements on the Leased Premises or in the Overhead Conveyor Easement or the Rail Access Easement constructed or owned by Lessee, including the Shiploader and Conveyor System, the Overhead Conveyor System, the Cement Distribution Terminal Facilities, the rail spur track described in Section 2.09, and the New Lessee Facilities.

“Lessee’s Equipment” has the meaning given to it in Section 6.09.

“Lessee’s Original Facilities” means the Ship Unloader and Conveyor System, the Overhead Conveyor System, the Cement Distribution Terminal Facilities, and the rail spur track described in Section 2.09, collectively.

“Lessee Parties” has the meaning given to that term in Section 9.01(a).

“Maximum Design-Build Contract Price” has the meaning given to that term in Section 3.02(c).

“Minimum Guaranteed DBC Throughput” means 150,000 Tons of GCCM Dry Bulk Cargo for the First Lease Year, 150,000 Tons of GCCM Dry Bulk Cargo for the second Lease Year, and 300,000 Tons of GCCM Dry Bulk Cargo for each Lease Year thereafter.

“Monthly Base Rent” means the monthly rent payable during the Construction Period as calculated in accordance with Section 4.01.

“New Lessee Facilities” has the meaning given to that term in Section 6.01(a).

“Other Project Costs” means, collectively, the costs the Authority incurs in designing and constructing the Cargo Dock Facilities that will not be included in the Design-Build Contract Price. Other Project Costs include (i) the amount the Authority pays to the engineering firm that assists the Authority in preparing the specifications and bid package for the Design-Build Contract, (ii) the amount the Authority pays to the engineering firm that oversees the work performed by the Design-Build Contractor, and (i) all other costs the Authority incurs in designing and constructing the Cargo Dock Facilities, except the Authority’s internal costs.

“Overhead Conveyor Easement” has the meaning given to that term in Section 2.08.

“Overhead Conveyor System” has the meaning given to that term in Section 3.05.

“Parties” means Authority and Lessee.

“Party” means Authority or Lessee, as the case may be.

“Permanent Lessee Facilities” means all of the following Lessee Facilities, if any, on the Leased Premises or the Rail Access Easement: (i) office buildings, (ii) roads, (iii) tracks, switches, and related rail improvements, and (iii) underground pipelines or conduit for potable water, sewer, storm water drainage, natural gas, or electricity.

“Permitted Encumbrances” has the meaning given to it in Section 2.05.

“Permitted Transferee” has the meaning given to it in Section 13.01.

“Permitted Uses” has the meaning given to it in Section 5.01(a).

“**Person**” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other business entity.

“**Petition in Bankruptcy**” means a petition filed in a federal bankruptcy court under rules outlined in the U.S. Bankruptcy Code to commence a proceeding to provide a means by which the Lessee will satisfy the claims of the Lessee’s creditors under applicable Bankruptcy Laws.

“**Plans**” has the meaning given to it in Section 6.01(b).

“**Policies**” has the meaning given to it in **Exhibit F**.

“**Port Commission**” means the governing body of the Authority.

“**Preliminary Cost Projections**” has the meaning given to that term in Section 3.01(c).

“**Proceedings**” has the meaning given to it in Section 11.01.

“**Program**” has the meaning given to it in Section 18.02(h).

“**Punch List**” has the meaning given to it in Section 3.03(f).

“**Qualified MAI Appraiser**” means an independent appraiser who is MAI certified, has greater than ten (10) years’ experience appraising land such as the Land.

“**Rail Access Easement**” has the meaning given to it in Section 2.09.

“**Rating Agency**” means Standard & Poor’s Corporation, Moody’s Investors Service, Inc. or any other nationally recognized rating agency if both of the foregoing cease to exist.

“**Recitals**” means the recitals at the beginning of this Lease Agreement.

“**Removable Lessee Facilities**” means all Lessee Facilities on the Leased Premises other than the Permanent Lessee Facilities. For the avoidance of doubt, the Cement Terminal Facilities are Removable Lessee Facilities.

“**Removal Period**” means the one hundred eighty (180) day period following the expiration or termination of this Lease during which Lessee will be required to remove the Removable Lessee Facilities from the Leased Premises.

“**Required Repairs**” means the repairs needed to put the Permanent Improvements in good operating condition, reasonable wear and tear excepted.

“**Road Access Easement**” has the meaning given to it in Section 2.10.

“Second Installment Payment” has the meaning given to that term in Section 3.06(d).

“Ship Unloader and Conveyor System” means the Lessee’s 1,500 tons/hour cement unloader and conveyor system and related equipment for unloading dry bulk vessels transporting cement to the Cargo Dock.

“Substantially Complete” means that in the opinion of the Authority the Cargo Dock Facilities are suitable for use for their intended purpose, but may still require minor miscellaneous work or adjustments.

“Substantial Completion Notice” has the meaning given that term in Section 3.03(e).

“Term” has the meaning given to it in Section 2.02(a).

“Ton” means a unit of weight of 2,000 lbs.

“USACE” means the United States Army Corps of Engineers.

“Variable Monthly Rent” has the meaning given to it in Section 4.05.

“Vessel” means any waterborne ship or barge.

“Wharfage” means the charges the Authority assesses pursuant to its Tariff against the cargo or Vessel on all cargo passing or conveyed over, onto or under wharves or between Vessels (to or from barge, lighter or water) when berthed at a wharf or when moored in a slip adjacent to a wharf within the Authority’s jurisdiction.

“Wharfage Deficit Payment” means the amount payable to Authority pursuant to Section 4.06 for any Lease Year in which Lessee fails to meet the Minimum Guaranteed DBC Throughput for that Lease Year.

Section 1.02. Other Definitions

Capitalized terms in this Lease which are not defined in Section 1.01 are defined in the text of this Lease.

Section 1.03. Number and Gender

In this Agreement, terms defined in the singular have the corresponding plural meaning when used in the plural and vice versa and words in one gender include all genders.

Section 1.04. Headings

The division of this Agreement into articles, sections and other subdivisions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

Section 1.05. References to this Agreement

The words “herein,” “hereby,” “hereof,” “hereto” and “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular portion of it. The words “Article,” “Section,” “paragraph,” “sentence,” “clause,” “Exhibit,” “Schedule” and “Appendix” mean and refer to the specified article, section, paragraph, sentence, clause, exhibit, schedule or appendix of, or to, this Agreement. All Exhibits and Appendices and any other attachments to this Lease are incorporated in this Lease by this reference.

Section 1.06. References to Any Person

A reference in this Agreement to any Person at any time refers to such Person’s permitted successors and assigns.

Section 1.07. Meaning of Including

In this Agreement, the words “include,” “includes” or “including” mean “include without limitation,” “includes without limitation” and “including without limitation,” respectively, and the words following “include,” “includes” or “including” shall not be considered to set forth an exhaustive list.

Section 1.08. Consents and Approvals

Unless specified otherwise, wherever the provisions of this Agreement require or provide for or permit an approval or consent by either Party, such approval or consent, and any request therefor, must be in writing (unless waived in writing by the other Party).

Section 1.09. Currency

All statements of or references to dollar amounts or money in this Agreement are to the lawful currency of the United States of America.

Section 1.10. References to Time, Calculation of Time

Unless otherwise indicated, for purposes of this Lease Agreement, a period of days shall be deemed to begin on the first day after the event that began the period and to end at 5:00 p.m. on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m. on the next Business Day. All references to time herein are to time in Corpus Christi, Texas.

ARTICLE 2
LEASED PREMISES; LEASE TERM; EXCLUSIVE USE OF BERTH; EASEMENTS

Section 2.01. Leased Premises

Effective as of the Effective Date, Authority hereby leases to Lessee and Lessee hereby leases from the Authority for the Term all of Authority's right, title and interest in and to the Tract One and Tract Two, together with the Cargo Dock to be constructed on Tract One by the Authority as described in this Lease (collectively, the "*Leased Premises*"), subject to the terms, conditions and agreements in this Lease.

Section 2.02. Term

(a) For purposes of this Lease, "*Term*" means the period from the Effective Date until the earlier of (1) the date upon which this Lease ends at the expiration of the Initial Term or any applicable Extension Period, as the case may be, or (2) the date upon which this Lease is terminated in accordance with the provisions of this Lease.

(b) The "*Construction Period*" under this Lease begins on the Effective Date or the Last Permit Application Date, whichever is later, and ends on the day before the Commencement Date.

(c) The "*Initial Term*" of this Lease shall begin on the Commencement Date and end at 11:59 p.m., Central Time, on the last day of the twentieth (20th) Lease Year ("*Initial Term*"), unless the Term is extended or terminated in accordance with other provisions of this Agreement.

(d) Lessee shall have the right and option to extend the Term of this Lease for four (4) additional periods of five (5) years each as provided in this Section 2.02(b) (each an "*Extension Period*"). To exercise this right, Lessee shall give written notice thereof to Authority at least one hundred eighty (180) days prior to the end of the then effective Term, irrevocably exercising its option to extend the Term for an additional five-year period. Notice of Lessee's intention to extend the Term under this Lease Agreement must, to be effective, be sent by certified mail to Authority at the address provided in Section 17.04 and must be postmarked no later than the latest date provided in this Section for Lessee's exercising the option. Notwithstanding anything to the contrary contained in this Lease, Lessee may not exercise such option if at the time of exercise Lessee is an Event of Default has occurred. If Lessee affirmatively exercises its option to extend the Term, then this Lease shall continue in full force and effect under all the terms and conditions set forth herein.

(c) Authority and Lessee hereby acknowledge and agree that it is the express intent of both Parties that this Lease Agreement constitutes a lease of the Leased Premises under the laws of the State of Texas and it in no way constitutes a sale of the Leased Premises for any purpose.

Section 2.03. Termination for Failure to Commence Commercial Operations

Commencement of Commercial Operations must occur within one-hundred eighty (180) days after the Commencement Date. If Commencement of Commercial Operations does not occur within one-hundred eighty (180) days after the Commencement Date, subject to extension in the event force majeure, the Authority may, prior to actual Commencement of Commercial Operations by Lessee, terminate this Lease by giving the Lessee no less than thirty (30) days' prior written notice of such termination, whereupon the Term of this Lease will be deemed terminated. If, however, Commencement of Commercial Operations occurs before Lessee's receipt of the termination notice, the termination notice will be of no force and effect.

Section 2.04. Quiet Enjoyment

The Authority agrees that so long as no Event of Default has occurred hereunder, the Authority will not disturb Lessee's possession of the Leased Premises, except in accordance with this Lease. Authority represents and warrants that there are no liens, leases or purchase options affecting the Leased Premises as of the Effective Date. Authority agrees to warrant and forever defend Lessee's right to occupancy of the Leased Premises against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, by, through or under Authority (but not otherwise), subject to the Permitted Encumbrances. However, the Authority agrees that in the event that any mineral owner of part or all of the Leased Premises or a lessee in an oil, gas or mineral lease granted by any mineral owner (collectively, the "**Mineral Operator**") attempts to utilize the Land, the Authority will take all actions available to it to prevent such use of the surface of the Land, including, but not limited to, providing the Mineral Operator with other real property upon which to conduct surface operations.

Section 2.05. Permitted Encumbrances

This lease of the Leased Premises is subject to all of the following: (i) the provisions of this Lease Agreement, (ii) the lawful use of the Leased Premises by any Mineral Operator, other than Authority, of part or all of the Leased Premises or a lessee in an oil, gas or mineral lease granted by any mineral owner, other than Authority, of all or part of the Leased Premises, (iii) to the extent valid and enforceable as to the Leased Premises, those matters of record in Nueces County, Texas, as of the Effective Date, including, but not limited to, patents, restrictive covenants, permits, licenses, easements, and rights-of-way, (iv) any unrecorded easements or rights-of-way that are specifically shown in **Exhibit E**, (v) all Applicable Laws, (vi) the Authority's right to operate, maintain and replace any fiber optic lines on the Leased Premises before the Effective Date, (vii) the Authority's right to operate, maintain and replace the security camera and security camera tower on the Leased Premises, (viii) the right of the USACE, the Authority, and Authority's customers to use and access the Outfall described in Section 2.06(b) to install and remove dredge pipes through the Outfall and to monitor effluent at the Outfall, (ix) Spoil Disposal Easement date February 20, 1936, executed by Guaranty Title and Trust Company, Trustee to the United States of America, recorded in Volume 221, Page 128 of the Deed Records of Nueces County, Texas, (x) Dredge Material Disposal Easement dated June 24, 1980, executed by Corpus Christi State National Bank, Trustee to the United States of America, recorded in Volume 1744, Page 551 of the Deed Records of Nueces County, Texas, (xi) United States Army Corps of Engineer (D-13-33) Bulkhead Line Access Easement, (xii) rights of A.J.

“Jackson” Pope, III, express or implied, if any, in, on, across, or under Tract One based upon the rights created in that certain Deed filed of record in Volume 2262, Page 824 and/or Frost National Bank of the Deed Records of Nueces County, Texas (collectively, the “*Permitted Encumbrances*”).

Section 2.06 Condition of Leased Premises

(a) Authority has informed Lessee that Tract One of the Leased Premises contains wetlands and that the construction of Cargo Dock Facilities and other Lessee Improvements will require environmental mitigation.

(b) Authority has also informed Lessee that a USACE Dredge Material Placement Area (“*DMPA*”) outfall (“*Outfall*”) and culvert pipes are located on Tract One at the place shown on the map or plat attached hereto as **Exhibit B**. Lessee understands that construction of the Cargo Dock Facilities will, in all likelihood, require the demolition of portions of the culverts and the existing Outfall and the construction of a new Outfall. Demolition and reconstruction of the Outfall will be performed in accordance with the USACE’s plans and specification and cost for the work, whether performed by the Authority or the USACE, will be included as part of the Project Cost. The USACE, Authority, and Authority’s customers shall have the right to use and access the Outfall to install, maintain and remove dredge pipes through the Outfall and to monitor effluent at the Outfall. The USACE and the Authority shall also have the right to access and maintain the culvert pipes and the Outfall structures.

(c) The Authority constructed, installed, maintains and operates a security camera system on the Leased Premises (the “*Security Camera System*”). The Security Camera System includes a security camera, security camera pole, foundation, and associated equipment which are served by fiber optic lines and electrical power lines. The Authority reserves the right to access the Security Camera System during the term of the Lease via the roads and routes the Authority utilized before the Effective Date for purposes of maintaining, repairing, upgrading, and replacing all or part of the Security Camera System. If the Authority determines in good faith that the Security Camera System must be relocated or modified to accommodate the construction of the Cargo Dock facilities or before the termination of this Lease because Lessee’s operations on the Leased Premises are obstructing or adversely impacting the effectiveness of the Security Camera System, then cost to relocate or modify the Security Camera System will be included in the Project Cost.

(d) The Authority has also informed Lessee that there is an existing mooring structure on the Leased Premises of another PCCA tenant located just west of Tract One that may need to be modified or replaced due to dredging of the Cargo Dock Berth.

(e) The Authority has also informed Lessee that there is a buried pipeline under the ship channel just west of the Tract One and under the western edge of the Cargo Dock Berth.

Section 2.07. Exclusive Use of Cargo Dock Berth

The Authority hereby grants Lessee the exclusive use of the Cargo Dock Berth to moor a Vessel during the Term of this Lease; provided, however, that whenever there is no Vessel moored

at the Cargo Dock, other Vessels may encroach on the Cargo Dock Berth when maneuvering into position for berthing at one of the dock on either side of the Cargo Dock. The Cargo Dock Berth is not part of the Leased Premises.

Section 2.08. Overhead Conveyor Easement

The Authority hereby grants Lessee a 30' wide easement between Tract One and Tract Two ("***Overhead Conveyor Easement***") at a location to be determined for the construction and operation of a closed conveyor system that can be used for transporting cement from the Cargo Dock to the Cement Distribution Terminal Facilities. The tentative location of the Overhead Conveyor Easement is shown on **Exhibit B**, but the Authority reserves the right to move the easement. As soon as practicable after the Effective Date, the Authority and Lessee will agree on the location of the Overhead Conveyor Easement, and will enter into a separate easement agreement or an amendment to this Lease that more fully describes the location, terms and conditions of the Overhead Conveyor Easement. The Overhead Conveyor Easement will terminate contemporaneously with the termination or expiration of the Lease.

Section 2.09. Non-Exclusive Rail Access Easement

The Authority hereby grants Lessee a non-exclusive rail access easement across the Authority's adjacent land ("***Rail Access Easement***") for the construction and operation of a rail spur track that connects Lessee's tracks on Tract Two with the Authority's Track No. 800 along the Joe Fulton International Trade Corridor. The location of the Rail Access Easement is shown on the map attached hereto as **Exhibit G**, and a legal description of the Rail Access Easement is attached hereto as **Exhibit G-1**. The Rail Access Easement will terminate contemporaneously with the termination or expiration of the Lease. The Parties will endeavor to enter into a separate easement agreement to more fully describe the terms and conditions of the Rail Access Easement.

Section 2.10. Non-Exclusive Road Access Easements

The Authority understands and agrees that Lessee will need non-exclusive access easements across the Authority's adjacent land ("***Road Access Easements***"), which will provide free and uninterrupted vehicular ingress and egress to Tract One and Tract Two from Navigation Boulevard and the Joe Fulton International Trade Corridor, respectively. As soon as practicable after the Effective Date, the Authority and Lessee will agree on the final location of the Road Access Easements as generally depicted on **Exhibit B** and will enter into a separate road access easement agreement or an amendment to this Lease that more fully describes the location, terms and conditions of the Road Access Easement. The Road Access Easements will terminate contemporaneously with the termination or expiration of the Lease.

Section 2.11. Reservation of Minerals

All or part of the Land was patented to the Authority by the State of Texas. Under the terms of the patent, the State of Texas reserved the minerals in, on and under the Land. Authority waives any rights it may have to use the surface of the Land during the Term, except as otherwise expressly provided herein.

ARTICLE 3
CONSTRUCTION OF CARGO DOCK FACILITIES AND LESSEE’S ORIGINAL FACILITIES

Section 3.01. Preliminary Design of the Cargo Dock Facilities.

(a) The Cargo Dock will be a dry bulk cargo dock designed for the installation and operation of the Company's Ship Unloader and Conveyor System for unloading of dry bulk vessels transporting cement to the Cargo Dock destined for the Cement Distribution Terminal Facilities. The Cargo Dock will meet the general design criteria attached to the Agreement as **Appendix One**.

(b) The Authority will cause the Cargo Dock Berth to be dredged at the location shown on **Exhibit B** and in accordance with the general design criteria attached hereto as **Appendix Two**.

(c) The Authority will award a Design-Build Contract for the design and construction of the Cargo Dock Facilities. Cargo Dock Facilities.

(d) The Authority will incur other costs in designing and constructing the Cargo Dock Facilities besides the cost of the Design-Build Contract. The Parties have developed an estimate of the total projected amount of the Other Project Costs (collectively the “*Estimated Other Project Costs*”). The Estimated Other Project Costs are listed in **Schedule 1** attached to this Lease.

Section 3.02. Design-Build Contract for the Cargo Dock Facilities.

(a) The Authority will prepare a Design Criteria Package with the assistance of Matrix PDM Engineering (a subsidiary of Matrix Service Company) or another engineering firm acceptable to the Parties, if the Authority and Matrix are unable to agree on the terms of a services contract. The Authority will award a Design-Build Contract for the design and construction of the Cargo Dock Facilities in accordance with the procedures described in Section 60.460, Texas Water Code, with all reasonable dispatch.

(b) Following the Authority’s selection of the Design-Build Contractor, the Design-Build Contractor’s engineers shall complete the design of the Cargo Dock Facilities, submitting all design elements for review and determination of scope compliance to the Authority before or concurrently with construction of the Cargo Dock Facilities.

(c) The original Design-Build Contract for the construction of the Cargo Dock Facilities will be for a fixed contract amount or a guaranteed maximum price (in either case, the “*Maximum Design-Build Contract Price*”). The Authority shall provide Lessee with written notice of the Maximum Design-Build Contract Price.

(d) If both Parties and the Design-Build Contractor agree to one or more change orders to the Design-Build Contract, the cost of the work performed under those change orders shall be

included in the Actual Design-Build Contract Price. The Lessee's approval of a change order to the Design-Build Contract must be in writing.

(e) If the Authority wishes to issue a change order to the Design-Build Contract, it may do so without the Lessee's consent, but the cost of the work performed under a change order made without Lessee's consent shall not be included in the Actual Design-Build Contract Price.

Section 3.03. Construction and Ownership of the Cargo Dock Facilities.

(a) The Authority shall cause the Cargo Dock Facilities to be constructed with all reasonable dispatch, subject to any events of *force majeure*. The Authority shall endeavor to have the Cargo Dock Facilities substantially completed by March 1, 2019, subject to receiving the necessary and required USACE regulatory and real estate permits and permissions. The Authority will own the Cargo Dock Facilities.

(b) The Authority shall pay for the cost of designing and constructing the Cargo Dock Facilities as provided in the Design-Build Contract. The total amount actually paid by the Authority to the Design-Build Contractor for the design and construction of Cargo Dock Facilities is referred to in this Lease as the "***Actual Design-Build Contract Price***."

(c) The Authority shall also pay for the Other Project Costs incurred in designing and constructing the Cargo Dock Facilities. The total amount of Other Project Costs actually paid by the Authority in designing and constructing the Cargo Dock Facilities is referred to in this Lease as the "***Actual Other Project Costs***."

(d) As soon as the Authority's engineer determines that the Cargo Dock has been completed to the point where it is appropriate for the Company to begin construction and installation of the Ship Unloader and Conveyor System on the Cargo Dock, the Authority shall give the Company written notice of this determination (the "***Authority's Notice to Proceed***"). The Authority hereby grants to the Company, its representatives and the Company's Contractor all necessary and reasonable rights of ingress and egress to the Cargo Dock required to coordinate the Company's construction of the Ship Unloader and Conveyor System on the Cargo Dock on the schedule to be determined by Authority and Company and their respective Contractors.

(e) As soon as the Authority determines that the Cargo Dock Facilities are Substantially Complete, the Authority shall give the Lessee written notice of this determination (the "***Substantial Completion Notice***"). Lessee agrees to assume full responsibility for operating and managing the Cargo Dock in accordance with the terms and conditions of this Lease beginning at 12:01 a.m. on the following day (the "***Delivery Date***").

(f) As soon as practicable after Authority gives Lessee the Substantial Completion Notice, Authority, in coordination with Lessee, will develop a complete punch list of unfinished items for the Cargo Dock Facilities (the "***Punch List***"). Authorized representatives for Authority and Lessee shall sign the Punch List to indicate their approval thereof, and this Punch List may be amended, as required, to better ensure the Punch List includes all the items required to be performed by the Contractor to complete all work included in the Final Plans and Specifications for the Cargo Dock Facilities. Authority will work with the Contractor to ensure completion of

the Punch List items in a timely fashion. The Lessee will continue to provide access to the Cargo Dock until the Authority's Contractor and subcontractors have completed the Punch List; provided, however, that the Contractor and subcontractors shall not interfere with Lessee's commercial operations. Authority shall require the Authority's Contractor and subcontractors working on the Punch List items to (1) follow all applicable safety rules and regulations, (2) comply fully with Lessee's access program requirements, and (3) comply with other reasonable restrictions imposed by Lessee.

Section 3.04. Construction and Ownership of the Lessee's Original Facilities.

(a) The Lessee will construct the Cement Distribution Terminal Facilities on Tract Two and provide all required utilities to Tract Two with reasonable dispatch in accordance with the general design criteria attached hereto as **Appendix Four**. These Cement Distribution Terminal Facilities will include silos and other facilities for the storage of cement, facilities for loading trucks and railcars with cement, and conveyor systems to move cement to where it is needed within this distribution system. The Lessee will relocate the Authority's security fences, as needed, to accommodate the Cement Distribution Terminal Facilities as generally shown in **Exhibit B**. The Lessee agrees that the railroad tracks will be constructed at grade on existing roadways and within the Leased Premises. The Lessee agrees that the loading equipment and conveyor equipment used in connection with the Lessee's operations at the Cement Distribution Terminal will be closed systems that allow for contained, dust-free loading and transfer operations. The Lessee also agrees that this loading and conveyor equipment will be equipped with technology such that cleanup of residual cargo after completion of a loading operation will also be dust-free.

