



**Notice of Port Commission meeting of the
Port of Corpus Christi Authority of Nueces County, Texas, on
Tuesday, May 24, 2022, at 8:30 AM
In the Nueces Room at the Solomon P. Ortiz International Center
402 Harbor Drive, Corpus Christi, Texas 78401**

- * **Citizens may also watch the live broadcast of the meeting on the internet by following these instructions - * Open your internet web browser - - * In the address bar type https://portofcc.com/about/commission/commission_agendas/**
- * *Under the Upcoming Events heading click on "In Progress" for the Port Commission Meeting on May 24, 2022. (Note that the "In Progress" link will not appear until shortly before the meeting starts)*
- * *To see the Agenda Packet for this meeting, click on "Agenda Packet" under the Upcoming Events heading*
- * *Click on "PORT OF CORPUS CHRISTI AUTHORITY PUBLIC COMMENT POLICY" to review the policy. If you wish to make a public comment (agenda item 7), please follow the instructions in this policy.*

A quorum of the members of the Port Commission will be physically present at the meeting location, which is in the Nueces Room of the Solomon P. Ortiz International Center, 402 Harbor Drive, Corpus Christi, Texas. The meeting will comply with those parts of Texas Government Code § 551.127 applicable to a meeting of the governmental body of a political subdivision that does not extend into three or more counties.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Tana Neighbors at 885-6129 at least 48 hours in advance so that appropriate arrangements can be made.

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.

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

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 April 19, 2022 Port Commission meeting.
[April 19 2022 Port Commission Meeting Minutes](#)
- 6.b. Approve minutes of the May 2, 2022 special meeting of the Port Commission.
[May 2 2022 Special Commission Meeting Minutes](#)

7.Public Comment (Each speaker is limited to 3 minutes or 60 minutes divided by the number of speakers, whichever is less). - *To make a public comment at the meeting, you must complete the Public Comment sign-in sheet located at the entrance to the meeting room before the meeting begins. During the public comment period, the Presiding Officer will call persons who have registered to the podium one at a time to deliver their comments. All public comments must be made in person.*

8.Committee Reports

9.Presentations

- 9.a. Receive presentation from John Valls, Executive Director, Robstown Area Development Corporation.
- 9.b. Receive LNG ship model from Guy Nicholls, Corporate Marine Director, Cheniere LNG O&M, Services, LLC to honor Port of Corpus Christi.
[PCCA-CCL LNGC Milestones 17 May 2022](#)
- 9.c. Presentation by Coastal Bend Air Quality Partnership (CBAQP) Board

President, Sarah Garza, on status of the transition of the organization.
[CBAQP Presentation.pdf](#)
[PCCA Letter of Invitation.pdf](#)
[CBAQP Bylaws.pdf](#)

10. Open Agenda

- 10.a. Receive and approve PCCA's First Quarter 2022 Financial Report.
[CM - Q1 2022 Financial Report May 24 2022.pdf](#)
[PCCA Financial Review_Q1 March 2022.pdf](#)
- 10.b. Receive and approve PCCA's First Quarter 2022 Investment Report.
[CM - Q1 2022 Investment Report May 24 2022.pdf](#)
[Investment Report Q1 2022.pdf](#)
- 10.c. Award a construction contract to TTL, Inc. in the amount of \$2,558,630.41 for the removal of the Nueces County Water Control and Improvement District 4 20-inch water line, associated with construction of the Corpus Christi Ship Channel Improvement Project.
[TTL NCWD - 1-Memo](#)
[TTL NCWD - 2-Exhibit](#)
- 10.d. Approve staff to apply for \$4,380,094 through Department of Homeland Security Preparedness FY2022 Port Security Grant Program for five PCCA security projects.
[PSGP_Commission_2022.pdf](#)

11. 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.*

- 11.a. Approve One-Year Extension of Insurance Broker Services Agreement with Acrisure, LLC, d/b/a Carlisle Insurance Agency
[Service Agreement Extension eff 6-30-22 \(CIA signed\).pdf](#)
[Extention of Broker of Record Services Memo \(003\).pdf](#)
- 11.b. Approve an amendment to a professional consulting/engineering services contract with Freeman Schroeder Architects, LLC in the amount of \$45,120, associated with the Ortiz Center renovation and repairs, for additional scope to account for modifications to various building elements in the ballroom, kitchen and Jim Wells conference room areas.
[Fresch - 1-Memo.docx](#)
[Fresch - 2-Amendment.pdf](#)

- 11.c. Approve a no-fee perpetual Dredging Easement by and between Citgo Refining and Chemicals Company L.P., and the Port of Corpus Christi Authority granting the Port of Corpus Christi Authority the right to dredge 0.66 acres of submerged lands owned by Citgo to accommodate the Oil Dock 3 expansion project, Nueces County, Texas.
[Citgo Dredge Easement - Memo](#)
[Citgo Dredging Easement - Memo Exhibit](#)
[Citgo Dredging Easement - Agreement](#)
- 11.d. Approve a Consent to Assignment of Leases Agreement by and between TOR Minerals International, Inc. as Assignor and United Minerals and Properties, Inc., as Assignee for the following lease agreements; a 2.86-acre lease agreement and a 10.31-acre lease agreement, both located at the Rincon Industrial Park on the west of Canal A, Nueces County Texas.
[Tor Consent to Assignment - CM.docx](#)
[Tor Consent to Assignment - Memo Exhibit.pdf](#)
[Tor Consent to Assignment - Partially Signed.pdf](#)
- 11.e. Approve Master Services Agreement No. 22-04 and Service Order No. 1 not to exceed \$150,000 with Surveying & Mapping, LLC., to preform ALTA land surveys and boundary land surveys in San Patricio and Nueces Counties, Texas.
[SAM MSA 22-04 - CM.docx](#)
[SAM MSA 22-04 - Partially Signed.pdf](#)
[SAM MSA 22-04 - Service Order 1 Partially Signed.pdf](#)
- 11.f. Approve Service Order No.12, under Master Services Agreement No. 20-03 with T. Baker Smith, LLC., not to exceed \$150,000 to preform ALTA land surveys and boundary land surveys in San Patricio and Nueces Counties, Texas.
[T Baker Smith Service Order 12 - CM.docx](#)
[T Baker Smith Service Order 12 - Partially Signed.pdf](#)
- 11.g. Approve an in-kind Office Space Lease Agreement with Coastal Bend Bays and Estuaries Program for approximately 3,500 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.
[CBBEP Office Space Lease - Memo](#)
[CBBEP Office Space Lease - Memo Exhibit](#)
[CBBEP Office Space Lease - Agreement](#)
- 11.h. Approve an in-kind Office Space Lease Agreement with Coastal Bend Air Quality Partnership for approximately 1,137 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.
[CBAQP Office Space Lease - Memo](#)
[CBAQP Office Space Lease - Memo Exhibit](#)

[CBAQP Office Space Lease - Agreement](#)

- 11.i. Approve an in-kind Office Space Lease Agreement with Coastal Bend Regional Advisory Council for approximately 2,029 square feet of office space, located on the first floor of the Port Annex Building, Nueces County, TX.
[CBRAC Office Space Lease - Memo](#)
[CBRAC Office Space Lease - Memo Exhibit](#)
[CBRAC Office Space Lease - Agreement](#)
- 11.j. Approve a change order with Haas-Anderson Construction, Ltd. in the net deductive amount of \$175,365.47 (credit) for adjustments to the remediation areas in phase two of the Bulk Materials Terminal storm water quality project.
[BMT Stormwater CO - 1-Memo.docx](#)
[BMT Stormwater CO - 2-CO.pdf](#)
- 11.k. Approve the purchase of six full sets of Self-Contained Breathing Apparatus (SCBA) and twelve spare air cylinders totaling \$66,954 from Metro Fire Apparatus Specialists, Inc. using Government Pricing from the State of Texas BuyBoard Cooperative Purchasing Program Contract 603-20 for crew and firefighters assigned to the new MetalCraft Firestorm 70 fire boat.
[2022_Purchase_SCBA_and_Spare_Tanks_SCBA_-_Comm_Ltr_May_2022_.docx](#)
[exhibit Metro Fire and Apparatus.pdf](#)
- 11.l. Approve an amendment to a service order with Ardurra Group, Inc., under Master Services Agreement No. 22-01, in the amount of \$42,700 for additional services related to the Security Command and Control Center (at Power Street) remodel and improvements project.
[Ardurra - 1-Memo.docx](#)
[Ardurra - 2-Amendment.pdf](#)
- 11.m. Authorize staff to use alternate procurement method of Design-Build for the relocation of the Port maintenance operation from 824/901 Navigation Boulevard to 2301 N. Port Avenue
[Commission Memo 5.24.22 Maint Relo Design Build.docx](#)
- 11.n. Approve an amendment to an existing Professional Research Contract with Alliance for Sustainable Energy, LLC, operator of the National Renewable Energy Laboratory, in the amount of \$101,047 to support Phase 1 of a Feasibility Analysis of the integration of offshore hydrogen production from offshore wind in the Gulf of Mexico
[Executed NREL PCCA MOU-21-18386.pdf](#)
[NREL_OSWind_May2022_MEMO_d2.docx](#)
- 11.o. Approve First Amendment to Consulting Services Contract with Crosswind Communications to increase estimated reimbursable expenses to \$25,000

for a total contract of \$125,000.

[2022 Communications Consulting Serv Crosswind Expense Budget Memo for 05.24.22.docx](#)

[Crosswind Communications Amendment 1 - 2022 SIGNED.pdf](#)

12.Chief Executive Officer and Commissioners' Comments

- 12.a. Receive Chief Executive Officer's Report on upcoming community events, PCCA events and the activities of the following PCCA departments during the preceding month: External Affairs, Trade Development, Communication, Community Relations, Finance, and Operations.

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

13.Recess Open Meeting and Convene Executive Session - *In this executive session the Port Commissioners will deliberate or receive legal advice regarding (1) each of the following matters pursuant to the Section(s) of the Texas Open Meetings in parenthesis at the end of such matter, and (2) any other agenda item announced by the Chairman of the meeting. 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.*

- 13.a. Deliberate the duties of the Chief Executive Officer. (§551.074)

- 13.b. Legal advice from counsel in connection with State Office of Administrative Hearings Docket No. 582-20-1895. (§551.071)

- 13.c. Legal advice from counsel in connection with Cause No. 2018CCV-60780-4, PCCA, Plaintiff vs. The Port of Corpus Christi, LP, Defendant, and The Port of Corpus Christi, LP, Counter Claimant vs. PCCA, and in their Official Capacities as Commissioners of the Port Authority, the following Commissioners: Charles W. Zahn, Jr., Wayne Squires, Richard Ralph Valls, Jr., Richard Bowers, David P. Engel, Wes Hoskins, Catherine Tobin Hilliard, And As-Yet Unnamed Co-Conspirators, Counterclaim Defendants, in Nueces County Court at Law No. 4. (§551.071)

- 13.d. Deliberate the acquisition of real property in Nueces County and San Patricio County. (§551.072)

14.Reconvene in Open Session and take action on (1) the following agenda items, (2) any other items on this agenda that were postponed or tabled until after Executive Session, and (3) any agenda items from the Executive Session requiring Commission action.

15.Adjourn

OFFICIAL MINUTES OF PORT COMMISSION MEETING
April 19, 2022

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, April 19, 2022 at 9:00 a.m., for the regular monthly meeting of the Port Commission.

Present: Mr. Charles Zahn
Ms. Catherine Hilliard
Mr. David P. Engel
Mr. Wes Hoskins
Dr. Bryan Gulley
Mr. Gabe Guerra

Present: Mr. Sean Strawbridge
Mr. Kent Britton
Mr. Omar Garcia
Mr. Jeff Pollack
Mr. Clark Robertson
Ms. Brenda Reed
Ms. Rosie Collin
Mr. Tony MacDonald
Mr. Tom Mylett
Ms. Rosaura Bailey
Mr. Sam Esquivel
Ms. Natasha Fudge
Ms. Sarah Garza
Mr. Mark Gutierrez
Mr. Dan Koesema
Mr. Jacob Morales
Ms. Lynn Angerstein
Ms. Sonya Sosa Lopez
Ms. Donna James Spruce
Mr. Jesse Robinson
Ms. Leslie Ruta
Mr. Brooks Lobingier, II
Mr. Bennie Benavidez
Mr. Richard Hernandez
Mr. Daniel Villesca
Ms. Monique Lerma
Ms. Tana Neighbors
Mr. Eric Battersby
Ms. Nelda Olivo

Others Present:

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

Others Present:

Mr. Xavier F. Valverde, Sr.
G&H Towing
Mr. Roger TenNaple
Valero
Mr. Trey Scott (*via videoconference*)
Mauldin and Jenkins
Mr. Iain Vasey
CCREDC
Mr. John LaRue
UCCCC
Mr. Keith Smith
Corpus Christi International Airport
Mr. Tyler Miller
Corpus Christi International Airport
Ms. Elsy Borgstedte
Corpus Christi International Airport
State Representative Abel Herro
Texas House Member, District 34
Commissioner Joe A. Gonzales (JAG)
County Commissioner
Commissioner Jim Wright
Texas Railroad Commissioner

1. **Meeting called to order**
2. **Safety briefing presented**
3. **Pledge of Allegiance recited**
4. **Invocation given**
5. **Conflict of Interest Affidavits:** None were received.
6. **Minutes**

6a. Action: On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission approved the minutes of the March 15, 2022, Port Commission meeting in the form presented at the meeting.

6b. Action: On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission approved the minutes of the March 21, 2022, Strategic Planning Workshop in the form presented at the meeting.

7. **Public Comments:** None were received.

8. **Committee Reports:**

Audit Committee Report: Mr. Engel reported on the committee's activities since the last regular Commission meeting.

Long-Range Planning Committee: Dr. Gulley reported on the committee's activities since the last regular Commission meeting.

Security Committee: Ms. Hilliard reported on the committee's activities since the last regular Commission meeting.

Facilities Committee: Mr. Hoskins reported on the committee's activities since the last regular Commission meeting.

9. **Presentations**

9a. The Commission received a presentation from Iain Vasey, President and CEO, Corpus Christi Regional Economic Development Corporation.

9b. The Commission received a presentation from John LaRue, President and CEO, United Corpus Christi Chamber of Commerce.

9c. The Commission received a presentation from Kevin Smith, Director of Aviation, Corpus Christi International Airport.

9d. The Commission received a presentation from Sam Esquivel, Port of Corpus Christi Director of Real Estate, on close out of the Hillcrest Washington-Coles Voluntary Real Estate Acquisition and Relocation Program.

10. **Open Agenda**

Point of Order: The Commission waived the Zahn Rule on item 10b. and 10e.

10a. **Resolution of Appreciation, recognizing the distinguished career of David Martinez, vessel traffic controller and his retirement on April 30, 2022 after more than 30 years of service:** On motion made by Dr. Gulley and seconded by Ms. Hilliard, the Commission approved the resolution. The resolution, in its entirety, is attached to these minutes as **Attachment One**.

10b. **Approve a Resolution in support of City of Corpus Christi Seawater Desalination Initiatives:** On motion made by Mr. Engel and seconded by Dr. Gulley, the Commission approved the resolution. The resolution, in its entirety, is attached to these minutes as **Attachment Two**.

10c. **Approve PCCA's Annual Comprehensive Financial Report ("ACFR") for the year ended December 31, 2021:** Staff recommended approval of the

Authority's ACFR, including the results of the independent audit conducted by Mauldin & Jenkins of the Authority's financial statements.

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

10d. Approve an increase in contingency and change order with J.E. Construction Services, LLC in the amount of \$1,255,139 due to unstable soils and drainage modifications associated with the rail expansion near Bulk Materials Terminal: Staff recommends approval of an increase in contingency and change order in the amount of \$1,255,139 with J.E. Construction Services, LLC due to unstable soil conditions and drainage modifications associated with the rail expansion near Bulk Materials Terminal.

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

10e. Approval for staff to apply for \$100M through United States Department of Transportation - Maritime Administration's Port Infrastructure Development Program (PIDP) grant for Bulk Material Terminal Bulk Dock 4: Staff recommended approval to apply for \$80 million through the United States Department of Transportation (USDOT) Maritime Administration (MARAD) Port Infrastructure Development Program (PIDP) for Bulk Materials Terminal – Bulk Dock 4.

Action: On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission approved Staff's recommendation.

10f. 1) Approve a Maintenance Dredging Agreement with Buckeye Texas Hub, LLC to incorporate maintenance dredging of Buckeye Dock 1 in the PCCA's 2022 Annual Dredging Services Program: Staff recommended approval of a Maintenance Dredging Agreement with Buckeye Texas Hub, LLC to incorporate maintenance dredging of Buckeye Dock 1 in the PCCA's 2022 Annual Dredging Services Program.

Action: On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission approved Staff's recommendation.

2) Approve Task Order No. 2 with Callan Marine, LTD under Master Services Agreement No. 21-01 in an amount not to exceed \$2,509,146.57 for maintenance dredging of PCCA maintained docks and Buckeye Texas Hub, LLC Dock 1: Staff recommended approval of Task Order No. 2 with Callan Marine, LTD under Master Services Agreement No. 21-01 in an amount not to exceed \$2,509,146.57 for maintenance dredging of PCCA maintained docks and Buckeye Texas Hub, LLC Dock 1.

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

10g. Adopt new tariff item within Port of Corpus Christi Tariff 200, Item 3.301, for Dockage at Bulk Terminal Dock 1 in the amount of \$0.41 GRT: Staff recommended approval of a new tariff item within PCCA Tariff 200, Item 3.301, for dockage at BD1 in the amount of \$0.41 GRT, effective May 1, 2022.

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

10h. Approve Service Order 001 under Master Services Agreement with Denovo Ventures, LLC, to provide functional support of the JDE E1 platform for a period of 3 years: Staff recommended approval of Service Order 001 under Master Services Agreement with Denovo Ventures, LLC, to provide functional support of the JDE E1 platform for a period of 3 years.

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

10i. Adopt Resolution authorizing the disposition of salvage or surplus personal property: On motion made by Mr. Guerra and seconded by Mr. Hoskins, the Commission approved the resolution. The resolution, in its entirety, is attached to these minutes as **Attachment Three**.

11. Consent Agenda: Commissioners requested that Consent Agenda Item 11m, be removed from the agenda with no action being taken. Then Dr. Gulley moved to approve 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. Ms. Hilliard seconded the motion and the motion passed without objection.

11a. By approval of the Consent Agenda motion, the Commission awarded a construction contract to SR Trident, Inc., in the amount of \$86,492, the lowest and best bid based on bids received on March 24, 2022, for stormwater pipe repair generally located between Oil Dock 1 and the maintenance facility on the north side of the inner harbor.

11b. By approval of the Consent Agenda motion, the Commission approved an amendment to a professional services contract with Professional Services Industries, Inc. in the amount of \$18,686 for additional construction materials testing services associated with the new west Bulk Materials Terminal access road; total contract amount \$53,676 with this amendment.

11c. By approval of the Consent Agenda motion, the Commission approved renewal of a No Cost Memorandum of Agreement between the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) and the Port of Corpus Christi Authority of Nueces County, Texas, for Quality Control and Dissemination of Data from Sensors of the Corpus Christi Physical Oceanographic Real-Time System (PORTS®).

11d. By approval of the Consent Agenda, the Commission approved an Easement and Right of Way Agreement with AEP Texas, Inc. for the relocation of existing overhead lines located near Bulk Terminal on the south side of Joe Fulton International Trade Corridor, Nueces County, Texas.

11e. By approval of the Consent Agenda, the Commission approved a Lease Agreement with Corpus Christi Polymers, LLC, for a 0.64-acre parking area for a 1-year initial term with an option to extend an additional 1-year period, located adjacent to the Corpus Christi Polymers east plant site entrance, Nueces County, Texas.

11f. By approval of the Consent Agenda, the Commission approved a change order with Denovo Ventures LLC, to facilitate the Port's change of banking partners from Well Fargo to Frost Bank in the amount of \$17,500, and additional end user training hours in the amount of \$72,600. The total cost of the change increase to Statement of Work No. 1 is \$90,100.

11g. By approval of the Consent Agenda, the Commission approved Service Order No. 5 with George Butler Associates, Inc. under Master Service Agreement 21-06 in the amount of \$139,400 for engineering services associated with underwater pre- and post-dredging dock inspections at PCCA maintained and customer docks.

11h. By approval of the Consent Agenda, the Commission approved an increase of \$5,000 in the not-to-exceed amount approved for Audit Services provided by Mauldin & Jenkins, LLC for the year end audit of the Port's financial statements for the year ended December 31, 2021, increasing the total for services from \$60,000 to \$65,000.

11i. By approval of the Consent Agenda, the Commission approved a professional engineering services contract with Wiss, Janney, Elstner Associates, Inc. in the amount of \$68,600 for instrumentation and load testing services for the Bulk Dock 2 shiploader.

11j. By approval of the Consent Agenda, the Commission approved a professional services contract with Simpson Gumpertz & Heger Inc., in the amount of \$240,000 for a port-wide dock fender system optimization study.

11k. By approval of the Consent Agenda, the Commission approved a contract with Computacenter in the amount of \$64,470 for Disaster Recovery Testing and Planning using Texas DIR Contract #DIR-TSO-4167.

11l. By approval of the Consent Agenda, the Commission approved the purchase of one (1) John Deere tractor with boom and swivel mower attachment totaling \$220,803.40 using Government pricing from the State of Texas BuyBoard Cooperative Program.

11m. Staff recommended award of a contract to Sunstream Corporation in the amount of \$183,860 for purchase of a deployable boat lift for the 44' police boat.

On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission approved staff's recommendation.

11n. By approval of the Consent Agenda, the Commission awarded a construction contract to Bridges Specialties, Inc. in the amount of \$226,713.75, the lowest and best bid based on bids received on March 30, 2022, for repairs to the Savage Lane Railroad ditch.

11o. By approval of the Consent Agenda, the Commission approved a Change Order with Jimenez Engineering Solutions, LLC DBA International Consulting Engineers in the amount of \$125,624 for site electrical system modifications to account for unaccounted electrical loads associated with new PCCA rail service facility project.

11p. By approval of the Consent Agenda, the Commission approved Change Order No. 3 to the construction contract with TTL, Inc. in the amount of \$196,327.71 for additional costs for the removal of pipelines located at the Avery Point Pipeline Corridor associated with construction of the Channel Improvement Project.

11q. By approval of the Consent Agenda, the Commission approved an engagement letter for legal and other professional service between Port of Corpus Christi Authority and Akin Gump Strauss & Feld LLP in an amount not to exceed \$186,000 for the twelve months beginning May 1, 2022.

12. Chief Executive Officer's Report and Commissioners' Comments:

12a. The Chief Executive Officer submitted his report on upcoming community events, PCCA events, and activities of the following PCCA departments during the preceding month: Trade Development, External Affairs, Operations and Finance.

12b. Mr. Zahn asked for comments from the Commissioners.

13. Recess Open Meeting and Convene Executive Session: At 12:15 p.m. Chairman Zahn announced that the Commission would go into executive session pursuant to Sections 551.071, 551.072, and 551.074 of the Texas Government Code to deliberate agenda items 13a., 13b., 13c., 13d., and 13e. which were described in the agenda as follows:

13a. Deliberate the duties of the Chief Executive Officer. (§551.074)

13b. Legal advice from counsel in connection with State Office of Administrative Hearings Docket No. 582-20-1895. (§551.071)

13c. Legal advice from counsel in connection with Cause No. 2018CCV-60780-4, PCCA, Plaintiff vs. The Port of Corpus Christi, LP, Defendant, and The Port of Corpus Christi, LP, Counter Claimant vs. PCCA, and in their Official Capacities as Commissioners of the Port Authority, the following Commissioners: Charles W. Zahn, Jr., Wayne Squires, Richard Ralph

Valls, Jr., Richard Bowers, David P. Engel, Wes Hoskins, Catherine Tobin Hilliard, And As-Yet Unnamed Co-Conspirators, Counterclaim Defendants, in Nueces County Court at Law No. 4. (§551.071)

- 13d. Deliberate the acquisition of real property in Nueces County and San Patricio County. (§551.0712)
- 13e. Deliberate leasing real property in Nueces County. (§551.072)
14. **Reconvene in Open Session.** At 2:40 p.m., the Commission reconvened into Open Session.
- 14a. Authorize Port Commission Chairman to execute employment contract amendment with Port of Corpus Christi Authority Chief Executive Officer.**
- Action:** On motion made by Ms. Hilliard and seconded by Dr. Gulley, the Commission authorized the Chairman to execute a Second Amendment to the Amended and Restated Employment Contract with PCCA's Chief Executive Officer.
15. **Adjourn:** On motion duly made and seconded, the meeting adjourned at 2:42 p.m.

ATTACHMENT ONE

**RESOLUTION OF APPRECIATION, RECOGNIZING THE DISTINGUISHED
CAREER OF DAVID MARTINEZ, VESSEL TRAFFIC
CONTROLLER
AND HIS RETIREMENT ON APRIL 30, 2022 AFTER MORE THAN 30 YEARS
OF SERVICE**

WHEREAS, David Martinez is a native Texan and lifelong resident of Robstown; and

WHEREAS, David Martinez began his long-standing career with the Port of Corpus Christi on November 5, 1990 working in the Maintenance Department before transferring to the Harbormaster's Officer to become a Vessel Traffic Controller; and

WHEREAS, During his more than 30 years with the Port of Corpus Christi, David Martinez has demonstrated the utmost professionalism in his work and served as a beacon of waterfront knowledge; and

WHEREAS, David Martinez assisted in guiding the evolution of tracking vessel traffic from handwritten tracking orders to the implementation of a computerized vessel traffic management system; and

WHEREAS, David Martinez's Hurricane Harvey recovery assistance contributions in August 2017 helped the Port of Corpus Christi recover from one of the most impactful storms in the Port's 100-year history; and

WHEREAS, David Martinez's commitment to the betterment of community is evident through his service as a board member for the Regional Transportation Authority, Robstown Housing Authority, Civil Service Commission, Robstown Improvement Development Corporation and Nueces County Drainage District; and

WHEREAS, David Martinez will leave behind a legacy of leadership and trust, and he will forever be a respected friend of the Port of Corpus Christi; and

***NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT
OF CORPUS CHRISTI***

AUTHORITY OF NUECES COUNTY, TEXAS, THAT: We hereby recognize David Martinez for his dedication and service to the Port of Corpus Christi over his more than 30-year career; and

BE IT FURTHER RESOLVED that this Resolution be included in the permanent minutes of this Port Commission meeting, April 19, 2022 and that a signed original of this Resolution be presented to David Martinez.

ATTACHMENT TWO

**RESOLUTION IN SUPPORT OF THE CITY OF CORPUS CHRISTI SOUTH
TEXAS SEAWATER DESALINATION INITIATIVE**

WHEREAS, the Port of Corpus Christi Authority of Nueces County, Texas (“Port Authority”) is a political subdivision of the State Texas created under Article III, Section 52 of the Texas Constitution and later converted to a navigation district operating under Article XVI, Section 59 of the Texas Constitution;

WHEREAS, the City of Corpus Christi (“City”) established its corporate limits pursuant to Chapter 33, pages 304-351, Special Laws of Texas, 31st Legislature, Regular Session – extended by the Charter of the City, as amended, and further extended by ordinances of the City;

WHEREAS, the Port Authority is a political subdivision of the State of Texas;

WHEREAS, the City is a sovereign municipality of the State of Texas;

WHEREAS, Texas suffered a drought from 2011 – 2013 which was the impetus for meetings and a summit focusing upon the process of desalination as one of the possible solutions to ensure a predictable water supply for Coastal Bend area families, businesses, and industry;

WHEREAS, local leadership led the charge in support of desalination being one of the possible solutions to ensure a predictable water supply for the Coastal Bend area: to wit; Representative Todd Hunter stated: *“Right now we’re in a drought. We don’t know if it’s going to end tomorrow, a year from now, five years from now or a month from now; but water desalination – taking seawater, brackish water, making fresh water – is a process we should be doing no matter what, because what it does is it ensures the future of families having water in the future.”* (October 1, 2013);

WHEREAS, both the City and the Port Authority understand the need for an drought- proof water supply, and have – therefore – endeavored to obtain the long leads permits for a seawater desalination plant that would bring potable water to the region, including Nueces County and San Patricio County, and the City, in order to promote a healthy local economy and environment and provide drinking water to areas that have suffered repeated drought conditions;

WHEREAS, the Port Authority submitted a permit application to the Texas Commission on Environmental quality (“TCEQ”) on March 7, 2018 for the discharge associated with a proposed fifty million gallon per day desalination facility at Harbor Island (same being declared administratively complete as of June 26, 2018);

WHEREAS, the TCEQ has offered a draft Texas Pollutant Discharge Elimination System Permit No. WQ0005253000 for the Port Authority’s request and is currently progressing the draft permit application through the process;

WHEREAS, the City submitted a permit application to the Texas Commission on Environmental quality (“TCEQ”) on January 17, 2020 for the discharge associated with a proposed thirty million gallon per day desalination facility in the Inner Harbor;

WHEREAS, the City is a utility for the distribution of water in Nueces County, San Patricio County, and the City;

WHEREAS, neither the Port Authority nor the City are able to predict that either or both will be issued a TCEQ discharge permit, or accomplish such other and further milestones as are pre-requisite to a completion of the design, build, and operation of the desalination facility – or to

know when such milestones may be accomplished.

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

1. the Port Authority supports the City's continued best efforts to procure Texas Pollutant Discharge Elimination System Permit Application No. 13675, and otherwise accomplish such other and further milestones pre-requisite to a design, build, and operation of a seawater desalination facility at Corpus Christi Inner Harbor; and

2. the Port Authority now – by and through its Commissioners – directs Port Authority staff to identify all local governmental entities and industrial customers that are stakeholders for desalination, and communicate with such stakeholders with regard to the current status of the Port Authority’s and City’s requests for desalination permits (as referenced above); and engage in good faith discussions with the City to determine what may be advisable to the Port Authority and City for the design, build, operation, and maintenance of a seawater desalination facility at Harbor Island and/or the Corpus Christi Inner Harbor – and relying upon the City’s expertise as a utility for the distribution of water in Nueces County, San Patricio, and City; and
3. notwithstanding the above, the Port Authority shall continue to use its best efforts to procure a Texas Pollutant Discharge Elimination System Permit No. WQ0005253000, and otherwise accomplish such other and further milestones pre-requisite to the design, build, and operation of a desalination facility at Harbor Island.

ATTACHMENT THREE

**RESOLUTION AUTHORIZING THE SALE
OF SALVAGE OR SURPLUS PERSONAL PROPERTY**

WHEREAS, the Port of Corpus Christi Authority (“PCCA”) owns certain vehicles, equipment, office supplies, furniture, appliances, computer equipment, and tools (the “Personal Property”) which are damaged, obsolete, without further value to PCCA, or abandoned on PCCA property; and

WHEREAS, a list of the Personal Property is attached to this Resolution as Exhibit A;
and

WHEREAS, PCCA no longer has a need for the Personal Property; and

WHEREAS, Section 62.122 of the Texas Water Code authorizes PCCA’s Port Commission (the “Port Commission”) to periodically dispose of surplus and salvage personal property in the same manner as the commissioners court of a county under Sections 263.151- 263.158, Texas Local Government Code; and

WHEREAS, Section 263.151, Texas Local Government Code, defines “salvage property” as personal property, other than items routinely discarded as waste, that because of use, time, accident, or any other cause is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended; and

WHEREAS, Section 263.151, Texas Local Government Code, defines “surplus property” as personal property that (1) is not salvage property or items routinely discarded as waste, (2) is not currently needed by its owner, (3) is not required for the owner’s foreseeable needs, and (4) possesses some usefulness for the purpose for which it was intended; and

WHEREAS, Section 263.152(a)(1), Texas Local Government Code, allows the commissioners court of a county to periodically sell the county’s surplus or salvage personal property by competitive bid or auction; and

WHEREAS, Section 263.152(a)(3), Texas Local Government Code, allows the commissioners court of a county to order any of the property to be destroyed or otherwise disposed of as worthless if the commissioners court undertakes to sell that property by competitive bid or auction and is unable to do so because no bids are made; and

WHEREAS, Section 263.152(a)(4), Texas Local Government Code, further allows the commissioners court of a county to dispose of personal property by donating it to a civic or charitable organization located in the county if the commissioners court determines that: (1) undertaking to sell the property by competitive bid or auction would likely result in no bids or a bid price that is less than the county's expenses required for the bid process; (2) the donation serves a public purpose; and (3) the organization will provide the county with adequate consideration, such as relieving the county of transportation or disposal expenses related to the property; and

WHEREAS, PCCA's staff has recommended to the Port Commission that the Personal Property be sold by sealed bids or auction, subject to certain terms and conditions provided herein; and

WHEREAS, the Port Commission may designate a representative to conduct the sale of the Personal Property; and

WHEREAS, it is the opinion of this Port Commission that it would be advisable and in the best interests of PCCA to offer to sell the Personal Property by sealed bids or auction upon the terms and conditions stated in this Resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Port Commission hereby determines that the Personal Property is "salvage" or "surplus" personal property as those terms are defined in Section 263.151, Texas Local Government Code; and

BE IT FURTHER RESOLVED, that the Port Commission hereby authorizes the sale all of the Personal Property, in one or more transactions, by sealed bids or by auction; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer and the Director of Procurement Services (each a "Designated Representative") are each hereby severally authorized to sell the Personal Property by sealed bids or auction to the highest bidder, and in that regard each Designated Representative is hereby authorized (i) to determine the number of transactions in which the Personal Property will be sold, (ii) to determine which items of Personal Property will be included in each transaction, (iii) to accept the highest bid for the items included in any transaction, (iv) to reject any bids to purchase the Personal Property if the Designated Representative finds that to be in the best interests of PCCA, (v) to cause notice of each transaction to be published in accordance with the requirements of Section 263.153, Texas Local Government Code, (vi) to execute a Bill of Sale or other appropriate conveyance document conveying the items in each transaction to the highest bidder in such transaction, and (vii) and to execute, attest, seal, and deliver any and all additional certificates, documents, or other papers and to do any and all things he deems necessary to effect the sale of the Personal Property in accordance with the intent and purposes of this Resolution; and

BE IT FURTHER RESOLVED, that the bid specifications for sealed bids for the purchase of the Personal Property shall include without limitation the following terms and conditions, all of which must be complied with or the bid may be rejected:

1. the bids must be sealed and submitted prior to the deadline stated in the published bid notice;
2. the full amount of the purchase price must be paid in cash;
3. each bid must be accompanied by a certified check or cashier's check payable to PCCA in the full amount of the bidder's bid, which will guarantee that the bidder will perform the terms of its bid if it is accepted;

4. the Personal Property will be conveyed **“as is, where is and with all faults,”** based upon the bidder’s own investigations of the items, and PCCA makes no guarantee and assumes no responsibility for any of the Personal Property;
5. all sales shall be final on the day of sale;
6. it shall be a condition of sale that all items purchased in a single transaction shall be picked up and removed from PCCA’s property by the time specified in the bid specifications for that transaction, and the successful bidder shall bear the sole risk for loss of any items remaining on PCCA’s property past the designated time; and
7. the Port Commission, acting by and through either Designated Representative, reserves the right to reject any or all bids;

BE IT FURTHER RESOLVED, that the Designated Representatives may destroy or otherwise dispose of the Personal Property as worthless if, after the competitive bid or auction, no bids are made; and

BE IT FURTHER RESOLVED, that Designated Representatives may dispose of Personal Property by donating it to civic or charitable organizations located within the geographic boundaries of PCCA if (1) undertaking to sell the property by competitive bid or auction would likely result in no bids or a bid price that is less than PCCA’s expenses required for the bid process; (2) the donation serves a public purpose; and (3) the organization will provide PCCA with adequate consideration, such as relieving PCCA of transportation or disposal expenses related to the property; and

BE IT FURTHER RESOLVED, that, notwithstanding anything to the contrary contained in this Resolution, each Designated Representative is hereby authorized to sell any of the Personal Property to a county or another political subdivision within the geographic boundaries of PCCA without public bidding; and

BE IT FURTHER RESOLVED, that the Designated Representatives shall keep or caused to be kept on behalf of PCCA a record of all Personal Property sold, donated or disposed of under the authority of this Resolution, and that record shall generally describe the property sold or donated, to whom it was sold or donated, and the amount of money received for each sale.

PASSED AND APPROVED by the Port Commission of the Port of Corpus Christi Authority of Nueces County, Texas, at a Regular Meeting held on the 19th day of April 2022.

OFFICIAL MINUTES OF PORT COMMISSION MEETING
May 2, 2022

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 Monday, May 2, 2022 at 8:30 a.m., for a special called meeting of the Port Commission.

Present: Mr. Charles Zahn
Ms. Catherine Hilliard (*via videoconference*)
Mr. David P. Engel
Mr. Wes Hoskins
Dr. Bryan Gulley
Mr. Rajan Ahuja
Mr. Gabe Guerra (*via videoconference*)

Present: Mr. Sean Strawbridge
Mr. Kent Britton
Mr. Jeff Pollack
Mr. Clark Robertson
Ms. Brenda Reed
Mr. Mark Gutierrez
Mr. Sam Esquivel
Ms. Sarah Garza
Ms. Leslie Ruta
Mr. Brooks Lobingier, II
Mr. Bennie Benavidez
Mr. Richard Hernandez
Mr. Daniel Villesca
Ms. Tana Neighbors
Mr. Eric Giannamore

Others Present: Mr. Leo J. Welder, Jr

Others Present: Mr. Bob Paulison
Port Industries of Corpus Christ
Mr. Roger TenNaple
Flint Hills Resources
Mr. Peter Zanoni
City of Corpus Christi, City Manager
Councilman Greg Smith
City of Corpus Christi District 4
Councilman Gil Hernandez
City of Corpus Christi District 5
Bech Bruun

Mark Ellison
IDE
Commissioner John Martinez
Brian Shaw

1. **Meeting called to order**
2. **Safety briefing presented**
3. **Pledge of Allegiance recited**
4. **Invocation given**
5. **Conflict of Interest Affidavits:** None were received.
6. **Public Comments:** The following people addressed the Commission: Mr. Mark Ellison, IDE Technologies and Mr. Brian Shaw, Shaw Engineering LLC.
7. **Open Agenda**

Point of Order: The Commission waived the Zahn Rule for item 7a.

7a. Consider and possibly take action on PCCA's Harbor Island Seawater Desalination White Paper. On motion made by Mr. Engel and seconded by Ms. Hilliard, the Commission approved PCCA's Harbor Island Seawater Desalination White Paper. Mr. Guerra and Mr. Hoskins voted no on this item. The White Paper, in its entirety, is attached to these minutes as **ATTACHMENT ONE**.

8. **Recess Open Meeting and Convene Executive Session:** At 9:25 a.m. Chairman Zahn announced that the Commission would go into executive session pursuant to Sections 551.071 and 551.072 of the Texas Government Code to deliberate agenda item 8a. which was described in the agenda as follows:

8a. Deliberate leasing property in Nueces County and receive legal advice from counsel related to the State Water Implementation Fund for Texas and matters related thereto. (§551.071 and §551.072)
9. **Reconvene in Open Session.** At 10:17 a.m., the Commission reconvened Open Session.
10. **Adjourn:** On motion duly made and seconded, the meeting adjourned at 10:17 a.m.

ATTACHMENT ONE

Harbor Island Seawater Desalination Project Overview & Example of a Potential Transaction Structure

The Issue:

The South Texas Coastal Bend is today 100% dependent upon surface water for its industrial and residential rate payers. Increasing water demand (particularly from industrial growth in the region) is placing further pressure on existing water supplies. The region consumes approximately 70-80 million gallons per day. Large-scale industrial growth, anticipated increases in population, and more frequent droughts may lead the region to potential severe water shortages if alternative water supplies are not identified and secured.

The Background:

The Port of Corpus Christi began the permitting process for securing a NPDES (discharge) permit on Harbor Island in 2017. The reason for this action was simply at that time the primary purveyor of water, the City of Corpus Christi, was not aligned in the thought that permitting for desalination was urgent. Believing the NPDES permit would take significant time to prepare and submit, as well as procure from the State of Texas via the TCEQ, the Port Commission gave Port Staff the directive to commence pursuit of the NPDES permit. The Port of Corpus Christi submitted its NPDES permit application in May 2018. The TCEQ subsequently issued a draft permit to the Port of Corpus Christi, which was then referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing.

The SOAH issued a ruling in May 2021 and the TCEQ remanded the permit application back to the Port of Corpus Christi for revisions. The revised application was presented to SOAH, and hearings concluded in April 2022. A ruling is expected by June 2022. It is anticipated the TCEQ will decide the fate of the Port of Corpus Christi's permit issuance in late 2022.

In March of 2020, the City of Corpus Christi submitted an NPDES permit application to the TCEQ for a seawater desalination location in the Inner Harbor. The Port of Corpus Christi supports the City's efforts to permit a desalination plant at the Inner Harbor. A draft permit has yet to be issued to the City of Corpus Christi.

The Port is willing to provide additional technical and financial support to the City of Corpus Christi in their efforts to obtain a permit and is open to discussions to support a successful outcome of their efforts.

The Proposed Solution:

Seawater desalination technologies are increasingly evolving to a point where many venues throughout the world are turning to such facilities to address water needs. These venues include Australia, Israel, the Middle East, and the United States.

The Port of Corpus Christi supports the City's efforts to permit a desalination plant at the inner harbor and/or La Quinta. The Port is willing to provide additional support to the city in their efforts to obtain a permit and is open to discussions to support a successful outcome of their efforts.

If the City of Corpus Christi either determines their proposed permit locations are not suitable for a scalable Desal Plant, or if the City of Corpus Christi is not granted permits for their proposed sites and the Port Authority receives a permit for Harbor Island, the Port envisions a partnership with the City of Corpus Christi, who is the primary distributor of water for a multi-county region of South Texas. The proposed partnership would afford the City of Corpus Christi this continued primary water provider status via its existing distribution network with a drought-proof scalable supply of desalinated seawater produced under the operations of the City of Corpus Christi or a qualified desalination developer and operator.

The Port of Corpus Christi and the City of Corpus Christi could, along with the selected qualified developer/operator, fund the project through a public/private partnership (P3) using both State Water Development Board SWIFT funds lent to the City and/or the Port of Corpus Christi, and selected qualified developer/operator investment. This P3 structure could provide the City of Corpus Christi with a solution to meet the region's water needs by affording the City of Corpus Christi the primary customer status at a wholesale price point for water while utilizing its existing water distribution network and treatment facilities.

To ensure the wholesale rate structure is competitive, the City and/or the Port of Corpus Christi could borrow up to \$500 million from the Water Development Board under the State Water Implementation Fund for Texas (SWIFT) Program. Bringing low-cost public capital to the project ensures a lower production rate can be secured for the City of Corpus Christi for the wholesale procurement of the desalination production.

The Port of Corpus Christi, along with the City, could also compel the awarded developer/operator to invest in the facility, ensuring financial alignment and reducing the risk to the public agencies of the project. A qualified seawater desalination operator could operate the facility under the Port of Corpus Christi's NPDES permit, ensuring oversight by the local governments, including the Port Authority and the City of Corpus Christi, while ensuring a competitive wholesale rate structure for the City of Corpus Christi to enjoy a healthy margin for its own costs and profitability.

In this example, the City of Corpus Christi is envisioned to be a direct user and purchaser of the water produced. The facility would have a direct connection from Harbor Island to the City's closest treatment facility (Flour Bluff) or via Nueces Water Authority No. 4 (Mustang Island). It is also possible to connect to the San Patricio Municipal Water District Plant in Ingleside in a direct agreement with the City of Corpus Christi and San Patricio Municipal Water District. All connections would require consent.

This model is similar to the Carlsbad, California desalination facility. Today the Claude "Bud" Lewis Carlsbad Desalination Plant is the largest, most technologically advanced and energy-efficient seawater desalination plant in the nation. Each day, the plant delivers nearly 50 million gallons (56,000 acre-feet per year) of fresh, desalinated water to San Diego County – enough to serve approximately 400,000 people and accounting for about one-third of all water generated in San Diego County.

Located adjacent to the Pacific Ocean, the Carlsbad Desalination Plant was developed as a public-private partnership. The project originated in 1998 and launched in 2015 with an exclusive purchase agreement with the San Diego County Water Authority. The project has garnered numerous awards for design, implementation and energy efficiency. Poseidon Water (a Brookfield Company) was the developer, and IDE (Israel-based) is the operator and maintenance provider to the facility.

The Benefit:

This example of a contemplated transaction would afford the region a drought-proof supply of water. The City of Corpus Christi could benefit from an “off-take” agreement funded by the City, the Port of Corpus Christi and a private developer/operator, thereby reducing the financial risk and operational risk.

Possible Next Steps:

The Port of Corpus Christi will continue its pursuit of the NPDES Permit with the TCEQ. Without the Permit, the project is moot, and any discussions are academic. However, Port Staff and the legal team are confident the TCEQ will decide on the Permit in 2022 due to a strong administrative record the Port of Corpus Christi has delivered to the Texas Commission on Environmental Quality in support of issuing the Permit. There has been widespread support for our permitting efforts from a multitude of constituencies, including industry, regional governments, State Legislators, and members of the community at large.

The Port Commission as stated in the Resolution issued on April 19, 2022, that the Port of Corpus Christi fully supports the City of Corpus Christi’s seawater desalination permit application. Realizing permits are “site specific” and at this point in time neither the City of Corpus Christi nor the Port of Corpus Christi is assured of a permit being issued, the Port Commission would like to engage with City Council in good faith discussions on how the Port and the City can work together to ensure an uninterrupted water supply for this Region.

Cheniere Energy, Inc.

CCL Terminal – LNG/C Milestones for Port Corpus Christi



May 2022



Safe Harbor Statements

Forward-Looking Statements

This presentation contains certain statements that are, or may be deemed to be, “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of historical or present facts or conditions, included or incorporated by reference herein are “forward-looking statements.” Included among “forward-looking statements” are, among other things:

- statements regarding the ability of Cheniere Energy Partners, L.P. to pay or increase distributions to its unitholders or Cheniere Energy, Inc. to pay or increase dividends to its shareholders or participate in share or unit buybacks;
- statements regarding Cheniere Energy, Inc.’s or Cheniere Energy Partners, L.P.’s expected receipt of cash distributions from their respective subsidiaries;
- statements that Cheniere Energy Partners, L.P. expects to commence or complete construction of its proposed liquefied natural gas (“LNG”) terminals, liquefaction facilities, pipeline facilities or other projects, or any expansions or portions thereof, by certain dates or at all;
- statements that Cheniere Energy, Inc. expects to commence or complete construction of its proposed LNG terminals, liquefaction facilities, pipeline facilities or other projects, or any expansions or portions thereof, by certain dates or at all;
- statements regarding future levels of domestic and international natural gas production, supply or consumption or future levels of LNG imports into or exports from North America and other countries worldwide, or purchases of natural gas, regardless of the source of such information, or the transportation or other infrastructure, or demand for and prices related to natural gas, LNG or other hydrocarbon products;
- statements regarding any financing transactions or arrangements, or ability to enter into such transactions;
- statements relating to Cheniere’s capital deployment, including intent, ability, extent, and timing of capital expenditures, debt repayment, dividends, and share repurchases;
- Statements regarding our future sources of liquidity and cash requirements;
- statements relating to the construction of our proposed liquefaction facilities and natural gas liquefaction trains (“Trains”) and the construction of our pipelines, including statements concerning the engagement of any engineering, procurement and construction (“EPC”) contractor or other contractor and the anticipated terms and provisions of any agreement with any EPC or other contractor, and anticipated costs related thereto;
- statements regarding any agreement to be entered into or performed substantially in the future, including any revenues anticipated to be received and the anticipated timing thereof, and statements regarding the amounts of total LNG regasification, natural gas, liquefaction or storage capacities that are, or may become, subject to contracts;
- statements regarding counterparties to our commercial contracts, construction contracts and other contracts;
- statements regarding our planned development and construction of additional Trains or pipelines, including the financing of such Trains or pipelines;

- statements that our Trains, when completed, will have certain characteristics, including amounts of liquefaction capacities;
- statements regarding our business strategy, our strengths, our business and operation plans or any other plans, forecasts, projections or objectives, including anticipated revenues, capital expenditures, maintenance and operating costs, free cash flow, run rate SG&A estimates, cash flows, EBITDA, Consolidated Adjusted EBITDA, distributable cash flow, distributable cash flow per share and unit, deconsolidated debt outstanding, and deconsolidated contracted EBITDA, any or all of which are subject to change;
- statements regarding projections of revenues, expenses, earnings or losses, working capital or other financial items;
- statements regarding legislative, governmental, regulatory, administrative or other public body actions, approvals, requirements, permits, applications, filings, investigations, proceedings or decisions;
- statements regarding our anticipated LNG and natural gas marketing activities; and
- any other statements that relate to non-historical or future information.

These forward-looking statements are often identified by the use of terms and phrases such as “achieve,” “anticipate,” “believe,” “contemplate,” “continue,” “could,” “develop,” “estimate,” “example,” “expect,” “forecast,” “goals,” “guidance,” “intend,” “may,” “opportunities,” “plan,” “potential,” “predict,” “project,” “propose,” “pursue,” “should,” “subject to,” “strategy,” “target,” “will,” and similar terms and phrases, or by use of future tense. Although we believe that the expectations reflected in these forward-looking statements are reasonable, they do involve assumptions, risks and uncertainties, and these expectations may prove to be incorrect. You should not place undue reliance on these forward-looking statements, which speak only as of the date of this presentation. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of a variety of factors, including those discussed in “Risk Factors” in the Cheniere Energy, Inc. and Cheniere Energy Partners, L.P. Annual Reports on Form 10-K filed with the SEC on February 24, 2022, which are incorporated by reference into this presentation. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these “Risk Factors.” These forward-looking statements are made as of the date of this presentation, and other than as required by law, we undertake no obligation to update or revise any forward-looking statement or provide reasons why actual results may differ, whether as a result of new information, future events or otherwise.

Reconciliation to U.S. GAAP Financial Information

The following presentation includes certain “non-GAAP financial measures” as defined in Regulation G under the Securities Exchange Act of 1934, as amended. Schedules are included in the appendix hereto that reconcile the non-GAAP financial measures included in the following presentation to the most directly comparable financial measures calculated and presented in accordance with U.S. GAAP.



CCL terminal – LNG/C milestone transits



- CCL has worked closely with industry experts, regulatory bodies & the Pilots Association to implement optimal standards for LNG carrier transits and its cargo loading operations
- Policies and procedures have been instituted and refined to ensure safe and efficient operations
- CCL strives for continuous improvement with due regard for risk mitigation

CCL terminal – LNG/C milestone transits

Maria Energy - First LNG Cargo West Jetty

December 2018



CCL terminal – LNG/C milestone transits

Maran Gas Posidonia - First LNG Night Transit

December 2019



CCL terminal – LNG/C milestone transits

Hoegh Galleon – 1000th Cargo for Cheniere

January 2020



CCL terminal – LNG/C milestone transits

Gaslog Warsaw – First LNG Cargo East Jetty

June 2020



CCL terminal – LNG/C milestone transits

First time 2 LNGCs concurrently moored at the West and East Jetty July 2020



CCL terminal – LNG/C milestone transits

Golar Ice & Golar Kelvin – First Convoy / Dual Docking February 2021



CCL terminal – LNG/C milestone transits

Gaslog Westminster – 500th CCL Cargo

May 2022



Thank you

Questions?

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An aerial photograph of a coastal city, likely San Diego, with a large body of water in the background. The image is overlaid with a semi-transparent blue filter. The text is white and centered.

COASTAL BEND AIR QUALITY PARTNERSHIP

Update and Board of Directors Invitation
Port Commission – May 24, 2022
By: Sarah Garza, Board President

Coastal Bend Air Quality Partnership Strategic Plan for Transition

- ❖ Establish financial support for three years of operation
- ❖ Set up initial Board of Directors
- ❖ Set up organization:
 - ✓ Create bylaws
 - ✓ Obtain 501 C 3 approval
 - ✓ Adopt appropriate policies for fully functioning organization
 - ✓ Secure operating insurance
 - ✓ Secure operating services (accounting, office systems, etc.)
- ❖ Hire Executive Director through a Board established selection committee
- ❖ Identify slate of nominees for non-appointed Board of Director positions

Our Team

INTERIM BOARD AND DIRECTOR

Sarah Garza; President
Trent Thigpen; Vice-President
Darcy Schroeder; Secretary

Gretchen Arnold; Director

TRANSITION WORKING GROUP

Sherman Hampton; Exxon Mobil
Rob MacDonald; CCMPO
Bob Paulison; Port Industries
Darcy Schroeder; Valero
Errol Summerlin; CAPE
Glenda Swierc; Enbridge
Isabelle Rivero; Exxon Mobil

Financial Overview

Operating Costs

2023 Operating Costs
Budgeted - \$234,300

2022 Operating Costs (To Date)
Budgeted - \$182,263
Expended - \$10,000

2021 Operating Costs
Budgeted - \$25,700
Actual - \$25,700*

*Does not include legal fees, filing fees, and cost of non-attainment study that were sponsored by the Port of Corpus Christi. (Approximately \$52,000 to date)

Financial Support Secured

Total Committed Annual Contributions
To Date for a 3-Year Period - **\$285,037**

Financial Supporters

Port of Corpus Christi
City of Corpus Christi
City of Portland
Corpus Christi MPO
Corpus Christi RTA
Nueces County
San Patricio County
Port Industries of Corpus Christi

Accomplishments

- ❖ Received 501 C 3 approval from IRS on **March 16, 2022**
- ❖ Received State of Texas tax exemption on **May 11, 2022**
- ❖ Obtained Director and Officer, Worker's Compensation, and General Liability insurance
- ❖ Hired Ms. Sharon Baily Murphey as Executive Director on **May 6, 2022**
- ❖ Approved slate of nominees for non-appointed Board of Directors for recommendation for full Board approval
- ❖ Established office space

Next Steps

Tasks	Estimated Completion
❖ Invite elected officials to fill Board positions	Mid-July 2022
❖ Create website and branding of new organization	August 2022
❖ Hold Board meeting to transition from 3-member Board to the full Board described in by-laws	July 2022
❖ Develop action plan for Board approval	December 2024

Board of Directors Invitation

Chairman of the Port of Corpus Christi Authority, or his designee, is cordially invited to serve on the CBAQP Board Directors.

May 17, 2022

Mr. Charlie Zahn
Chairman of the Board
Port of Corpus Christi Authority
400 Harbor Drive
Corpus Christi, Texas 78401

Subject: Coastal Bend Air Quality Partnership Board of Directors Invitation

Dear Chairman Zahn,

On behalf of the Board of Directors of the Coastal Bend Air Quality Partnership, I am pleased to inform you that the transition to a non-profit organization has occurred, and you are cordially invited to participate as a Port Authority Director or designate a representative to serve in this position.

The bylaws of the organization identify the complete Board of Directors as a nine-member board, including a Port Authority Director. In late July, we anticipate having a Board Meeting in which the current three-member Board established to facilitate the transition hands the baton off to the full nine-member board. You will be contacted in early June with further details regarding the meeting date and time.

We look forward to representation by the Port of Corpus Christi!

Sincerely,

COASTAL BEND AIR
QUALITY PARTNERSHIP



Sarah L. Garza
Board President

cc: Sharon Baily Murphey
Gretchen Arnold

**BYLAWS
OF
COASTAL BEND AIR QUALITY PARTNERSHIP**

These Bylaws govern the affairs of Coastal Bend Air Quality Partnership (the "Corporation").

**ARTICLE I
OFFICES**

1.01 *Principal Office.* The Corporation's principal office in Texas will be located at 222 Power Street, Corpus Christi, Texas. The Board of Directors may change the location of any office of the Corporation.

1.02 *Registered Office and Registered Agent.* The Corporation will maintain a registered office and registered agent in Texas. The Board of Directors may change the registered office and the registered agent as permitted in the Texas Business Organizations Code (the "TBOC").

**ARTICLE II
Purpose**

2.01 The Purpose of the Corporation is:

- Advance regional dialogues about the effects of air quality on health, environment, economy, and overall quality of life.
- Communicate to industry, government, small businesses, and the public on air quality issues.
- Promote voluntary air quality improvement measures and emissions reducing activities.
- Propose and promote programs for monitoring and improving air quality.

**ARTICLE III
BOARD OF DIRECTORS**

3.01 *Management of Corporation.* The Board of Directors will manage all of the affairs of the Corporation.

3.02 *Number.* The number of Directors will be ten (10).

3.03 *Composition of Board of Directors.* The following is the composition of the Board of Directors:

- a. *Community Director.* One position shall be elected by the Board of Directors from a slate of nominations proposed by the Nominating Committee. The Community Director shall provide broad-based representation of those interested in the local environment. The Community Director shall be an interested individual who is involved in non-profit organization that is focused on the environment.
- b. *County Directors.* Two Directors shall be County Directors. One of the County Directors shall be appointed by the Nueces County Judge. One County Director shall be appointed by the San Patricio County Judge. The County Directors shall provide broad-based representation of large urbanized areas which includes the support of infrastructure and governance.
- c. *City Directors.* Two Directors shall be City Directors. One of the City Directors shall be appointed by the City of Corpus Christi Mayor. One of City Director shall be appointed by the City of Portland Mayor. The City Directors shall provide broad-based representation of municipal operations, residential population, supporting infrastructure and governance.
- d. *Business & Industry Directors.* Three positions shall represent business and industry. One Business & Industry Director shall be appointed by the largest industry association in Nueces and San Patricio County. The remaining two Business & Industry Directors shall be elected by the Board of Directors from a slate of nominations proposed by the Nominating Committee. One Business & Industry Director shall be a representative from Nueces County. One Business & Industry Director shall be a representative from San Patricio County. Each Business & Industry Director must be involved locally in business and industry.
- e. *Port Authority Director.* The Port Authority Director shall be appointed by the Chairman of the Port of Corpus Christi Commission. The Port Authority Director shall provide broad-based representation of Port of Corpus Christi Operations and mobile emission sources from vessels.
- f. *Ex-Officio Non-Voting Health Care/Academia Member.* The Non-Voting Health Care/Academia Member shall be elected by the Board of Directors from a slate of nominations proposed by the Nominating Committee and from nominations proposed by the Board of Directors. The Non-Voting Health /Academia Member shall provide broad-based representation of health related or research professions and shall be ex-officio with no voting rights.

3.04 *Tenure of Directors.* Each Director shall hold office for a three-year period and until the Director's successor is elected and qualified. No individual shall serve as Director for more than nine (9) continuous years. In order to initially stagger the terms, the Board of Directors shall determine a manner in which the initial Directors are elected to one-year terms, to two-year terms and to three-year terms.

3.05 *Vacancies.* Vacancies on the Board of Directors shall exist upon the death, resignation, or removal of a Director. The vacancy on the Board of Directors shall be filled by the entity or person having the authority under Section 3.03 of these Bylaws to elect the Director at the inception of the term of office. A Director selected to fill a vacancy shall serve for the unexpired term of the Director's predecessor in office.

3.06 *Removal.* The Board may vote to remove a Director at any time. A meeting to consider removing a Director may be called and noticed following the procedures provided in these Bylaws for a special meeting of the Board of Directors. The notice of the meeting shall state that the issue of possibly removing the Director shall be on the agenda. At the meeting, the Director may present evidence of why the Director should not be removed. A Director shall be removed by the affirmative vote of two-thirds (2/3rds) of the Board excluding the Director who is subject to the removal proceeding. A Director who has two (2) unexcused absences in a fiscal year shall be automatically removed as Director. The decision as to the whether an absence is excused shall be by the President, in the sole discretion of the President.

3.07 *Resignation.* Any Director may resign at any time by providing written notice to the Secretary of the Corporation. Such resignation shall take effect upon the receipt of the notice or at a later time specified in the notice. The acceptance of such resignation shall not be necessary to make the resignation effective.

3.08 *Annual Meeting.* An Annual Meeting of the Board of Directors will be held at such time as determined by the Board of Directors. Written notice of the Annual Meeting of the Board shall be delivered to each Director not less than three (3), nor more than thirty (30) days before the date of the meeting. The notice will state the place, day, and time of the meeting.

3.09 *Regular Quarterly Meetings.* The Board shall provide for regular quarterly meetings by resolution stating the time and place of such meetings. No notice of regular Board meetings is required other than a Board resolution stating the time and place of the meetings.

