

## DEFERMENT AGREEMENT

STATE OF TEXAS       §  
                                  §  
COUNTY OF NUECES   §

This Agreement is entered into between the City of Corpus Christi, Texas, a Texas home rule municipality, (hereinafter "City") and I5T Investments, LLC, (hereinafter "Developer/Owner"), and pertains to deferral of the required completion of certain required improvements prior to filing the final plat of Airport Industrial Subdivision, Block 13, Lot 2 (the "plat"), which was approved by the Planning Commission on July 18, 2012. A copy of the plat is attached and incorporated as **Exhibit 1**.

**WHEREAS**, the Developer/Owner is obligated under Section 8.1.11, of the Unified Development Code to construct seventy-five percent (75%) of the required improvements, before the final plat is endorsed by the City Engineer. Detailed construction drawings must be provided by the Developer/Owner and approved by the City's Departments of Development Services and Engineering prior to the start of construction;

**WHEREAS**, the Developer/Owner is seeking to defer, for a period up to five (5) years, the construction of the wastewater and water improvements (hereinafter the "deferred improvements"), as shown in **Exhibit 2**, and further, on December 19, 2012, the Planning Commission made a finding that there exists probable cause to delay the completion of public improvements, in accordance with 8.1.10.B of the Unified Development Code;

**WHEREAS**, the Developer/Owner is seeking to have the plat filed immediately with the County Clerk of Nueces County, Texas, before completion of seventy-five percent (75%) of the required improvements as required by Section 8.1.11 of the Unified Development Code;

**WHEREAS**, the Developer/Owner will deposit, with the City, an irrevocable letter of credit in, the amount of Two Hundred Twenty-One Thousand Eight Hundred Forty-Six and 54/100 Dollars (\$221,846.54), representing 110% of the estimated cost of constructing the deferred improvements, all as shown on the attached cost estimate, which is attached and incorporated as **Exhibit 3**;

**WHEREAS**, the City Attorney and Director of Finance have approved this transaction;

**WHEREAS**, the Developer/Owner has completed all other subdivision requirements, park dedications, park deferment agreements, and maintenance agreements and all special covenants;

**WHEREAS**, the Developer/Owner is entering into this Deferment Agreement as required by Section 8.1.10.B. of the Unified Development Code;

**NOW, THEREFORE**, for the consideration set forth hereinafter, the City and Developer/Owner agree as follows:



1. The City shall waive the requirement that construction of the deferred improvements be completed before the final plat is endorsed by the City Engineer and filed for record with the County Clerk of Nueces County and further agrees to allow the Developer/Owner to defer construction of the deferred improvements as shown in **Exhibit 2**, for up to five (5) years year from the date of this Deferment Agreement.
2. The Developer/Owner agrees to deposit Two Hundred Twenty-One Thousand Eight Hundred Forty-Six and 54/100 Dollars (\$221,846.54), in the form of an irrevocable letter of credit issued by a bank with offices in Corpus Christi, TX, for 110% of the estimated cost of constructing the required improvements, as shown in **Exhibit 3**, which is attached to and incorporated into this Agreement, with the City of Corpus Christi on or before the plat is filed with the County Clerk, and if the deposit is not made by that time this Agreement shall become null and void. The form of the letter of credit must be approved by the City's Director of Financial Services.
3. The Developer/Owner shall construct the deferred improvements, in accordance with the City's engineering standards in effect at the time of construction.
4. Upon completion of the deferred improvements by Developer/Owner within five (5) years from the date of this Agreement, or later time as may be mutually agreed upon in writing by both parties, and upon acceptance of the deferred improvements by the City Engineer and upon compliance by the Developer/Owner with the remaining terms of the Deferment Agreement, the City Engineer shall:
  - a. Immediately release Developer/Owner from the obligations to construct the deferred improvements by mailing a Release Letter to:

Developer/Owner:  
I5T Investments, LLC  
P.O. Box 261037  
Corpus Christi, Texas 78406
  - b. Return to the Developer/Owner within sixty (60) days of the completion of the construction of the deferred improvements and settlement of the construction costs, or within sixty (60) days of acceptance of the deferred improvements, whichever is later, any balance remaining of all monies received by the City from the Developer/Owner including any interest earned.
5. If the deferred improvements have not been completed within five (5) years from the date of this Agreement, or if the Developer/Owner fails to deposit any increased security as set out below, after notice to the Developer/Owner and opportunity to cure as stated in Paragraph 9 below, the City will transfer the money received, including any interest earned, to the appropriate City fund and the City may begin completion of the construction of the deferred improvements. If City constructs all or any part of the required improvements, the shall reimburse the City for any additional cost of the deferred improvements, if the



sum of money and interest prove inadequate to complete deferred improvements within thirty (30) days after City completes the required improvements and bills the Developer/Owner.

6. The City and Developer/Owner agree that if the Developer/Owner formally vacates the current plat, with approval of the Planning Commission, prior to the deadline for completion of the construction of the deferred improvements, any money received by the City from the Developer/Owner remaining on deposit, plus interest earned, will be released and immediately returned to the Developer.
7. If Developer/Owner defaults in any of its covenants or obligations under this Deferment Agreement, the City Engineer will send the Developer/Owner and the Project Engineer written notice by certified mail, return receipt requested, advising Developer/Owner of the default and giving Developer/Owner thirty (30) days from date of receipt of the letter to cure the default. If the Developer/Owner fails to cure the default after receipt of the notice and opportunity to cure, the City Engineer may transfer any monies received and interest earned to the appropriate fund of the City to complete the deferred improvements. In the event there are any monies received by the City from the Developer/Owner, plus interest earned, remaining after the City has completed construction of the deferred improvements, the excess monies, both principal and interest, shall be refunded to the Developer/Owner, within sixty (60) days of the completion of construction of the wastewater and water improvements and settlement of construction contracts.
8. The City reserves the right not to issue Certificates of Occupancy for this development until the deferred improvements are installed and accepted by the City Engineer.
9. The Developer/Owner agree that the City, after notice in writing to the Developer/Owner and Project Engineer, may accelerate payment or performance or require additional financial security when the City Engineer deems itself insecure as to the prospect of payment or performance on a demonstrated reasonable basis.
10. The Developer/Owner covenant to construct the deferred improvements, and that this covenant shall be a covenant running with the land.
11. The City Engineer, at Developer/Owner's expense, shall file of record this Deferment Agreement in the records of Nueces County.
12. No party may assign this Deferment Agreement or any rights under this Agreement without the prior written approval of the other party.
13. Unless otherwise stated herein, any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by fax, or by certified mail, and if given personally, by fax or by certified mail, shall be deemed sufficiently given if addressed to the appropriate party at the address noted

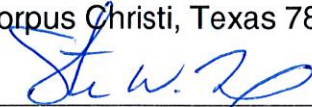
above the signature of the party. Any party may, by notice to the other in accord with the provisions of this paragraph, specify a different address or addressee for notice purposes.

- 14. This Agreement shall be construed under and in accord with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Nueces County, Texas, and all lawsuits pursuant hereto shall be brought in Nueces County, Texas.
- 15. The Developer/Owner further agrees, in compliance with the City of Corpus Christi Ordinance No. 17113, to complete, as part of this Agreement, the Disclosure of Ownership interests form attached to this Agreement as **Exhibit 4**.
- 16. All signatories signing this Agreement warrant and guarantee that they have the authority to act on behalf of the entity represented and make this Agreement binding and enforceable by their signature.
- 17. This Agreement shall be executed in triplicate, all original copies of which shall be considered one instrument. \*This Agreement becomes effective and is binding upon, and inures to the benefit of the City and Developer/Owner from and after the date that all original copies have been executed by all signatories.