(b) Upon receipt of the Authority's Notice to Proceed, the Lessee will construct and install the Ship Unloader and Conveyor System on the Cargo Dock and provide the required electrical power and lighting with reasonable dispatch in accordance with the general design criteria attached hereto as **Appendix Three**. The Lessee agrees that this unloading and conveyor equipment will be in a closed system that allows for contained, dust-free unloading and transfer operations. The Lessee also agrees that this unloading and conveyor equipment will be equipped with technology such that cleanup of residual cargo after completion of a vessel unloading operation will also be dust-free.

(c) The Lessee agrees that it will enter into and execute all agreements and contracts necessary to cause the design and construction and installation of the Lessee's Original Facilities as contemplated by this Agreement, and that the Lessee will carry out, pay, supervise and enforce all such agreements and contracts. The Lessee also agrees that it will require its Contractor to provide insurance coverage on and in connection with the construction and installation of the Lessee's Original Facilities as described in **Exhibit D** attached hereto, which will name the Authority and the Lessee as additional insureds on all insurance policies or coverages relating to the construction and installation of the Lessee's Original Facilities.

(d) The Lessee shall pay all costs incurred by the Lessee with respect to the engineering, purchase, construction and installation of the Lessee's Original Facilities on the Leased Premises as provided in its contract with the Contractor for construction and installation of the Lessee's Original Facilities. The Lessee will own the Lessee's Original Facilities, and the Lessee's Original Facilities shall be for the exclusive use of the Lessee and its designees.

(e) The Lessee acknowledges and understands that the construction and installation of the Lessee's Original Facilities and access to the Cargo Dock during the construction and installation of the Lessee's Original Facilities is subject to and must be coordinated with the Authority and with the Design-Build Contractor.

(f) The Lessee acknowledges and understands that the Lessee will be responsible for obtaining the appropriate State of Texas air authorizations or permits for the Lessee's Ship Unloader and Conveyor System and the Lessee's Cement Distribution Terminal Facilities. The Lessee will cooperate with particulate matter air monitoring when fugitive dust concerns exist around the Leased Premises, including but not limited to payment for and installation of perimeter air monitors that alert based on measured results.

Section 3.05. Overhead Conveyor System

Lessee will construct a fully enclosed conveyor system in the Overhead Conveyor Easement ("**Overhead Conveyor System**") that will transport cement from the Ship Unloader and Conveyor System to the Cement Distribution Terminal Facilities. The Overhead Conveyor System must be constructed with a minimum vertical clearance of 26'. The minimum horizontal clearance to support structures as well as location and size of foundations for the Overhead Conveyor System must provide enough clearance to ensure the support structures and foundations do not interfere with port-related infrastructure and operations, including utility lines, pipeline corridors, railroad tracks, roadways, and the like. The final design must be approved by the Authority's Director of Engineering. Conveyor supports may be constructed within the Overhead Conveyor Easement, where approved by the Authority, and in the general location(s) shown in **Exhibit B**. Lessee will construct and maintain the Overhead Conveyor System to whatever degree necessary to prevent spillage in and along the Overhead Conveyor Easement.

Section 3.06. Capital Recovery Fee and Letter of Credit

(a) As a material inducement for the Authority to enter into this Agreement and construct the Cargo Dock Facilities, Lessee hereby agrees to pay, or cause to be paid, to the Authority an amount equal to (i) the Actual Total Project Cost, less (ii) the Excess Other Project Costs, if any (said amount being referred to herein as the "**Capital Recovery Fee**"). Lessee shall pay, or cause to be paid, the Capital Recovery Fee to the Authority in two installments as described in subsections (d) and (f) of this Section 3.06.

(b) On or before 5:00 P.M. Central Time on the fifth (5th) Business Day after the Port Commission approves the Design-Build Contract (the "**LC Delivery Deadline**"), the Company shall provide Authority with an irrevocable direct pay standby letter of credit (the "**Initial Letter of Credit**") in the amount of the Maximum Design-Build Contract Price, to secure the Company's obligation to pay, or cause to be paid, the Capital Recovery Fee. Notwithstanding anything to the contrary in this Agreement, if the Company fails to deliver the Initial Letter of Credit to the Authority by the LC Delivery Deadline, this Lease shall terminate and be of no further force and effect, and neither Party shall have any further liability to the other Party as a result of this Lease.

(c) The Lessee hereby authorizes the Authority to seek payment of the Capital Recovery Fee under the Capital Recovery Letter of Credit in accordance with the terms of this Lease and the Capital Recovery Letter of Credit. As long as the Capital Recovery Letter of Credit is in effect and the Issuer is not in default thereunder, the Lessee's obligation to pay the Capital Recovery Fee shall be satisfied solely from payments made by the Issuer pursuant the Capital Recovery Letter of Credit. Amounts drawn by the Authority under the Capital Recovery Letter of Credit shall be credited against the Capital Recovery Fee.

(d) The first installment of the Capital Recovery Fee shall equal ninety percent (90%) of the Maximum Design-Build Contract Price ("**First Installment Payment**"). Within fifteen (15) days after the Delivery Date, the Authority will draw upon the Capital Recovery Letter of Credit an amount equal to the First Installment Payment and apply the proceeds thereof to the Capital Recovery Fee. The Authority will notify Lessee when the First Installment Payment has been made. Should the Authority be unable to draw the full amount of the First Installment Payment on the Capital Recovery Letter of Credit for any reason, the Authority will immediately notify Lessee of the unpaid portion of the First Installment Payment and the Lessee shall pay this amount to the Authority on or before the tenth (10th) day after receiving the Authority's notice.

(e) As soon as practicable after making the final payment due under the Design-Build Contract for the Cargo Dock Facilities, the Authority will provide the Lessee with a statement ("**Final Statement**") showing the (i) Actual Total Cost of the Cargo Dock Facilities, (ii) the Excess Other Project Costs, if any, (iii) the Capital Recovery Fee, and (iv) the amount by which the Capital Recovery Fee exceeds the First Installment Payment.

(f) The second installment of the Capital Recovery Fee shall equal the amount by which the Capital Recovery Fee exceeds the First Installment Payment ("**Second Installment Payment**"). Within fifteen (15) days after submitting the Final Statement to Lessee, the Authority will draw upon the Capital Recovery Letter of Credit an amount equal to the Second Installment Payment or the remaining balance of the Capital Recovery Letter of Credit, whichever is less, and apply the proceeds thereof to the Capital Recovery Fee. Should the Authority be unable to draw the full amount of the Second Installment Payment on the Capital Recovery Letter of Credit for any reason, the Authority will immediately notify Lessee of the unpaid portion of the Second Installment Payment and the Lessee shall pay this amount to the Authority on or before the tenth (10th) day after receiving the Authority's notice.

(g) The Company acknowledges and agrees that the Authority would not enter into this Agreement without the Company's agreement to pay, or cause to be paid, the Capital Recovery Fee to the Authority in accordance with this Section 3.06.

(h) If this Lease or Lessee's right to possession of the Leased Premises terminates or if an Event of Default by the Lessee shall occur under Section 14.01(4) or Section 14.01(5) before Lessee has paid the Capital Recovery Fee in full, the Authority shall draw upon the Capital Recovery Letter of Credit as soon as practicable thereafter an amount equal to the unpaid balance of the Capital Recovery Fee and apply the proceeds thereof to the Capital Recovery Fee. Should the Authority be unable to draw an amount on the Capital Recovery Letter of Credit sufficient to pay the remaining balance of the Capital Recovery Fee, the Authority will immediately notify Lessee of the unpaid portion of the Capital Recovery Fee and the Lessee

shall pay this amount to the Authority on or before the tenth (10th) day after receiving the Authority's notice.

(i) In the event that the Lessee desires to substitute an irrevocable standby letter of credit, which is not a direct pay letter of credit, for the Capital Recovery Letter of Credit, the Parties in good faith shall negotiate an amendment to the Lease Agreement to provide for the substitution.

Section 3.07. Capital Recovery Letter of Credit.

(a) The Company shall maintain the Capital Recovery Letter of Credit in full force and effect until the day after the Capital Recovery Fee has been paid in full. The Authority shall promptly return the Letter of Credit to Company on the day after the date on which the Capital Recovery Fee has been paid in full, if the full amount of credit available under the Capital Recovery Letter of Credit has not been drawn.

(b) The Capital Recovery Letter of Credit shall be in the form of an irrevocable direct pay standby letter of credit (i) in form and content reasonably satisfactory to Authority, (ii) with an expiration date that is not less than one year from the date of its issuance, (iii) expressly allowing the Authority to draw upon it at any time, in whole or in part, by delivering to the issuer notice that the Authority is entitled to draw on it pursuant to Section 3.06(d), 3.06(f), 3.06(h), or 3.08, as the case may be, (iv) issued by commercial bank reasonably satisfactory to the Authority, which is insured by the Federal Deposit Insurance Corporation and whose long-term, unsecured and unsubordinated debt obligations are rated Investment Grade, and (v) with an "evergreen" provision that provides that it is automatically renewed on an annual basis unless the Issuer delivers sixty (60) days' prior written notice of cancellation to Authority and Company. Any and all fees or costs charged by the issuer in connection with the Letter of Credit shall be paid by Company.

(c) Lessee expressly acknowledges and agrees that: (i) the Capital Recovery Letter of Credit constitutes a separate and independent contract between the Authority and Issuer, and Lessee has no right to submit a draw to Issuer under the Capital Recovery Letter of Credit; (ii) Lessee is not a third-party beneficiary of such contract, and the Authority's ability to either draw under the Capital Recovery Letter of Credit for the full or any partial amount thereof or to apply Draw Proceeds may not be conditioned, restricted, limited, altered, impaired or discharged in any way by virtue of any laws to the contrary, including, without limitation, any laws which restrict, limit, alter, impair, discharge or otherwise affect any liability that Lessee may have under this Lease or any claim that the Authority has or may have against Lessee; (iii) Lessee's rights and obligations in connection with the Capital Recovery Letter of Credit and any Draw Proceeds are as specified in this Section, and neither the Capital Recovery Letter of Credit nor any Draw Proceeds will be or become the property of Lessee, and Lessee does not and will not have any property right or interest therein; (iv) Lessee is not entitled to any interest on any Draw Proceeds; (v) neither the Capital Recovery Letter of Credit nor any Draw Proceeds constitute an advance payment of any Lease Payments, security deposit or rental deposit; (vi) neither the Capital Recovery Letter of Credit nor any Draw Proceeds constitute a measure of the Authority's damages resulting from any Draw Event, Default or other breach, failure or default (past, present or future) under this Lease; and (vii) Lessee will cooperate with the Authority, at Lessee's own

expense, in promptly executing and delivering to the Authority all modifications, amendments, renewals, extensions and replacements of the Letter of Credit, as the Authority may reasonably request to carry out the terms and conditions of this Section 3.07.

(d) Lessee hereby irrevocably waives any and all rights and claims that it may otherwise have at law or in equity, to contest, enjoin, interfere with, restrict or limit, in any way whatsoever, any requests or demands by the Authority to Issuer for a draw or payment to the Authority under the Capital Recovery Letter of Credit which conform to the requirements set forth herein. If Lessee, or any person or entity on Lessee's behalf or at Lessee's direction, brings any proceeding or action to contest, enjoin, interfere with, restrict or limit, in any way whatsoever, any one or more draw requests or payments under the Capital Recovery Letter of Credit and the proceeding or action is decided adversely to Lessee, Lessee will be liable for any and all direct and indirect damages resulting therefrom or arising in connection therewith, including, without limitation, reasonable attorneys' fees and costs.

Section 3.08. Additional Rights to Draw on Capital Recovery Letter of Credit.

In addition to its right to draw down on the Capital Recovery Letter of Credit in accordance with Section 3.06(d), Section 3.06(f), and Section 3.06(h) of this Agreement, the Authority shall have the right to draw on the Capital Recovery Letter of Credit the whole amount available for drawing thereunder in any of the following circumstances: (i) if the credit rating of the long-term, unsecured and unsubordinated debt obligations of the issuer of the Capital Recovery Letter of Credit is downgraded below Investment Grade and, in such case, Company fails to deliver to Authority a replacement Capital Recovery Letter of Credit complying with the terms of this Agreement within thirty (30) Business Days of a request therefor from Authority; (ii) the issuer of the Capital Recovery Letter of Credit enters into any supervisory agreement with any governmental authority such that Authority reasonably believes that Authority will not be able to draw on the Capital Recovery Letter of Credit in accordance with its terms, or the issuer of the Capital Recovery Letter of Credit fails to meet any capital requirements imposed by applicable law, and, as a result, Authority reasonably believes that Authority will not be able to draw on the Capital Recovery Letter of Credit in accordance with its terms, and, in any such case Company fails to deliver to Authority a replacement Capital Recovery Letter of Credit complying with the terms of this Agreement within thirty (30) Business Days of a request therefor from Authority; or (iii) if Company fails to provide Authority with any renewal or replacement Capital Recovery Letter of Credit complying with the terms of this Agreement at least thirty (30) Business Days prior to expiration of the then current Capital Recovery Letter of Credit, where the issuer of such Letter of Credit has advised Authority of its intention not to renew the Capital Recovery Letter of Credit. In the event the Capital Recovery Letter of Credit is drawn upon due solely to the circumstances described in the foregoing clauses (i), (ii) or (iii), the amount drawn shall be credited against the Capital Recovery Fee and the remaining amount of the Draw Proceeds, if any, shall be credited against the Lease Payments next due.

**ARTICLE 4
LEASE PAYMENTS, UTILITIES AND TAXES**

Section 4.01. Monthly Base Rent During the Construction Period

During the Construction Period, Lessee shall pay to the Authority a Monthly Base Rent equal to one-twelfth (1/12th) of the product of (i) the number of acres in the Leased Premises on the Effective Date, multiplied by (ii) Twenty Thousand Dollars (\$20,000). The Monthly Base Rent shall be paid on the first day of each calendar month during the Construction Period.

Section 4.02. Annual Base Rent During the Initial Term

(a) For the First Lease Year of the Initial Term, Lessee shall pay to Authority an Annual Base Rent equal to the product of (i) the number of acres in the Leased Premises on the first day of the First Lease Year, multiplied by (ii) ten percent (10%) of the Equalization Value of the Land per acre for the Initial Period as stated in Section 4.04(a).

(b) For each Lease Year of the Initial Term after the First Lease Year of the Initial Term, Lessee shall pay to Authority an Annual Base Rent equal to the product of (i) the Annual Base Rent for the prior Lease Year, multiplied by (ii) the Annual CPI Adjustment Factor for the current Lease Year.

(c) The Annual Base Rent for each Lease Year during the Initial Term shall be paid in equal monthly installments of one-twelfth (1/12th) of the Annual Base Rent for such Lease Year and shall be paid on the first (1st) day of each calendar month during such Lease Year, in advance, commencing on the first (1st) day of such Lease Year.

Section 4.03. Annual Base Rent During Each Extension Period

(a) The Annual Base Rent for the first Lease Year of each Extension Period shall be determined as follows:

(1) If the Authority causes the Equalization Value of the Land to be redetermined for an Extension Period in accordance with Section 4.04, the Annual Base Rent for the first Lease Year of such Extension Period will equal to the product of (i) the number of acres in the Leased Premises on the first day of this first Lease Year, multiplied by (ii) ten percent (10%) of the Equalization Value of the Land per acre for such Extension Period as determined in accordance with Section 4.04(b).

(2) If the Authority does not cause the Equalization Value of the Land to be redetermined for an Extension Period in accordance with Section 4.04, the Annual Base Rent for the first Lease Year of such Extension Period will equal the product of (i) the Annual Base Rent for the prior Lease Year, multiplied by (ii) the Annual CPI Adjustment Factor for the first Lease Year of such Extension Period.

(b) For each Lease Year of an Extension Period after the first Lease Year of such Extension Period, Lessee shall pay to Authority an Annual Base Rent equal to the product of (i) the Annual Base Rent for the prior Lease Year, multiplied by (ii) the Annual CPI Adjustment Factor for the current Lease Year.

(c) The Annual Base Rent for each Lease Year during an Extension Period shall be paid in equal monthly installments of one-twelfth (1/12th) of the Annual Base Rent for such Lease Year and shall be paid on the first (1st) day of each calendar month during such Lease Year, in advance, commencing on the first (1st) day of such Lease Year.

Section 4.04. Equalization Value of the Land

(a) The “*Equalization Value of the Land*” or “*Equalization Value*” means the approximate fair market value per acre of the Land (without this Lease or any improvements made to the Land after the Effective Date) as determined by or on behalf of the Authority from time to time. Lessee acknowledges and agrees that the Land was an improved, heavy-duty cargo storage yard on the Effective Date. The Equalization Value of the Land for the Construction Period and the Initial Term has been fixed at Four Hundred Thousand Dollars (\$400,000) per acre.

(b) Authority may determine the Equalization Value of the Land with respect to each Extension Period in accordance with the following procedures:

(1) To determine the Equalization Value of the Land with respect to an Extension Period, the Authority must give Lessee written notice of its good faith estimate of the current fair market value per acre of the Land (without this Lease or any improvements made to the Land after the Effective Date) at least ninety (90) days prior to the beginning of such Extension Period. Unless Lessee objects to the Authority’s proposed Equalization Value of the Land with respect to an Extension Period as provided herein, the Equalization Value of the Land for such Extension Period shall be Authority’s proposed Equalization Value.

(2) If Lessee is not notified of a new Equalization Value of the Land with respect to an Extension Period at least ninety (90) days before the beginning of such Extension Period, it shall be conclusively presumed that Authority has waived its right to determine the Equalization Value of the Land with respect to that Extension Period.

(3) In the event Lessee does not agree with the Authority’s proposed Equalization Value of the Land for an Extension Period, Lessee shall have the option, to be exercised in writing to Authority within ten (10) days after the date notice is received by the Lessee of the proposed Equalization Value, to request that the Equalization Value of the Leased Premises for such Extension Period be determined by appraisal as provided in this subsection (b).

(4) If Lessee asks to have the Equalization Value of the Land determined by appraisal, within ten (10) days after such request, the Authority and the Lessee will agree on a Qualified MAI Appraiser to prepare a written appraisal establishing the Equalization Value of the Land. The Parties shall each pay one-half (1/2) of the cost of the appraisal.

(5) The selected appraiser will have thirty days (30) from retention to determine the Equalization Value of the Land (without this Lease or any improvements made to the Land after the Effective Date) for the applicable Extension Period, and the Equalization Value of the Land for such Extension Period shall be the Equalization Value determined by the appraiser, and the appraiser's decision will be final and binding on the Parties to this Lease Agreement.

(6) For a period of ten (10) days after the later of (i) the date that the Authority delivers its good faith estimate of the current fair market value per acre of the Land, and (ii) the date the Lessee receives a written report from the selected appraiser, Lessee shall have the option to terminate this Lease Agreement and surrender the Leased Premises effective at Midnight, Central Time, on the day before the beginning of the applicable Extension Period

Section 4.05. Variable Monthly Rent

(a) Lessee agrees to pay to Authority a variable monthly rent (the "***Variable Monthly Rent***") for the Leased Premises for each calendar month during the Term of the Lease following the Commencement Date, including the calendar month that begins on the Commencement Date. The Variable Monthly Rent is in addition to the Annual Base Rent. The Variable Monthly Rent for each calendar month shall equal the sum of the following amounts:

(1) the product of (A) the total number of tons of Dry Bulk Cargo transported into the Leased Premises during such month by railcars, trucks, or other means of ground transportation LESS the total number of tons of Dry Bulk Cargo loaded onto Vessels by or on behalf of Lessee during such month at the Cargo Dock, multiplied by (B) the Authority's Wharfage Rate on Dry Bulk Cargo in effect on the first day of such month.

(2) \$100.00 for each railcar of Dry Bulk Cargo unloaded by or on behalf of Lessee during such month while spotted on a spur track on the Leased Premises or an Authority-owned sidetrack adjacent to the Leased Premises. On the fifth anniversary of the Completion Date and on the first day of each Extension Period, this \$100 fee will be increased by the same percentage the CPI has increased during the preceding five-year period; and

(3) \$25.00 for each truck of Dry Bulk Cargo unloaded on the Leased Premises during such month. On the fifth anniversary of the Completion Date and on the first day of each Extension Period, this \$25 fee will be increased by the same percentage the CPI has increased during the preceding five-year period.

(b) The Variable Monthly Rent for each calendar month shall be due and payable on or before the last day of the following calendar month.

(c) Lessee understands and agrees that the security surcharge published in the Authority's Tariff will apply to the portion of the Variable Monthly Rent that is based on the

number of tons of Dry Bulk Cargo transported into the Leased Premises by railcars, trucks, or other means of ground transportation as if that portion of the Variable Monthly Rent was Wharfage payable under the Authority's Tariff.

(d) Lessee must report in writing monthly to Authority the number of tons of Dry Bulk Cargo transported into the Leased Premises during the prior month by railcars, trucks, or other means of ground transportation. Lessee must also report in writing monthly to Authority (i) the number of railcars of Dry Bulk Cargo unloaded during the prior month while spotted on a spur track on the Leased Premises or an Authority-owned sidetrack adjacent to the Leased Premises, and (ii) the number of trucks of Dry Bulk Cargo unloaded on the Leased Premises during such month. Lessee shall keep and maintain a complete and accurate set of books and records showing all of the foregoing information (in both electronic and hard copy form) in order that the Authority may ascertain therefrom what rentals are due to the Authority from Lessee hereunder, and such books and records shall be subject to the inspection of the Authority, its agents and attorneys, at any and all reasonable times during normal hours of business operations. Lessee shall also provide the Authority with copies of this information upon request and shall maintain the information for any calendar month for at least two years after the end of such month.

(e) The covenants of this Section 4.05 are material to this Lease, and should Lessee fail to satisfy such covenants, after written notice to Lessee and thirty (30) days to cure, Authority may terminate this Lease Agreement.

Section 4.06. Wharfage Deficit Payments for Insufficient Actual DBC Throughput

(a) Lessee guarantees that the Actual DBC Throughput for each Lease Year will equal or exceed the Minimum Guaranteed DBC Throughput for that Lease Year.

(b) If the Actual DBC Throughput for any Lease Year is less than the Minimum Guaranteed DBC Throughput for that Lease Year, Lessee agrees to make a Wharfage Deficit Payment to the Authority within sixty (60) days after the end of such Lease Year equal to the product of (A) the number of Tons by which the Minimum Guaranteed Throughput for such Lease Year exceeds the Actual DBC Throughput for such Lease Year, multiplied by (B) the Authority's Wharfage Rate for Dry Bulk Cargo on the last day of such Lease Year. Lessee agrees to make the Wharfage Deficit Payments described in this Section 4.06 as a material inducement for the Authority to enter into this Lease Agreement and construct the Cargo Dock Facilities.

(c) Lessee shall keep and maintain a complete and accurate set of books and records showing all of the foregoing information in order that the Authority may ascertain therefrom the amount of any Wharfage Deficit Payment payable to the Authority hereunder, and such books and records shall be subject to the inspection of the Authority, its agents and attorneys, with three (3) days' prior written notice during normal hours of business operations.

Section 4.07. Late Payment Penalties

If Lessee should fail to pay Authority any sum to be paid by Lessee to Authority hereunder within thirty (30) days after such payment is due, interest on the unpaid amount shall accrue at a rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is less, from the date payment was due until the date payment is made. Failure to pay such interest within thirty (30) days after Lessee's receipt of written demand shall be an event of default hereunder. Following the dishonor of any check presented for payment, Authority shall have the right, at Authority's option, to require all further payments to be made by certified check or wire transfer. For purposes of this Section, any adjustment payment made by Lessee to correct a prior underpayment shall be treated as due on the date such underpayment was due.

Section 4.08. Place of Payment

All payments of Annual Base Rent and any other payments required to be made by Lessee to Authority hereunder shall be (i) made by electronic transfer to an account to be designated by Authority, (ii) delivered to the Authority's administrative offices at 222 Power Street, Corpus Christi, Texas, or such other physical address as Authority may designate from time to time, or (iii) mailed to Authority, Attention: Executive Director, P.O. Box 1541, Corpus Christi, Texas 78403, or at such other mailing address as Authority shall designate in writing. All payments of Annual Base Rent and any other payments required to be made by Lessee to Authority hereunder must be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset, except as otherwise provided herein.