3.10 *Special Meetings.* Special Board meetings may be called by, or at the request of, the President or any two Directors. Written notice of any special meeting of the Board shall be delivered to each Director not less than three (3), nor more than thirty (30) days before the date of the meeting. The notice will state the place, day, and time of the meeting and the purpose or purposes for which it is called.

3.11 *Quorum.* Six-tenths (6/10) of the number of Directors then in office constitutes a quorum for transacting business at any Board meeting. The Directors present at a meeting at which a quorum is present may continue to transact business even if enough Directors leave the meeting so that less than a quorum remains; however, no action may be approved without the vote of at least a majority of the number of Directors required for a quorum or two-thirds (2/3) of

the number of Directors required for a quorum when a two-thirds (2/3) vote is required by these Bylaws. If a quorum is never present at any time during a meeting, six-tenths (6/10) of the Directors present may adjourn and reconvene the meeting without further notice.

3.12 *Telephonic Meeting.* The Board of Directors, any committee and any subcommittee of the Corporation may hold a meeting by telephone conference-call procedures. In all meetings held by telephone, matters must be arranged in such a manner that all persons participating in the meeting can hear each other; the notice of a meeting by telephone conference must state the fact that the meeting will be held by telephone as well as all other matters required to be included in the notice; and a person's participating in a conference-call meeting constitutes the Director's presence at the meeting.

3.13 *Manner of Acting.* The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board unless the act of a greater number is required by law or by these Bylaws.

3.14 *Action by Written Consent.* Any decision required or permitted to be made at a meeting of the Board or any committee of the Corporation may be made without a meeting. A decision without a meeting may be made if a written consent to the decision is signed by all the persons entitled to vote on the matter. The original signed consents shall be placed in the Corporation minute book and kept with the corporate records. Each written consent must be signed and bear the date of signature of the person signing it. An email or similar transmission by a Director or committee member or a photographic, facsimile, or similar reproduction of a signed writing, shall be treated as an original being signed by the Director or committee member. The Corporation shall give prompt notice of the action taken to persons who do not sign consents. If the action taken requires documents to be filed with the Secretary of State, the filed documents will indicate that these written consent procedures were followed to authorize the action and filing.

3.15 *Proxies.* A Director may vote by proxy executed in writing by the Director. The proxy shall be limited to one specific meeting. The proxy shall be revocable unless expressly provided in the proxy to be irrevocable and unless otherwise made irrevocable by law.

3.16 *Duties of Directors.* Directors will discharge the duties of the Directors, including any duties as committee members, in good faith, with ordinary care, and in a manner the Directors reasonably believe to be in the Corporation's best interest. In discharging any duty imposed or power conferred on Directors, Directors may, in good faith, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that has been prepared or presented by a variety of persons, including officers and employees of the Corporation, professional advisors or experts such as accountants or legal counsel. Directors are not deemed to have the duties of Trustees of a trust with respect to the Corporation or with respect to any property held or administered by the Corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

3.17 *Compensation.* Directors shall not receive salaries for their services. Directors shall be reimbursed for the Director's out of pocket expenses.

3.18 *Financial Controls.* The Board of Directors shall adopt an annual budget which shall be approved by a two-thirds (2/3) vote of the Directors. Every check of the Corporation shall have the signature of an officer of the Corporation and the signature of a Director. The preference is that the Treasurer of the Corporation sign each check if practicable.

ARTICLE IV OFFICERS

4.01 *General.* The officers of the Corporation shall be President, one or more Vice Presidents (the number thereof shall be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article IV. Any two or more offices may be held by the same person except the offices of President and Secretary.

4.02 *Election and Term of Office.* The officers of the Corporation shall be elected annually by the Board of Directors at the Annual Meeting of the Board of Directors. Each officer shall hold office until the officer's successor shall have been duly elected and shall have qualified.

4.03 *Removal.* Any officer may be removed by a vote of two-thirds (2/3) of the Board of Directors whenever, in the judgment of the Board of Directors the best interests of the Corporation will be served thereby.

4.04 *Vacancies.* A vacancy in any office because of death, resignation, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.05 *Resignation.* An officer may resign by giving written notice to the Secretary. Such resignation shall take effect upon the receipt of the notice or at a later time specified in the notice. The acceptance of such resignation shall not be necessary to make the resignation effective.

4.06 *President.* The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The President may sign, with the Secretary, Treasurer or any other proper officer of the Corporation authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Corporation. The President shall in general shall perform all duties incident to the office of President and such other duties that may be prescribed by the Board of Directors from time to time.

4.07 *Vice President.* In the absence of the President or in the event of inability or refusal to act, the Vice President (or in the event there may be more than one Vice President, the Vice Presidents in order of their election) shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. A Vice President shall perform such other duties as from time to time may be assigned by the President or Board of Directors.

4.08 *Treasurer.* The Treasurer shall have charge and custody of and shall be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source; and deposit all such monies in the name of the Corporation in such banks or other depositories as shall be selected by the Board of Directors; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors. If practicable, the Treasurer should sign each check of the Corporation.

4.09 *Secretary.* The Secretary shall keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records; keep a register of the post office address of each Director which shall be furnished to the Secretary by each Director; and in general, perform all duties incident to the office of Secretary and such duties as from time to time may be assigned by the President or by the Board of Directors.

ARTICLE V COMMITTEES

5.01 *Committees of Directors.* The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of two or more Directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the Board of Directors in the management of the Corporation. The Board of Directors shall establish Audit Committee, Finance Committee, Nomination Committee and Governance Committee. The Board of Directors and/or Executive Director may appoint advisory committees to include representatives from the health care industry (including but not limited to doctors and medical researchers), academia industry, regulatory industry and technology industry.

5.02 *Term of Office.* Each member of a committee shall continue as a committee member such until the next Annual Meeting of the Directors of the Corporation and until the committee member's successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member of the committee.

5.03 *Vacancies.* Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

5.04 *Rules.* Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

5.05 *Nominating Committee.* The Nominating Committee shall nominate Officers, Committee members and Directors for election. The Nominating Committee shall be chaired by the immediate Past President of the Corporation; except, however, that the first year of the Corporation the Nominating Committee shall elect its Chair from the members of the Nominating Committee. The members of the Nominating Committee shall consist of five (5) members appointed by the President and confirmed by a two-thirds (2/3) vote of the Directors.

5.06 *Finance Committee.* The Finance Committee shall monitor the financial affairs of the Corporation. Specific responsibilities of the Finance Committee include reviewing and monitoring the Corporation's financial management and reporting systems and assisting in the development and presentation of the annual budget. The Finance Committee shall be chaired by the Treasurer of the Corporation.

5.07 *Audit and Governance Committee.* The Audit and Governance Committee shall recommend to the Board of Directors an auditor to perform the Corporation's annual audit. The Audit and Governance Committee shall serve as the liaison for the Board of Directors to the auditor selected by the Board of Directors. The Audit and Governance Committee shall monitor and advise the Board of Directors on all matters pertaining to the Corporation's Certificate of Formation, Bylaws, Internal Revenue Code and state law. The Audit and Governance Committee shall monitor any litigation in which the Corporation is a party or in which the Corporation is interested. The Audit and Governance Committee shall also monitor any liability exposure to which the Corporation or the Directors are subject. The Audit and Governance Committee shall monitor all proposed legislation and regulations which may impact the Corporation. The Board of Directors shall select the chair of the Audit and Governance Committee.

5.08 *Legislative and Government Affairs Committee.* The Legislative and Government Affairs Committee shall monitor and keep the Board of Directors abreast of local, State or Federal environmental regulations, plans or issues that may affect local compliance with air quality standards or the success of the Corporation carrying out its mission. The Committee shall also keep appropriate local, State and Federal liaisons informed of regulatory and environmental issues that may impact local compliance with air quality standards and the mission of the Corporation. The Board of Directors shall select the chair of the Legislative and Government Affairs Committee.

ARTICLE VI EXECUTIVE DIRECTOR

6.01 An Executive Director for the Corporation shall be appointed by the Board.

6.02 *Duties and Responsibilities.* The Executive Director shall manage the day-to-day responsibilities and functioning of the Corporation, including but not limited to carrying out the Corporation's policies and records, creating and maintaining the directorship directory, support the work of the Board and committees, develop the Corporation's annual budget for Board approval and coordinating and promoting activities that support the Corporation's mission. The Executive Director may delegate responsibility for specific aspects of the management of the Corporation's affairs while holding accountable the parties to whom responsibility has been assigned. The Executive Director shall attend all Board meetings, report on the Corporation's progress, answer questions of the Board and carry out all duties described in the job description. The Executive Director shall not vote on matters before the Board.

6.03 *Accountability.* The Executive Director shall be accountable to the Board through a regular reporting process and an annual evaluation.

6.04 *Compensation.* The Board is authorized to compensate the Executive Director and determine the amount of compensation.

ARTICLE VII MISCELLANEOUS PROVISIONS

7.01 *Gifts.* The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes of the Corporation. No Board of Director may accept any personal gift in violation of the Director's fiduciary duties to the Corporation.

7.02 *Books and Records.* The Corporation shall keep correct and complete books and records of account and minutes of the proceedings of its Board of Directors.

7.03 *Fiscal Year.* The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

7.04 *Notices.* Any notice required or permitted by these Bylaws to be given to a Director, officer, or member of a committee of the Corporation shall be given by mail or email. If mailed, a notice is deemed delivered when deposited in the mail addressed to the person at the person's address as it appears on the corporate records with postage prepaid. If emailed, a notice is deemed delivered when it has been sent. A person may change such person's address in the corporate records by giving written notice of the change to the Secretary of the Corporation.

7.05 *Amendments to Bylaws.* These Bylaws may be altered, amended, or repealed by a two-thirds (2/3) vote of the Board of Directors at any meeting held pursuant to these Bylaws.

7.06 *Choice of Law.* These Bylaws shall be construed under Texas law. All references in these Bylaws to statutes, regulations, or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time.

7.07 *Invalid Provisions.* To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any Bylaw provision is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the Bylaws shall be construed as if they had not included the invalid, illegal, or unenforceable provision.

7.08 *Headings.* The headings and captions used in the Bylaws are for convenience and may not be considered in construing the Bylaws. All singular words include the plural, and all plural words include the singular.

7.09 *Relation to Certificate of Formation.* These Bylaws are subject to, and governed by, the Certificate of Formation.

ARTICLE VIII INDEMNIFICATION

8.01 *Definitions.* For purposes of this Article VIII, the following definitions shall apply:

- a. “Director” means any person who is or was a member of the Board of Director of the Corporation.
- b. “Officer” means any person who is or was an officer of the Corporation.
- c. “Expenses” include court costs, a judgment (including arbitration awards), a penalty, a settlement, excise or similar tax, a fine and reasonable attorneys’ fees and paralegal fees, expert witness fees, and costs of investigation, litigation, and appeal, actually incurred by the person, as well as any amounts expended in asserting a claim for indemnification.
- d. “Liability” means the obligation to pay without limitation a judgment, arbitration award, settlement, penalty (including excise or similar taxes), fine, or other such obligation or expense.
- e. “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrate or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

8.02 *Indemnification for Directors.* The Corporation shall indemnify a Director or former Director who was, is, or is threatened to be made a respondent in a proceeding if the person acted in good faith, reasonably believed that in the case of conduct in the person’s official capacity that the person’s conduct was in the Corporation’s best interests and in any other case, that the person’s conduct was not opposed to the Corporation’s best interests. A person does not fail to meet the standard solely because of the termination of a proceeding by judgment, order, settlement, conviction or a plea of nolo contendere or its equivalent. In the case of a criminal proceeding, the person must not have a reasonable cause to believe the person’s conduct was unlawful. The indemnification shall be the full amount of the judgment and those expenses which are reasonable and actually incurred by the person in connection with the proceeding. A Director or former Director is considered to have been found liable in relation to a claim, issue or matter if the liability is established by an order and all appeals of the order are exhausted or foreclosed by law. A Director or former Director found liable to the Corporation or is found liable because the person improperly received a personal benefit is limited to reasonable expenses actually incurred by the person in connection with the proceeding and shall not receive indemnification for the judgment, penalty or fine. A Director or former Director shall not be indemnified for willful or intentional misconduct in performance of the person’s duty to the Corporation, breach of the person’s duty of loyalty to the Corporation or an act or omission not committed in good faith that constitutes a breach of a duty of the person to the Corporation.

8.03 *Indemnification for Directors in Advance.* The Corporation shall pay or reimburse reasonable expenses incurred by a Director who was, is, or is threatened to be made a respondent in a proceeding in advance of the final disposition of the proceeding without making the determinations required under Section 8.101(a) of TBOC to the fullest extent permissible under and pursuant to TBOC. The determination that indemnification under this Section is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made as provided by TBOC. Reasonable expenses incurred by the Director shall be paid or reimbursed by the Corporation in advance of the final disposition of the proceeding after the Corporation receives a written affirmation from the Director of the Director's good faith belief that the Director has met the standard of conduct necessary for indemnification under Section 8.104(a) of the TBOC and a written undertaking by or on behalf of the Director to repay the amount paid or reimbursed if it is ultimately determined that the Director has not met that standard or if it ultimately determined that indemnification of the Director is prohibited by Section 8.102 of TBOC. Such written undertaking shall be an unlimited, unsecured general obligation of the Director and shall be accepted by the Corporation without reference to the Director's financial ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not of itself determine that a Director acted in such a manner as to make the Director ineligible for indemnification. A person shall be deemed to have been found liable in respect to any claim, issue or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. A person may be indemnified against any Liability actually incurred by the person in connection with any proceedings; but if the person is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the person, indemnification (1) is limited to reasonable expenses actually incurred by the person in connection with the proceeding, and (2) shall not be made in respect to any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of the person's duty to the Corporation.

8.04 *Indemnification for Officers and Employees.* The Corporation shall to the same extent that the Corporation is required under this Article to provide indemnification and to make advances and reimbursements for expenses to its Directors, provide indemnification and make advances and reimbursements for expenses to its officers, employees and agents and any person serving any other legal entity in any official capacity at the written request of the Board of Directors of the Corporation.

8.05 *Miscellaneous.* Every reference in this Article VIII to persons who are or may be entitled to indemnification shall include all persons who formerly occupied any of the positions referred and their respective heirs, legatees, devisees, assigns, executors, and administrators. Nothing in this Article VIII, whether express or implied, is intended to confer any rights or remedies under or by reason of this Article on any persons ("Third Persons") other than the persons entitled to indemnification ("Indemnitees") and the respective heirs, legatees, devisees, assigns, executors and administrators of the Third Persons. Nothing in this Article VIII, whether express or implied, is intended to relieve or discharge the obligation or liability of any Third Persons to any Indemnitee or the Corporation. Nothing in this Article VIII, whether express or implied, is intended to give any Third Persons any right of subrogation or action over or against the Corporation. Special legal counsel, if any, selected to make determinations under

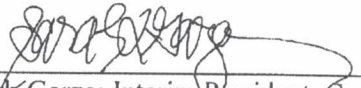
this Article VIII may be counsel for the Corporation. Indemnification pursuant to this Article VIII shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to valid contract, indemnification by legal entities other than the Corporation and indemnification under policies of insurance purchased and maintained by the Corporation or others. However, no person shall be entitled to indemnification by the Corporation to the extent he or she is indemnified by another. The Corporation is authorized to purchase and maintain insurance against any liability the Corporation may have under this Article VIII.

8.06 *Invalidity of Indemnification.* If any provision of this Article VIII or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article VIII, and to this end the provisions of this Article VIII are severable.

8.07 *Effect of Amendment of Indemnification Provision.* No amendment, modification or repeal of this Article VIII shall terminate, reduce or impair the right of any Indemnitee to be indemnified by the Corporation from claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of whether such claims were asserted at the time of such amendment, modification or repeal.


8.08 *Reporting of Indemnification.* A written report shall be provided to the Board of Directors of an indemnification or advance of expenses to a governing person. The report must be made not later than (1) the notice or waiver of notice of the next meeting of the Board of Directors and before the next submission of a consent to action without a meeting and (2) the first anniversary of the of the date of the indemnification or advance.

Unanimously adopted by the Board of Directors on the 22nd day of June, 2021.



Sarah Garza; Interim President, Coastal Bend Air Quality Partnership

I hereby certify that the above and foregoing Bylaws of the Corporation were adopted as the initial Bylaws of the Corporation at a meeting of the Board of Directors held on the 22nd day of June, 2021.



Sharon Bailey Murphy; Interim Secretary, Coastal Bend Air Quality Partnership

APPROVED:



Sarah Garza; Interim President, Coastal Bend Air Quality Partnership



DATE: May 24, 2022

TO: Port Commission

FROM: Kent Britton, Chief Financial Officer
kbritton@pocca.com
 (361) 885-6114

Approve the Port of Corpus Christi’s (“PCCA”) First Quarter 2022 Financial Report

SUMMARY: Staff seeks Port Commission approval of the Financial Report for the First Quarter of 2022. The Report is attached and details the PCCA’s results for the first three months of 2022 as compared to both the Prior Year first three months, and the Commission-approved 2022 Budget’s first three months.

As detailed in the report, PCCA recorded the second highest quarterly tonnage on record in Q1 2022, following only the record tonnage recorded in the fourth quarter of 2021. In addition, the \$42.1 million of Operating Revenue recorded in the first quarter of 2022 was the second highest quarterly operating revenue in PCCA history. Tonnage in the first quarter was 16% higher than the first quarter of 2021, when results were depressed by the impacts of Winter Storm Uri. The revenues are similarly 16% higher than last year, and 4% above our 2022 Budget for the first quarter. Crude oil exports and LNG shipments continued the strong performance they showed in the back half of 2021. Expenses were below budget by 19% as a result of lower employee services and maintenance costs, and higher than the prior year by 18% due to higher spending in maintenance and professional services expense.

BACKGROUND: The PCCA Finance Staff prepares monthly reporting packages that are reviewed by Staff and a summary of which is included in the CEO Report prepared for the Commission each month. On a quarterly basis, Staff prepares the Quarterly Financial Report and presents it to the Audit Committee members and then the full Commission for approval. Annually, the staff works with the Audit Committee to prepare a budget that, while not statutorily binding, provides a detailed framework for spending throughout the year. That budget is presented at a public Commission Workshop in November and approved by the Commission after the Workshop.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: The project conforms to the current PCCA Strategic Plan, including Strategic Goal #5 – Fund our Vision.

EMERGENCY: No



FINANCIAL IMPACT: Financial Results as noted in the attached Financial Report.

STAFF RECOMMENDATION: Staff recommends approval of the First Quarter 2022 Financial Report.

DEPARTMENTAL CLEARANCES:

Originating Department Finance
Reviewed & Approved Kent Britton

Legal Jimmy Welder
Senior Staff Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

Financial_Review_Q1 March 2022

FINANCIAL REVIEW

YEAR TO DATE MARCH 31, 2022

Kent A. Britton | Chief Financial Officer



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- I. Executive Summary
- II. Summary Year-to-Date Results
- III. Key Historical Trends
- IV. Crude and Refined Products Update

Appendix: Detailed Financial Information

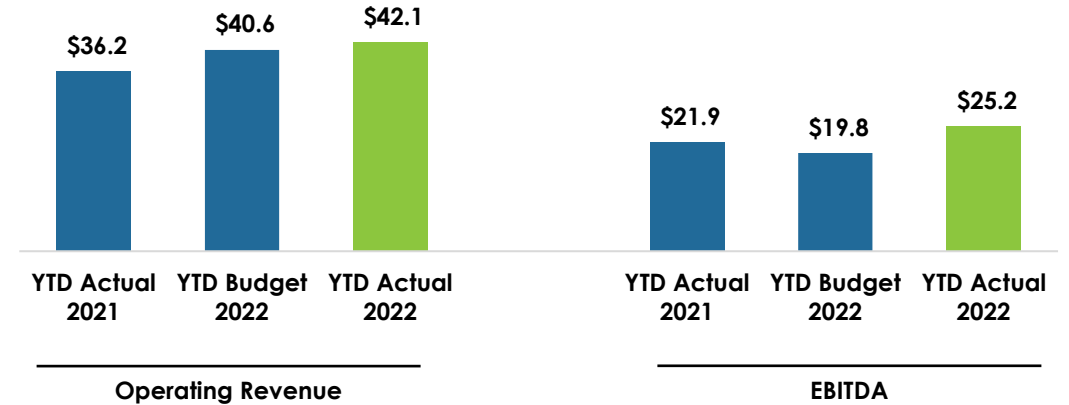
EXECUTIVE SUMMARY

Key Year to Date Highlights

- Year to date Tonnage up 16.4% from the prior year.
 - 1st Quarter of 2022 was the second highest quarterly tonnage in the Port's history.
- Year to date EBITDA exceeds Budget by 27.4% and above the same period Prior Year by 14.8%.
 - Revenue 3.7% ahead of Budget, and 16% ahead of 2021.
 - Operating Expenses, excluding depreciation, are 18.8% lower than budget due to lower employee services costs and maintenance; and 18.1% higher than prior year due to higher maintenance, professional services and contracted services.
- 2022 Inbound rail car movements are significantly below 2021, while outbounds are slightly higher than 2021 – overall decrease of 43.9%.
- 2022 Capital Spending below budget and prior Year.

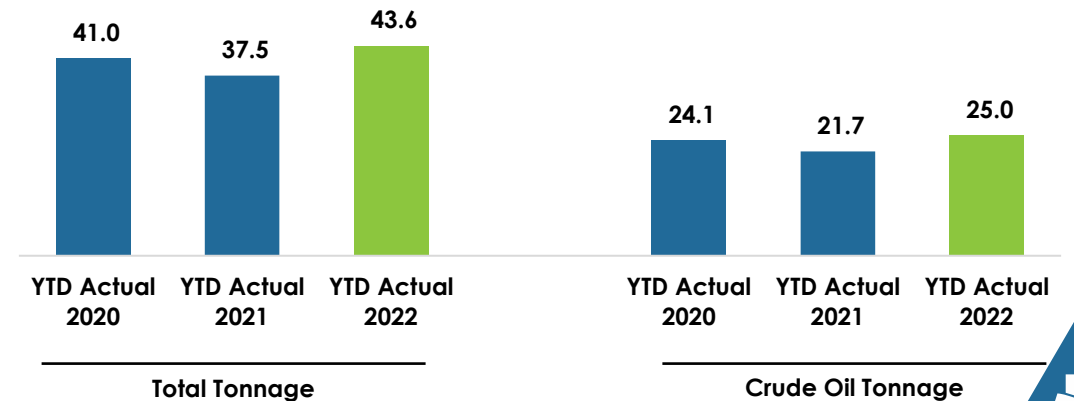
Year-to-Date Operating Revenue and EBITDA*

\$ in millions



Year-to-Date Tonnage

Millions of tons



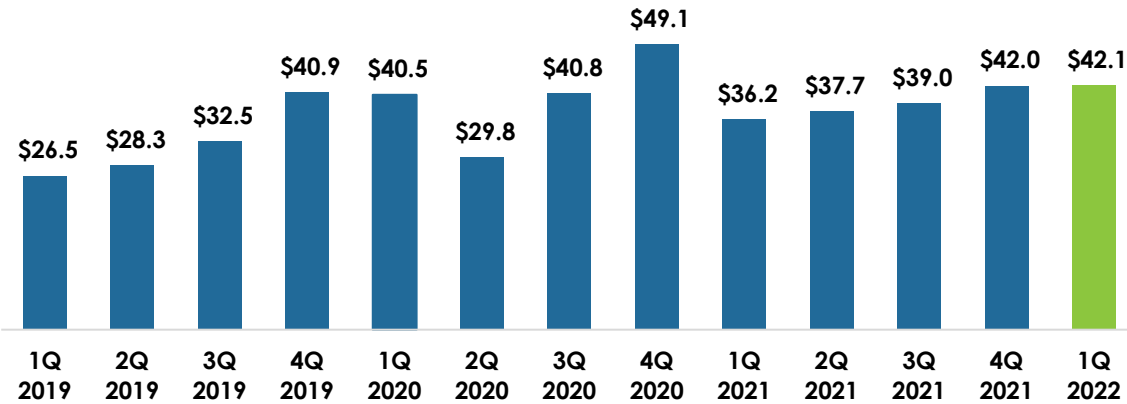
* EBITDA equals operating revenues less operating expenses (excluding depreciation)

KEY HISTORICAL TRENDS

Operating Revenue

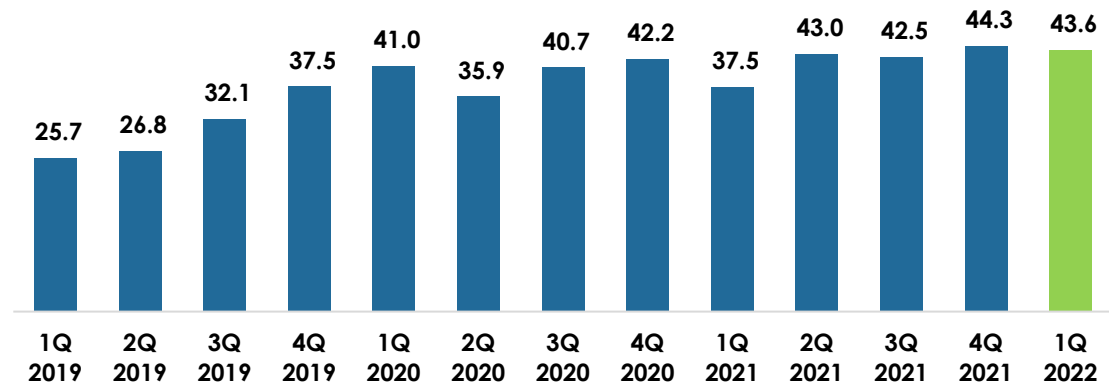
\$ in millions

Q4 2020 Op Rev includes a one-time benefit of \$13.8M for cost sharing on dredging GCGV



Total Tonnage

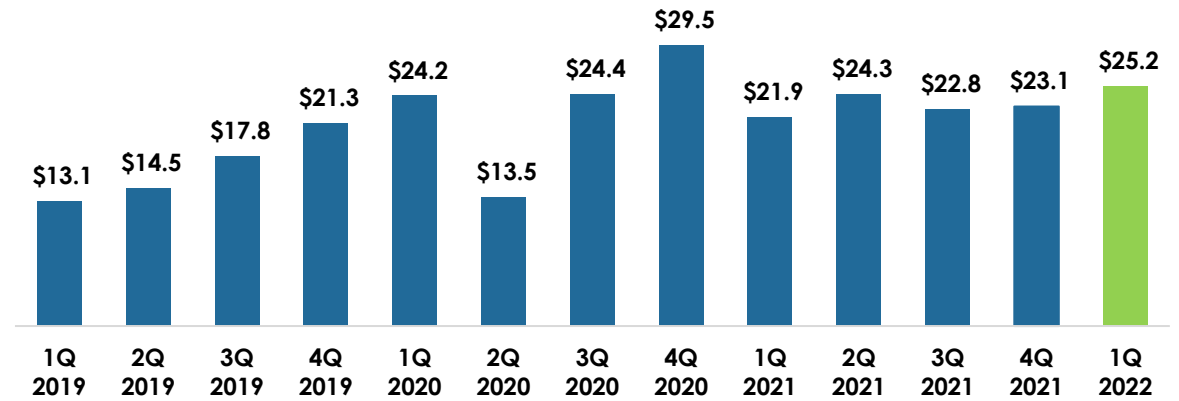
Millions of tons



EBITDA*

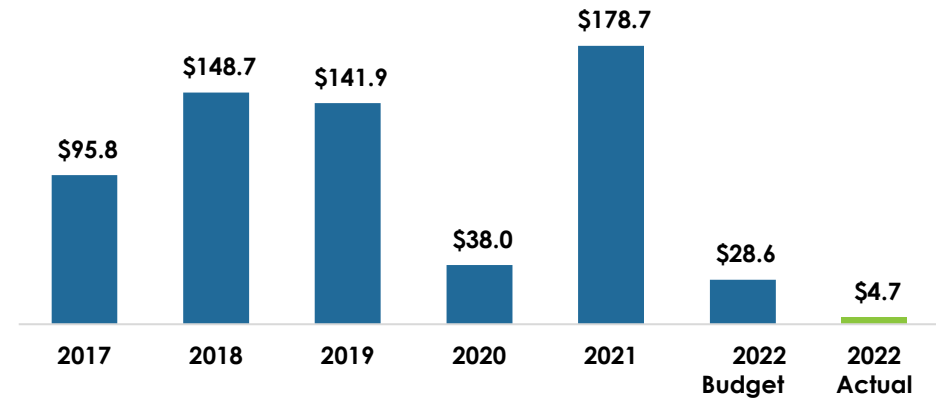
\$ in millions

Q4 2020 Op Rev includes a one-time benefit of \$13.8M for cost sharing on dredging GCGV



Capital Expenditures

\$ in millions



* EBITDA equals operating revenues less operating expenses (excluding depreciation)

APPENDIX: DETAILED FINANCIAL INFORMATION



EXPANDED OPERATIONAL METRICS DETAIL

	YTD 2022 Actual	YTD 2021 Actual	% Variance vs Prior Year	YTD 2022 Budget	Variance vs Budget
Statement of Net Position Items (\$ in millions)					
Assets	\$1,255.7	\$1,139.1	10.2%		
Cash & Investments	275.0	281.0	(2.1%)		
Accounts Receivable	19.0	17.8	6.6%		
Restricted Assets	47.9	77.6	(38.3%)		
Liabilities	380.6	398.8	(4.6%)		
Net Position	\$878.5	\$740.7	18.6%		
Revenue and Expense Items (\$ in millions)					
Operating Revenues	\$42.1	\$36.2	16.1%	\$40.6	3.7%
Operating Expenses	(16.9)	(14.3)	18.1%	(20.8)	(18.8%)
EBITDA	\$25.2	\$21.9	14.8%	\$19.8	27.4%
Depreciation	(5.3)	(4.5)	17.4%	(4.7)	13.2%
Net Operating Income (Loss)	\$19.9	\$17.4	14.1%	\$15.1	31.8%
Non-Operating Revenue/Expense	(1.1)	(2.9)	(61.4%)	(2.9)	(61.6%)
Net Income	\$18.8	\$14.5	29.2%	\$12.2	54.2%
Capital Projects	\$4.7	\$7.2	(34.8%)	\$28.6	(83.6%)
Operational Items					
Tonnage (millions)	43.6	37.5	16.4%		
Ships	570	522	9.2%		
Barges	1,120	1,166	(3.9%)		
Barges and Ships	1,690	1,688	0.1%		
Railcars	9,528	16,974	(43.9%)		

STATEMENT OF NET POSITION DETAIL

\$ in millions	3/31/2022	12/31/2021	\$ Change	% Variance	3/31/2021	\$ Change	Variance
Line Item	Actual	Actual	vs Prior Year	vs Prior Year	Actual	vs Year Ago	vs Year Ago
Assets							
Cash & Investments	\$275.0	\$256.9	\$18.1	7.1%	\$281.0	(\$5.9)	(2.1%)
Accounts Receivable	19.0	18.6	0.4	2.0%	17.8	1.2	6.6%
Restricted Assets	47.9	47.9	0.0	0.0%	77.6	(29.7)	(38.3%)
PP&E, net	908.2	909.4	(1.2)	(0.1%)	757.1	151.1	20.0%
Other Assets	5.6	3.7	1.9	52.5%	5.7	(0.1)	(1.3%)
Total Assets	\$1,255.7	\$1,236.5	\$19.2	1.6%	\$1,139.1	\$116.6	10.2%
Deferred Outflows - Pension	5.6	5.6	–	–	2.6	3.0	116.2%
Total Deferred Outflows	\$5.6	\$5.6	–	–	\$2.6	\$3.0	116.2%
Current Liabilities	10.0	14.5	(4.5)	(31.1%)	15.4	(5.5)	(35.5%)
Unearned Income	59.7	60.2	(0.5)	(0.8%)	64.2	(4.5)	(7.0%)
Long-term Debt	303.9	304.1	(0.2)	(0.1%)	313.3	(9.4)	(3.0%)
Other Liabilities	7.1	5.7	1.4	25.3%	5.9	1.2	19.8%
Total Liabilities	\$380.6	\$384.4	(\$3.8)	(1.0%)	\$398.8	(\$18.2)	(4.6%)
Deferred Inflows - Pension	2.2	2.2	–	nm	2.1	0.1	2.4%
Total Deferred Inflows	\$2.2	\$2.2	–	–	\$2.1	\$0.1	2.4%
Investment in Net Assets	600.3	599.4	0.9	0.1%	488.0	112.2	23.0%
Restricted Net Position	28.5	28.5	0.0	0.0%	27.7	0.8	2.9%
Unrestricted Net Position	249.7	227.6	22.1	9.7%	225.0	24.7	11.0%
Total Net Position	\$878.5	\$855.5	\$22.9	2.7%	\$740.7	\$137.7	18.6%

STATEMENT OF REVENUE AND EXPENSE DETAIL- QTD

	Quarter-to-Date			Variance			
	2022		Budget	vs Q4 2021		vs Q1 Budget	
	Q1	Q4	Q1	\$ Change	% Variance	\$ Change	% Variance
Summary: Statement of Revenues & Expenses (\$ in millions)							
Wharfage	\$22.6	\$21.9	\$21.9	\$0.8	3.5%	\$0.8	3.5%
Dockage	5.7	5.5	5.2	0.2	3.8%	0.5	9.2%
Security	3.8	3.6	3.6	0.2	4.8%	0.2	4.4%
Other Shipping Services	4.3	2.2	3.7	2.0	92.7%	0.6	15.5%
Dredging	1.3	0.6	1.1	0.7	100.0%	0.3	100.0%
Building and Land Rental	4.4	5.3	5.2	(0.9)	(17.2%)	(0.8)	(15.6%)
Total Operating Revenues	\$42.0	\$39.0	\$40.6	\$3.0	7.6%	\$1.4	3.5%
Employee Services	7.1	6.5	8.5	0.6	8.9%	(1.4)	(16.6%)
Maintenance	1.8	2.3	3.1	(0.5)	(20.9%)	(1.3)	(42.6%)
Utilities / Telephone	0.3	0.4	0.4	(0.1)	(19.1%)	(0.1)	(23.5%)
Insurance	1.0	0.8	0.1	0.2	26.8%	0.9	999.3%
Professional / Contracted Services	4.0	6.3	5.1	(2.3)	(37.1%)	(1.1)	(21.8%)
Operator / Event Expenses	0.3	0.3	0.4	0.0	1.2%	(0.1)	(18.9%)
Admin / Trade Dvlp / Other	2.5	2.4	3.3	0.1	2.4%	(0.8)	(23.9%)
Depreciation	5.3	7.6	4.7	(2.3)	(30.4%)	0.6	13.2%
Total Operating Expenses	\$22.2	\$26.5	\$25.5	(\$4.3)	(16.4%)	(\$3.3)	(12.9%)
Net Operating Income (Loss)	\$19.8	\$12.5	\$15.1	\$7.3	58.7%	\$4.7	31.4%
Interest Income (Loss)	1.9	(1.2)	0.2	3.1	(254.3%)	1.6	653.7%
Other Revenue	0.1	(1.6)	-	1.7	nm	0.1	nm
Gain (Loss) on Disposals	-	(1.2)	-	1.2	nm	-	nm
Interest / Bond Expense	(3.1)	(3.1)	(3.2)	0.0	(1.5%)	0.1	(2.3%)
Other Expense	-	0.3	-	(0.3)	nm	-	nm
Hillcrest Revenues / (Expenses)	-	-	-	-	nm	-	nm
Other Revenue / (Expenses)	(\$1.1)	(\$7.0)	(\$2.9)	\$5.9	(83.9%)	\$1.8	(61.6%)
Net Income (Loss)	\$18.7	\$5.5	\$12.2	\$13.2	239.3%	\$6.5	53.7%

STATEMENT OF REVENUE AND EXPENSE DETAIL- YTD

	3/31 Year-to-Date			Variance			
	2022		2021	vs Budget		vs Prior Year	
	Actual	Budget	Actual	\$ Change	% Variance	\$ Change	% Variance
Summary: Statement of Revenues & Expenses (\$ in millions)							
Wharfage	\$22.2	\$21.9	\$18.8	\$0.3	1.4%	\$3.3	17.6%
Dockage	6.8	5.2	4.4	1.6	30.5%	2.4	55.4%
Security	3.9	3.6	3.2	0.3	8.9%	0.7	23.5%
Other Shipping Services*	2.7	3.7	5.2	(0.9)	(25.5%)	(2.5)	(47.3%)
Dredging	0.2	1.1	–	(0.8)	100.0%	0.2	100.0%
Building and Land Rental	6.2	5.2	4.6	1.1	20.7%	1.6	34.8%
Total Operating Revenues	\$42.1	\$40.6	\$36.2	\$1.5	3.7%	\$5.8	16.1%
Employee Services	7.1	8.5	7.1	(1.4)	(16.6%)	(0.0)	(0.4%)
Maintenance	1.8	3.1	1.2	(1.3)	(42.6%)	0.6	49.3%
Utilities / Telephone	0.3	0.4	0.3	(0.1)	(23.5%)	0.0	6.5%
Insurance	1.0	0.9	0.6	0.1	8.0%	0.4	62.9%
Professional / Contracted Services	4.0	5.1	3.0	(1.1)	(21.8%)	1.0	33.9%
Operator / Event Expenses	0.3	0.4	0.1	(0.1)	(18.9%)	0.2	218.6%
Admin / Trade Dvlp / Other	2.5	2.5	2.1	0.0	0.5%	0.4	21.6%
Depreciation	5.3	4.7	4.5	0.6	13.2%	0.8	17.4%
Total Operating Expenses	\$22.2	\$25.5	\$18.8	(\$3.3)	(12.9%)	\$3.4	18.0%
Net Operating Income (Loss)	\$19.9	\$15.1	\$17.4	\$4.8	31.8%	\$2.5	14.1%
Interest Income (Loss)	1.9	0.2	0.2	1.6	653.7%	1.7	928.6%
Other Revenue	0.1	–	0.1	0.1	nm	0.0	3.8%
Gain (Loss) on Disposals	–	–	–	–	nm	–	nm
Interest / Bond Expense	(3.1)	(3.2)	(3.2)	0.1	(2.3%)	0.1	(2.2%)
Other Expense	–	–	–	–	nm	–	nm
Hillcrest Revenues / (Expenses)	–	–	(0.0)	–	nm	0.0	nm
Other Revenue / (Expenses)	(\$1.1)	(\$2.9)	(\$2.9)	\$1.8	(61.6%)	\$1.8	(61.4%)
Net Income (Loss)	\$18.8	\$12.2	\$14.5	\$6.6	54.2%	\$4.2	29.2%

TONNAGE, SHIP & BARGE, AND RAILCAR DETAIL

Millions of Tons	1Q 2022	1Q 2021	Variance vs. Prior Quarter		YTD 2022	YTD 2021	Variance vs. Prior YTD Period	
	Actual	Actual	Tons	%	Actual	Actual	Tons	%
Tonnage								
Petroleum	15.0	11.9	3.0	25.5%	15.0	11.9	3.0	25.5%
Crude Oil	25.0	21.7	3.3	15.1%	25.0	21.7	3.3	15.1%
Dry Bulk	2.0	1.7	0.3	20.9%	2.0	1.7	0.3	20.9%
Bulk Grain	0.9	1.5	(0.6)	(39.3%)	0.9	1.5	(0.6)	(39.3%)
Chemical	0.6	0.5	0.1	21.7%	0.6	0.5	0.1	21.7%
Liquid Bulk	0.1	0.1	(0.0)	(13.1%)	0.1	0.1	(0.0)	(13.1%)
Break Bulk	0.1	0.1	(0.0)	(33.7%)	0.1	0.1	(0.0)	(33.7%)
Total Tonnage	43.6	37.5	6.1	16.4%	43.6	37.5	6.1	16.4%
Ship and Barge Movements								
Ships	570	522	48	9.2%	570	522	48	9.2%
Barges	1,120	1,166	(46)	(3.9%)	1,120	1,166	(46)	(3.9%)
Total Ships and Barges	1,690	1,688	2	0.1%	1,690	1,688	2	0.1%
Railcars								
Inbound	6,432	14,510	(8,078)	(55.7%)	6,432	14,510	(8,078)	(55.7%)
Outbound	3,096	2,464	632	25.6%	3,096	2,464	632	25.6%
Total Railcars	9,528	16,974	(7,446)	(43.9%)	9,528	16,974	(7,446)	(43.9%)

THANK YOU





DATE: May 24, 2022
TO: Port Commission
FROM: Kent Britton, Chief Financial Officer
kbritton@pocca.com
(361) 885-6114

Approve the Port of Corpus Christi’s (“PCCA”) First Quarter 2022 Investment Report

SUMMARY: Staff seeks Port Commission approval of the Investment Report for the First Quarter of 2022. The Report has been prepared in accordance with the PCCA’s Investment Policy and Investment Strategy and meets the requirements of the Public Funds Investment Act of the State of Texas (“the Act”), which is codified in Section 2256 of the Texas Government Code. As required, the Investment Report describes the PCCA’s investment positions in summary and in detail, is prepared jointly by the PCCA’s Investment Officers, and is hereby being presented to the Port Commission in a timely manner. The PCCA had approximately \$324 million invested within the guidelines of our Investment Policy on March 31, 2022, an increase from December 31, 2021, of approximately \$16 million as a result of the near record revenues and minimal capital spending in the first quarter of 2022. PCCA achieved a Net Quarterly Yield for the First Quarter of 2022 of 0.583% and earned approximately \$341 thousand on our investments in the quarter. The detail report is attached for further review and approval, with significantly more detail on our investments, yields and weighted average maturity, among other metrics.

BACKGROUND: The PCCA’s Investment Policy sets a goal of the safety of all funds of the PCCA, the availability of those funds for the payment of all necessary obligations of the PCCA, and the investment of all funds not immediately required in securities earning a reasonable market yield. The PCCA prepares and presents the Investment Policy for approval annually to the Port Commission, and the version of the Policy in effect during the First Quarter of 2022 was approved in December 2021 and became effective on January 1, 2022. The PCCA Investment Policy complies in all aspects with the Act, which was originally approved in 1987 and has since been amended multiple times, including most recently in 2019.

PCCA has two designated Investment Officer’s: Kent Britton, the PCCA’s Chief Financial Officer; and Cindy Bertolami, the PCCA’s Director of Finance. That designation is similarly approved by the Port Commission on an as needed basis. The Investment Officers prepare the Investment Report on a quarterly basis to be presented to the CEO, then the Audit Committee members, and then the full Port Commission for approval. The

Investment Officers always manage the overall portfolio under the “Prudent Person Standard” as defined in the Act.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: Active management of our investments and preparation of the report conforms to the current PCCA Strategic Plan, including Strategic Goal #5 – Fund our Vision.

EMERGENCY: No

FINANCIAL IMPACT: Financial Results as noted in the attached Investment Report.

STAFF RECOMMENDATION: Staff recommends approval of the First Quarter 2022 Investment Report.

DEPARTMENTAL CLEARANCES:

Originating Department	Finance
Reviewed & Approved	Kent Britton
Legal	Jimmy Welder
Senior Staff	Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

Investment Report Q1 2022

INVESTMENT REPORT – QUARTER ENDED MARCH 31, 2022

Kent A. Britton | Chief Financial Officer



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- Compliance Statement and Executive Summary
- Investment Values and Yields
- Quarterly Asset Allocation
- Maturity Allocation
- Rates and Benchmarks
- Appendix



Port of Corpus Christi Authority Compliance Statement For the Quarter Ended March 31, 2022

Quarterly Investment Report

We believe the investment information presented for the quarter ending March 31, 2022, is accurate in all material respects, and is presented in a manner that fairly sets forth the investment standing of the Port of Corpus Christi Authority (Authority).

This report was prepared in compliance with the Authority's Investment Policy, Investment Strategy, and the Public Funds Investment Act of the State of Texas (Texas Government Code 2256.023).



Kent A. Britton
Chief Financial Officer



Cindy Bertolami
Director of Finance



Executive Summary

- Current investment total = \$324M
- Investment Approach
 - Hold to maturity, non-speculative
 - Grab short term yield where available
 - Maximize Commercial Paper where possible to capture spread vs Texpool
 - Allow long term muni's to mature
- Market Conditions
 - Short Term rates moving higher quickly
 - Back end of rate curve moving up slower
 - Fed signaling significant and frequent rate increases
 - Growing net unrealized loss position

QUARTERLY SUMMARY:

December 31, 2021

Ending Book	\$ 308,657,900
Ending Market	\$ 307,472,784
Unrealized Gain/(Loss)	\$ (1,185,116)
WAM	413 Days
Net Quarterly Yield	0.353%
Benchmark for Quarter	0.200%
Earnings for Quarter	\$ 290,305

March 31, 2022

Ending Book	\$ 324,119,805
Ending Market	\$ 318,396,387
Unrealized Gain/(Loss)	\$ (5,723,418)
WAM	425 Days
Net Quarterly Yield	0.583%
Benchmark for Quarter	0.980%
Earnings for Quarter	\$ 340,982

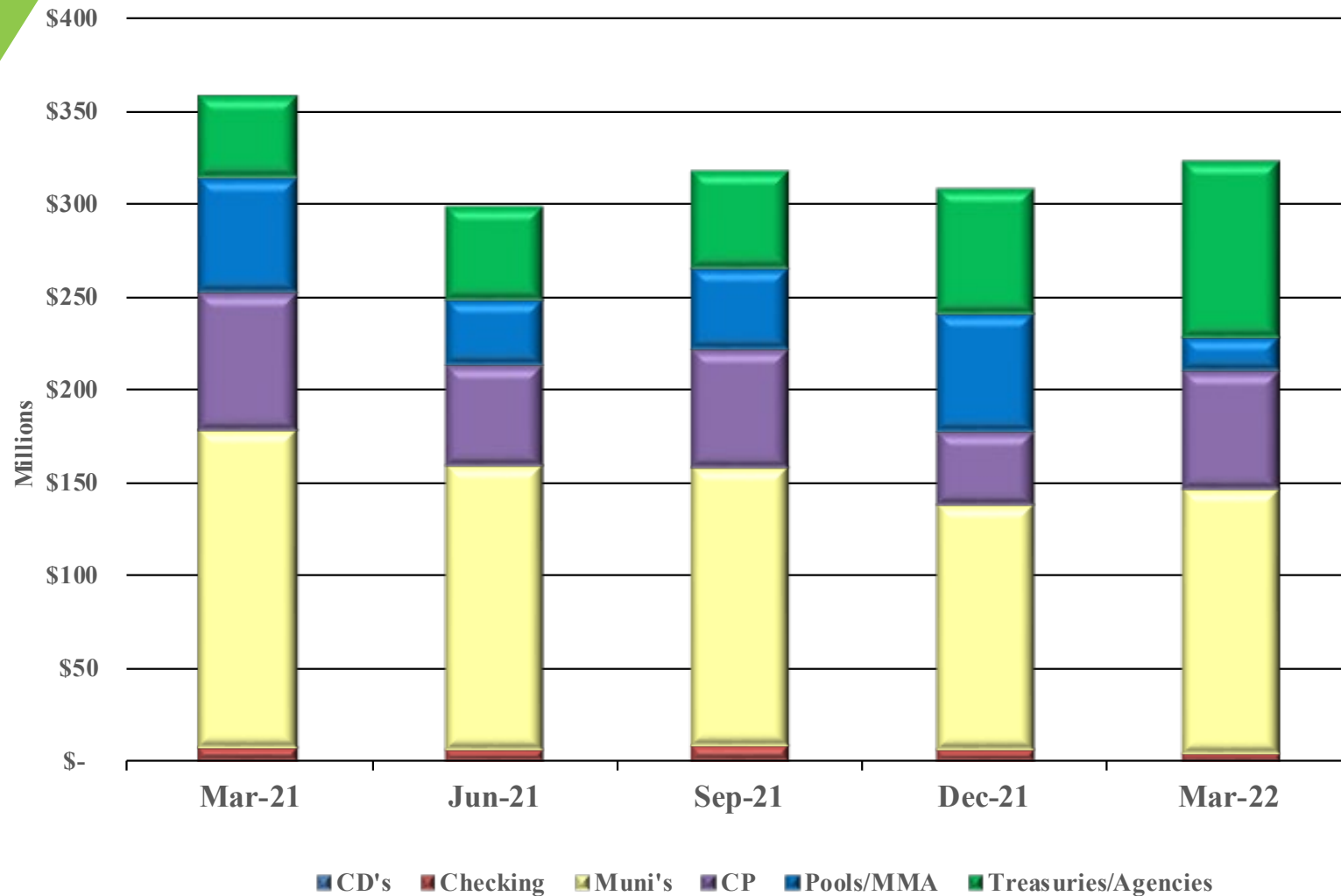


Investment Values and Yields

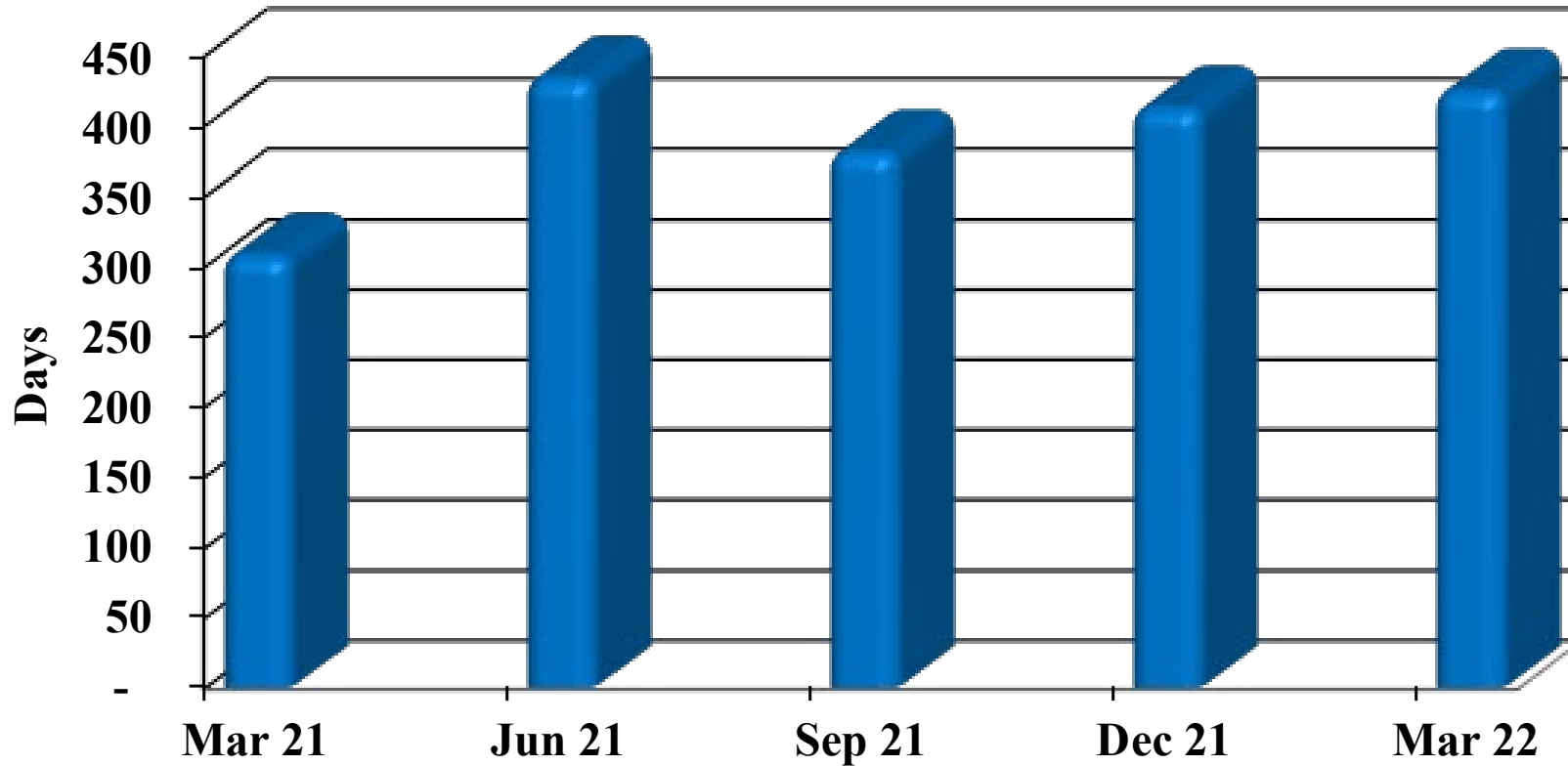
Asset Detail		
For the Quarter Ended March 31, 2022		
	Book Value	Yields
Bank	\$ 3,870,135	0.011%
Texpool	\$ -	0.000%
Texpool Prime	\$ 18,429,681	0.272%
Money Market Account	\$ 245,135	0.050%
Commercial Paper	\$ 64,721,700	0.746%
Treasuries/Agencies	\$ 95,000,000	0.607%
Municipal Bonds	\$ 141,853,154	0.549%
Total	\$ 324,119,805	0.583%



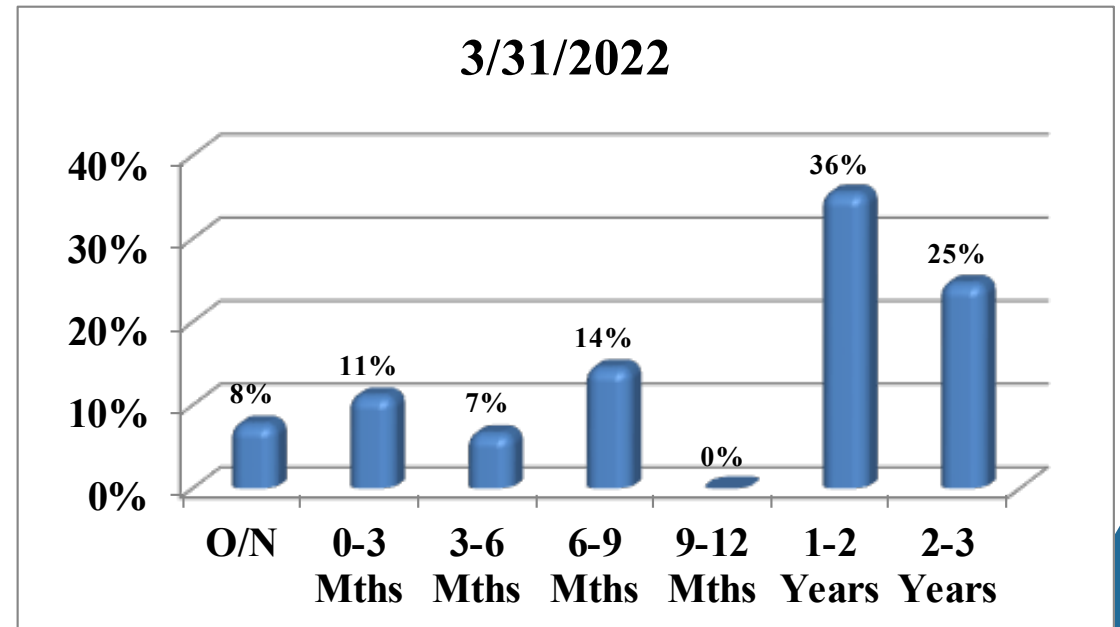
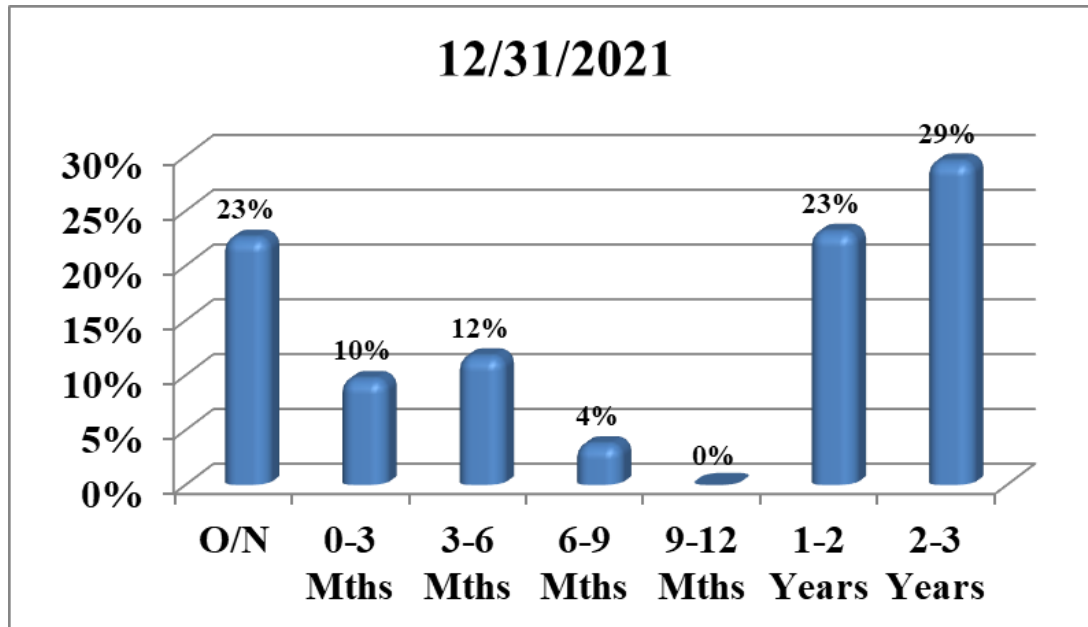
Quarterly Asset Allocation