**EXECUTED IN Triplicate originals this\*** 28<sup>th</sup> day of December, 2012.

**Developer/Owner:**

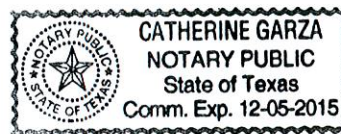
I5T Investments, LLC  
P.O. Box 261037  
Corpus Christi, Texas 78406

By:   
Steven W. Tipps, Manager

THE STATE OF TEXAS §  
COUNTY OF NUECES §

This instrument was acknowledged before me on Dec. 28<sup>th</sup>, 2012, by Steven W. Tipps, Manager, of I5T Investments LLC, a Texas Limited Liability Company on behalf of said company.

  
Notary Public, State of Texas





**CITY OF CORPUS CHRISTI:**

P. O. Box 9277  
Corpus Christi, Texas 78469  
Telephone: (361) 880-3500  
Facsimile: (361) 880-3501

ATTEST:

By: \_\_\_\_\_  
Armando Chapa  
City Secretary

By: \_\_\_\_\_  
Wes Pierson  
Assistant City Manager

THE STATE OF TEXAS §  
COUNTY OF NUECES §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2012,  
by Armando Chapa, City Secretary, for the City Of Corpus Christi, a Texas municipal  
corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, State Of Texas

THE STATE OF TEXAS §  
COUNTY OF NUECES §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2012,  
by Wes Pierson, Assistant City Manager, for the City Of Corpus Christi, a Texas  
municipal corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, State Of Texas

APPROVED AS TO FORM: This \_\_\_\_ day of \_\_\_\_\_, 2012.

Carlos Valdez, City Attorney

BY: \_\_\_\_\_  
Elizabeth Hundley  
Assistant City Attorney  
For the City Attorney



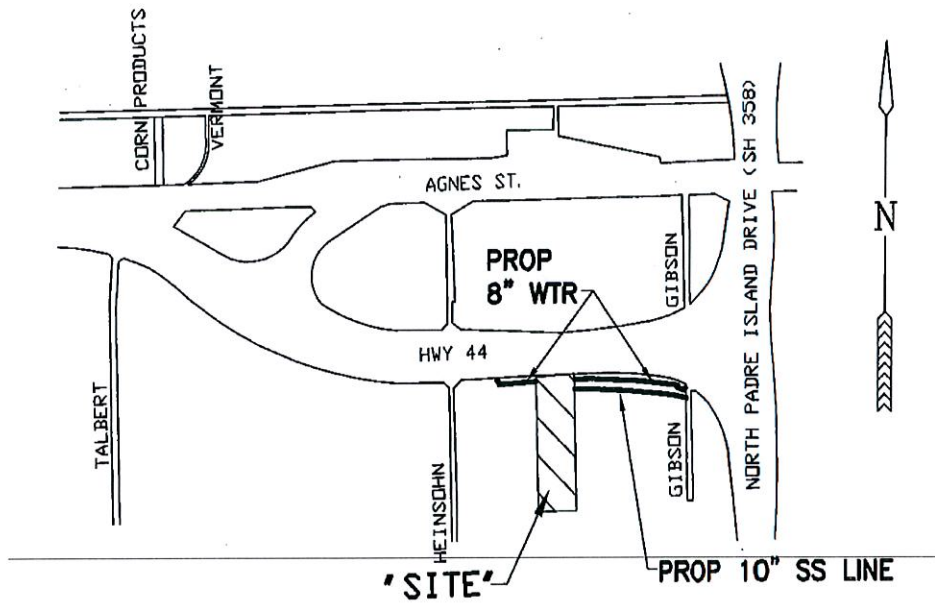


EXHIBIT SHOWING OFFSITE SANITARY SEWER  
AND WATER IMPROVEMENTS, AIRPORT  
INDUSTRIAL SUBDIVISION, BLK 13, LOT 2

1" = 800'