Section 4.09. Net Lease

Authority and Lessee do each state and represent that it is their respective intention that this Lease be interpreted and construed as a net lease and that all Lease Payments shall be paid by Lessee without abatement, deduction, diminution, deferment, suspension, or set off.

Section 4.10. Utilities, Securities and Other Services

(a) Lessee agrees to pay when due all charges it incurs for the following services to the Leased Premises: (i) water, gas, electricity, and any other utilities, (ii) garbage service, (iii) security or guard services, (iv) railroad services in connection with the Leased Premises, and (v) firefighting services provided by the Refinery Terminal Fire Company and/or the City of Corpus Christi Fire Department in response to fires at the Leased Premises or on vessels docked at or adjacent to the Leased Premises. Authority will not furnish any of these services to Lessee except pursuant to a separate written agreement between the Parties. If at Lessee's request or because of Lessee's failure to pay for services to the Leased Premises Lessee has contracted for, Authority (following written notice to Lessee and an opportunity to cure for at least thirty (30) days after such notice) provides any such services to the Leased Premises or pays the cost for any such services, Lessee will pay to Authority the cost of such services as additional rent upon receiving Authority's invoice. Payment shall be made pursuant to the terms of said invoice.

(b) Lessee will provide, at its expense, security or guard services for the Leased Premises. Lessee and its security employees or contractor will cooperate with Authority's Port

Police Department, and will comply, to the extent applicable, with the requirements of Authority's Tariff Item 669 or as Item 669 may appear in a replacement of Authority's Tariff.

(c) If a utility provider requires an easement across the Authority's property in order to provide utility services to the Leased Premises, the Authority agrees to grant the easement upon the provider's or Lessee's request, as long as the location of requested easement will not interfere with the current or intended use of the property.

Section 4.11. Taxes

(a) During the Term of this Lease, Lessee must pay or cause to be paid when due all taxes, assessments, fees or charges imposed on the Lessee Facilities on the Leased Premises by virtue of Lessee's tenancy or upon Lessee's property on the Leased Premises or upon Lessee's leasehold interest in the Leased Premises. Lessee may also be required to pay ad valorem taxes on the value of lessee's interest in the leasehold estate created by this Lease under certain circumstances.

(b) Lessee may, at its expense, contest any tax, assessment, fee or charge for which it is responsible under this Section. Except as provided in Section 4.11(c), Lessee need not pay the tax, assessment, fee or charge while the contest is pending. Except as provided in Section 4.11(c), Lessee may prevent Authority from paying any tax, assessment, fee or charge that Lessee is contesting under this Section, pending resolution of the contest, by depositing with Authority the full amount of the tax, assessment, fee or charge plus the amount of any penalty that might be imposed for failing to make timely payment and one (1) year of interest at the rate imposed by the entity levying the tax, assessment, fee or charge (the "***Tax Protest Deposit***"). When the contest is resolved, Lessee must pay the tax, penalty and interest imposed and may use the Tax Protest Deposit to pay any tax, assessment, fee or charge, plus any penalty or interest, due under the final resolution and keep any balance of the Tax Protest Deposit. If the Tax Protest Deposit is insufficient to pay these amounts, Lessee must immediately pay the balance due to the entity imposing the tax, assessment, fee or charge. In all cases of a tax protest, the Tax Protest Deposit is the property of Lessee and the Authority shall hold the Tax Protest Deposit in escrow for the benefit of Lessee and release the monies as directed by Lessee at any time.

(c) Notwithstanding the provisions of Section 4.11(b), Authority may pay – or require Lessee to pay – any tax, assessment, fee or charge for which Lessee is responsible under this Section, pending resolution of Lessee's contest of the tax, assessment, fee or charge, if payment is demanded by a holder of a mortgage on the Leased Premises or if failing to pay will subject all or part of the Leased Premises to forfeiture or loss.

(d) Any of said taxes, fees or charges that are payable by Lessee for the tax year in which the Term of this Lease begins, as well as during the year in which this Lease Agreement expires or is terminated, shall be apportioned so that Lessee shall pay its proportionate share of the taxes, fees or charges for such periods of time. Lessee may pay such taxes, fees or charges in installments as and when such installments become due. Lessee must deliver to Authority evidence of payment of all taxes, fees or charges, which Lessee is obligated to pay hereunder concurrently with making such payment.

Section 4.12. Additional Charges

All taxes payable by Lessee pursuant to Section 4.11, insurance premiums payable by Lessee pursuant to **Exhibit F**, insurance deductibles payable pursuant to Section 10.03, utility charges payable by Lessee pursuant to Section 4.10, reimbursement for removing Removable Lessee Facilities payable by Lessee pursuant to Section 12.02(a), reimbursement for environmental cleanup and mitigation payable by Lessee pursuant to Sections 18.02(d) and 18.02(e), and all other costs, fees, charges, expenses, reimbursements and obligations of every kind and nature whatsoever relating to the Leased Premises which are payable by Lessee under the terms of this Agreement, which may arise or become due during the Term, or by reason of events then occurring, shall be paid or discharged by Lessee as additional payment obligations hereunder (together, “*Additional Charges*”). **Lessee shall indemnify, defend and save the Authority Parties harmless from and against any and all loss, cost or damage, including, without limitation, reasonable attorneys' fees, incurred or sustained by any of them as a result of the failure of Lessee to timely and fully pay all such Additional Charges due and payable.**

Section 4.13. Fees Payable under Authority’s Tariff

Although not part of the Lease Payments required under this Lease, Lessee acknowledges, understands and agrees to pay the Authority’s wharfage fees on all Dry Bulk Cargo moving across the Cargo Dock, the Authority’s dockage fees on all Vessels berthed or layberthed at the Cargo Dock or adjacent to a Vessel berthed or layberthed at the Cargo Dock, the Authority’s security surcharge on all wharfage and dockage, and all other Authority charges applicable to the Cargo Dock or business being conducted at the Cargo Dock under the Authority’s Tariff, as amended from time to time, for which the Lessee is responsible under the Authority’s Tariff. Lessee understands and agrees that a failure to pay any amounts due by Lessee under the Authority’s Tariff, within the time periods described in the Authority’s Tariff shall constitute a breach of this Lease.

ARTICLE 5 USE OF CARGO DOCK FACILITIES AND LEASED PREMISES

Section 5.01. Permitted and Prohibited Uses

(a) The Leased Premises may be used for the following uses (which are collectively referred to in this Lease Agreement as the “*Permitted Uses*”):

(1) Tract One and the Cargo Dock may be used for the installation and operation of the Company’s Ship Unloader and Conveyor System and related equipment for unloading dry bulk vessels transporting cement to the Cargo Dock destined for the Cement Terminal Facilities;

(2) Tract Two may be used for developing, constructing, operating and maintaining the Cement Terminal Facilities and supporting offices (“*Lessee’s Offices*”); receiving, handling, and transporting Lessee’s bulk cement products to regional markets by rail transport via the Authority’s rail road infrastructure; and transporting Lessee’s

bulk cement products to local markets by truck via the Authority's Joe Fulton International Trade Corridor; and

(3) The Cargo Dock may be used as a temporary layberth in accordance with Section 5.03.

(b) Lessee will not use the Leased Premises for any purpose other than the Permitted Uses without the express prior written consent of the Authority, which may be given or withheld by the Authority's Port Commission in its sole discretion. The foregoing restriction shall not prohibit the transport of any materials to or from the Leased Premises for the construction, operation, maintenance, and repair of any of the Lessee Facilities.

(c) Lessee will not use, occupy or permit the use or occupancy of the Leased Premises for any purpose or in any manner which violates: (i) orders, injunctions, writs, statutes, rulings, rules, regulations, directives, permits, certificates or ordinances of any Governmental Authority applicable to Lessee or the Leased Premises, including zoning, environmental and utility conservation matters; (ii) Authority's Tariff; (iii) applicable insurance requirements; or (iv) the Permitted Encumbrances.

(d) The Parties agree that neither Party will voluntarily permit any portion of the Leased Premises to be used for the purpose of drilling an oil or gas well, and Authority acknowledges that the drilling of any oil or gas well on the surface of the Leased Premises would interfere with and be injurious to Lessee's proposed use or uses of the Leased Premises for industrial purposes.

(e) Lessee hereby represents and warrants to Authority that Lessee's construction, occupancy, operation or use of the Leased Premises will be and remain in compliance with Applicable Laws in all material respects.

Section 5.02. Rights of Authority to Access the Leased Premises

Authority reserves the right, subject to Lessee's consent, not to be unreasonably withheld, to install, maintain, inspect and repair gas lines, water lines, sewer lines, pipelines, power transmission lines, conduit, fiber optic cable, and related poles and attachments on the perimeter of the Leased Premises and in other locations within the Leased Premises, which do not interfere (in Lessee's sole but reasonable opinion) with Lessee's intended use of the Leased Premises. Authority also reserves the right, subject to Lessee's consent, not to be unreasonably withheld, to grant easements and rights of way on the perimeter of the Leased Premises and in other locations within the Leased Premises, which do not interfere (in Lessee's sole but reasonable opinion) with Lessee's intended use of the Leased Premises, for gas lines, water lines, sewer lines, pipelines, power transmission lines, conduit, fiber optic cable, and related poles and attachments. The locations of any such lines or easements or rights of way shall be subject to Lessee's prior written approval, in its sole but reasonable discretion, provided in no event shall Lessee be required to approve any location that shall or may interfere with Lessee's intended use of the Leased Premises. Authority has the right to use third parties for the performance of the rights reserved to Authority in this Section, provided Authority shall cause such third party contractors

to (1) follow all applicable safety rules and regulations, (2) comply with Lessee's access program requirements including insurance, and (3) comply with other reasonable restrictions imposed by Lessee.

Section 5.03. Mooring of Vessels

Only vessels (not to exceed the design limitations of the Cargo Dock Berth as shown on **Appendix Two**) being loaded or unloaded by Lessee may be moored along the water frontage of the Cargo Dock. Mooring non-commercial ships of third-parties (unrelated to Lessee's operations or unaffiliated with Lessee), including pleasure craft and houseboats, is prohibited. Notwithstanding anything to the contrary contained in this Section 5.03, Lessee may sublease the Cargo Dock as a layberth for a period of no more than a week at a time for such rental payments as Lessee see fit; provided, however, that Lessee agrees not to market the Cargo Dock as a layberth or solicit layberth business.

Section 5.04. Laborers and Materials

Lessee will pay for all labor and services performed for, materials used by, or furnished to, any Contractor employed by Lessee with respect to the Leased Premises and defend, indemnify and hold Authority and the Leased Premises harmless and free from any liens, claims, encumbrances or judgments created or suffered by Lessee's failure to pay for labor or materials provided to the Leased Premises at the direction of Lessee or any Contractor employed by Lessee. If Lessee elects to post a payment or performance bond or is required to post an improvement bond with a public agency in connection with such labor, services or materials, Lessee agrees to include Authority as an additional obligee thereunder.

Section 5.05. Building Code

All of the Lessee Facilities must comply with all applicable building codes and the provisions of the Port of Corpus Christi Authority Design and Construction Guidelines found in the current Port of Corpus Christi Authority Project Manual, which may be obtained from Authority's Department of Engineering Services and which are applicable to all of the Authority's tenants. In instances where applicable building codes and the Port of Corpus Christi Authority Project Manual do not agree, the more stringent standard will apply.

Section 5.06. Side Yard Limits

None of the Lessee Facilities, other than fences, may be constructed within five (5) feet of the boundary of the Leased Premises except upon the express written consent of Authority.

Section 5.07. Signs

Except as may be required by Applicable Law, Lessee may not place any signs at or on the Leased Premises nor paint any signs on any building on the Leased Premises unless first approved in writing by the Authority's Chief Operating Officer, which approval shall not be unreasonably denied, delayed or conditioned. Lessee must remove all its signs when this Lease

Agreement expires or terminates and repair any damage resulting from erecting or removing the signs.

Section 5.08. Floodplain

Lessee acknowledges that Lessee has been advised by Authority that the Leased Premises is in the currently effective FEMA 100-year floodplain and that construction of improvements on the Leased Premises must conform to Applicable Laws pertaining to construction of Lessee Facilities in a floodplain.

Section 5.09. Permits

Lessee must obtain and maintain in effect at all times during the Term of this Lease Agreement all permits, licenses, permissions, authorizations, and consents required by Applicable Environmental Laws and/or necessary for the construction, installation, maintenance, use and operation of the Lessee Facilities and Lessee's use and occupancy of, and operations at, the Leased Premises. Lessee shall provide the Authority's Director of Environmental Planning & Compliance with copies of all permits Lessee receives from the Department of Army, the Texas Commission on Environmental Quality, or any other federal, state or other governmental agency in connection with the Lessee's construction of Lessee Facilities or Lessee's operations on the Leased Premises.

Section 5.10. Storm Sewers and Railroad Spur Tracks

Lessee agrees to construct or to pay for the construction of (1) storm sewers required by Lessee to drain the Leased Premises, and (2) railroad spur tracks requested by Lessee, and approved by Authority (which approval shall not be unreasonably denied, delayed or conditioned), to serve the Leased Premises. Lessee will be responsible for maintenance of any Authority-owned or Lessee-owned railroad trackage and bedding on the Leased Premises and Rail Access Easement during the Term of the Lease. Lessee understands that the Rail Access Easement is crossing Navigation Blvd and Lessee will install railroad tracks at grade with the road. Lessee agrees to install railroad signs and provide adequate safety measures when using the railroad tracks for indexing cars and moving railcars in and out of the Leased Premises.

ARTICLE 6

NEW IMPROVEMENTS AND ALTERATIONS OF CARGO SHIP FACILITIES

Section 6.01. Approval of New Lessee Facilities

(a) With the approval of the Authority in accordance with this Section 6.01, Lessee shall be permitted to construct such additional improvements on the Leased Premises after the Commencement Date as it deems necessary or desirable in connection with the uses of the Leased Premises permitted in this Lease Agreement (collectively, the "***New Lessee Facilities***"), provided these improvements do not interfere with or substantially modify the Cargo Dock Facilities. Any New Lessee Facilities will be owned by Lessee during the Term of this Lease.

(b) Lessee must submit to Authority plans (the “**Plans**”) for any New Lessee Facilities and they must be approved in writing by the Director of Engineering Services of Authority prior to the commencement of construction of the same, which approval shall not be unreasonably denied, delayed or conditioned. To facilitate the Authority’s review, two (2) sets of formal plans that clearly define the New Lessee Facilities must be submitted to Authority for its prior approval. The drawings must be prepared on a standard engineering format (24” x 36” drawings) and in an electronic file format acceptable to the Authority and show all physical features and improvements in and around the project site and must be signed and sealed by a Professional Engineer registered in the State of Texas. In addition, a detailed site plan (minimum 1" = 50' scale) depicting the location and physical layout of the New Lessee Facilities must be submitted to the Authority. The Authority will respond to the request for review of the Plans within thirty (30) Business Days after submittal. The Authority may take no exception to the Plans, take no exception subject to comments, request additional information, or disapprove the Plans. The final Plans as accepted by the Authority are referred to herein as the “**Approved Plans.**” The Authority’s acceptance of Approved Plans for New Lessee Facilities may never be construed as representing or implying that the New Lessee Facilities are properly designed.

(c) Lessee shall provide the Authority’s Director of Environmental Planning & Compliance with copies of all permits Lessee receives from the Department of Army, the Texas Commission on Environmental Quality, or any other federal, state or other governmental agency in connection with the construction or operation of the New Lessee Facilities.

(d) No approval by Authority of Lessee's designs, site plans, plans, specifications or other matters may ever be construed as representing or implying that Lessee's designs, site plans, plans, specifications or other matters will, if followed, result in a properly-designed building or other improvement being constructed on the Leased Premises. Such approvals shall in no event be construed as a representation or guaranty by the Authority that any Lessee Facilities will be built in a workmanlike manner, nor shall such approvals relieve Lessee of its obligation to construct the Lessee Facilities in a workmanlike manner. **Lessee will defend, indemnify, and hold harmless Authority from and against any third party lawsuits, actions, causes of action or claims arising out of Authority's approval of any of Lessee's designs, site plans, plans, specifications or other matters relating to the Leased Premises.**

Section 6.02. Construction of New Lessee Facilities

(a) Lessee shall, at its sole cost and expense, provide all work and materials of whatsoever nature necessary to construct the New Lessee Facilities in accordance with the Approved Plans relating thereto. All New Lessee Facilities shall be constructed promptly and in a good and workmanlike manner and in compliance with Applicable Laws and the Approved Plans.

(b) Lessee shall, at its sole cost and expense, obtain any and all requisite building, construction, zoning and other licenses, variances, permits and approvals relating to the construction of the New Lessee Facilities.

(c) Upon issuance of all necessary permits, Lessee shall promptly undertake the construction of the New Lessee Facilities and diligently prosecute such construction to

completion. The following provisions shall govern the construction of the New Lessee Facilities:

(i) During construction, Lessee shall pay for all electricity, water and other utilities consumed in performing such construction. Lessee shall be responsible for the removal of all construction debris and trash relating to the construction of the New Lessee Facilities.

(ii) All such work shall conform to the applicable statutes, ordinances, laws, codes and governmental regulations. Meter cost fees, tapping, use and capital charges incurred by reason of supplying utilities to the Leased Premises during construction are to be paid by Lessee.

(iii) All of the Contractors performing any such work shall be licensed contractors, capable of performing quality workmanship.

(iv) Lessee shall take all reasonably necessary measures to minimize any damage, disruption or inconvenience in the area of the Leased Premises caused by such construction, and make adequate provision for the safety and convenience of all persons affected thereby. Dust, noise and other effects of such construction shall be controlled using accepted methods customarily utilized in order to control such conditions. Lessee shall not permit dirt, debris, equipment, trash or the like to be located outside of the Leased Premises, except as otherwise agreed to by Authority and Lessee.

(v) Within sixty (60) days after the completion of the work depicted on the Approved Plans, Lessee will provide Authority with one (1) set of As-Built or Record Drawings on a standard engineering format (24" x 36" drawings) and in an electronic file format acceptable to the Authority.

(d) New Lessee Facilities on the Leased Premises may not be constructed nearer than 8.5 feet to the centerline of any existing railroad track on or adjacent to the Leased Premises, except upon the express written approval of Authority.

(e) While constructing or maintaining New Lessee Facilities, or carrying on its activities, on the Leased Premises, Lessee must comply with the *Antiquities Code of Texas* (Texas Natural Resources Code, Chapter 191) and applicable rules promulgated thereunder by the Texas Historical Commission, or its successor. Lessee shall undertake its activities on the Leased Premises in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands. Lessee shall use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or cultural landmarks on the Leased Premises. Upon discovery of an archeological site, Lessee shall immediately give written notice of such discovery to Authority and to the Texas Historical Commission, as set out in the Historical Commission's rules. Lessee, its Contractors and employees, shall have no right, title, or interest in or to any archaeological articles, objects, artifacts, or other cultural resources located or discovered on the Leased Premises.

Section 6.03. Alterations, Improvements and Additions to Cargo Dock Facilities

(a) Lessee shall have no right to and shall not make any alterations, improvements and/or additions to the Cargo Dock Facilities without first obtaining Authority's prior written approval, which shall not be unreasonably withheld. Prior to making any such alterations, improvements or additions, Lessee shall submit to Authority plans and specifications therefor for Authority's prior written approval.

(b) No alterations, improvements or additions to the Cargo Dock Facilities shall be undertaken until Lessee shall have procured and paid for, so far as the same may be required from time to time, all federal, state and local permits and authorizations of the various Governmental Authorities having jurisdiction thereof.

(c) All such alterations, improvements and/or additions to the Cargo Dock Facilities shall be done promptly and in a good and workmanlike manner and in compliance with Applicable Laws. The cost of any such alterations, improvements and/or additions shall be paid by Lessee so that the Leased Premises and all portions thereof shall at all times be free of liens for labor and materials supplied to the Leased Premises, or any portion thereof.

(d) All improvements, additions and alterations to the Cargo Dock Facilities made or installed by Lessee shall immediately, upon completion or installation thereof, become the property of Authority without payment therefor by Authority, and shall be surrendered to Authority on the expiration of the Term (unless the Parties agree to the contrary).

**ARTICLE 7
REPAIRS AND MAINTENANCE OF CARGO DOCK FACILITIES**

Section 7.01. Repairs and Maintenance of the Lessee Facilities

(a) At Lessee's sole cost and expense throughout the Term, Lessee shall take good care of the Lessee Facilities and shall keep the same in good order, condition and repair, ordinary wear and tear excepted. Lessee shall timely and properly repair and maintain all of the Lessee Facilities in accordance with the highest of the following standards: (i) the manufacturer's recommended maintenance schedule which is necessary so as not to void, diminish or impair any warranty for such item from time to time in effect; or (ii) that which is generally recognized as the industry standard for the required maintenance and repair of each such item. If the foregoing standards cannot be achieved, Lessee at Lessee's cost will replace the item with a new item or construction that does meet the forgoing standards. All of Lessee's obligations and requirements described in this Section 7.01 are herein collectively referred to as "*Lessee's Repair and Maintenance Obligations.*"

(b) Authority or Authority's wharfinger, at Authority's expense, may inspect the Lessee Facilities, and the systems or segments thereof, at any reasonable time to determine Lessee's compliance with this Section 7.01. In the event such inspection(s) discloses a failure on the part of Lessee to properly and/or timely perform Lessee's Repair and Maintenance Obligations, Authority shall deliver to Lessee, in writing, a copy of such inspection(s) report. Thereafter, as part of Lessee's Repair and Maintenance Obligations, Lessee shall promptly

undertake necessary corrective action to remedy such failure. If such failure is of a material nature, upon the completion of the corrective action, at Lessee's sole cost and expense, Lessee shall cause a further inspection report to be prepared by an independent inspector, qualified in the specific discipline, setting forth the manner in and extent to which such corrective action was taken. Such further inspection(s) report shall be promptly delivered to Authority for the Authority's approval.

(c) If Lessee does not timely or properly perform Lessee's Repair and Maintenance Obligations as herein provided, after thirty (30) days' notice to Lessee (except in the event of an emergency or extraordinary condition), Authority may, but is not obligated to, make necessary and required repairs, replacements or maintenance. Lessee shall pay to Authority all of Authority's actual costs incurred in connection therewith, plus a fee of ten percent (10%) of such cost, forthwith upon being billed therefor. Authority may, but shall not be required to, enter the Leased Premises at all reasonable times upon reasonable notice (except in the instance of an emergency) to make necessary and required repairs to the Lessee Facilities, as Authority deems reasonably necessary and which Lessee failed to do as required in this Lease after written notice from Authority.

Section 7.02. Repairs and Maintenance of Cargo Dock

(a) At Lessee's sole cost and expense throughout the Term, Lessee shall take good care of the Cargo Dock and shall keep the same in good order and condition and shall make and perform all maintenance and repair thereof. Lessee's maintenance and repair responsibilities shall include, without limitation, the maintenance of the Cargo Dock, including the dock platform, fender systems, breasting structures, mooring facilities, erosion control relating to the Cargo Dock, and all structural components of the Cargo Dock and appurtenances. When used in this Section 7.02, "*repairs*" shall specifically include, without limitation, all necessary replacements, renewals and alterations.

(b) When the Cargo Dock requires any repairs other than minor repairs, upon discovery by Lessee, it shall promptly notify the Authority of the need for such repairs and Lessee shall timely and properly make such repairs to return the Cargo Dock to the condition that existed on the Commencement Date, ordinary wear and tear excepted. The time permitted for Lessee to effectuate these repairs shall be extended for such period as may reasonably be necessary; provided, however, that Lessee shall continuously, diligently and in good faith prosecute the same. All such repairs made by the Lessee shall be at least equal in quality to the original work and, in all events, shall be made by the Lessee in compliance with Applicable Laws. The necessity for such repairs shall be measured by the standards which are appropriate for improvements of similar construction and class.

(c) In addition, Authority or Authority's wharfinger, at Authority's expense, may inspect the Cargo Dock, and the systems or segments thereof, at any reasonable time to determine whether any repairs are needed. In the event such inspection(s) disclose any necessary repairs, Authority shall deliver to Lessee, in writing, a copy of such inspection(s) report. Thereafter, Lessee shall promptly undertake to make such repairs.