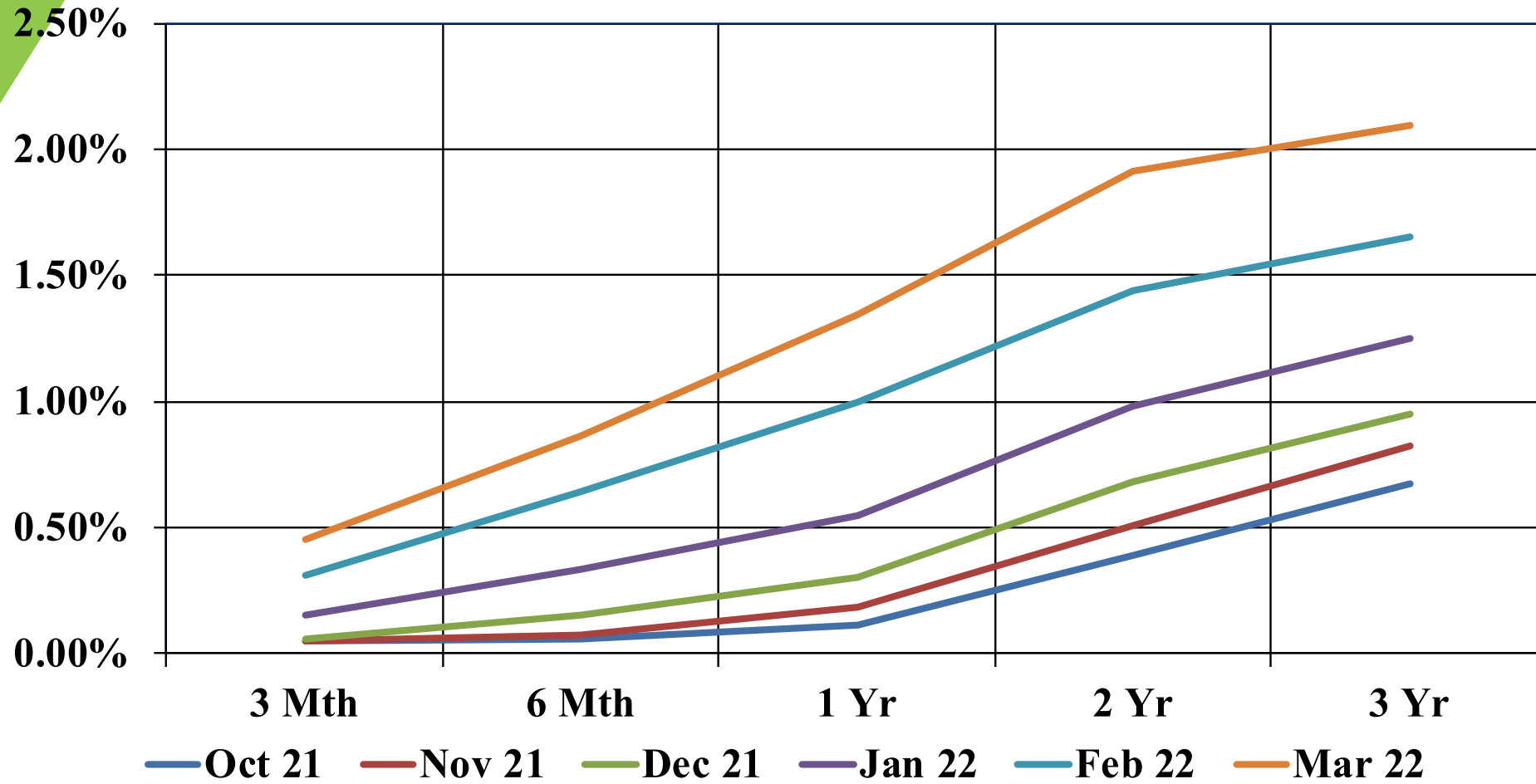
Weighted Average Maturity



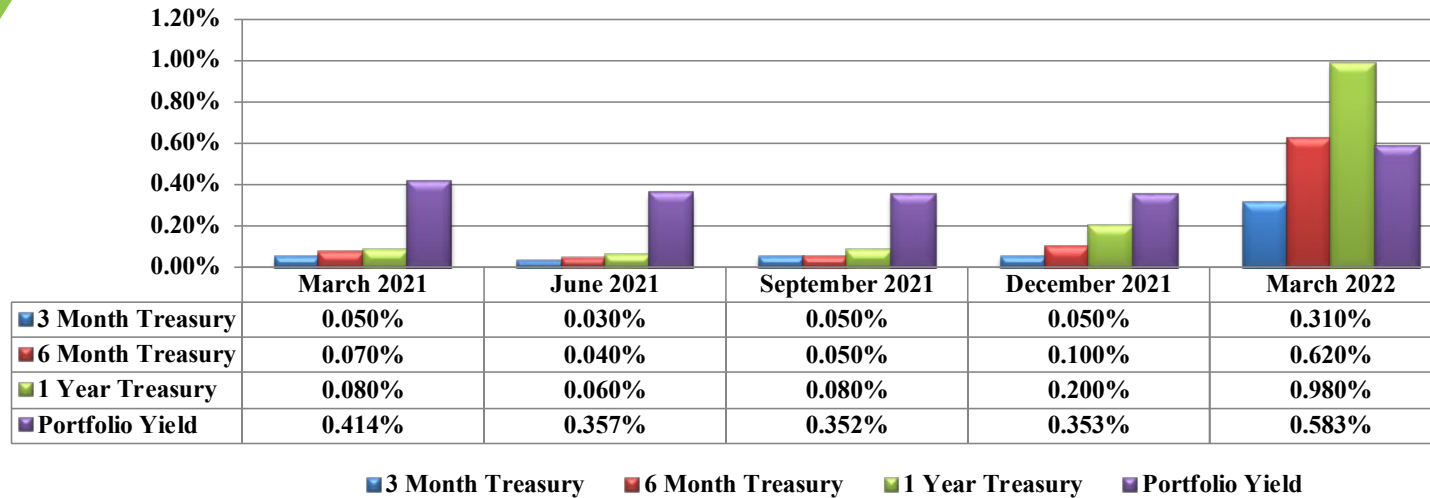
Maturity Allocation



Treasury Yield Curve Comparison



Benchmark Review



	Q1-2022	\$ Impact
Investment Portfolio	0.583%	
3 Mth Treasury Bill	0.310%	\$215,662
6 Mth Treasury Bill	0.620%	-\$29,539
12 Mth Treasury Bill	0.980%	-\$314,289



Appendix



Investment Portfolio

Purchase Date	Type	Maturity Date	Days to Maturity at Purchase	Remaining Days to Maturity	Coupon/Rate	Book Yield (%)	Par Value	Book Value	Market Value	Unrealized Gain(Loss)	Quarterly Accrued Interest
03/31/2022	Operating Fund	04/01/2022	1	1	0.016%	0.016%	\$ 2,619,430	\$ 2,619,430	\$ 2,619,430	\$ -	\$ 336
03/31/2022	Vendor Fund	04/01/2022	1	1	0.000%	0.000%	\$ 1,250,705	\$ 1,250,705	\$ 1,250,705	\$ -	\$ -
Total Bank							\$ 3,870,135	\$ 3,870,135	\$ 3,870,135	\$ -	\$ 336
03/31/2022	TEXPOOL	04/01/2022	1	1	0.000%	0.000%	\$ -	\$ -	\$ -	\$ -	\$ -
03/31/2022	TEXPOOL-Prime	04/01/2022	1	1	0.272%	0.272%	\$ 18,429,681	\$ 18,429,681	\$ 18,429,681	\$ -	\$ 12,675
03/31/2022	East West Bank - MMA	04/01/2022	1	1	0.050%	0.050%	\$ 245,135	\$ 245,135	\$ 245,135	\$ -	\$ 27
Total Pools/MMA							\$ 18,674,815	\$ 18,674,815	\$ 18,674,815	\$ -	\$ 12,702
04/19/2021	Toyota Credit Canada Inc. CP	01/14/2022	270	0	0.247%	0.247%			MATURED		\$ 867
06/10/2021	Toyota Credit Canada Inc. CP	03/04/2022	267	0	0.164%	0.164%			MATURED		\$ 2,756
07/09/2021	Barclays Bank CP	04/05/2022	270	5	0.216%	0.216%	\$ 10,000,000	\$ 9,999,767	\$ 9,999,570	\$ (197)	\$ 5,250
09/14/2021	Lloyds Bank Corp CP	05/31/2022	259	61	0.164%	0.164%	\$ 10,000,000	\$ 9,997,333	\$ 9,988,810	\$ (8,523)	\$ 4,000
01/06/2022	Barclays Bank CP	07/14/2022	189	105	0.347%	0.347%	\$ 10,000,000	\$ 9,990,178	\$ 9,969,110	\$ (21,068)	\$ 8,028
01/14/2022	Toyota Credit Puerto Rico CP	10/11/2022	270	194	0.555%	0.555%	\$ 10,000,000	\$ 9,971,050	\$ 9,926,540	\$ (44,510)	\$ 11,550
02/03/2022	Collateralized CP	10/28/2022	267	211	0.844%	0.844%	\$ 5,000,000	\$ 4,976,083	\$ 4,952,935	\$ (23,148)	\$ 6,492
03/04/2022	JP Morgan Securities CP	11/28/2022	269	242	1.246%	1.246%	\$ 10,000,000	\$ 9,919,667	\$ 9,884,980	\$ (34,687)	\$ 9,333
03/24/2022	Credit Suisse NY CP	12/16/2022	267	260	1.919%	1.919%	\$ 10,000,000	\$ 9,867,622	\$ 9,861,980	\$ (5,642)	\$ 4,089
Total Commercial Paper							\$ 65,000,000	\$ 64,721,700	\$ 64,583,925	\$ (137,775)	\$ 52,364
03/12/2021	FHLB Call Note	03/12/2024	1,096	711	0.400%	0.400%	\$ 10,000,000	\$ 10,000,000	\$ 9,625,876	\$ (374,124)	\$ 10,000
04/22/2021	FRMAC Step Note	04/22/2024	1,096	752	0.280%	0.280%	\$ 10,000,000	\$ 10,000,000	\$ 9,672,823	\$ (327,177)	\$ 7,000
06/28/2021	FHLB Call Note	06/28/2024	1,096	819	0.400%	0.400%	\$ 10,000,000	\$ 10,000,000	\$ 9,616,524	\$ (383,476)	\$ 10,000
07/12/2021	FHLB Call Note	07/12/2024	1,096	833	0.400%	0.400%	\$ 7,500,000	\$ 7,500,000	\$ 7,206,284	\$ (293,716)	\$ 7,500
07/26/2021	FHLB Call Note	07/26/2024	1,096	847	0.500%	0.500%	\$ 5,000,000	\$ 5,000,000	\$ 4,794,237	\$ (205,763)	\$ 6,250
09/30/2021	FHLB Call Note	09/30/2024	1,096	913	0.550%	0.550%	\$ 10,000,000	\$ 10,000,000	\$ 9,569,225	\$ (430,775)	\$ 13,750
10/04/2021	FRMCA Call Note	10/04/2024	1,096	917	0.500%	0.500%	\$ 10,000,000	\$ 10,000,000	\$ 9,494,985	\$ (505,015)	\$ 12,500
10/28/2021	FHLB Call Note	10/28/2024	1,096	941	0.700%	0.700%	\$ 5,000,000	\$ 5,000,000	\$ 4,798,630	\$ (201,370)	\$ 8,750
01/19/2022	FHLB Call Note	01/19/2024	730	658	0.760%	0.760%	\$ 10,000,000	\$ 10,000,000	\$ 9,762,464	\$ (237,537)	\$ 15,200
02/07/2022	FHLB Call Note	02/07/2024	730	677	1.000%	1.000%	\$ 10,000,000	\$ 10,000,000	\$ 9,753,437	\$ (246,563)	\$ 15,000
03/21/2022	FHLB Call Note	03/21/2023	365	354	1.300%	1.300%	\$ 7,500,000	\$ 7,500,000	\$ 7,490,737	\$ (9,263)	\$ 2,708
Total Treasuries/Agencies							\$ 95,000,000	\$ 95,000,000	\$ 91,785,221	\$ (3,214,779)	\$ 108,658



Investment Portfolio

Purchase Date	Type	Maturity Date	Days to Maturity at Purchase	Remaining Days to Maturity	Coupon/Rate	Book Yield (%)	Par Value	Book Value	Market Value	Unrealized Gain(Loss)	Quarterly Accrued Interest
04/22/2020	City of New York, NY	03/01/2022	678	(1)	1.100%	1.122%					\$ 11,221
04/23/2020	State of Texas	10/01/2022	891	183	1.614%	1.614%	\$ 1,000,000	\$ 1,000,000	\$ 1,002,680	\$ 2,680	\$ 4,035
05/08/2020	Cleveland County OK ISD	05/01/2022	723	30	2.000%	0.920%	\$ 2,315,000	\$ 2,317,059	\$ 2,316,898	\$ (161)	\$ 5,398
06/12/2020	Berrien County MI	06/01/2022	719	61	0.850%	0.850%	\$ 2,000,000	\$ 2,000,000	\$ 2,000,480	\$ 480	\$ 4,250
06/17/2020	Charles Stewart Mott Comm Coll	05/01/2022	683	30	2.000%	0.650%	\$ 2,875,000	\$ 2,878,208	\$ 2,877,329	\$ (879)	\$ 4,751
06/25/2020	Canadian County OK ISD	06/01/2022	706	61	2.000%	0.632%	\$ 3,160,000	\$ 3,166,257	\$ 3,165,214	\$ (1,043)	\$ 6,414
09/30/2020	Miami-Dade County FL	04/01/2022	548	0	2.000%	0.350%	\$ 2,420,000	\$ 2,420,000	\$ 2,420,000	\$ -	\$ 2,156
09/30/2020	Miami-Dade County FL	04/01/2023	913	365	0.375%	0.480%	\$ 10,000,000	\$ 10,000,000	\$ 9,855,100	\$ (144,900)	\$ 9,375
10/07/2020	Village of Freeport NY	05/01/2022	571	30	0.383%	0.383%	\$ 3,250,000	\$ 3,250,000	\$ 3,249,285	\$ (715)	\$ 3,112
10/07/2020	Village of Freeport NY	05/01/2023	936	395	0.504%	0.504%	\$ 2,770,000	\$ 2,770,000	\$ 2,729,336	\$ (40,664)	\$ 3,490
10/20/2020	Birmingham AL	03/01/2022	497	(1)	0.469%	0.469%					\$ 977
10/20/2020	Birmingham AL	03/01/2023	862	334	0.613%	0.613%	\$ 1,000,000	\$ 1,000,000	\$ 991,160	\$ (8,840)	\$ 1,533
10/29/2020	State of Hawaii	10/01/2022	702	183	0.429%	0.428%	\$ 5,000,000	\$ 5,000,000	\$ 4,978,850	\$ (21,150)	\$ 5,363
10/29/2020	State of Hawaii	10/01/2023	1,067	548	0.571%	0.570%	\$ 4,000,000	\$ 4,000,000	\$ 3,904,200	\$ (95,800)	\$ 5,710
11/20/2020	Knox County TN	06/01/2023	923	426	0.400%	0.399%	\$ 6,530,000	\$ 6,530,000	\$ 6,420,296	\$ (109,704)	\$ 6,530
01/06/2021	City of New York, NY	08/01/2022	572	122	0.431%	0.430%	\$ 2,500,000	\$ 2,500,000	\$ 2,495,975	\$ (4,025)	\$ 2,694
01/06/2021	City of New York, NY	08/01/2022	572	122	0.431%	0.430%	\$ 2,500,000	\$ 2,500,000	\$ 2,495,975	\$ (4,025)	\$ 2,694
02/05/2021	Port Authority of NY/NJ	07/15/2022	525	105	5.000%	0.290%	\$ 2,000,000	\$ 2,027,136	\$ 2,021,000	\$ (6,136)	\$ 1,517
02/19/2021	Yuma AZ Pledged Revenue	07/15/2022	511	105	0.387%	0.387%	\$ 1,000,000	\$ 1,000,000	\$ 998,800	\$ (1,200)	\$ 968
03/08/2021	Port Authority of NY/NJ	07/01/2023	845	456	1.086%	0.350%	\$ 10,000,000	\$ 10,091,513	\$ 9,881,000	\$ (210,513)	\$ 8,847
04/27/2021	Connecticut St Health and Educ	11/01/2023	918	579	0.450%	0.430%	\$ 4,365,000	\$ 4,366,349	\$ 4,223,749	\$ (142,600)	\$ 4,698
04/29/2021	Kansas City MO Special Oblig	04/01/2024	1,068	731	0.817%	0.680%	\$ 2,950,000	\$ 2,957,975	\$ 2,845,777	\$ (112,199)	\$ 5,028
05/18/2021	Port Authority of NY/NJ	07/01/2023	774	456	1.086%	0.400%	\$ 3,100,000	\$ 3,126,437	\$ 3,063,110	\$ (63,327)	\$ 3,129
06/07/2021	Denver City & Cnty CO Airport	11/15/2023	891	593	0.877%	0.456%	\$ 2,350,000	\$ 2,365,928	\$ 2,288,759	\$ (77,169)	\$ 2,698
06/23/2021	Leander TX ISD	08/15/2023	783	501	0.345%	0.345%	\$ 3,360,000	\$ 3,344,154	\$ 3,266,256	\$ (77,898)	\$ 2,887
06/24/2021	Southwestern NY CSD	06/15/2022	356	75	2.000%	0.260%	\$ 2,420,000	\$ 2,428,638	\$ 2,424,187	\$ (4,451)	\$ 1,595
06/24/2021	Southwestern NY CSD	06/15/2023	721	440	2.000%	0.320%	\$ 1,560,000	\$ 1,591,462	\$ 1,563,042	\$ (28,420)	\$ 1,276
06/24/2021	Southwestern NY CSD	06/15/2024	1,087	806	2.000%	0.430%	\$ 1,600,000	\$ 1,654,991	\$ 1,595,984	\$ (59,007)	\$ 1,767
06/29/2021	Washington County OK ISD	06/01/2024	1,068	792	1.000%	0.383%	\$ 6,690,000	\$ 6,769,067	\$ 6,470,300	\$ (298,766)	\$ 7,602
06/29/2021	Washington County OK ISD	06/01/2023	702	426	1.000%	0.277%	\$ 3,245,000	\$ 3,269,501	\$ 3,201,679	\$ (67,821)	\$ 2,862
07/07/2021	Grand Prairie TX	02/15/2024	953	685	3.000%	0.522%	\$ 1,000,000	\$ 1,046,016	\$ 1,012,220	\$ (33,796)	\$ 1,355
10/01/2021	State of Hawaii	10/01/2024	1,096	914	0.802%	0.616%	\$ 4,500,000	\$ 4,520,625	\$ 4,302,360	\$ (218,265)	\$ 6,960
10/06/2021	MO State Highways & Transit Comm	05/01/2024	938	761	5.002%	0.600%	\$ 4,000,000	\$ 4,363,438	\$ 4,185,280	\$ (178,158)	\$ 6,407
10/12/2021	State of Hawaii	08/01/2023	658	487	0.422%	0.422%	\$ 6,480,000	\$ 6,480,000	\$ 6,339,578	\$ (140,422)	\$ 6,836
10/12/2021	State of Hawaii	08/01/2022	293	122	0.247%	0.247%	\$ 3,250,000	\$ 3,250,000	\$ 3,242,395	\$ (7,605)	\$ 2,007
10/14/2021	Lucas County OH	10/14/2022	365	196	0.600%	0.250%	\$ 6,170,000	\$ 6,181,544	\$ 6,147,726	\$ (33,818)	\$ 3,872
10/26/2021	New Orleans LA	09/01/2024	1,041	884	0.908%	0.908%	\$ 2,085,000	\$ 2,085,000	\$ 1,987,610	\$ (97,390)	\$ 4,733
02/16/2022	Brownsburg IN 1999 School Bldg	02/01/2023	350	306	1.750%	1.042%	\$ 10,000,000	\$ 10,052,191	\$ 10,005,200	\$ (46,991)	\$ 6,087
03/16/2022	Jersey City NJ Redev Agy	03/16/2023	365	349	2.000%	1.300%	\$ 7,500,000	\$ 7,549,666	\$ 7,513,500	\$ (36,166)	\$ 4,091
Total Municipal Securities							\$ 140,945,000	\$ 141,853,154	\$ 139,482,290	\$ (2,370,864)	\$ 166,922
Total Investments							\$ 323,489,951	\$ 324,119,805	\$ 318,396,387	\$ (5,723,418)	\$ 340,982





THANK YOU



PORT CORPUS CHRISTI[®]

DATE: May 24, 2022

TO: Port Commission

FROM: Daniel J. Koesema, P.E., CFM
Director of Channel & DMPA Development

Award a construction contract to TTL, Inc. in the amount of \$2,558,630.41 for the removal of the Nueces County Water Control and Improvement District 4 20-inch water line, associated with construction of the Corpus Christi Ship Channel Improvement Project.

SUMMARY: Staff requests award of a construction contract to TTL, Inc. in the amount of \$2,558,630.41 for the removal of the Nueces County Water Improvement District 4 20-inch water line, associated with the construction of the Corpus Christi Ship Channel Improvement Project.

BACKGROUND: On September 9, 2017, the U.S. Army Corps of Engineers (USACE) and the PCCA entered into a Project Partnership Agreement to deepen and widen the Corpus Christi Ship Channel from the Gulf of Mexico to the Viola Turning Basin and construct barge shelves across Corpus Christi Bay. In accordance with the PPA and the Water Resources Development Act of 2007, the Federal Government is required to enforce the navigation servitude in the Corpus Christi Ship Channel including the removal and relocation of any facility obstructing the Channel Improvement Project. USACE identified the Nueces County Water Control and Improvement District 4 (Water District) 20-inch water line as an obstruction to the Channel Improvement Project and issued a directive to remove notice to the Water District to remove or relocate the water line.

On October 22, 2020, the PCCA and the Water District executed an Interlocal Agreement in which the PCCA agreed to perform, on behalf of the Water District, the work necessary to remove and relocate the water line. In April 2021, the PCCA awarded a construction contract to Austin Engineering to install the new 20-inch water line under the ship channel and tie into the existing water system. That work was in December 2021 and the new water line is in operation.

The original 20-inch water line is located within the same trench and in very close proximity to an AEP 8" electrical conduit. As a result, the pipelines cannot be removed individually, and instead must be removed concurrently. Due to safety reasons and the complex coordination of removing the 2 lines simultaneously, staff negotiated a construction contract, pursuant to Texas Water Code Section 60.412(a)(2), with TTL, Inc. in an amount not to exceed \$2,558,630.41 for the removal of the original water line. AEP

is expected to finalize its construction contract with TTL this month for the removal of its 8" line.

The total estimated cost for removal of the AEP and Water District lines is \$5,002,737.04. The PCCA's share for the removal of the NCWCID4 line is \$2,558,630.41.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan 2023 (Strategic Goal #3 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: N/A

FINANCIAL IMPACT: This project was included in the 2022 budget. With this contract, the total cost for the relocation of the Water District 20-inch water line will be \$5,488,354.24.

STAFF RECOMMENDATION: Staff recommends award of a construction contract to TTL, Inc. in the amount of \$2,558,630.41 for the removal of the Nueces County Water Improvement District 4 20-inch water line, associated with the construction of the Corpus Christi Ship Channel Improvement Project.

DEPARTMENTAL CLEARANCES:

Originating Department	Channel and DMPA Development
Reviewed & Approved	Daniel J. Koesema
Legal Reviewed by	Dane Bruun
Executive Staff	Sean Strawbridge
	Clark Robertson
	Kent Britton

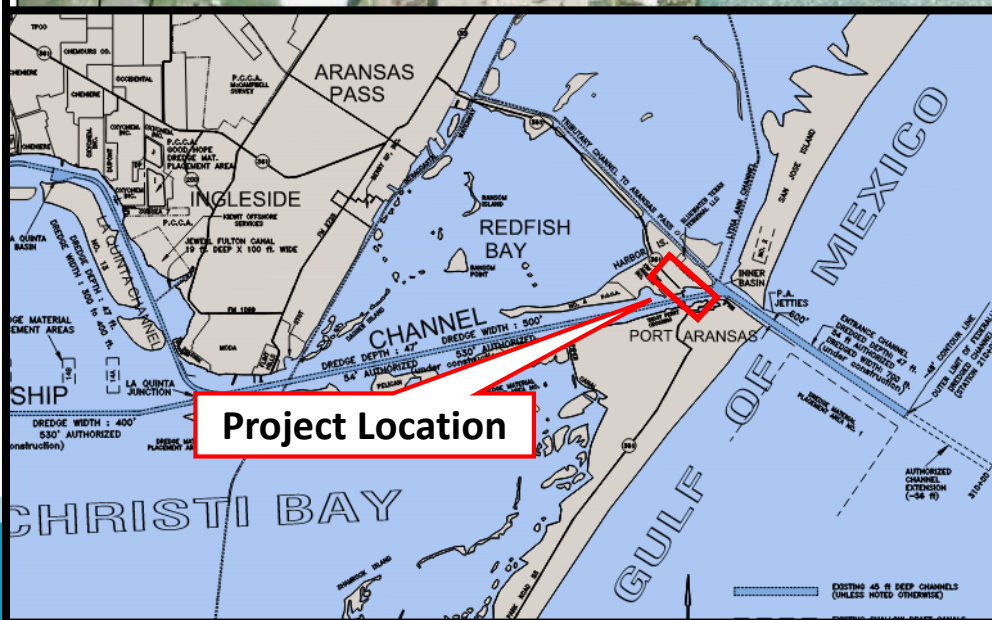
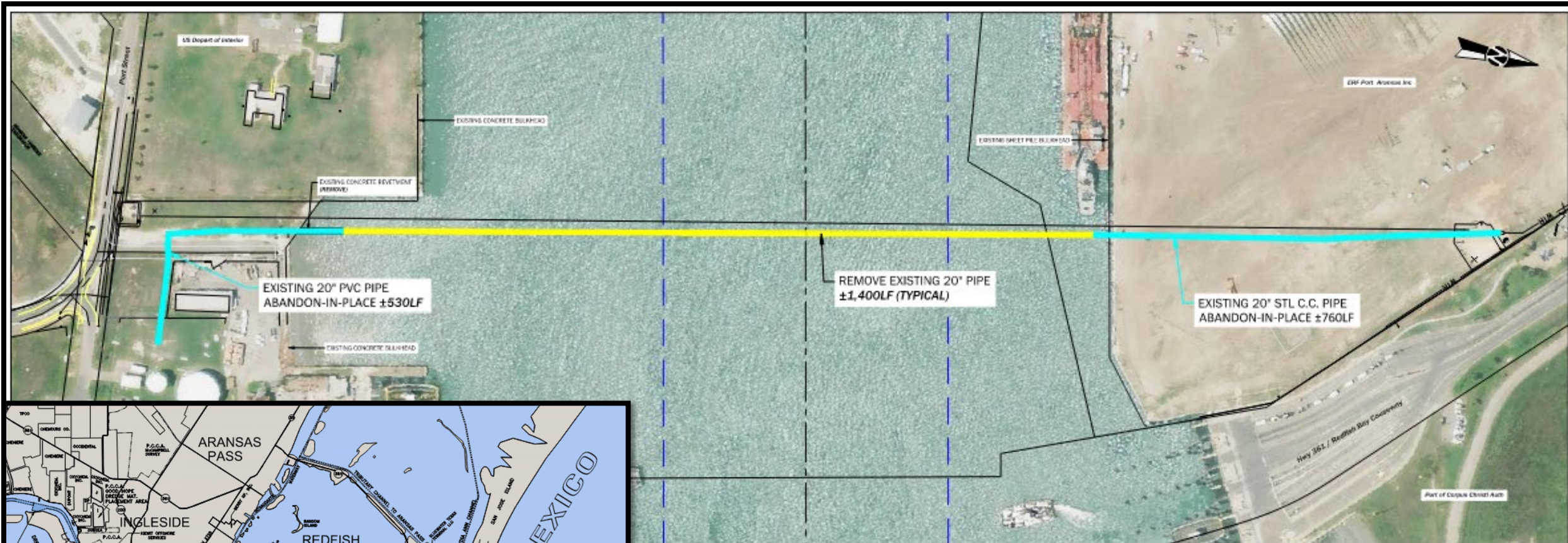
LIST OF SUPPORTING DOCUMENTS:

Exhibit



Harbor Island NCWD #4

Pipeline Removal



DATE: May 24, 2022
TO: Port Commission
FROM: Leslie Ruta
leslie@pocca.com
(361)885-6631

Approve application for \$4,380,094 through Department of Homeland Security Preparedness FY2022 Port Security Grant Program for five PCCA security projects.

SUMMARY: Staff is seeking Commission approval for the submission of five project applications to Department of Homeland Security (DHS) for grant funding in the Fiscal Year 2022 Port Security Grant Program (PSGP) administered by the Federal Emergency Management Agency (FEMA).

Grant Project Prioritization	PSGP	PCC	Project Total
Project 1: Security Command Center Renovation	\$1,000,000 (57%)	\$750,000 (43%)	\$1,750,000
Project 2: Southside Marine Center	\$1,000,000 (62%)	\$601,000 (38%)	\$1,601,000
Project 3: Bulk Materials West Access Rd. Lighting and Cameras	\$1,000,000 (63%)	\$595,400 (37%)	\$1,595,400
Project 4: Rincon Laydown Area Lighting and Cameras	\$630,094 (75%)	\$210,031 (25%)	\$840,125
Project 5: Maintenance and Sustainability	\$750,000 (75%)	\$250,000 (25%)	\$1,000,000
Total	\$4,380,094 (65%)	\$2,406,431 (35%)	\$6,786,525

BACKGROUND: PCC has been building and maintaining security improvements and infrastructure with Port Security Grant Program (PSGP) funds since 2002. The 2022 PSGP Grant was announced on May 13, 2022, with the submittal date set for June 13, 2022. DHS is allotted \$100,000,000 for PSGP. This is a competitive award process, with FEMA’s goal being “to ensure the most highly effective, risk based maritime security projects are funded.” Any one port or entity covered by an Area Maritime Plan can submit no more than one application with no more than five projects. FEMA, as in past years, will evaluate, act on applications, and will likely announce awards during Q3 2022. The PCC required match

is 25% with a statutory award ceiling of \$1M per project. The selected projects for PCC this year are high value opportunities, and several exceed the award cap, necessitating a higher cost share on several projects.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: This project conforms to Strategic Goal #3 (Provide Facilities + Services to Meet Customer Needs) and Strategic Goal #5 (Fund Our Vision).

EMERGENCY: No, but the applications are due June 13, 2022, one day before the June Commission meeting.

FINANCIAL IMPACT: Delivery of grant funds is on a reimbursement basis, necessitating temporary capital outlay of full project costs by PCC. Total project costs are projected at \$6,786,525; PCCA's ultimate responsibility would be \$2,406,431 (35%).

STAFF RECOMMENDATION: Staff recommends that the following projects, listed in order of priority, be submitted for funding under the FY2022 Port Security Grant Program:

Project 1: Security Command Center Renovation: The William D. Dodge III Security Command Center was originally constructed around 1962. During the October 5, 2021, Facilities Committee meeting, PCC staff presented four options to address the department's space needs. Staff received approval at that meeting to move forward with the recommended option of repurposing the PCC Power Street building. As design advances, this 2022 PSGP project will cover the cost to execute the design being developed by Ardurra Group. Inc. The renovations are expected to cost **\$1,750,000**. This project will necessitate PCC to support this project with a 44% cost share at **\$750,000**, asking PSGP for **\$1 million**, or 56%.

Project 2: Southside Marine Center: As PCC moves the Maintenance Department and other Operations functions off channel frontage property, a new home for Port Security Marine Assets is needed. The Southside Tule Lake Lift Bridge site has been identified as ideally situated to create a quick response location that does not consume valuable waterfront property. This project supports constructing improvements and renovations that include a dock for Port Security Marine Assets; dock house and gangway; relieving platform; provide a building for firefighting team that includes sleeping quarters, shower facilities; and galley, water tank, fuel tank and delivery system. The project will cost is expected to be **\$1,601,000**, making the PSGP share **\$1,000,000** (62%), and PCC share of **\$601,000** (38%).

Project 3: Bulk Materials West Access Rd. Lighting and Cameras: The new access west access road being constructed in partnership with TxDOT funds will also need lighting and cameras for PCC Port Security to enhance maritime awareness. This project will support the construction of an unmanned security gate, at least two camera poles with connected cameras, and lighting any areas of the road not planned for lighting with the TxDOT grant. The project cost is expected to be **\$1,595,400**, making the PSGP share **\$1,000,000** (63%), and PCC share of **\$595,400** (37%).

Project 4: Rincon Laydown Area Lighting and Cameras: Over the last several years, PCC has invested over \$20 million in the assets at Rincon Industrial Complete, and they have paid off – the area is thriving with barite moves and transporting wind components. To ensure safety of people and cargos, adding lights and connected cameras to the area is the next necessity. The project cost is expected to be **\$840,125**, making the PSGP share **\$630,094** (75%), and PCC share of **\$210,031** (25%).

Project 5: Maintenance and Sustainability: The PCCA has received previous grant funding to install security fencing, lighting, surveillance equipment, access control, vessel tracking, etc. Most of this installed equipment has a finite life cycle, and this project will provide for the repair or replacement of aging security equipment. Grant Program Directorate Information Bulletin No. 293 allows for the use of grant funds for the repair, replacement, and maintenance of security equipment funded through DHS grants. Total project costs will be **\$1,000,000**, for an award of **\$750,000** from PSGP (75%), and **\$250,000** as the PCC share (25%).

DEPARTMENTAL CLEARANCES:

Originating Department Planning

Reviewed & Approved Mark Guterrez, Director of Port Security
Tom Mylett, Director of Marine Assets
Natasha Fudge, Director of Engineering Services

Legal Dane Bruun
Senior Staff Jeff Pollack
 Clark Robertson
 Sean Strawbridge



Sean C. Strawbridge
Chief Executive Officer

May 24, 2022

Mr. Tom Carlisle, President
Acrisure, LLC, d/b/a Carlisle Insurance Company
500 N. Water St., Ste. 900
Corpus Christi, Texas 78401

Re: Insurance Broker Services Agreement

Dear Mr. Carlisle:

Acrisure, LLC, d/b/a Carlisle Insurance Company ("Acrisure"), entered into an Insurance Broker Services Agreement ("Agreement") with the Port of Corpus Christi Authority ("PCCA") dated July 1, 2019, wherein Acrisure was engaged as PCCA's Broker of Record. The term of the Agreement will end on June 30, 2022; provided however, at PCCA's option the term may be extended for up to two (2) separate one-year option periods under the same terms and conditions. Section 2 of Agreement stipulates that PCCA may exercise each option by giving Acrisure written notice of such exercise at least fifteen (15) days prior to the expiration of (a) the primary term of the Agreement and (b) each option term under this Agreement.

This letter serves as written notice of PCCA's exercise of the first option period. The term of the Agreement shall end on June 30, 2023, unless PCCA exercises the second one-year option.

Please sign below on behalf of Acrisure and return a signed copy to me for our files by facsimile or email. A facsimile or PDF copy of the signed letter will be sufficient for our purposes.

We look forward to working with you on PCCA's property and casualty insurance programs.

PORT OF CORPUS CHRISTI AUTHORITY

By: _____
Sean Strawbridge
Chief Executive Officer



AGREED TO AND ACCEPTED this 4th day of May 2022.

Acrisure, LLC, d/b/a Carlisle Insurance Company

By: Tom Carlisle
Tom Carlisle
President



DATE: May 24, 2022

TO: Port Commission

FROM: Meredith Cerny, Risk Management Specialist
 mcerny@pocca.com
 (361) 885-6172

Approve One-Year Extension of Insurance Broker Services Agreement with Acisure, LLC, d/b/a Carlisle Insurance Agency

SUMMARY: Staff requests authorization to exercise PCCA’s option to extend the Insurance Broker Services Agreement with Acisure, LLC, d/b/a Carlisle Insurance Agency (“Carlisle”) for the first of two (2) one-year option periods under the same terms and conditions as are currently in place between the parties. The Insurance Broker Services Agreement is a no fee engagement of broker services.

BACKGROUND: On June 18, 2019, the Port Commission approved an Insurance Broker Services Agreement with Acisure, LLC, d/b/a Carlisle Insurance Agency. The term of the agreement will end on June 30, 2022; provided however, at PCCA’s option the term may be extended for up to two (2) separate one-year option periods under the same terms and conditions. Section 2 of agreement stipulates that PCCA may exercise each option by giving Carlisle written notice of such exercise at least fifteen (15) days prior to the expiration of (a) the primary term of the agreement and (b) each option term under the agreement. Carlisle has provided exemplary performance in aggressively pursuing insurance market solicitation, evaluation of quotes and cost-efficient insurance programs during several years of a hard insurance market condition.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: Conforms to Strategic Goal #5-Fund Our Vision

EMERGENCY: No.

FINANCIAL IMPACT: The agreement is a no-fee engagement.

STAFF RECOMMENDATION: Approve a one-year extension of the Insurance Broker Services Agreement with Acisure, LLC, d/b/a Carlisle Insurance Agency, effective July 1, 2022.



DEPARTMENTAL CLEARANCES:

Originating Department Risk Management

Reviewed & Approved Kent Britton

Legal Dane Bruun

Senior Staff Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS: Extension Letter





DATE: May 24, 2022

TO: Port Commission

FROM: Natasha Fudge, P.E.
Director of Engineering Services

ANTICIPATED STAFF PRESENTER: Jacob Morales, P.E.
Chief of Design and Construction

Approve an amendment to a professional consulting/engineering services contract with Freeman Schroeder Architects, LLC in the amount of \$45,120, associated with the Ortiz Center renovation and repairs, for additional scope to account for modifications to various building elements in the ballroom, kitchen and Jim Wells conference room areas.

SUMMARY: Staff requests approval of an amendment to a Professional Consulting/Engineering Services Contract with Freeman Schroeder Architects, LLC in the amount of \$45,120, associated with the facility renovation and repairs at the Ortiz Center, for additional scope to improve HVAC sound attenuation in the ballroom, add ceiling and roof vent improvements in the kitchen, and reconfigure the area adjacent to the Jim Wells conference room.

BACKGROUND: On April 20, 2021, the Port Commission approved a Professional Consulting/Engineering Services Contract with Freeman Schroeder Architects, LLC (Fresch) in the amount of \$591,850 for design phase and construction administration services for the proposed renovation and repairs to the Congressman Solomon P. Ortiz International (Ortiz) Center, including interior repairs and improvements, exterior envelop repairs and improvements, and HVAC system repairs and improvements.

The Ortiz Center, which was opened for service in 2000, was originally designed as an adaptive reuse of and addition to a 1920s cotton warehouse. During design of the current renovations and repairs project and during ongoing assessment of existing infrastructure and systems, further improvements have been identified that would provide measurable benefit to the existing facility but either were not included in or are a deviation from the original scope of work. Therefore, this amendment consists of three items that require additional design services not included in the original scope of work but have been requested by PCCA.

- 1. Sound attenuation in the ballroom** - Fresch was tasked with salvaging and reusing existing HVAC components to the greatest extent feasible. However, during the late stages of design, the PCCA determined that the existing HVAC system created unfavorable sound issues in the main ballroom that warranted



mitigation. Noise reduction from HVAC components requires the redesign of the air handling unit that serves the central ballroom to eliminate select existing noise-generating variable air volume (VAV) terminal units. For further sound attenuation, the addition of mufflers to north and south ballroom existing VAV units will be required. The fee for this scope addition is \$22,320, which consists of \$19,120 for MEP services and \$3,200 for architectural services.

2. **Improvements to kitchen HVAC** - Additional improvements to the kitchen area are strongly recommended by the architect to greatly benefit the current operation of this space. The improvements consist of upgrading duct work and roof vent penetrations for more efficiency, adding suspended acoustical ceiling to the expanded kitchen areas, and designing a return air path to help reduce the area's increase in temperature from certain heat sources. Including these improvements under the current effort will result in construction savings and will prevent future disruptions to kitchen operations. The design fee for this scope addition is \$16,500, which consists of \$8,500 for MEP services and \$8,000 for architectural services.
3. **Jim Wells conference room area modifications** - After further evaluation of PCCA staff's proposed improvements to the Jim Wells conference room floor plan, it was determined that reconfiguration of restroom locations and select wall placements will be needed to improve functionality for both use as an executive session room and for general Ortiz Center usage. These changes result in the need to add and/or relocate mechanical, electrical, and plumbing features. Furthermore, PCCA requested the addition of under-the-counter ice maker, refrigerator, and a portable food warmer, upgraded sink fixtures, and additional technology connections. The fee for this scope addition is \$6,300, which consists of \$3,000 for mechanical/electrical/plumbing engineering (MEP) services and \$3,300 for architectural services.

Staff negotiated the attached amendment with Fresch in the amount of \$45,120 to address these three items.

ALTERNATIVES: None.

CONFORMITY TO PORT POLICY: The project conforms to the PCCA's Strategic Plan 2023 (Strategic Goal #3 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: No. However, design is almost complete and delaying action will affect project bidding and execution schedule.

FINANCIAL IMPACT: This project is included in the 2022 budget.

STAFF RECOMMENDATION: Staff recommends approval of an amendment to a Professional Consulting/Engineering Services contract with Freeman Schroder Architects, LLC in the amount of \$45,120, associated with the facility renovation and

repairs at the Ortiz Center, for additional scope to account for HVAC sound attenuation in the ballroom, ceiling and roof vent improvements in kitchen, and reconfiguration of the area adjacent to the Jim Wells conference room.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	Natasha Fudge
	Maria Rivas
	Sonya Lopez-Sosa
	Jacob Morales
Legal	Standard Professional Services Contract Amendment
Executive Staff	Sean Strawbridge
	Clark Robertson
	Kent Britton
	Jeff Pollack

LIST OF SUPPORTING DOCUMENTS:

Consulting/Engineering Services Contract Amendment

AMENDMENT NO. 1

**TO
PROFESSIONAL CONSULTING/ENGINEERING SERVICES CONTRACT
FOR
PROJECT NAME: ORTIZ CENTER FACILITY RENOVATION AND REPAIRS
PROJECT NUMBER: 20-031A**

This Amendment No. 1 (the “*Amendment*”) is made effective as of May 24, 2022 (“*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 Freeman Schroeder Architects, LLC (the “*Consultant/Engineer*”). Authority and Consultant/Engineer are sometimes individually referred to herein as a “*Party*” and collectively as the “*Parties*”.

WHEREAS, Authority and Consultant/Engineer entered into a Professional Consultant/Engineering Services Contract dated April 20, 2021 (the “*Contract*”), under the terms of which the Consultant/Engineer agreed to perform the services described in the Scope of Services attached to the Contract as **Exhibit A**; and

WHEREAS, the Authority and Consultant/Engineer have agreed (i) to expand the Services to be provided under the Contract, (ii) and to increase the compensation payable to Consultant/Engineer under the Contract;

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

- A. Section 1 of the Contract 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 7 (Compensation) of the Contract is amended to include the Fee Schedule described in and set forth in **Exhibit B-1** to this Amendment, which is incorporated herein by reference. The total amount paid to Consultant/Engineer for the Additional Services in **Exhibit A-1**, including reasonable travel expenses and other expenses, shall not exceed **Forty-five Thousand One Hundred Twenty Dollars (\$45,120)**.
- C. This Amendment shall be binding on the successors and assigns of the Parties.
- D. Except as specifically amended hereby, all terms and conditions of the Contract 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 Contract, the terms and conditions of this Amendment shall control.

- E. This Amendment may be 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 24th day of May, 2022.

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

By: _____
Sean Strawbridge, Chief Executive Officer

Date: _____

FREEMAN SCHROEDER ARCHITECTS, LLC

By: _____
Sheldon Schroeder, AIA Project Manager

Date: _____

Exhibit A-1

ADDITIONAL SERVICES

G. The Consultant/Engineer will perform the following additional services:

- Redesign of HVAC system serving the Corpus Christi Ballroom to reduce background mechanical noise, as requested by Authority staff:
 - Redesign of air handling unit serving central ballroom to eliminate select noise-generating variable air volume (VAV) terminal units.
 - Add sound attenuators (mufflers) to north and south ballroom VAV units.
- Improvements to kitchen HVAC, as requested by Authority staff:
 - Make changes to and upgrade duct work and roof vent penetrations for more efficiency.
 - Design and detail the suspended acoustical ceiling assembly, including any modifications to impacted ceiling MEP.
 - Design return air path for new plenum above ceiling to remove heat from walk-in cooler condenser.
- Jim Wells conference room area modifications:
 - Modify room configuration to include changes to wall placement and relocation of the restroom.
 - Evaluate upgrading the room's millwork and associated features.
 - Add under-the-counter appliances, including associated MEP services.

Exhibit B-1

FEE SCHEDULE

Authority shall pay the Consultant/Engineer will perform the Services described in Exhibit A-1 in accordance with the terms and conditions of this Amendment on an hourly fee basis; provided, however, that the total fee for services rendered under this Amendment will not exceed **Forty-five Thousand One Hundred Twenty Dollars (\$45,120)**, without Authority's written approval. Services provided by Consultant/Engineer will be billed as specified in **Exhibit B** and **Exhibit B-1**. These fees will cover all of Consultant/Engineer's overhead costs, including but not limited to, office rent, long distance telephone charges, postage, payroll, and copying charges.

AMENDMENT NO. 1 ADDITIONAL COMPENSATION	AMOUNT
Redesign of HVAC system serving CC Ballroom	\$ 22,320
Kitchen area acoustical ceiling	\$ 16,500
Executive Session room configuration; single person restroom location revisions	\$ 6,300
TOTAL CONTRACT AMOUNT (Not to Exceed)	\$ 45,120

The Authority agrees to reimburse the Consultant/Engineer for certain authorized and approved travel expenses incurred by the Consultant/Engineer during the Term and directly resulting from the Consultant/Engineer's performance of the Services under this Contract and amendment. Authority will also reimburse the Consultant/Engineer for certain authorized and approved direct costs incurred by the Consultant/Engineer in performing the Services. The Consultant/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 Consultant/Engineer's actual cost.

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

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

TOTAL CONTRACT	Compensation
Original Contract Amount	\$ 591,850
Amendment No. 1	\$ 45,120
TOTAL CONTRACT AMOUNT (Not to Exceed)	\$ 636,970



DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
 (361) 885-6140

Approve a no-fee perpetual Dredging Easement by and between Citgo Refining and Chemicals Company L.P., and the Port of Corpus Christi Authority granting the Port of Corpus Christi Authority the right to dredge 0.66 acres of submerged lands owned by Citgo to accommodate the Oil Dock 3 expansion project, Nueces County, Texas.

SUMMARY: The Port of Corpus Christi Authority (PCCA) staff have negotiated a perpetual Dredging Easement with Citgo Refining and Chemicals Company L.P. (Citgo), to dredge 0.66 acres of submerged lands owned by Citgo to accommodate the Oil Dock 3 expansion project, as depicted in the attached memo exhibit. This agreement grants PCCA (i) a perpetual easement to dredge, dig or cut away and remove as much of the 0.66-acre tract as may be reasonably necessary or appropriate to expand and operate PCCA’s Oil Dock 3; (ii) to perform maintenance dredging on the 0.66-acre tract from time to time as may be reasonably necessary or appropriate; (iii) to conduct additional dredging on the 0.66-acre tract from time to time as Authority determines to be reasonably necessary or appropriate; and (iv) to enter upon Citgo’s submerged land to conduct boundary surveys as needed to locate and verify boundaries. There is no cost to the PCCA for the grant of the easement by Citgo.

BACKGROUND: In August of 2019, the Port Commission authorized staff to apply for the 2019 MARAD Port Infrastructure Development Program (PIDP) grant for the expansion of OD3 and a GIS-based asset management pilot program. In February 2020, MARAD notified PCCA that the project was selected as a grant recipient, awarding \$17.6 million for the design and construction of the OD3 expansion and a GIS-based asset management pilot program. PCCA obtained US Environmental Protection Agency (EPA) National Environmental Policy Act (NEPA) clearance on August 13, 2021, and MARAD subsequently executed the project grant.

This project was included as part of the PCCA’s annual Request for Statement of Interest and Qualifications for engineering/architectural services for various projects, which was released on December 23, 2020. A PCCA evaluation selection team reviewed and ranked the submitted qualifications based on the scope of work and criteria identified for this project and reached a consensus that WSP USA Inc. (WSP) is the most qualified firm to perform the design of the Avery oil dock facility reconfiguration and upgrades project. WSP has local knowledge and experience working for the PCCA and various port

customers, including the master planning, assessment, and concept engineering study for the Avery oil dock facility reconfiguration and upgrades for Oil Docks 4, 7, and 11, completed in 2019, as well as technical and design support for the design-build of Cargo Dock 16.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: The Dredging Easement is consistent with the PCCA Strategic Plan 2023: Strategic Goal #3 – Provide facilities and services to meet customer needs.

EMERGENCY: N/A

FINANCIAL IMPACT: None. This is a no-fee easement.

STAFF RECOMMENDATION: Staff recommends approval of the Dredging Easement by and between Citgo Refining and Chemicals Company L.P., and the Port of Corpus Christi Authority granting the Port of Corpus Christi Authority the right to dredge 0.66 acres of submerged lands owned by Citgo to accommodate the Oil Dock 3 expansion project.

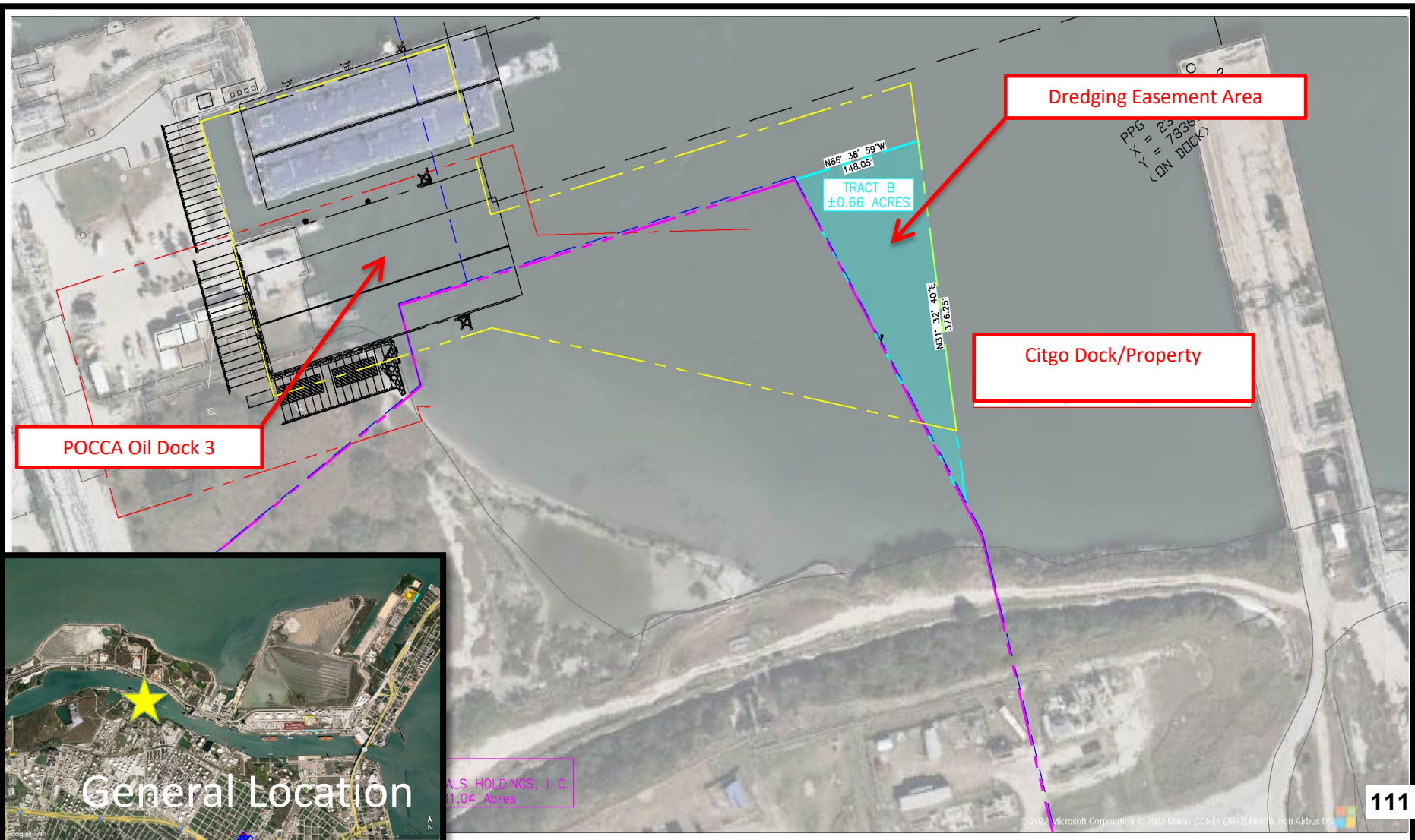
DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel
Legal	Bruce Hawn
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Dredging Easement Agreement

Approve a no-fee perpetual Dredging Easement by and between Citgo Refining and Chemicals Company L.P., and the Port of Corpus Christi Authority granting the Port of Corpus Christi Authority the right to dredge 0.66 acres of submerged lands owned by Citgo to accommodate the Oil Dock 3 expansion project, Nueces County, Texas.



DREDGING EASEMENT AGREEMENT

This Dredging Easement Agreement (this “**Agreement**”) is made effective as of the ____ day of May, 2022 (the “**Effective Date**”), by and between the **Port of Corpus Christi Authority of Nueces County, Texas**, a navigation district and political subdivision of the State of Texas (hereinafter called "Authority") and **CITGO Refining and Chemicals Company, L.P.**, a Delaware limited Partnership (hereinafter called "Grantor"), whose address is 1802 Nueces Bay Boulevard, Corpus Christi, Texas 78407. The Authority and Grantor are sometimes collectively referred to herein as the “**Parties**” and each individually as a “**Party.**”

RECITALS

A. **WHEREAS**, Authority owns a 32.034-acre tract of upland and submerged land used for the operation of Authority’s oil docks 3, 4, 7, and 11.

B. **WHEREAS**, Authority is in the process of expanding Oil Dock 3; and as a result, will need to perform initial dredging and excavation operations to excavate an approximately 0.66-acre submerged portion of a 39.62-acre tract of upland and submerged land owned by Grantor to the extent Authority deems necessary or appropriate for the expansion of Oil Dock 3 (the “**Initial Dredging**”). The submerged portion of said tract shall hereinafter be referred to as “**Grantor’s Submerged Land**”.

C. The 0.66 acres of submerged land owned by Grantor, which Authority seeks to perform Initial Dredging upon is more particularly described and depicted as Tract B on the Oil Dock 3 Expansion Survey overview attached hereto as Exhibit “A”. Said 0.66-acre tract of submerged land will hereinafter be referred to as the (the “**0.66-Acre Dredge Easement Tract**”)

D. In addition, Authority may wish to increase the depth of 0.66-Acre Dredge Easement Tract by performing additional dredging thereon (“**Additional Dredging**”).

E. From time to time, it will be necessary or appropriate for Authority to conduct maintenance dredging activities to maintain the work done by the Initial Dredging and any Additional Dredging (“**Maintenance Dredging**”).

F. Authority has requested a dredging easement from Grantor on Grantor’s Submerged Land for purposes of performing the Initial Dredging, Additional Dredging, and Maintenance Dredging on the 0.66-Acre Dredge Easement Tract (collectively, the “**Dredging Activities**”).

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

1. **Recitals.** The foregoing recitals are incorporated herein as if set out in full in the body of this Agreement.

2. **Dredging Easement.** In connection with Authority’s construction, operation, maintenance and expansion of Oil Dock 3, the Grantor does hereby grant to Authority a perpetual

dredging easement (“**Dredging Easement**”) on the 0.66-Acre Dredge Easement Tract for the following express purposes:

(i) to enter upon Grantor’s Submerged Land and dredge, dig or cut away and remove as much of the 0.66-Acre Dredge Easement Tract as may be reasonably necessary or appropriate to expand and operate Authority’s Oil Dock 3; and

(ii) to perform such Maintenance Dredging on the 0.66-Acre Dredge Easement Tract from time to time as may be reasonably necessary or appropriate; and

(iii) to conduct such Additional Dredging on the 0.66-Acre Dredge Easement Tract from time to time as Authority determines to be reasonably necessary or appropriate; and

(iv) to enter upon Grantor’s Submerged Land to conduct boundary surveys as needed to locate and verify boundaries.

TO HAVE AND TO HOLD the above-described rights, interests and easements, together with all and singular the rights and appurtenances thereto in anywise belonging, and subject to the conditions, exceptions and covenants hereinafter set out, unto Authority, its successors and assigns, forever, and Grantor hereby binds itself, its successors and assigns, to warrant and forever defend, all and singular the rights, interests and easements, unto Authority, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor only.

3. Grantor’s Adjacent Dock. Grantor owns a dock known as CITGO Dock 7 (“**Grantor’s Dock**”) in the immediate vicinity of and to the east of the 0.66-Acre Dredge Easement Tract. Authority’s Dredging Activities shall not unreasonably interfere with or interrupt the operation of Grantor’s Dock. Authority shall give Grantor at least 3 days’ advance notification prior to conducting the Dredging Activities in the vicinity of Grantor’s Dock, including a detailed plan of such activities if requested by Grantor, which will allow Grantor sufficient time to plan for any temporary interruptions. Further, Grantor shall have the right to temporarily halt the Dredging Activities in the event of an emergency, or if Grantor requires immediate use of Grantor’s Dock.

4. Exceptions. The Dredging Easement is subject to the rights of navigational servitude belonging to the United States of America and the rights of the users of the Ship Channel under federal and state laws. **The Dredging Easement and the rights granted herein are being granted “AS IS, WHERE IS, WITH ALL FAULTS,” without representations or warranties of any kind, express or implied, as to Grantor’s Submerged Land.**

5. Indemnity. Authority shall defend, indemnify and hold harmless Grantor from and against all expense and liability for, and resulting from, the sole, joint, concurrent, or comparative negligence of Authority, its agents or employees (collectively, “**Authority Parties**”), in connection with the exercise by Authority of the rights and privileges granted herein (each an “**Indemnified Claim**”); provided, however, to the extent an Indemnified Claim arises out of the joint, concurrent, or comparative negligence of the Authority Parties and the Grantor, then Authority’s obligation to the Grantor shall only extend to the

percentage of the total responsibility of the Authority Parties in contributing to such Indemnified Claim.

6. **Miscellaneous Provisions.**

(a) **Governing Law.** This Agreement shall be construed, governed and enforced in accordance with the laws of the State of Texas, without giving effect to its principles of conflicts of law.

(b) **Amendments.** This Agreement may be amended, modified and/or supplemented only by an agreement or instrument in writing executed and acknowledged by the persons to be bound thereby.

(c) **Severability.** If any provision of this Agreement is or becomes invalid, illegal or incapable of being enforced or performed in the manner contemplated herein by a court of competent jurisdiction or by any applicable law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any provision is invalid, illegal or incapable of being enforced or performed in the manner contemplated herein, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original economic and legal substance intended by the Parties hereto as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement are consummated as originally contemplated to the greatest extent possible and in a manner that is not materially adverse to either party hereto.

(d) **Counterparts.** This Agreement may be executed as one instrument or in multiple counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute but one and the same Agreement.

(e) **Entire Agreement.** This Agreement and the exhibits attached hereto contain the entire understanding of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations, and discussions among the Parties hereto with respect to such subject matter.

EXECUTED this ____ day of _____, 2022.

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

By: _____
Sean C. Strawbridge, Chief Executive Officer

**CITGO REFINING AND CHEMICALS COMPANY, L.P.
"Grantor"**

By: _____
James Cristman
James Cristman, Vice President & General Manager

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the ____ day of _____, 2022 by Sean C. Strawbridge, Chief Executive Officer of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Authority.

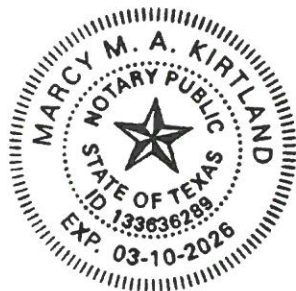
NOTARY PUBLIC, STATE OF TEXAS

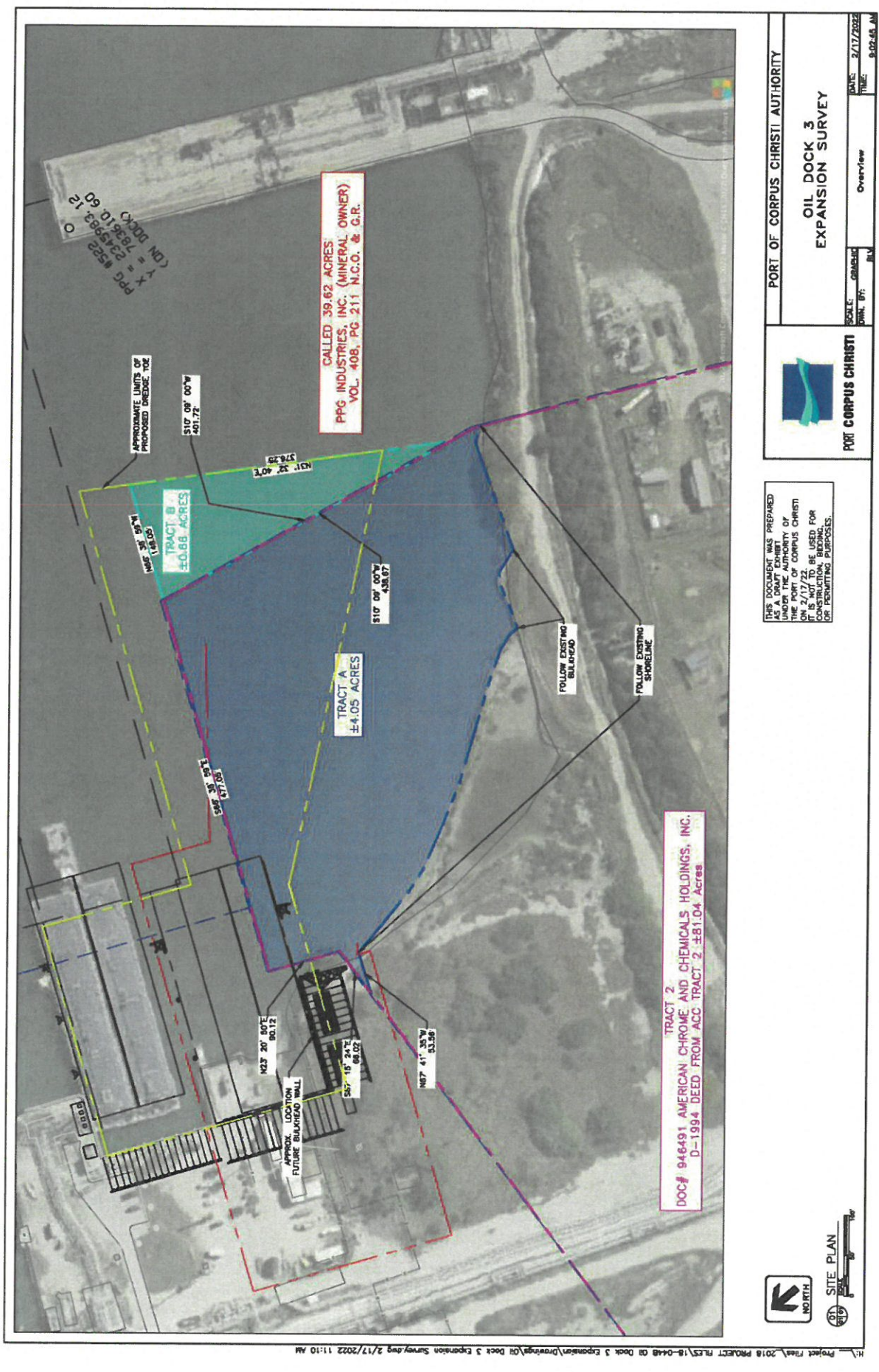
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 11 day of May, 2022, by James Cristman, Vice President & General Manager of CITGO Refining and Chemicals Company, L.P., a Delaware limited partnership, on behalf of said partnership.