BASS AND WELSH  
CORPUS CHRISTI,  
SURVEY REG. NC  
TX ENGINEERING  
FILE: EXB-1, JOI  
SCALE: 1" = 60  
PLOT SCALE: SAN  
10/10/12, SHEE

MURRAY BASS, JR., P.E., R.P.L.S.  
 NIXON M. WELSH, P.E., R.P.L.S.  
 www.bass-welsh.com

3054 S. ALAMEDA, ZIP 78404  
 361 882-5521~ FAX 361 882-1265  
 e-mail: murrayjr@aol.com  
 e-mail: nixmw@aol.com

**BASS & WELSH ENGINEERING**  
 Engineering Firm Reg. No. P-52  
 Surveying Firm Reg. No. 100027-00  
 P.O. Box 6397  
 Corpus Christi, TX 78466-6397

December 20, 2012

AIRPORT INDUSTRIAL SUBDIVISION, BLOCK 13, LOT 2  
 PLATTING REQUIRED CONSTRUCTION

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
<b>WATER CONSTRUCTION</b>					
1	1765	LF	8" PVC C900	\$35.60	\$62,834.00
2	3	EA	6" X 30" PVC PIPE NIPPLE	165.00	495.00
3	1	EA	8" TAPPING SLEEVE AND 8" TAPPING VALVE	2,150.00	2,150.00
4	6	EA	8" D.I. BEND (90°)	465.00	2,790.00
5	4	EA	8" D.I. BEND (45°)	450.00	1,800.00
6	1	EA	8" D.I. TEE	500.00	500.00
7	3	EA	8" GATE VALVE AND BOX	1,100.00	3,300.00
8	38	LF	12" PVC CASING PIPE	45.00	1,710.00
9	1	EA	FIRE HYDRANT ASSEMBLY INCLUDING T, BEND & VALVE	3,500.00	3,500.00
10	1	EA	TIE TO EXISTING LINE	1,326.75	1,326.75
11	1	LS	PAVEMENT REPAIR	3,500.00	<u>3,500.00</u>
SUBTOTAL WATER CONSTRUCTION					\$83,905.75
<b>WASTEWATER CONSTRUCTION</b>					
1	1375	LF	10" PVC SDR 26	\$50.00	\$68,750.00
2	4	EA	4' DIAMETER MANHOLE (WATER-TIGHT, CLOSED BOTTOM)	6,350.00	25,400.00
3	1	EA	TIE TO EXISTING MANHOLE	2,576.75	2,576.75
4	1060	LF	TRENCH SAFETY	1.00	<u>1,060.00</u>
SUBTOTAL WASTEWATER CONSTRUCTION					\$97,786.75

**SUBTOTAL CONSTRUCTION**      **\$181,692.50**  
 11% Engineering & Surveying      19,986.18  
 SUBTOTAL      201,678.68  
 110% Construction & Engineering      **\$221,846.54**



EXHIBIT 3





**CITY OF CORPUS CHRISTI  
DISCLOSURE OF INTERESTS**

City of Corpus Christi ordinance 17112, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA".

FIRST NAME: I5T Investments, LLC

STREET: 5901 State Hwy 44 CITY: Corpus Christi ZIP: 78406

FIRM IS: 1. Corporation 2. Partnership 3. Sole Owner 4. Association 5. Other Limited Partnershi

**DISCLOSURE QUESTIONS**

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name	Job Title and City Department (if known)
<u>None</u>	<u>None</u>
_____	_____

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name	Title
<u>None</u>	<u>None</u>
_____	_____

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name	Board, Commission, or Committee
<u>None</u>	<u>None</u>
_____	_____

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 35 or more of the ownership in the above named "firm".

Name	Consultant
<u>None</u>	<u>None</u>
_____	_____

**CERTIFICATE**

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas as changes occur.

Certifying Person: Steven Tipps  
(Type or Print)

Title: Member

Signature of Certifying Person: \_\_\_\_\_

Date: 12/13/2012