(d) If Lessee does not timely or properly perform Lessee's repair obligations under this Section 7.02 and if Lessee does not commence such repair obligations within sixty (60) days after receiving written notice from the Authority to make such repairs and continuously, diligently and in good faith prosecute the same to completion, Authority may undertake the required repairs. Lessee shall pay to Authority all of Authority's actual costs incurred in connection therewith, plus a fee of ten percent (10%) of such cost, forthwith upon being billed therefor. Authority may enter the Leased Premises at all reasonable times upon reasonable notice to make required repairs to the Cargo Dock, which Lessee failed to make as required in this Lease after written notice from Authority in accordance with this this Section.

Section 7.03. Maintenance and Special Dredging of the Cargo Dock Berth

(a) The Authority will be responsible for performing or causing to be performed all maintenance dredging required for the Cargo Dock Berth. The Authority agrees to maintain the Cargo Dock Berth at the Initial Water Depth, excluding advanced maintenance and allowable overdepth.

(b) After the Cargo Dock Berth is constructed, the Authority will include the Cargo Dock Berth in its regular maintenance dredging program for public docks. Authority will coordinate with Lessee on dock closures to perform maintenance dredging to minimize impacts to Lessee's operations.

(c) Lessee agrees (i) provided that the Authority has properly maintained the depth of the Cargo Dock Berth, to ensure the vessels berthed at the Cargo Dock are loaded to limits preventing them from striking the bottom due to lowering of the water level from passing vessels, and (ii) to inform the Authority if Lessee becomes aware that the Cargo Dock Berth is in need of dredging maintenance.

(d) Authority shall be responsible for any fees and charges the Authority must pay to the U.S. Army Corps of Engineers or Federal Government for the right to use, or raise the height of the levees of, any Federally designated dredge material placement area to accommodate maintenance dredge material from Cargo Dock Berth.

**ARTICLE 8
INSURANCE**

Section 8.01. Lessee's Insurance

Lessee shall satisfy the insurance requirements set forth in **Exhibit F** attached hereto, which is incorporated in this Lease Agreement.

Section 8.02. Waiver of Subrogation

Subject to this Section 8.02, Authority and Lessee each hereby waive any and every claim for recovery from the other (regardless of the negligence of the non-waiving party) for any and all loss or damage to the Ship Dock Facilities or to the Lessee's Facilities, which loss or damage is covered by the provisions of any property insurance policy carried, or

would have been covered by the provisions of any property insurance policy required to be carried, by either Party pursuant to this Lease. Inasmuch as this mutual waiver will preclude (subject to this Section 8.02) the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), Authority and Lessee each agree to have such insurance policies properly endorsed, if necessary, to prevent the invalidation of such insurance coverage by reason of such waiver. Anything in this Section 8.02 to the contrary notwithstanding, if at any time during the Term the waiver of subrogation clause required to be maintained by Authority and Lessee, respectively, is no longer available on terms which are commercially reasonable, then Authority and Lessee shall, in good faith, find a mutually acceptable alternative to the benefits afforded each other as a result of such mutual waiver of subrogation.

ARTICLE 9 INDEMNITY

Section 9.01. Indemnification by Lessee

(a) Lessee shall defend, indemnify and hold harmless the Authority Parties from and against, and Lessee shall be responsible for, any and all Claims which may be brought or instituted or asserted against the Authority Parties based on or arising out of or relating to any of the following events (each being referred to herein as an “*Indemnified Event*”): (i) the failure on the part of the Lessee or any of its sublessees or their respective owners, officers, managers, agents, invitees, guests, contractors, subcontractors or licensees (“*Lessee Parties*”) to comply with the provisions of Applicable Laws applicable to the Leased Premises or the Lessee Facilities, (ii) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property occurring on the Leased Premises or the Lessee Facilities, or (iii) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property arising out Lessee’s operations on the Leased Premises or Lessee’s use of the Lessee Facilities.

(b) Notwithstanding anything to the contrary contained in Section 9.01(a), it is expressly provided and agreed by and between the Parties that Lessee shall not be obligated to indemnify and hold harmless the Authority Parties from and against their own negligence.

(c) Notwithstanding anything to the contrary contained in Section 9.01(a), Lessee shall be relieved of its obligation of indemnity (but not its obligation to defend) with respect to any Claim to the extent, but only to the extent, of (1) the amount actually recovered from one or more insurance carriers and either paid to the Authority Parties or paid for benefit of the Authority Parties in reduction of such Claim, or (2) the percentage of responsibility attributed to the Authority Parties with respect to causing or contributing to cause the Indemnified Event for which the Claim was made.

(d) Lessee’s indemnity obligations under this Section 9.01 shall not be limited by a limitation on the amount or type of damages, compensation or benefits owed by Lessee to any employee of Lessee under workers’ or workmen’s compensation acts, disability benefit acts, or other employee benefit acts.

(e) The obligations of the Lessee under this Section 9.01 shall survive the expiration or any earlier termination of the term of this Lease.

Section 9.02. Notice of Claims

The Authority shall give the Lessee prompt and timely notice of any Claims made or instituted against it or any other Authority Party, of which it has knowledge, relating to any matter which in any way may result in indemnification pursuant to Section 9.01(a). Subject to the prior rights, if any, of insurers, the Lessee shall be entitled to control the defense and any compromise of any such Claims to the extent of any actual or potential claim for indemnification made or reserved by the Authority, but the Lessee shall give the Authority the opportunity to participate in the defense and any compromise of any such Claim to the extent of the Authority's interest therein.

**ARTICLE 10
DESTRUCTION AND RESTORATION**

Section 10.01. Restoration of Cargo Dock

If all or any part of the Cargo Dock is destroyed or damaged by any casualty during the Term of this Lease Agreement, the Authority shall restore the damaged portions of the Cargo Dock to their previous condition, provided Lessee pays the amount of the insurance deductible, if any, in accordance with Section 10.03. Authority shall repair and restore the same with diligence and as soon as reasonably practicable under the circumstances. The Annual Base Rent and the Minimum Guaranteed Throughput shall be abated for each day Lessee is unable to use the Cargo Dock as a result of the destruction or damage unless the destruction or damage was caused by the sole negligence of Lessee.

Section 10.02. Restoration of Lessee Facilities

If all or any part of the Lessee's Facilities are destroyed or damaged by any casualty during the Term of this Lease Agreement, Lessee will promptly commence and thereafter prosecute diligently to completion the restoration of the same as nearly as possible to the condition, quality and class they were in immediately prior to such casualty. Any restoration undertaken pursuant to this Section 10.02 shall in all respects substantially conform to the provisions of the original plans for the damaged Lessee's Facilities, or shall be built in accordance with such new or modified plans and specifications as may be prepared by Lessee and approved by the Authority at the time, such approval not to be unreasonably withheld, conditioned or delayed. Lessee's obligation hereunder shall not be affected by the unavailability or insufficiency of insurance proceeds.

Section 10.03. Property Insurance Deductible

If all or any part of the Cargo Dock is destroyed or damaged by any casualty occurring during the Term of this Lease Agreement after the Delivery Date, Lessee shall pay to the

Authority, as an Additional Charge, the amount of the deductible under the Property Insurance policy described in **Exhibit F**.

ARTICLE 11 CONDEMNATION

Section 11.01. Total Condemnation

If during the Term, the entire Leased Premises shall be taken as the result of the exercise of the power of eminent domain ("*Proceedings*"), this Lease and all right, title and interest of Lessee hereunder shall terminate on the date of vesting of title pursuant to such Proceedings, and Authority shall be entitled to and shall receive the total award made in such Proceedings, except to the extent Federal funds form a part of such award or separate award, then to the extent moving costs and loss of personalty for the exclusive benefit of Lessee are included, Authority shall share with Lessee the amount so allocated for such moving costs and loss of personalty and Lessee shall have the right to pursue any separate award for such items to the extent available under then applicable law. Notwithstanding the foregoing, any obligations of Authority or Lessee hereunder that arose or accrued prior to the date of the foregoing termination shall survive and remain in full force and effect subsequent to such date of termination. Except as specifically provided above in this Section 11.01, Lessee hereby assigns any interest in such award, damages, consequential damages and compensation to Authority.

Section 11.02. Partial Condemnation

If during the Term, less than the entirety of the Leased Premises that does not unreasonably alter the Permitted Uses shall be taken in any such Proceedings, then this Lease shall, upon vesting of title in the Proceedings, terminate as to the portion of the Leased Premises so taken. If the portion of the Leased Premises taken shall substantially and materially interfere with or inhibit the Permitted Uses, Lessee may, at its option, terminate this Lease as to the remainder of the Leased Premises. Lessee shall not have the right to terminate this Lease pursuant to the preceding sentence, however, if that portion of the Leased Premises not taken can reasonably be utilized by Lessee with substantially the same utility and efficiency as prior to the taking. Such termination as to the remainder of the Leased Premises shall be effected by Lessee's written notice to Authority, given not more than sixty (60) days after the date of vesting of title in such Proceedings, and shall specify a date not more than sixty (60) days after the giving of such notice as the date for such termination. Upon the date specified in such notice, the Term and all right, title and interest of Lessee hereunder, shall cease and terminate. Notwithstanding the foregoing, any obligations of Authority or Lessee hereunder that arose or accrued prior to the date of the foregoing termination shall survive and remain in full force and effect subsequent to such date of termination. If this Lease is terminated as provided in this Section 11.02, Authority shall receive the award as is provided in Section 11.01. In the event that Lessee elects not to terminate this Lease as to the remainder of the Leased Premises, the rights and obligations of Authority and Lessee shall be governed by the provisions of Section 11.03.

Section 11.03. Restoration after Condemnation

If, in the case of a partial taking, this Lease is not terminated as provided in Section 11.02, this Lease shall, upon vesting of title pursuant to the Proceedings, terminate as to the parts so taken, and Lessee shall have no claim or interest in the award, damages, consequential damages and compensation, or any part thereof. The Authority, in such case, covenants and agrees promptly to restore that portion of the Leased Premises not so taken to a complete architectural and mechanical unit for the Permitted Uses as provided in this Lease. In the event that the net amount of the award (after deduction of all costs and expenses, including, without limitation, attorneys' fees) that may be received by the Authority in any such Proceedings as a result of such taking is insufficient to pay all costs of such restoration work, Authority shall pay such "shortfall."

Section 11.04. Annual Base Rent Adjustment

In the event of a partial taking of the Leased Premises under Section 11.02, the Annual Base Rent payable hereunder during the period from and after the date of vesting of title pursuant to such Proceedings to the earlier of the termination of this Lease or until the Authority causes the Equalization Value of the Land to be redetermined for an Extension Period in accordance with Section 4.04, shall be computed by multiplying the applicable Annual Base Rent then being paid by Lessee, by a fraction, the numerator of which is the number of acres of Land after such taking, and the denominator of which is the number of acres of the Land immediately prior to such taking.

**ARTICLE 12
OBLIGATIONS ON TERMINATION**

Section 12.01. Return of Leased Premises

At the expiration or termination of the Term of this Lease, Lessee will surrender the Leased Premises to the Authority in good order and repair, except for reasonable wear and tear or except as otherwise specifically provided in this Lease. Upon the expiration or termination of this Lease Agreement, the Authority may, without further notice, enter upon, reenter, possess, and repossess itself of the Leased Premises by force, summary proceedings, ejectment, or otherwise, and may dispossess and remove Lessee from the Leased Premises and may have, hold, and enjoy the Leased Premises free of any claim by Lessee with respect thereto. The Authority shall not be deemed to have accepted a surrender of the Leased Premises by Lessee, or to have extended the Term, other than by execution of a written agreement specifically so stating.

Section 12.02. Removal of Removable Lessee Facilities

(a) During the Removal Period, Lessee shall remove or cause to be removed from the Leased Premises all of the Removable Lessee Facilities, and shall repair any damage caused by the removal of such Removable Lessee Facilities. Any items of the Removable Lessee Facilities that are not removed by Lessee within the Removal Period shall be considered abandoned and shall thereupon become the property of the Authority, without cost to the Authority and without

any payment to Lessee; provided, however, that the Authority, after notice to the Lessee with reasonable opportunity to cure, may demolish, remove and/or dispose of any Removable Lessee Facilities which Lessee fails to remove, and Lessee shall be required to reimburse the Authority as an Additional Charge, for the actual costs the Authority incurs in demolishing, removing and/or disposing of such Removable Lessee Facilities and repairing any damage to the Leased Premises caused by such demolition and/or removal.

(b) Trade fixtures which are installed by Lessee may be removed by Lessee, at its expense, provided Lessee removes the same and repairs any damage caused by such removal during the Removal Period. Any trade fixtures not removed by Lessee during the Removal Period shall be considered abandoned by Lessee, and will automatically become Authority's property.

(c) Lessee shall not be obligated to pay the Annual Base Rent or Wharfage Deficit Payments for Insufficient Adjusted Actual Throughput that accrues during the Removal Period so long as Lessee is diligently prosecuting the removal of the Removable Lessee Facilities.

Section 12.03. Holding Over

If Lessee fails to surrender possession as required under Section 12.01, then, for each month, or portion thereof, after the termination of the Term or of Lessee's rights of possession hereunder, whether by lapse of time or otherwise, during which Lessee remains in possession of the Leased Premises, or any portion thereof, after such termination, Lessee shall pay to the Authority a sum equal to two hundred percent (200%) of the Annual Base Rent being charged Lessee at the end of the Term of this Lease, and Lessee will be subject to all other terms of this Lease Agreement applicable to a tenant at sufferance. The provisions of this Section 12.03 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Authority provided herein at law or at equity, and the Authority's acceptance of the additional rent in the event of a holdover by Lessee shall not act as a waiver or limitation on any such other rights or remedies (including, without limitation, any direct, indirect or consequential damages).

ARTICLE 13 ASSIGNMENTS, SUBLEASES AND TRANSFERS

Section 13.01. Permitted Transfers

(a) Except as otherwise permitted in Article 15, Lessee shall not sublet the Leased Premises, or any portion thereof, nor assign, mortgage, pledge, transfer or otherwise encumber or dispose of this Lease, or any interest herein, or in any manner assign, mortgage, pledge, transfer or otherwise encumber or dispose of its interest or estate in the Leased Premises, or any portion thereof, without first obtaining Authority's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, such consent shall not be required if (i) an assignment of Lessee's rights under this Lease results from the merger of Lessee into or with another entity (a "*Permitted Transferee*"), and (ii) the Permitted Transferee shall either assume all of the obligations of Lessee hereunder or become a guarantor of all such obligations (payment and performance), in either instance, in form and content reasonably acceptable to Authority. In all other instances of an assignment of this Lease or the subletting or

all or a part of the Leased Premises, Authority's prior written consent shall be required, which consent shall not be unreasonably withheld, conditioned or delayed, provided there is no material change in the Permitted Uses and Lessee remains primarily liable for all of the obligations of Lessee hereunder, except as hereafter provided in this Section 13.01.

(b) In all instances of an assignment of this Lease or subletting of all or any portion of the Leased Premises, regardless of whether to a Permitted Transferee, Lessee shall advise Authority thereof, in writing ("**Transfer Notice**"), not less than thirty (30) days prior to the effective date thereof. Such notice shall set forth with reasonable specificity the identity of the proposed assignee or sublessee and proposed terms and provisions of such assignment or subletting. Authority may charge Lessee, as a part of Additional Charges, for any reasonable costs or expenses incurred by Authority occasioned in connection with any proposed sublease, assignment, mortgage, pledge, transfer or other encumbrance or disposal of this Lease, or any interest herein, by Lessee.

(c) In the event Authority consents to an assignment of all of Lessee's interest under this Lease to anyone that is not a Permitted Transferee and such assignee (i) assumes, in writing and in form and content reasonably acceptable to Authority, all of Lessee's past, present and future obligations under this Lease, and (ii) such assignee's long-term obligations have been rated Investment Grade for a continuous period of not less than twelve (12) months prior thereto, then upon the execution and delivery by Authority and such assignee of the foregoing assumption, Lessee shall thereafter be released and discharged from and not be liable for any obligations under this Lease. However, if at the foregoing time, such assignee's long-term obligations have not been rated Investment Grade for twelve (12) continuous months, Lessee shall remain liable for Lessee's entire obligations under this Lease until such assignee's long-term obligations have been rated Investment Grade for twelve (12) continuous months.

Section 13.02. Subsequent Assignments

Anything in this Lease to the contrary notwithstanding, and notwithstanding any consent by Authority to any sublease of the Leased Premises, or any portion thereof, or to any assignment of this Lease or of Lessee's interest or estate in the Leased Premises, or any other permitted sublease or assignment hereunder, except to a subsequent Permitted Transferee, no sublessee shall assign its sublease nor further sublease the Leased Premises, or any portion thereof, and except to a subsequent Permitted Transferee, no assignee shall further assign its interest in this Lease or its interest or estate in the Leased Premises, or any portion thereof, nor sublease the Leased Premises, or any portion thereof, without Authority's prior written consent in each instance, which consent may be given or withheld in Authority's sole discretion. No such subsequent assignment or subleasing shall relieve Lessee from any of Lessee's obligations in this Lease.

Section 13.03. Transfer Upside

For any assignment or subletting of all or any portion of the Leased Premises to anyone other than a Permitted Transferee ("**Third Party Transfer**"), Lessee shall pay to Authority fifty percent (50%) of any and all compensation (whether in cash or cash equivalent) received by Lessee resulting from such Third Party Transfer, after Lessee has first recouped from such

compensation all commercially reasonable out-of-pocket costs and expenses paid by Lessee in connection with such Third Party Transfer and the book value (“basis” for federal income tax purposes) of Lessee Facilities on the Leased Premises at the time of the transfer.

Section 13.04. Recapture

To the extent any Third Party Transfer is for the entire balance of the then remaining Term (excluding any Extension Periods not then in effect), Authority may elect, by written notice to Lessee within fifteen (15) days following Authority's receipt of written notice from Lessee of Lessee's intent to pursue prospects for such a Third Party Transfer, to recapture the entire Leased Premises if the Third Party Transfer is an assignment of this Lease or so much of the Leased Premises that is the subject of such a Third Party Transfer subletting. In such event, this Lease, in the instance of an assignment, and the portion(s) of this Lease pertaining to so much of the Leased Premises that is proposed to be sublet, shall in each instance terminate and be of no further force and effect from and after the date that is thirty (30) days subsequent to the date Authority exercises its right to recapture as aforesaid. Notwithstanding the foregoing, any obligations of Authority or Lessee hereunder that arose or accrued prior to the date of the foregoing termination shall survive and remain in full force and effect subsequent to such date of termination. In the event Authority fails to so notify Lessee of Authority's election to recapture, Authority's right to recapture in respect to the subject proposed Third Party Transfer shall, subject to the following, be deemed waived. If such Third Party Transfer is not consummated within twelve (12) months following the date of Lessee's notice to Authority to pursue a Third Party Transfer, then Authority's rights pursuant to this Section 13.04 shall be reinstated.

Section 13.05. Ineffective Assignment

Lessee's failure to comply with all of the foregoing provisions and conditions of this Article 13 shall (regardless of whether Authority's consent is required under this Article 13), at Authority's sole option, render any purported assignment or subletting null and void and of no force and effect.

Section 13.06. Assignment of Operations

Notwithstanding anything to the contrary contained in this Article 13, Lessee may assign responsibility for the day-to-day operations on the Leased Premises to an Affiliate of Lessee without the Authority's consent if the Affiliate is covered under the Policies to the same extent as Lessee and Lessee remains primarily liable for all of the obligations of Lessee hereunder,

**ARTICLE 14
DEFAULT**

Section 14.01. Event of Default

An “*Event of Default*” by the Lessee shall occur:

(1) if the Lessee fails to pay when due the Lease Payments payable under this Lease, and any such default shall continue for thirty (30) days after the receipt of written notice thereof by the Lessee; or

(2) if the Lessee fails in any material respect to keep, perform, or observe any material covenant, condition, agreement, or obligation under this Lease (other than the payment of Lease Payments) that is to be kept, performed or observed by Lessee, and shall fail to cure, correct or remedy such failure within sixty (60) days after Lessee has received written notice specifying such failure, unless such failure cannot be cured using commercially reasonable efforts within such period of sixty (60) days, in which case such failure shall not be deemed to continue if the Lessee proceeds with due diligence to cure the failure and diligently completes the curing thereof; or

(3) if default shall be made by Lessee under the provisions of Article 13 relating to assignment, sublease, or other transfer of Lessee's interest in this Lease or in the Leased Premises or in the income arising therefrom; or

(4) if the Lessee shall be adjudicated bankrupt or be declared insolvent under the Federal Bankruptcy Code or any other federal or state law (as now or hereafter in effect) relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts (hereinafter collectively called "**Bankruptcy Laws**"), or if the Lessee shall (i) apply for or consent to the appointment of, or the taking of possession by, any receiver, custodian, trustee, or liquidator (or other similar official under Bankruptcy Laws) of the Lessee or of any substantial portion of the Lessee's property; (ii) admit in writing its inability to pay its debts generally as they become due; (iii) make a general assignment for the benefit of its creditors; (iv) file a petition commencing a voluntary case under or seeking to take advantage of any Bankruptcy Law; or (v) acquiesce in writing to, any petition commencing an involuntary case against the Lessee pursuant to any Bankruptcy Law; or

(5) if an order for relief against the Lessee shall be entered in any involuntary case under the Federal Bankruptcy Code or any similar order against the Lessee shall be entered pursuant to any other Bankruptcy Law, or if a petition commencing an involuntary case against the Lessee or proposing the reorganization of the Lessee under the Federal Bankruptcy Code shall be filed in and approved by any court of competent jurisdiction and not be discharged or denied within ninety (90) days after such filing, or if a proceeding or case shall be commenced in any court of competent jurisdiction seeking (i) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of the Lessee, (ii) the appointment of a receiver, custodian, trustee, or liquidator (or other similar official under Bankruptcy Laws) of the Lessee or of any substantial portion of the Lessee's property, or (iii) any similar relief as to the Lessee pursuant to any Bankruptcy Law, and any such proceeding or case shall continue undismissed, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect for ninety (90) days.

Section 14.02. Rights and Remedies of Authority

(a) Upon the occurrence of any Event of Default, Authority may, subject to any judicial process and notice to the extent required by Title 4, Chapter 24 of the Texas Property Code, as may be amended, in addition to all other rights and remedies afforded Authority hereunder or by law or equity, take any one or more or a combination of the following actions:

(1) Terminate this Lease by giving Lessee written notice thereof, in which event, Lessee shall pay to Authority the sum of (i) all Lease Payments accrued hereunder through the date of termination, (ii) all amounts due under Section 14.03, and (iii) an amount equal to (A) the total Lease Payments that Lessee would have been required to pay for the remainder of the term of this Lease discounted to present value at a per annum rate equal to the “Prime Rate” as published on the date this Lease is terminated by The Wall Street Journal, Southwest Edition, in its listing of “Money Rates”, minus (B) the then present fair rental value of the Leased Premises for such period, similarly discounted; or

(2) Terminate Lessee’s right to possession of the Leased Premises without terminating this Lease by giving written notice thereof to Lessee, in which event Lessee shall pay to Authority (i) all Lease Payments and other amounts accrued hereunder to the date of termination of possession, (ii) all amounts due from time to time under Section 14.03, and (iii) on the applicable due dates all Lease Payments and other sums required hereunder to be paid by Lessee during the remainder of the Term of this Lease, reduced by any net sums thereafter received by Authority through reletting the Leased Premises during such period. Authority shall use reasonable efforts to relet the Leased Premises on such terms and conditions as Authority in its sole discretion may determine (including a term different from the term of this Lease, rental concessions, and alterations to, and improvement of the Leased Premises); however, Authority shall not be obligated to relet the Leased Premises before leasing other portions of the Authority’s real estate. Authority shall not be liable for, nor shall Lessee’s obligations hereunder be diminished because of, Authority’s failure to relet the Leased Premises or to collect rent due for such reletting. Lessee shall not be entitled to the excess of any consideration obtained by reletting over the Lease Payments due hereunder. Re-entry by Authority in the Leased Premises shall not affect Lessee’s obligations hereunder for the unexpired Term of the Lease; rather, Authority may, from time to time, bring action against Lessee to collect amounts due by Lessee, without the necessity of Authority’s waiting until the expiration of the term of the Lease. Unless Authority delivers written notice to Lessee expressly stating that it has elected to terminate this Lease, all actions taken by Authority to exclude or dispossess Lessee of the Leased Premises shall be deemed to be taken under this Section 14.02(a)(2). If Authority elects to proceed under this Section 14.02(a)(2), it may at any time thereafter, upon written notice to Lessee, terminate this Lease and, in such event, neither Authority nor Lessee shall have any further rights, obligations or liabilities hereunder after the date of termination, except to the extent that any covenants of this Lease are expressly said to survive termination of this Lease.