[Signature]

NOTARY PUBLIC, STATE OF TEXAS







DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
 Sam@pocca.com
 (361) 885-6140

Approve a Consent to Assignment of Leases Agreement by and between TOR Minerals International, Inc. as Assignor and United Minerals and Properties, Inc., as Assignee for the following lease agreements; a 2.86-acre lease agreement and a 10.31-acre lease agreement, both located at the Rincon Industrial Park on the west of Canal A, Nueces County Texas.

SUMMARY: TOR Minerals International, Inc. (Tor) is requesting consent to assign two lease agreements; (1) dated January 12, 1988, for 2.86-acres and (2) dated July 1, 1987, for 10.31-acres (Tor Lease Agreements) to United Minerals and Properties, Inc. The Tor Lease Agreements are located at the Rincon Industrial Park on the west of Canal A, as depicted on the attached memo exhibit. The Tor leases expire on June 30, 2027. With the exception of the consent to assign, all other terms and conditions of the of the original Tor Lease Agreements remain the same.

BACKGROUND: Tor currently leases 13.17 acres located at the Rincon Industrial Park on the west of Canal A. Tor operates a processing plant for producing various grades of titanium dioxide materials and other chemicals. On April 14, 1987, PCCA granted a lease agreement to Tor for two tracts of land totaling 10 acres in size (Lease 1). Lease #1 was amended by instruments dated July 11, 2000, First Amendment of Lease, May 13, 2003, Second Amendment of Lease, and November 15, 2005, Third Amendment of Lease. Lease #1, as amended, currently covers two tracts of land comprising of 10.31 acres of land. Subsequently, on January 12, 1988, PCCA granted a lease agreement to Tor for 2.86 acres of land (Lease #2). Lease #2 was amended by the First Amendment of Leases, the Second Amendment of Leases, and the Third Amendment of Leases. The Tor Lease Agreements total 13.17 acres of land. On March 16, 2021, PCCA approved a consent to sublet granting Tor the right to sublet the Tor Leases to United Minerals and Properties, Inc., (United) for a term of one year, with one six-month option to extend. During the sublet to United, Tor sold all it’s improvements, equipment and other assets associated with Tor’s operations and in an effort to finalize the transaction United is requesting all rights, title and, interest of the leasehold estate be assigned to United. The Tor leases require PCCA’s consent, which cannot be unreasonably withheld, to assign the leasehold estate to United.

ALTERNATIVES: None, PCCA consent to assignment cannot be unreasonable withheld.

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: Lease revenue will continue per the terms of the lease agreement for the remainder of the lease.

STAFF RECOMMENDATION: Staff recommends approval of the Consent to Assignment of Leases Agreement by and between TOR Minerals International, Inc., and United Minerals and Properties, Inc.

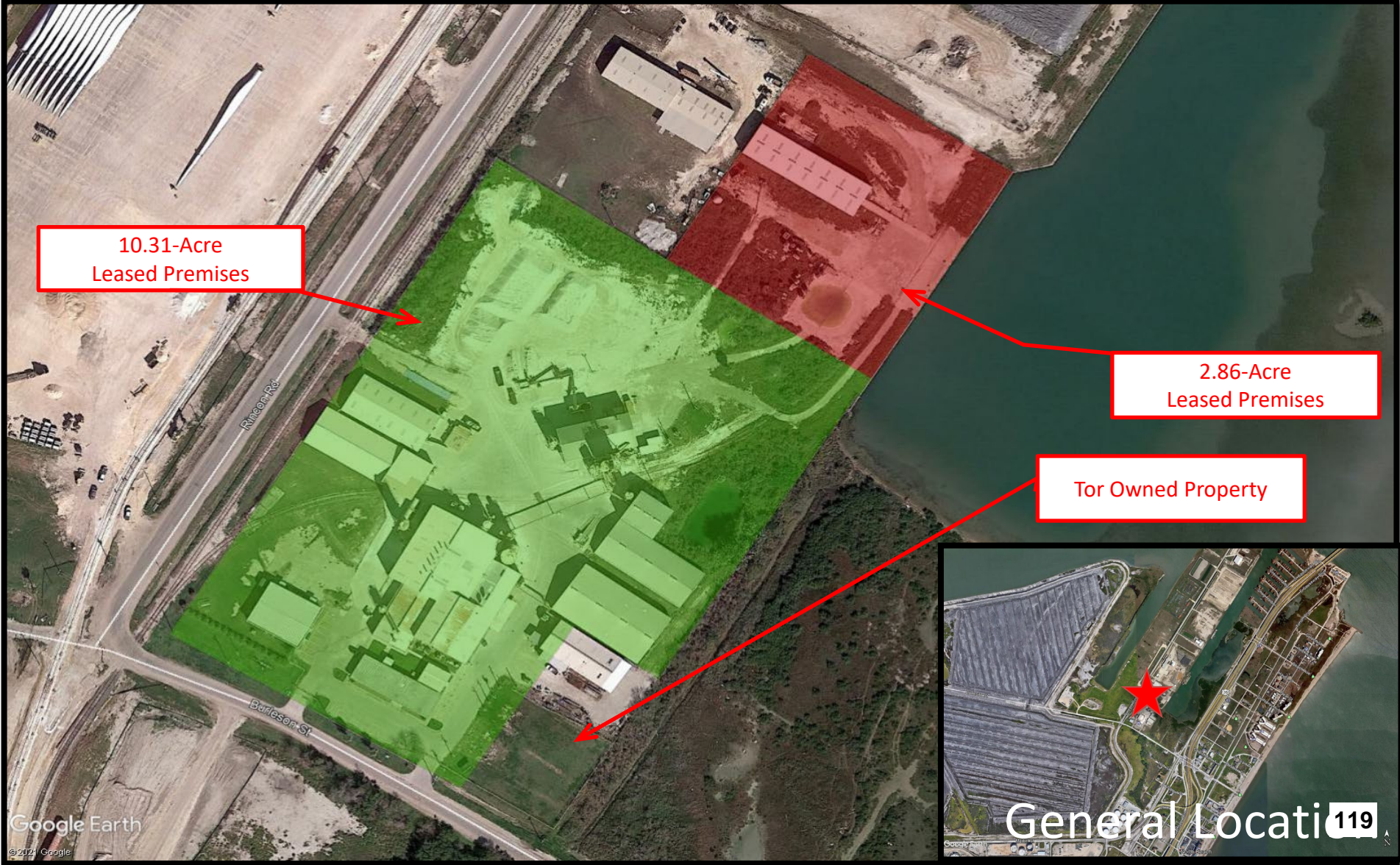
DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel
Legal	Bruce Hawn
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Consent to Assignment of Leases

Approve a Consent to Assignment of Leases Agreement by and between TOR Minerals International, Inc. as Assignor and United Minerals and Properties, Inc., as Assignee for the following lease agreements; a 2.86-acre lease agreement and a 10.31-acre lease agreement, both located at the Rincon Industrial Park on the west of Canal A, Nueces County Texas.



CONSENT TO ASSIGNMENT OF LEASES

This Consent to Assignment of Leases (the “Consent”) is entered into and made effective as of May 24, 2022 by the **Port of Corpus Christi Authority of Nueces County, Texas** (“Authority”), as Landlord, and **TOR Minerals International, Inc. (f/k/a Hitox Corporation of America)**, a Delaware Corporation (“Assignor”). Authority and Assignor may hereinafter be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, by Lease Agreement dated April 14, 1987 (“Lease #1”) Authority leased two tracts of land totaling 10 acres in size to Assignor. Lease #1 was amended by instruments dated July 11, 2000 (the “First Amendment of Leases”), May 13, 2003 (the “Second Amendment of Leases”), and November 15, 2005 (the “Third Amendment of Leases”). Lease #1, as amended, currently covers two tracts of land comprising 10.31 acres of land, which land is more particularly described and depicted in Exhibit “A” to the Third Amendment of Leases as the “Tor Mineral Tract ‘A’, 5.41 Acre Lease” and the “Tor Mineral Tract ‘B’ 4.90 Acre Lease”.

WHEREAS, by Lease Agreement dated January 12, 1988 (“Lease #2”) Authority leased 2.86 acres of land (the Lease #2 Premises) to Assignor. Lease #2 was amended by the First Amendment of Leases, the Second Amendment of Leases, and the Third Amendment of Leases. The Lease #2 Premises are more particularly described and depicted in Exhibit “A” to the Third Amendment of Leases and is referred to therein as the “Tor Mineral Tract ‘C’ 2.86 Acre Lease”. Lease #1 and Lease #2 each as amended by the First, Second and Third Amendments of Leases shall hereinafter be collectively referred to as the “Tor Leases”. True and correct copies of the Tor Leases are attached hereto and incorporated herein for all purposes as Exhibit A;

WHEREAS, Assignor wishes to assign all of its rights and obligations as lessee under the Tor Leases to **United Minerals and Properties, Inc.**, a Georgia Corporation (“Assignee”), and Assignee wishes to accept the assignment of the Tor Leases and assume these obligations on the terms and conditions set forth in the Assignment of Leases attached hereto as Exhibit B (“Assignment of Leases”); and

WHEREAS, Authority is willing to consent to this assignment and assumption on the terms and conditions set forth in this Consent.

NOW THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties hereby agree as follows:

1. CONSENT TO ASSIGNMENT. The Authority hereby consents to the Assignor’s assignment of the Tor Leases to the Assignee on the terms and conditions of the Assignment of Leases (the “Assignment”). The Authority’s consent to the Assignment shall not constitute consent to any additional or subsequent assignments of the Tor Leases. Assignor shall provide Authority with a fully-executed copy of the Assignment of Leases promptly after the execution thereof.

2. ASSUMPTION OF RIGHTS AND DUTIES. From and after the effective date of the Assignment, all rights and duties under the Tor Leases will be assumed by Assignee and

Assignor shall have no further obligations thereunder. Assignor will, however, continue to be responsible for obligations accruing before the date of Assignment unless the Assignor, the Authority, and the Assignee otherwise expressly provide through a separate agreement.

3. CONTINUING EFFECTIVENESS OF LEASE. This Consent is made on the understanding that all other terms and conditions of the Tor Leases shall remain in full force and effect, including the prohibition against further assignments and subleases without the Authority's express written consent.

4. INTERPRETATION/MODIFICATION. In interpreting the language of this Consent, the Parties shall be treated as having drafted this Consent after meaningful negotiations. The language in this Consent shall be construed as to its fair meaning and not strictly for or against either Party. No amendment, addendum, change, or modification of this Consent shall be valid unless in writing and signed by both Parties.

5. GOVERNING LAW. This Consent shall be governed by the laws of the state of Texas. In the event that litigation results from or arises out of this Consent or the performance thereof, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred by the prevailing party in such litigation, including reasonable attorneys' fees, in addition to any other relief to which the prevailing party may be entitled.

6. COUNTERPARTS/ELECTRONIC SIGNATURES. This Consent may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Consent, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

7. ENTIRE AGREEMENT. This Consent, constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

DATED as of the 24th day of May 2022

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

By: _____
Sean C. Strawbridge
Chief Executive Officer

"Authority"

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the _____ day of _____, 2022, by Sean C. Strawbridge, Chief Executive Officer of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of said Authority.

NOTARY PUBLIC, STATE OF TEXAS

TOR MINERALS INTERNATIONAL, INC.

By: 
James B. Roecker, Vice Chairman & CEO

“Sublessor”

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 5 day of May, 2022, by James B. Roecker, Vice Chairman & CEO of TOR Minerals International, Inc., a Delaware corporation, on behalf of said corporation.


NOTARY PUBLIC, STATE OF TEXAS



EXHIBIT "A"

INSERT EXHIBIT "A" BEHIND THIS PAGE

LEASE
TO
HITOX CORPORATION OF AMERICA

THIS LEASE is executed this 14th day of April, 1987, by and between Port of Corpus Christi Authority of Nueces County, Texas, a political subdivision of the State of Texas, acting herein by and through its Port Commissioners, called "Authority", and Hitox Corporation of America, a Delaware corporation, qualified with permit to do business in Texas, called "Hitox",

WITNESSETH:

For and in consideration of the rents to be paid and other considerations given by Hitox, Authority hereby leases to Hitox, and Hitox hires from Authority, the following premises, to-wit:

The leased premises consists of Tracts "A" and "B", totaling 10.0 acres, more or less, all being situated on Corpus Christi Beach, Nueces County, Texas, within the original Brooklyn Subdivision on Rincon Peninsula recorded on November 6, 1906, in Volume A, Page 30, 31 and 32 of the Map Records of Nueces County, Texas, and within that section of said subdivision returned to acreage by the Commissioners Court of Nueces County, Texas, and recorded in Volume 194, page 538 of the Deed Records of Nueces County, Texas.

The premises are situated 1.8 miles N. 5° E. from the Nueces County Court House in Corpus Christi, Texas, and bounded on the south by Burleson Street, a county road, on the west by a 100 foot wide road and railroad easement located midway between Canals A & B in the Rincon Industrial Park, on the north by unleased lands of the Authority in said park, on the east by Canal A Turning Basin and a southerly extension thereof, and generally along the east line of the Authority's property and offset therefrom to the point of beginning. Tracts "A" and "B" are shown on District Drawing No. L-1-142(1) which is attached hereto, and incorporated herein by reference, and being further described by metes and bounds as follows:

TRACT "A"

Being 5.10 acres out of the premises leased to Hitox by the Authority, said point of beginning being the southeast corner of Tract "A", said point being marked by a 5/8 inch iron rod located 30.00 feet north of the centerline of

Burleson Street and 1,030.00 feet N. 57° 52' W. measured along the north right of way line of Burleson Street from a point, which point is the intersection of the north line of Burleson Street as recorded in Volume 1242, pages 190-198, inclusive, of the Deed Records of Nueces County, Texas, and the west right of way line of U.S. Highway No. 181 as presently designated.

Thence N. 57° 52' W., along the Authority's south line of the Rincon Industrial Park, which line is an extension of the north right of way line of Burleson Street, a distance of 430.00 feet to a point, which point is located in the east right of way line of a 100 foot wide road and railroad right of way easement in the Rincon Industrial Park for the southwest corner of Tract "A" and the southwest corner of the premises leased to Hitox by Authority.

Thence N. 32° 08' E. along the east boundary line of said 100 foot wide road and railroad easement, a distance of 465.00 feet to a point, marked by a 5/8 inch iron rod, said point being the northwest corner of Tract "A" and southwest corner of Tract "B", a common corner, located in the east right of way line of said 100 foot wide road and railroad easement through the Rincon Industrial Park.

Thence S. 57° 52' E. along a common boundary line between Tracts "A" and "B", a distance of 590.00 feet, to a point in the Authority's east property line of the Rincon Industrial Park for the northeast corner of Tract "A" and southeast corner of Tract "B".

Thence S. 32° 08' W. along the Authority's east property line of the Rincon Industrial Park, a distance of 135.00 feet, to a point, which point is an exterior corner of Tract "A".

Thence N. 57° 52' W. along a south interior line of Tract "A", a distance of 160.00 feet to a point, which point is marked by a 5/8 inch iron rod, for an interior corner of Tract "A".

Thence S. 32° 08' W. along the east boundary line of Tract "A" a distance of 330.00 feet to a point, marked by a 5/8 inch iron rod, said point being the southeast corner of Tract "A" and the point of beginning and containing 5.10 acres of land, more or less.

TRACT "B"

Being 4.90 acres out of the premises leased to Hitox by Authority, said point of beginning being the southwest corner of Tract "B" and northwest corner of Tract "A", a common corner located in the east right of way line of a 100 foot wide road and railroad easement through the Rincon Industrial Park.

Thence N. 32° 08' E. along the east boundary line of said 100 foot wide road and railroad easement, a distance of 355.00 feet to a point for the northwest corner of Tract "B" and the southwest corner of Tract "C".

Thence S. 57° 52' E. along a common boundary line between Tracts "B" and "C", a distance of 612.50 feet, to a point in the Authority's east property line of the Rincon Industrial Park for the northeast corner of Tract "B".

Thence S. 32° 08' W. along Authority's east property line of the Rincon Industrial Park, a distance of 160.00 feet to a point for an exterior corner of Tract "B".

Thence N. 57° 52' W. along the Authority's south interior property line of Tract "B", a distance of 22.50 feet to a point, which point is an interior corner of Tract "B".

Thence S. 32° 08' W. along the Authority's east property line of Tract "B", a distance of 195.00 feet to a point, which point is the southeast corner of Tract "B" and northeast corner of Tract "A".

Thence N. 57° 52' W. along a common boundary line between Tracts "A" and "B", a distance of 590.00 feet to a point, which point is the southwest corner of Tract "B" and the point of beginning, and containing 4.90 acres of land, more or less.

All bearings in the survey for Tracts "A" and "B" refer to those of the Brooklyn Addition, and are based on a bearing of S. 57° 52' E. for Bryan Street.

TO HAVE AND TO HOLD the said premises unto Hitox subject to the conditions and covenants herein contained, for a period of thirty (30) years, beginning the 1st day of July, 1987, and ending at midnight on the 30th day of June, 2017, subject to earlier termination as hereinafter provided.

The parties hereto further covenant and agree as follows:

I.

Hitox currently occupies Tract "A" under lease from Authority's predecessor (Nueces County Navigation District No. 1), dated August 15, 1969. The lease of August 15, 1969 is hereby cancelled and terminated as of June 30, 1987, insofar and only

insofar as it is applicable Tract "A". Hitox also holds a lease under a later agreement on the tract designated as Tract "C". That tract (that is, Tract "C") is not covered by this lease and shall be continued to be held by Hitox subject to the terms and provisions of the lease under which it is held, which lease is subject to termination at a later date. It is contemplated by Hitox that it will construct additional improvements on the leased premises and acknowledges that it has been advised by Authority that the land is in the FEMA flood plain and that all construction needs to conform to the requirements for construction of land in the flood plain requirements.

II.

Hitox shall pay rental during the term of this lease in the following manner:

BASE RENTAL: Hitox shall pay to Authority an initial annual Base Rental of Twenty-Four Thousand Dollars (\$24,000.00). The initial annual Base Rental has been established at eight per cent (8%) of an initial equalization valuation of Thirty Thousand Dollars (\$30,000.00) per acre for the ten acres of land covered by the leased premises. The equalization valuation is a factor used for equalizing rentals on various Authority lands. The annual Base Rental shall be paid for each of the first ten (10) years of the term of this lease. The rental for each of the subsequent five (5) year terms commencing in the tenth (10th), Fifteenth (15th), twentieth (20th) and twenty-fifth (25th) years of the term shall be adjusted for changes in the equalization valuation and in the cost of living as follows:

(1) Thirty (30) days or more prior to the beginning of the five year period of the term for which the rental is to be adjusted, the equalization valuation for such five year period shall be established and Hitox notified in writing of the new valuation. If Hitox is not so notified prior to such time, it shall be conclusively presumed that the equalization valuation for such five year period is to be the same as that for the prior five year period. The establishment of the amount of the equalization valuation shall be solely in the discretion of Authority.

The annual Base Rental for the five year period for which rental is to be adjusted shall be eight per cent (8%) of the equalization valuation as fixed by Authority.

(2) The annual Base Rental for the five year period of the term for which rental is to be adjusted (whether it be the same as the annual Base Rental during the first ten years or whether it be a new annual Base Rental fixed as provided in paragraph (1) above) shall be adjusted to reflect changes, if any, in the cost of living with such determination to be made as follows:

The annual Base Rental for the five year period for which rent is to be established (adjusted after change of equalization valuation, if any, pursuant to subparagraph (1) above) shall be divided by 325.7 which is the annual average for the calendar year 1986 for the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average -- All Items-Series A (1967 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor, and then multiplying that amount by the index number for the annual average of the calendar year preceding the year in which the rental is to be adjusted. For example, as the initial annual Base Rental is \$24,000.00; and the applicable index number is 325.7; and assume the annual Base Rental for the five year period for which rental is to be established, adjusted for equalization valuation is \$25,000.00 and the annual average for the calendar year prior to the year in which adjustment is to occur is 329.2, the annual rental for each year of the five year period is determined as follows: \$25,000.00 divided by 325.7 equals 76.7577 times 329.2 equals \$25,268.63, the annual rental.

If the United States Department of Labor should at any time during the term of this lease discontinue publication of the said Consumer Price Index, the cost of living adjustments contemplated by this lease shall be made by use of a cost of living index selected by Authority which, as near as practical, is comparable to the discontinued index.

One-twelfth (1/12th) of the annual rental shall be the monthly rental which shall be payable monthly in advance on or before the first day of each calendar month in lawful money of the United States at the office of Authority in Corpus Christi, Texas.

III.

Hitox shall have the right and privilege to use and occupy Tracts "A" and "B" (which two tracts are hereinafter jointly referred to as the "leased premises") and to locate, and to build, construct, alter, remove, replace, maintain, repair and use on the leased premises such laboratories, office buildings, warehouses, and other structures, railroad tracks, utility lines and roads as may be necessary, convenient or required to enable Hitox to construct and operate a processing plant for producing various grades of titanium dioxide materials and other chemicals, to receive, store, transport and ship the materials of Hitox used in said plant and the products produced in said plant, and to store Hitox materials for transshipment.

IV.

The leased premises contain frontage on Canal A of the Rincon Industrial Park and Hitox is granted access to and right of use of Canal A from the leased premises, without payment of dockage or wharfage charges, for shipping and receiving by water transportation of the following: (a) all raw materials and commodities used for construction on the leased premises; and (b) all raw materials and commodities used in manufacture in its processing plant on the leased premises; and (c) all finished products manufactured in processing plant on the leased premises; and (d) raw materials and commodities of the type used in manufacture in its processing plant on the leased premises if owned by Hitox or handled by Hitox for the account of others. The said use shall be limited to handling of such materials only and Canal A shall not be used for water transportation or other commodities.

Live loads within thirty feet (30') of the bulkhead shall be limited to two hundred pounds (200 lbs.) per square foot. If Hitox requires loads in excess of such limits within such distance, Hitox shall provide, at its expense, such additional structures as may be required to carry the excess load.

Hitox shall control drainage along bulkhead so as not to permit surface drainage to flow over the bulkhead into the canal.

V.

No rights granted herein for the use by Hitox of the lands or other property or facilities of Authority other than the leased premises shall be exclusive in Hitox as against any other person, firm or corporation using the same with permission of Authority and such use shall not be permitted where it will interfere, in the opinion of Authority, with the rights of other persons, firms or corporations then holding any of the lands of Authority under lease or franchise. Authority agrees that the use by other than Hitox of such lands, and other properties or facilities of Authority, shall not interfere with the rights of Hitox to use the leased premises or such other lands, properties or facilities of Authority.

VI.

Authority shall have the right, when in the best interest of the public and the development of the Industrial Park, to establish utility and pipeline easements through and across the leased premises so long as said use does not unreasonably interfere with the use of the premises by Hitox. However, no rights of encroachment or easement on the leased premises shall be granted without Hitox's permission, which permission will not be unreasonably withheld.

VII.

This lease is granted with reasonable conditions for the protection of Authority, and its property and the property of its tenants, and subject to reasonable regulations as to construction, to-wit:

1. Hitox will at all times conduct its operations so as not to create any unusual fire hazard and will keep the leased premises clean.

2. Before beginning the work on any new construction or before making any changes or additions to the then existing construction on any lands or easements covered by this lease, Hitox shall submit plans of the proposed work to the Director of Engineering Services for Authority for approval and information, and said approval shall not be refused without good cause. All buildings shall be set back eighty feet (80') or more from Burleson Street and forty feet (40') or more from the west property line of the leased premises. Three per cent (3%) or more of the gross area in each Tracts "A" and "B" shall be landscaped and beautified with shrubs, grass or other plantings. No free standing signs larger than fifteen square feet in size may be erected on the leased premises. Signs may be erected flat against the building and extending out from the exterior wall no more than one foot and shall be no larger than sixty square feet in size. Flashing signs will not be used.

3. Hitox shall perform all construction in conformity with current Standard Building Code standards and requirements for the area in which the construction is located and shall conform with the Code of the National Board of Fire Underwriters covering the location and type of structure proposed to be constructed by Hitox on the leased premises. All buildings shall be steel frame, iron clad or better construction.

4. Hitox shall use the leased premises in accord with such reasonable rules and regulations as Authority has in effect at the present or may invoke in the future applying to all persons holding similar leases or franchises.

5. Hitox, its successors and assigns, shall indemnify and hold Authority harmless of and from all expenses and liability for and resulting from negligence of Hitox, its agents or employees, in connection with the exercise by Hitox of any of the rights and privileges herein granted.

6. Hitox shall take all reasonable precautions to prevent pollution of the waters of the canals in Rincon Industrial Park and shall comply with the Texas laws relating to water and air pollution control. Rubbish, debris or litter shall not be deposited in Canal A but shall be disposed of in accordance with state regulations.

7. Mooring of house boats or other pleasure craft along the bulkhead of the leased premises is specifically prohibited, unless otherwise approved by Authority in writing.

8. Hitox agrees to remove, or cause to be removed, within twenty-four (24) hours any vessel owned or controlled by Hitox berthed at the leased premises which in the opinion of Authority is a menace or nuisance to navigation.

VIII.

This lease shall not be assigned nor shall the leased premises be sublet in whole or in part without the consent of Hitox in writing thereto first being obtained, which consent shall not be unreasonably withheld.

IX.

It is contemplated that Hitox may be required to borrow funds for construction of improvements on the leased premises from time to time during the term of this lease and it may be desirable or convenient for Hitox to borrow additional funds for additional improvements, alterations, repairs or for other purposes. Accordingly, it is agreed that Hitox shall at all times during the term

of this lease have the right to mortgage or convey by deed of trust or any other security instrument this lease and the leasehold rights of Hitox created by this lease, together with all of Hitox's rights, titles and interest in the buildings and improvements then on or thereafter to be placed on the leased premises; provided, however, that any such mortgage, deed of trust, security conveyance, or encumbrance will at all times be subject to and recognize the right, title and interest of Authority to require the payment of all rent due hereunder and the full and faithful performance of all covenants and conditions of this lease by Authority. Under date of November 11, 1986, Authority has heretofore consented to a deed of trust lien on the leasehold interest of Hitox in the leased premises to secure borrowings from MBank Corpus Christi, N.A. Authority agrees that such prior consent shall, without further writing, continue and be binding on the leasehold interest in this lease.

Authority subordinates its landlord's lien on the improvements and other property Hitox places on the leased premises to the rights of the holder of any such mortgage, deed of trust or other security instrument.

In the event at any time during the term of this lease Hitox or anyone holding under Hitox shall be in default of any of the covenants or any of the conditions of this lease, then and in such event the holder of the mortgage, deed of trust or other security instrument may, before forfeiture 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 of this lease and the party making such payments or performing such acts or things shall thereby and thereupon be subrogated to all the rights of Hitox under this lease. Authority

terminated and may enter into and upon the land covered by this lease, or any part thereof, and repossess the same and expel Hitox and those claiming under it and remove its effects, forcibly if necessary, without being deemed guilty of any manner of trespass and without prejudice to any remedies which might otherwise be used for possession or for arrears of rent. In the event of default by Hitox in the performance of any of the other covenants and conditions of this lease and in event such default shall be continued for sixty (60) days after Authority has by written notice to Hitox advised it fully of the kind, nature and extent of such default, this lease shall be subject to forfeiture at the instance of Authority by suit in any District Court of Nueces County, Texas.

XI.

If by reason of strike, lockout, war, rebellion, material or labor shortage due to a national emergency, fire, flood, wind, water or other casualty, or by any other matter not within its control, Authority or Hitox is in good faith and without fault or neglect on its part prevented or delayed in the construction or removal of any buildings or improvements or in the performance of any covenant or condition which under the terms of this lease it is required to do within a specified period of time, the period of time within which such performance was to have been completed shall be extended by a period of time equal to that of such delay or prevention and Authority or Hitox, as the case may be, shall not be deemed to be in default if it performs and completes such work or covenant and condition in the manner required by the terms of this lease within the specified period of time so extended. However, provided that if the condition or prevention shall continue for more than six (6) months, Hitox shall have the option to terminating this lease upon thirty (30) days prior written notice to Authority.

XII

Upon the termination of this lease for any cause, Hitox shall have the right, at its option, to remove the improvements placed on the leased premises by it (except as hereinafter set out) provided that if it removes any of the same it shall remove all and shall leave the property in good and clean condition; and provided further, that Hitox shall not have the right to remove any fill, railroad spur tracks, docks or wharves; and provided further, that such improvements as may be removed shall be removed within a period of six (6) months after the date of such expiration, and that all rentals provided herein shall be paid during such period. If Authority agrees in writing, Hitox may leave all of said improvements on the premises, and same shall become the property of Authority. Hitox shall have the right at any time during the term of this lease to remove and sell and/or otherwise dispose of, free of any lien of Authority, buildings, equipment or other property of Hitox, deemed by Hitox, not required for the conduct of Hitox's business.

XIII.

All notices required to be, or that may be, given hereunder by either party to the other shall be given by registered or certified mail, postage prepaid, addressed as follows:

TO AUTHORITY: Port of Corpus Christi Authority
of Nueces County, Texas
P. O. Box 1541
Corpus Christi, Texas 78403

TO HITOX: Hitox Corporation of America
Rincon Industrial Park
Corpus Christi, Texas

or at such other address as may be designated from time to time in writing.

XIV.

A. All covenants, conditions and agreements of this lease shall apply to and be binding upon Authority and Hitox and their respective legal representatives, successors and assigns (when assignment is made in accord with the provisions hereof).

B. Whenever Authority's consent to any act to be performed by Hitox is required under this lease, Authority agrees that its consent will not be unreasonably withheld.

C. This lease is made under the applicable laws of the State of Texas and if any term, clause, provision, part or portion of this lease shall be adjudged invalid or illegal for any reason, the validity of any other part or portion of this lease shall not be affected thereby, and the invalid or illegal portion thereof shall be deleted and ignored as if the same had not been written herein. If any of the rights and authorities granted hereunder are in excess of the authority of Authority, then the rights and authorities shall be limited to such as the Authority is authorized to grant, under the applicable laws.

D. The failure of Hitox or of Authority to insist upon the strict performance of any of the covenants and conditions of this lease, or the consent, either express or implied, of either party hereto to any act or omission by the other party in breach of default hereof, shall not be deemed or construed to be a waiver of any such covenants or condition except for that particular instance only and shall not constitute or be construed as a waiver of such covenant or condition or of any further or future breach or default thereof.

E. This agreement is made in Texas and is to be performed in Nueces County, Texas, and shall be interpreted under the laws of the State of Texas.

IN WITNESS WHEREOF this lease is executed in duplicate on the date first above mentioned.

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

By: James C. Storm
James C. Storm

By: Eddie Galvan
Eddie Galvan

By: Mack B. Norris
Mack B. Norris

By: Richard R. Valls
Richard R. Valls

By: Joe Galah
Joe Galah

By: Joe R. Fulton
Joe R. Fulton

By: J. L. Laird
J. L. Laird

ITS PORT COMMISSIONERS

HITOX CORPORATION OF AMERICA

By: Richard L. Bowers
President & C.E.O. (Title)

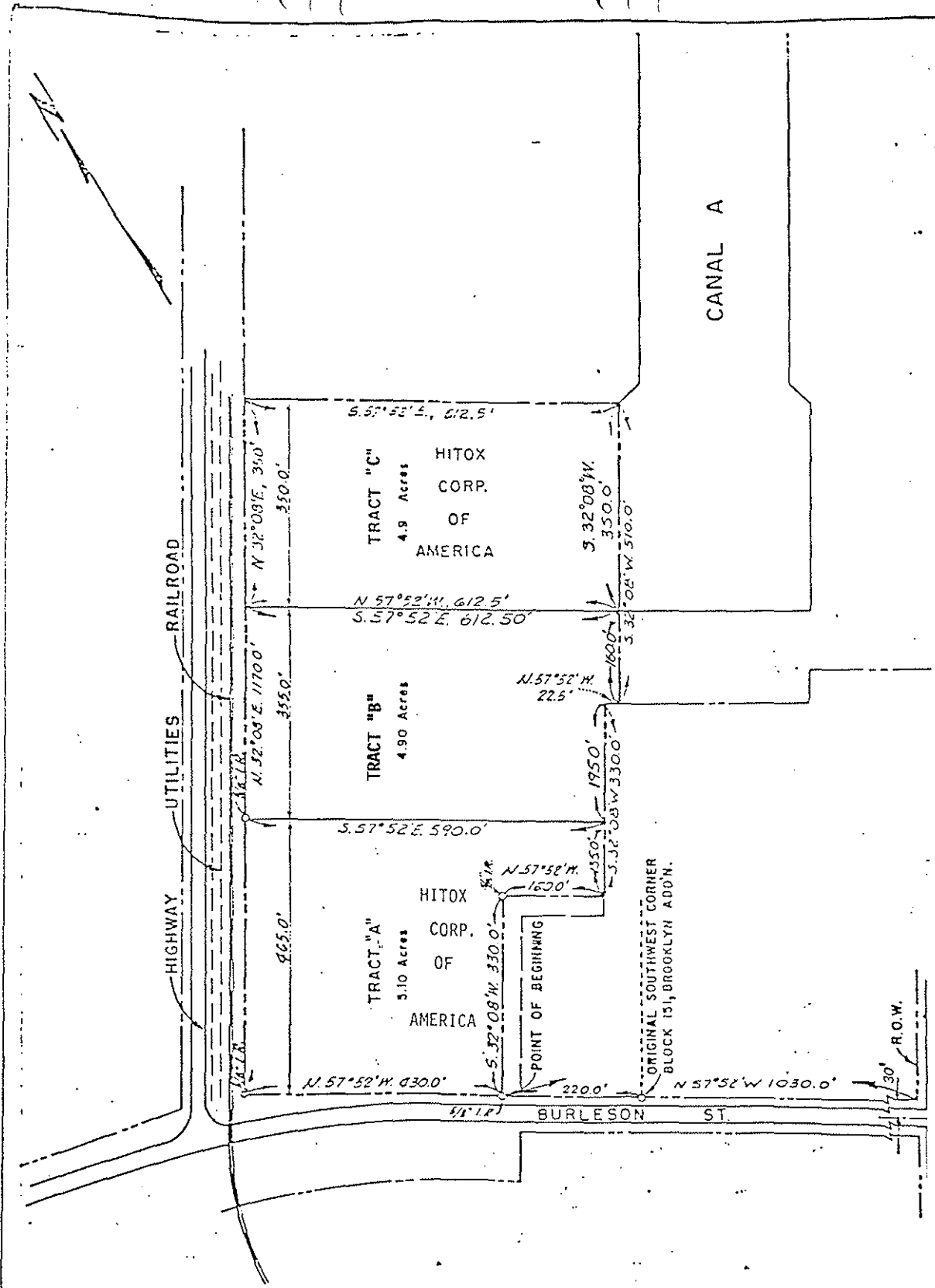


EXHIBIT C

NO.	DATE	REVISION



PORT OF CORPUS CHRISTI AUTHORITY

HITOX CORPORATION OF AMERICA
5.10 Acre Tract &
4.921 ACRE TRACT

SCALE: 1" = 200'
OWN. BY G. B. Y.

DATE 139
DRAWN BY

Extra

LEASE

THIS LEASE is executed this 12th day of January, 1988, by and between Port of Corpus Christi Authority of Nueces County, Texas, called "Authority", and Hitox Corporation of America, a Delaware corporation with permit to do business in Texas, called "Lessee";

WITNESSETH:

For and in consideration of the rents to be paid and the covenants and obligations to be performed by Lessee herein, Authority hereby leases to Lessee and Lessee hires from Authority the tract of land hereinafter described, to-wit:

A tract of land in Rincon Industrial Park, Corpus Christi, Texas, fronting on the West side of Canal A, which tract as to acreage and shape is more particularly described on Exhibit A which is attached hereto and incorporated herein by reference for all purposes.

TO HAVE AND TO HOLD the above described premises subject to the conditions and covenants herein contained for a period of five (5) years, beginning on January 1, 1988, and ending at midnight on December 31, 1992, subject to two five-year options to extend the term of this lease, as hereinafter set out.

Lessee has constructed a manufacturing facility on the leased premises and shall continue to use the leased premises during the original term and any extensions for the purposes for which Lessee is presently using the leased premises.

The parties hereto further covenant and agree as follows:

I.

Lessee shall have the right and privilege to use and occupy the leased premises and to build, construct, alter, remove, replace, maintain, repair and use on the leased premises such office buildings, warehouses, shops and other structures, railroad tracks, utility lines and roads as may be necessary, convenient, or required to enable Lessee to receive and handle for its own use, and to receive and mill, grind or process for others, commodities such as ilmenite, natural rutile, synthetic rutile, zircon, iron ores, sodium nitrate, barium sulphate, calcium in several forms, silicas, salts (potassium, calcium, sodium) and other commodities. The premises

may be used only for the receiving and shipping of commodities which are to be used by Lessee in its own business or such commodities which will be milled and processed for other owners who own such commodities without a change of title to them. The leased premises shall not be used for the transshipment of commodities for other parties.

II.

Lessee shall pay to Authority rental as follows:

On the beginning date of this lease, and on or before the same day of each calendar month thereafter during the initial five year term, the sum of Twenty-Four Hundred and Fifty Dollars (\$2,450.00) per month as a Base Rental. The Base Rental has been established as Nine Dollars (\$9.00) per foot per month for the frontage on Canal A as an equalization valuation, that is, a factor used for equalizing rentals on various Authority lands. The Billy Pugh Company, Inc. holds a lease on the entire three hundred fifty feet (350') of frontage on Rincon Road and will pay Seven Hundred Dollars (\$700.00 per month directly to Authority, subject to a change in valuation each five years. Lessee shall pay Twenty-Four Hundred Fifty Dollars (\$2450.00) per month, also subject to a change in valuation. Subsequent changes in the equalization valuation resulting in a change in rental shall be proportionate, that is, to retain the \$9.00 per front foot rental on Canal A for the entire land covered by the two leases (e.g.: 350 feet x \$9.00 = \$3,150.00 and \$700.00 plus \$2,450.00 = \$3,150.00).

The Base Rental shall be paid for each of the five years of the term of this lease as above stated. The rental for each subsequent five (5) year period of the term, if Lessee exercises its option for such period, shall be adjusted for changes in the equalization valuation as follows:

Within thirty (30) days after Authority receives written notice of Lessee's exercise of the option to extend the term, the equalization valuation for such five-year period shall be established and Lessee notified in writing of the new valuation. If Lessee is not so notified prior to such time, it shall be conclusively presumed

that the equalization valuation for such five-year period is to be the same as that for the prior five-year period. The establishment of the amount of the equalization valuation shall be solely in the discretion of Authority.

III.

Authority grants to Lessee the option to extend this lease for an additional period of five (5) years and, if Lessee exercises such option, then to extend the term for an additional period of five (5) years. Lessee's option may be exercised only by notice in writing given to Authority by Lessee ninety (90) days or more prior to the expiration of the term of the lease which is then in effect. Within thirty (30) days after Lessee receives from Authority notice as to what the Base Rental will be for the five (5) year extended term, Lessee shall have the right to give Authority another notice in writing that the proposed rental is not satisfactory and that it withdraws the exercise of option notice previously given. If Lessee gives notice withdrawing its exercise of option, the lease shall terminate at the end of the five (5) year term or extended term then in effect. If Lessee fails timely to give such withdrawal notice, this lease shall continue for the additional five (5) year extended term at the rental fixed by Authority in its notice to Lessee.

IV.

It is mutually agreed that a substantial consideration for the granting of this lease is for Lessee to make active use of the premises for the purposes described above and to provide employment and otherwise contribute to the general economy of the area.

Lessee shall comply with applicable requirements of the Economic Development Administration, including the execution of an equal opportunity employee agreement, if required, copy of which shall be furnished to Authority.

V.

Lessee may, at its own expense, connect to existing utilities in the Rincon Industrial Park (with metering costs direct to Lessee). Authority grants to Lessee the right to cross its adja-

lands with railroad track and at its expense to install such switch or switches and spur tracks as may be necessary to connect to the main lead track and to extend railroad spur track service to the leased premises. It is contemplated that the railroad track will be a part of the Corpus Christi Terminal Association and that arrangements for construction of spur tracks and arrangements for railroad service to the leased premises will be made by Lessee with the said Association. Authority has required Billy Pugh Company, Inc. to afford access to Lessee across its lease to afford access to Rincon Road. Such roadway shall be maintained by the two Lessees at joint expense.

Similarly, Billy Pugh Company, Inc. does not have access to Canal A which Authority hereby grants to Billy Pugh Company, Inc., with the cost of such roadway to be maintained by the two Lessees at joint expense.

VI.

The leased premises contain frontage on Canal A of the Rincon Industrial Park and Lessee is granted access to and right of use of Canal A from the leased premises, without payment of dockage or wharfage charges, for shipping and receiving, by water transportation, materials used for construction on the leased premises and materials and commodities used or consumed by Lessee in business which is conducted on land in Rincon Industrial Park held under lease from Authority. On commodities owned by others which are received or shipped by water transportation at the leased premises and are milled or processed for the owners of such commodities (that is, value added) there being no change in title, Lessee shall pay Authority one-half (1/2) of Authority's regularly published wharfage rate for such commodities as such rate exists at the time commodities move from water transport to the leased premises or from the leased premises to water transport. Lessee shall report to Authority monthly as to the amount of such commodities so handled and shall pay to Authority at its offices in Corpus Christi the amount due as wharfage. Authority shall have the right at reason-

times during business hours to inspect the books and records of Lessee concerning such shipments and payments.

Live loads within thirty feet (30') of the bulkhead shall be limited to two hundred pounds (200 lbs.) per square foot and at greater distances to one thousand pounds (1,000 lbs.) per square foot. If Lessee requires loads in excess of such limits within such distance, Lessee shall provide, at its expense, such additional structures as may be required to carry the excess load.

Lessee accepts the land in its present condition and the responsibility for all grading, leveling, stabilization, drainage and other improvements it needs for its operations. Lessee shall arrange its drainage system to assure that surface drainage is not permitted to flow over the bulkhead into the Canal nor onto lands adjoining the leased premises on the north and south.

VII.

No rights granted herein for the use by Lessee of the lands or other property or facilities of Authority other than the leased premises shall be exclusive in Lessee as against any other person, firm or corporation using the same with permission of Authority and such use shall not be permitted where it will interfere, in the opinion of Authority, with the rights of other persons, firms or corporations then holding any of the lands of Authority under lease or franchise. Authority agrees that the use by other than Lessee of such lands, and other properties or facilities of Authority, shall not interfere with the rights of Lessee to use the leased premises or such other lands, properties or facilities of Authority.

VIII.

Authority shall have the right, when in the best interest of the public and the development of the Industrial Park, to establish utility and pipeline easements through and across the leased premises so long as said use does not unreasonably interfere with the use of the premises by Lessee. However, no rights of

encroachment or easement on the leased premises shall be granted without Lessee's permission, which permission will not be unreasonably withheld.

IX.

This lease is granted with reasonable conditions for the protection of Authority, and its property and the property of its tenants, and subject to reasonable regulations as to construction, to-wit:

1. Lessee will at all times conduct its operations so as not to create any unusual fire hazard and will keep the leased premises clean.

2. Before beginning the work on any new construction or before making any changes or additions to the then existing construction on any lands covered by this lease, Lessee shall submit plans of the proposed work to the Director of Engineering Services for Authority for approval and information, and said approval shall not be refused without good cause. All buildings shall be set back forty feet (40') or more from the west property line of the leased premises. No free standing signs larger than fifteen square feet in size may be erected on the leased premises. Signs may be erected flat against the building and extending out from the exterior wall no more than one foot and shall be no larger than sixty square feet in size. Flashing signs will not be used. The leased premises may be fenced at Lessee's expense.

3. Lessee shall perform all construction in conformity with current Standard Building Code standards and requirements for the area in which the construction is located and shall conform with the Code of the National Board of Fire Underwriters covering the location and type of structure proposed to be constructed by Lessee on the leased premises. All buildings shall be steel frame, iron clad or better construction. Trailers will be permitted only during initial construction stage, but not to exceed the first six (6) months of the original term.

4. Lessee shall use the leased premises in accord with such reasonable rules and regulations as Authority has in effect at the present or may invoke in the future applying to all persons holding similar leases or franchises.

5. Lessee, its successors and assigns, shall indemnify and hold Authority harmless of and from all expenses and liability for and resulting from negligence of Lessee, its agents or employees, in connection with the exercise by Lessee of any of the rights and privileges herein granted.

6. Lessee shall take all reasonable precautions to prevent pollution of the waters of the canals in Rincon Industrial Park and shall comply with the Texas laws relating to water, air and noise pollution control. Rubbish, debris or litter shall not be deposited in Canal A but shall be disposed of in accordance with State, County and City regulations.

7. Only boats, barges, or other equipment (not to exceed 350 feet in length) being loaded or unloaded by Lessee may be moored along the leased frontage. Mooring boats and barges of others, including pleasure craft and houseboats, is specifically prohibited unless special arrangements are made with Authority regarding additional payments or rental for berthing. Lessee shall not moor at the leased premises any barge or other vessel with length in excess of 350 feet.

8. Lessee shall provide at its own expense all moorings necessary or required to moor boats, barges or other vessels at the leased premises. Such moorings shall be located so as not to be in contact with either tieback rods or anchorage by the concrete bulkhead. Lessee agrees to remove, or cause to be removed, within twenty-four (24) hours any vessel owned or controlled by Lessee berthed at the leased premises which in the opinion of the Authority is a menace or nuisance to navigation.

X.

This lease shall not be assigned nor shall the leased premises be sublet in whole or in part without the consent of Authority in writing thereto first being obtained, which consent shall not be unreasonably withheld.

XI.

It is contemplated that Lessee may be required to borrow funds for the initial construction of improvements on the leased premises and that from time to time during the term of this lease it may be desirable or convenient for Lessee to borrow additional funds for additional improvements, alterations, repairs, or for other purposes. Accordingly, with the prior written consent of Authority, during the term of this lease Lessee shall have the right to mortgage or convey by deed of trust or any other security instrument this lease and the leasehold rights of Lessee created by this lease, together with all of Lessee's rights, titles and interest in the buildings and improvements then on or thereafter to be placed on the leased premises; provided, however, that any such mortgage, deed of trust, security conveyance, or encumbrance will at all times be subject to and recognize the right, title and interest of Authority to require the payment of all rent due hereunder and the full and faithful performance of all covenants and conditions of this lease by Lessee.

Authority subordinates its landlord's lien on the improvements and other property Lessee places on the leased premises to the rights of the holder of any such mortgage, deed of trust or other security instrument.

In the event at any time during the term of this lease, Lessee or anyone holding under Lessee shall be in default of any of the covenants or any of the conditions of this lease, then and in such event the holder of the mortgage, deed of trust or other security instrument may, before forfeiture is invoked by the

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 of this lease 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. Authority agrees that, if requested in writing by the holder of any mortgage, deed of trust or other security instrument, it will send to the said holder at the address specified in the written request copies of all written notices or demands which Authority may serve upon Lessee, or anyone holding under Lessee, under and pursuant to the terms of this lease.

It is understood, however, that the mortgagee, trustee, beneficiary of said deed of trust or other holder of security above mentioned shall in no way be liable to Authority for the payment of any rent or for the performance of any other covenants and conditions under this lease 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 mortgage, deed of trust or security instrument, all the right, title and interest of Lessee under this lease; 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, 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 thereunder.

XII.

In the event Lessee shall be declared bankrupt according to law, or if a voluntary or involuntary petition for bankruptcy or for reorganization under the bankruptcy laws be filed as to Lessee, or if any assignment shall be attempted to be made of this lease for the benefit of creditors, (other than as herein permitted in this lease) then in any of said events Authority may, if such

condition shall continue for a period of more than sixty (60) days thereafter, lawfully declare the lease to be terminated and may enter into and upon the land covered by this lease, or any part thereof, and repossess the same and expel Lessee and those claiming under it and remove its effects, forcibly if necessary, without being deemed guilty of any manner of trespass and without prejudice to any remedies which might otherwise be used for possession or for arrears of rent. In the event of default by Lessee in the performance of any of the other covenants and conditions of this lease and in event such default shall be continued for sixty (60) days after Authority has by written notice to Lessee advised it fully of the kind, nature and extent of such default, this lease shall be subject to termination upon written notice from Authority.

XIII.

If by reason of strike, lockout, war, rebellion, material or labor shortage due to a national emergency, fire, flood, wind, water or other casualty, or by any other matter not within its control, the Authority or Lessee is in good faith and without fault or neglect on its part prevented or delayed in the construction or removal of any buildings or improvements or in the performance of any covenants or condition which under the terms of this lease it is required to do within a specified period of time, the period of time within which such performance was to have been completed shall be extended by a period of time equal to that of such delay or prevention and Authority or Lessee, as the case may be, shall not be deemed to be in default if it performs and completes such work or covenant and condition in the manner required by the terms of this lease within the specified period of time so extended. However, if the condition or prevention shall continue for more than six (6) months, Lessee shall have the option of terminating this lease upon thirty (30) days prior written notice to Authority.

XIV.

Upon the termination of this lease for any cause, Lessee shall have the right, at its option, to remove the improvements placed on the leased premises by it (except as hereinafter set out) provided that if it removes any of the same it shall remove all and shall leave the property in good and clean condition; and provided further, that Lessee shall not have the right to remove any fill or any shell, caliche, limestone, asphalt or other surfacing materials, railroad spur tracks, docks or wharves; and provided further, that such improvements as may be removed shall be removed within a period of six (6) months after the date of such expiration, and that all rentals provided herein shall be paid during such period. If Authority agrees in writing, Lessee may leave all of said improvements on the premises, and same shall become the property of Authority. Lessee shall have the right at any time during the term of this lease to remove and sell and/or otherwise dispose of, free of any lien of Authority, buildings, equipment or other property of Lessee, deemed by Lessee, not required for the conduct of Lessee's business.

XV.

All notices required to be, or that may be, given hereunder by either party to the other shall be given by registered or certified mail, postage prepaid, addressed as follows:

TO AUTHORITY: Port of Corpus Christi Authority
P.O. Box 1541
Corpus Christi, Texas 78403

TO LESSEE: Hitox Corporation of America
P. O. Box 2544
Corpus Christi, Texas 78403

or at such other address as may be designated from time to time in writing.

XVI.

A. All covenants, conditions and agreement of this lease shall apply to and be binding upon Authority and Lessee and their respective legal representatives, successors and assigns (when assignment is made in accord with the provisions hereof).

B. Whenever Authority's consent to any act to be performed by Lessee is required under this lease, Authority agrees that its consent will not be unreasonably withheld.

C. This lease is made under the applicable laws of the State of Texas and if any term, clause, provision, part or portion of this lease shall be adjudged invalid or illegal for any reason, the validity of any other part or portion of this lease shall not be affected thereby, and the invalid or illegal portion thereof shall be deleted and ignored as if the same had not been written herein. If any of the rights and authorities granted hereunder are in excess of the authority of Authority, then the rights and authorities shall be limited to such as the Authority is authorized to grant, under the applicable laws.

D. The failure of Lessee or of Authority to insist upon the strict performance of any of the covenants and conditions of this lease, or the consent, either express or implied, of either party hereto to any act or omission by the other party in breach or default hereof, shall not be deemed or construed to be a waiver of any such covenants or condition except for that particular instance only and shall not constitute or be construed as a waiver of such covenant or condition or of any further or future breach or default thereof.

E. This agreement is made in Texas and is to be performed in Nueces County, Texas, and shall be interpreted under the laws of the State of Texas.

F. This is a renewal lease. Lessee releases to Authority that portion of its land which Authority is this date leasing to Billy Pugh Company, Inc.

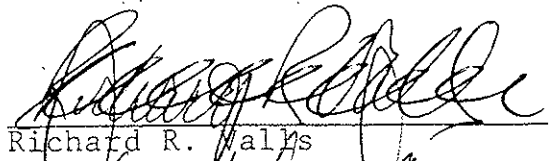
IN WITNESS WHEREOF this lease is executed in duplicate on the date first above mentioned.

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS

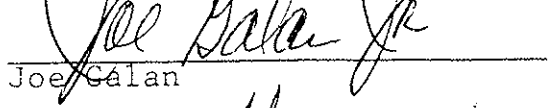
By: James C. Storm
James C. Storm

Eddie Galvan
Eddie Galvan

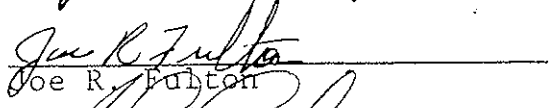
Mack B. Norris
Mack B. Norris



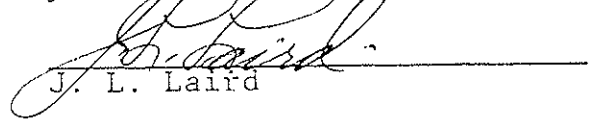
Richard R. Walls



Joe Galan



Joe R. Fulton

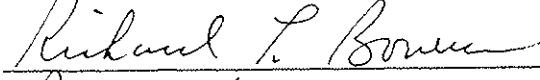


J. L. Laird

ITS PORT COMMISSIONERS

AUTHORITY

HITOX CORPORATION OF AMERICA

By: 

President (Title)

LESSEE

ORIGINAL

AMENDMENT OF LEASES

STATE OF TEXAS §
 §
COUNTY OF NUECES §

KNOW ALL MEN BY THESE PRESENTS

WHEREAS, by instrument ("Lease #1") dated April 14, 1987, the Port of Corpus Christi Authority of Nueces County, Texas ("Authority"), leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., ("Lessee"), a ten (10.0) acre tract of land in Nueces County, Texas, which is completely described in the Lease, for a term of thirty (30) years, beginning July 1, 1987, and expiring June 30, 2017; and

WHEREAS, by instrument ("Lease #2") dated January 12, 1988, the Port of Corpus Christi Authority of Nueces County, Texas ("Authority"), leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., ("Lessee"), a two and 86/100 (2.86) acre tract of land in Nueces County, Texas, which is completely described in the Lease, for a primary term of five (5) years, beginning January 1, 1988, with two (2), five (5) year option terms, and expiring December 31, 2002; and


WHEREAS, both parties wish to amend the Lease to provide that they both may expire on June 30, 2027; and

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency and receipt of which is acknowledged by both parties hereto, and in further consideration of the mutual covenants and obligations contained herein, Authority and Lessee do hereby agree as follows:

1. The Lease is hereby amended as follows:
 - A. The ending date of Lease #1 is hereby amended from June 30, 2017, to June 30, 2027.
 - B. The number of option periods of Lease #2 is hereby amended to change from two (2) to six (6) five-year option periods and a final option period expiring on June 30, 2027.
2. All other terms and conditions of the Lease not hereby changed or modified, shall remain the same as written in the Lease.
3. This agreement shall be binding on the successors and assigns of the parties hereto.

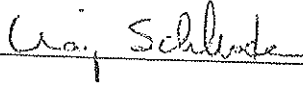
Executed in duplicate originals effective the 11th day of July, 2000.

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

By: 
John P. LaRue
Executive Director

"Authority"

TOR MINERALS INTERNATIONAL, INC.

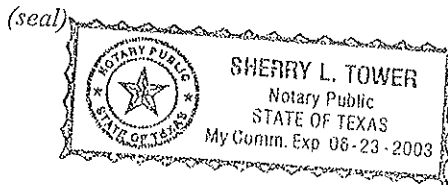
By: 
Title: CHIEF FINANCIAL OFFICER

"Lessee"

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 12th day of July, 2000 by JOHN P. LARUE, as Executive Director of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Port.

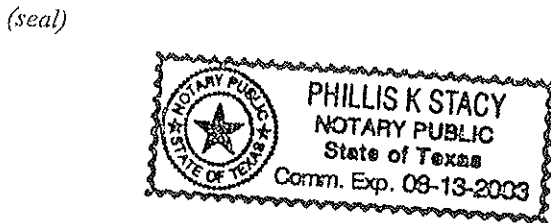
Sherry L. Tower
NOTARY PUBLIC, STATE OF TEXAS



STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 19th day of June, 2000, by Craig Schkade, CEO of TOR Minerals International, Inc., on behalf of said company.

Phyllis K. Stacy
NOTARY PUBLIC, STATE OF TEXAS



SECOND AMENDMENT
OF LEASES

STATE OF TEXAS §
 §
COUNTY OF NUECES §

KNOW ALL MEN BY THESE PRESENTS

WHEREAS, by instrument ("Lease #1") dated April 14, 1987, as amended by an instrument dated July 11, 2000, the Port of Corpus Christi Authority of Nueces County, Texas ("Authority"), leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., ("Lessee"), a ten (10.0) acre tract of land in Nueces County, Texas, which is completely described in the Lease, as amended, for a term of thirty (30) years, beginning July 1, 1987, and expiring June 30, 2027; and

WHEREAS, by instrument ("Lease #2") dated January 12, 1988, as amended by instrument dated July 11, 2000, the Port of Corpus Christi Authority of Nueces County, Texas ("Authority"), leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., ("Lessee"), a two and 86/100 (2.86) acre tract of land in Nueces County, Texas, which is completely described in the Lease, as amended, for a primary term of five (5) years, beginning January 1, 1988, with two (2), five (5) year option terms, and expiring on June 30, 2027; and

WHEREAS, both parties wish to amend Article XII of Lease #1 and Article XIV of Lease #2: and

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency and receipt of which is acknowledged by both parties hereto, and in further consideration of the mutual covenants and obligations contained herein, Authority and Lessee do hereby agree as follows:

- 1. Lease #1 is hereby amended as follows:

Article XII of the Lease is hereby deleted in its entirety and replaced with the following new Article XII:

XII

Upon the termination of this lease for any cause, TOR Minerals shall have the right, at its option, to remove the improvements placed on the leased premises by it (except as hereinafter set out) provided that it shall leave the property in good and clean condition; and provided further, that TOR Minerals shall not have the right to remove any fill, railroad spur tracks, docks or wharves; and provided further, that such improvements as may be removed shall be removed within a period of six (6) months after the date of such expiration, and that all rentals provided herein shall be paid during

such period. TOR Minerals may leave all of said improvements on the premises provided that all hazardous materials are removed from the improvements, and same shall become the property of Authority. TOR Minerals shall have the right at any time during the term of this lease to remove and sell and/or otherwise dispose of, free of any lien of Authority, buildings, equipment or other property of TOR Minerals, not required for the conduct of TOR Minerals' business.

2. Lease # is hereby amended as follows:

Article XIV of the Lease is hereby deleted in its entirety and replaced with the following new Article XIV:

XIV:

Upon the termination of this lease for any cause, TOR Minerals shall have the right, at its option, to remove the improvements placed on the leased premises by it (except as hereinafter set out) provided that it shall leave the property in good and clean condition; and provided further, that TOR Minerals shall not have the right to remove any fill, railroad spur tracks, docks or wharves; and provided further, that such improvements as may be removed shall be removed within a period of six (6) months after the date of such expiration, and that all rentals provided herein shall be paid during such period. TOR Minerals may leave all of said improvements on the premises provided that all hazardous materials are removed from the improvements, and same shall become the property of Authority. TOR Minerals shall have the right at any time during the term of this lease to remove and sell and/or otherwise dispose of, free of any lien of Authority, buildings, equipment or other property of TOR Minerals, not required for the conduct of TOR Minerals' business.

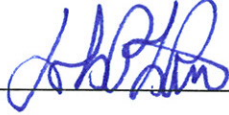
3. All other terms and conditions of the Lease not hereby changed or modified, shall remain the same as written in the Lease.

4. This agreement shall be binding on the successors and assigns of the parties hereto.

Executed in duplicate originals effective the 13th day of May 2003.