(b) Notwithstanding anything to the contrary contained in this Section 14.02, Lessee shall not be deemed to have waived any requirements of Authority to mitigate damages upon an Event of Default as required by law.

Section 14.03. Payments on Default

Upon the occurrence of any Event of Default, Lessee shall pay to Authority all costs incurred by Authority (including court costs and reasonable attorneys' fees and expenses) in (i) obtaining possession of the Leased Premises, (ii) removing and storing Lessee's or any other occupant's property, (iii) reasonably repairing, restoring, altering, remodeling, or otherwise putting the Leased Premises into a reasonably marketable condition, (iv) if Lessee is dispossessed of the Leased Premises and this Lease is not terminated, reletting all or any part of the Leased Premises (including brokerage commissions, cost of tenant finish work, and other costs incidental to such reletting), (v) performing Lessee's obligations which Lessee failed to perform, and (vi) enforcing, or advising the Authority of, its rights, remedies, and recourses arising out of the Event of Default.

Section 14.04. Default by Authority

Authority shall in no event be charged with default in the performance of any of its obligations hereunder, unless and until Authority shall have failed to correct any such default within thirty (30) days (or such additional time as is reasonably required to correct any such default) following delivery of written notice from Lessee to Authority properly specifying any obligations Authority has failed to perform. If Authority fails to keep, perform, or observe any of the covenants, agreements, terms, or provisions contained in this Lease that are to be kept, performed or observed by Authority, and if Authority fails to remedy the same within thirty (30) days after the Authority has been given a written notice specifying such default, then in such event Lessee may enforce the performance of this Lease by any method provided by law or equity.

Section 14.05. No Waiver

Any waiver, expressed or implied, by either Authority or Lessee to any breach of any agreement, covenant or obligation contained in this Lease Agreement shall operate as such only in the specific instance, and shall not be construed as waiver to any subsequent breach of such agreement, covenant or obligation.

ARTICLE 15 MORTGAGEE PROTECTIONS

Section 15.01. Lessee's Right to Encumber

It is agreed that Lessee shall at all times during the Term of this Lease, without the consent of Authority (but provided written notice and a copy of the security instruments are delivered to Authority), have the right to mortgage or convey by deed of trust or any other security instrument the leasehold rights of Lessee created by this Lease Agreement ("***Leasehold Mortgage***"); provided, however, that the Leasehold Mortgage will at all times be subject to and

shall recognize the superior right, title and interest of Authority to the fee interest underlying the Leased Premises, including the Cargo Dock, and to the Authority's rights hereunder to require Lessee's payment of all Lease Payments due hereunder and Lessee's full and faithful performance of all covenants and conditions of this Lease Agreement due Authority.

Section 15.02. Waiver of Authority's Lien

Authority hereby waives any contractual or statutory Authority's lien Authority has or may have on the personal property Lessee places on the Leased Premises.

Section 15.03. Holder of Leasehold Mortgage

(a) In the event at any time during the Term of this Lease Agreement Lessee or anyone holding under Lessee shall be in default of any of the covenants or any of the conditions of this Lease Agreement, then and in such event the holder of the Leasehold Mortgage may, before forfeiture or termination is invoked by Authority, make any and all payments and do and perform any and all acts or things which may be necessary or required to prevent a forfeiture or termination of this Lease Agreement; and the party making such payments or performing such acts or things shall thereby and thereupon be subrogated to all the rights of Lessee under this Lease Agreement. Authority agrees that, if requested in writing by the holder of any Leasehold Mortgage, it will send to the said holder, at the address specified in the written request, copies of all written notices of demand which Authority may serve upon Lessee, or anyone holding under Lessee, under and pursuant to the Terms of this Lease Agreement, and the holder of the Leasehold Mortgage shall have thirty (30) days to cure such default from Authority's delivery to such holder of such notice of demand, notwithstanding anything to the contrary contained herein.

(b) It is understood, however, that the holder of the Leasehold Mortgage shall in no way be liable to Authority for the payment of any Lease Payments or for the performance of any other covenants and conditions under this Lease Agreement until such time as it shall acquire by conveyance from Lessee, or by foreclosure or other proceedings provided by law or by the terms of the Leasehold Mortgage, all the right, title and interest of Lessee under this Lease Agreement; provided, however, that any party who shall acquire said right, title and interest of Lessee as above provided shall thereupon and thereby become liable for the full performance and all payments theretofore and thereafter required to be made by Lessee under the covenants and conditions of this Lease Agreement, as fully and completely and to the same extent as Lessee itself would have been if it still had retained its right, title and interest under this Lease Agreement.

(c) If this Lease is terminated or rejected in connection with the bankruptcy or insolvency of Lessee, then the Leasehold Mortgagee shall have the right and option, exercisable by delivering written notice to Authority not later than thirty (30) days after receipt from Authority of written notice of such termination or rejection (which notice Authority agrees to give) to elect to receive, in its own name or in the name of its third party designee, a new lease of the Leased Premises for the unexpired balance of the Term on the same terms and conditions as herein set forth, and Authority agrees to execute such new lease if the Leasehold Mortgagee or its third party designee cures any then uncured Event of Default reasonably susceptible by its

nature of being remedied by such Leasehold Mortgagee or its third party designee, including the payment of any amount of accrued but unpaid Lease Payments due hereunder.

(d) Authority agrees to execute an estoppel certificate and such other reasonable agreements as may be requested by the holder of a Leasehold Mortgage.

ARTICLE 16 DISPUTE RESOLUTION AND MEDIATION

Section 16.01. Dispute Resolution

In the event a dispute arises between the Parties regarding the application or interpretation of, or in any way relating to, this Lease, the Parties agree to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner. If the Parties shall have failed to resolve the dispute within the ten (10) Business Days after any written notice of the dispute has been received by the other Party, then either Party may elect to refer the dispute to the respective upper management of the Parties by notice in writing to the other Party, and the appropriate upper management of the Parties shall meet within the ten (10) Business Days after the date of the notice, to resolve the dispute. If the dispute is not resolved within five (5) Business Days after such a meeting has commenced (but in any event within ten (10) Business Days after the date of the letter referring the matter to upper management), then either Party may at any time thereafter resort to mediation, under the provisions of Section 16.02.

Section 16.02. Mediation

Authority and Lessee agree they will, before taking any other legal action, including the filing of an action in State or Federal Court, attempt in good faith, to mediate in Corpus Christi, Texas, any controversy or claim arising out of or related to this Lease Agreement before a mediator to be agreed upon by Authority and Lessee. Authority and Lessee must agree upon a mediator within fifteen (15) Business Days after a written request for mediation by either Party, and if Authority and Lessee are unable to agree upon a mediator within such time period either Party may request that the American Arbitration Association appoint a mediator. The mediator will schedule a mediation meeting at a time and place determined by the mediator. Authority and Lessee will each pay one-half of the costs of mediation to the mediator. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the Parties fail to resolve any dispute by mediation within such 30-day period, the Parties shall have all rights available at law or in equity.

ARTICLE 17 GENERAL PROVISIONS

Section 17.01. Compliance with Authority's Tariff

Lessee must comply with Authority's Tariff to the extent applicable to Lessee's tenancy or operations on the Leased Premises. Lessee must comply with the requirements of Item 669 of Authority's Tariff 100-A to the extent the same apply to Lessee, its agents, servants and employees.

Section 17.02. Inspection

Lessee will permit Authority and Authority's agents, representatives or employees to enter on the Leased Premises for the purpose of inspection to determine whether Lessee is in compliance with the terms of this Lease Agreement, so long as any such inspection does not interfere with the Lessee's business operations on the Leased Premises.

In an emergency, Authority, its agents, servants and employees, may use any means to open any gate or door into or on the Leased Premises without any liability for doing so, except that Authority must provide notice to Lessee as soon as possible thereafter. Entry into the Leased Premises by Authority for any purpose permitted herein shall not constitute a trespass nor an eviction (constructive or otherwise), nor entitle Lessee to any abatement or reduction of rent, nor constitute grounds for any claim by Lessee (and Lessee hereby waives any such claim) for damages for any injury to or interference with Lessee's business, for loss of occupancy or quiet enjoyment or for consequential damages.

Section 17.03. No Partnership or Third Party Beneficiaries

The relationship between Authority and Lessee at all times shall remain solely that of landlord and tenant and not be deemed a partnership or joint venture. This Lease Agreement is for the sole benefit of Authority and Lessee and no other person, entity or third party shall be entitled to any benefits hereunder unless the benefit to a person, entity or third party is expressly stated in this Lease Agreement.

Section 17.04. Payments and Notices

(a) All payments, notices, demands or requests from Lessee to Authority shall be given to Authority, Attention: Executive Director, P.O. Box 1541, Corpus Christi, Texas 78403, or at such other address as Authority shall request in writing.

(b) All payments, notices, demands or requests from Authority to Lessee shall be given to Lessee, Attention: President at 112 E. Pecan Street, Suite 3000, San Antonio, Texas 78205, or at such other address as Lessee shall request in writing.

(c) Notices required to be given to either Party may be given by certified first-class mail, by overnight delivery or by fax, to the appropriate Party at its address or fax number listed above. Notice may also be given by personal service. Any notice given by mail shall be deemed to have been given one day after such notice was deposited in the United States mail, certified and postage prepaid, or on the next Business Day (if delivered by overnight delivery) addressed to the Party to be served. In all cases, notice will be considered delivered when received at the address stated for the addressee's receipt of notice. Either Party may change the address or fax number for notice by giving the other Party written notice as provided in this Section.

Section 17.05. Estoppel Certificate

On request, Lessee will execute an estoppel certificate that states the Effective Date and termination date of the Lease, describes any rights to extend the Term of the Lease, lists any defaults by Authority, and provides any other information regarding the terms of this Lease reasonably requested by the Authority.

Section 17.06. Abatement

Lessee's covenant to make Lease Payments and Authority's covenants are independent. Except as otherwise expressly provided in this Lease, Lessee shall not be entitled to abatement of Lease Payments for any reason.

**ARTICLE 18
CONDITION AND CARE OF LEASED PREMISES**

Section 18.01. Inspection and Acceptance of Leased Premises

(a) Lessee has inspected the Leased Premises and has conducted any environmental site assessment it desired. As of the Effective Date of this Lease Agreement, Lessee understands and agrees that the Leased Premises are being leased in an "As Is Where Is" condition, and Lessee accepts the Leased Premises in the condition it exists on the Effective Date as reasonably suited and fit for Lessee's intended uses of the Leased Premises. Lessee acknowledges that Authority has made no express warranties with regard to the Leased Premises, except as expressly set forth in this Lease Agreement. To the maximum extent permitted by applicable law, Authority hereby disclaims, and Lessee waives the benefit of, any implied warranties, including implied warranties of habitability, or fitness or suitability for Lessee's intended uses of the Leased Premises.

(b) Lessee further understands and agrees that improvements, grading, filling, removal of existing improvements, and relocation of utility lines shall be made and performed by Lessee at the sole cost and expense of Lessee. Lessee further understands and agrees that the "As-Is, Where Is" condition of the Leased Premises includes any contamination on the Leased Premises, including structures, surface soil or subsurface strata, groundwater, surface water and any adjacent channel or bay water and sediment, and that information received from Authority regarding such matters may not be complete or accurate and should not be accepted as such and by entering into this Agreement, Lessee acknowledges that it is relying solely on its own inspection and investigation into the condition of the Leased Premises.

(c) Authority has informed Lessee that the Leased Premises contains shredded tire pieces within the subsurface soils that when analyzed can falsely exhibit high levels of metals and semi-volatile organic compounds (SVOCs). The Texas Commission on Environmental Quality acknowledges the presence of the shredded tire pieces in soils and further acknowledges that the inert materials do not present a human health risk.

Section 18.02. Environmental Representations and Restrictions

(a) **Definitions.** The following definitions shall apply:

(1) **“Applicable Environmental Laws”** means all federal, state and local statutes, laws, ordinances, regulations, codes, permits, licenses, authorizations and rules, and other provisions having the force and effect of law, in each case as amended, and including any judicial or administrative orders, determinations, writs, injunctions, judgments and decrees relating to human health or safety, Contaminants or the Environment, including without limitation such laws as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. Section 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq.; the Clean Air Act and Amendments of 1990, 42 U.S.C. Section 7401 et seq.; the Clean Water Act of 1977, 33 U.S.C. Section 1251 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. Section 2701 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2606; the Texas Solid Waste Disposal Act, Chapter 361, Texas Health and Safety Code; the Texas Clean Air Act, Chapter 382, Texas Health and Safety Code; the Oil Spill Prevention Act of 1991, Chapter 40, Texas Natural Resource Code; Chapter 26, Texas Water Code, Subchapters D, G, I and J; Texas Hazard Communication Act, Chapter 502, Texas Health and Safety Code; Texas Community Right-to-Know Acts, Chapters 505 – 507 Texas Health and Safety Code).

(2) **“Contaminant”** means any substance, material, constituent, waste, chemical, or other thing defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “toxic substances,” “solid wastes,” “industrial wastes,” “industrial solid or hazardous wastes,” “universal waste,” “wastes” or words of similar import, under Applicable Environmental Laws. Contaminant also includes (a) anything considered toxic, explosive, corrosive, reactive, flammable, radioactive, or ignitable, (b) any lead or lead-based paint, pesticide, polychlorinated biphenyls, dioxins, hydrocarbon, petroleum, petroleum based substances, petroleum product or petroleum additive (including but not limited to lead), diesel, fuels, gasoline, natural gas or natural gas products, dry cleaning products or solvents (as well as any and all ingredients, degradation or daughter products or byproducts or constituents thereof of any of the foregoing), (c) any other chemical, material, waste or substance, (or constituent thereof), which is in any way regulated under the Applicable Environmental Laws by any Governmental Authority, including mixtures thereof with other materials, and including any regulated building materials such as asbestos and lead, or (d) any other substance, material, constituent, waste, or chemical that may adversely affect or pose a threat to human health and the Environment.

(3) **“Contamination”** means the presence, or threat of one or more Contaminants in the Environment: (a) which has or reasonably may result in pollution,

degradation, adverse impact, damage, threat or injury, to human health or the Environment, or (b) which is not allowed by or in compliance with Applicable Environmental Laws.

(4) “**Disposal**” means the discharging, depositing, injecting, dumping, spilling, leaking, or placing of Contaminants, whether containerized or uncontainerized, into or on land or water so that the Contaminants or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the Environment in any other manner.

(5) “**Environment**” means (a) the waters of the United States, the waters of any state, the contiguous zone or ocean waters and (b) any other surface water, ground water, drinking water supply, and (c) any land surface or subsurface strata or sediment, and (d) the ambient air or atmosphere, as well as the animals, organisms, plants or natural resources located in, under or thereon.

(6) “**Environmental Liabilities**” means any and all actual, potential or threatened administrative, regulatory, or judicial actions, suits, allegations, demands, demand letters, claims, causes of action, proceedings, liens, notices of noncompliance or violation, investigations by Governmental Authorities or the Authority, obligations, damages (including but not limited to natural resource damages), liabilities (including strict liabilities under such statutes as, CERCLA, RCRA or other Applicable Environmental Laws), accrued or unaccrued losses, diminution of property value, injuries, costs (including but not limited to cleanup, remediation, removal, remedial, investigative, containment, closure or post-closure, restoration and/or monitoring costs), settlements, assessments, fines, penalties, interest, legal or attorney’s fees and costs of court relating to or concerning the Environment, Applicable Environmental Laws, Contaminants or Contamination.

(7) “**Release**” means to dispose of, discharge, deposit, spill, leak, pump, pour, emit, empty, dump, seep, drain, run or otherwise introduce into the Environment.

(8) To the extent the Applicable Environmental Laws establish a meaning for “**Release**,” “**Disposal**,” “**Dispose**” or other terms which is broader than that specified in this Lease Agreement such broader meaning will apply to such terms used in this Lease Agreement.

(b) **General Environmental Covenants.** Lessee hereby covenants and agrees:

(1) That, without limitation of Section 5.01, in its use of the Leased Premises, Lessee will not violate any Applicable Environmental Laws.

(2) Except in compliance with Applicable Environmental Laws in all material respects, in no event will Lessee, or its agents, representatives, employees, contractors, consultants or invitees (i) Release or Dispose of any

Contaminants on, near or about the Leased Premises, or (ii) construct, install, maintain, use or otherwise operate on the Leased Premises any petroleum or chemical underground storage tank.

(3) If a change in any Applicable Environmental Laws makes any previously acceptable activity of Lessee prohibited, Lessee must immediately cease the prohibited activity upon the Leased Premises until such time Lessee's activity is brought into compliance and advise Authority in writing within five (5) days.

(4) That without the prior written consent of Authority, except in compliance with Applicable Environmental Laws in all material respects, Lessee, and its agents, representatives, employees, contractors, consultants or invitees, will not bring onto, or knowingly permit to remain on the Leased Premises any asbestos, petroleum or petroleum products, explosives or Contaminants (i) by sources located at the Leased Premises and at levels or concentrations that exceed those under Applicable Environmental Laws, or (ii) that are not part of the Agreed Environmental Baseline.

(5) That Lessee will not engage in or knowingly permit any action which would cause, suffer or allow, or knowingly fail to take any action to reasonably prevent, any Contamination of or from the Leased Premises by sources originating from the Leased Premises or the Cargo Dock Berth, except as part of the Agreed Environmental Baseline.

(c) Release Reporting, Notification and other Responsibilities:

(1) In the event of a Release by Lessee, its agents, representatives, employees, contractors, consultants, or invitees of any Contaminant to surface, subsurface, water, or air, Lessee must stop the Release as soon as practicable; and notify the Authority of such Release or if such Release is reportable to Governmental Authorities under Applicable Environmental Laws, within 24 hours, or such other time prescribed by Applicable Environmental Laws, notify the proper Governmental Authorities, as well as Authority, of the date, time, and nature of the Release, including, but not limited to, a description of the Contaminants discharged or released. If the initial notification to Authority is not in writing Lessee will provide a written explanation of the details of the Release at the same time that any required written explanation is provided to applicable Governmental Authorities, together with an MSDS for each of the said Contaminants.

(2) Lessee agrees to promptly furnish Authority copies of all documents, reports, notices, orders, or correspondence received or submitted by Lessee and its agents, representatives, employees, contractors or consultants from or to a Governmental Authority relating to any Release described in Section 18.02(c)(1), including, but not limited to any citation, notice of violation, notice of enforcement, enforcement action or penalty regarding the Leased Premises.

(3) Lessee agrees to manage its Liquid Bulk Cargo loading operations at Cargo Dock 15 in compliance with all Applicable Environmental Laws. Lessee must take all reasonably necessary precautions at Lessee's expense to prevent pollution from Lessee's activities at Cargo Dock 15 in violation of Applicable Environmental Laws. Lessee will obtain all required permits for Lessee's operations as and when required for such operations and will maintain these permits throughout the duration of such operations.

(d) Cleanup and Remediation Obligations:

(1) Lessee covenants that, to the extent required under Applicable Environmental Laws, it will promptly respond to and bear the sole burden, duty, responsibility and cost for any and all Environmental Liabilities associated with or arising from Contamination of the Leased Premises (or to any other location to which Contamination may have migrated) caused by the breach of any provision of this Lease by Lessee or the acts or knowing omissions of Lessee or any of its successors, agents, representatives, employees, contractors, consultants or invitees.

(2) In addition to the other rights and remedies of Authority under this Lease or as may be provided by law, if Authority reasonably determines or has a good faith reason to believe that Contamination, an actual Release by Lessee and its agents, representatives, employees, contractors, consultants, or invitees of Contaminants, in violation of Applicable Environmental Laws, or a violation by Lessee and its agents, representatives, employees, contractors, consultants, or invitees of Applicable Environmental Laws has occurred, Authority may, at its election and at any time during the Term of this Lease or thereafter, (i) cause the Leased Premises, any adjacent premises of Authority, or other location to which Contamination may have migrated to be tested, investigated, or monitored for the presence of any Contaminant, (ii) cause to be performed any required cleanup, removal or remediation of, or other response to, the Contamination of the Leased Premises, and any other location to which Contamination may have migrated, and (iii) cause to be performed any required restoration of the Leased Premises and any other location to which the Contamination may have migrated, but only if in each case twenty (20) Business Days after Authority's written request to Lessee to perform such work, Lessee does not commence the same. The cost and expense of any such work undertaken by Authority shall be reimbursed by Lessee to Authority within thirty (30) days after receipt of Authority's bill to the extent such cost and expense results from any Contamination detected or responded to by the Authority that is caused by the acts of Lessee, its agents, contractors, employees, or invitees after the Baseline Report Date and during the Term of this Lease.

(3) Authority may also, at its election, require Lessee, at Lessee's sole cost and expense, to perform such work as needed to investigate, test, monitor for, remove, remediate, or cleanup any Contamination to the extent that such Contamination is caused by the acts of Lessee, its agents, contractors, employees,

or invitees after the Baseline Report Date and during the Term of this Lease, and restore the Leased Premises and any other location to which such Contamination may have migrated, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Authority.

(4) Lessee agrees that any work performed by or at the behest of Lessee in connection with any Release of Contaminants or the violation of any Environmental Laws (the “*Environmental Work*”) will comply with all Applicable Environmental Laws including those requiring appropriate characterization, handling, transport and disposal of materials incident to such work. Except in the case of emergency, or in the event Applicable Environmental Laws require more rapid response, Lessee further agrees to provide Authority with final work plans for any Environmental Work at least ten (10) days prior to the time it commences. Authority takes no responsibility and assumes no liability whatsoever for the Environmental Work.

(5) Also, in the event of a Release other than that for which Authority has responsibility under Section 18.01(g), Authority accepts no liability or responsibility for ensuring that Lessee’s workers, including without limitation those conducting testing, construction and maintenance activities on the Leased Premises, are satisfactorily protected from residual contaminants described in 29 Code of Federal Regulations. Except for matters for which Authority has responsibility under Section 18.01(g), Lessee shall assess all human health risks from vapor transport or direct contact with or other exposure to residual hazardous substances or contaminants and incorporate such engineering and institutional controls as may be required to sufficiently protect human health of onsite workers and transient visitors.

(6) Notwithstanding anything to the contrary in this Section 18.02(d), under no circumstances will Lessee be required to remediate the Land beyond the manner in which other property owned by the Authority, which is similarly situated to the Land, is required to be remediated after the Effective Date.

(e) **Additional Access by Authority.** In addition to any other rights of access provided herein, if Authority reasonably believes a condition constituting substantial endangerment exists in connection with the Leased Premises, Contaminants or a violation of Applicable Environmental Laws, Authority may enter the Leased Premises at any time without notice, take any actions it deems necessary to address the situation and the cost and expense thereof shall be reimbursed by Lessee within thirty (30) days after rendition of Authority’s bill, but only to the extent such cost and expense results from any Contamination or other condition detected or responded to by the Authority that is caused by the acts of Lessee, its agents, contractors, employees, or invitees after the Commencement Date and during the Term of this Lease.