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



By: 
John P. LaRue
Executive Director

"Authority"

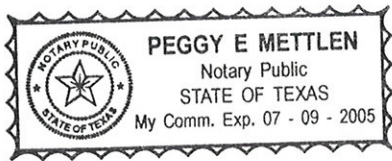
TOR MINERALS INTERNATIONAL, INC.

By: 
Title:  President & C.E.O.

"Lessee"

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 13th day of May, 2003 by JOHN P. LARUE, as Executive Director of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Port.



Peggy E. Mettlen

NOTARY PUBLIC, STATE OF TEXAS

(seal)

STATE OF TEXAS §
 §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 15th day of May, 2003, by Richard L. Bowden, President & CEO of TOR Minerals International, Inc., on behalf of said company.

Elizabeth H. Morgan

NOTARY PUBLIC, STATE OF TEXAS

(seal)

THIRD AMENDMENT
OF LEASES

STATE OF TEXAS §
 §
COUNTY OF NUECES §

KNOW ALL MEN BY THESE PRESENTS

WHEREAS, by instrument ("**Lease #1**") dated April 14, 1987, as amended by instruments dated July 11, 2000, and May 13, 2003, the Port of Corpus Christi Authority of Nueces County, Texas ("**Authority**"), leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., ("**Lessee**"), a ten (10.0) acre tract of land in Nueces County, Texas, which is completely described in Lease #1, as amended, for a term beginning July 1, 1987, and expiring June 30, 2027; and

WHEREAS, by instrument ("**Lease #2**") dated January 12, 1988, as amended by instruments dated July 11, 2000, and May 13, 2003, the Port of Corpus Christi Authority of Nueces County, Texas, leased to the Hitox Corporation of America, whose name is now TOR Minerals International, Inc., a two and 86/100 (2.86) acre tract of land in Nueces County, Texas, which is completely described in Lease #2, as amended, for a term beginning January 1, 1988, and expiring on June 30, 2027; and

WHEREAS, the Authority, Lessee, and Bank of America, N.A. (the "**Bank**"), have entered into that certain Mutual Recognition Agreement and Landlord's Consent and Subordination Agreement (the "**Consent**") executed as of September 13, 2005, under which the Authority consents to Lessee's granting to the Bank a lien upon and a security interest in and to certain personal property and collateral located at the premises leased by Lessee under Lease #1 and Lease #2; and

WHEREAS, both parties wish to amend the size of the acreage covered by Lease #1 and adjust the rent under Lease #1 to reflect the use of the increase in acreage;

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency and receipt of which is acknowledged by both parties hereto, and in further consideration of the mutual covenants and obligations contained herein, Authority and Lessee do hereby agree as follows:

1. Lease #1 is hereby amended as follows:
 - a. After November 15, 2005, all references to the Leased Premises in Lease #1 shall mean the property described and depicted as TOR MIN. TRACT "A" and TOR MIN. TRACT "B" in **Exhibit A** to this Third Amendment of Leases.
 - b. The current rental for Lease # 1 is hereby increased to \$2,062.00 per month effective as of December 1, 2005.

c. To compensate the Authority for the prior use of the additional acreage being added to Lease #1, a one additional rental payment of \$19,900.00 is due on December 1, 2005.

2. The parties hereby agree that after November 15, 2005, all references to the "Premises" in the Consent shall mean the property described and depicted as TOR MIN. TRACT "A", TOR MIN. TRACT "B", and TOR MIN. TRACT "C" in **Exhibit A** to this Third Amendment of Leases.

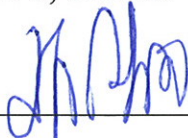
3. Except as amended hereby, all terms and conditions of Lease #1 and Lease #2 shall remain in full force and effect.

4. This agreement shall be binding on the successors and assigns of the parties hereto.

Executed in duplicate originals effective the 15th day of November 2005.

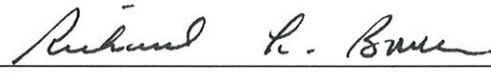


**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS**

By: 
John P. LaRue
Executive Director

"Authority"

TOR MINERALS INTERNATIONAL, INC.

By: 
Title: P.E.O.

"Lessee"

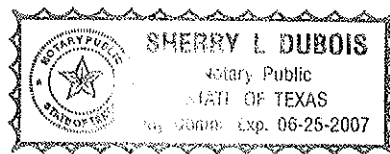
STATE OF TEXAS §
§
COUNTY OF NUECES §

This instrument was acknowledged before me on the 15th day of November 2005 by John P. LaRue, as Executive Director of the Port of Corpus Christi Authority of Nueces County, Texas, on behalf of the Port.

Sherry L. Dubois

NOTARY PUBLIC, STATE OF TEXAS

(seal)



STATE OF TEXAS §
§
COUNTY OF NUECES §

This instrument was acknowledged before me on the 16th day of November, 2005, by Elizabeth K. Noye, President & CEO of TOR Minerals International, Inc., on behalf of said company.

Elizabeth K. Noye

NOTARY PUBLIC, STATE OF TEXAS

(seal)

P. C. C. A.
TRACT C
158.04 ACRES



EAST LINE OF
100' WIDE
ROAD/RAIL R-O-W

P. O. B.
TRACT B

RINCIN ROAD

PUGH CD.
2.06 ACRES

TOR MIN.
TRACT 'B'
4.90 ACRE
LEASE

TOR MIN.
TRACT 'C'
2.86 ACRE
LEASE

CANAL 'A'
TURNING
BASIN

TOR MIN.
TRACT 'A'
5.41 ACRE
LEASE

TOR MINERALS
0.895 AC.

EAST BOUNDARY LINE
OF PCCA 158.04
ACRE TRACT C

P. O. B.
TRACT A
SOUTH CORNER OF
PCCA 158.04 ACRE TRACT C

ORIGINAL SW CORNER OF
BLOCK 151, BROOKLYN ADDITION

BURLESON ST.

NO.	DATE	REVISION



PORT OF CORPUS CHRISTI AUTHORITY

TOR MINERALS LEASE TRACTS

TRACTS A, B & C

SCALE: 1"=200'
DWN. BY: RALPH

DATE:
NOVEMBER, 2005

EXHIBIT "B"

INSERT EXHIBIT "B" BEHIND THIS PAGE

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS Assignment and Assumption Agreement (this "Agreement") dated effective as of _____, 2022 (the "Effective Date"), is made and entered into by and between TOR MINERALS INTERNATIONAL, INC., a Delaware corporation ("Assignor"), and UNITED MINERALS AND PROPERTIES, INC. a Georgia corporation ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignor (previously known as Hitox Corporation of America), as lessee, entered into that certain Lease dated April 14, 1987 with the Port of Corpus Christi Authority of Nueces County, Texas ("Landlord") and that certain Lease dated January 12, 1988 with Landlord, which were amended by Amendment of Leases dated effective July 11, 2000, Second Amendment of Leases dated effective May 13, 2003 and Third Amendment of Leases dated effective November 15, 2005 (said leases and amendments herein called jointly and severally the "Lease").

WHEREAS, Assignor and Assignee have entered into and closed a sale of assets pursuant to an Asset Sale Agreement (the "ASA").

WHEREAS, as a part of the ASA closing of the Assignor and Assignee entered into a Sublease Agreement ("Sublease") of the property covered by the Lease and a lease of the adjoining tract owned by Assignor.

WHEREAS, the Sublease allowed Assignee to assume the Lease, and Assignee has elected to exercise that right and option.

WHEREAS, Assignee and Assignor are entering into this Agreement to set forth their terms and agreements and finalize the assignment and assumption of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which are acknowledged and confessed by all parties, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee, and Assignee hereby accepts from Assignor, all right, title, interest and benefits of Assignor under the Lease, subject the terms and provisions set forth in this Agreement.
2. Assumption. Assignee hereby assumes all obligations, requirements, indemnities, payments and agreements as tenant and lessee under the Lease and agrees to fully and timely perform all obligations thereunder. Assignee further fully indemnifies and agrees to hold harmless and defend Assignor from any and all claims, liabilities, actions, damages, costs and risks in anyway associated with the Lease or the property subject to the Lease arising from and after the date of the Sublease as set forth in paragraph 4 below.
3. Additional Agreements. As a part of the assignment and assumption herein, the parties agree that

the following provisions shall apply to the parties obligations with regard thereto:

(a) General Obligations. Assignee agrees to and shall perform and observe all of the terms and conditions of the Lease and all covenants, duties and obligations of Assignor under the Lease to the extent the same are applicable to the Premises. Assignee agrees to and shall fully and timely perform all of its duties and obligations under the Lease, including, without limitation, the payment of all rent and other sums due under the Lease.

(b) Condition and Surrender of Premises. **Assignee acknowledges, by its execution of this Agreement, that it has inspected the Premises and has satisfied itself as to the condition of same and that it accepts the Premises "AS IS" and "WHERE IS" and with all faults, without representation or warranty of any kind, expressed, implied, statutory or otherwise, including specifically, without limitation, any warranty as to habitability, suitability, merchantability, condition or fitness for a particular purpose.**

(c) Termination of Sublease. Except for the assumption, indemnity, defense and hold harmless provisions of the Sublease, all of which shall remain in full force and effect, the Sublease is terminated in full.

(d) Environmental. Assignee expressly assumes all liability and responsibility for environmental, reclamation or any other required actions or costs associated with the Premises. The indemnity provisions herein cover all environmental conditions and damages.

(e) Release. Assignee fully releases Assignor from any and all liability related to or arising in connection with the Lease, Sublease and the Premises.

4. Indemnification. Assignee agrees to indemnify Assignor for any and all loss, cost, expense or liability (including, without limitation, attorneys' fees, accountants' fees, court costs and interest) resulting from any claims or causes of action in favor of or asserted by any party arising out of or relating to Assignee's failure to perform any duties or obligations under the Lease or this Agreement subsequent to the Effective Date of the Sublease, or in any way relating to the Project (as defined in the Lease) or the condition thereof (environmental or otherwise) not caused by either Landlord or Assignor. All indemnification, hold harmless and release provisions contained in the Lease running to the benefit of Landlord are incorporated into this Agreement by reference for the benefit of Assignor as if Assignor was the "Landlord" and Assignee was the "Tenant" under the Lease.

5. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas, without regard to the conflicts of laws principles thereof.


6. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of Assignor, Assignee and Landlord and their respective heirs, successors and assigns.

7. Authority. Assignor and Assignee have all necessary power, authority and consent to enter into this Agreement.

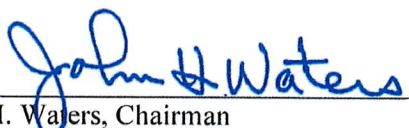
8. Condition. The effectiveness of the assignment herein is conditioned upon the Landlord under the Lease consenting to this assignment and releasing Assignor from further obligations under the Lease.

EXECUTED effective as of the date first set forth above.

TOR MINERALS INTERNATIONAL, INC.

By: 
James B. Roecker, Vice Chairman and CEO
Address: 615 N. Broadway St. Suite 410
Corpus Christi, Texas 78401
Email: jroecker@torminerals.com

**UNITED MINERALS AND PROPERTIES,
INC.**

By: 
John H. Waters, Chairman
Address: 49-0 Jackson Lake Rd.
Chatsworth, Georgia 30705
Email: jwaters@cimbar.com



DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
 (361) 885-6140

Approve Master Services Agreement No. 22-04 and Service Order No. 1 not to exceed \$150,000 with Surveying & Mapping, LLC., to preform ALTA land surveys and boundary land surveys in San Patricio and Nueces Counties, Texas.

SUMMARY: Staff recommends approval of Master Services Agreement No. 22-04 and Service Order No. 1 with Surveying & Mapping, LLC., (SAM) in the amount not to exceed \$150,000 to preform survey work associated with existing PCCA lands and potential acquisition of land and rights of way in San Patricio and Nueces Counties, Texas. SAM will perform boundary surveys, ALTA/NSPS land title surveys in accordance with the provided title commitments and other documents. SAM will deliver survey work in the Texas State Plane Coordinate System NAD 83, South Zone datum, CAD files, certified plats and metes and bound descriptions. The Service Order No. 1 expires May 24, 2025.

BACKGROUND: The Port of Corpus Christi Authority (PCCA) Real Estate Services Department requires a registered land surveying company to preform boundary surveys, ALTA/NSPS land title surveys on existing PCCA lands, potential land acquisitions and rights of way to identify the boundaries of the property, location of improvements on the subject property, including any structures, fences, utility lines, roads, etc., along with the location of any easements. The identification of improvements along with the location of any easements or encumbrances against a property are crucial to negotiating acquisition of land and right of way and future PCCA development.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: The services conform to PCCA's Procurement Policy and Strategic Plan 2023 (Strategic Goal #3 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: N/A

FINANCIAL IMPACT: The compensation to Surveying & Mapping, LLC., will be on a per parcel basis not to exceed \$150,000.

STAFF RECOMMENDATION: Staff recommends approval of Master Services Agreement No. 22-04 and Service Order No. 1 with Surveying & Mapping, LLC., in the amount not to exceed \$150,000 to perform boundary surveys, ALTA/NSPS land title surveys for future development of PCCA land associated with the evaluation of potential land acquisition and right of way in San Patricio and Nueces Counties.

DEPARTMENTAL CLEARANCES:

Originating Department Real Estate

Reviewed & Approved Sam Esquivel

Legal Standard Master Services Agreement and Service Order

Executive Staff Sean Strawbridge
 Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Master Services Agreement No. 22-04
Service Order No. 1

**MASTER SERVICES AGREEMENT
BETWEEN THE
PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS,
AND
SURVEYING AND MAPPING, LLC
FOR
PROFESSIONAL ENGINEERING SERVICES
ON A
SERVICE ORDER BASIS**



MASTER SERVICES AGREEMENT NO. 22-04

EFFECTIVE DATE: MAY 24, 2022

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**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 22-04
FOR PROFESSIONAL ENGINEERING SERVICES**

THIS MASTER SERVICES AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES (“**Agreement**”) is made effective as of the 24th day of May, 2022 (“**Effective Date**”) between the Port of Corpus Christi Authority of Nueces County, Texas, (“**PCCA**”) and Surveying and Mapping, LLC (“**Engineer**”), each a “**Party**” and collectively the “**Parties**”.

RECITALS

(a) From time to time PCCA may request that the Engineer provide professional services for Specific Projects. Each engagement will be documented by a Service Order.

(b) This Agreement sets forth the general terms and conditions which shall apply to all Service Orders duly executed under this Agreement.

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:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

Section 1.01 Certain Definitions

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below shall have the meanings set forth in this Section, which are applicable to both the singular and plural thereof:

1. *Addenda.* Written or graphic instruments issued prior to the opening of Bids that clarify, correct, or change the Bid Documents or the proposed Construction Contract Documents.
2. *Agreement.* This “Master Services Agreement between PCCA and Engineer for Professional Engineering Services,” including all Attachments and Exhibits attached hereto.
3. *Bid.* The offer or proposal of the bidder submitted on the PCCA-prescribed form setting forth the prices and schedule for the Work to be performed.
4. *Bid Documents.* The notice or invitation to submit bids or proposals for construction of a Specific Project, including the instructions to bidders, the Bid form and attachments, the bid bond, if any, the Construction Contract Documents, and all Addenda, if any.

5. *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.
6. *Change Order.* A document which is signed by a Contractor and PCCA and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal.* A written request by a Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Ceiling Price.* The maximum amount PCCA will pay for the Work or phases of Work described in a Service Order.
9. *Commencement Date of a Service Order.* The date indicated in a Service Order on which the Service Order becomes effective; but if no such date is indicated, it means the date on which this Service Order is signed and delivered by the last of the two Parties to sign and deliver.
10. *Constituent of Concern.* Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
11. *Construction Contract.* The entire and integrated written contract between PCCA and Contractor concerning the Work.
12. *Construction Contract Documents.* The documents described in the Construction Contract as the “Contract Documents.”

13. *Construction Contract Price.* The money that PCCA has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
14. *Construction Contract Times.* The numbers of days or the dates by which a Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion, and (c) complete the Work.
15. *Construction Cost.* The cost to PCCA of the construction of those portions of an entire Specific Project designed or specified by or for Engineer under this Agreement and the specific Service Order, including construction labor, services, materials, testing, equipment, insurance, and bonding costs, and allowances for contingencies. The Construction Cost does not include costs of Services of Engineer or other design professionals and Consultants; costs of land, rights-of-way, or compensation for damages to properties; or PCCA's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project; or the cost of services to be provided to PCCA by others. Construction Cost is one of the items comprising Total Project Costs.
16. *Constructor.* Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, PCCA's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and their employees, agents, and representatives.
17. *Consultants.* Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
18. *Contractor.* The individual or entity with which PCCA enters into a Construction Contract.
19. *Correction Period.* The time after Substantial Completion during which Contractor must correct, at no cost to PCCA, any Defective Work; normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Construction Contract Documents.
20. *Day.* For purposes of this Agreement and associated Service Orders, the term "day" means a calendar day of 24 hours.
21. *Defective Work.* Any part of the Work the Engineer or the RPR believes is defective under the terms and standards set forth in the Construction Contract Documents.

22. *Documents.* Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, generated, provided or furnished in appropriate phases by Engineer to PCCA pursuant to this Agreement and any attached Service Orders.
23. *Drawings.* That part of the Construction Contract Documents prepared or approved by Engineer that graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop drawings are not Drawings as so defined.
24. *Effective Date.* The date indicated in this Agreement on which it becomes effective; but if no such date is indicated, it means the date on which this Agreement is signed and delivered by the last of the two Parties to sign and deliver it.
25. *Engineer.* The individual or entity named as such in this Agreement.
26. *Engineer's Contract Representative.* The Engineer's Contract Representative is the person appointed to represent the Engineer's interests in this Agreement as more particularly described in Section 8.01(B).
27. *Field Order.* A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
28. *Final Acceptance.* That point in a Specific Project wherein PCCA considers the Project complete and PCCA issues a Certificate of Final Acceptance.
29. *General Conditions.* That part of the Construction Contract Documents that sets forth the terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to a Specific Project.
30. *Hourly Rates Service Order.* A Service Order under which PCCA agrees to pay Engineer based on the amount of time spent by the Engineer's employees in performing the Work described in the Service Order and for the Reimbursable Expenses incurred by Engineer in performing the services, but limited to the Ceiling Price specified in the Service Order.
31. *Laws and Regulations; Laws or Regulations.* Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
32. *Lump Sum Service Order.* A Service Order under which PCCA agrees to pay Engineer a specified agreed amount for the services described in the Service Order regardless of the number hours it takes to complete the work.
33. *Named Reimbursable Expenses.* Only the Reimbursable Expenses expressly listed, if any, in a Lump Sum Service Order.

34. *PCCA's Contract Representative.* PCCA's Contract Representative is the person appointed to represent PCCA's interests in this Agreement as more particularly described in Section 8.01(A).
35. *PCCA Parties.* PCCA and its agents, servants, representatives, employees, officers, directors, and Port Commissioners.
36. *Proposal.* Document representing technical qualifications, approach to specific work, and costs associated with construction of a Specific Project or project specific services.
37. *Record Drawings.* Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based solely on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction and to depict the final state of work.
38. *Reimbursable Expenses.* The expenses incurred directly by Engineer in connection with performing or furnishing Services for a Specific Project for which PCCA will pay Engineer as indicated in the Service Order and **Exhibit C**.
39. *Resident Project Representative.* The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "**RPR**" includes any assistants or field staff of the RPR.
40. *Samples.* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
41. *Scope of Services.* The scope of the professional engineering services to be provided by Engineer for any Specific Project as outlined in the Service Order for that Project.
42. *Services.* The professional engineering services to be provided by Engineer under any Service Order.
43. *Service Order.* A document in the form of **Attachment One** executed by PCCA and Engineer pursuant to this Agreement, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services, deliverables, and other relevant information for a Specific Project.
44. *Shop Drawings.* All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to PCCA or Engineer to illustrate some portion of the Work.

Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

45. *Site.* Lands or areas indicated in the Construction Contract Documents for a Specific Project as being furnished by PCCA upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by PCCA which are designated for use of a Contractor for the construction of a Specific Project.
46. *Specific Project.* The total specific undertaking to be accomplished for PCCA by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Service Order are a part.
47. *Specifications.* That part of the Construction Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
48. *Standard Hourly Rates.* The Standard Hourly Rates listed in Engineer's Standard Hourly Rates Schedule attached hereto as **Exhibit B**.
49. *Subcontractor.* An individual or entity having a direct contract with a Contractor or with any other Subcontractor for the performance of a part of the Work.
50. *Substantial Completion.* The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of PCCA or Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
51. *Special Conditions.* That part of the Construction Contract Documents which amends or supplements the General Conditions.
52. *Term or Term of this Agreement.* The Term of this Agreement is the period from the Effective Date until the date on which this Agreement expires or is terminated in accordance with the provisions of this Agreement.
53. *Total Project Costs.* The total cost of planning, permitting, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or PCCA's costs

for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to PCCA.

54. *Work.* The entire construction or the various separately identifiable parts thereof required to be provided by Construction Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, equipment, materials, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning; all as required by such Construction Contract Documents.
55. *Work Change Directive.* A written directive to a Contractor issued on or after the effective date of the Construction Contract, signed by PCCA and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Capitalized terms in this Agreement which are not defined in Section 1.01 are defined in the text of this Agreement the first time they occur.

Section 1.02 Terminology and Interpretation

A. The terms defined in Section 1.01 or in the text of this Agreement shall apply throughout this Agreement. All references in this Agreement to “Section” or “Article” shall refer to a section or article of this Agreement, unless otherwise expressly stated. All references in this Agreement to “Paragraph” shall refer to a paragraph of a Service Order or a paragraph of an Exhibit to this Agreement, unless otherwise expressly stated. All references to “Exhibits” shall mean the exhibits attached to this Agreement. All such Exhibits and any other attachments to this Agreement are incorporated in this Agreement by this reference. All references to herein, hereof, hereto, hereunder or similar terms shall be deemed to refer to this Agreement in its entirety. As used in this Agreement, the term “including” shall mean “including but not limited to.” The headings of Articles and Sections in this Agreement and the headings of Paragraphs in the Service Order and the Exhibits to this Agreement shall be for convenience only and shall not affect the interpretation hereof.

B Words used in the singular number shall include the plural, and vice-versa, and any gender shall be deemed to include each other gender. Reference to any agreement means such agreement as amended or modified and in effect from time to time in accordance with the terms thereof.

C. Unless otherwise indicated, for purposes of this 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 SERVICES OF ENGINEER AND REPORTS

Section 2.01 Scope of Services

A. Engineer's Services will be detailed in a duly executed Service Order for each Specific Project. The general format of a Service Order is shown in **Attachment One** to this Agreement. This Agreement shall be referred to in any Service Order issued pursuant hereto as "Master Services Agreement No. 22-04." Each Service Order will indicate the specific services to be performed, deliverables to be provided, schedule and specific compensation terms.

B. Engineer shall not be obligated to perform work under a prospective Service Order unless and until PCCA and Engineer agree as to the particulars of the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters and the specific Service Order is executed by both parties.

Section 2.02 Service Order Procedure

A. PCCA and Engineer shall agree on the scope, time for performance, and method of compensation for each Service Order. With respect to the scope of Engineer's services, each specific Service Order shall either (1) be accompanied by and incorporate a customized **Exhibit A**, "Engineer's Services for Service Order," prepared for the Specific Project, (2) state the scope of services in the Service Order document itself, or (3) incorporate by reference all or portions of **Exhibit A**, "Engineer's Services for Service Order," as attached to this Agreement. Each duly executed Service Order shall be subject to the terms and conditions of this Master Services Agreement, unless specifically modified within the Service Order.

B. Engineer shall provide, or cause to be provided, the services set forth in the fully executed Service Order.

Section 2.03 Times for Rendering Services

A. Engineer is not authorized to begin work or to incur costs under a Service Order until the time set forth in the Service Order.

B. The Commencement Date of each Service Order and the times for completing services or providing deliverables will be stated in each Service Order. Engineer is authorized to begin rendering services under a Service Order as of the Commencement Date of the Service Order unless otherwise specified in the Service Order.

C. Unless specific periods of time or specific dates for providing Services are specified in a Service Order, Engineer's obligation to render Services hereunder will be for a period which may reasonably be required for the completion of the Services.

D. If PCCA has requested changes in the scope, extent, or character of the Specific Project, the time of performance and completion of Engineer's Services may be adjusted equitably as agreed by the Parties.

E. If, through no fault of Engineer, the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for performance and completion of Engineer's services shall be adjusted equitably.

Section 2.04 PCCA Standard Specifications and Templates

In addition to the terms and conditions set forth herein and in associated Service Orders, the Engineer will perform Services in accordance with the current versions of PCCA standard specifications and templates.

Section 2.05 No Guaranteed Amount of Services

Services pursuant to this Agreement will be required on an irregular and as needed basis during the Term of this Agreement, and PCCA has not made nor does it make any representation of any kind or guarantee regarding the amount of services PCCA will require from Engineer under this Agreement.

Section 2.06 Progress Reports

A. Unless otherwise provided in a Service Order, Engineer will provide PCCA with a monthly progress report ("**Monthly Progress Report**") on the services being performed or furnished by Engineer under each Service Order. At a minimum, the report shall cover the following items:

1. The percentage of Work performed during the previous month.
2. The total percentage of the Specific Project completed.
3. Significant findings, problems, delays, inclusions, events, trends, etc. of the reporting period which result from or affect the performance of the Construction Contract.
4. Specific actions required of PCCA, to assist in the resolution of a problem or to affect the timely progression of the Work
5. The percentage of the Service Order budget expended during the reporting period and total expended to-date.
6. A statement that Services are on schedule, or an explanation of variance and proposed corrective actions.

B. The Monthly Progress Report for each Specific Project shall be delivered to the PCCA Project Manager within ten working days following the end of the month being reported.

**ARTICLE 3
CHANGES TO SERVICE ORDERS AND PERSONNEL**

Section 3.01 Changes to Service Orders Requested by PCCA

PCCA may change the Scope of Services set forth in a Service Order, by sending written notice to Engineer. Should Engineer believe that such changes require an equitable adjustment in Engineer's agreed compensation and/or schedule for the Services or other terms of the Services, Engineer shall notify PCCA in writing of its request for such adjustments no later than fourteen (14) calendar days following its receipt of such requested changes from PCCA. Except as otherwise instructed in writing by PCCA, Engineer shall not commence the changed Services until PCCA and Engineer have mutually accepted Engineer's timely requested adjustments, if any, to its compensation or schedule for its Services or other terms of the Services and a written amendment to Service Order is executed by the Parties.

Section 3.02 Changes to Service Orders Requested by Engineer

Should an event or condition occur after the initiation of a Service Order, that in the opinion of the Engineer, will result in a change in scope, schedule and/or budget, the Engineer will provide timely written notice to PCCA stating: the nature of the event or condition; detailing the impact on scope, schedule and/or, budget; and providing the Engineer's recommendation or request for modification of the affected Service Order. Such notice will be provided upon recognition of the event or condition and prior to the completion of the services stated in the Service Order. PCCA will not consider a request for an increase in the Ceiling Price of a Service Order that is submitted after completion of the services stated in the Service Order, if PCCA determines, in its sole discretion, that the event or condition cited as the cause for the increase in the Ceiling Price was, or could reasonably have been, known in time to submit a change request prior to completion of the services stated in the Service Order. PCCA will review the Engineer's recommendation or request and provide a written response agreeing with the requested recommendation or request or not accepting said recommendation or request. Any changes or modification to the scope, schedule and/or budget will be detailed in a written modification to the Service Order (Exhibit G – "Scope Change Request Form"). No changes to the Services shall be made by Engineer except with PCCA's prior written agreement.

Section 3.03 Replacement of Personnel

PCCA, in its sole discretion, shall have the right to demand that Engineer replace any personnel providing Services to PCCA under the terms of a Service Order. Upon receipt of PCCA's demand, Engineer will immediately replace the specified personnel with personnel substantially equal in ability and qualifications. The criteria for demanding replacement of an individual will be based on, but not limited to, the following: technical incompetence, inability to meet the position qualifications, failure to perform an assignment, poor attendance, ethics violation, unsafe work habits, damage to PCCA property, or reasonable PCCA dissatisfaction.

ARTICLE 4
PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Section 4.01 Methods of Compensation

A. The method of compensation for Services (including, if applicable, the method of compensation for individual phases of Services) shall be identified in each specific Service Order. PCCA shall pay Engineer for Services in accordance with the applicable method of compensation.

B. The method of compensation for services under a Service Order will be specified in that Service Order. The possible methods of compensation are as follows:

1. Lump Sum plus Named Reimbursable Expenses, if any;
2. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

Section 4.02 Explanation of Compensation Methods

A. Lump Sum plus Named Reimbursable Expenses

1. PCCA shall pay Engineer a Lump Sum amount for the specified services or category of services stated in a Service Order regardless of the amount of time it takes to complete the services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Consultant charges. In other words, Engineer will only be reimbursed for the Named Reimbursable Expenses (see Section 4.02(A)(3)).
3. In addition to the Lump Sum, Engineer shall also be entitled to reimbursement from PCCA for the Named Reimbursable Expenses explicitly listed in the Service Order, if any, that are reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services (see **Exhibit C** for rates or charges for these specific expenses).
4. Progress payments may be allowed in a Lump Sum Service Order. If so, the portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period, subject to acceptance and approval of PCCA.

B. Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price

1. For the specified services or category of services, the PCCA shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times the Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement

from PCCA for the Reimbursable Expenses identified in **Exhibit C**, as the same may be modified in the individual Service Order. But the total amount payable to Engineer for the services rendered under the Service Order plus the Reimbursable Expenses shall not exceed the Ceiling Price stated in the Service Order.

2. The Ceiling Price will be stated in the Service Order. It may be called the Ceiling Price or the “Not-to-Exceed Amount.”
3. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
4. The Standard Hourly Rates Schedule attached hereto as **Exhibit B** shall remain in effect for the Term of this Agreement unless adjusted pursuant to Section 4.03.
5. The Reimbursable Expenses Schedule attached hereto as **Exhibit C** shall remain in effect for the Term of this Agreement.
6. The total estimated compensation for the specified category of services shall be stated in the Service Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and Reimbursable Expenses (including Consultants' charges, if any).
7. The amounts billed by Engineer will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses (including Consultant's charges, if any), but PCCA shall not be required to pay more than the Ceiling Price stated in the applicable Service Order without a duly executed amendment to the Service Order.
8. For Service Orders that included definable deliverables to be provided to the PCCA, Engineer will continue to prosecute work necessary to provide those deliverables even when the Ceiling Price has been reached, at no additional cost to PCCA unless the parties agree in writing to modify the Ceiling Price.
9. Where no definable deliverable exists, the Engineer’s services will terminate when the Ceiling Price is reached.

Section 4.03 Standard Hourly Rates for Service Orders

A. Engineer’s Standard Hourly Rate Schedule is listed in **Exhibit B**. Commencing on January 1 of the second year during the Term, and on January 1 of each year thereafter during the Term (the “**Adjustment Date[s]**”), Engineer’s Standard Hourly Rate Schedule may be adjusted by Engineer to an amount equal to the product of (a) Engineer’s Standard Hourly Rate Schedule as of the Adjustment Date multiplied by (b) the CPI Adjustment Factor. By way of example only, if the Effective Date of the Agreement is June 1, 2021, then the first Adjustment Date will occur on January 1, 2022.

B. The term “*CPI Adjustment Factor*” means a fraction, the numerator of which is the most current CPI (as defined below) available on the Adjustment Date, and the denominator of which is the CPI for the same month of the prior year; provided, however, that the CPI Adjustment Factor for any Adjustment Date shall never exceed 1.05.

C. “*CPI*” means the Consumer Price Index for All Urban Consumers (CPI-U); U.S. City Average; All items, not seasonally adjusted, 1982-1984 = 100 reference base, 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, then any successor index intended by the federal authority publishing such successor index to replace such Consumer Price Index shall replace CPI for the purposes of this Agreement 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 Agreement will be made by using the most nearly comparable statistics published by a recognized financial authority, as shall be mutually agreed by the Parties.

D. Engineer hereby certifies by its execution of this Agreement that the hourly rates in **Exhibit B** are less than or equal to the lowest hourly rates Engineer currently charges any Coastal Bend area public entity or a Port Authority or Navigation District in the Texas and Louisiana Gulf Coast area. Engineer agrees that if during the Term of this Agreement it charges any Coastal Bend area public entity or a Port Authority or Navigation District in the Texas and Louisiana Gulf Coast area lower hourly rates than the rates in **Exhibit B**, then Engineer shall charge PCCA such lower hourly rate or rates for the services under any Service Order, current or future, for the remainder of the Term of this Agreement and such lower hourly rate or rates will be standard for the remaining Term of this Agreement.

E. Generally, the compensation method specified in a Service Order executed under this Agreement will be Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price. PCCA reserves the right, however, to issue Lump Sum Services Orders when they are deemed to be in the best interest of PCCA

Section 4.04 Reimbursable Expenses

A. Under the Lump Sum method of compensation to Engineer, unless expressly indicated otherwise, the following categories of expenses are included in the Lump Sum amount: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Consultant charges. **These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in the specific Service Order.**

B. Expenses eligible for reimbursement under the Standard Hourly Rates method of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services under a specific Service Order:

transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; providing field and office equipment necessary for the prosecution of the work; toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; Consultant charges; and any other expenses identified in **Exhibit C**. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges shall be the amount billed by such Consultants to Engineer times a factor of one hundred five percent (105%). In other words, the markup for Consultant services shall be five percent (5%).

C. 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 on the Defense Travel Management Office's website. Engineer shall submit proper documentation of any such approved travel expenses to PCCA from time to time, and such costs and expenses shall be billed to PCCA at Engineer's actual cost.

Section 4.05 Invoice Procedure and Payment

A. Engineer shall submit invoices monthly to PCCA for work performed during the preceding calendar month. Such invoices shall be due and payable by PCCA within thirty (30) days after receipt and acceptance of the invoice by PCCA. Monthly compensation will be for the Services actually performed during the billing period, invoiced in accordance with the prices in the Fee Schedules. On a Lump Sum Service Order, monthly billing will be based on the percentage of work completed. Invoices shall also describe any work performed by subcontractors retained by Engineer and Reimbursable Expenses. Engineer will provide sufficient detail with each invoice to substantiate the requested amount of monthly payment. At PCCA'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 PCCA. The Engineer's fees will cover all of Engineer's overhead costs, including office rent, long distance telephone charges, postage, and payroll.

B. Engineer will provide written notice to PCCA when the sum of previous payments and a current invoice meet or exceed 70% of the approved Ceiling Price of a Service Order. Engineer will include a statement that the remaining budget will be sufficient to complete the services, or provide an estimate of cost to complete, an explanation of the need for additional funding, and a request for a modification to the Service Order.

ARTICLE 5 RESPONSIBILITIES AND STANDARDS OF PERFORMANCE

Section 5.01 PCCA's Responsibilities

A. PCCA shall pay Engineer as set forth in each Service Order and Article 4.

B. PCCA shall be responsible for the requirements and instructions that it furnishes to the Engineer pursuant to this Agreement, and for the accuracy and completeness of the programs, reports, data, and other information furnished by PCCA to Engineer pursuant to this Agreement or any Service Order for use of Engineer in performing or furnishing services under any Service Order, subject to any express limitations or reservations applicable to the furnished items

C. PCCA shall give prompt written notice to Engineer whenever PCCA observes or otherwise becomes aware of: (1) any development that affects the scope or time of performance of Engineer's services; (2) the presence at the Site of a Specific Project of any Constituent of Concern; or (3) any relevant, material defect or nonconformance in Engineer's services, the Work or the performance of any Constructor or consultant managed by the Engineer.

D. PCCA shall:

1. Provide Engineer with criteria and information as to PCCA's requirements for each Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
2. Furnish Engineer with copies of design and construction standards that PCCA will require to be included in the Drawings and Specifications; and furnish copies of PCCA's standard forms, conditions, and related documents to be included in the Bid Documents and Construction Documents, as applicable.
3. Following the Engineer's assessment of initially available Specific Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Services, unless the Service Order requires Engineer to obtain this information from other sources. Such additional information or data would generally include the following:
 - a. Property descriptions.
 - b. Zoning, deed, and other land-use restrictions.
 - c. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - d. Explorations and tests of subsurface conditions at the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at the Site, or hydrographic surveys with appropriate professional interpretation thereof.
 - e. Environmental assessments, audits, investigations, impact statements, and other environmental or cultural studies relevant to the Specific Project and the Site.

- f. Data or consultations as required for the Specific Project but not otherwise identified in this Agreement or the Exhibits thereto.
4. Arrange for access to and make provisions for Engineer to enter upon PCCA property as required for Engineer to perform Services under the Service Order.
5. Examine alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents required by the terms of the Service Order which are presented by the Engineer and render, in writing, timely decisions pertaining thereto.
6. Provide reviews, approvals, and permits from governmental authorities having jurisdiction to approve phases of the Specific Project designed or specified by Engineer, and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project, unless the Service Order requires Engineer to obtain these reviews, approvals, or consents from other sources.
7. Place and pay for advertisement of Bids in appropriate publications, as required, for a Specific Project.
8. Advise Engineer of the identity and scope of services of any independent consultants employed by PCCA to perform or furnish Services in regard to the Project, including cost estimating, project peer review, value engineering, and constructability review unless such Services are related to an issue under legal review or are included in the Engineer's Scope of Services.
9. Furnish to Engineer data as to PCCA's anticipated costs for Services to be provided by others for PCCA so that Engineer may make the necessary calculations to develop and periodically adjust Engineer's opinion of Total Project Costs as required by a specific Service Order.

Section 5.02 Standards of Performance

A. *Standard of Care:* Engineer shall perform the professional engineering and related services required by each Service Order issued under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

B. *Technical Accuracy:* PCCA shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in PCCA-furnished information or an identifiable and documented change in conditions or circumstances impacting the Engineer's work.

C. *Consultants*: Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by PCCA.

D. *Reliance on Others*: Subject to the standard of care set forth in Section 5.02(A), Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures*

1. Engineer and PCCA shall comply with applicable Laws and Regulations.
2. Engineer shall comply with the policies, procedures, and instructions of PCCA that are applicable to Engineer's performance of services under this Agreement and that PCCA provides to Engineer in writing, subject to the standard of care set forth in Section 5.02(A), and to the extent compliance is not inconsistent with professional practice requirements.
3. Each Service Order is based on Laws and Regulations and PCCA-provided written policies and procedures as of the Commencement Date of the Service Order. The following may be the basis for modifications to PCCA's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Commencement Date of the Service Order to Laws and Regulations; or
 - b. the receipt by Engineer after the Commencement Date of the Service Order of PCCA-provided written policies and procedures or changes to PCCA-provided policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. PCCA agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site of a Specific Project, nor for any failure of a Constructor to comply with Laws and Regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. While at a Site, Engineer, its Consultant, and their employees and representatives shall comply with the applicable requirements of Contractor's and PCCA's safety programs of which Engineer has been informed in writing.

Section 5.03 Design without Construction Phase Services

It is understood and agreed that if Engineer's Services under this Agreement do not include Project observation, review of Contractor's performance, or any other construction phase services, and that such services will be provided by PCCA, then PCCA assumes responsibility for interpretation of the Construction Contract Documents and for construction observation or review except where such interpretation is attributable to the design are an obvious design error or omission and requires correction by the Engineer of record.

Section 5.04 Inspection and Acceptance

Deliverables and/or services furnished under this Agreement shall be subject to review and inspection and, as applicable, test by PCCA at times and places covered under the period of performance for Services and the applicable Service Order. PCCA reserves the right to reject deliverables which do not conform to the Specifications, Drawings, and/or other data or which do not comply with the terms and conditions of this Agreement and individual Service Orders. If rejected after delivery, rejected deliverables will be returned to Engineer at Engineer's risk and expense. Payment for any Services or deliverables shall not be deemed acceptance thereof, and if such Services or deliverables are rejected after payment, PCCA shall be entitled to an equitable refund. Additional or varying acceptance terms may be mutually agreed under individual Service Orders.

ARTICLE 6 TERM, RENEWAL, SUSPENSION OR TERMINATION

Section 6.01 Term

A. This Agreement shall be effective and applicable to Service Orders issued hereunder for three (3) years from the Effective Date of this Agreement.

Section 6.02 Renewal

A. The Parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term, provided the terms and conditions, including insurance coverages, hourly and reimbursable rates and other particulars remain unchanged.

Section 6.03 Termination

A. PCCA may terminate a Service Order or this Agreement for convenience with seven (7) days prior written notice to Engineer of such action. Upon termination of this Agreement in accordance with this paragraph, PCCA 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 Agreement. **Under no circumstances may Engineer claim or recover consequential damages from PCCA.**

B. Either Party may terminate this Agreement by giving written notice to the other Party if the other Party (“**Defaulting Party**”): (a) materially breaches any term, condition or provision of this Agreement 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.

Section 6.04 Suspension

A. PCCA may suspend a Service Order for convenience with seven (7) days prior written notice to Engineer of such action.

B. If PCCA fails to give prompt written authorization to proceed with any phase of Services after completion of the immediately preceding phase, or if Engineer’s Services are delayed through no fault of Engineer, Engineer may, after giving seven (7) days written notice to PCCA, suspend Services under this Agreement.

C. PCCA may, upon written notice to the Engineer, suspend work on a Service Order until such time that PCCA determines that it is in the best interest of PCCA to resume the work or to terminate the Service Order.

D. 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 PCCA. 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 Agreement. The schedule for performance of the Services shall be amended by a mutually agreed, written modification to the Service Order in progress to reflect the suspension.

E. If Engineer’s Services are delayed or suspended in whole or in part by PCCA for more than ninety (90) days after the date of the beginning of the delay or suspension through no fault of Engineer, Engineer may be entitled to an equitable adjustment of compensation provided for

elsewhere in this Agreement to reflect reasonable costs incurred by Engineer in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised, to the extent that the Engineer can demonstrate that an actual increase in cost has been incurred and is equitable and compensable.

ARTICLE 7 OPINIONS OF COST

Section 7.01 Opinions of Probable Construction Cost

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's professional judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer.

B. PCCA reserves the right to request that the Engineer provide a written explanation of significant variations between the Engineer's opinion of probable Construction Cost and the actual Construction Cost.

Section 7.02 Opinions of Total Project Costs

A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the PCCA in tabulating the various categories that comprise Total Project Costs. Engineer's professional opinions (if any) of probable Total Project Costs are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that Total Project Costs will not vary from opinions of probable Total Project Costs prepared by Engineer.

Section 7.03 Designing to Construction Cost Limit

A. If a Construction Cost Limit for a Specific Project is established between PCCA and Engineer in a Service Order, then such Construction Cost Limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in the applicable Service Order.

B. If a Construction Cost Limit is set forth in a Service Order, then the Service Order will also specify a percentage bidding or negotiating contingency to be added to such Construction Cost Limit.

C. Should an opinion of Probable Construction Cost or a revised Opinion of Probable Construction Cost be provided by the Engineer during the execution of the Services that is in

excess of the then established Construction Cost Limit, PCCA shall have the option of increasing the Construction Cost Limit, modifying the design criteria and Engineer's Scope of Services, or suspending or terminating the Service Order in accordance with terms herein. Alternately, PCCA may direct the Engineer to separate the work into a Base Bid with alternative or additive bid items that can be awarded at PCCA's discretion.

D. Engineer will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof, are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost Limit, subject to final approval and acceptance of PCCA. Engineer will present proposed changes in materials, equipment and component systems to PCCA for review and approval prior to incorporating such into the design.

E. If PCCA does not request Bids for a Project within six months after completion of the signed and sealed Construction Contract Documents of the Project or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost Limit will not be binding on Engineer, and PCCA (i) may consent to an adjustment in such Construction Cost Limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the final design of the Project and the date on which Bids are requested, or (ii) may, at PCCA's sole discretion, terminate the Service Order in accordance with terms and conditions herein.

F. If the lowest *bona fide* Bid exceeds the established Construction Cost Limit, PCCA will: (1) give written approval to increase such Construction Cost Limit, (2) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices and re-advertise or re-bid the Project, or (3) provide direction to the Engineer to revise contract documents to include additive or alternative bid items or add such additive or alternative bid items and re-bid the project, or (4) elect not to award additive or alternative bid items to keep the Project within the Construction Cost Limit. In the case of (2), above, Engineer will modify the Drawings and Specifications as necessary to bring the Construction Cost within the Construction Cost Limit at no cost to PCCA, and the providing of such Services will be the limit of Engineer's responsibility in this regard; and, having done so, Engineer will not otherwise be liable for damages attributable to the lowest *bona fide* Bid exceeding the established Construction Cost Limit.

ARTICLE 8 REPRESENTATIVES AND MANAGERS

Section 8.01 Contract Representatives

A. PCCA shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of PCCA, coordinate with the Engineer and administer this Contract. It shall be the responsibility of the Engineer to coordinate all assignment-related activities under this

Agreement with PCCA’s Contract Representative. PCCA may change its Contract Representative at any time by giving the Engineer written notice of such change.

B. Engineer shall designate a Contract Representative on the signature page of this Agreement who will, on behalf of Engineer, coordinate with PCCA and administer this Contract. The Engineer’s Contract Representative and PCCA’s Contract Representative will coordinate all assignment-related activities under this Agreement. Engineer may change its Contract Representative at any time by giving PCCA written notice of such change, provided the recommended replacement has similar qualification and experience as the original contract representative.

Section 8.02 Designated Project Managers

A. Contemporaneously with the execution of each Service Order, Engineer and PCCA will each designate a specific individual to act on its behalf as Project Manager with respect to the Services to be performed or furnished by Engineer and the responsibilities of PCCA under such Service Order. The Project Managers for each Project will have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the Party appointing the Project Manager. Either Party may change that Party’s designated Project Manager by giving the other Party written notice of the change as provided in Article 9.

Section 8.03 Resident Project Representative

A. The Service Order for a Specific Project shall state whether Engineer must furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work on the Specific Project. The duties and responsibilities of the RPR, if any, will be as set forth in each Service Order.

ARTICLE 9 NOTICES

Section 9.01 Notices

A. All notices, demands, or requests from Engineer to PCCA shall be given to PCCA’s Contract Representative named on the signature page of this Agreement at PCCA’s address for notice provided on the signature page, for PCCA’s Contract Representative stated on the signature page, or to such other person, address or facsimile number as PCCA shall request in writing.

B. All payments, notices, demands or requests from PCCA to Engineer shall be given to Engineer’s Contract Representative named on the signature page of this Agreement at Engineer’s address for Engineer’s Contract Representative stated on the signature page, or to such other person or address as PCCA 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 stated on the signature page of this Agreement. 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, properly addressed to the Contract Representative of the Party to be served. In all other cases, notice to a Party will be considered delivered when actually received by the Party's Contract Representative.

ARTICLE 10 DOCUMENTS

Section 10.01 Use of Documents

A. Upon payment of all fees owed for a Service Order, all Documents relative to that Service Order are the property of PCCA, including native files for each software package used.

B. Copies of PCCA-furnished data that may be used by Engineer are limited to the printed copies (also known as hard copies) that are delivered to Engineer by PCCA. Files in electronic media format of text, data, graphics, or of other types that are furnished by PCCA to the Engineer are only for convenience of Engineer. Any conclusion or information obtained or derived from such files, written or electronic, will be at the user's sole risk. Engineer will review documents provided by PCCA and determine applicability and usability of information. Engineer will request additional information as necessary.

C. Copies of Documents that may be relied upon by PCCA are limited to the printed copies (also known as hard copies) that are signed or sealed by Engineer. Files in electronic media format of text, data, graphics, or of other types that are furnished by Engineer to PCCA are only for convenience of PCCA. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Party receiving electronic files agrees that it will perform acceptance tests or procedures within 90 days, after which the receiving Party will be deemed to have accepted the data thus transferred. Any errors detected within the 90-day acceptance period will be corrected by the Party delivering the electronic files. Engineer is not responsible to maintain documents stored in electronic media format after acceptance by PCCA.

E. When transferring documents in electronic media format, neither PCCA nor Engineer make any representation to the other as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by PCCA or Engineer on the Effective Date.

F. Documents provided by Engineer are not intended or represented to be suitable for reuse by PCCA or others on extensions of the Project or on any other project. PCCA may, however, reuse such documents without any payment to Engineer. Any such reuse or modification without written verification or adaptation by Engineer, as appropriate for the specific purpose intended, will be at PCCA's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

Section 10.02 Records Retention

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under each Service Order, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Service Order. Upon PCCA's request, Engineer shall provide a copy of any such item to PCCA at cost.

ARTICLE 11 INSURANCE

Section 11.01 Standard Insurance Policy Requirements

A. Without limiting the indemnity obligations or liabilities of Engineer or its insurers, provided herein, Engineer agrees to carry and maintain at its sole expense during the Term of this Agreement the following policies of insurance (individually, a "***Policy***" and, collectively, the "***Policies***") in at least the minimum amounts specified below.

B. At least five (5) days prior to execution of this Agreement by PCCA, Engineer will provide to PCCA'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 PCCA. The requirement to provide acceptable certificates of insurance is a material condition of this Agreement, and work under this Agreement and any associated Service Order may not commence until such certificates of insurance have been received, reviewed, and accepted by PCCA.

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

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

4. 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.

5. Professional Liability \$2,000,000

Engineer will procure and maintain professional liability insurance for protection from claims arising out of performance of its Services under this Agreement 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 Agreement.

6. Umbrella Liability \$5,000,000 per Occurrence

Umbrella liability coverage will apply to Employer's Liability, Commercial General Liability, and Business Automobile Liability.

Section 11.02 Additional Insurance Policies Required for Certain Work

A. Under certain circumstances, based on the scope and/or location of the services to be performed under a Service Order, the Service Order may require Engineer to carry and maintain some or all of the additional types of insurance policies described in this Section. If the Service Order for a Specific Project requires additional insurance, Engineer understands and agrees that it will not be allowed to commence any work under the Service Order until the additional insurance policies have been issued to the Company and the Company provides PCCA with appropriate Certificates of Insurance.

1. Pollution Liability \$2,000,000 per Occurrence
(applicable if Professional Services involve work in/to areas of known or suspected contamination)
2. Railroad Protective Liability \$1,000,000 per Occurrence
\$2,000,000 Aggregate
(applicable if work is to be conducted within 50 ft. of any railroad property, railroad bridge, track and/or trestle)
3. Protective and Indemnity \$1,000,000 per occurrence
(applicable if any work requires marine operations, i.e., operation or ownership of a vessel)

Section 11.03 General Insurance Requirements

A. 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 PCCA Parties. Additionally, the PCCA 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.

B. In the event that the work of Engineer's employees 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, Engineer shall extend its insurance coverage to provide insurance against the liabilities imposed under the applicable Act or Acts even if not specifically required by the PCCA.

C. 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 Agreement.

D. The insurance required as listed above, shall apply to any Consultant performing for or on behalf of Engineer, and Engineer shall ensure that any such Consultant is aware of and complies with the insurance requirements during any period such Consultant is performing work under this Agreement.

E. The minimum insurance required may be increased periodically upon request by PCCA 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". If the insurance limits need to be raised, it will be by agreement of the parties.

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

ARTICLE 12 RELEASE, INDEMNIFICATION AND MUTUAL WAIVER

Section 12.01 Release by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer hereby releases and discharges the PCCA 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.

Section 12.02 Indemnification by Engineer

A. To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless the PCCA Parties from all damages, losses, costs and expenses, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable consultants' and attorneys' fees) (collectively, "Damages") arising from third-party claims or actions relating to this Agreement, any Service Order, or any Specific Project, but only to the extent that the Damages are caused by or result from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer or the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

B. Engineer's indemnity obligations under this Article 12 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.

C. The obligations of the Engineer under this Article 12 shall survive the end of the Term of this Agreement.

Section 12.03 Percentage Share of Negligence

A. The Engineer's total liability to the PCCA Parties for any Damages caused in part by the negligence of the Engineer Parties and in part by the negligence of the PCCA Parties or any other negligent entity or individual, shall not exceed the percentage share that the negligence of the Engineer Parties bears to the total negligence of all negligent parties.

Section 12.04 Mutual Waiver

A. To the fullest extent permitted by law, PCCA and Engineer waive against each other, and the other's employees, officers, Port Commissioners, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Service Order, or a Specific Project, from any cause or causes.

ARTICLE 13 DISPUTE RESOLUTION

A. In the event a dispute arises between the Parties regarding the application or interpretation of, or in any way relating to, this Agreement, the Parties agree to attempt to resolve all such 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 remaining provisions of this Article.

B. PCCA and Engineer 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 Agreement before a mediator to be agreed upon by PCCA and Engineer. PCCA and Engineer must use their best efforts to agree upon a mediator within fifteen (15) Business Days after a written request for mediation by either Party, and if PCCA and Engineer are unable to agree upon a mediator within such time 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. PCCA and Engineer 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 under this Agreement and at law or in equity. Nothing herein shall prevent either Party from timely giving notice or filing such documents as may be required by law to protect their respective rights of action from being barred by the expiration of any deadline or statute of limitations.

ARTICLE 14 GENERAL PROVISIONS

Section 14.01 Severability

If any part of this Agreement is held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of this Agreement, and this Agreement shall then be construed as if the invalid, illegal, or unenforceable provision had not been included in this Agreement.

Section 14.02 No Waiver

Any waiver expressed or implied by either PCCA or Engineer to any breach of any agreement, covenant, or obligation contained in this 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.

Section 14.03 Applicable Law

THIS 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 AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. PCCA and Engineer agree that if any controversy or claim arising out of or related to this Agreement cannot be resolved pursuant to and in accordance with the deadlines set forth in Article 13, then either Party may elect to resolve the controversy or claim through litigation filed and maintained in the federal or state courts located in Corpus Christi, Nueces County, Texas. PCCA and Engineer each submits to the exclusive jurisdiction of said courts and waives the right to change venue.

Section 14.04 Agreement and Service Orders Control

In the event of a conflict between the wording of a Service Order and any purchase order issued by PCCA in connection with the Service Order, the wording of the Service Order will control.

Section 14.05 Amendment of Agreement

This Agreement may be changed or modified at the request of either the Engineer or PCCA, provided both Parties agree to the requested change, and a written amendment of this Agreement is prepared and executed by the Parties.

Section 14.06 Assignment

Neither PCCA nor Engineer may assign or transfer any rights under or interest in this Agreement without the written consent of the other.

Section 14.07 No Third-Party Beneficiaries

This Agreement will be for the sole and exclusive benefit of PCCA and Engineer and not for the benefit of any other party, person, or entity. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by PCCA or Engineer to any Consultant, Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

Section 14.08 Force Majeure

In the event either Party 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*, or the Agreement may be terminated in accordance with terms herein should such delay be sufficient that termination is in the best interest of the PCCA.

Section 14.09 Public Disclosure

PCCA is a political subdivision of the state of Texas 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, PCCA is required to disclose to the public (upon request) this Agreement, the Service Orders issued hereunder, and certain other information and documents relating to the services contemplated hereby. In this regard, Engineer agrees that the disclosure of this Agreement, the Service Orders issued hereunder, or any other information or materials related to the services contemplated hereby, to the public by PCCA as required by the Texas Open Meetings Act, the Texas Public Information Act, or any other law will not expose PCCA (or any party acting by, through or under PCCA) to any claim, liability, or action by Engineer.

Section 14.10 Confidentiality

Engineer will keep confidential all information in whatever form produced, prepared, observed or received from PCCA to the extent that such information is: (a) confidential by law; (b) marked or designated "Confidential" or words to that effect; or (c) information that Engineer is otherwise

required to keep confidential by this Agreement. Notwithstanding the above, Engineer will be permitted to disclose any information required by law or court order.

Section 14.11 Certificate 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 form to PCCA at the time Engineer submits the signed Agreement to PCCA. A separate Form 1295 may be required for subsequent Service Orders and amendments, as required by the referenced code and rules issued thereunder.

Section 14.12 Engineer’s Certificate

Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing this Agreement. For the purposes of this Section 14.12:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the execution of the Agreement;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of PCCA, or (b) to deprive PCCA of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

Section 14.13 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 PCCA or the Engineer’s objectivity in performing the services under this Agreement and related Service Orders is or might otherwise be impaired. Engineer agrees to immediately notify PCCA of any actual or potential Organizational Conflict of Interest that develops during the Term of this Agreement. Engineer agrees that PCCA may terminate this Agreement immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Agreement.

Section 14.14 Texas Government Code, Section 2271.002

To the extent required by Section 2271.002 of the Texas Government Code, Engineer represents that Engineer does not boycott Israel and will not boycott Israel through the term of this Contract. For purposes of this representation, “boycott Israel” means refusing to deal with,

terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Section 14.15 Defamation

The Parties covenant and agree that in no event, and at no time during the Term of this Agreement 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.

Section 14.16 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 Agreement.

Section 14.17 Attorneys' Fees; Default

In the event Engineer or PCCA breach any of the terms of this 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 reasonable attorney's fees and costs incurred by the prevailing Party.

ARTICLE 15 EXHIBITS

Section 15.01 Suggested Form of Service Order

The Suggested Form of Service Order is attached as Attachment One and shall be used as the basis for preparing a specific Service Order for each Specific Project under this Agreement.

Section 15.02 Exhibits Included

A. **Exhibit A**, *Engineer's Services for Service Order*. Services, tasks, and terms in **Exhibit A** as included with this Agreement are for reference in preparing the scope of services for specific Service Orders and are contractually binding only to the extent expressly incorporated in a specific Service Order.

B. **Exhibit B**, *Engineer's Standard Hourly Rates for Work performed under the Service Order*. This Exhibit applies to all Service Orders.

C. **Exhibit C**, *Engineer's Reimbursable Expenses Schedule for costs incurred by Engineer when performing Work under the Service Order*. The terms of **Exhibit C** that will be applicable to and govern compensation under a specific Service Order will be determined by the selection of

compensation methods made in Paragraph 5, “*Method of Compensation,*” of the specific Service Order.

D. **Exhibit D**, *Duties, Responsibilities and Limitations of Authority of Resident Project Representative*. This Exhibit is not contractually binding except when expressly incorporated in a specific Service Order.

E. **Exhibit E**, *Notice of Acceptability of Work*. Engineer shall use this Notice of Acceptability of Work form at the conclusion of construction on a Specific Project if the form is expressly incorporated by reference in a specific Service Order, and Engineer’s scope of services in the specific Service Order includes providing such a Notice.

F. **Exhibit F**, *Amendment to Service Order*. PCCA and Engineer may use this form during a Specific Project to modify the specific Service Order.

G. **Exhibit G**, *Scope Change Request Form*. Engineer may use this form to request changes or modification to the scope, schedule, and/or budget, for PCCA’s approval.

[Signature page follows this page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

PCCA:

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

By: _____

Name: Sean C. Strawbridge

Title: Chief Executive Officer

Date Signed: _____

Engineer:

Surveying and Mapping, LLC

By: _____

Name: Patrick A. Smith

Title: Principal/Executive VP

Date Signed: 05/11/2022

Address for giving notice:

Attention: Director of Engineering Services
400 Harbor Drive
Corpus Christi, Texas 78401

Address for giving notice:

Surveying And Mapping, LLC
4801 Southwest Parkway
Bldg. 2 Suite 100
Austin, Texas 78735

PCCA's Contract Representative:

Natasha Fudge, P.E.

Title: Director of Engineering Services

Phone Number: (361) 885-6686

E-Mail: natasha@pocca.com

Engineer's Contract Representative:

Pat Smith

Title: Executive Vice President

Phone Number: (512) 685-3542

E-Mail: psmith@sam.biz

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**ATTACHMENT ONE
TO MASTER SERVICES AGREEMENT NO. 22-04
Service Order Template**

**PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 22-04**

PROJECT NAME *(Insert Project name)*

PROJECT NO. *(Insert Project number)*

SERVICE ORDER NO. *(Insert Service Order number)*

COMMENCEMENT DATE *(Insert Commencement Date of Service Order)*

This Service Order is executed by any between the Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”) and Surveying and Mapping, LLC (“Engineer”). PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 22-04 between PCCA and Engineer, as amended (“Agreement”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

[Insert a paragraph that describes the Specific Project that is the subject of this Service Order.]

2. Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are set forth in “Part 1—Services” of **Exhibit A**, “Engineer’s Services for Service Order,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

B. Resident Project Representative (RPR) Services

If the scope of services established in Paragraph 2.A above includes RPR services, then **Exhibit D** of the Agreement is expressly incorporated in this Service Order by reference. The RPR shall provide *[Select one of the following options]:*

full time representation; or

part time representation as follows: _____.