(f) **RELEASE AND INDEMNITY FOR ENVIRONMENTAL LIABILITIES.** NOTWITHSTANDING ANY OTHER PROVISION IN THIS LEASE AND WITHOUT LIMITING THE PROVISIONS OF SECTION 8.03, LESSEE COVENANTS THAT LESSEE SHALL ASSUME AND BE RESPONSIBLE FOR, AND SHALL WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND, AND HOLD AUTHORITY, ITS PORT COMMISSIONERS, DIRECTORS, MANAGERS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS, OWNERS, INVITEES, LICENSEES, AND AGENTS (THE “**INDEMNIFIED PARTIES**”) HARMLESS FROM AND AGAINST ANY AND ALL ENVIRONMENTAL LIABILITIES (WHENEVER AND WHEREVER THEY MAY ARISE, INCLUDING OFF-SITE LOCATIONS) CAUSED BY, ARISING OUT OF, OR RESULTING FROM: (1) ANY ACTIVITIES OR OPERATIONS CONDUCTED BY OR ON BEHALF OF LESSEE IN CONNECTION WITH OR AS A RESULT OF THE LEASE, WHETHER PERMITTED OR AUTHORIZED BY THE LEASE, (2) LESSEE’S FAILURE TO COMPLY WITH THE TERMS OF THE LEASE, (3) ANY BREACH OF ANY COVENANT, REPRESENTATION OR WARRANTY OF LESSEE UNDER THE LEASE, (4) ANY CONTAMINATION OR ENVIRONMENTAL LIABILITIES TO THE EXTENT CAUSED BY ACTS OF LESSEE AND/OR ITS AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, CONSULTANTS OR INVITEES, OR (5) LESSEE’S ACTS OR OMISSIONS IN CONNECTION WITH THE LEASED PREMISES OR THE LEASE. THIS PROVISION SHALL SURVIVE THE CANCELLATION, TERMINATION OR EXPIRATION OF THIS LEASE, HOWSOEVER BROUGHT ABOUT. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS SECTION 18.02(f), IT IS EXPRESSLY PROVIDED AND AGREED BY AND BETWEEN THE PARTIES THAT LESSEE SHALL NOT OBLIGATED TO INDEMNIFY AND HOLD THE INDEMNIFIED PARTIES HARMLESS FROM THEIR OWN NEGLIGENCE.

IN CLAIMS AGAINST THE INDEMNIFIED PARTIES BY OR FOR AN EMPLOYEE OF LESSEE, ITS AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, CONSULTANTS OR INVITEES, THE LESSEE’S INDEMNIFICATION OBLIGATION UNDER THIS SECTION 18.02(f) SHALL NOT BE LIMITED BY A LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE LESSEE, ITS AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, CONSULTANTS OR INVITEES, UNDER WORKERS’ OR WORKMEN’S COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS. IF AN INDEMNIFIABLE ACTION FOR DAMAGES IS BROUGHT BY AN INJURED EMPLOYEE OF LESSEE, A LEGAL BENEFICIARY, OR AN INSURANCE CARRIER AGAINST ANY OF THE INDEMNIFIED PARTIES TO PAY DAMAGES FOR THE INJURY OR DEATH OF SUCH EMPLOYEE UNDER CHAPTER 417 (THIRD-PARTY LIABILITY), TEXAS LABOR CODE, THAT RESULTS IN A JUDGMENT AGAINST ANY OF THE INDEMNIFIED PARTIES, OR A SETTLEMENT BY ANY OF THE INDEMNIFIED PARTIES, LESSEE EXPRESSLY AGREES TO REIMBURSE AND HOLD HARMLESS THE INDEMNIFIED PARTIES, FOR THE DAMAGES BASED ON SUCH JUDGMENT OR SETTLEMENT AS PROVIDED IN THIS SECTION 18.02(f).

(g) **Environmental Restoration.** Lessee covenants that upon cancellation, termination or expiration of the Lease (howsoever brought about), Lessee shall at its own cost, restore the Premises to substantially the same baseline condition as it existed at the

commencement of the Lease or, if an earlier lease existed between Lessee, or its predecessors and Authority for all or any part of the Leased Premises, the restoration obligation will require that the Premises be restored to the same condition as of commencement of the earliest lease. The restoration obligations will include any remediation, cleanup or other actions necessary to remediate all Contamination to the extent caused by Lessee and its agents, representatives, employees, contractors, consultants, or invitees after the Commencement Date during the Term of the Lease for all or any part of the Leased Premises, and to address all impacts associated with such Contamination. Notwithstanding anything herein to the contrary, under no circumstances will Lessee be required to remediate the Land beyond the manner in which other property owned by the Authority, which is similarly situated to the Land, is required to be remediated after the Effective Date.

(h) **Authority's Tenant Audit Program:** Lessee will cooperate with the Authority's Tenant Audit Program (the "**Program**"). The audit will consist of a scheduled review of Lessee's operations and activities, a review of Lessee's environmental management programs, and a tour of the Leased Premises. Authority staff involved in the Program intend to gain an understanding of Lessee's operations and activities and what measures the Lessee is utilizing to comply with the Applicable Environmental Laws, this Lease Agreement, and the Authority's Tariff. The Program seeks to achieve cooperative conservation between Authority and Lessee relating to the use, enhancement and enjoyment of natural resources and protection of the Environment. The audit will be conducted at a minimum annually and more frequently if determined by Authority staff to be necessary. A letter from Authority staff setting forth staff's observations will be provided to Lessee following the audit. If Authority staff observe an alleged violation of Applicable Environmental Laws, this Lease Agreement, or Authority's Tariff, Lessee will be notified of the same in writing. Upon notice, Lessee is required to immediately take action to come into compliance, and must notify Authority in writing within ten (10) days of Lessee's response to Authority's allegations. Except as may be requested by Authority, or except in the event of emergency or as necessary to meet requirements of Applicable Environmental Laws, no physical or invasive testing shall be conducted on the Leased Premises without: (1) providing prior reasonable notice to Authority advising of the purpose of such testing, (2) obtaining written approval to conduct such testing, and (3) obtaining advance approval of the scope and work plans for such testing. All information, test results or reports that may be generated in the course of such environmental assessment and testing shall be promptly furnished to Authority. In addition, upon cancellation, termination or expiration of the Lease (howsoever brought about), Lessee shall perform a final environmental assessment or audit of the Premises at its sole cost and expense following the then applicable version of ASTM Standard Practice 1527. The Program may be modified from time to time as operations progress at the sole discretion of Authority; however, such modifications shall not unreasonably interfere with Lessee's use and enjoyment of the Leased Premises.

(i) **Continuing Obligations.** All of the obligations, warranties and representations in this Section 18.02 are continuing and must be true and correct for the entire Term of this Lease, and all of such provisions, representations and warranties will survive expiration or termination of this Lease Agreement until the date that is five (5) years after the termination or expiration of the Lease. The obligations, warranties and representations in this Section 18.02 are binding on Lessee's successors and Permitted Transferees (as defined in Section 13.01).

(j) **Renegotiation of Environmental Covenants.** From time to time during the Term (but not more frequently than once every five (5) years), to the extent that the Authority provides written notice to Lessee evidencing Authority's reasonable belief (in reasonable detail) that the environmental protections in this Lease are no longer adequate and not commensurate with the environmental protections in the Authority's standard long-term leases at that time of the notice, then upon Lessee's receipt of such notice the Parties will commence a dialog in good faith to discuss possible adjustments to the environmental covenants contained herein to bring them into compliance with the environmental protections in the Authority's standard long-term leases at that time.

Section 18.03. Air Monitoring and Runoff

Lessee will cooperate with particulate matter air monitoring when fugitive dust concerns exist around the leased premises, including but not limited to installation of perimeter air monitors that alert based on measured results. Operations onsite will be kept free of spillage. No wash down operations will be permitted onsite except fully contained and discharge under a State of Texas individual permit through an outfall dedicated to Lessee operations. Storm water runoff from Lessee's operations will be separately conveyed and meet the requirements of the Texas Commission on Environmental Quality (TCEQ) Texas Pollution Discharge Elimination System (TPDES) storm water discharge requirements.

**ARTICLE 19
MISCELLANEOUS**

Section 19.01. Parties Bound

This Agreement binds and inures to the benefit of the Parties and their respective legal representatives, heirs, distributees, successors and assigns, where assignment is permitted by this Lease Agreement.

Section 19.02. Applicable Law

THIS LEASE AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS LEASE AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Venue of any action arising out of this Lease Agreement will be in Nueces County, Texas.

Section 19.03. Severability

If any part of this Lease Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.

Section 19.04. Time of Essence

Time is of the essence with respect to each date or time specified in this Lease Agreement by which an event is to occur.

Section 19.05. Rights and Remedies Cumulative

The rights and remedies provided by this Lease Agreement are cumulative, and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance or otherwise. All the rights and remedies may be exercised and enforced concurrently or whenever occasion for the exercise arises.

Section 19.06. Attorneys' Fees

In the event Authority or Lessee breach or default upon any of the terms of this Lease Agreement and the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting Party agrees to pay the reasonable attorneys' fees incurred by the prevailing Party.

Section 19.07. Captions

All captions in this Lease Agreement are for reference and convenience only and shall not modify or affect the provisions of this Lease Agreement in any manner.

Section 19.08. Public Disclosure

(a) Authority is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Public Information Act (Texas Government Code, chapters 551 and 552), and as such Authority is required to disclose to the public (upon request) this Lease Agreement and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, Lessee agrees that the disclosure of this Lease Agreement or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Authority as required by the Texas Open Meetings Act, Texas Public Information Act or any other law will not expose Authority (or any party acting by, through or under Authority) to any claim, liability or action by Lessee. Authority agrees to keep confidential the business terms of this Lease to the extent permitted by law. Authority shall provide immediate notice to Lessee of any open records request and allow Lessee to seek protective order within the statutory time limits.

(b) In the event that Authority is requested to disclose any information regarding Lessee or the transactions contemplated hereby which can be withheld under the Texas Public Information Act, Authority will provide the Lessee with prompt prior notice so that the Lessee may seek a protective order or other appropriate remedy and/or waive the right to have the information withheld.

Section 19.09. Brokers

Lessee hereby warrants and represents unto Authority that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease Agreement, and agrees to defend, indemnify and hold harmless Authority from

and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization by, through or under Lessee in connection with this Lease Agreement.

Authority hereby warrants and represents unto Lessee that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease Agreement, and agrees to defend, indemnify and hold harmless Lessee from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization by, through or under Authority in connection with this Lease Agreement.

Section 19.10. Authority

Each of Lessee and Authority warrants and represents unto the other Party that (a) (if applicable) it is a duly organized and existing legal entity, in good standing in the state of Texas, (b) it has full right and authority to execute, deliver and perform this Lease Agreement, (c) the person executing this Lease Agreement on behalf of Lessee and Authority was authorized to do so, and (d) upon request, it will deliver to the other Party reasonable evidence of its authority to execute this Lease Agreement.

Section 19.11. Recording

Upon the request of either Party, Authority and Lessee shall execute a Memorandum of Lease, in the form agreed upon by the Parties, and either Party may record the Memorandum of Lease in the appropriate Real Property Records. Neither Party to this Lease may record this Lease without the express written consent of the other Party.

Section 19.12. Interpretation

Both Authority and Lessee and their respective legal counsel have reviewed and have participated in the preparation of this Lease Agreement. Accordingly, no presumption will apply in favor of either Authority or Lessee in the interpretation of this Lease Agreement or in the resolution of the ambiguity of any provision hereof.

Section 19.13. Force Majeure

(a) In the event either Party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of *force majeure*, which includes strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God, or other reason of like nature not the fault of the Party delayed in performing work or doing acts (herein "*force majeure*"), such Party shall be excused for the period of time equivalent to the delay caused by such *force majeure*.

(b) Notwithstanding the foregoing, any extension of time for *force majeure* shall be conditioned upon the Party seeking an extension of time delivering written notice of such *force majeure* to the other Party within five (5) Business Days of the event causing the *force majeure*. The maximum period of time which a Party may delay any act or performance of work due to

force majeure shall be sixty (60) days unless repairs cannot reasonably be completed or commenced within such 60 days, then such time shall be extended as reasonably necessary to complete the repairs due to the force majeure event.

Section 19.14. Contractual Relationship

Nothing contained in this Lease Agreement shall create a contractual relationship with or a cause of action in favor of a third party against Authority or Lessee.

Section 19.15. Entire Agreement

This Lease Agreement, including any exhibits hereto, constitutes the Parties' final and mutual agreement with respect to the subject matter hereof. There are no written or oral representations or understandings regarding the subject matter of this Lease Agreement that are not fully expressed in this Lease Agreement. No change, waiver or discharge is valid unless in a writing that is signed by the Party against whom it is sought to be enforced.

Section 19.16. Declaration

For informational purposes only to assist in the administration of this Agreement, the Authority and Lessee hereby agree to execute a Declaration ("**Declaration**"), in substantially the form attached hereto as **Exhibit C**, to confirm the date on which Commencement of Commercial Operations occurs, and the Commencement Date, as soon as practicable following the first date that all of this information is known.

[Signature page follows this page]

EXHIBIT "A"

LEGAL DESCRIPTION OF TRACT ONE

EXHIBIT A – LEGAL DESCRIPTION OF
TRACT ONE

STATE OF TEXAS
COUNTY OF NUECES

4.56 ACRES

Field notes of a 4.56-acre tract of land out of the submerged land patented to Nueces County Navigation District No. 1 and referred to by records of the Texas General Land Office (GLO) as Patent 84, Survey 939, Volume 47A, Abstract no. 2677 and Refugio Scrip 1922, which patent is recorded in Volume 192, Page 579 of the deed records in Nueces County, Texas. Said TRACT ONE further described as follows:

Commencing at the south fence post of a valve station (N: 17,187,207.49, E: 1,334,704.28) found just south of the intersection of the Joe Fulton Corridor and Navigation Blvd,

thence S 83°50'37" W, a distance of 526.76' to the **point of beginning** on the east line of the Texas Lehigh lease, Vol. 1046, Pg. 367 DRNCT, (N: 17,187,151.00, E: 1,334,180.56) from which point PCCA monument "CD12-1 1991" found at N: 17,186,636.94, E: 1,337,853.82 bears S 82°02'00" E a distance of 3,709.05';

thence S 66°39'14" E a distance of 498.93' to a point;
thence N 23°20'48" E a distance of 43.00' to a point;
thence S 66°39'14" E a distance of 290.00' to a point;
thence S 23°20'48" W a distance of 278.70' to a point at N: 17,186,621.96, E: 1,334,811.49;

thence N 66°39'12" W, parallel and 171' northeast of the government dredging line, a distance of 789.77' to a corner of said Texas Lehigh lease;

thence N 23°33'05" E along the east line of said Texas Lehigh lease, a distance of 235.70';
which is the **point of beginning**, having an area of 198,500 square feet, 4.56 acres more or less.

Bearings and distances are grid, Texas Coordinate System NAD 1983 (2011), South Zone. Reference plat dated July, 2017 for additional information.


James M. Naismith, RPLS #4828



EXHIBIT "A-1"

LEGAL DESCRIPTION OF TRACT TWO

EXHIBIT "A-1" – LEGAL DESCRIPTION
OF TRACT TWO

STATE OF TEXAS
COUNTY OF NUECES

4.30 ACRES

Field notes of a 4.30-acre tract of land out of the submerged land patented to Nueces County Navigation District No. 1 and referred to by records of the Texas General Land Office (GLO) as Patent 84, Survey 939, Volume 47A, Abstract no. 2677 and Refugio Scrip 1922, which patent is recorded in Volume 192, Page 579 of the deed records in Nueces County, Texas. Said TRACT TWO further described as follows:

Commencing at the south fence post of a valve station (N: 17,187,207.49, E: 1,334,704.28) found just south of the intersection of the Joe Fulton Corridor and Navigation Blvd,

Thence S 86°50'42" E a distance of 175.34' to a point along a chain-link fence (N: 17,187,197.84, E: 1,334,879.36) being the **point of beginning**, from which the south fence/gate post (N: 17,187,217.23, E: 1,334,868.68) of a rail way opening through chain-link fence bears N 28°50'15" W a distance of 22.13';

thence N 62°42'19" E along the general west edge of pavement a distance of 102.52' to a ½" iron rod set on the edge of pavement;

thence S 88°33'15" E leaving the edge of pavement and entering a stock yard a distance of 312.23' to a point on pavement;

thence S 44°13'40" E continuing across said paved stock yard a distance of 126.80' and for the following calls;

thence S 16°05'44" E a distance of 105.49';

thence S 57°26'58" E a distance of 174.44';

thence N 88°11'46" E a distance of 1,206.54';

thence S 01°20'57" E a distance of 62.69' to a point along a chain-link fence (N:17,186,926.20, E: 1,336,754.74),

thence S 88°17'04" W continuing along said chain-link fence at 1,138.63' passing a corner post of said fence and continuing along the extension line of said chain-link fence in all a distance of 1,235.62' to a point on vegetated ground and intersection of the extension lines of two sections of said chain-link fence;

thence N 72°09'58" W along the extension line of the same chain-link fence at 70.12' passing a corner post of said fence and continuing along the said chain-link fence in all a distance of 99.35' to a point on said chain-link fence, point also being a northeast corner of a proposed 20' railroad right-of-way;

thence S 87°21'47" W a distance of 119.20' to a point on the edge of pavement and non-tangent point of curve to the right ;

thence with said curve along edge of pavement and truck turn-around turning to the right along arc with a radius of 42.40', with a chord bearing of N 25°55'57" W, with a chord length of 54.43', an arc length of 58.80' to a corner post of said chain-link fence,

EXHIBIT "A-1" – LEGAL DESCRIPTION
OF TRACT TWO

STATE OF TEXAS
COUNTY OF NUECES

4.30 ACRES

thence with a reverse curve turning to the left along chain-link fence and truck-turn-around along arc with a radius of 58.32', with a chord bearing of N 27°45'26" W, with a chord length of 76.48', an arc length of 83.41' to a point along chain-link fence,

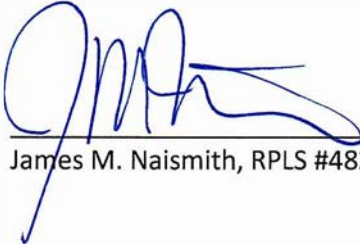
thence N 68°13'14" W continuing along said chain-link fence and truck turn-around a distance of 27.02' to a point of curve to the left;

thence with a curve turning to the left and continuing along said chain-link fence and truck turn-around along arc with a radius of 58.32', with a chord bearing of S 71°18'59" W, with a chord length of 76.48', an arc length of 83.41' to a corner post of said chain-link fence;

thence N 66°25'30" W continuing along said chain-link fence a distance of 247.93';

thence N 27°16'10" W a distance of 92.68' to the **point of beginning**,
having an area of 187,200 square feet or 4.30 acres, more or less.

Bearings and distances are grid, Texas Coordinate System NAD 1983 (2011), South Zone. Reference plat dated June, 2017 for additional information.


James M. Naismith, RPLS #4828

6/12/2017



EXHIBIT "A-2"

PLAT OF TRACT ONE AND TRACT TWO

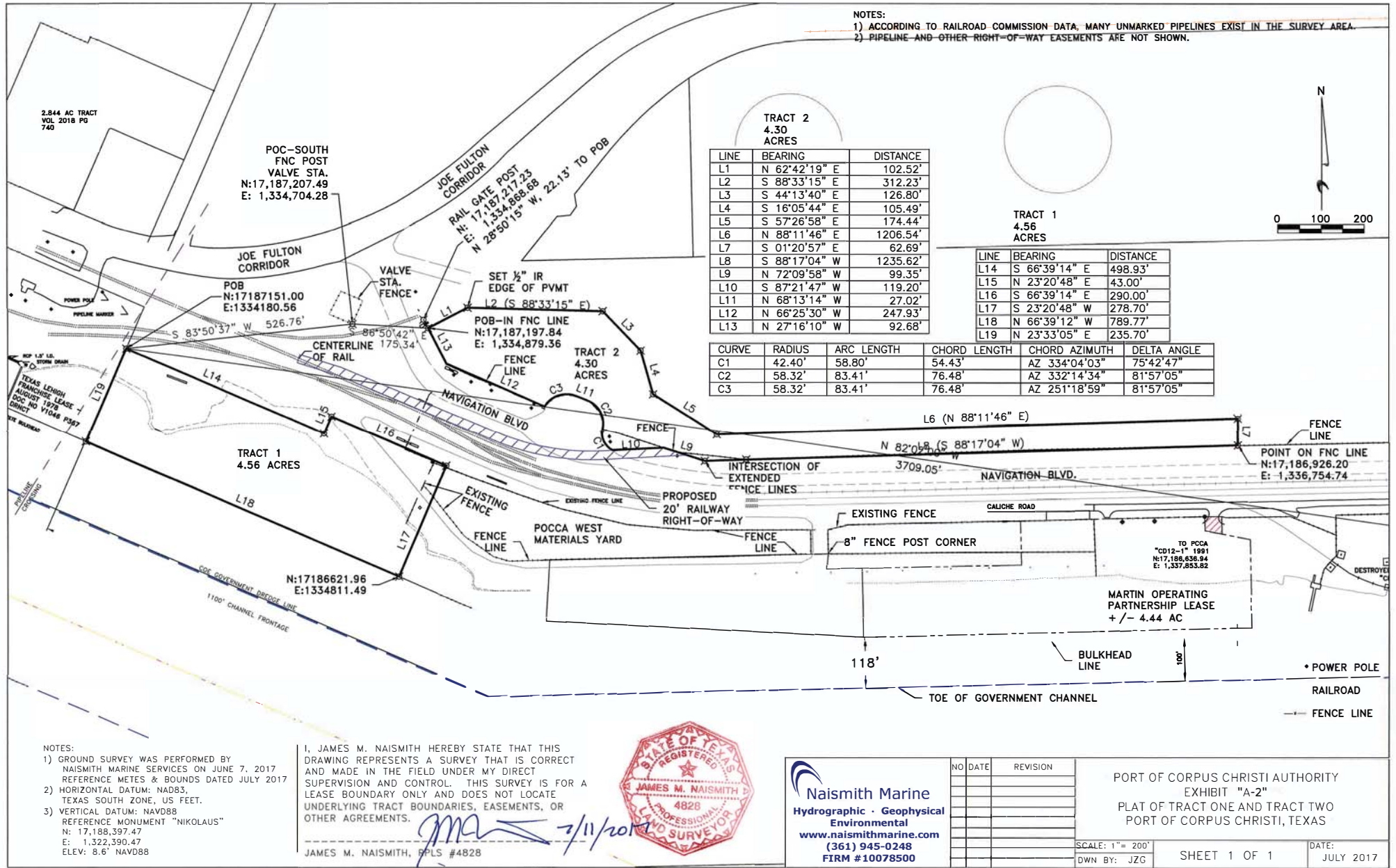
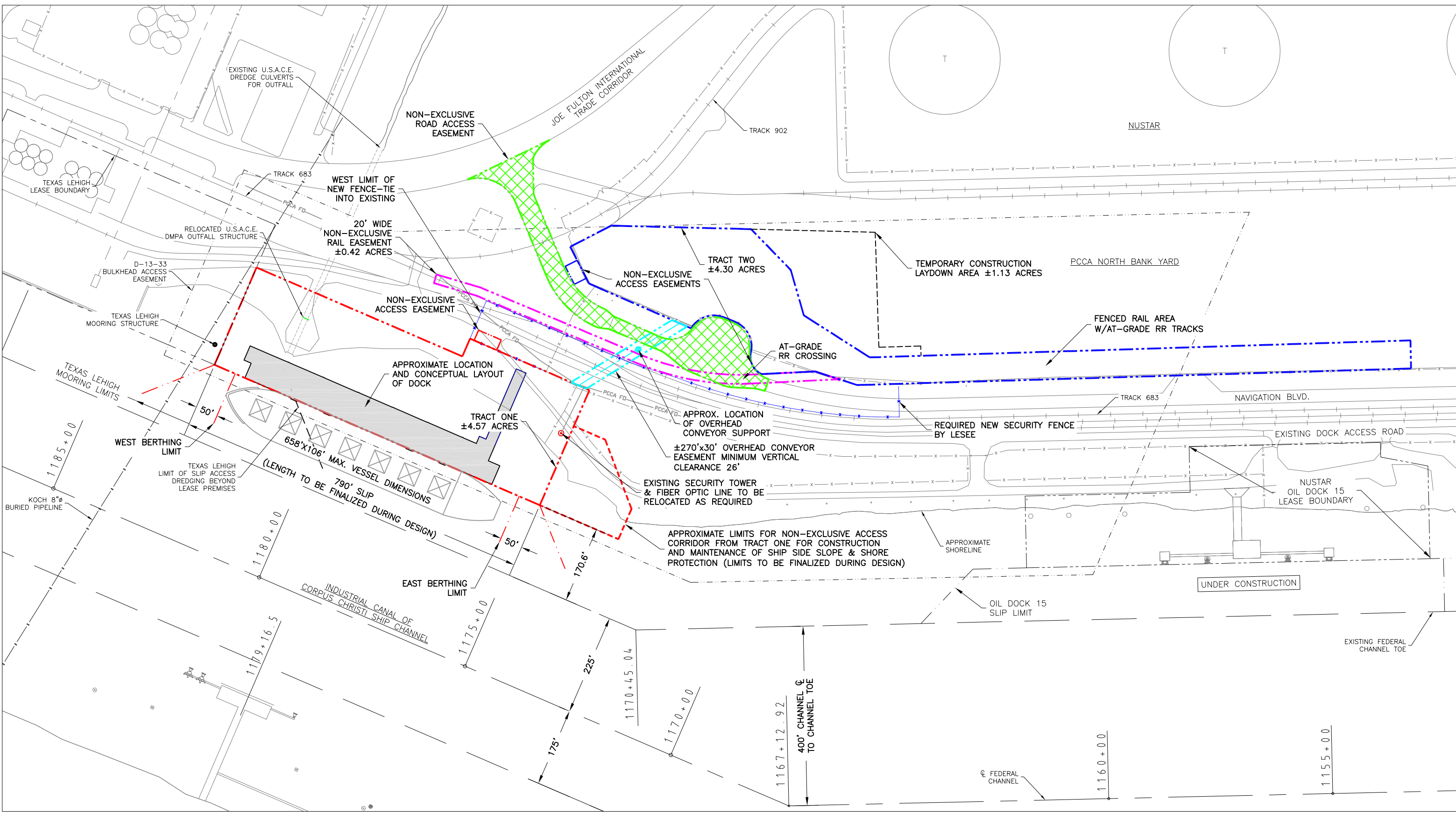


EXHIBIT "B"

**MAP SHOWING LOCATION OF TRACT ONE, TRACT TWO,
THE CARGO DOCK BERTH AND THE CONVEYOR EASEMENT**

H:\1 PORT FILES\GCCM-rocky facility\Project Rocky VI 3.59 acre Lease 170710.dwg 7/11/2017 4:11 PM



01 LEASE EXHIBIT
 0101 SCALE
 0 100' 200'

EXHIBIT B

MAP OF LAND, BERTH AND OVERHEAD CONVEYOR EASEMENT

EXHIBIT C

**DECLARATION REGARDING CERTAIN INFORMATION RELATING TO
THE LEASE AGREEMENT DATED AUGUST 1, 2017, BETWEEN THE
PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS
AND GCCM HOLDINGS, LLC**

This Declaration is made this ___ day of _____, 201__ (“*Declaration Date*”), pursuant to that certain Lease Agreement between the Port of Corpus Christi Authority of Nueces County, Texas (“*Authority*”) and GCCM Holdings, LLC (“*Company*”), made effective as of the 1st day of Augusts, 2017 (the “*Agreement*”). Capitalized terms in this Declaration shall have the meanings ascribed to those terms under the provisions of the Agreement, except as provided herein.