[1. If RPR services are not in the scope of this Service Order, do not include any references to RPR services in Exhibit A (Paragraph A1.05(A)(1)) for this Service Order (or state “Does not apply” or similar), or in any other scope of services text or document.

2. If appropriate, modify Exhibit D for this specific Service Order, and attach it, rather than incorporating the Exhibit D that is included with the Agreement.]

C. Designing to a Construction Cost Limit

[If the design under this Service Order will be governed by a Construction Cost Limit, then include the following clause, with blanks filled in; if not, then delete the clause or indicate “Does not apply” or similar.]

Under this Service Order, Engineer will design to a Construction Cost Limit, subject to the terms of Section 7.03 of the Agreement. The Construction Cost Limit is \$_____. The bidding or negotiating contingency to be added to the Construction Cost Limit is _____ percent per PCCA’s Contingency Guidelines for General or Marine or Rehabilitation projects accordingly.

D. Other Services

Engineer shall also provide the following services:

[Summarize or provide a brief description of other services (if any) that are to be provided by Engineer but have not been addressed in Paragraphs 2.A through 2.C.]

3. PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following: *[State any additions or modifications to Section 5.01 for this Specific Project here.]*

4. Service Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule: *[Revise and amend for each specific Service Order.]*

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
--------------	---------------	-----------------

Engineer	Furnish [] review copies of the Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the Commencement Date of the Service Order.
PCCA	Submit comments regarding Report and other Study and Report Phase deliverables to Engineer.	Within [] days of the receipt of Report and other Study and Report Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Report and other Study and Report Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Furnish [] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of PCCA's authorization to proceed with Preliminary Design Phase services.
PCCA	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within [] days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the 60% Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to PCCA.	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the 90% Design Phase documents, opinion of probable Construction Cost,	Within [] days of the receipt of PCCA's comments regarding the Preliminary Design Phase documents, opinion of probable

	and other Preliminary Design Phase deliverables to PCCA.	Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish [] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to PCCA.	Within [] days of PCCA's authorization to proceed with Final Design Phase services.
PCCA	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within [] days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish [] copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to PCCA.	Within [] days of the receipt of PCCA's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

Should PCCA not return comments and/or instructions in the time listed in the schedule, the Engineer's schedule for subsequent items will be extended by the same number of days by which PCCA comments or instructions exceed the scheduled review with no further recourse by the Engineer against PCCA.

5. Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation: *[Select one of the following options.]*

- Lump Sum plus Named Reimbursable Expenses, if any; or
- Standard Hourly Rates plus Reimbursable Expenses with a Ceiling Price.

B. If this is a Lump Sum Service Order, PCCA shall pay Engineer the following lump sum amount for the services described in this Service Order: \$_____. In addition, PCCA shall reimburse Engineer for the following Named Reimbursable Expenses (if any): _____.

C. If this is an Hourly Rates Service Order, the estimated amount of compensation payable for each category of services rendered under this Service Order is as follows:

*[Notes: 1. Delete line items that do not apply to this Service Order.
2. Cross-references are to Exhibit A. Revise if necessary]*

Description of Service	Amount
Study and Report Phase (A1.01 of Ex. A)	\$[]
Preliminary Design Phase (A1.02 of Ex. A)	\$[]
Final Design Phase (A1.03 of Ex. A)	\$[]
Bidding or Negotiating Phase (A1.04 of Ex. A)	\$[]
Construction Phase (A1.05 of Ex. A)	\$[]
Resident Project Representative Services (A1.05(A)(1) of Ex. A)	\$[]
Post-Construction Phase (A1.06 of Ex. A)	\$[]
Commissioning Phase (A1.07 of Ex. A)	\$[]
Other Services (list as appropriate) (A2.01 of Ex. A)	\$[]
ESTIMATED TOTAL COMPENSATION	\$[]

D. The terms of payment are set forth in Article 4 of the Agreement.

6. Consultants retained or that will be retained as of the Commencement Date of the Service Order: *[List name of Consultants, if any]*

7. Other Modifications to the Agreement or the Exhibits to the Agreement:

[Supplement or modify the Agreement and Exhibits, if appropriate.]

8. Insurance Requirements:

In addition to the standard insurance requirements set forth in Section 11.01 of the Agreement, Engineer shall maintain the following additional insurance coverage

described in Section 11.02 of the Agreement for as long as Engineer is providing services under this Service Order:

[Select the appropriate Policies]

- A. Pollution Liability \$2,000,000 per Occurrence
(applicable if Professional Services involve work in/to areas of known or suspected contamination)

- B. Railroad Protective Liability \$1,000,000 per Occurrence
\$2,000,000 Aggregate
(applicable if work is to be conducted within 50 ft. of any railroad property, railroad bridge, track and/or trestle)

- C. Protective and Indemnity \$1,000,000 per occurrence
(applicable if any work requires marine operations; i.e., operation or ownership of a vessel)

9. Exhibits or Attachments to this Service Order:

10. Documents (other than the Agreement) Incorporated by Reference:

11. Terms and Conditions

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

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

Engineer:

(Insert name of Engineer)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Address for giving notice:

Attention: Director of Engineering Services
400 Harbor Drive
Corpus Christi, Texas 78401

Address for giving notice:

(Insert address of Engineer)

PCCA's Designated Representative:

Engineer's Designated Representative:

Title: _____

Title: _____

Phone Number: _____

Phone Number: _____

E-Mail: _____

E-Mail: _____

EXHIBIT A
Service Order Standard Language for Engineer's Services

[Introductory Note to User: The parties should prepare a specific, modified Exhibit A for each specific Service Order, state the scope of services for the Specific Project directly in the specific Service Order, or incorporate all or portions of Exhibit A by reference.

The following text as published describes a variety of services that may be included, in whole or in part, in a specific Service Order issued under the Agreement. Until this exhibit is customized for inclusion in a specific Service Order, or some or all of the exhibit is incorporated in a specific Service Order by reference, it has no legal or contractual effect.

Not all possible services are included in this exhibit. Language provided is intended to provide a basic framework, ideas for inclusion, and to avoid omissions; none, any, or most of this language may be applicable to a Specific Project. The user should revise and supplement the descriptions of services provided here for purposes of drafting the scope of Engineer's Services for each specific Service Order.]

PART 1—SERVICES

A1.01 Study and Report Phase Services

A. As Study and Report Services, Engineer shall:

1. If PCCA has already identified one or more potential solutions to meet its Specific Project requirements, Engineer will proceed with the study and evaluation of: *[List the specific potential solutions here.]*
2. If PCCA has not identified specific potential solutions to meet its Specific Project requirements, Engineer will identify up to ____ potential solution(s) and then proceed with the study and evaluation of these potential solution(s).
3. Visit the Site, or potential Specific Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
4. Advise PCCA of any need for PCCA to obtain, furnish, or otherwise make available to Engineer additional Specific Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to PCCA's Specific Project requirements, and preparation of a related report.
5. After consultation with PCCA, recommend to PCCA the solution(s) which in Engineer's judgment meet PCCA's requirements for the Specific Project.

6. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Specific Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Specific Project.
 7. Prepare a report (the “*Report*”) which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer’s recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by PCCA, a tabulation of other items and services included within the definition of Total Project Costs.
 8. Review available survey, geotechnical, environmental, and other data and recommend additional investigations, studies, tests, professional services that may be required to support design of the alternatives.
 9. When mutually agreed, assist PCCA in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of PCCA’s facilities.
 10. If requested to do so by PCCA, assist PCCA in identifying opportunities for enhancing the sustainability of the Specific Project, and pursuant to PCCA’s instructions plan for the inclusion of sustainable features in the design.
 11. Pursuant to the Service Order schedule, furnish the required number of review copies of the Report and any other Study and Report Phase deliverables to PCCA, and review it with PCCA. PCCA shall submit to Engineer any comments regarding the furnished items within the time established in the Service Order schedule.
 12. Pursuant to the Service Order schedule, revise the Report and any other Study and Report Phase deliverables in response to PCCA’s comments, as appropriate, and furnish the required number of copies of the revised Report and any other Study and Report Phase deliverables to the PCCA.
- B. Engineer’s services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Report and any other Study and Report Phase deliverables.

A1.02 Preliminary Design Phase

A. Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary design calculations, preliminary drawings, outline specifications, and written descriptions of the Specific Project.
2. In preparing the Preliminary Design Phase documents, use any specific applicable Specific Project Strategies, Technologies, and Techniques authorized by PCCA during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to PCCA's instructions.
3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by PCCA pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
5. Advise PCCA if additional reports, data, information, or services necessary so support final design and assist PCCA in obtaining such reports, data, information, or services. Include as appropriate scope for:
 - (a) geotechnical for investigation
 - (b) topographical surveys
 - (c) utility mapping
6. Continue to assist PCCA with Specific Project Strategies, Technologies, and Techniques that PCCA has chosen to implement.
7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist PCCA in tabulating the various cost categories which comprise Total Project Costs.
8. Pursuant to the Service Order schedule, furnish the required number of review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to PCCA, and review them with PCCA. Within the time established in the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items.

9. Pursuant to the Service Order schedule, revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to PCCA's comments, as appropriate, and furnish to PCCA the required number of copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and revised estimate of design and related professional services, and any other Preliminary Design Phase deliverables.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to PCCA the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, Preliminary Design calculations, and any other Preliminary Design Phase deliverables.

A1.03 Final Design Phase

A. Engineer shall:

1. Prepare final design calculations and Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for PCCA's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist PCCA in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise PCCA of any recommended adjustments to the opinion of probable Construction Cost as design progresses.
5. Assist PCCA in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from PCCA.
7. Prepare or assemble 60% Design documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.

8. Prepare or assemble 90% Design and bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
 9. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content provided by PCCA. As directed by PCCA, organize the proposed work and related construction documents to provide for additive or alternative bids.
 10. Pursuant to the Service Order schedule, furnish for review by PCCA, the required number of copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, and review them with PCCA. Within the time required by the Service Order schedule, PCCA shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions sealed by Registered Professional Engineer licensed to practice in the State of Texas.
 11. Pursuant to the Service Order schedule, revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the PCCA, as appropriate, and submit the required number of final copies of such documents to PCCA after receipt of PCCA's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to PCCA the final Drawings and Specifications, Final Signed & Sealed Design calculations, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

A1.04 Bidding or Negotiating Phase

- A. Engineer shall:
1. Attend pre-bid conference and provide a presentation of the technical aspect of the project.
 2. Prepare and issue Addenda as appropriate, and as requested by PCCA, to clarify, correct, or change the issued documents.
 3. Provide information or assistance needed by PCCA in the course of any review of proposals or negotiations with prospective contractors.

4. Consult with PCCA as to the qualifications of prospective contractors.
 5. Consult with PCCA as to the qualifications of Subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.01(A)(16) of this **Exhibit A**.
 7. Attend the bid opening, and assist PCCA in evaluating bids or proposals, assembling final contracts for the Work for execution by PCCA and Contractor, and in issuing notices of award of such contracts.
 8. If PCCA engages in negotiations with bidders or proposers, assist PCCA with respect to technical and engineering issues that arise during the negotiations.
 9. Engineer shall prepare and submit issued for construction drawings and specifications incorporating addenda issued during the Bid phase. Issued for Construction Drawings shall be sealed by Registered Professional Engineer licensed to practice in the State of Texas.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if a Construction Cost limit is a part of this Service Order).

A1.05 Construction Phase

A. Engineer shall:

1. *Resident Project Representative (RPR)*: Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in **Exhibit D**. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in **Exhibit D**. **[If Engineer will not be providing the services of an RPR, then delete this Paragraph 2 by inserting the word "DELETED" after the paragraph title, and do not include Exhibit D in the Task Order.]**
2. *Selection of Independent Testing Laboratory*: Assist PCCA, as requested, in the selection of an independent testing laboratory to perform the testing services identified in the contract documents.

3. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
4. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with PCCA and Contractor jointly develop such protocols for transmittals between and among PCCA, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
5. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
6. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
7. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - (a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep PCCA informed of the progress of the Work.
 - (b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for PCCA a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for

any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

8. *Defective Work:* Recommend rejection of Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to PCCA regarding whether Contractor should correct such Work or remove and replace such Work, or whether PCCA should consider accepting such Work as provided in the Construction Contract Documents.
9. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform PCCA of such incompatibility, and provide recommendations for addressing such Work.
10. *Clarifications and Interpretations:* Accept from Contractor and PCCA submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or an amendment or supplement to the Construction Contract Documents.
11. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to PCCA, as appropriate, and support preparation of Change Orders and Work Change Directives as required.
12. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews, obtain information, and prepare findings, conclusions, and recommendations for PCCA's use, subject to the limitations and responsibilities under the Agreement and the Construction Contract.
13. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means,

methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

14. *Substitutes and "or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
15. *Inspections and Tests*:
 - (a) Receive and review certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - (b) Pursuant to the terms of the Construction Contract, recommend additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
16. *Change Proposals and Claims*: (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to PCCA and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to PCCA regarding engineering or technical matters pertaining to Claims.
17. *Applications for Payment*: As requested by PCCA, review Contractor's applications for payment and provide PCCA with a recommendation to pay, partially pay, or request a revised pay application.
18. *Contractor's Completion Documents*: As required and directed by PCCA, review, and transmit to PCCA maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided from Contractor. Review, and transmit to PCCA the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment.

19. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with PCCA and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, PCCA's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist PCCA regarding any remaining engineering or technical matters affecting PCCA's use or occupancy of the Work following Substantial Completion.
 20. *Final Notice of Acceptability of the Work:* Conduct a final visit to the specific Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to PCCA and Contractor in the form attached hereto as **Exhibit E** ("Notice of Acceptability of Work") that the Work is acceptable.
 21. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to PCCA or Contractor.
 22. Preparing Record Drawings, and furnishing such Record Drawings to PCCA.
 23. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, PCCA, utility companies, and other reliable sources.
 24. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, PCCA, utility companies, and other sources; revise and supplement Record Drawings as needed.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the specific Project involves more than one prime contract then Construction Phase services may be rendered at different times in respect to the separate contracts.

A1.06 Post-Construction Phase

- A. Upon written authorization from PCCA during the Post-Construction Phase, Engineer shall:

1. Together with PCCA, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of Defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist PCCA in consultations and discussions with Contractor concerning correction of any such Defective Work and any needed repairs.
 2. Together with PCCA, visit the Project within one month before the end of the Construction Contract's Correction Period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
- B. The Post-Construction Phase services may commence during the Construction Phase and will terminate twelve months after the commencement of the Construction Contract's Correction Period.

A1.07 Commissioning Phase

A. Engineer shall:

1. Assist PCCA in connection with the adjusting of Specific Project equipment and systems.
2. Assist PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
3. Prepare operation and maintenance manuals.
4. Assist PCCA in developing procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related record-keeping.
5. Prepare and furnish to PCCA, in the format agreed to, Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.

PART 2—OTHER SERVICES

A2.01 Other Services Required to be Listed in the Service Order

- A. Each specific Service Order may include Services that do not fit into the categories described in Part 1, such as the types of Services listed in this Part 2. Such services should be expressly stated in the specific Service Order itself.
1. Preparation of applications and supporting documents (in addition to those furnished under Services) for private or governmental grants, loans, or advances in connection with the Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the

design requirements for the Specific Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Specific Project.

2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by PCCA or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Specific Project designed or specified by Engineer, or the Specific Project's design requirements, including, but not limited to, changes in size, complexity, PCCA's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Commencement Date of the Service Order or are due to any other causes beyond Engineer's control.
4. Providing renderings or models for PCCA's use, including services in support of building information modeling or civil integrated management.
5. Undertaking investigations and studies including, but not limited to:
 - a) detailed consideration of operations, maintenance, and overhead expenses;
 - b) based on the engineering and technical aspects of the Project, the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c) evaluating processes available for licensing, and assisting PCCA in obtaining process licensing;
 - d) detailed quantity surveys of materials, equipment, and labor; and
 - e) audits or inventories required in connection with construction performed or furnished by PCCA.
6. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by PCCA; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

7. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Section 3.02.
8. Preparation of operation, maintenance, and staffing manuals.
9. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
10. Assistance to PCCA in training PCCA's staff to operate and maintain Specific Project equipment and systems.
11. Assistance to PCCA in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
12. Preparing to serve or serving as a consultant or witness for PCCA in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project.
13. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05(A)(6), and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
14. Provide assistance in responding to the presence of any Constituent of Concern at any Site, in compliance with current Laws and Regulations.
15. Services in connection with Work Change Directives and Change Orders to reflect changes requested by PCCA.
16. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
17. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
18. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected,

or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

19. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.

EXHIBIT B
TO MASTER SERVICES AGREEMENT NO. 22-04

Standard Hourly Rates Schedule

The Standard Hourly Rates Schedule for Services performed under this Agreement is:

SURVEY OFFICE PERSONNEL RATES:	
Office/Department Manager (15+ yrs. experience)	\$260.00 per hour
Senior Project Manager (10+ yrs. experience)	\$210.00 per hour
Project Manager (5+ yrs. experience)	\$160.00 per hour
Staff Surveyor (Professional Land Surveyor / 4+ yrs. experience)	\$150.00 per hour
Phase Manager (4+ yrs. experience)	\$135.00 per hour
Project Coordinator (4+ yrs. experience)	\$125.00 per hour
Senior Office Technician (5+ yrs. experience)	\$105.00 per hour
Office Technician (1+ yrs. experience)	\$95.00 per hour
Project Specialist (2+ yrs. experience)	\$95.00 per hour
Administration / Clerical Support	\$90.00 per hour
SURVEY FIELD CREW RATES:	
Field Ops Manager (5+ yrs. experience)	\$170.00 per hour
Field Coordinator/Supervisor (5+ yrs. experience)	\$115.00 per hour
One (1) Person Survey Field Crew	\$125.00 per hour
Two (2) Person Survey Field Crew	\$160.00 per hour
Three (3) Person Survey Field Crew	\$215.00 per hour
Additional Rodperson or Flagperson	\$75.00 per hour
UTILITY ENGINEERING OFFICE PERSONNEL RATES:	
Office/Department Manager (15+ yrs. experience)	\$260.00 per hour
Senior Project Manager (10+ yrs. experience)	\$215.00 per hour
Project Manager/Senior Engineer (10+ yrs. experience)	\$185.00 per hour
Staff Engineer (Professional Engineer / 4+ yrs. experience)	\$140.00 per hour
Phase Manager (4+ yrs. experience)	\$135.00 per hour
Senior Office Technician (2+ yrs. experience)	\$124.00 per hour
Office Technician (1+ yrs. experience)	\$95.00 per hour
Senior Utility Coordinator (5+ yrs. experience)	\$215.00 per hour
Utility Coordinator (1+ yrs. experience)	\$120.00 per hour
Project Specialist (2+ yrs. experience)	\$95.00 per hour
Administration/Clerical Support	\$90.00 per hour
UTILITY ENGINEERING FIELD CREW RATES:	
Field Ops Manager (5+ yrs. experience)	\$185.00 per hour
Field Coordinator/Supervisor (5+ yrs. experience)	\$125.00 per hour
Field Technician	\$105.00 per hour
One Person SUE Designating Crew	\$100.00 per hour
Two Person SUE Designating Crew	\$180.00 per hour
Three Person SUE Designating Crew	\$285.00 per hour
Two (2) Person Vac Crew With One (1) Unit	\$260.00 per hour
Three (3) Person Vac Crew With One (1) Unit	\$350.00 per hour
GEOSPATIAL OFFICE PERSONNEL RATES:	
Director/Operations Manager (15+ yrs. experience)	\$325.00 per hour
Senior Project Manager (10+ yrs. experience)	\$240.00 per hour
Acquisition Manager (15+ yrs. experience)	\$215.00 per hour
Project Manager (5+ yrs. experience)	\$190.00 per hour
Aircraft Pilot (FAA Pilot's License / 5+ yrs. experience)	\$205.00 per hour

Two (2) Person UAS Geo Crew – Unmanned Pilot & Observer (FAA Part 107 – Remote Pilot Certificate)	\$215.00 per hour
Two (2) Person UAS Survey Crew – Unmanned Pilot & Observer (FAA Part 107 – Remote Pilot Certificate)	\$155.00 per hour
Three (3) Person UAS Crew – Unmanned Pilot & 2 Observers (FAA Part 107 – Remote Pilot Certificate)	\$350.00 per hour
Photogrammetrist / Project Lead /sensor operator (Tech3) (5+ yrs. experience)	\$130.00 per hour
Acquisition / Calibration / Aerial Triangulation Technician (Tech2) (3+ yrs. experience)	\$115.00 per hour
LiDAR / Photogrammetry/GIS Technician (Tech1) (1+ yrs. experience)	\$100.00 per hour
Project Specialist (2+ yrs. experience)	\$90.00 per hour

GIS OFFICE PERSONNEL RATES:

Operations Manager (15+ yrs. experience)	\$185.00 per hour
Senior Project Manager (10+ yrs. experience)	\$150.00 per hour
GIS Office Technician 1 (1+ yrs. experience)	\$70.00 per hour
GIS Office Technician 2 (3+ yrs. experience)	\$90.00 per hour
GIS Field Technician (2+ yrs. experience)	\$80.00 per hour
IT/Web Administrator (3+ yrs. experience)	\$150.00 per hour
Programmer (3+ yrs. experience)	\$125.00 per hour
Project Specialist (2+ yrs. experience)	\$90.00 per hour
Office Administration	\$120.00 per hour

SURVEY EQUIPMENT RATES:

GPS Receiver	\$10.00 per hour
Robotic Total Station S-7	\$13.25 per hour
Robotic Total Station S-9	\$66.75 per hour
SX-10	\$35.00 per hour
Tier 1 HDS Scanner (BLK360 & Faro)	\$33.00 per hour
Tier 2 HDS Scanner RTC 360	\$35.00 per hour
Tier 3 HDS Scanner Leica P20, P40, P50	\$312.00 per hour
Digital Level	\$4.00 per hour
UTV	\$18.00 per hour
Aluminum Boat	\$15.00 per hour
Echo Sounder –Remote Controlled Boat	\$25.00 per hour
Echo Sounder-Sonarmite	\$9.25 per hour
VM810 Survey	\$5.75 per hour
RD8000 Survey	\$11.50 per hour
IKE-IKE4	\$28.50 per hour
Tool Tracking Equipment (Hans Box & Traxall)	\$2.75 per hour
SPAR 300 Kit	\$5.00 per hour
Weather Station	\$6.00 per hour

UTILITY ENGINEERING EQUIPMENT RATES:

GPS Receiver	\$10.00 per hour
Robotic Total Station S-7	\$13.25 per hour
Robotic Total Station S-9	\$66.75 per hour
SX-10	\$35.00 per hour
Digital Level	\$4.00 per hour
UTV	\$18.00 per hour
SPAR 300 Kit	\$5.00 per hour
Vacuum Excavator Truck	\$92.50 per hour
Vacuum Excavator Towed	\$50.00 per hour
Vacuum Excavator (Canister)	\$4.00 per hour
Single Axle Trailer (Compressor/Generator-Towed) IR185	\$20.00 per hour
Magnetometer (EM-61)	\$88.40 per hour
SUE Equipment Package	\$7.00 per hour
Ground Penetrating Radar (GPR-Push Cart)	\$12.50 per hour

GPR Towed (Raptor Towed Array)	\$125.00 per hour
Confined Space Entry Package (CSE)	\$13.00 per hour
All Material Locator (AML PRO)	\$10.00 per hour

GEOSPATIAL EQUIPMENT RATES:

Riegl VQ 1560II	\$1,300.00 per hour
Riegl 480II or 780I	\$1,000.00 per hour
Mobile Mapping System, includes 360° Camera System (Equipment Only)	\$1,000.00 per hour
Mobile Mapping Equipment Stand-by Fee (Equipment Only)	\$200.00 per hour
HDS Laser Scanner	\$100.00 per hour
High Rail Equipped Vehicle	\$10.00 per hour
Weather Station	\$10.00 per hour
Oblique HD Camera System – Manned Aircraft	\$30.00 per hour
Video Camera System – Manned Aircraft	\$5.00 per hour
360° Camera System – Terrestrial or Marine Stand Alone	\$100.00 per hour
Helicopter (Turbine Engine Powered)	\$1,450.00 per hour
Helicopter (Reciprocal Engine Powered)	\$850.00 per hour
Fixed Wing Twin Engine (Piston)	\$1,300.00 per hour
Fixed Wing Single Engine (Piston)	\$750.00 per hour
Fixed Wing Single Engine (Turbine)	\$1,400.00 per hour
UAS Autel Devon2 / Mavic / Phantom/ Small Lift TIER 1	\$50.00 per hour
UAS Alta-X / Galaxy / SkyFront Heavy Lift w/ LiDAR TIER 3	\$300.00 per hour
UAS M600 type Inspection Platform TIER 2	\$75.00 per hour
Handheld DSLR Camera	\$50.00 per hour
GPS Receiver (Unmanned)	\$10.00 per hour
	\$100.00 per day
Geospatial Work Station	\$15.00 per hour

**EXHIBIT C
TO MASTER SERVICES AGREEMENT NO. 22-04**

Reimbursable Expenses Schedule

The Reimbursable Expenses Schedule for Services performed under the Agreement per Section 4.04.

Other Engineer reimbursable expenses for consideration to be identified below:

OTHER DIRECT RATES FOR ALL DISCIPLINES:

Lodging/Per Diem*	DOD
Mileage	\$0.80 per mile
Additional Vehicle (plus mileage)	\$20.00 per hour
Environmental Supplies	\$25.00 per day
Recording Fees	At Cost plus 5%
Permitting Fees	At Cost plus 5%
Third-Party Traffic Control	At Cost plus 5%
Metered Water	At Cost plus 5%
Backfill Material	At Cost plus 5%
Spoils Disposal	At Cost plus 5%
Coring	At Cost plus 5%
Document Reproduction	At Cost plus 5%
Records Collection Fees	At Cost plus 5%
All other services not described	At Cost plus 5%

Expenses identified 'at cost' will require copy of receipt with invoices.

**EXHIBIT D
TO MASTER SERVICES AGREEMENT NO. 22-04**

**SCHEDULE OF DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY
OF RESIDENT PROJECT REPRESENTATIVE**

The following duties, responsibilities, and limitations of authority may be incorporated in the Service Order for a Specific Project:

Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“**RPR**”) to assist Engineer in observing progress and quality of the Work. The RPR shall provide full-time or part-time representation as indicated in the Service Order. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.

- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for PCCA against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of PCCA and the Contractor. RPR shall generally communicate with PCCA only with the knowledge of and under the direction of Engineer.

 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer and PCCA concerning acceptability of such schedules.

 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor’s safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison*
 - a. Serve as Engineer's and PCCA's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as PCCA's liaison with Contractor when Contractor's operations affect PCCA's on-Site operations.
 - c. Assist in obtaining from PCCA additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer and PCCA regarding such RFIs. Report to Engineer and PCCA when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's and PCCA's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer and PCCA. Transmit Engineer's and PCCA's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work*
 - a. Report to Engineer and PCCA whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract

Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer and PCCA of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer and PCCA for addressing such Work; and
- c. Advise Engineer and PCCA of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups*

- a. Consult with Engineer and PCCA in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate PCCA's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer and PCCA appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer and PCCA.

11. *Records*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more

detail as in the case of observing test procedures; and send copies to Engineer and PCCA.

- c. As requested by PCCA to Engineer, photograph or video work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Specific Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer and PCCA.

12. *Reports*

- a. Furnish to Engineer and PCCA periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer and PCCA proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and PCCA copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer and PCCA of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to PCCA, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Construction Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Construction Contract Documents, and have these documents delivered to Engineer for review and forwarding to PCCA prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's and PCCA's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion, submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's and PCCA's visit to the Site in the company of, PCCA, and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer and PCCA concerning acceptance and issuance of the Notice of Acceptability of the Work (**Exhibit E**).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of PCCA or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer and/or PCCA.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

**EXHIBIT E
TO MASTER SERVICES AGREEMENT NO. 22-04**

Notice of Acceptability of Work

PROJECT TITLE:

PCCA PROJECT NUMBER:

MASTER SERVICES AGREEMENT NO.:

SERVICE ORDER NO.:

DATE OF CONSTRUCTION AGREEMENT:

DATE OF NOTICE

To: Port of Corpus Christi Authority (PCCA)

And To: *(Insert name of Contractor)* (Contractor)

From: *(Insert name of Engineer)* (Engineer)

The undersigned (Engineer) hereby gives notice to PCCA and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Construction Contract Documents and the terms and conditions set forth on the reverse side hereof. Engineer further recommends PCCA issue a Notice of Final Acceptance to the Contractor.

Engineer: _____

By: _____

Name: _____

Title: _____

Date: _____

(See Reverse Side of Notice)

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work (“**Notice**”) on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of Engineer.
3. Said Notice is given as to the best of Engineer’s knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the Scope of Services Engineer has been employed by PCCA to perform or furnish during construction of the Project (including observation of the Contractor’s Work) under Engineer’s Agreement with PCCA and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under Engineer’s Agreement with PCCA and the Construction Contract referenced on the reverse hereof.
5. Said Notice affirms Contractor’s performance under the Construction Contract referenced on the reverse hereof but is not an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents.
6. Said Notice affirms that the design of the Project complies with all City of Corpus Christi building codes regardless of whether or not the Project is located within the city limits of the City of Corpus Christi.

**EXHIBIT F
TO MASTER SERVICES AGREEMENT NO. 22-04**

Amendment to Service Order No. _____

1. Background Data:

- a. Commencement Date of Service Order:
- b. PCCA:
- c. Engineer:
- d. Specific Project:

2. Description of Modifications

[Include the following paragraphs that are applicable and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform the following Services: []
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Service Order and previous amendments, if any, is modified as follows: []
- c. The responsibilities of PCCA with respect to the Service Order are modified as follows: []
- d. For the additional services or the modifications to services set forth above, PCCA shall pay Engineer the following additional or modified compensation: []
- e. The schedule for rendering services under this Service Order is modified as follows: []
- f. Other portions of the Service Order (including previous amendments, if any) are modified as follows: []

[List other Attachments, if any]

3. Service Order Summary (Reference only)

- a. Original Service Order amount: \$[]
- b. Net change for prior amendments: \$[]
- c. This amendment amount: \$[]
- d. Adjusted Service Order amount: \$[]

The foregoing Service Order Summary is for reference only and does not alter the terms of the Service Order.

PCCA and Engineer hereby agree to modify the above-referenced Service Order as set forth in this Amendment. All provisions of the Agreement and Service Order not modified by this or previous Amendments remain in effect. The effective date of this Amendment is _____.

PORT OF CORPUS CHRISTI AUTHORITY

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date
Signed: _____

Date
Signed: _____

EXHIBIT G

TO MASTER SERVICES AGREEMENT NO. 22-04



Scope Change Request Form

Engineer/Consultant: _____	Scope Change No.: _____
PCCA Project No.: _____	Date Submitted: _____
Project Name: _____	Date Requested: _____

Description of Scope of Work Change:

Reason for Change:

Requested/Required by:	PCCA/Authority	Engineer/Consultant	Sub-consultant
	Field conditions	Other	

Design Fee:	Design Work Change includes:
Lump sum \$ _____	
Proposal to be submitted Due: _____	
Time and expense per schedule dated _____	
Included in percent of construction phase fee _____	
No change to Service Order amount _____	

Impact:	Construction Phase Work Change includes:
Design schedule _____	
Construction phase schedule Add ___ days to Service Order	
Construction phase cost \$ _____	

Please sign below to indicate your concurrence with this scope change.

ENGINEER/CONSULTANT

Signed: _____ Date: _____

PCCA PROJECT MANAGER

Signed: _____ Date: _____

PCCA DIRECTOR (if required)

Signed: _____ Date: _____

TO MASTER SERVICES AGREEMENT NO. 22-04
Service Order

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 22-04

PROJECT NAME San Patricio Acquisitions

PROJECT NO. 22-04-001

SERVICE ORDER NO. 1

COMMENCEMENT DATE May 24, 2022

This Service Order is executed by any between the **Port of Corpus Christi Authority of Nueces County, Texas** (“PCCA”) and **Surveying & Mapping, LLC** (“**Engineer**”). PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 22-04 between PCCA and Engineer, as amended (“**Agreement**”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

PCCA is acquiring properties in Nueces County and requires miscellaneous survey services, on an as needed basis, to support PCCA real estate transactions.

2. Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are set forth in “Part 1—Services” of **Exhibit A**, “*Engineer’s Services for Service Order*,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

3. PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following:

4. Service Order Schedule

In addition to any schedule provisions provided in **Exhibit A** or elsewhere, the parties shall meet the following schedule:

This Service Order will expire May 24, 2025

5. Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation:

By individual proposals submitted to PCCA by Engineer on a as needed basis.

B. The Ceiling Price for this Service Order is \$150,000.

C. The terms of payment are set forth in Article 4 of the Agreement.

6. Consultants retained or that will be retained as of the Commencement Date of the Service Order: Not Applicable

7. Other Modifications to the Agreement or the Exhibits to the Agreement: Not Applicable

8. Exhibits or Attachments to this Service Order: Not Applicable

9. Documents (other than the Agreement) Incorporated by Reference: Not Applicable

10. Terms and Conditions

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

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

By: _____

Name: Sean C. Strawbridge

Title: Chief Executive Officer

Date Signed: _____

Address for giving notice:

Attention: Director of Real Estate Services
400 Harbor Drive
Corpus Christi, Texas 78401

PCCA's Designated Representative:

Erin Hall

Title: Real Estate and Right of Way Specialist

Phone Number: 361.429.1091

E-Mail: erin@pocca.com

Engineer:

Surveying & Mapping, LLC

By: _____

Name: Patrick A Smith, RPLS

Title: Executive Vice President, Principal

Date Signed: 05/16/2022

Address for giving notice:

Patrick A Smith, RPLS
Executive Vice President, Principal
4801 Southwest Pkwy
Bldg. 2, Ste 100
Austin, Texas 78735
(512) 447-0575
Email: PSmith@sam.biz

Engineer's Designated Representative:

Donald J. Zdancewicz, RPLS

Title: Senior Project Manager

Phone Number: 512.895-5054

E-Mail: Donald.Zdancewicz@sam.biz

EXHIBIT A
Service Order Standard Language for Engineer's Services

PART 1—SERVICES

A1.01 Surveying Services

- A. Perform ALTA surveys, topographic surveys, civil surveys, and/or boundary surveys, signed and sealed final survey plats with metes and bound, survey work delivered in pdf format and AutoCAD dwg format.
- B. Deliverables will be appropriate to the survey work and will generally consist of reduced data in the proper coordinate system and referenced to the correct vertical datum as follows: Conducted in the Texas State Plane Coordinate System NAD 83, South Zone.
- C. Engineer will provide CAD files, certified plats with metes and bounds descriptions.



DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
 (361) 885-6140

Approve Service Order No.12, under Master Services Agreement No. 20-03 with T. Baker Smith, LLC., not to exceed \$150,000 to preform ALTA land surveys and boundary land surveys in San Patricio and Nueces Counties, Texas.

SUMMARY: Staff recommends approval of Service Order No. 12, under Master Services Agreement No. 20-03 with T. Baker Smith, LLC. (TBS), in the amount not to exceed \$150,000 to preform survey work associated with existing PCCA lands and potential acquisition of land and rights of way in San Patricio and Nueces Counties. TBS will perform boundary surveys, ALTA/NSPS land title surveys in accordance with the provided title commitments and other documents. TBS will deliver survey work in the Texas State Plane Coordinate System NAD 83, South Zone datum, CAD files, certified plats and metes and bound descriptions. The TBS Service Order No. 12 expires March 31, 2023.

BACKGROUND: The Port of Corpus Christi Authority (PCCA) Real Estate Services Department requires registered land surveyors to preform boundary surveys, ALTA/NSPS land title surveys on existing PCCA lands and potential land acquisitions and rights of way to identify the boundaries of property, location of improvements on the subject property, including any structures, fences, utility lines, roads, etc., along with the location of any easements. The identification of improvements along with the location of any easements or encumbrances against a property are crucial in negotiating the acquisition of land and right of way and future PCCA development.

ALTERNATIVES: None

CONFORMITY TO PORT POLICY: The services conform to PCCA's Procurement Policy and Strategic Plan 2023 (Strategic Goal #3 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: N/A

FINANCIAL IMPACT: Compensation to T. Baker Smith, LLC., will be on a per parcel basis, not to exceed \$150,000.

STAFF RECOMMENDATION: Staff recommends approval of Service Order No. 12, under Master Services Agreement No. 20-03 with T. Baker Smith, LLC., in the amount not to exceed \$150,000 to perform boundary surveys, ALTA/NSPS land title surveys for future development of PCCA land associated with the evaluation of potential land acquisition and right of way in San Patricio and Nueces Counties.

DEPARTMENTAL CLEARANCES:

Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel Kent Britton
Legal	Standard Service Order
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Service Order No. 12

TO MASTER SERVICES AGREEMENT NO. 20-03
Service Order

PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
MASTER SERVICES AGREEMENT NO. 20-03

PROJECT NAME Robstown Parcels
PROJECT NO. 20-03-001
SERVICE ORDER NO. 12
COMMENCEMENT DATE May 24, 2022

This Service Order is executed by any between the **Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”)** and **T. Baker Smith, LLC (“Engineer”)**. PCCA and Engineer agree that all of the Services authorized by this Service Order shall be subject to the terms and conditions of PCCA’s Master Services Agreement No. 22-03 between PCCA and Engineer, as amended (“**Agreement**”). Upon execution of this Service Order, the Agreement shall be incorporated into and be considered part of this Service Order as if set forth herein in its entirety. Any capitalized terms in this Service Order that are not defined herein shall have the meanings given to them in the Agreement. If there is any inconsistency between the terms of this Service Order and the terms of the Agreement, the terms of this Service Order will control.

Engineer will provide the Services described in the Services of Engineer below in connection with the Specific Project described below.

1. Description of Specific Project:

PCCA is acquiring properties in Nueces and San Patricio Counties and requires miscellaneous survey services, on an as needed basis, to support PCCA real estate transactions.

2. Services of Engineer (Scope of Services)

A. The specific services to be provided or furnished by Engineer under this Service Order are set forth in “Part 1—Services” of **Exhibit A**, “*Engineer’s Services for Service Order*,” modified for this specific Service Order, and attached to and incorporated as part of this Service Order.

3. PCCA's Responsibilities

PCCA shall have those responsibilities set forth in Section 5.01 of the Agreement, subject to the following:

4. Service Order Schedule

In addition to any schedule provisions provided in **Exhibit A** or elsewhere, the parties shall meet the following schedule:

This Service Order will expire March 31, 2023

5. Method of Compensation

A. PCCA shall pay Engineer for services rendered under this Service Order using the following method of compensation:

By individual proposals submitted to PCCA by Engineer on a as needed basis.

B. The Ceiling Price for this Service Order is \$150,000.

C. The terms of payment are set forth in Article 4 of the Agreement.

6. Consultants retained or that will be retained as of the Commencement Date of the Service Order: Not Applicable

7. Other Modifications to the Agreement or the Exhibits to the Agreement: Not Applicable

8. Exhibits or Attachments to this Service Order: Not Applicable

9. Documents (other than the Agreement) Incorporated by Reference: Not Applicable

10. Terms and Conditions

Execution of this Service Order by PCCA and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Service Order signed by PCCA.

IN WITNESS WHEREOF, each Party has executed this Service Order effective for all purposes as of the Commencement Date.

PCCA:

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

By: _____

Name: Sean C. Strawbridge

Title: Chief Executive Officer

Date Signed: _____

Address for giving notice:

Attention: Director of Real Estate Services
400 Harbor Drive
Corpus Christi, Texas 78401

PCCA's Designated Representative:

Erin Hall

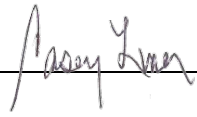
Title: Real Estate and Right of Way Specialist

Phone Number: 361.429.1091

E-Mail: erin@pocca.com

Engineer:

T Baker Smith, LLC

By:  _____

Name: Casey Liner

Title: Chief Administrative Officer

Date Signed: 5/16/2022

Address for giving notice:

Casey Liner
T Baker Smith, LLC
P O Box 2266
Houma, LA 70361

Engineer's Designated Representative:

Jake T. Rodrigue, RPLS

Title: Project Manager

Phone Number: 985.438.0839

E-Mail: jake.rodrigue@tbsmith.com

EXHIBIT A
Service Order Standard Language for Engineer's Services

PART 1—SERVICES

A1.01 Surveying Services

- A. Perform ALTA surveys, topographic surveys, civil surveys, and/or boundary surveys, signed and sealed final survey plats with metes and bound, survey work delivered in pdf format and AutoCAD dwg format.
- B. Deliverables will be appropriate to the survey work and will generally consist of reduced data in the proper coordinate system and referenced to the correct vertical datum as follows: Conducted in the Texas State Plane Coordinate System NAD 83, South Zone.
- C. Engineer will provide CAD files, certified plats with metes and bounds descriptions.



DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
 (361) 885-6140

Approve an in-kind Office Space Lease Agreement with Coastal Bend Bays and Estuaries Program for approximately 3,500 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.

SUMMARY: Coastal Bend Bays and Estuaries Program (CBBEP) is a 501(c)(3) non-profit and conducts research and develops information for the environmental protection of the coastal bend bays and estuaries (“Environmental Protection Services”). CBBEP has requested to lease approximately 3,500 square feet of office space on the second floor of the Annex building. In consideration of the Environmental Protection Services provided to PCCA; PCCA believes that these Environmental Protection Services will aid in the development of the PCCA’s ports and waterways and serve a vital public purpose. PCCA and CBBEP agree that as long as CBBEP is providing the Environmental Protection Services to PCCA, CBBEP will be entitled to a lease credit equal to the full amount of the basic rent and utilities payable under this lease agreement. The lease agreement will have a 5-year term beginning on June 1, 2022.

BACKGROUND: On September 2021, PCCA staff formerly located at the Annex Building, with the exception of the HMO office, relocated to the new Port Executive Administration Building located at 400 Harbor Drive. Staff relocation left the first floor, second floor, and half of third floor of the Annex building vacant and available. This vacancy presented PCCA an opportunity to help our community partners by providing in-kind office space, which could be leveraged by the community partners to secure match contributions from other funding sources.

The lease of the office space at the Annex building will not impact the ongoing renovation project at the former Admin building on Power Street, which will be the future headquarters of PCCA’s Police Department.

ALTERNATIVES: Do not approve.

CONFORMITY TO PORT POLICY: This in-kind office lease agreement is consistent with the PCCA Strategic Plan 2023: Strategic Goal #2 – Be a good business and community partner.

EMERGENCY: N/A

FINANCIAL IMPACT: PCCA market research values the annual market rent of the Lease Premises to be \$12.52 per square foot for an annual in-kind rent contribution of \$52,243.87. In addition, PCCA will also provide in-kind support for utility cost, with an annual estimated in-kind contribution of \$18,606.80, for a total annual in-kind contribution of \$70,850.67. PCCA's in-kind contribution to CBBEP will further the mission of CBBEP by aiding in the development of the PCCA's ports and waterways and serve a vital public purpose to the community.

STAFF RECOMMENDATION: Staff recommends approval of the in-kind Office Space Lease Agreement with Coastal Bend Bays and Estuaries Program for approximately 3,500 square feet of office space, located on the second floor of the Port Annex Building.

DEPARTMENTAL CLEARANCES:

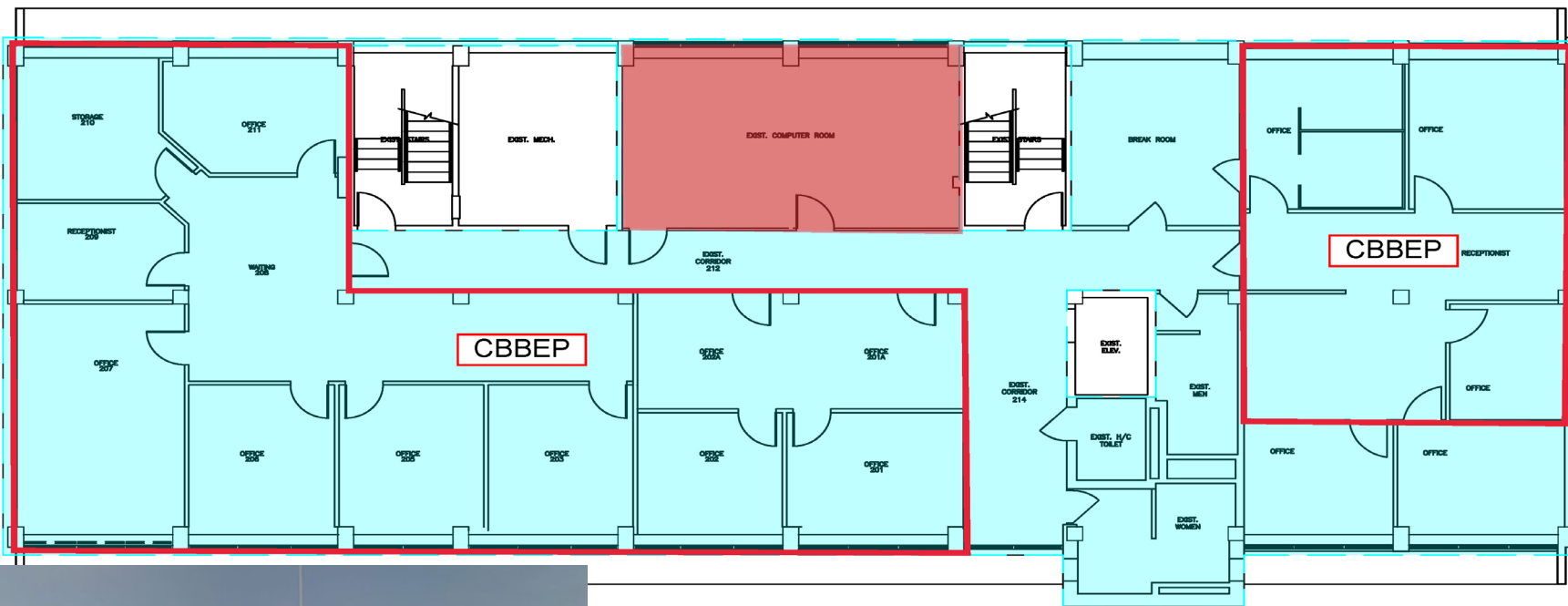
Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel
Legal	Bruce Hawn
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Office Space Lease Agreement

Approve an in-kind Office Space Lease Agreement with Coastal Bend Bays and Estuaries Program for approximately 3,500 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.

Coastal Bend Bays and Estuaries Program



— 5,309 SQ.FT.



General Location

PCCA Building Floorplans
Annex Building 2nd Floor

OFFICE SPACE LEASE

THIS LEASE is entered into between **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, pursuant to authorization by its Port Commissioners (Landlord), and **COASTAL BEND BAYS AND ESTUARIES PROGRAM** (Tenant).

In consideration of the mutual covenants and agreements of this lease, and other good and valuable consideration and subject to the conditions of granting this Lease set forth in Section 1.01, Landlord demises and leases to Tenant and Tenant leases from Landlord, approximately 3,500 square feet of office space, located on the second floor of the Port Annex Building, 1305 Shoreline Boulevard, Corpus Christi, Texas 78401. The Premises are more particularly described in Exhibit A, attached to this lease, and are referred to in this lease as “the Premises” or “the Leased Premises”. The Port Annex Building is referred to as “the Building”.

ARTICLE I TERM

1.01. Term of Lease. The term of this lease is five (5) years, unless terminated sooner or extended as provided in this lease, beginning on _____, 2022.

1.02. Holdover. If Tenant holds over beyond the primary term or any option term of this lease agreement without the written consent of Landlord, Tenant is deemed to be occupying the Leased Premises as a tenant at sufferance. During any holdover period, Tenant will be subject to all other terms of this lease agreement applicable to a tenant at sufferance.

ARTICLE 2 RENT

2.01. Market Rent. Landlord has determined that the monthly market rental value of the Lease Premises during the initial term of this Lease to be \$16.98 per square foot for a total of \$ 5,904.22 per month (“Monthly Market Rent”).

2.02 Rent and Rent Credit.

a. Rent. Tenant, during the first year of the term of this lease agrees to pay rent in an amount equal to the Monthly Market Rent set forth in Section 2.01 (“Monthly Rent”). For each year after the first year of the lease term The Monthly Rent payable by Tenant shall increase by one percent (1%) over the amount of the Monthly Rent payable in the immediately preceding lease year.

b. Rent Credit. During the term of this lease, including extensions, Tenant agrees to conduct research and develop information for the environmental protection of the Coastal Bend bays and estuaries (“Environmental Protection Services”). The Port Commission hereby finds and determines that the Environmental Protection Services will aid in the development of the Landlord’s ports and waterways and serve a vital public purpose. Consequently, Landlord agrees that, as long as Tenant is providing the Environmental Protection Services, Tenant shall be entitled to a rent credit equal to the full amount of the basic rent payable pursuant to Section 2.01. In other words, as long as Tenant is providing the Environmental Protection Services, Tenant will not be required to pay the basic rent. Tenant agrees to provide Landlord with quarterly reports on its Environmental Protection Services.

ARTICLE 3 USE OF PREMISES

3.01. Permitted Use. Tenant will use the premises only for Coastal Bend Bays and Estuaries Program office purposes, unless Landlord gives Tenant prior written consent for a different use.

3.02. Insurance Hazards. Tenant may not use, or permit using, the premises in any manner that will cause a cancellation of, or an increase in, the existing rates for fire, liability or other insurance policies covering the premises or any improvements on them, or insuring Landlord for any liability in connection with owning the premises.

3.03. Waste, Nuisance or Illegal Uses. Tenant may not use, or permit using, the premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Tenant, at its own expense, will comply, and will cause its officers, employees, agents and invitees to comply, with all applicable laws, ordinances and governmental rules and regulations concerning the use of the premises.

3.04. Use of Common Areas. Restrooms, elevators, stairs, hallways, lobbies, walkways, and not otherwise reserved parking spaces, on a first come-first served basis, in the Building parking lot, and all other common areas of the Building are for the joint use of Tenant and the other tenants of the Building. Tenant and its officers, employees, agents and invitees will use the common areas in a reasonable, orderly and sanitary manner in cooperation with all other tenants and their officers, employees, agents and invitees.

3.05. Consideration for Other Tenants. Tenant will conduct itself, and will cause its officers, employees, agents and invitees to conduct themselves, with full regard for the rights, convenience and welfare of all other tenants in the Building.

ARTICLE 4 SERVICES, MAINTENANCE AND SURRENDER

4.01. Services and Maintenance by Landlord. So long as Tenant is not in default under this lease, Landlord will furnish the premises with the following services and maintenance at its sole discretion:

a. **Heating and Air Conditioning.** Heat and air conditioning Monday through Friday from 7:00 a.m. to 6:00 p.m. and on Saturday from 7:00 a.m. to Noon, during the customary periods of the year when, and to the same extent, Landlord furnishes heat and air conditioning for other portions of the Building. Services outside of these periods can be provided for an additional fee.

b. **Elevators.** Elevator service for the use of all tenants and occupants of the Building and their invitees.

c. **Electricity.** Electric current consisting of 110 V 60-cycle service for lighting and ordinary business appliances.

d. **Janitorial Service.** The following janitorial and maintenance services : sweeping and waxing floors, removing trash, cleaning windows, and replacing light globes or fluorescent tubes in the standard lighting fixtures installed in the Building by Landlord.

e. **Maintaining Common Areas.** Maintaining the public and common areas of the Building and property on which it is situated, including lobbies, elevators, stairs, corridors, restrooms, walkways, courtyards, parking areas and appropriate landscaping of outdoor areas.

f. **Maintaining Building Structure.** Maintaining the structure of the Building, including but not limited to the roof, exterior walls (including windows), floors and foundation.

g. **Existing Furnishings.** Lessee shall have the right to use existing furnishings so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the furnishings, the Landlord is not obligated to replace them or to provide any additional furnishings.

h. **Existing Common Area/Kitchen Appliances.** Lessee shall have the right to use the existing kitchen appliances such as refrigerators, microwaves, ice makers and others so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the appliances, the Landlord is not obligated to replace them or to provide any additional appliances.

4.02. Maintenance and Surrender by Tenant. Except as provided in section 4.01, Tenant will maintain the Premises and keep them free from waste or nuisance throughout the lease term and any extension of it. When the lease terminates, Tenant must deliver the Premises in as good a state of repair and condition as they were in when Landlord delivered possession to Tenant, except for reasonable wear and tear. If Tenant neglects to reasonably maintain the Premises, Landlord may, but is not required to, cause repairs or corrections to be made. Any costs incurred for repairs or corrections for which Tenant is responsible under this section are payable by Tenant to Landlord as additional rental on the next rental installment date.

**ARTICLE 5
TAXES ON TENANT'S PROPERTY**

Tenant will pay when due all taxes levied or assessed against personal property, furniture or fixtures it places in or on the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord, and if Landlord elects to pay any of such taxes, Tenant must, upon demand, reimburse Landlord for the payment of such taxes.

**ARTICLE 6
ALTERATIONS, ADDITIONS,
IMPROVEMENTS AND FIXTURES**

6.01. Consent of Landlord. Tenant may not make any alterations, additions or improvements to the Premises without Landlord's prior written consent, which may be withheld by Landlord in its sole and absolute discretion.

6.02. Property of Landlord. All alterations, additions or improvements made by Tenant will become Landlord's property when this lease terminates. Tenant, however, must promptly remove, if Landlord so elects, all alterations, additions and improvements, and any other property placed in or on the Premises by Tenant, and Tenant must repair any damage caused by the removal.

6.03. Trade Fixtures. Tenant has the right at all times to erect or install furniture and fixtures, as long as Tenant complies with all applicable governmental laws, ordinances and regulations. Tenant may remove such items when this lease terminates, if Tenant is not in default at that time and the fixtures can be removed without structural damage to the Premises. Before this lease terminates, Tenant must repair any damage caused by removing any fixtures. Any furniture or fixtures not removed by Tenant when this lease terminates are considered abandoned by Tenant and automatically become Landlord's property.

**ARTICLE 7
DAMAGE OR DESTRUCTION**

7.01. Obligation to Restore. If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the term of this lease agreement, Tenant will promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. Tenant will perform such restoration with at least as good workmanship and quality as the improvements being restored. Notwithstanding the foregoing provisions of this paragraph to the contrary, if all of such improvements are wholly destroyed by any casualty or are so damaged or destroyed that, in Landlord's judgment, it would be uneconomic

to cause the same to be restored (and Landlord shall give written notice of such determination to Tenant within ninety (90) days after the date casualty occurred), then Tenant shall not be obligated to restore such improvements and this lease agreement shall terminate as of the date of the casualty.

If a property loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by Tenant for the damages arising from such casualty shall be distributed and paid directly to Landlord, and Landlord shall distribute such insurance proceeds to Tenant to the extent necessary to reimburse Tenant for costs incurred by Tenant in restoring the damaged Leased Premises in satisfaction of this Article 7, and any balance of such proceeds remaining after such restoration is complete shall be paid to Tenant within sixty (60) days after the restoration is complete.

7.02. Damage Near End of Term. If the Leased Premises are damaged to the extent of fifty per cent (50%) or destroyed in whole or in part during the last six (6) months of the lease term, Tenant shall have the right to terminate this lease agreement and not rebuild the improvements on the Leased Premises, in which event Landlord shall be entitled to receive and retain the insurance proceeds from the loss or Tenant will rebuild as provided herein.

If the Port and ship channel are damaged or destroyed in whole or in part to the extent that it is not economically or physically feasible to restore or re-open the Port in Landlord's sole judgment, then Landlord shall have the option to terminate this lease agreement.

The party electing to terminate this lease agreement shall give notice to the other party of such election within ninety (90) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and rent shall be adjusted as of the date of such notice of termination.

7.03. Notice of Damage. Tenant shall immediately notify Landlord of any destruction of or damage to the Leased Premises.

ARTICLE 8 CONDEMNATION

8.01. Total Condemnation. If, during the lease term or any extension or renewal of the lease, all of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this lease will terminate, and the rent will be abated during the unexpired portion of this lease, effective as of the date the condemning authority takes the Premises.

8.02. Partial Condemnation. If less than all, but more than fifty per cent, (50%), of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate the lease by giving written notice to the other within thirty (30) days after the entity exercising the power of condemnation takes possession of the condemned portion.

8.03. Condemnation Award. Landlord will receive the entire award from any condemnation, and Tenant will have no claim to that award or for the value of any unexpired term of this lease.

ARTICLE 9 INSPECTION BY LANDLORD

Landlord and its officers, agents, employees and representatives may enter any part of the Premises at all reasonable hours for purposes of inspection, cleaning, maintenance, repairs, alterations or additions as Landlord considers necessary (but without any obligation to perform any of these functions except as stated in this lease), or to show the Premises to prospective tenants, purchasers or lenders. Tenant is not entitled to any abatement or reduction of rent by reason of the entry of Landlord or any of its officers, representatives or employees under this article nor will such entry be considered an actual or constructive eviction.

ARTICLE 10 INDEMNITY AND INSURANCE

10.01. Indemnity. TENANT HEREBY RELEASES AND DISCHARGES LANDLORD FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO, THE PROPERTY OF TENANT, AND THE PERSONAL INJURY OR DEATH OF ANY PERSON EMPLOYED BY TENANT, AND TENANT EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD HARMLESS LANDLORD, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY TENANT'S FAULT OF ANY KIND, INCLUDING BUT NOT LIMITED TO WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS LEASE AGREEMENT, INCLUDING THAT CAUSED BY ANY OF THE TENANT'S AGENTS', CONTRACTORS', EMPLOYEES', INVITEES' OR LICENSEES' ACTIVITIES DIRECTLY OR INDIRECTLY RELATED TO THIS LEASE AGREEMENT OCCURRING IN, DURING OR AFTER THE TERM OF THIS LEASE AGREEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE LANDLORD, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, IT BEING INTENDED THAT TENANT WILL INDEMNIFY LANDLORD FOR TENANT'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHICH

CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD TENANT FAIL OR REFUSE AFTER WRITTEN NOTICE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN LANDLORD MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO LANDLORD'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER NOTICE TO TENANT WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE OF BOTH TENANT AND LANDLORD, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN LANDLORD AND TENANT.

EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES HERETO THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED UNDER THE TERMS OF THIS LEASE AGREEMENT BE WITHOUT MONETARY LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF (INCLUDING PRE-EXISTING CONDITIONS). THE INDEMNITY CONTAINED IN THIS ARTICLE APPLIES, WITHOUT LIMITATION, TO ANY VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW IN EFFECT DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS, AND ANY AND ALL MATTERS ARISING OUT OF ANY ACT, OMISSION, EVENT OR CIRCUMSTANCE EXISTING OR OCCURRING DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS (INCLUDING WITHOUT LIMITATION THE PRESENCE ON THE LEASED PREMISES OR RELEASE FROM THE LEASED PREMISES OF HAZARDOUS SUBSTANCES OR SOLID WASTE DISPOSED OF OR OTHERWISE RELEASED PRIOR TO THE RELEASE DATE), REGARDLESS OF WHETHER THE ACT, OMISSION, EVENT OR CIRCUMSTANCE CONSTITUTED A VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW AT THE TIME OF ITS EXISTENCE OR OCCURRENCE. THE TERMS "HAZARDOUS SUBSTANCE" AND "RELEASE" SHALL HAVE THE MEANINGS SPECIFIED IN CERCLA, AND THE TERMS "SOLID WASTE" AND "DISPOSED" SHALL HAVE THE MEANINGS SPECIFIED IN RCRA; PROVIDED, IN THE EVENT EITHER CERCLA OR RCRA IS AMENDED SO AS TO BROADEN THE MEANING OF ANY TERM DEFINED THEREBY, SUCH BROADER MEANING SHALL APPLY SUBSEQUENT TO THE EFFECTIVE DATE OF SUCH AMENDMENT AND PROVIDED FURTHER, TO THE EXTENT THAT THE LAWS OF THE STATE OF TEXAS ESTABLISH A MEANING FOR "HAZARDOUS SUBSTANCE," "RELEASE," "SOLID WASTE," OR "DISPOSAL" WHICH IS BROADER THAN THAT SPECIFIED IN EITHER CERCLA OR RCRA, SUCH BROADER MEANING SHALL APPLY.

10.02. Insurance. Tenant shall satisfy the insurance requirements set forth in **Exhibit B** attached hereto, which is incorporated in this Lease Agreement.

10.03. Waiver of Subrogation. To the full extent that Tenant may do so without invalidating Tenant's insurance coverage, Tenant hereby waives any and every Claim which arises or may arise in its favor against the Landlord during the Term of the Lease for any and all loss of, or damage to, any of its property located within or upon, or constituting part of, the Leased Premises, to the extent that such loss or damage is covered by any property insurance policy carried by Tenant, or would have been covered by any

property insurance policy required to be carried by Tenant pursuant to this Lease. Tenant agrees to have such insurance policies properly endorsed as set forth in **Exhibit B** attached hereto.

ARTICLE 11 ASSIGNMENT AND SUBLEASE

11.01. Assignment and Subletting by Tenant. Tenant may not assign or sublet this lease without Landlord's prior written consent, which consent may be withheld by Landlord in its sole and absolute discretion; provided if consent is given each assignee must assume in writing all of Tenant's obligations under this lease, and Tenant will remain liable for each obligation under this lease.

11.02. Assignment by Landlord. Landlord may assign any or all of its interest under this lease. Furthermore, Landlord may sell the Port Annex Building without assigning this lease to the buyer, in which case this lease will terminate effective as of the date of sale.

ARTICLE 12 DEFAULT

12.01. Tenant's Default. The following events are considered events of default by Tenant under this lease:

- a. Tenant fails to comply with any term or covenant of this lease, other than the payment of rent, and does not cure the failure within twenty (20) days after written notice of the failure to Tenant.
- b. Tenant makes an assignment for the benefit of creditors.
- c. Tenant deserts or vacates any substantial portion of the Premises for five (5) or more days.

12.02. Landlord's Remedies. In the event of any default specified in section 12.01, Landlord may pursue one or more of the following remedies:

- a. Landlord may terminate this lease, in which event Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy that it may have for possession or arrearages in rent, enter upon and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim of damages for the entrance and expulsion or removal. Tenant will, on demand, pay Landlord the amount of all loss and damage that Landlord suffers by reason of the termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

b. Landlord may enter upon and take possession of the Premises and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim for damages for the entrance and expulsion or removal; relet the Premises on the terms Landlord considers advisable; and receive the rent for the reletting. Tenant will, on demand, pay Landlord any deficiency that may arise by reason of reletting.

c. Landlord may enter the Premises, by force if necessary, without being liable for prosecution or any claim for damages for the entry, and do whatever Tenant is obligated to do under the terms of this lease to correct the default. Tenant will, on demand, reimburse Landlord for any expenses that Landlord incurs in effecting compliance with Tenant's obligations under this lease in this manner, and Tenant further releases Landlord from liability for any damages resulting to Tenant from such an action.

No reentry or taking possession of the Premises by Landlord may be construed as an election on its part to terminate this lease, unless a written notice of the intention is given to Tenant. Notwithstanding any such reletting or reentry or taking possession, Landlord may at any time thereafter terminate this lease for a previous default. The loss or damage that Landlord may suffer in terminating this lease or the deficiency from any reletting as provided above, includes the expense of repossession.

12.03. Landlord's Lien. Landlord has, at all times, a valid security interest to secure payment of all rents and other sums of money becoming due under this lease from Tenant and to secure payment of any damages or loss that Landlord may suffer by reason of Tenant's breaching any covenant, agreement or condition contained in this lease. The security interest covers all goods, wares, equipment, fixtures, furniture and other personal property of Tenant that is now on the Premises or placed on the Premises at some later date, and all proceeds from them. This property may not be removed from the Premises without Landlord's consent until all arrearages in rent and all other sums of money then due Landlord under this lease have been paid and discharged, and all the covenants, agreements and conditions of this lease have been fully complied with and performed by Tenant.

If Tenant is in default, Landlord may, in addition to any other remedies provided in this lease or by law, after giving reasonable notice of the intent to take possession and giving an opportunity for a hearing on the issue, enter upon the Premises and take possession of any goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the Premises, without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made. Landlord or its assigns may buy any items to be sold at such a sale unless they are prohibited from doing so by law. Unless otherwise provided by law, and without excluding any other manner of giving Tenant reasonable notice, the reasonable-notice requirement is met if notice is given at least thirty (30) days before the time of sale. The proceeds from any such disposition, less any expenses connected with taking possession, holding and selling the property (including reasonable attorney's fees and other expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this section. Any surplus will be paid to Tenant or as otherwise required by law, and

Tenant will pay any deficiencies immediately. When Landlord requests, Tenant will execute and deliver to Landlord a financing statement in sufficient form to perfect Landlord's security interest in the property and proceeds under the provisions of the Business and Commerce Code in force in Texas. The statutory lien for rent is not waived as the security interest granted in this article supplements that lien.

12.04. Cumulative Remedies. Landlord's or Tenant's pursuing any remedy provided in this lease will not preclude any other remedy provided in this lease. Either party's pursuing any remedy provided in this lease or by law will not constitute a forfeiture or waiver of any damages accruing to either party by reason of violating any term or covenant of this lease. Nor will Landlord's pursuing any remedies provided in this lease constitute a waiver or forfeiture of any rent due under this lease.

12.05. Waiver of Default. Either party's waiving any default or violation of breach of any term or covenant of this lease does not waive any other violation or breach of any term or covenant of the lease. Nor does either party's forbearing to enforce one or more of the remedies provided in this lease or by law upon a default waive the default. Landlord's accepting rent following default under this lease does not waive the default.

12.06. Surrender of Premises. No act done by Landlord or its agents during the lease term may be considered an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises is valid unless in writing and subscribed by Landlord.

ARTICLE 13 MISCELLANEOUS

13.01. Notices and Addresses. All notices required under this lease must be given by certified or registered mail, addressed to the proper party, at the following addresses:

Landlord: Port of Corpus Christi Authority
Attention: Executive Director
P.O. Box 1541
Corpus Christi, Texas 78403

Tenant: Coastal Bend Bays and Estuaries Program
1305 Shoreline Blvd., Suite 210
Corpus Christi, Texas 78401

Either party may change the address to which notices are to be sent by sending written notice of the new address to the other party in accordance with the terms of this section.

13.02. Parties Bound. This agreement binds and inures to the benefit of the parties to the lease and their respective heirs, executors, administrators, legal representatives, successors and assigns when this agreement permits.

13.03. Texas Law to Apply. This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Nueces County, Texas.

13.04. Public Disclosure. Landlord is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code, chapters 551 and 552), and as such Landlord 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, Tenant 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 Landlord as required by the Texas Open Meetings Act, Texas Open Records Act or any other law will not expose Landlord (or any party acting by, through or under Landlord) to any claim, liability or action by Tenant.

13.05. Arbitration. Any controversy or claim arising out of or relating to this lease, or the breach thereof, will be settled by arbitration in Corpus Christi, Texas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any district court in Nueces County, Texas.

13.06. Legal Construction. If any one or more of the provisions in this agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability will not affect any other provision of the agreement, which will be construed as if it had not included the invalid, illegal or unenforceable provision.

13.07. Prior Agreements Superseded. This agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

13.08. Amendment. No amendment, modification or alteration of the terms of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and duly executed by the parties.

13.09. Joint and Several Liability. If there is more than one Tenant, the obligations imposed upon Tenants by this lease are joint and several. If there is a guarantor of Tenant's obligations under this lease, the obligations imposed upon Tenant are the joint and several obligations of Tenant and the guarantor. Landlord need not first proceed against Tenant before proceeding against the guarantor, nor will any such guarantor be released from its guaranty for any reason whatsoever.

13.10. Rights and Remedies Cumulative. The rights and remedies provided by this lease are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

13.11. Attorney's Fees and Costs. If, as a result of Tenant breaching this agreement, and Landlord employs an attorney or attorneys to enforce its rights under this lease, Tenant will pay Landlord the reasonable attorney's fees and costs incurred to enforce the lease.

13.12. Force Majeure. Neither Landlord nor Tenant is required to perform any term or covenant of this lease so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods and any other cause not reasonably within the Landlord's or Tenant's control and that Landlord or Tenant cannot, by exercising due diligence, prevent or overcome in whole or in part.

13.13. Time of Essence. Time is of the essence of this agreement.

The undersigned Landlord and Tenant execute this agreement on _____, 2022, at Corpus Christi, Nueces County, Texas.

LANDLORD:

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

By: _____

Sean C. Strawbridge
Chief Executive Officer

TENANT:

**COASTAL BEND BAYS AND ESTUARIES
PROGRAM**

By: Ray Allen

Name: Ray Allen

Title: May 13, 2022

EXHIBIT B

TENANT'S INSURANCE REQUIREMENTS

Without limiting the indemnity obligations or liabilities of Tenant or its insurers provided in this Lease Agreement, before commencing any material activities on the Leased Premises under this Lease Agreement, Tenant shall procure and maintain the policies of insurance identified below, (such policies sometimes collectively referred to in this **Exhibit B** as the "**Policies**"), at its sole expense during the Term of this Lease, and during any time period following expiration or termination of the Lease in which Tenant performs additional work on the Leased Premises, and in at least the minimum amounts specified below:

- 1) *Workers' Compensation and Employer's Liability Insurance.* For all its employees engaged in performing work on the Leased Premises, Tenant must carry workers' compensation insurance for at least the applicable statutory limit required by the Texas Workers' Compensation Act and Employer's Liability insurance with at least \$500,000 limit for each accident, and at least a \$500,000 limit for each employee for bodily injury by disease. Under the Worker's Compensation policy, Tenant shall provide a Waiver of Subrogation in favor of the Authority Parties on the Certificate of Insurance.
- 2) *Commercial General Liability Insurance.* Commercial General Liability (CGL) insurance coverage, which shall cover or be endorsed to cover bodily injury & personal injury, with a per occurrence limit of \$300,000 and aggregate limits of at least \$300,000 and endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.
- 3) *Automobile Liability Insurance.* When any motor vehicles (owned, non-owned or hired by Tenant) are used in connection with work being performed on the Leased Premises, the Tenant shall carry Automobile Liability Insurance with limits of not less than \$500,000 per occurrence for bodily injury and property damage. The policy shall be endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.

Tenant's liability shall not be limited to the specified amounts of insurance required herein. Each policy 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**"). Tenant agrees to immediately provide to each of its insurers written notice of the terms of the waiver set forth in this **Exhibit B**, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver. Tenant will provide to Authority a copy of said endorsement or evidence that such endorsement is not necessary to prevent the invalidation of the insurance coverage by reason of such waiver. 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 Workers' Compensation and Employer's Liability. Each policy, except Workers' Compensation 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 Lease Agreement.

In addition, to the extent that during the Term of this Lease there shall occur any material changes in any of the Policies required hereunder, Tenant shall notify the Landlord of such changes within 90 days. If Tenant fails to obtain or maintain any of the insurance required by this Exhibit B, the Landlord retains the right to procure such insurance coverage and charge the Tenant the reasonable premium cost plus an additional 10% administrative fee.

From time to time during the Term of this Lease to the extent that the Landlord provides written notice to Tenant evidencing Landlord's reasonable belief (in reasonable detail) that the amounts of coverage required by this **Exhibit B** have become insufficient to adequately protect the interests of the Landlord, then upon Tenant'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 Landlord. Tenant shall deliver to Landlord certificates of renewal prior to the expiration of each policy. The Tenant writing each of the Policies must possess a Financial Strength Rating of no less than S&P "A-", AM Best A- or equivalent.

In the event that a claim is filed against the Landlord and governed by the terms of this Lease Agreement, Tenant shall, upon receipt of a written request, deliver to the Landlord, true and correct copies of the Policies required hereunder which may be responsive to the claim.



DATE: May 24, 2022

TO: Port Commission

FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
 (361) 885-6140

Approve an in-kind Office Space Lease Agreement with Coastal Bend Air Quality Partnership for approximately 1,137 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.

SUMMARY: Coastal Bend Air Quality Partnership (CBAQP) is a 501(c)(3) non-profit and conducts research and develops information for the environmental protection of the air quality and air monitoring of the area (“Environmental Protection Services”). CBAQP has requested to lease approximately 1,137 square feet office space on the second floor in the Annex building. In consideration of the Environmental Protection Services provided to PCCA; PCCA believes that these Environmental Protection Services will aid in the development of the PCCA’s ports and waterways and serve a vital public purpose. PCCA and CBAQP agree that, as long as CBAQP is providing the Environmental Protection Services to PCCA, CBAQP will be entitled to a rent credit equal to the full amount of the basic rent and utilities payable under this lease agreement. The lease agreement will have a 5-year initial term beginning on June 1, 2022.

BACKGROUND: On September 2021, PCCA staff formerly located at the Annex Building, with the exception of the HMO office, relocated to the new Port Executive Administration Building located at 400 Harbor Drive. Staff relocation left the first floor, second floor, and half of third floor of the Annex building vacant and available. This vacancy presented PCCA an opportunity to help our community partners by providing in-kind office space, which could be leveraged by the community partners to secure match contributions from other funding sources.

The lease of the office space at the Annex building will not impact the ongoing renovation project at the former Admin building on Power Street, which will be the future headquarters of PCCA’s Police Department.

ALTERNATIVES: Do not approve.

CONFORMITY TO PORT POLICY: This easement agreement is consistent with the PCCA Strategic Plan 2023: Strategic Goal #2 – Be a good business and community partner.

EMERGENCY: N/A

FINANCIAL IMPACT: PCCA market research values the annual market rent of the Lease Premises to be \$12.52 per square foot for an annual in-kind rent contribution of \$14,238.08. In addition, PCCA will also provide an annual in-kind support for utility cost, with an estimated contribution of \$5,070.93, for a total of \$19,309.02 in-kind contribution. PCCA's in-kind contribution to CBAQP will assist with furthering their mission of conducting research and developing information for the environmental protection of the air quality and air monitoring of the area.

STAFF RECOMMENDATION: Staff recommends approval of the in-kind Office Space Lease Agreement with Coastal Bend Air Quality Partnership for approximately 1,137 square feet of office space, located on the second floor of the Port Annex Building.

DEPARTMENTAL CLEARANCES:

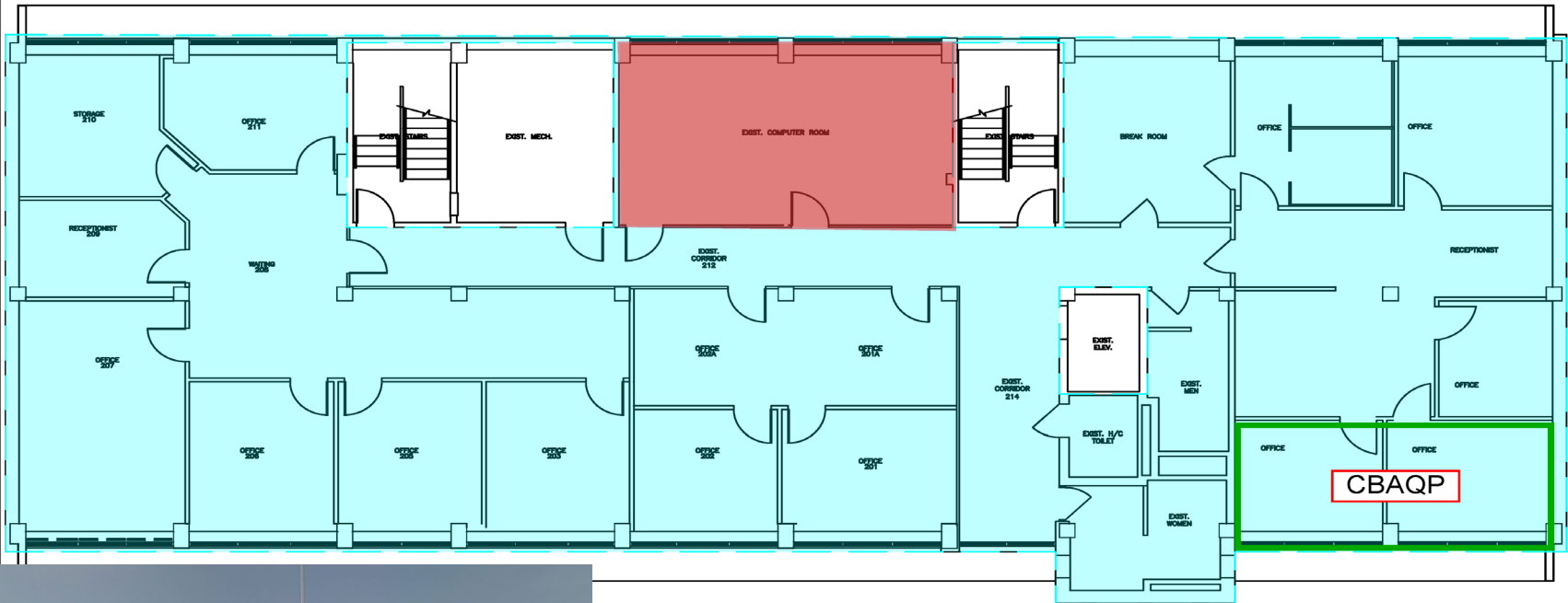
Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel
Legal	Bruce Hawn
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Office Space Lease Agreement

Approve an in-kind Office Space Lease Agreement with Coastal Bend Air Quality Partnership for approximately 1,137 square feet of office space, located on the second floor of the Port Annex Building, Nueces County, TX.

Coastal Bend Air Quality Partnership



— 5,309 SQ.FT.



General Location

PCCA Building Floorplans
Annex Building 2nd Floor

OFFICE SPACE LEASE

THIS LEASE is entered into between **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, pursuant to authorization by its Port Commissioners (Landlord), and **COASTAL BEND AIR QUALITY PARTNERSHIP** (Tenant).

In consideration of the mutual covenants and agreements of this lease, and other good and valuable consideration and subject to the conditions of granting this Lease set forth in Section 1.01, Landlord demises and leases to Tenant and Tenant leases from Landlord, approximately 1,137 square feet of office space, located on the second floor of the Port Annex Building, 1305 Shoreline Boulevard, Corpus Christi, Texas 78401. The Premises are more particularly described in Exhibit A, attached to this lease, and are referred to in this lease as “the Premises” or “the Leased Premises”. The Port Annex Building is referred to as “the Building”.

ARTICLE I TERM

1.01. Term of Lease. The term of this lease is five (5) years, unless terminated sooner or extended as provided in this lease, beginning on _____, 2022.

1.02. Holdover. If Tenant holds over beyond the primary term or any option term of this lease agreement without the written consent of Landlord, Tenant is deemed to be occupying the Leased Premises as a tenant at sufferance. During any holdover period, Tenant will be subject to all other terms of this lease agreement applicable to a tenant at sufferance.

ARTICLE 2 RENT

2.01. Market Rent. Landlord has determined that the monthly market rental value of the Lease Premises during the initial term of this Lease to be \$16.98 per square foot for a total of \$ 1,609.08 per month (“Monthly Market Rent”).

2.02 Rent and Rent Credit.

a. Rent. Tenant, during the first year of the term of this lease agrees to pay rent in an amount equal to the Monthly Market Rent set forth in Section 2.01 (“Monthly Rent”). For each year after the first year of the lease term The Monthly Rent payable by Tenant shall increase by one percent (1%) over the amount of the Monthly Rent payable in the immediately preceding lease year.

b. Rent Credit. During the term of this lease, including extensions, Tenant agrees to conduct research and develop information for the environmental protection of the air quality and air monitoring of the area (“Environmental Protection Services”). The Port Commission hereby finds and determines that the Environmental Protection Services will aid in the development of the Landlord’s ports and waterways and serve a vital public purpose. Consequently, Landlord agrees that, as long as Tenant is providing the Environmental Protection Services, Tenant shall be entitled to a rent credit equal to the full amount of the basic rent payable pursuant to Section 2.01. In other words, as long as Tenant is providing the Environmental Protection Services, Tenant will not be required to pay the basic rent. Tenant agrees to provide Landlord with quarterly reports on its Environmental Protection Services.

ARTICLE 3 USE OF PREMISES

3.01. Permitted Use. Tenant will use the premises only for Coastal Bend Air Quality Partnership office purposes, unless Landlord gives Tenant prior written consent for a different use.

3.02. Insurance Hazards. Tenant may not use, or permit using, the premises in any manner that will cause a cancellation of, or an increase in, the existing rates for fire, liability or other insurance policies covering the premises or any improvements on them, or insuring Landlord for any liability in connection with owning the premises.

3.03. Waste, Nuisance or Illegal Uses. Tenant may not use, or permit using, the premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Tenant, at its own expense, will comply, and will cause its officers, employees, agents and invitees to comply, with all applicable laws, ordinances and governmental rules and regulations concerning the use of the premises.

3.04. Use of Common Areas. Restrooms, elevators, stairs, hallways, lobbies, walkways, and not otherwise reserved parking spaces, on a first come-first served basis, in the Building parking lot, and all other common areas of the Building are for the joint use of Tenant and the other tenants of the Building. Tenant and its officers, employees, agents and invitees will use the common areas in a reasonable, orderly and sanitary manner in cooperation with all other tenants and their officers, employees, agents and invitees.

3.05. Consideration for Other Tenants. Tenant will conduct itself, and will cause its officers, employees, agents and invitees to conduct themselves, with full regard for the rights, convenience and welfare of all other tenants in the Building.

ARTICLE 4 SERVICES, MAINTENANCE AND SURRENDER

4.01. Services and Maintenance by Landlord. So long as Tenant is not in default under this lease, Landlord will furnish the premises with the following services and maintenance at its sole discretion:

a. **Heating and Air Conditioning.** Heat and air conditioning Monday through Friday from 7:00 a.m. to 6:00 p.m. and on Saturday from 7:00 a.m. to Noon, during the customary periods of the year when, and to the same extent, Landlord furnishes heat and air conditioning for other portions of the Building. Services outside of these periods can be provided for an additional fee.

b. **Elevators.** Elevator service for the use of all tenants and occupants of the Building and their invitees.

c. **Electricity.** Electric current consisting of 110 V 60-cycle service for lighting and ordinary business appliances.

d. **Janitorial Service.** The following janitorial and maintenance services : sweeping and waxing floors, removing trash, cleaning windows, and replacing light globes or fluorescent tubes in the standard lighting fixtures installed in the Building by Landlord.

e. **Maintaining Common Areas.** Maintaining the public and common areas of the Building and property on which it is situated, including lobbies, elevators, stairs, corridors, restrooms, walkways, courtyards, parking areas and appropriate landscaping of outdoor areas.

f. **Maintaining Building Structure.** Maintaining the structure of the Building, including but not limited to the roof, exterior walls (including windows), floors and foundation.

g. **Existing Furnishings.** Lessee shall have the right to use existing furnishings so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the furnishings, the Landlord is not obligated to replace them or to provide any additional furnishings.

h. **Existing Common Area/Kitchen Appliances.** Lessee shall have the right to use the existing kitchen appliances such as refrigerators, microwaves, ice makers and others so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the appliances, the Landlord is not obligated to replace them or to provide any additional appliances.

4.02. Maintenance and Surrender by Tenant. Except as provided in section 4.01, Tenant will maintain the Premises and keep them free from waste or nuisance throughout the lease term and any extension of it. When the lease terminates, Tenant must deliver the Premises in as good a state of repair and condition as they were in when Landlord delivered possession to Tenant, except for reasonable wear and tear. If Tenant neglects to reasonably maintain the Premises, Landlord may, but is not required to, cause repairs or corrections to be made. Any costs incurred for repairs or corrections for which Tenant is responsible under this section are payable by Tenant to Landlord as additional rental on the next rental installment date.

**ARTICLE 5
TAXES ON TENANT'S PROPERTY**

Tenant will pay when due all taxes levied or assessed against personal property, furniture or fixtures it places in or on the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord, and if Landlord elects to pay any of such taxes, Tenant must, upon demand, reimburse Landlord for the payment of such taxes.

**ARTICLE 6
ALTERATIONS, ADDITIONS,
IMPROVEMENTS AND FIXTURES**

6.01. Consent of Landlord. Tenant may not make any alterations, additions or improvements to the Premises without Landlord's prior written consent, which may be withheld by Landlord in its sole and absolute discretion.

6.02. Property of Landlord. All alterations, additions or improvements made by Tenant will become Landlord's property when this lease terminates. Tenant, however, must promptly remove, if Landlord so elects, all alterations, additions and improvements, and any other property placed in or on the Premises by Tenant, and Tenant must repair any damage caused by the removal.

6.03. Trade Fixtures. Tenant has the right at all times to erect or install furniture and fixtures, as long as Tenant complies with all applicable governmental laws, ordinances and regulations. Tenant may remove such items when this lease terminates, if Tenant is not in default at that time and the fixtures can be removed without structural damage to the Premises. Before this lease terminates, Tenant must repair any damage caused by removing any fixtures. Any furniture or fixtures not removed by Tenant when this lease terminates are considered abandoned by Tenant and automatically become Landlord's property.

**ARTICLE 7
DAMAGE OR DESTRUCTION**

7.01. Obligation to Restore. If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the term of this lease agreement, Tenant will promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. Tenant will perform such restoration with at least as good workmanship and quality as the improvements being restored. Notwithstanding the foregoing provisions of this paragraph to the contrary, if all of such improvements are wholly destroyed by any casualty or are so damaged or destroyed that, in Landlord's judgment, it would be uneconomic

to cause the same to be restored (and Landlord shall give written notice of such determination to Tenant within ninety (90) days after the date casualty occurred), then Tenant shall not be obligated to restore such improvements and this lease agreement shall terminate as of the date of the casualty.

If a property loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by Tenant for the damages arising from such casualty shall be distributed and paid directly to Landlord, and Landlord shall distribute such insurance proceeds to Tenant to the extent necessary to reimburse Tenant for costs incurred by Tenant in restoring the damaged Leased Premises in satisfaction of this Article 7, and any balance of such proceeds remaining after such restoration is complete shall be paid to Tenant within sixty (60) days after the restoration is complete.

7.02. Damage Near End of Term. If the Leased Premises are damaged to the extent of fifty per cent (50%) or destroyed in whole or in part during the last six (6) months of the lease term, Tenant shall have the right to terminate this lease agreement and not rebuild the improvements on the Leased Premises, in which event Landlord shall be entitled to receive and retain the insurance proceeds from the loss or Tenant will rebuild as provided herein.

If the Port and ship channel are damaged or destroyed in whole or in part to the extent that it is not economically or physically feasible to restore or re-open the Port in Landlord's sole judgment, then Landlord shall have the option to terminate this lease agreement.

The party electing to terminate this lease agreement shall give notice to the other party of such election within ninety (90) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and rent shall be adjusted as of the date of such notice of termination.

7.03. Notice of Damage. Tenant shall immediately notify Landlord of any destruction of or damage to the Leased Premises.

ARTICLE 8 CONDEMNATION

8.01. Total Condemnation. If, during the lease term or any extension or renewal of the lease, all of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this lease will terminate, and the rent will be abated during the unexpired portion of this lease, effective as of the date the condemning authority takes the Premises.

8.02. Partial Condemnation. If less than all, but more than fifty per cent, (50%), of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate the lease by giving written notice to the other within thirty (30) days after the entity exercising the power of condemnation takes possession of the condemned portion.

8.03. Condemnation Award. Landlord will receive the entire award from any condemnation, and Tenant will have no claim to that award or for the value of any unexpired term of this lease.

ARTICLE 9 INSPECTION BY LANDLORD

Landlord and its officers, agents, employees and representatives may enter any part of the Premises at all reasonable hours for purposes of inspection, cleaning, maintenance, repairs, alterations or additions as Landlord considers necessary (but without any obligation to perform any of these functions except as stated in this lease), or to show the Premises to prospective tenants, purchasers or lenders. Tenant is not entitled to any abatement or reduction of rent by reason of the entry of Landlord or any of its officers, representatives or employees under this article nor will such entry be considered an actual or constructive eviction.

ARTICLE 10 INDEMNITY AND INSURANCE

10.01. Indemnity. TENANT HEREBY RELEASES AND DISCHARGES LANDLORD FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO, THE PROPERTY OF TENANT, AND THE PERSONAL INJURY OR DEATH OF ANY PERSON EMPLOYED BY TENANT, AND TENANT EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD HARMLESS LANDLORD, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY TENANT'S FAULT OF ANY KIND, INCLUDING BUT NOT LIMITED TO WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS LEASE AGREEMENT, INCLUDING THAT CAUSED BY ANY OF THE TENANT'S AGENTS', CONTRACTORS', EMPLOYEES', INVITEES' OR LICENSEES' ACTIVITIES DIRECTLY OR INDIRECTLY RELATED TO THIS LEASE AGREEMENT OCCURRING IN, DURING OR AFTER THE TERM OF THIS LEASE AGREEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE LANDLORD, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, IT BEING INTENDED THAT TENANT WILL INDEMNIFY LANDLORD FOR TENANT'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHICH

CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD TENANT FAIL OR REFUSE AFTER WRITTEN NOTICE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN LANDLORD MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO LANDLORD'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER NOTICE TO TENANT WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE OF BOTH TENANT AND LANDLORD, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN LANDLORD AND TENANT.

EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES HERETO THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED UNDER THE TERMS OF THIS LEASE AGREEMENT BE WITHOUT MONETARY LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF (INCLUDING PRE-EXISTING CONDITIONS). THE INDEMNITY CONTAINED IN THIS ARTICLE APPLIES, WITHOUT LIMITATION, TO ANY VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW IN EFFECT DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS, AND ANY AND ALL MATTERS ARISING OUT OF ANY ACT, OMISSION, EVENT OR CIRCUMSTANCE EXISTING OR OCCURRING DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS (INCLUDING WITHOUT LIMITATION THE PRESENCE ON THE LEASED PREMISES OR RELEASE FROM THE LEASED PREMISES OF HAZARDOUS SUBSTANCES OR SOLID WASTE DISPOSED OF OR OTHERWISE RELEASED PRIOR TO THE RELEASE DATE), REGARDLESS OF WHETHER THE ACT, OMISSION, EVENT OR CIRCUMSTANCE CONSTITUTED A VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW AT THE TIME OF ITS EXISTENCE OR OCCURRENCE. THE TERMS "HAZARDOUS SUBSTANCE" AND "RELEASE" SHALL HAVE THE MEANINGS SPECIFIED IN CERCLA, AND THE TERMS "SOLID WASTE" AND "DISPOSED" SHALL HAVE THE MEANINGS SPECIFIED IN RCRA; PROVIDED, IN THE EVENT EITHER CERCLA OR RCRA IS AMENDED SO AS TO BROADEN THE MEANING OF ANY TERM DEFINED THEREBY, SUCH BROADER MEANING SHALL APPLY SUBSEQUENT TO THE EFFECTIVE DATE OF SUCH AMENDMENT AND PROVIDED FURTHER, TO THE EXTENT THAT THE LAWS OF THE STATE OF TEXAS ESTABLISH A MEANING FOR "HAZARDOUS SUBSTANCE," "RELEASE," "SOLID WASTE," OR "DISPOSAL" WHICH IS BROADER THAN THAT SPECIFIED IN EITHER CERCLA OR RCRA, SUCH BROADER MEANING SHALL APPLY.

10.02. Insurance. Tenant shall satisfy the insurance requirements set forth in **Exhibit B** attached hereto, which is incorporated in this Lease Agreement.

10.03. Waiver of Subrogation. To the full extent that Tenant may do so without invalidating Tenant's insurance coverage, Tenant hereby waives any and every Claim which arises or may arise in its favor against the Landlord during the Term of the Lease for any and all loss of, or damage to, any of its property located within or upon, or constituting part of, the Leased Premises, to the extent that such loss or damage is covered by any property insurance policy carried by Tenant, or would have been covered by any

property insurance policy required to be carried by Tenant pursuant to this Lease. Tenant agrees to have such insurance policies properly endorsed as set forth in **Exhibit B** attached hereto.

ARTICLE 11 ASSIGNMENT AND SUBLEASE

11.01. Assignment and Subletting by Tenant. Tenant may not assign or sublet this lease without Landlord's prior written consent, which consent may be withheld by Landlord in its sole and absolute discretion; provided if consent is given each assignee must assume in writing all of Tenant's obligations under this lease, and Tenant will remain liable for each obligation under this lease.

11.02. Assignment by Landlord. Landlord may assign any or all of its interest under this lease. Furthermore, Landlord may sell the Port Annex Building without assigning this lease to the buyer, in which case this lease will terminate effective as of the date of sale.

ARTICLE 12 DEFAULT

12.01. Tenant's Default. The following events are considered events of default by Tenant under this lease:

- a. Tenant fails to comply with any term or covenant of this lease, other than the payment of rent, and does not cure the failure within twenty (20) days after written notice of the failure to Tenant.
- b. Tenant makes an assignment for the benefit of creditors.
- c. Tenant deserts or vacates any substantial portion of the Premises for five (5) or more days.

12.02. Landlord's Remedies. In the event of any default specified in section 12.01, Landlord may pursue one or more of the following remedies:

- a. Landlord may terminate this lease, in which event Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy that it may have for possession or arrearages in rent, enter upon and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim of damages for the entrance and expulsion or removal. Tenant will, on demand, pay Landlord the amount of all loss and damage that Landlord suffers by reason of the termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

b. Landlord may enter upon and take possession of the Premises and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim for damages for the entrance and expulsion or removal; relet the Premises on the terms Landlord considers advisable; and receive the rent for the reletting. Tenant will, on demand, pay Landlord any deficiency that may arise by reason of reletting.

c. Landlord may enter the Premises, by force if necessary, without being liable for prosecution or any claim for damages for the entry, and do whatever Tenant is obligated to do under the terms of this lease to correct the default. Tenant will, on demand, reimburse Landlord for any expenses that Landlord incurs in effecting compliance with Tenant's obligations under this lease in this manner, and Tenant further releases Landlord from liability for any damages resulting to Tenant from such an action.

No reentry or taking possession of the Premises by Landlord may be construed as an election on its part to terminate this lease, unless a written notice of the intention is given to Tenant. Notwithstanding any such reletting or reentry or taking possession, Landlord may at any time thereafter terminate this lease for a previous default. The loss or damage that Landlord may suffer in terminating this lease or the deficiency from any reletting as provided above, includes the expense of repossession.

12.03. Landlord's Lien. Landlord has, at all times, a valid security interest to secure payment of all rents and other sums of money becoming due under this lease from Tenant and to secure payment of any damages or loss that Landlord may suffer by reason of Tenant's breaching any covenant, agreement or condition contained in this lease. The security interest covers all goods, wares, equipment, fixtures, furniture and other personal property of Tenant that is now on the Premises or placed on the Premises at some later date, and all proceeds from them. This property may not be removed from the Premises without Landlord's consent until all arrearages in rent and all other sums of money then due Landlord under this lease have been paid and discharged, and all the covenants, agreements and conditions of this lease have been fully complied with and performed by Tenant.

If Tenant is in default, Landlord may, in addition to any other remedies provided in this lease or by law, after giving reasonable notice of the intent to take possession and giving an opportunity for a hearing on the issue, enter upon the Premises and take possession of any goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the Premises, without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made. Landlord or its assigns may buy any items to be sold at such a sale unless they are prohibited from doing so by law. Unless otherwise provided by law, and without excluding any other manner of giving Tenant reasonable notice, the reasonable-notice requirement is met if notice is given at least thirty (30) days before the time of sale. The proceeds from any such disposition, less any expenses connected with taking possession, holding and selling the property (including reasonable attorney's fees and other expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this section. Any surplus will be paid to Tenant or as otherwise required by law, and

Tenant will pay any deficiencies immediately. When Landlord requests, Tenant will execute and deliver to Landlord a financing statement in sufficient form to perfect Landlord's security interest in the property and proceeds under the provisions of the Business and Commerce Code in force in Texas. The statutory lien for rent is not waived as the security interest granted in this article supplements that lien.

12.04. Cumulative Remedies. Landlord's or Tenant's pursuing any remedy provided in this lease will not preclude any other remedy provided in this lease. Either party's pursuing any remedy provided in this lease or by law will not constitute a forfeiture or waiver of any damages accruing to either party by reason of violating any term or covenant of this lease. Nor will Landlord's pursuing any remedies provided in this lease constitute a waiver or forfeiture of any rent due under this lease.

12.05. Waiver of Default. Either party's waiving any default or violation of breach of any term or covenant of this lease does not waive any other violation or breach of any term or covenant of the lease. Nor does either party's forbearing to enforce one or more of the remedies provided in this lease or by law upon a default waive the default. Landlord's accepting rent following default under this lease does not waive the default.

12.06. Surrender of Premises. No act done by Landlord or its agents during the lease term may be considered an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises is valid unless in writing and subscribed by Landlord.

ARTICLE 13 MISCELLANEOUS

13.01. Notices and Addresses. All notices required under this lease must be given by certified or registered mail, addressed to the proper party, at the following addresses:

Landlord: Port of Corpus Christi Authority
Attention: Executive Director
P.O. Box 1541
Corpus Christi, Texas 78403

Tenant: Coastal Bend Air Quality Partnership
1305 Shoreline Blvd., Suite 220
Corpus Christi, Texas 78401

Either party may change the address to which notices are to be sent by sending written notice of the new address to the other party in accordance with the terms of this section.

13.02. Parties Bound. This agreement binds and inures to the benefit of the parties to the lease and their respective heirs, executors, administrators, legal representatives, successors and assigns when this agreement permits.

13.03. Texas Law to Apply. This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Nueces County, Texas.

13.04. Public Disclosure. Landlord is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code, chapters 551 and 552), and as such Landlord 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, Tenant 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 Landlord as required by the Texas Open Meetings Act, Texas Open Records Act or any other law will not expose Landlord (or any party acting by, through or under Landlord) to any claim, liability or action by Tenant.

13.05. Arbitration. Any controversy or claim arising out of or relating to this lease, or the breach thereof, will be settled by arbitration in Corpus Christi, Texas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any district court in Nueces County, Texas.

13.06. Legal Construction. If any one or more of the provisions in this agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability will not affect any other provision of the agreement, which will be construed as if it had not included the invalid, illegal or unenforceable provision.

13.07. Prior Agreements Superseded. This agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

13.08. Amendment. No amendment, modification or alteration of the terms of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and duly executed by the parties.

13.09. Joint and Several Liability. If there is more than one Tenant, the obligations imposed upon Tenants by this lease are joint and several. If there is a guarantor of Tenant's obligations under this lease, the obligations imposed upon Tenant are the joint and several obligations of Tenant and the guarantor. Landlord need not first proceed against Tenant before proceeding against the guarantor, nor will any such guarantor be released from its guaranty for any reason whatsoever.

13.10. Rights and Remedies Cumulative. The rights and remedies provided by this lease are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

13.11. Attorney's Fees and Costs. If, as a result of Tenant breaching this agreement, and Landlord employs an attorney or attorneys to enforce its rights under this lease, Tenant will pay Landlord the reasonable attorney's fees and costs incurred to enforce the lease.

13.12. Force Majeure. Neither Landlord nor Tenant is required to perform any term or covenant of this lease so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods and any other cause not reasonably within the Landlord's or Tenant's control and that Landlord or Tenant cannot, by exercising due diligence, prevent or overcome in whole or in part.

13.13. Time of Essence. Time is of the essence of this agreement.

The undersigned Landlord and Tenant execute this agreement on _____, 2022, at Corpus Christi, Nueces County, Texas.

LANDLORD:

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

By: _____

Sean C. Strawbridge
Chief Executive Officer

TENANT:

**COASTAL BEND AIR QUALITY
PARTNERSHIP**

By: _____

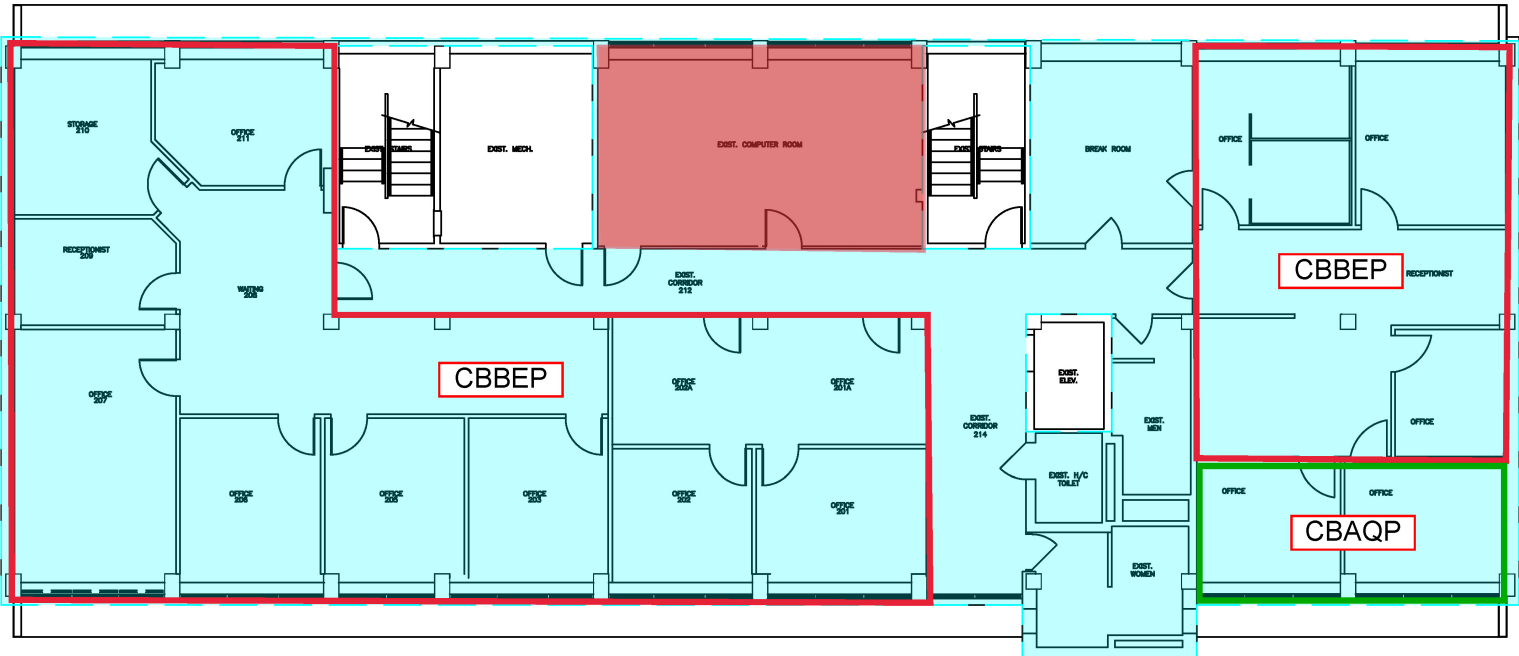
Sarah L. Garza
President

By:  _____

Trent Thigpen
Vice President

EXHIBIT A (Office Space Floor Plan)

Coastal Bend Bays and Estuaries Program
and Coastal Bend Air Quality Partnership



- 5,309 SQ.FT.



PCCA Building Floorplans
Annex Building 2nd Floor

h:\ben vasquez\drawings & exhibits\buildings\pcca floorplans\pcca annex building floorplans rentable space 220210 2022-02-10

EXHIBIT B

TENANT'S INSURANCE REQUIREMENTS

Without limiting the indemnity obligations or liabilities of Tenant or its insurers provided in this Lease Agreement, before commencing any material activities on the Leased Premises under this Lease Agreement, Tenant shall procure and maintain the policies of insurance identified below, (such policies sometimes collectively referred to in this **Exhibit B** as the "**Policies**"), at its sole expense during the Term of this Lease, and during any time period following expiration or termination of the Lease in which Tenant performs additional work on the Leased Premises, and in at least the minimum amounts specified below:

- 1) *Workers' Compensation and Employer's Liability Insurance.* For all its employees engaged in performing work on the Leased Premises, Tenant must carry workers' compensation insurance for at least the applicable statutory limit required by the Texas Workers' Compensation Act and Employer's Liability insurance with at least \$500,000 limit for each accident, and at least a \$500,000 limit for each employee for bodily injury by disease. Under the Worker's Compensation policy, Tenant shall provide a Waiver of Subrogation in favor of the Authority Parties on the Certificate of Insurance.
- 2) *Commercial General Liability Insurance.* Commercial General Liability (CGL) insurance coverage, which shall cover or be endorsed to cover bodily injury & personal injury, with a per occurrence limit of \$300,000 and aggregate limits of at least \$300,000 and endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.
- 3) *Automobile Liability Insurance.* When any motor vehicles (owned, non-owned or hired by Tenant) are used in connection with work being performed on the Leased Premises, the Tenant shall carry Automobile Liability Insurance with limits of not less than \$500,000 per occurrence for bodily injury and property damage. The policy shall be endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.

Tenant's liability shall not be limited to the specified amounts of insurance required herein. Each policy 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**"). Tenant agrees to immediately provide to each of its insurers written notice of the terms of the waiver set forth in this **Exhibit B**, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver. Tenant will provide to Authority a copy of said endorsement or evidence that such endorsement is not necessary to prevent the invalidation of the insurance coverage by reason of such waiver. 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 Workers' Compensation and Employer's Liability. Each policy, except Workers' Compensation 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 Lease Agreement.

In addition, to the extent that during the Term of this Lease there shall occur any material changes in any of the Policies required hereunder, Tenant shall notify the Landlord of such changes within 90 days. If Tenant fails to obtain or maintain any of the insurance required by this Exhibit B, the Landlord retains the right to procure such insurance coverage and charge the Tenant the reasonable premium cost plus an additional 10% administrative fee.

From time to time during the Term of this Lease to the extent that the Landlord provides written notice to Tenant evidencing Landlord's reasonable belief (in reasonable detail) that the amounts of coverage required by this **Exhibit B** have become insufficient to adequately protect the interests of the Landlord, then upon Tenant'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 Landlord. Tenant shall deliver to Landlord certificates of renewal prior to the expiration of each policy. The Tenant writing each of the Policies must possess a Financial Strength Rating of no less than S&P "A-", AM Best A- or equivalent.

In the event that a claim is filed against the Landlord and governed by the terms of this Lease Agreement, Tenant shall, upon receipt of a written request, deliver to the Landlord, true and correct copies of the Policies required hereunder which may be responsive to the claim.



DATE: May 24, 2022
TO: Port Commission
FROM: Sam Esquivel, Director of Real Estate Services
Sam@pocca.com
(361) 885-6140

Approve an in-kind Office Space Lease Agreement with Coastal Bend Regional Advisory Council for approximately 2,029 square feet of office space, located on the first floor of the Port Annex Building, Nueces County, TX.

SUMMARY: Coastal Bend Regional Advisory Council (CBRAC) is a 501(c)(3) non-profit, a regional advisory council, which has been charged by the State of Texas with implementing and monitoring a regional emergency medical service trauma system plan to facilitate trauma services in 12 South Texas counties, including Nueces and San Patricio counties (Trauma System Oversight Services). CBRAC has requested to lease approximately 2,029 square feet office space on the first floor in the Annex building. PCCA believes that these Trauma System Oversight Services will aid in the support of PCCA emergency management response and serve a vital public purpose. PCCA and CBRAC agree that, as long as CBRAC is providing the Trauma System Oversight Services in Nueces and San Patricio Counties, CBRAC will be entitled to a lease credit equal to the annual base rent of \$25,408. The lease agreement will have a 5-year term beginning on June 1, 2022.

BACKGROUND: On September 2021, PCCA staff formerly located at the Annex Building, with the exception of the HMO office, relocated to the new Port Executive Administration Building located at 400 Harbor Drive. Staff relocation left the first floor, second floor, and half of third floor of the Annex building vacant and available. This vacancy presented PCCA an opportunity to help our community partners by providing in-kind office space, which could be leveraged by the community partners to secure match contributions from other funding sources.

The lease of the office space at the Annex building will not impact the ongoing renovation project at the former Admin building on Power Street, which will be the future headquarters of PCCA's Police Department.

ALTERNATIVES: Do not approve.

CONFORMITY TO PORT POLICY: This in-kind office lease agreement is consistent with the PCCA Strategic Plan 2023: Strategic Goal #2 – Be a good business and community partner.

EMERGENCY: N/A

FINANCIAL IMPACT: CBBEP will pay \$754.10 per month, \$9,049.20 per year, for costs of utilities

PCCA market research values the annual market rent of the Lease Premises to be \$12.52 per square foot for an annual in-kind rent contribution of \$25,408.15. PCCA's in-kind contribution to CBBEP will further the mission of CBBEP by aiding in the development of the PCCA's ports and waterways and serve a vital public purpose to the community.

STAFF RECOMMENDATION: Staff recommends approval of the in-kind Office Space Lease Agreement with Coastal Bend Regional Advisory Council for approximately 2,029 square feet of office space, located on the first floor of the Port Annex Building.

DEPARTMENTAL CLEARANCES:

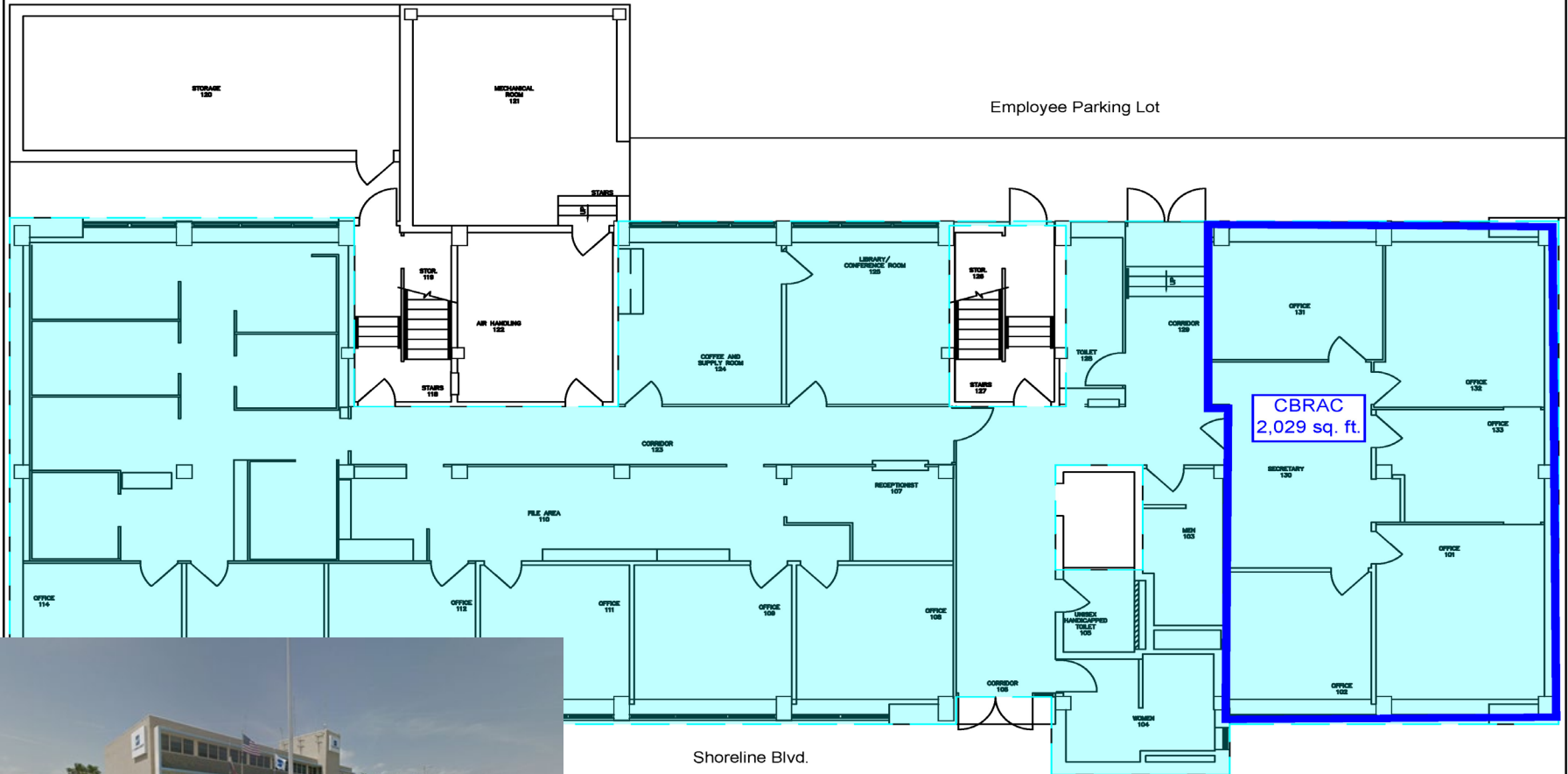
Originating Department	Real Estate
Reviewed & Approved	Sam Esquivel
Legal	Bruce Hawn
Executive Staff	Sean Strawbridge Kent Britton

LIST OF SUPPORTING DOCUMENTS:

Memo Exhibit
Office Space Lease Agreement

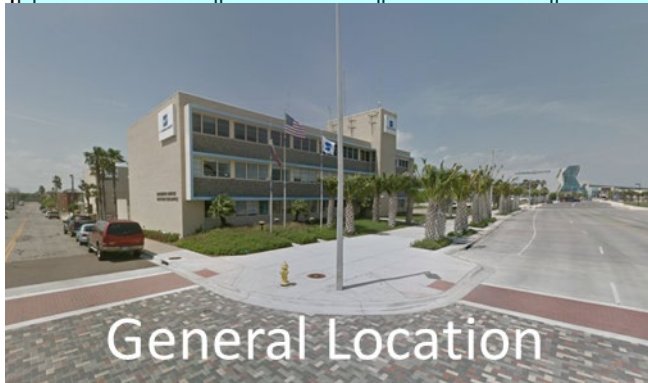
Approve an Office Space Lease Agreement with Coastal Bend Regional Advisory Council for approximately 2,029 square feet of office space, located on the first floor of the Port Annex Building, Nueces County, TX.

Coastal Bend Regional Advisory Council



CBRAC
2,029 sq. ft.

— 5,262 SQ.FT



General Location

PCCA Building Floorplans
Annex Building 1st Floor

OFFICE SPACE LEASE

THIS LEASE is entered into between **PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS**, pursuant to authorization by its Port Commissioners (Landlord), and **COASTAL BEND REGIONAL ADVISORY COUNCIL ON TRAUMA SERVICE U, INC.**, a Texas Non-Profit Corporation (Tenant).

In consideration of the mutual covenants and agreements of this lease, and other good and valuable consideration and subject to the conditions of granting this Lease set forth in Section 1.01, Landlord demises and leases to Tenant and Tenant leases from Landlord, approximately 2029 square feet of office space, located on the first floor of the Port Annex Building, 1305 Shoreline Boulevard, Corpus Christi, Texas 78401. The Premises are more particularly described in Exhibit A, attached to this lease, and are referred to in this lease as “the Premises” or “the Leased Premises”. The Port Annex Building is referred to as “the Building”.

ARTICLE I TERM

1.01. Term of Lease. The term of this lease is five (5) years, unless terminated sooner or extended as provided in this lease, beginning on _____, 2022.

1.02. Holdover. If Tenant holds over beyond the primary term of this lease agreement without the written consent of Landlord, Tenant is deemed to be occupying the Leased Premises as a tenant at sufferance. During any holdover period, Tenant will be subject to all other terms of this lease agreement applicable to a tenant at sufferance.

ARTICLE 2 RENT

2.01. Market Rent. Landlord has determined that the monthly market rental value of the Lease Premises during the initial term of this Lease to be \$16.98 per square foot for a total of \$ 2,871.44 per month (“Monthly Market Rent”).

2.02 Rent and Rent Credit.

a. **Rent.** Tenant, during the first year of the term of this lease agrees to pay rent in an amount equal to the Monthly Market Rent set forth in Section 2.01 (“Monthly Rent”). For each year after the first year of the lease term The Monthly Rent payable by Tenant shall increase by one percent (1%) over the amount of the Monthly Rent payable in the immediately preceding lease year.

b. **Rent Credit.** Tenant is a 501(c)(3) public charity, a regional advisory council, which has been charged by the State of Texas with implementing and monitoring a regional emergency medical service trauma system plan to facilitate trauma services in 12 South Texas counties, including Nueces and San Patricio counties. (the “Trauma System Oversight Services”). In consideration of the Trauma System Oversight Services provided to South Texas; and in particular provided within Nueces and San Patricio Counties, Landlord’s Port Commission hereby finds and determines that the Trauma System Oversight Services will aid in the development of

the Landlord's ports and waterways and serve a vital public purpose. Consequently, Landlord agrees that, as long as Tenant is providing the Trauma System Oversight Services in Nueces and San Patricio Counties, Tenant shall be entitled to a credit against the Monthly Rent payable pursuant to Section 2.02 a. in the amount of \$ 2,117.35 per month (the "Monthly Rent Credit"), but only for as long as the Monthly Rent Credit is applicable Tenant's net monthly rent payment will be \$ 754.10 per month. (Tenant agrees to provide Landlord with annual reports on its Trauma System Oversight Services provided within Tenant's service area.

ARTICLE 3 USE OF PREMISES

3.01. Permitted Use. Tenant will use the premises only for Coastal Bend Regional Advisory Council on Trauma Service Area U office purposes, unless Landlord gives Tenant prior written consent for a different use.

3.02. Insurance Hazards. Tenant may not use, or permit using, the premises in any manner that will cause a cancellation of, or an increase in, the existing rates for fire, liability or other insurance policies covering the premises or any improvements on them, or insuring Landlord for any liability in connection with owning the premises.

3.03. Waste, Nuisance or Illegal Uses. Tenant may not use, or permit using, the premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Tenant, at its own expense, will comply, and will cause its officers, employees, agents and invitees to comply, with all applicable laws, ordinances and governmental rules and regulations concerning the use of the premises.

3.04. Use of Common Areas. Restrooms, elevators, stairs, hallways, lobbies, walkways, and not otherwise reserved parking spaces, on a first come-first served basis, in the Building parking lot, and all other common areas of the Building are for the joint use of Tenant and the other tenants of the Building. Tenant and its officers, employees, agents and invitees will use the common areas in a reasonable, orderly and sanitary manner in cooperation with all other tenants and their officers, employees, agents and invitees.

3.05. Consideration for Other Tenants. Tenant will conduct itself, and will cause its officers, employees, agents and invitees to conduct themselves, with full regard for the rights, convenience and welfare of all other tenants in the Building.

3.06. Safety and Security. Tenant agrees to follow all safety, security, and emergency procedures, measures and controls, imposed by Landlord, whether now existing or hereinafter created and imposed, whether imposed by tariff, ordinance, regulation or Building rule, including but not limited fire drills, evacuations, hurricane plans, and access control measures.

ARTICLE 4 SERVICES, MAINTENANCE AND SURRENDER

4.01. Services and Maintenance by Landlord. So long as Tenant is not in default under this lease, Landlord will furnish the premises with the following services and maintenance at its sole discretion:

a. **Heating and Air Conditioning.** Heat and air conditioning Monday through Friday from 7:00 a.m. to 6:00 p.m. and on Saturday from 7:00 a.m. to Noon, during the customary periods of the year when, and to the same extent, Landlord furnishes heat and air conditioning for other portions of the Building. Services outside of these periods can be provided for an additional fee.

b. **Elevators.** Elevator service for the use of all tenants and occupants of the Building and their invitees.

c. **Electricity.** Electric current consisting of 110 V 60-cycle service for lighting and ordinary business appliances.

d. **Janitorial Service.** The following janitorial and maintenance services : sweeping and waxing floors, removing trash, cleaning windows, and replacing light globes or fluorescent tubes in the standard lighting fixtures installed in the Building by Landlord.

e. **Maintaining Common Areas.** Maintaining the public and common areas of the Building and property on which it is situated, including lobbies, elevators, stairs, corridors, restrooms, walkways, courtyards, parking areas and appropriate landscaping of outdoor areas.

f. **Maintaining Building Structure.** Maintaining the structure of the Building, including but not limited to the roof, exterior walls (including windows), floors and foundation.

g. **Existing Furnishings.** Lessee shall have the right to use existing furnishings so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the furnishings, the Landlord is not obligated to replace them or to provide any additional furnishings.

h. **Existing Common Area/Kitchen Appliances.** Lessee shall have the right to use the existing kitchen appliances such as refrigerators, microwaves, ice makers and others so long as they are not in default per the terms of this lease. Lessee accepts them in their “as-is” condition and after the life of the appliances, the Landlord is not obligated to replace them or to provide any additional appliances.