Now therefore, pursuant to Section 9.16 of the Agreement, the Authority and Company hereby declare as follows:

- (a) Commencement of Commercial Operations occurred on _____, 201__; and
- (b) the Commencement Date is _____, 201__.

IN WITNESS WHEREOF, the Parties have caused this Declaration to be executed by their duly authorized offices effective as of the Declaration Date.

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**

By: _____
John P. LaRue, Executive Director

GCCM HOLDINGS, LLC

By: _____

EXHIBIT D

INSURANCE COVERAGES TO BE PROVIDED BY THE CONTRACTORS FOR LESSEE

The Lessee will require its Contractor(s) to provide the following insurance coverage on and in connection with the installation of the Lessee Facilities:

- A. Workers Compensation Insurance (Coverage A) for statutory requirements including protection for liability under the Federal Longshoremen's Harbor Workers' Compensation Act.
- B. Employers Liability Insurance (Coverage B) with limits of not less than \$5,000,000 per occurrence. Coverage B will provide coverage for liability under the Jones Act, Death on the High Seas Act, and General Maritime Law for all employees or all employees except members of the crew of vessels if full crew liabilities are covered by limits under the Protection and Indemnity policies. Such Maritime Coverage will include protection against the liability of employer to provide transportation wages, maintenance and cure to any maritime employees. Coverage B will be amended to provide that a claim "*in rem*" will be treated as a claim against the employer.
- C. Comprehensive General Liability Insurance including Contractual Liability covering obligations assumed herein with limits of not less than \$5,000,000 including an endorsement for sudden and accidental environmental impairment liability. If waterborne craft or vessels are to be used, the watercraft exclusion endorsement must be deleted from the policy. Authority and Lessee will be named as additional insureds; and by endorsement, underwriters will agree to waive subrogation against Authority and Lessee.

Authority shall be furnished by Lessee prior to each Contractor commencing any work, as proof of the insurance policies (the "**Policies**") required of Contractor, a certificate or certificates of insurance (and the endorsements required in this paragraph shall be attached to the certificate or certificates of the insurance) describing the Policies, which certificates must be approved by, and on file with, the Texas Insurance Commission, and must be reasonably acceptable in their content, to Authority and Lessee. Each of the Policies will be endorsed to (a) (except for Workers' Compensation and employer's liability insurance) name Authority, its Port Commissioners, officers, officials, employees and agents as an additional insured, (b) provide that it will not be suspended, voided, canceled or reduced in coverage or limits without thirty (30) days' prior written notice to Authority, and (c) provide that notwithstanding any language in any policy of insurance held by Lessee ("**Lessee Insurance**") to the effect that the Lessee Insurance is primary, the policy or policies held by Contractor are primary coverage and the Authority Insurance is non-contributory.

Contractor shall deliver to Authority and Lessee certificates of renewal at least thirty (30) days prior to the expiration date of each of the Policies and copies of new policies at least thirty (30) days prior to terminating any of the Policies. The deductible or self-insured retention

for each of the Policies must be stated in the certificate of insurance provided to Authority and Lessee if either exceeds \$50,000.00; and, in such event, Authority may decline to approve this Contractor's contract without any liability to Contractor. The company writing each of the Policies must possess a current rating with A.M. Best Company of at least A: VI. If Contractor neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Authority or Lessee may procure such insurance at Contractor's expense, and Authority or Lessee is entitled to reimbursement from Contractor for all amounts spent to procure and maintain the insurance, with interest on such expense at a rate of 10% annually from the date Contractor receives Authority's or Lessee's notice of payment until reimbursement.

EXHIBIT E

UNRECORDED EASEMENTS OR RIGHTS-OF-WAY

NONE

EXHIBIT F

LESSEE'S INSURANCE REQUIREMENTS

Without limiting the indemnity obligations or liabilities of Lessee or its insurers provided in this Lease Agreement, before commencing any material activities on the Leased Premises or the Cargo Dock Facilities under this Lease Agreement, Lessee shall procure and maintain at its sole expense during the Term of the Lease, and during any time period following expiration or termination of the Lease in which Lessee is required to perform additional work on the Leased Premises, the following policies of insurance (sometimes collectively referred to in this **Exhibit F** as the "***Policies***") and in at least the minimum amounts specified below:

(1) *Property Insurance.* Special form ("all risk") property insurance with no exclusions, except the standard printed exclusions, at Full Replacement Cost (hereinafter defined), covering Oil Dock 15, the Dock 15 Equipment, and Lessee's Facilities (the "***Property Insurance***"). Coverage shall include, without limitation, the following: primary and excess flood, windstorm, named storm, earthquake, and debris removal. The term "***Full Replacement Cost***" shall mean the actual replacement cost of Oil Dock 15 as shall be provided to Lessee by the Authority from time to time, the Dock 15 Equipment, and Lessee's Facilities, including the cost of demolition and debris removal and without deduction for depreciation. The Authority shall be named as an additional insured on the Property Insurance. Authority shall be named as loss payee on the Property Insurance with respect to proceeds attributable to damage to Oil Dock 15 and the Dock 15 Equipment. Lessee shall not be a loss payee with respect to proceeds attributable to damage to Oil Dock 15 and the Dock 15 Equipment, but Lessee shall be the loss payee on the Property Insurance with respect to proceeds attributable to damage to the Lessee's Facilities. The proceeds of the Property Insurance shall be used for the restoration of the property so insured as provided in Section 10.01, except that if this Lease is terminated in accordance with Section 10.01 following a casualty, the proceeds applicable to Oil Dock 15 and the Dock 15 Equipment shall be paid to the Authority and the proceeds applicable to Lessee's Facilities shall be paid to Lessee. Lessee shall provide to the Authority a copy of the Property Insurance policy document and any specific endorsements to the Property Insurance policy which reflect the above coverage requirements.

(2) *Workers' Compensation and Employer's Liability Insurance.* For all its employees engaged in performing work on the Leased Premises or the Cargo Dock Facilities, workers' compensation insurance for at least the applicable statutory limit required by the Texas Workers' Compensation Code; and Employer's Liability insurance with at least \$500,000 limit for each for bodily injury by accident, and at least a \$500,000 limit for each employee for bodily injury by disease. Under the Worker's Compensation policy, Lessee shall provide a Waiver of Subrogation in favor of the Authority Parties on the Certificate of Insurance. In the event that the work of Lessee's employees on the Leased Premises falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, the Lessee shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts.

(3) *Commercial General Liability Insurance.* Commercial General Liability (CGL) insurance coverage, which shall cover or be endorsed to cover bodily injury, personal injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability, products and completed operations liability, and time element pollution coverage, with a per occurrence limit of \$1,000,000 and aggregate limits of at least \$2,000,000 and endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis, but only with respect to liabilities arising out of any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property occurring on the Leased Premises or the Cargo Dock Facilities, in each case arising out of (i) the use or occupancy of the Leased Premises or the Cargo Dock Facilities by Lessee or any Lessee Party, or (ii) the condition, use, malfunction, defect, or explosion of any of the Dock 15 Equipment, or (iii) the construction, alteration, repair or maintenance of the Lessee's Facilities..

(4) *Automobile Liability Insurance.* When any motor vehicles (owned, non-owned or hired by Lessee) are used in connection with work being performed on the Leased Premises, the Lessee shall provide or cause to be provided Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

(5) *Umbrella Insurance.* Excess or Umbrella liability insurance coverage limits of not less than \$5,000,000 over and above the underlying primary coverage limits stated above with respect to bodily injury or death to any number of persons in any one accident or occurrence. The policy shall be endorsed to name the Authority Parties as additional insureds, non-contributory basis, but only with respect to liabilities arising out of any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property occurring on the Leased Premises or the Cargo Dock Facilities, in each case arising out of (i) the use or occupancy of the Leased Premises or the Cargo Dock Facilities by Lessee or any Lessee Party, or (ii) the condition, use, malfunction, defect, or explosion of any of the Dock 15 Equipment, or (iii) the construction, alteration, repair or maintenance of the Lessee's Facilities.

(7) *Pollution Legal Liability Insurance.* Pollution Liability insurance covering bodily injury, property damage, including cleanup, and other losses caused by pollution conditions occurring during the Term of this Lease and arising directly from Lessee's operations at the Leased Premises or the Cargo Dock Facilities, including pollution of any body of water, with limits of not less than \$10,000,000 per occurrence. Pollution Coverage shall include, but not be limited to, environmental cleanup, remediation and disposal and may be included within the required General Liability and/or Umbrella Insurance.

Lessee shall deliver to Authority, prior to the commencement of any material activity by Lessee on the Leased Premises, as proof of the insurance required of Lessee, a certificate or certificates of insurance (and any endorsements required to provide evidence of the insurance coverages required under this Lease) describing the Policies, which certificates must be in their form and content, reasonably acceptable to the Authority.

In the event that a claim is filed against the Authority and governed by the terms of this Lease, Lessee shall, upon receipt of a written request, deliver to the Authority, true and correct copies of the Policies required hereunder which may be responsive to the claim. In addition, to the extent that during the Term there shall occur any material changes in any of the Policies required hereunder, Lessee shall notify the Authority of such changes. In the event that Lessee fails to obtain or maintain any of the insurance required by this **Exhibit F**, the Authority retains the right to procure such insurance coverage and charge the Lessee the premium cost plus an additional 10% administrative fee.

From time to time during the Term to the extent that the Authority provides written notice to Lessee evidencing Authority's reasonable belief (in reasonable detail) that the amounts of coverage required by this **Exhibit F** have become insufficient to adequately protect the interests of the Authority, then upon Lessee's receipt of such notice the Parties will commence a dialog in good faith to discuss a possible adjustment to the coverage amounts herein provided, to adequately restore the protection afforded to the interests of the Authority.

Lessee shall deliver to Authority certificates of renewal at least thirty (30) days prior to the expiration date of each of the Policies. The company writing each of the Policies must possess a Financial Strength Rating of no less than "A-" and a Financial Size Category rating of at least "VI" by A.M. Best Company (or any successor rating agency or entity reasonably selected by Authority if A.M. Best Company discontinues publishing ratings of insurance companies or if the rating system is changed).

Notwithstanding the foregoing, Lessee expressly reserves the right, at its sole option, to comply with the insurance obligations using self-insurance programs maintained by it or its corporate parent. If Lessee exercises the option to self-insure, then (i) Lessee shall provide written notice of its intent to self-insure accompanied with details of its self-insurance program; (ii) such self-insurance program must be permitted by applicable law; (iii) the insuring company must maintain a net worth (as shown by its most recent financial statements audited in accordance with generally accepted accounting principles) of not less than One Hundred Million Dollars (\$100,000,000); and (iv) the insuring company must maintain an "Investment Grade" financial rating by Moody's or Standard and Poor's or an equivalent rating service; and as to any of the insurance requirements which Lessee elects to self-insure, Lessee will self-insure Authority in the same manner as an additional insured using self-insurance programs maintained by Lessee or Lessee's corporate parent. If Lessee elects to self-insure or to maintain insurance required herein subject to deductibles and/or retentions exceeding \$50,000, Authority and Lessee shall maintain all rights and obligations between themselves as if Lessee maintained the insurance with a commercial insurer including any additional insured status, primary liability, waivers of rights of recovery, other insurance clauses, and any other extensions of coverage required herein. Lessee or its corporate parent, whichever maintains the self-insurance program, shall pay from its assets the costs, expenses, damages, claims, losses and liabilities, including reasonable attorney's fees and necessary litigation expenses at least to the extent that an insurance company would have been obligated to pay those amounts if Lessee had maintained the insurance pursuant to this **Exhibit F**. Authority shall not be responsible for payment of any deductible or self-insured retention or uninsured amount.

EXHIBIT "G"

LEGAL DESCRIPTION OF RAIL ACCESS EASEMENT

EXHIBIT "G" – LEGAL DESCRIPTION
OF RAIL ACCESS EASEMENT

STATE OF TEXAS
COUNTY OF NUECES

0.42 ACRES

Field notes of a 0.42-acre tract of land out of the submerged land patented to Nueces County Navigation District No. 1 and referred to by records of the Texas General Land Office (GLO) as Patent 84, Survey 939, Volume 47A, Abstract no. 2677 and Refugio Scrip 1922, which patent is recorded in Volume 192, Page 579 of the deed records in Nueces County, Texas. Said RAILWAY EASEMENT further described as follows:

Commencing at the south fence post of a valve station (N: 17,187,207.49, E: 1,334,704.28) found just south of the intersection of the Joe Fulton Corridor and Navigation Blvd,

Thence S 57°14'42" W a distance of 150.11' to a point in the center of a railroad track (N: 17,187,126.27, E: 1,334,578.04) being the **point of beginning**;

thence N 17°04'47" E a distance of 10.00' to a point;
thence S 73°32'02" E a distance of 101.40' to a point;
thence S 67°11'05" E a distance of 384.76' to a point;

thence with a curve turning to the left with an arc length of 257.86', with a radius of 586.31', with a chord bearing of S 79°47'02" E, with a chord length of 255.79', to a point;

thence N 87°06'17" E a distance of 140.67' to a point in a fence and on the boundary of a 4.30-acre lease known as "TRACT TWO";

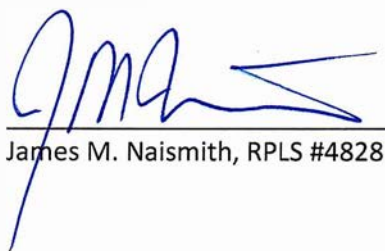
thence S 72°09'58" E a distance of 56.51' along the boundary of said 4.30-acre lease to a point at N: 17,186,902.33, E: 1,335,478.88;

thence S 87°06'17" W, a distance of 193.52' to a point;

thence with a curve turning to the right with an arc length of 267.09', with a radius of 583.80', with a chord bearing of N 79°47'18" W, with a chord length of 264.77', to a point;

thence N 67°11'05" W a distance of 383.66', to a point;
thence N 73°32'24" W a distance of 100.40', to a point;
thence N 17°04'47" E a distance of 10.00', to the **point of beginning** having an area of 18,400 square feet, 0.42 acres, more or less.

Bearings and distances are grid, Texas Coordinate System NAD 1983 (2011), South Zone. Reference plat dated June, 2017 for additional information.


James M. Naismith, RPLS #4828

6/17/2017



EXHIBIT "G-1"

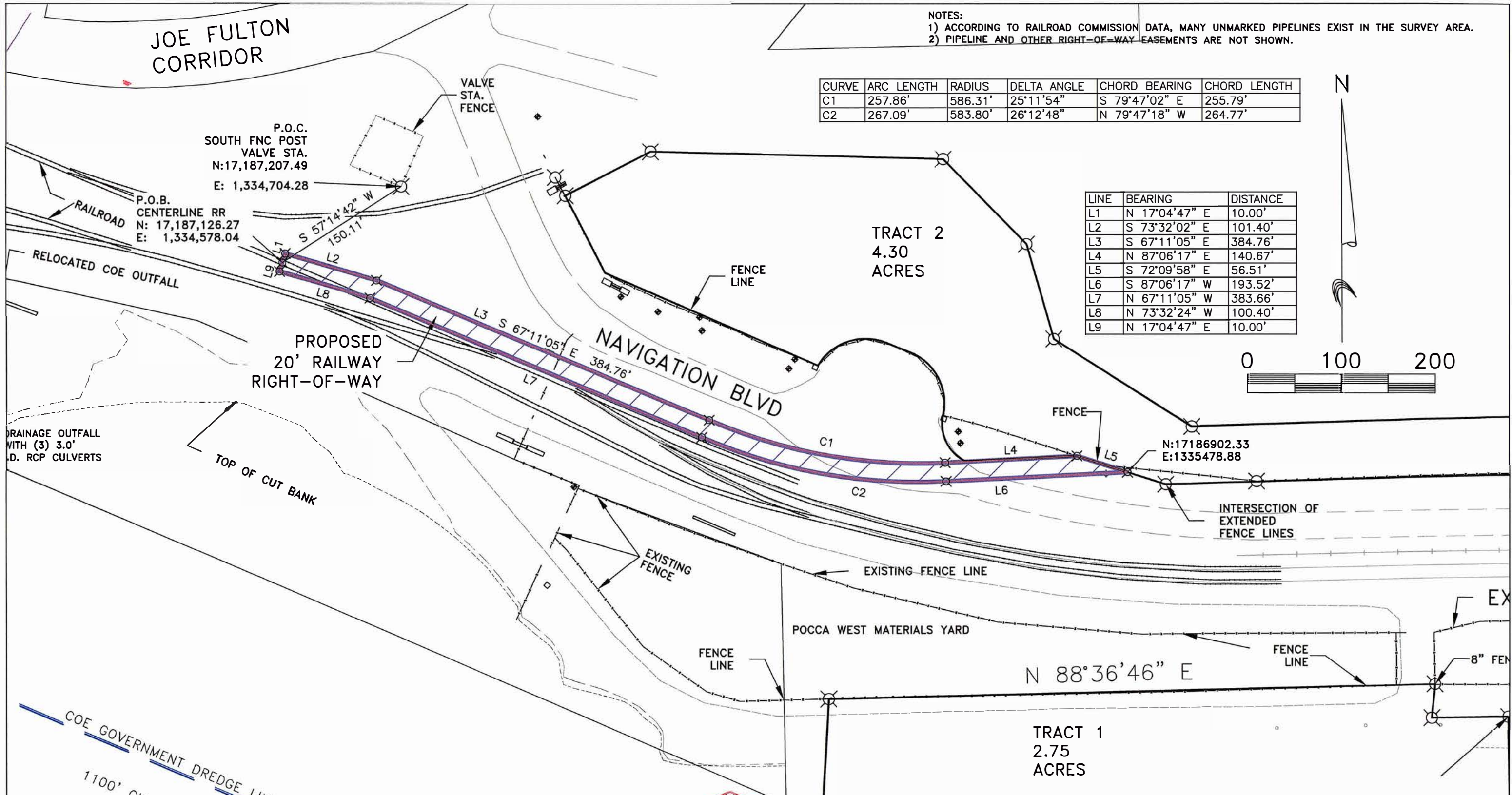
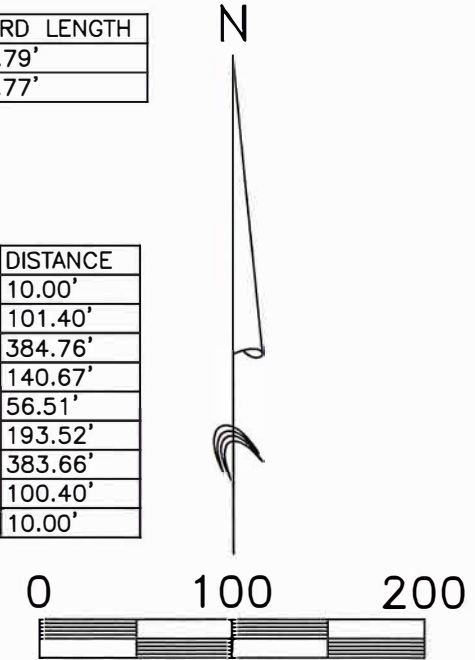
PLAT OF RAIL ACCESS EASEMENT

JOE FULTON CORRIDOR

NOTES:
 1) ACCORDING TO RAILROAD COMMISSION DATA, MANY UNMARKED PIPELINES EXIST IN THE SURVEY AREA.
 2) PIPELINE AND OTHER RIGHT-OF-WAY EASEMENTS ARE NOT SHOWN.

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	257.86'	586.31'	25°11'54"	S 79°47'02" E	255.79'
C2	267.09'	583.80'	26°12'48"	N 79°47'18" W	264.77'

LINE	BEARING	DISTANCE
L1	N 17°04'47" E	10.00'
L2	S 73°32'02" E	101.40'
L3	S 67°11'05" E	384.76'
L4	N 87°06'17" E	140.67'
L5	S 72°09'58" E	56.51'
L6	S 87°06'17" W	193.52'
L7	N 67°11'05" W	383.66'
L8	N 73°32'24" W	100.40'
L9	N 17°04'47" E	10.00'



DRAINAGE OUTFALL WITH (3) 3.0' D. RCP CULVERTS

TOP OF CUT BANK

COE GOVERNMENT DREDGE LINE
 1100' CHAN

NOTES:
 1) GROUND SURVEY WAS PERFORMED BY NAISMITH MARINE SERVICES ON JUNE 7, 2017. REFERENCE METES & BOUNDS DATED JUNE 2017.
 2) HORIZONTAL DATUM: NAD83, TEXAS SOUTH ZONE, US FEET.
 3) VERTICAL DATUM: NAVD88. REFERENCE MONUMENT "NIKOLAUS"
 N: 17,188,397.47
 E: 1,322,390.47
 ELEV: 8.6' NAVD88

I, JAMES M. NAISMITH HEREBY STATE THAT THIS DRAWING REPRESENTS A SURVEY THAT IS CORRECT AND MADE IN THE FIELD UNDER MY DIRECT SUPERVISION AND CONTROL. THIS SURVEY IS FOR A LEASE BOUNDARY ONLY AND DOES NOT LOCATE UNDERLYING TRACT BOUNDARIES, EASEMENTS, OR OTHER AGREEMENTS.
 JAMES M. NAISMITH, RPLS #4828



Naismith Marine
 Hydrographic · Geophysical
 Environmental
 www.naismithmarine.com
 (361) 945-0248
 FIRM #10078500

NO	DATE	REVISION

PORT OF CORPUS CHRISTI AUTHORITY
 EXHIBIT "G-1" PLAT OF RAIL ACCESS EASEMENT
 PORT OF CORPUS CHRISTI, TEXAS

SCALE: 1" = 100'
 DWN BY: JZG

SHEET 1 OF 1

DATE: JUNE 2017

APPENDIX ONE

GENERAL DESIGN CRITERIA FOR CARGO DOCK

The Cargo Dock will be completed using a design build procurement process and shall meet the following General Design Criteria:

- a. Dock design life shall be no less than 50 years.
- b. Maximum dock length to accommodate the unloading of a 658 foot x 106 foot handymax class vessel.
- c. Dock platform is estimated to be total approximately 28,000 square foot of covered and uncovered deck area with breasting line offset as generally shown on Exhibit B.
- d. Dock approachway/ramp capable of supporting a 20 ton mobile crane and HS 20 truck loading with space for utility piping and conduits.
- e. Marine structures will be designed for a future maximum design vessel and to accommodate the berth being dredged in the future to -58 feet MLLW (-52 feet MLLW plus 4 feet of advanced maintenance and 2 feet of allowable overdepth).
- f. Breasting and mooring line loads shall be designed to accommodate the future maximum design vessel at an approach angle not exceeding 6 degrees with a ship docking velocity of 0.5 feet per second. The design wind load on the vessel when moored shall be 60 knots.
- g. Breasting structures and fenders designed to accommodate a future maximum design vessel at an approach velocity of 0.5 feet per second.
- h. The future maximum design vessel shall be a Aframax ship (820-foot LOA by 144-foot beam, with a 52-foot draft).
- i. Mooring structures not located on the dock to be near-shore with quick release mooring hooks and access ladders.
- j. Relocation of USACE DMPA outfall structure as generally indicated on Exhibit B.
- k. Shore protection system to protect against upland erosion and encroachment on adjacent lease areas and PCCA property.
- l. Shoreline bulkhead may be required in the dock abutment area to prevent conflict with the dock operations during potential future shoreline bulkhead installation.
- m. Security fencing around lease premises and access control gate conforming to requirements of 33 CFR 105. Customer to provide Security Plan for Site Access for Review and Approval by PCCA Port Security.
- n. All weather access road and driveway/site entrance at and within lease premises.
- o. Dock shall be designed to accommodate area lighting and lighting for on shore area and dock structure, per applicable NES foot candle requirements, and which are to be constructed by the Lessee.
- p. New power supply (as provided by AEP to site), step down transformers, electrical panel, and 480/240/120v power supply to equipment.
- q. Dock designed to accommodate Lessee's 1,500 tons per hour rail mounted ship unloader and cement conveyor system and related equipment which are to be provided and constructed by Lessee. Power cable to be provided by Lessee.

APPENDIX TWO

GENERAL DESIGN CRITERIA FOR CARGO DOCK BERTH

Design Criteria for Cargo Dock Berth components will include, but not necessarily be limited to:

- a. Berth to be approximately 790 -foot long to accommodate 658-foot x 106-foot handymax class vessel. Final length to be determined during design.
- b. Berth to be originally dredged to elevation of -49- foot MLLW with 2-foot of allowable overdepth.
- c. Dredged and maintained to an elevation of -45-foot MLLW.
- d. The dredge disposal site will be nearby dredge material placement area as determined by the US Army Corps of Engineers and the PCCA.

**APPENDIX THREE
GENERAL DESIGN CRITERIA FOR
SHIP UNLOADER AND CONVEYOR SYSTEM**

Design Criteria for Ship Unloader and Conveyor components will include, but not necessarily be limited to:

- a. The system shall have a capacity to unload a vessel berthed at the Cargo Dock and convey cement at a rate of 1,500 tons/hour to the Cement Distribution Terminal Facilities.
- b. Ship unloader shall be capable of accessing all holds of a handymax class vessel ship up to 658 foot length in a stationary mooring condition.
- c. Overhead conveyor system shall be constructed within the easement as identified on Exhibit B and shall have a minimum vertical clearance of 26 feet from the top of road elevation of Navigation Boulevard.
- d. Conveyor system shall be designed to prevent fugitive dust and/or contamination of the product, and may be designed as an enclosed system.
- e. The system shall include electrical service, instruments and PLC controls with communication (SCADA or fiber optics) to Lessee's adjacent facility designed in accordance with Lessee's requirements.

APPENDIX FOUR
GENERAL DESIGN CRITERIA FOR CEMENT DISTRIBUTION TERMINAL

Design Criteria for Cement Distribution Terminal components will include, but not necessarily be limited to:

- a. Shall include rail tracks, roadways, loading facilities, cement silos, offices, and related improvements.
- b. Railroad crossings shall be at grade.
- c. All weather access road and driveway/site entrance at and within lease premises.
- d. Shall be designed to meet the requirements of the City of Corpus Christi Building Code, which include the 2014 National Electric Code, the 2015 International Building, Residential, Energy, Plumbing, Fuel Gas, and Mechanical Codes, and also the Port of Corpus Christi's Building Design & Construction Requirements.
- e. Security fencing around lease premises and access control gate conforming to requirements of 33 CFR 105. Customer to provide Security Plan for Site Access for Review and Approval by PCCA Port Security.
- f. All permanent structures and building shall be located a minimum of 10 feet from lease property lines.
- g. Area lighting and single phase electrical service.
- h. Lighting to also include on shore area and dock structure, per applicable NES foot candle requirements.
- i. New power supply (as provided by AEP to site), step down transformers, electrical panel, and 480/240/120v power supply to equipment.

**SCHEDULE 1
ESTIMATE OF OTHER PROJECT COSTS**

FOR CARGO DOCK FACILITIES Port of Corpus Christi North Bank Inner Harbor					
Item Description	Quantity		Unit Cost	Minor Work Item Subtotals	Major Work Item Subtotals
	QTY	Unit			
Estimated Other Project Costs					\$1,921,342
Permitting Assistance	1	LS	\$50,000	\$50,000	\$50,000
Mitigation	1	LS	\$625,000	\$625,000	\$625,000
Conceptual Design, Design Build RFP preparation and review	1	LS	\$150,000	\$150,000	\$150,000
Construction Administration/ Design Build Engineering Oversight	1	LS	\$684,228	\$684,228	\$684,228
Construction Materials Testing	1	LS	\$342,114	\$342,114	\$342,114
Environmental Baseline Assessment	1	LS	\$70,000	\$70,000	\$70,000

**FIRST AMENDMENT TO
AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

This First Amendment to Amended and Restated Employment Agreement (“*Amendment*”) is made and entered into effective as of July 18, 2017 (“*Amendment Date*”), by and between the **Port of Corpus Christi Authority of Nueces County, Texas** (“*Authority*”) and **John P. LaRue** (“*Employee*”). The Authority and the Employee are sometimes referred to collectively herein as the “*Parties*” and individually as a “*Party*.”

RECITALS

WHEREAS, PCCA originally employed Employee as its Executive Director on or around April 18, 1994, pursuant to an employment contract which has since expired; and

WHEREAS, following the expiration of the original employment agreement(s), the Parties entered into an employment agreement effective as of January 1, 2010, with an initial term ending on December 31, 2012 (the “*Prior Employment Agreement*”);

WHEREAS, before the expiration of the Prior Employment Agreement, the Parties amended and restated the Prior Employment Agreement in its entirety by entering into an Amended and Restated Employment Agreement effective as of December 1, 2012 (the “*Current Employment Agreement*”); and

WHEREAS, the Parties have mutually agreed to amend the Current Employment Agreement as set forth in this Amendment; and

WHEREAS, all capitalized terms in this Amendment shall have the meanings ascribed to those terms under the provisions of the Current Employment Agreement, except as otherwise provided herein.

NOW THEREFORE, for and in consideration of the foregoing recitals, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. Effective as of the Amendment Date, Section 3.03 of the Current Employment Agreement shall be amended in its entirety to read as follows:

3.03 Evaluation and Bonus.

(a) Annual Evaluation. In the last quarter of each calendar year during the Term of Employment (beginning with the last quarter of 2017), each member of the Port Commission shall evaluate Employee’s performance from the first day of such calendar year through the date of evaluation. The Chairman shall share the results of the evaluations with Employee as soon as practicable after all the evaluations have been completed, and the Port Commission as a whole shall meet with Employee during the last quarter of each calendar year to answer any questions Employee may have about the evaluations and to discuss and formulate the Employee’s and the Port Commission’s goals for PCCA for the coming year.

(b) Bonus Goals and Formula. The Port Commission shall establish written bonus goals (“Bonus Goals”) for the Employee for each calendar year (beginning with 2017) and communicate those goals to the Employee in the first quarter of such calendar year; provided, however, that Employee’s Bonus Goals for 2017 shall be delivered to Employee on July 18, 2017.

The Port Commission shall also establish a bonus formula (“Bonus Formula”) for each calendar year tied to the Bonus Goals for that year and deliver a copy of the Bonus Formula to Employee in the first quarter of such calendar year; provided, however, that the Bonus Formula for 2017 shall be delivered to Employee on July 18, 2017. The terms of the Bonus Goals and Bonus Formula for each calendar year are within the complete discretion of the Port Commission, and the Port Commission may change the Employee’s Bonus Goals and Bonus Formula for each calendar year prior to the beginning of that year.

(c) **Annual Bonus.** In the first quarter of each calendar year during the Term of Employment (beginning with the first quarter of 2018) and in the first quarter of the calendar year following the calendar year in which the Term of Employment ends, the Port Commission shall award a bonus (“Annual Bonus”) to the Employee based on the Employee’s Bonus Formula for the prior calendar year; provided that the Annual Bonus for any calendar year shall not exceed thirty-five percent (35%) of Employee’s Base Salary for that calendar year. For the absence of doubt, Employee must be employed by PCCA on the last day of a calendar year in order to be eligible for a bonus for that calendar year.

(d) **Manner of Payment of Annual Bonus.** The Annual Bonus awarded to Employee pursuant to Section 3.03(c) shall be paid to Employee in a lump sum cash payment as soon as practicable after the bonus has been awarded.

2. Effective as of the Amendment Date, Section 5.03(h) of the Current Employment Agreement shall be amended in its entirety to read as follows:

(h) **No Additional Payments.** PCCA shall not pay any additional sums or provide any additional benefits to Employee (or to Employee’s estate or legal representatives) after the Termination Date except for those expressly provided in Section 3.03(c), Section 5.02, Section 5.04, and this Section 5.03.

3. This Amendment shall be binding on the successors and assigns of the Parties. Except as otherwise expressly set forth in this Amendment, the terms, obligations, duties, and other requirements under the Current Employment Agreement shall remain in full force and effect until the Current Employment Agreement is further amended or restated, terminated, or expires in accordance with its terms. In the event of any conflict between the terms and conditions of this Amendment and the terms and conditions of the Current Employment Contract, the terms and conditions of this Amendment shall control.

EMPLOYEE:

John P. LaRue

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS:**

By: _____
Name: Charles W. Zahn Jr.
Title: Port Commission Chairman

DATE: July 18, 2017
TO: Port Commission
FROM: Sean Strawbridge – Deputy Executive Director
sstrawbridge@pocca.com
(361) 885-6133

Agenda Item No. 18e

Approve Amendment of OD15 Lease Agreement with NuStar Logistics, L.P. for on the North Side of the Industrial Canal of the Inner Harbor

SUMMARY: Staff is seeking authorization from the Port Commission to amend the Lease Agreement with NuStar Logistics, L.P. (NuStar) for Oil Dock 15 which transfers cost and development responsibility for certain mechanical and electrical work from PCCA to NuStar. Further, the Authority will amend its agreement with its Contractor to remove the mechanical and electrical work from the Contractor’s scope of work.

BACKGROUND: In December 2016 NuStar Energy acquired the Martin Midstream Partners, LP (“Martin”) North Beach assets, including the rights to OD15. Since the acquisition, NuStar has made several design changes to the facility in order to increase the capacity of the dock which has increased the cost of the dock development. Such design changes were not contemplated during Martin’s ownership or were provided for in the Lease Agreement. PCCA Staff concur with NuStar that such design changes are likely warranted to handle larger vessels and higher volumes. However since no cost escalation provisions beyond the original 20% contingency contemplated in the lease exist, NuStar and PCCA Staff have instead negotiated a Lease Amendment Letter (attached) which transfers the mechanical and electrical portions of the dock development scope and capital from PCCA to NuStar.

NuStar continues to collaborate with PCCA on design engineering and construction of OD15 and we anticipate this scope transfer to NuStar will help expedite the OD15 development timeline while keeping the PCCA cost exposure neutral.

Thus PCCA and NuStar staff have determined that executing the attached Letter Agreement amending certain scope provisions of the OD15 Lease are in the best interests of both parties.

ALTERNATIVES: PCCA continue with the entire scope of work and amend the agreement to raise the cost exposure level to meet the increased design, equipment, and

installation costs. This would halt the existing project while alternate terms were negotiated with NuStar, thereby increasing standby expense with existing Contractor.

CONFORMITY TO PORT POLICY: Complies with Strategic Plan Goal #2 – Provide Facilities & Services to Meet Customer Needs by evaluating highest and best use of Port-owned real estate.

EMERGENCY: No

FINANCIAL IMPACT: Net neutral per existing OD15 Lease Terms.

STAFF RECOMMENDATION: Staff recommends the Commission approve the full execution of the Letter Agreement with NuStar Logistics, L.P. for Oil Dock 15 per the terms generally outlined above and in the attached signed Letter Agreement dated June 19th and effective July 19th.

DEPARTMENTAL CLEARANCES:

Originating Department Deputy Executive Director

Reviewed & Approved Sean Strawbridge
 David Krams
Legal Jimmy Welder
Senior Staff John LaRue
 Sean Strawbridge
 Dennis DeVries

LIST OF SUPPORTING DOCUMENTS:

- (i) Letter Agreement of Certain Amended Terms of Oil Dock 15 Lease Agreement



VIA OVERNIGHT DELIVERY

July 19, 2017
Port of Corpus Christi Authority
222 Power Street
Corpus Christi, Texas 78401
Attention: Sean Strawbridge

RE: Letter Agreement Regarding Variation of Certain Terms of Oil Dock 15 Lease Agreement

Dear Mr. Strawbridge:

This Letter Agreement (this “*Agreement*”) is effective this 18th day of July, 2017, between the Port of Corpus Christi Authority of Nueces County, Texas (“*Authority*”), and NuStar Logistics, L.P., a Delaware limited partnership (“*Lessee*”). Capitalized terms used but not herein defined will have the meanings given to such terms in the Lease Agreement (as defined below).

WHEREAS, Authority and Lessee are parties to that certain Lease Agreement effective June 1, 2016 (the “*Lease Agreement*”), which was assigned to Lessee on December 21, 2016 pursuant to that certain Assignment of Lease between Martin Operating Partnership L.P. and Lessee.

WHEREAS, Authority and Lessee have each agreed under the Lease Agreement to complete certain construction activities related to the new Oil Dock 15 being constructed in the Inner Harbor of the Port of Corpus Christi.

WHEREAS, Authority and Lessee desire to vary certain terms of the Lease Agreement to reallocate responsibility as between Authority and Lessee for certain of the construction activities described in the Lease Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the mutual benefits and agreements contained herein, Authority and Lessee hereby agree as follows:

1. Mechanical and Electrical Work. Beginning on August 22, 2017 (the “*Transition Date*”),

the Mechanical and Electrical Work related to the Ship Dock Facilities, including the Project Commissioning Process, shall be the responsibility of Lessee. The Final Plans and Specifications for the Mechanical and Electrical Work are set forth on Exhibit A to this Agreement.

2. Civil and Marine Work. The Civil and Marine Work related to the Ship Dock Facilities shall at all times remain the responsibility of Authority. The Final Plans and Specifications for the Civil and Marine Work are set forth on Exhibit B to this Agreement.

3. Substantially Complete. The definition of “Substantially Complete” in Section 1.01 of the Lease Agreement shall be replaced in its entirety with the following:

“Substantially Complete” means (i) that in the opinion of the Authority the Civil and Marine Work is suitable for use for its intended purpose, but may still require minor miscellaneous work or adjustments, or (ii) that in the opinion of the Lessee the Ship Dock Facilities are suitable for use for their intended purpose, but may still require minor miscellaneous work or adjustments, as the case may be.

4. Section 3.04 of the Lease Agreement shall be replaced in its entirety with the following:

Section 3.04. Construction and Commissioning of the Ship Dock Facilities

(a) If the Authority awards one or more Construction Contracts for the construction of the Ship Dock Facilities, the Authority shall cause the Ship Dock Facilities to be constructed in accordance with the Final Plans and Specifications. The Authority shall provide Lessee with regular construction updates, including costs spent to-date, for the work performed under the awarded Construction Contract(s).

(b) The Authority shall cause its Contractor to dredge the Dock 15 Berth in accordance with Exhibit C and Appendix Three and in accordance with the terms and conditions of the USACE Permit, which the Authority shall get amended to permit a 1,100 foot ship berth. The Authority acknowledges and understands that it will be responsible for paying any tipping or dredge disposal fees arising out of the Authority’s capital, new work, dredging obligations under this Section 3.04(b), but any such fees will be part of the Total Project Cost. Parties acknowledge the existing USACE Permit includes a 750 foot ship berth, and should the USACE Permit not be amended in time to construct the 1,100 foot ship berth during the initial construction of the Civil and Marine Work components of the Ship Dock Facilities, Authority will expedite the design, bid, award and construction of a separate construction contract to expand the ship berth from 750 feet to 1100 feet upon receipt of the required permit amendment and approvals.

(c) Lessee shall give Authority at least thirty (30) days’ advance notice of the date upon which it intends to begin the Project Commissioning Process (the “*Project Commissioning Date*”). Lessee agrees that it will have the New Martin Pipeline complete to deliver Liquid Bulk Cargo to the Dock 15 Equipment on the Project Commissioning Date. Lessee will give Authority written notice when its Contractor is actually ready to

begin the Project Commissioning Process, and Lessee agrees to provide an OGV at Oil Dock 15 to receive Lessee-provided crude oil for purposes of the Project Commissioning Process of the Dock 15 Equipment and related loading accessories. Lessee shall be responsible for any demurrage on the OGV provided by Lessee during the Project Commissioning Process. Should additional work be required on the Dock 15 Equipment in order to complete the Project Commissioning Process, Lessee agrees to continue providing crude oil and the necessary OGVs to Oil Dock 15 until the Project Commissioning Process has been completed. The Project Commissioning Process will end on the day that Authority and Lessee agree in writing that the Dock 15 Equipment is operating in accordance with the Final Plans and Specifications for the Mechanical and Electrical Work.

(d) As soon as Authority determines that that Civil and Marine Work is Substantially Complete, Authority shall give Lessee written notice of this determination (the “**Authority Substantial Completion Notice**”). As soon as Lessee determines that the Ship Dock Facilities are Substantially Complete, which will not be before completion of the Project Commissioning Process nor more than 180 days following Lessee’s receipt of the Authority Substantial Completion Notice, Lessee shall give Authority written notice of this determination (the “**Lessee Substantial Completion Notice**”). Lessee agrees to assume full responsibility for operating and managing Oil Dock 15 and the Dock 15 Equipment in accordance with the terms and conditions of this Lease beginning at 12:01 a.m. on the day following the date that Authority receives the Lessee Substantial Completion Notice (the “**Delivery Date**”).

(e) As soon as practicable after Lessee receives the Authority Substantial Completion Notice, Lessee will develop a complete punch list of unfinished items for the Civil and Marine Work (the “**Punch List**”). Authorized representatives for Authority and Lessee shall sign the Punch List to indicate their approval thereof, and this Punch List may be amended, as required, to better ensure the Punch List includes all of the items required to be performed by the Contractor(s) to complete all work included in the Final Plans and Specifications for the Civil and Marine Work. Authority and Lessee will work with their respective Contractor(s) to ensure completion of the Punch List items in a timely fashion. Lessee will continue to provide access to the Ship Dock Facilities as necessary for the Authority’s Contractor(s) and subcontractors to complete their assigned Punch List items; provided, however, that the Authority’s Contractor(s) and subcontractors shall not interfere with Lessee’s commercial operations. Authority and Lessee shall cause their respective Contractor(s) and subcontractors working on the Punch List items to (1) follow all applicable safety rules and regulations, (2) comply fully with Lessee’s access program requirements, and (3) comply with other reasonable restrictions imposed by Lessee.

5. Original Lessee Facilities. The list of the Original Lessee Facilities, attached as Appendix Four to the Lease Agreement, is replaced in its entirety with the list attached hereto as Exhibit C. For the avoidance of doubt, all items related to the Mechanical and Electrical Work completed by Lessee on and after the Transition Date are included in the definition of Original Lessee Facilities.

6. Total Project Cost.

a. All Mechanical and Electrical Work completed by Lessee on and after the Transition Date shall not be included in the calculation of Total Project Cost.

b. To the extent that the Total Project Cost exceeds the Maximum Project Cost, Lessee will be responsible for any amounts above the Maximum Project Cost in the Authority's Proposed Original Design Criteria that are attributable to Lessee's request for expanded capacity that is not reflected in the General Design Criteria as set forth in Appendix Two to the Lease Agreement. Authority will be responsible for all amounts by which the Total Project Cost exceeds the Maximum Project Cost to the extent permissible in the original Lease Agreement.

7. Contractors.

a. If any Contractor claim arises against the Authority before the Delivery Date, the Authority agrees to confer with Lessee regarding the reasonableness of the claim before entering into a settlement of the claim.

b. Authority and Lessee each agree to use commercially reasonable efforts to coordinate the activities of their respective Contractor(s) to promote the expeditious completion of the Civil and Marine Work.

c. Authority agrees to amend its contracts with its Contractor(s) to remove the Mechanical and Electrical Work.

8. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given, if given) by hand delivery, courier service, facsimile or mailed by registered or certified mail, postage prepaid, return receipt requested, as follows:

If to Lessee to:

NuStar Energy L.P.
19003 IH-10 West
San Antonio, Texas 78257
Attention: Mark Trexler, Vice President- Corporate Development
Email: mark.trexler@nustarenergy.com

with a copy to:

NuStar Energy L.P.
19003 IH-10 West
San Antonio, Texas 78257
Attention: Amy Perry, Senior Vice President, General Counsel & Corporate Secretary

Facsimile: (210) 918-5469
Email: amy.perry@nustarenergy.com

If to Authority to:

Dennis DeVries – Chief Financial Officer
Port of Corpus Christi Authority
222 Power Street
Corpus Christ, Texas 78401
Email: dennis@pocca.com

with a copy to:

Welder Leshin L.L.P.
800 North Shoreline, Suite 300 North
Corpus Christ, Texas 78401
Attn.: Jimmy Welder
Email: jwelder@welderleshin.com

Notice given by personal delivery, courier service or mail shall be effective upon actual receipt. Notice given by facsimile shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. Any party may change any address to which notice is to be given to it by giving notice as provided above of such change of address.

9. General.

a. Entire Agreement; Successors and Assigns. This Agreement and the Lease Agreement contain the entire understanding of the parties and supersede all prior written or oral and all contemporaneous oral agreements and understandings relating to the Lease Agreement. This Agreement supplements the Lease Agreement and to the extent that any conflict between the Lease Agreement and this Agreement arises, the terms of this Agreement shall control. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties and cannot be modified or amended except in writing signed by the party against whom enforcement is sought.

b. Choice of Law. This Agreement shall be construed and enforced under the laws of the State of Texas and shall be subject to the venue selection and dispute resolution provisions set forth in the Lease Agreement.

c. Headings. The headings contained in this Agreement are set forth for convenience only and shall not be given effect in the construction or interpretation of this Agreement.

d. Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such provision will be deemed amended to the extent necessary to conform to applicable law or, if it cannot be so amended without materially altering the intention of the parties, it will be deemed stricken and the remainder of the Agreement will remain in full force and effect.

e. Counterparts. This Agreement may be executed in one or more counterparts, one or all of which shall be one in the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. One or more counterparts of this Agreement may be delivered via facsimile or electronic transmission, with the intention that they will have the same effect as an original counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

LESSEE:

NUSTAR LOGISTICS, L.P.

By: NuStar GP, Inc., its general partner

Reviewed
by Legal
JES

By: [Signature]

Name: Mark Trost

Title: VP - Corporate Development & Strategic Security

AUTHORITY:

PORT OF CORPUS CHRISTI AUTHORITY

By: _____

Name: _____

Title: _____

Exhibit A

Final Plans and Specifications for Mechanical and Electrical Work

Exhibit B

Final Plans and Specifications for Civil and Marine Work

Exhibit C

Appendix Four to Lease Agreement—Original Lessee Facilities