4.02. Maintenance and Surrender by Tenant. Except as provided in section 4.01, Tenant will maintain the Premises and keep them free from waste or nuisance throughout the lease term and any extension of it. When the lease terminates, Tenant must deliver the Premises in as good a state of repair and condition as they were in when Landlord delivered possession to Tenant, except for reasonable wear and tear. If Tenant neglects to reasonably maintain the Premises, Landlord may, but is not required to, cause repairs or corrections to be made. Any costs incurred for repairs or corrections for which Tenant is responsible under this section are payable by Tenant to Landlord as additional rental on the next rental installment date.

**ARTICLE 5
TAXES ON TENANT'S PROPERTY**

Tenant will pay when due all taxes levied or assessed against personal property, furniture or fixtures it places in or on the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord, and if Landlord elects to pay any of such taxes, Tenant must, upon demand, reimburse Landlord for the payment of such taxes.

**ARTICLE 6
ALTERATIONS, ADDITIONS,
IMPROVEMENTS AND FIXTURES**

6.01. Consent of Landlord. Tenant may not make any alterations, additions or improvements to the Premises without Landlord's prior written consent, which may be withheld by Landlord in its sole and absolute discretion.

6.02. Property of Landlord. All alterations, additions or improvements made by Tenant will become Landlord's property when this lease terminates. Tenant, however, must promptly remove, if Landlord so elects, all alterations, additions and improvements, and any other property placed in or on the Premises by Tenant, and Tenant must repair any damage caused by the removal.

6.03. Trade Fixtures. Tenant has the right at all times to erect or install furniture and fixtures, as long as Tenant complies with all applicable governmental laws, ordinances and regulations. Tenant may remove such items when this lease terminates, if Tenant is not in default at that time and the fixtures can be removed without structural damage to the Premises. Before this lease terminates, Tenant must repair any damage caused by removing any fixtures. Any furniture or fixtures not removed by Tenant when this lease terminates are considered abandoned by Tenant and automatically become Landlord's property.

**ARTICLE 7
DAMAGE OR DESTRUCTION**

7.01. Obligation to Restore. If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the term of this lease agreement, Tenant will promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. Tenant will perform such restoration with at least as good workmanship and quality as the improvements being restored. Notwithstanding the foregoing provisions of this paragraph to the contrary, if all of such improvements are wholly destroyed by any casualty or are so damaged or destroyed that, in Landlord's judgment, it would be uneconomic to cause the same to be restored (and Landlord shall give written notice of such determination to Tenant within ninety (90) days after the date casualty occurred), then Tenant shall not be obligated to restore such improvements and this lease agreement shall terminate as of the date of the casualty.

If a property loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by Tenant for the damages arising from such casualty shall be distributed and paid directly to Landlord, and Landlord shall distribute such insurance proceeds to Tenant to the extent necessary to reimburse Tenant for costs incurred by Tenant in restoring the damaged Leased Premises in satisfaction of this Article 7, and any balance of such proceeds remaining after such restoration is complete shall be paid to Tenant within sixty (60) days after the restoration is complete.

7.02. Damage Near End of Term. If the Leased Premises are damaged to the extent of fifty per cent (50%) or destroyed in whole or in part during the last six (6) months of the lease term, Tenant shall have the right to terminate this lease agreement and not rebuild the improvements on the Leased Premises, in which event Landlord shall be entitled to receive and retain the insurance proceeds from the loss or Tenant will rebuild as provided herein.

If the Port and ship channel are damaged or destroyed in whole or in part to the extent that it is not economically or physically feasible to restore or re-open the Port in Landlord's sole judgment, then Landlord shall have the option to terminate this lease agreement.

The party electing to terminate this lease agreement shall give notice to the other party of such election within ninety (90) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and rent shall be adjusted as of the date of such notice of termination.

7.03. Notice of Damage. Tenant shall immediately notify Landlord of any destruction of or damage to the Leased Premises.

ARTICLE 8 CONDEMNATION

8.01. Total Condemnation. If, during the lease term or any extension or renewal of the lease, all of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this lease will terminate, and the rent will be abated during the unexpired portion of this lease, effective as of the date the condemning authority takes the Premises.

8.02. Partial Condemnation. If less than all, but more than fifty per cent, (50%), of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate the lease by giving written notice to the other within thirty (30) days after the entity exercising the power of condemnation takes possession of the condemned portion.

8.03. Condemnation Award. Landlord will receive the entire award from any condemnation, and Tenant will have no claim to that award or for the value of any unexpired term of this lease.

**ARTICLE 9
INSPECTION BY LANDLORD**

Landlord and its officers, agents, employees and representatives may enter any part of the Premises at all reasonable hours for purposes of inspection, cleaning, maintenance, repairs, alterations or additions as Landlord considers necessary (but without any obligation to perform any of these functions except as stated in this lease), or to show the Premises to prospective tenants, purchasers or lenders. Tenant is not entitled to any abatement or reduction of rent by reason of the entry of Landlord or any of its officers, representatives or employees under this article nor will such entry be considered an actual or constructive eviction.

**ARTICLE 10
INDEMNITY AND INSURANCE**

10.01. Indemnity. TENANT HEREBY RELEASES AND DISCHARGES LANDLORD FROM LIABILITY FOR, AND ASSUMES THE RISK OF LOSS OR DAMAGE TO, THE PROPERTY OF TENANT, AND THE PERSONAL INJURY OR DEATH OF ANY PERSON EMPLOYED BY TENANT, AND TENANT EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD HARMLESS LANDLORD, ITS AGENTS, SERVANTS, EMPLOYEES AND COMMISSIONERS, FROM ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES AND LIABILITIES IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY TENANT'S FAULT OF ANY KIND, INCLUDING BUT NOT LIMITED TO WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT, BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR BREACH OF ANY TERM OR CONDITION OF THIS LEASE AGREEMENT, INCLUDING THAT CAUSED BY ANY OF THE TENANT'S AGENTS', CONTRACTORS', EMPLOYEES', INVITEES' OR LICENSEES' ACTIVITIES DIRECTLY OR INDIRECTLY RELATED TO THIS LEASE AGREEMENT OCCURRING IN, DURING OR AFTER THE TERM OF THIS LEASE AGREEMENT, SAVE AND EXCEPT SUCH DAMAGES AS MAY BE CAUSED BY THE NEGLIGENCE OF THE LANDLORD, ITS AGENTS, CONTRACTORS, EMPLOYEES, INVITEES OR LICENSEES, IT BEING INTENDED THAT TENANT WILL INDEMNIFY LANDLORD FOR TENANT'S PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHICH CAUSES SUCH DAMAGES. IT IS EXPRESSLY AGREED THAT SHOULD TENANT FAIL OR REFUSE AFTER WRITTEN NOTICE TO PARTICIPATE IN THE SETTLEMENT OF A CLAIM FOR DAMAGES, THEN LANDLORD MAY SETTLE WITH THE CLAIMANT WITHOUT PREJUDICE TO LANDLORD'S INDEMNITY RIGHTS SET FORTH HEREIN, IT BEING EXPRESSLY RECOGNIZED THAT A SETTLEMENT AFTER NOTICE TO TENANT WILL CONSTITUTE A SETTLEMENT OF THE PROPORTIONATE FAULT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE OF BOTH TENANT AND LANDLORD, WHICH SETTLEMENT MAY LATER BE APPORTIONED BETWEEN LANDLORD AND TENANT.

EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, IT IS THE INTENT OF THE PARTIES HERETO THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED UNDER THE TERMS OF THIS LEASE AGREEMENT BE WITHOUT MONETARY LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF (INCLUDING PRE-EXISTING CONDITIONS). THE INDEMNITY CONTAINED IN THIS ARTICLE APPLIES, WITHOUT LIMITATION, TO ANY VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW IN EFFECT DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS, AND ANY AND ALL MATTERS ARISING OUT OF ANY ACT, OMISSION, EVENT OR CIRCUMSTANCE EXISTING OR OCCURRING DURING THE TERM OF THIS LEASE AGREEMENT, INCLUDING ANY EXTENSIONS (INCLUDING WITHOUT LIMITATION THE PRESENCE ON THE LEASED PREMISES OR RELEASE FROM THE LEASED PREMISES OF HAZARDOUS SUBSTANCES OR SOLID WASTE DISPOSED OF OR OTHERWISE RELEASED PRIOR TO THE RELEASE DATE), REGARDLESS OF WHETHER THE ACT, OMISSION, EVENT OR CIRCUMSTANCE CONSTITUTED A VIOLATION OF ANY APPLICABLE ENVIRONMENTAL LAW AT THE TIME OF ITS EXISTENCE OR OCCURRENCE. THE TERMS "HAZARDOUS SUBSTANCE" AND "RELEASE" SHALL HAVE THE MEANINGS SPECIFIED IN CERCLA, AND THE TERMS "SOLID WASTE" AND "DISPOSED" SHALL HAVE THE MEANINGS SPECIFIED IN RCRA; PROVIDED, IN THE EVENT EITHER CERCLA OR RCRA IS AMENDED SO AS TO BROADEN THE MEANING OF ANY TERM DEFINED THEREBY, SUCH BROADER MEANING SHALL APPLY SUBSEQUENT TO THE EFFECTIVE DATE OF SUCH AMENDMENT AND PROVIDED FURTHER, TO THE EXTENT THAT THE LAWS OF THE STATE OF TEXAS ESTABLISH A MEANING FOR "HAZARDOUS SUBSTANCE," "RELEASE," "SOLID WASTE," OR "DISPOSAL" WHICH IS BROADER THAN THAT SPECIFIED IN EITHER CERCLA OR RCRA, SUCH BROADER MEANING SHALL APPLY.

10.02. Insurance. Tenant shall satisfy the insurance requirements set forth in **Exhibit B** attached hereto, which is incorporated in this Lease Agreement.

10.03. Waiver of Subrogation. To the full extent that Tenant may do so without invalidating Tenant's insurance coverage, Tenant hereby waives any and every Claim which arises or may arise in its favor against the Landlord during the Term of the Lease for any and all loss of, or damage to, any of its property located within or upon, or constituting part of, the Leased Premises, to the extent that such loss or damage is covered by any property insurance policy carried by Tenant, or would have been covered by any property insurance policy required to be carried by Tenant pursuant to this Lease. Tenant agrees to have such insurance policies properly endorsed as set forth in **Exhibit B** attached hereto.

ARTICLE 11 ASSIGNMENT AND SUBLEASE

11.01. Assignment and Subletting by Tenant. Tenant may not assign or sublet this lease without Landlord's prior written consent, which consent may be withheld by Landlord in its sole

and absolute discretion; provided if consent is given each assignee must assume in writing all of Tenant's obligations under this lease, and Tenant will remain liable for each obligation under this lease.

11.02. Assignment by Landlord. Landlord may assign any or all of its interest under this lease. Furthermore, Landlord may sell the Port Annex Building without assigning this lease to the buyer, in which case this lease will terminate effective as of the date of sale.

ARTICLE 12 DEFAULT

12.01. Tenant's Default. The following events are considered events of default by Tenant under this lease:

- a. Tenant fails to comply with any term or covenant of this lease, other than the payment of rent, and does not cure the failure within twenty (20) days after written notice of the failure to Tenant.
- b. Tenant makes an assignment for the benefit of creditors.
- c. Tenant deserts or vacates any substantial portion of the Premises for five (5) or more days.

12.02. Landlord's Remedies. In the event of any default specified in section 12.01, Landlord may pursue one or more of the following remedies:

- a. Landlord may terminate this lease, in which event Tenant must immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy that it may have for possession or arrearages in rent, enter upon and take possession and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim of damages for the entrance and expulsion or removal. Tenant will, on demand, pay Landlord the amount of all loss and damage that Landlord suffers by reason of the termination, whether through inability to relet the Premises on satisfactory terms or otherwise.
- b. Landlord may enter upon and take possession of the Premises and expel or remove Tenant and any other person occupying the Premises or any part of them, by force if necessary, without being liable for prosecution or any claim for damages for the entrance and expulsion or removal; relet the Premises on the terms Landlord considers advisable; and receive the rent for the reletting. Tenant will, on demand, pay Landlord any deficiency that may arise by reason of reletting.
- c. Landlord may enter the Premises, by force if necessary, without being liable for prosecution or any claim for damages for the entry, and do whatever Tenant is obligated to do under the terms of this lease to correct the default. Tenant will, on demand, reimburse Landlord for any expenses that Landlord incurs in effecting compliance with Tenant's obligations under this

lease in this manner, and Tenant further releases Landlord from liability for any damages resulting to Tenant from such an action.

No reentry or taking possession of the Premises by Landlord may be construed as an election on its part to terminate this lease, unless a written notice of the intention is given to Tenant. Notwithstanding any such reletting or reentry or taking possession, Landlord may at any time thereafter terminate this lease for a previous default. The loss or damage that Landlord may suffer in terminating this lease or the deficiency from any reletting as provided above, includes the expense of repossession.

12.03. Landlord's Lien. Landlord has, at all times, a valid security interest to secure payment of all rents and other sums of money becoming due under this lease from Tenant and to secure payment of any damages or loss that Landlord may suffer by reason of Tenant's breaching any covenant, agreement or condition contained in this lease. The security interest covers all goods, wares, equipment, fixtures, furniture and other personal property of Tenant that is now on the Premises or placed on the Premises at some later date, and all proceeds from them. This property may not be removed from the Premises without Landlord's consent until all arrearages in rent and all other sums of money then due Landlord under this lease have been paid and discharged, and all the covenants, agreements and conditions of this lease have been fully complied with and performed by Tenant.

If Tenant is in default, Landlord may, in addition to any other remedies provided in this lease or by law, after giving reasonable notice of the intent to take possession and giving an opportunity for a hearing on the issue, enter upon the Premises and take possession of any goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the Premises, without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made. Landlord or its assigns may buy any items to be sold at such a sale unless they are prohibited from doing so by law. Unless otherwise provided by law, and without excluding any other manner of giving Tenant reasonable notice, the reasonable-notice requirement is met if notice is given at least thirty (30) days before the time of sale. The proceeds from any such disposition, less any expenses connected with taking possession, holding and selling the property (including reasonable attorney's fees and other expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this section. Any surplus will be paid to Tenant or as otherwise required by law, and Tenant will pay any deficiencies immediately. When Landlord requests, Tenant will execute and deliver to Landlord a financing statement in sufficient form to perfect Landlord's security interest in the property and proceeds under the provisions of the Business and Commerce Code in force in Texas. The statutory lien for rent is not waived as the security interest granted in this article supplements that lien.

12.04. Cumulative Remedies. Landlord's or Tenant's pursuing any remedy provided in this lease will not preclude any other remedy provided in this lease. Either party's pursuing any remedy provided in this lease or by law will not constitute a forfeiture or waiver of any damages accruing to either party by reason of violating any term or covenant of this lease. Nor will

Landlord's pursuing any remedies provided in this lease constitute a waiver or forfeiture of any rent due under this lease.

12.05. Waiver of Default. Either party's waiving any default or violation of breach of any term or covenant of this lease does not waive any other violation or breach of any term or covenant of the lease. Nor does either party's forbearing to enforce one or more of the remedies provided in this lease or by law upon a default waive the default. Landlord's accepting rent following default under this lease does not waive the default.

12.06. Surrender of Premises. No act done by Landlord or its agents during the lease term may be considered an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises is valid unless in writing and subscribed by Landlord.

ARTICLE 13 MISCELLANEOUS

13.01. Notices and Addresses. All notices required under this lease must be given by certified or registered mail, addressed to the proper party, at the following addresses:

Landlord: Port of Corpus Christi Authority
Attention: Executive Director
P.O. Box 1541
Corpus Christi, Texas 78403

Tenant: Corpus Christi Regional Advisory Council
P.O. Box 18460
Corpus Christi, Texas 78480

Either party may change the address to which notices are to be sent by sending written notice of the new address to the other party in accordance with the terms of this section.

13.02. Parties Bound. This agreement binds and inures to the benefit of the parties to the lease and their respective heirs, executors, administrators, legal representatives, successors and assigns when this agreement permits.

13.03. Texas Law to Apply. This agreement is to be construed under Texas law, and all obligations of the parties created by this agreement are performable in Nueces County, Texas.

13.04. Public Disclosure. Landlord is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code, chapters 551 and 552), and as such Landlord 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, Tenant 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 Landlord as required by

the Texas Open Meetings Act, Texas Open Records Act or any other law will not expose Landlord (or any party acting by, through or under Landlord) to any claim, liability or action by Tenant.

13.05. Arbitration. Any controversy or claim arising out of or relating to this lease, or the breach thereof, will be settled by arbitration in Corpus Christi, Texas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any district court in Nueces County, Texas.

13.06. Legal Construction. If any one or more of the provisions in this agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability will not affect any other provision of the agreement, which will be construed as if it had not included the invalid, illegal or unenforceable provision.

13.07. Prior Agreements Superseded. This agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

13.08. Amendment. No amendment, modification or alteration of the terms of this agreement is binding unless in writing, dated subsequent to the date of this agreement, and duly executed by the parties.

13.09. Joint and Several Liability. If there is more than one Tenant, the obligations imposed upon Tenants by this lease are joint and several. If there is a guarantor of Tenant's obligations under this lease, the obligations imposed upon Tenant are the joint and several obligations of Tenant and the guarantor. Landlord need not first proceed against Tenant before proceeding against the guarantor, nor will any such guarantor be released from its guaranty for any reason whatsoever.

13.10. Rights and Remedies Cumulative. The rights and remedies provided by this lease are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

13.11. Attorney's Fees and Costs. If, as a result of Tenant breaching this agreement, and Landlord employs an attorney or attorneys to enforce its rights under this lease, Tenant will pay Landlord the reasonable attorney's fees and costs incurred to enforce the lease.

13.12. Force Majeure. Neither Landlord nor Tenant is required to perform any term or covenant of this lease so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods and any other cause not reasonably within the Landlord's or Tenant's control and that Landlord or Tenant cannot, by exercising due diligence, prevent or overcome in whole or in part.

13.13. Time of Essence. Time is of the essence of this agreement.

The undersigned Landlord and Tenant execute this agreement on _____, 2022, at Corpus Christi, Nueces County, Texas.

LANDLORD:

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

By: _____

Sean C. Strawbridge
Chief Executive Officer

TENANT:

**COASTAL BEND REGIONAL ADVISORY
COUNCIL ON TRAMA SERVICE U, INC.**

By: _____

Hilary Watt
Chief Executive Officer

The undersigned Landlord and Tenant execute this agreement on _____, 2022, at Corpus Christi, Nueces County, Texas.

LANDLORD:

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

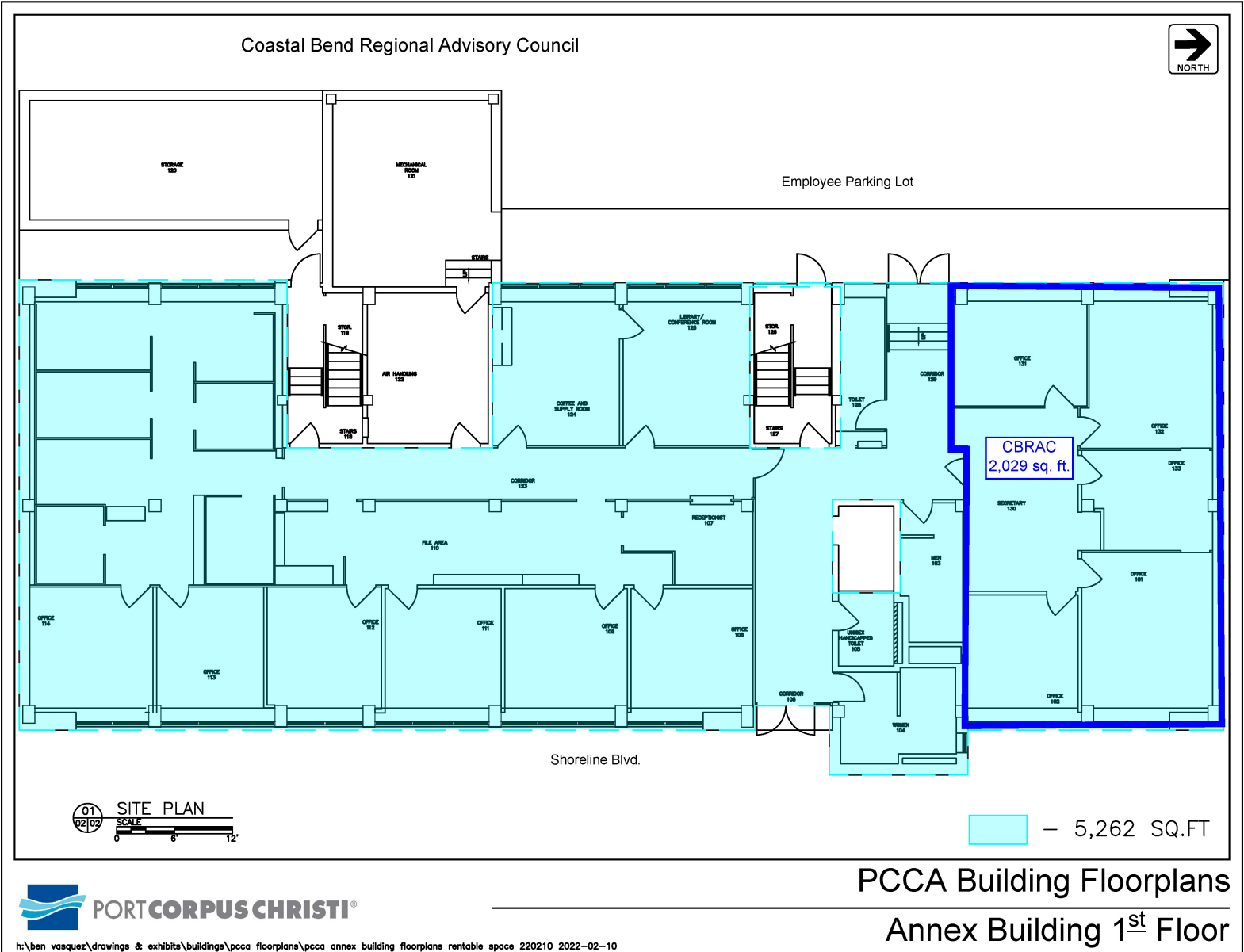
By: _____
Sean C. Strawbridge
Chief Executive Officer

TENANT:

**COASTAL BEND REGIONAL ADVISORY
COUNCIL ON TRAMA SERVICE U, INC.**

By:  _____
Hilary Watt
Chief Executive Officer

EXHIBIT A (Office Space Floor Plan)



h:\ben vasquez\drawings & exhibits\buildings\pcca floorplans\pcca annex building floorplans rentable space 220210 2022-02-10

EXHIBIT B

TENANT'S INSURANCE REQUIREMENTS

Without limiting the indemnity obligations or liabilities of Tenant or its insurers provided in this Lease Agreement, before commencing any material activities on the Leased Premises under this Lease Agreement, Tenant shall procure and maintain the policies of insurance identified below, (such policies sometimes collectively referred to in this **Exhibit B** as the "**Policies**"), at its sole expense during the Term of this Lease, and during any time period following expiration or termination of the Lease in which Tenant performs additional work on the Leased Premises, and in at least the minimum amounts specified below:

- 1) *Workers' Compensation and Employer's Liability Insurance.* For all its employees engaged in performing work on the Leased Premises, Tenant must carry workers' compensation insurance for at least the applicable statutory limit required by the Texas Workers' Compensation Act and Employer's Liability insurance with at least \$500,000 limit for each accident, and at least a \$500,000 limit for each employee for bodily injury by disease. Under the Worker's Compensation policy, Tenant shall provide a Waiver of Subrogation in favor of the Authority Parties on the Certificate of Insurance.
- 2) *Commercial General Liability Insurance.* Commercial General Liability (CGL) insurance coverage, which shall cover or be endorsed to cover bodily injury & personal injury, with a per occurrence limit of \$300,000 and aggregate limits of at least \$300,000 and endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.
- 3) *Automobile Liability Insurance.* When any motor vehicles (owned, non-owned or hired by Tenant) are used in connection with work being performed on the Leased Premises, the Tenant shall carry Automobile Liability Insurance with limits of not less than \$500,000 per occurrence for bodily injury and property damage. The policy shall be endorsed to name the Authority Parties as additional insureds on a primary, non-contributory basis.

Tenant's liability shall not be limited to the specified amounts of insurance required herein. Each policy 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**"). Tenant agrees to immediately provide to each of its insurers written notice of the terms of the waiver set forth in this **Exhibit B**, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver. Tenant will provide to Authority a copy of said endorsement or evidence that such endorsement is not necessary to prevent the invalidation of the insurance coverage by reason of such waiver. 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 Workers' Compensation and Employer's Liability. Each policy, except Workers' Compensation 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 Lease Agreement.

In addition, to the extent that during the Term of this Lease there shall occur any material changes in any of the Policies required hereunder, Tenant shall notify the Landlord of such changes within 90 days. If Tenant fails to obtain or maintain any of the insurance required by this Exhibit B, the Landlord retains the right to procure such insurance coverage and charge the Tenant the reasonable premium cost plus an additional 10% administrative fee.

From time to time during the Term of this Lease to the extent that the Landlord provides written notice to Tenant evidencing Landlord's reasonable belief (in reasonable detail) that the amounts of coverage required by this **Exhibit B** have become insufficient to adequately protect the interests of the Landlord, then upon Tenant'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 Landlord. Tenant shall deliver to Landlord certificates of renewal prior to the expiration of each policy. The Tenant writing each of the Policies must possess a Financial Strength Rating of no less than S&P "A-", AM Best A- or equivalent.

In the event that a claim is filed against the Landlord and governed by the terms of this Lease Agreement, Tenant shall, upon receipt of a written request, deliver to the Landlord, true and correct copies of the Policies required hereunder which may be responsive to the claim.

DATE: May 24, 2022
TO: Port Commission
FROM: Natasha Fudge, P.E.
Director of Engineering Services

Approve a change order with Haas-Anderson Construction, Ltd. in the net deductive amount of \$175,365.47 (credit) for adjustments to the remediation areas in phase two of the Bulk Materials Terminal storm water quality project.

SUMMARY: Staff requests approval of a change order in the net deductive amount of \$175,365.47 (credit) with Haas-Anderson Construction, Ltd. for adjustments to the remediation areas in phase two of the Bulk Materials Terminal storm water quality project.

BACKGROUND: On January 18, 2022, the Commission approved a construction contract with Haas-Anderson Construction, Ltd. in the amount of \$4,144,000 for phase two of the Bulk Materials Terminal (BMT) storm water quality project. The project scope generally consists of constructing a new storage pad, associated drainage and sediment controls, shiploader drainage area improvements, and removal and disposal of on-site impacted soil and replacement with clean fill material.

During the removal process for impacted soil, it was noted that some areas designated for soil removal were improved driving surfaces or were designated as requiring additional and specialized environmental treatment that is currently not captured in contract specifications. Areas of improved surfaces are predominantly non-pervious, thus preventing migration of petcoke to the depths called out for removal in the construction plans. PCCA Engineering and Environmental staff agree that the removal and disposal of this material would not meet the project goals. Therefore, approximately 4,690 square yards of earmarked soils for remediation are recommended to be removed from the contractual scope of work. This contract deduction will result in a deductive change order of \$175,365.47.

ALTERNATIVES: None.

CONFORMITY TO PORT POLICY: This project supports the PCCA's Strategic Plan 2023 (Strategic Goal #3 – Provide Facilities and Services to Meet Customer Needs).

EMERGENCY: None.

FINANCIAL IMPACT: This project is included in the 2022 budget. The fees associated with the collection and disposal of impacted soils and replacement with clean fill were previously collected from tenants operating at BMT.

STAFF RECOMMENDATION: Staff recommends approval of a change order in the net deductive amount of \$175,365.47 (credit) with Haas-Anderson Construction, Ltd. for adjustments to the remediation areas in phase two of the Bulk Materials Terminal storm water quality project.

CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	Natasha Fudge
	Sonya Lopez-Sosa
	Maria Rivas
	Jacob Morales
	Jacob Wiginton
Senior Staff	Sean Strawbridge
	Clark Robertson
	Kent Britton
	Jeff Pollack

LIST OF SUPPORTING DOCUMENTS:

Change Order with Exhibit



CHANGE ORDER

Change Order No. 2

May 24, 2022

Page 1 of 1

PROJECT: Bulk Terminal Storm Water Quality Phase II

PROJECT NUMBER: 17-702A

CONTRACTOR: Haas-Anderson Construction, Ltd

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:

Decrease in contract price for the deletion of remediation of contaminated soils to areas in B1, B5 and B9 as depicted in enclosed Exhibit A. The areas deleted from the scope of work will total approximately 42,215 square feet. The areas removed are either hardened driving surfaces which are non-pervious or will be addressed in a different manner not covered in contract documents.

Decrease in Contract Price: \$ (175,365.47)

Decrease in Contract Time: 0 days

Awarded Construction Amount: \$ 4,144,000.00

Total Amount of Previous Change Orders: \$ 30,060.00

Amount of this Change Order: \$ (175,365.47)

Revised Contract Amount: \$ 3,998,694.53

Notice to Proceed Date: January 31, 2022

Original Contract Time: 150 days

Previous Changes in Contract Time: 15 days

Calendar Days for this Change Order: 0 days

Revised Contract Time: 165 days

Required Completion Date: July 15, 2022

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 Contractor as signed by their duly authorized representatives below.

Port of Corpus Christi Authority

Contractor

By: _____
Beatriz Rivera
Project Representative

By: _____
Name (Printed): _____

By: _____
Jacob E. Morales
Chief of Design and Construction

Title: _____

Date: _____

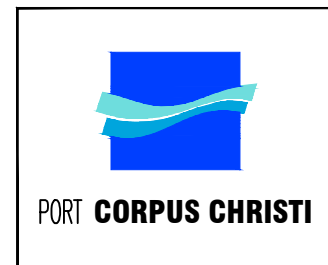
Date: _____



01 SITE PLAN
 0101 SCALE
 0 150' 300'

- ORIGINAL SCOPE OF WORK (SOIL TO BE REMOVED AND REPLACED)
- ITEM NO.1: DEDUCT OF AREA B-1, B-5, B-9 FROM ORIGINAL SCOPE OF WORK

THIS DOCUMENT WAS PREPARED AS A DRAFT EXHIBIT UNDER THE AUTHORITY OF THE PORT OF CORPUS CHRISTI ON 5/18/22. IT IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMITTING PURPOSES.



PORT OF CORPUS CHRISTI AUTHORITY		
STORMWATER QUALITY CHANGE ORDER NO.2		
SCALE: GRAPHIC	Exhibit A	DATE: 5/18/2022
DWN. BY: BLV		TIME: 4:09:34 PM



DATE: May 24, 2022

TO: Port Commission

FROM: Tom Mylett, Director, Marine Assets
tom@pocca.com
(361) 885-6180

Approve the purchase of six full sets of Self-Contained Breathing Apparatus (SCBA), and twelve spare SCBA air tanks totaling \$66,954 from Metro Fire Apparatus Specialists, Inc., using Government Pricing from the State of Texas BuyBoard Cooperative Purchase Program Contract 603-20

SUMMARY: Staff requests the Port Commission approve the purchase of firefighter personal protection equipment from Metro Fire Apparatus Specialists, Inc, (Metro Fire) consisting of six (6) full sets of Self-Contained Breathing Apparatus (SCBA), and twelve (12) spare SCBA air tanks. This equipment will be assigned to the Metalcraft 70’ fire boat when it is delivered to Port of Corpus Christi Authority anticipated during 4th quarter of 2022.

BACKGROUND: On August 18, 2020 the Port Commission approved a contract with MetalCraft Marine, Inc., the construction of a 70’ fire boat. It is anticipated that the completed vessel will be delivered to the PCCA during the 4th quarter of FY2022. The entity that sets and publishes the standards for a fire boat of this size is the National Fire Protection Association (NFPA). In order to comply with standards set forth by the NFPA, we will need to provide a minimum of six (6) full SCBA systems (harness, regulator, face mask, 1hour air cylinder, quick-connect hose, pak tracker), and two (2) spare 1-hour air cylinders per each full system. With that understanding, the full procurement will be six (6) full SCBA systems, and twelve (12) spare air cylinders from Metro Fire, which results in a total of eighteen (18) air cylinders. Metro Fire provided the attached quote for the personal protection equipment using pricing per Texas Buy Board Contract 603-20.

ALTERNATIVES: Open Market Bids

CONFORMITY TO PORT POLICY: This project supports both Strategic Goal 2: Be a Good Business + Community Partner, and Strategic Goal 3: Provide Facilities + Services to meet customer needs.

EMERGENCY: No.

FINANCIAL IMPACT: \$66,954 included in the PCCA 2022 Budget.

STAFF RECOMMENDATION: Staff recommends the Port Commission approve the purchase in the amount of \$66,954 for six (6) SCBA systems, and twelve (12) spare SCBA air cylinders from Metro Fire Apparatus Specialists, Inc..

DEPARTMENTAL CLEARANCES:

Originating Department Marine Assets
Reviewed By: Tom Mylett, Director
Lynn Angerstein, Director, Procurement Services

Legal Dane Bruun
Executive Staff Sean Strawbridge, Chief Executive Officer
Clark Robertson, Chief Operations Officer
Kent Britton, Chief Financial Officer

Exhibit – Quote from Metro Fire and Apparatus Inc.



QUOTE

Number	189866-0
Quote Date	05/15/2022
Page	1

Corporate
 17350 State Hwy 249
 Suite 250
 Houston TX 77064-1142
 (713) 692-0911 Phone
 (713) 692-1591 Fax

Mansfield
 625 S Wisteria St Ste 121
 Mansfield TX 76063-2528
 (817) 467-0911 Phone
 (817) 375-1775 Fax

South Houston
 514 Michigan St
 South Houston TX 77587-3221
 (713) 475-2411 Phone
 (713) 475-2428 Fax

Bill to: PORT OF CORPUS CHRISTI AUTHORITY
 1002 E PORT AVE
 CORPUS CHRISTI, TX 78401

Ship to: PORT OF CORPUS CHRISTI AUTHORITY
 1002 E PORT AVE
 CORPUS CHRISTI, TX 78401

Cust Code	Ordered By	Salesman	Job/Rel#	Customer PO
POR012	TOM MYLETT	JESSE BREEDLOVE		
Entered By	FOB	Ship Via	Terms	
JESSE BREEDLOVE	CUSTOMER PAYS FREIGHT	BEST WAY	NET 20 DAYS	
Customer/Order Instructions				

PRICING PER TEXAS BUY BOARD CONTRACT 603-20

Quantity			U/M	Item #	Description	Price	Extension
Order	Ship	Back					
6	6	6	EA	SCT-X8814025005303	X3 PRO 2018 EDITION 4.5 W/ CGA PARACHUTE BUCKLES STANDARD BELT QUICK CONNECT HOSE, PAK TACKER	6603.00	39618.00
18	18	18	EA	SCT-804723-01	60 MINUTE, CARBON CYLINDER 4500 PSI, CGA VALVE	1413.00	25434.00
6	6	6	EA	SCT-201215-02	AV3000 HT, KEVLAR HEAD HARNESS MEDIUM FACESEAL - 5-STRAP	317.00	1902.00
SubTotal							66,954.00
Total							66,954.00

QUOTE GOOD FOR 30 DAYS



DATE: May 24, 2022

TO: Port Commission

FROM: Natasha Fudge, P.E.
Director of Engineering Services

Approve an amendment to a service order with Ardurra Group, Inc., under Master Services Agreement No. 22-01, in the amount of \$42,700 for additional services related to the Security Command and Control Center (at Power Street) remodel and improvements project.

SUMMARY: Staff recommends approval of an amendment to a service order with Ardurra Group, Inc. (Ardurra), under Master Services Agreement No. 22-01, in the amount of \$42,700 for additional services related to the Security Command and Control Center (at Power Street) remodel and improvements project, specifically for design of an additional interior staircase and IT room envelope.

BACKGROUND: On December 14 2021, the Port Commission approved a service order in the amount of \$167,500 with Ardurra for design of improvements to the Administration building located at Power Street, in anticipation of relocating the PCCA Security Department there.

Ardurra’s original scope of work for the project generally includes:

- First-floor renovations: bathroom expansion to include showers; modify storefront glass with brick/CMU walls, modify entrance to create a secure lobby.
- Second-floor renovations: floor plan modification to include an armory room; and modification of a corridor on the second and third floor of the building for emergency egress to new external staircase.
- Exterior improvements: a full roof replacement; additional egress via an exterior staircase; ADA compliant parking spaces; HVAC maintenance; secure parking lot improvements.

During project design, the PCCA additionally requested that Ardurra give consideration to replace the existing interior spiral stairwell to improve interior access to the second and third floors from the main entrance of the building. Furthermore, in order to enhance IT system resiliency, IT room envelope requirements were determined and are also being proposed for incorporation into the project.

PCCA staff provided the Facilities Committee an update on this project at the April 12, 2022 meeting. During the briefing, PCCA staff mentioned that additional design may be



needed to add an internal stairway, which would likely require an amendment to Ardurra's service order, with possible action at a future commission meeting. This service order amendment realizes those additional requested design efforts.

The interior stairwell will be included in the construction documents as an additive bid item to provide the PCCA flexibility in the award of a construction contract that will best meet PCCA's needs.

The scope of this amendment includes: design and preparation of construction documents for an interior staircase within the atrium to replace the existing spiral staircase; including new foundation system, new mounting bracket, and integration of the stairwell landings at the first, second, and third floors; and design and detail for an IT room envelope, as required for all equipment.

ALTERNATIVES: N/A

CONFORMITY TO PORT POLICY: The project conforms to PCCA's Strategic Plan 2023 (Strategic Goal #6 – Cultivate the Workforce + Tools of the Future).

EMERGENCY: No.

FINANCIAL IMPACT: This project is included in the proposed 2022 budget.

STAFF RECOMMENDATION: Staff recommends approval of an amendment in the amount of \$42,700 to a service order with Ardurra Group, Inc., under Master Services Agreement No. 22-01, for additional services related to the Security Command and Control Center (at Power Street) remodel and improvements project.

DEPARTMENTAL CLEARANCES:

Originating Department	Engineering Services
Reviewed & Approved	Natasha Fudge
	Sonya Lopez-Sosa
	Maria Rivas
	Jacob Morales
	Amelie Leroux
	Mark Gutierrez
Legal	Standard Service Order Amendment
Senior Staff	Sean Strawbridge
	Clark Robertson
	Kent Britton
	Jeff Pollack

LIST OF SUPPORTING DOCUMENTS:

Service Order No. 1 – Amendment No. 1

**MASTER SERVICES AGREEMENT NO. 22-01
ARDURRA GROUP, INC.**

SERVICE ORDER NO. 1 - AMENDMENT NO. 1

1. Background Data

Commencement Date of Original Service Order: December 14, 2021

PCCA Project Manager: Amelie Leroux, E.I.T.

Engineer: Ardurra Group, Inc.

Project Name: Security Command & Control Center (at Power St.) Remodel and Improvements
Project No. 20-032A

2. Description of Modifications

a. **Section 4. Service Order Schedule** will be modified by adding the following:

Party	Task	Duration	Estimated Completion
Engineer	Staircase Concept Options Submittal	1 weeks	On or before June 1, 2022
PCCA	Staircase Concept Options Review	1 week	On or before June 8, 2022
Engineer	100% Submittal	3 weeks	On or before June 29, 2022
PCCA	100% Submittal Review	1 week	On or before July 6, 2022
Engineer	100% Signed/Sealed	2 weeks	On or before July 20, 2022
This Service Order will expire December 31, 2023.			

b. **Section 5. Method of Compensation** will be modified as follows:

The PCCA shall pay Engineer the following additional compensation:

Description of Additional Compensation	Amount
Additional Architectural, Structural Engineering, and MEP Engineering Services	\$ 42,700
TOTAL ADDITIONAL COMPENSATION	\$ 42,700

c. The Scope of Services currently authorized to be performed by the Engineering in accordance with the Service Order and previous amendments, if any, is modified by adding the following to **Exhibit A – Engineer’s Services for Service Order**:

A1.04 Additional Architectural, Structural Engineering, and Mechanical / Electrical / Plumbing (MEP) Engineering Services

A. Architectural Services

1. Conduct field verification of affected area pertaining to the contract amendment.

2. Prepare additional AutoCAD drawings for the additional scope of work items. These drawings will be included within the set for the entire project.
3. First, Second, and Third Floor:
 - Design a new monumental staircase and associated landings in the space previously constructed as a planter area (“atrium”) on the first floor and the open area above the second and third floors.
 - Design of the staircase area shall include a decorative logo feature.
4. Second Floor:
 - Design and detail IT Room envelope as required for all equipment that will be owner provided/ owner installed.
5. Mounting of fixed antenna on the existing roof. (Location to be approved by the PCCA.)

B. Structural Engineering Services

1. Perform design for a new interior stairway structure system in order to access the second and third floor levels at the existing "atrium" portion of the building.
2. Perform design for new foundation system that will support the new interior stairway structure and to fully provide a concrete system that will encompass the original atrium portion of the ground floor.
3. Perform design of a new mounting bracket for fixed antenna at the roof level. Bracket attachment shall meet applicable IBC codes and windstorm requirements.
4. Prepare final drawings and technical specifications. All drawings will be prepared in AutoCAD 2018 format. Drawings and specifications will be sealed by a licensed Texas Professional Engineer.

C. Mechanical / Electrical / Plumbing (MEP) Engineering Services:

IT Room (scope must be approved by PCCA before commencement)

1. Remove ductwork from Multizone Air Handling Unit above the IT room ceiling so the room can be properly sealed to accommodate the fire suppression system.
2. Confirm electrical capacity in existing electrical panels for IT room requirements.
3. Design of power to IT room equipment.

4. Design power to IT room condensers mounted on the roof.
5. Design domestic water and drain for IT room equipment.

D. Deliverables under this Amendment include:

1. Initial concept drawings of the staircase layouts for PCCA review.
2. Engineering design and construction documents.
3. Submittals shall include 100% review. 100% Signed and Sealed, concurrently with base project.

E. Amendment Clarifications and Exclusions:

1. Engineer shall be provided with:
 - a. Equipment cut sheets for all equipment requiring power.
 - b. IT room equipment layout.
2. Exclusions include:
 - a. Selection of IT equipment.
 - b. Design or specification of fire suppression system.

3. Service Order Summary (Reference only)

a.	Original Service Order amount:	\$ 167,500
b.	Net change for prior amendments:	\$ 0
c.	This amendment amount:	<u>\$ 42,700</u>
d.	Adjusted Service Order amount:	\$ 210,200

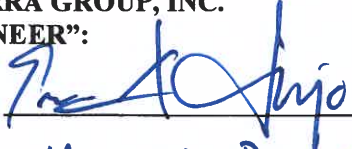
The foregoing Service Order Summary is for reference only and does not alter the terms of the Service Order.

PCCA and Engineer hereby agree to modify the above-referenced Service Order as set forth in this Amendment. All provisions of the Agreement and Service Order not modified by this or previous Amendments remain in effect. *The effective date of this Amendment is May 24, 2022.*

PORT OF CORPUS CHRISTI AUTHORITY
"PCCA":

By: _____
Title: Chief Executive Officer
Date: _____

ARDURRA GROUP, INC.
"ENGINEER":

By: 
Title: MANAGING PRINCIPAL
Date: 5/19/22

DATE: May 24, 2022

TO: Port Commission

FROM: Craig Gotthardt, CCIM CPM RPA
Facilities Manager
cgotthardt@pocca.com
(361) 881- 5155

Authorize Staff to use the design-build procurement method for the relocation of the Port maintenance operation to 2301 N. Port Avenue.

SUMMARY: Staff requests Commission approval to use the design-build procurement method for the relocation of the Port maintenance operation to 2301 N. Port Avenue.

BACKGROUND: Staff presented a proposal to relocate the existing Port maintenance operation from 824/901 Navigation Boulevard to 2301 N. Port Avenue at the April 12, 2022, Facilities Committee Meeting. The Committee approved Staff's recommendation to proceed with the use of the design-build procurement method for this project.

The current maintenance operation for the Port is located on the north side of the ship channel occupying two sites at 824 E. Navigation and 901 Navigation Boulevard. Staff believes that the current maintenance occupied sites would be better utilized for commercial lease income generation. Additionally, Staff believes the sites to be functionally obsolete, inefficient, and size constrained to accommodate the Port's current and future maintenance needs.

Staff believes that the 2301 N. Port Avenue property provides a superior option to house the Port's maintenance operation. The size and location on the south side of the ship channel will allow for single site consolidation, create operating efficiencies, and provide better access to labor, supplier, and vendor needs. The site is comprised of +/- 7.21 acres and contains several infrastructure improvements including (2) metal buildings totaling +/- 6,900 square feet, perimeter fencing of +/- 5 acres, utilities, and a wash bay. Notable modifications will include a new (12) bay metal building, repair and modification of existing buildings, installation of above ground fuel tanks, and parking area stabilization.

As a result of the limited technical project scope and to encourage creativity in cost effective modification solutions, Staff recommends the use of the design-build procurement method and believes this would provide the best overall value.

ALTERNATIVES: The use of the design-build procurement method is recommended.

CONFORMITY TO PORT POLICY: Design-build is an alternate method available for contracting as per Subchapter O of the Texas Water Code.

EMERGENCY: No.

FINANCIAL IMPACT: The 2022 Capital Project Expenditure Budget includes an exploratory amount of \$200,000 for Maintenance Facility Improvements. The 2023 budget will reflect the projected site modification costs.

STAFF RECOMMENDATION: Staff recommends approval to use the design-build procurement method for the relocation of the Port maintenance operation to 2301 N. Port Avenue inclusive of the issuance of a Request for Qualifications followed by a Request for Proposals to design/modify the existing site and improvements.

DEPARTMENTAL CLEARANCES:

Originating Department	Operations
Reviewed & Approved	Clark Robertson
Legal	Dane Bruun
Senior Staff	Sean Strawbridge

LIST OF SUPPORTING DOCUMENTS:

None

MOU Number: [to be assigned by Technology Partnerships]

MEMORANDUM OF UNDERSTANDING

between

**ALLIANCE FOR SUSTAINABLE ENERGY, LLC
MANAGING AND OPERATING CONTRACTOR FOR THE
NATIONAL RENEWABLE ENERGY LABORATORY**

and

Port of Corpus Christi Authority of Nueces County, Texas

SUBJECT. NREL PCCA Hydrogen and Decarbonization Collaboration

1. Participants

- a. The National Renewable Energy Laboratory ("NREL") is a national laboratory owned by the Department of Energy and managed and operated by the Alliance for Sustainable Energy, LLC under DOE Contract No. DE-AC36-08GO28308. NREL has a primary location at 15013 Denver West Parkway, Golden, Colorado, 80401.
- b. Port of Corpus Christi Authority of Nueces, County, Texas ("PCCA")
- c. Either PCCA or NREL are referred to as a "Participant". Both PCCA and NREL are collectively referred to as "Participants."

2. Purpose

- a. The Participants intend coordination under this MOU to promote synergy between their independently programmed activities to advance their mutual interests.
- b. The purpose of this MOU is to:
 - Advance collaboration between PCCA, NREL, and PCCA tenants, through identification of scalable energy transition and decarbonization projects requiring techno-economic-analysis, modeling, testing & validation efforts unique to NREL's capabilities;
 - Identify available local, state, federal, and DOE funding opportunities to jointly pursue; and
 - Solicit funding from PCCA tenants when projects directly benefit their port operations and support PCCA's objective of becoming the U.S.'s leading hydrogen hub.

3. Scope of Coordination

- a. The shared objectives for the coordination planned under this MOU are:

- Scalable production, storage, use, and export of renewable and/or low carbon intensity energy
 - Integration and de-risking of innovative renewable technologies and production systems that leverage the abundance of solar, wind, and other renewable potential in and around PCCA
 - Detailed techno-economic analysis of infrastructure optimization to support investment decision that maximize the efficacy of energy transition projects at PCCA
 - Evaluation of Diversity, Equity & Inclusion (DEI) impacts of energy transition projects on surrounding communities
- b. Potential outcomes from the coordination include:
- Techno-Economic-Analysis reporting of low carbon hydrogen strategies and deployment opportunities at PCCA
 - Decarbonization strategies that positively impact DEI
 - Joint opportunities to obtain funding from:
 - State and local government
 - DOE & other US government agencies
 - PCCA tenants
- c. The Department of Energy’s Office of Renewable Energy and Energy Efficiency will benefit from this coordination.

4. Funding

- a. Unless otherwise determined by writing, each Participant is responsible for the costs it incurs in participating in the coordination contemplated by this MOU, including all administrative costs, overhead expenses, labor costs, insurance costs, travel expenses and similar costs.
- b. This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is intended to obligate the Participants to expend, exchange, or reimburse funds, services, or supplies or transfer or receive anything of value.
- c. This MOU: (1) is not a contract; (2) is not to be used to obligate or commit funds; and (3) is not to be used as a basis for the transfer of funds.

5. Researcher Exchanges

- a. Each Participant is to be responsible for its own personnel in relation to researcher exchanges to carry out coordination under this MOU.
- b. Each Participant’s personnel are to adhere to the regulations, policies, and procedures of the host institution in carrying out coordination under this MOU, including protection of business proprietary information, protection of intellectual property, conditions of coordination and decorum, conditions of security and safety, and all other terms under which personnel are authorized to participate in researcher exchanges at the host institution.
- c. Each Participant has sole responsibility for its own personnel in relation to matters as

travel formalities, appropriate insurance (medical insurance), travel expenses, suitable living accommodation and expenses, and computing hardware, applications, and internet connections. At the sole discretion of and compliant with the terms of systems access at the host institution, limited access to internal computing hardware and systems may be provided under researcher exchanges to facilitate the researcher's activities at the host institution.

6. Term

- a. This MOU shall be effective on the later date of the signatures of the Participants.
- b. The initial duration of this MOU is set for 36 months, with the ability to extend as mutually agreed in writing by the Participants.
- c. Earlier termination of the MOU shall be effective upon sixty (60) days written notice given to the other Participant.

7. Role of the Participants

- a. Each Participant's principal point of contact for coordination under this MOU is identified below. These contacts will also be responsible for resolution of issues occurring across organizational lines in their respective organizations.

NREL

Name	Mark Chung
Title	Senior Hydrogen Infrastructure Analyst
Address	15013 Denver West Parkway, Golden, CO 80401
email	Mark.chung@nrel.gov
Phone	303-384-6404

PCCA

Name	Jeffrey Pollack
Title	Chief Strategy and Sustainability Officer
Address	400 Harbor Dr, Corpus Christi, TX 88401
email	jpollack@pocca.com
Phone	361-885-6230

- b. The Participants agree that neither will use the name of the other Participant or its employees in promotional activities with reference to the coordination arising from this MOU without prior written approval of the other Participant.

8. Disclosure of Information

Each Participant intends to coordinate independently programmed activities in a manner which facilitates exchanges of non-proprietary information.

9. Intellectual Property

Activities which may involve sharing of proprietary information and transfer of rights and interest in intellectual property are excluded from the purview of this MOU. In the event it becomes necessary to share proprietary information, separate nondisclosure agreements will be put in place.

10. Review Meetings

Review meetings will be held on an as-needed basis.

11. Future Collaborations

- a. This MOU does not create legally binding obligations between the Participants. It serves only as a record of the Participants' coordination of areas of independently programmed activities.
- b. The Participants may propose to each other separate joint collaboration that involves collaborative research and development related to the subject matter of the MOU.
- c. If the Participants agree to undertake joint collaborations that involve collaborative research and development, they intend to develop a separate written agreement for each collaborative research and development project, setting out each Participant's contribution, deliverables, responsibilities, and intellectual property rights and obligations.

[Signature page follows this page.]

Signatures

The Participants hereby confirm this MEMORANDUM OF UNDERSTANDING and acknowledge their understanding by the following signatures.

Alliance for Sustainable Energy, LLC

managing and operating contractor for the
NATIONAL RENEWABLE ENERGY LABORATORY

DocuSigned by:


Signature FF87CAB9554D9...

Johney Green
Printed name

Associate Laboratory Director
Title

11/2/2021
Date

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


Signature

Sean C. Strawbridge
Printed name

Chief Executive Officer
Title

October 1, 2021
Date



DATE: May 24, 2022
TO: Port Commission
FROM: Jeffrey Pollack, CSSO
jpollack@pocca.com
(361) 885-6230

Approve an amendment to an existing Professional Research Contract with Alliance for Sustainable Energy, LLC, operator of the National Renewable Energy Laboratory, in the amount of \$101,047 to support Phase 1 of a Feasibility Analysis of the integration of offshore hydrogen production from offshore wind in the Gulf of Mexico

SUMMARY: Port staff is seeking Port Commission approval of an amendment to an existing Professional Research Contract with Alliance for Sustainable Energy, LLC, operator of the National Renewable Energy Laboratory (NREL), in the amount of \$101,047 to support Phase 1 of a Feasibility Analysis of the integration of offshore hydrogen production from offshore wind in the Gulf of Mexico. This first-of-its-kind analysis will inform PCCA’s strategy for cultivating commercial opportunities around hydrogen production and export and inform and bolster the Port’s pursuit of federal funds forthcoming under the Infrastructure Investment and Jobs Act. This work is included in PCCA’s adopted 2022 budget and was recommended for Commission approval by the Long-Range Planning Committee on April 7th.

BACKGROUND: The National Renewable Energy Laboratory (NREL) explores energy systems and technologies in support of a future powered by affordable, abundant, and clean energy. NREL's hydrogen and fuel cell research focuses on developing, integrating, and demonstrating hydrogen production and delivery, hydrogen storage, and fuel cell technologies. As a national laboratory, much of NREL’s work is funded through the Department of Energy (DOE), and thus there is a tight nexus between NREL’s work and DOE policy priorities.

In early November, 2021, PCCA and NREL established a Memorandum of Understanding (MOU) to promote collaboration around hydrogen production and decarbonization. The MOU defines several shared objectives:

- Scalable production, storage, use, and export of renewable and/or low carbon intensity energy

- Integration and de-risking of innovative renewable technologies and production systems that leverage the abundance of solar, wind, and other renewable potential in and around PCCA
- Detailed techno-economic analysis of infrastructure optimization to support investment decision that maximize the efficacy of energy transition projects at PCCA
- Evaluation of Diversity, Equity & Inclusion (DEI) impacts of energy transition projects on surrounding communities

In January of this year, the Port Commission approved a Professional Research Contract with NREL via its operator, Alliance for Sustainable Energy, LLC, in the amount of \$174,996 to conduct a clean hydrogen deployment analysis for the greater PCCA area. This initial scope is well underway and advancing on schedule.

Staff proposes to amend this existing Professional Research Contract to include an additional related scope to further inform PCCA’s strategy for cultivating commercial opportunities around hydrogen production and export and for pursuing federal funds forthcoming under the Infrastructure Investment and Jobs Act.

ALTERNATIVES: NREL, as a federally funded national laboratory and part of the research arm of the Department of Energy, is uniquely suited to perform this analysis.

CONFORMITY TO PORT POLICY: This project directly supports PCCA Strategic Goal 1 – Foster Strategic Growth as well as Strategic Goal 5 – Fund Our Vision. This work is included in PCCA’s adopted 2022 budget.

EMERGENCY: Time sensitive. PCCA has established memoranda of understanding and is in various stages of project development with multiple commercial entities interested in the hydrogen production value chain. Likewise, the US Department of Energy and Department of Commerce have begun issuing announcements of funding opportunity related to clean hydrogen production in support of the Infrastructure Investment and Jobs Act. The request for proposal for the designation of Hydrogen Hubs will, per statute, likely be released by May, 2022. **The proposed scope of analysis is time sensitive in that it will directly inform PCCA’s commercial strategy and grant pursuits.**

FINANCIAL IMPACT: The proposed modification to the existing Professional Research Agreement between PCCA and the National Renewable Energy Laboratory (through its operator, Alliance for Sustainable Energy, LLC) will be in the amount of \$101,047 to be paid on a lump sum basis. This work is included in PCCA’s adopted 2022 budget.

STAFF RECOMMENDATION: Staff recommends approval of proposed modification to the existing Professional Research Agreement between PCCA and the National Renewable Energy Laboratory.

DEPARTMENTAL CLEARANCES:

Originating Department CSSO

Reviewed & Approved Jeffrey Pollack

Legal Dane Bruun
Procurement Lynn Angerstein
Senior Staff Sean Strawbridge



DATE: May 24, 2022

TO: Port Commission

FROM: Lisa Hinojosa, Director of Communications
lhinojosapoccca.com
 (361) 249-4051

Approve First Amendment to Consulting Services Contract with Crosswind Communications to increase estimated reimbursable expenses to \$25,000 for a total contract of \$125,000.

SUMMARY: Staff is seeking Commission approval of an Amendment to increase the expense allowance for Communications Department consultant Crosswind Communications LLC to \$25,000 and total contract not to exceed to \$125,000. Crosswind’s current consulting services contract includes estimated reimbursable expenses (including travel) of \$3,000 with a total contract not to exceed of \$103,000. The 2022 contract was approved by the Port Commission November 16, 2021.

BACKGROUND: In order for the Port of Corpus Christi Authority (PCCA) to continue to develop strategic partnerships with regional, national and global entities, staff engages the services of Crosswind Communications, a Texas-based firm with relationships with key media and influencers. As risk of the COVID-19 global pandemic has waned, PCCA travel has increased and Crosswind is integral in planning strategic work trips for the executive team.

Crosswind Communications has provided professional media relations services to PCCA since 2018. Approved budgeted services for 2022 currently includes \$100,000 for services and \$3,000 for estimated reimbursable expenses. This item would increase those reimbursable expenses to \$25,000 and the total contract not to exceed \$125,000.

ALTERNATIVES: Find alternate liaison to generate these relationship-building opportunities.

CONFORMITY TO PORT POLICY: This project conforms to Strategic Goal 1 – Foster Strategic Growth.

EMERGENCY: No.

FINANCIAL IMPACT: 2022 financial impact is an increase of \$22,000 above existing budgeted expenses.

STAFF RECOMMENDATION: Staff recommends approval of First Amendment to the Consulting Services Contract with Crosswind Communications LLC.

DEPARTMENTAL CLEARANCES:

Originating Department	Lisa Hinojosa
Reviewed & Approved	Lynn Angerstein, Procurement

Legal	Dane Bruun
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Executive Staff	Sean Strawbridge
	Omar Garcia
	Kent Britton

LIST OF SUPPORTING DOCUMENTS:

First Amendment to Consulting Services Contract for Crosswind Communications LLC

AMENDMENT NO. 1 TO CONSULTING SERVICES CONTRACT

This Amendment No. 1 to Consulting Services Contract (the “*Amendment*”) is made effective as of May 24, 2022 (“*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 Crosswind Communications, LLC (“*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 made effective as of January 1, 2022, in connection with media consulting services to create awareness of the Port expansion project (the “*Agreement*”); and

WHEREAS, capitalized terms in this Amendment shall have the same meaning given to them in the Agreement except as provided herein; and

WHEREAS, the Authority has agreed to increase the reimbursable expenses payable to Consultant provided under the Contract;

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

- A. **Exhibit B** of the Agreement is hereby amended to add the additional reimbursable expenses described in **Exhibit B-1** to this Amendment.
- B. Section 7 of the Agreement is hereby amended in its entirety to read as follows.

7. COMPENSATION: The compensation to be paid Consultant for providing the Services shall be the compensation described in Exhibit B-1 hereto, which is incorporated herein by reference; provided, however, the total paid to Consultant for the Services and Expenses shall not exceed One Hundred Twenty-Five Thousand Dollars (\$125,000.00). Consultant will obtain the approval of Authority’s Representative relative to incurring travel and other expenses before incurring such costs.
- C. This Amendment shall be binding on the successors and assigns of the Parties.
- D. 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.
- E. 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.

[The signature page follows this page.]

In Witness Whereof, each Party has caused this Amendment to be executed by its duly authorized representative effective for all purposes as of the Amendment Date.

PORT OF CORPUS CHRISTI AUTHORITY OF NUECES
COUNTY, TEXAS

By: _____
Sean Strawbridge
Chief Executive Officer

CROSSWIND COMMUNICATIONS, LLC


By: 
Name: Thomas Graham
Title: President & CEO

EXHIBIT B-1

FEE SCHEDULE

Crosswind Communications, LLC, will be compensated an increased reimbursable expense up to \$25,000.

Total Fee for Services \$100,000

Estimated or Set Reimbursable Expenses (Travel, etc.) \$25,000

TOTAL CONTRACT NOT TO EXCEED (services + expenses) \$125,000

311065