

TRAFFIC SIGNAL IMPROVEMENTS AGREEMENT

STATE OF TEXAS §
§
COUNTY OF NUECES §

This Traffic Signal Improvements Agreement is entered into between the City of Corpus Christi, Texas (the "City") and TBD-Q PACKERY POINTE, LP, a Texas limited partnership (the "Developer"), and pertains to construction of traffic signal and roadway improvements at the intersection of Park Road 22 and Aquarius Drive in Corpus Christi, Texas.

WHEREAS, the Developer submitted a Traffic Signal Warrant Study and Traffic Operation Study, which provided justification that the proposed traffic signal at the intersection of Park Road 22 and Aquarius Drive satisfied traffic signal warrants outlined in the Texas Manual on Uniform Traffic Control Devices (TMUTCD);

WHEREAS, City and Developer have agreed to certain traffic signal and roadway improvements (the "Improvements"), more particularly described in the preliminary Intersection Improvement Plan prepared by Pape-Dawson Engineers dated August 2014 (the "Plans and Specifications"), excerpts of which are attached and incorporated as **Exhibit A**.

WHEREAS, the Developer is committed to funding the sum of \$420,000.00 to pay towards the costs of the Improvements, and the City has agreed to fund the remaining approximately \$230,000.00 of the \$650,000.00 total project costs inclusive of the required roadway and intersection improvements; and

WHEREAS, the City has agreed to bid and construct the Improvements and will make the necessary arrangements with the Texas Department of Transportation (TxDOT) for approval of the modifications on Park Road 22 that meet the requirements of the City and Texas Department of Transportation.

NOW, THEREFORE, the City and Developer agree as follows:

Section 1. Payments by Developer.

- 1.1. Payment. Within twenty (20) days following the execution of this Agreement, the Developer agrees to remit to the City the sum of Four Hundred Twenty Thousand and no/100 Dollars (\$420,000.00) as an advance for the reimbursement of the costs incurred by the City in the construction of the Improvements.
- 1.2. Engineering Costs. In addition to the above amount, the Developer agrees to pay the costs of Pape-Dawson Engineers in developing and finalizing the

Plans, Specifications and Estimates for the Improvements along with City-standard bid documents and submit the same to the City within forty-five (45) days from the execution of this Agreement.

- 1.3. Proportionality. The Developer agrees that the public improvements contemplated to be made by or at the expense of the Developer pursuant to this Agreement are proportional to the development on adjacent property being made by Developer under Section 212.904, Texas Local Government Code.

Section 2. Construction of Improvements by City.

- 2.1. Construction. The City agrees to construct the Improvements in the manner outlined in the Plans and Specifications and in accordance with the City's engineering standards and all TxDOT requirements in effect at the time of construction. All such construction shall be completed within one (1) year from the date Developer submits final Plans, Specifications, Estimates and City-standard bid documents.
- 2.2. Costs of Construction. All costs of construction of the Improvements shall be paid by the City, and the Developer shall not be subject to any further assessments or fees concerning the costs of the Improvements.

Section 3. General Terms and Conditions:

- 3.1. Term. The term of this Agreement will commence on the Effective Date (as defined below) and continue until completion of the objectives of this Agreement, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City and the Developer, as provided for in Section 3.2 below. The Effective Date of this Agreement will be the date of full execution by the Parties. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
- 3.2. Amendment by Agreement. This Agreement may be amended at any time by mutual written consent of the City and the Developer, or its successors or permitted assigns.
- 3.3. Assignment. This Agreement and the rights of the Developer may be assigned to any subsequent owner of the adjacent property owned by Developer, subject to the prior written consent of the City, which consent will not be unreasonably withheld. Any assignment will be in writing, will specifically set forth the assigned rights and obligations and will be executed by the proposed assignee.
- 3.4. Cooperation. The Parties will cooperate with each other as reasonable and necessary to carry out the intent of this Agreement, including but not limited to the execution of such further documents as may be reasonably required.

3.5. **Notice.** Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement; or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three (3) days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the Parties will, until changed as provided below, be as follows:

City: City of Corpus Christi
Attn: City Manager
1201 Leopard Street
PO Box 9277
Corpus Christi TX 78469-9277

With Copy to: City of Corpus Christi
Attn: City Attorney
1201 Leopard Street
PO Box 9277
Corpus Christi TX 78469-9277

Developer: TBD-Q Packery Pointe, LP
Attention: President
3462 Magic Drive, Suite 345
San Antonio, Texas 78229

With Copy to: John D. Bell
Wood, Boykin & Wolter, P.C.
615 N. Upper Broadway, Suite 1100
Corpus Christi, Texas 78401

The Parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days' written notice to the other party. The Developer may, by giving at least five (5) days' written notice to the City, designate additional parties to receive copies of notices under this Agreement.

3.6. **Severability; Waiver.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected, and, in lieu of each illegal,

invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible. Each of the rights and obligations of the Parties hereto are separate covenants. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not be deemed a waiver of such provision or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

- 3.7. Applicable Law and Venue. The laws of the State of Texas govern the interpretation, performance, enforcement and validity of this Agreement. Venue will be in a court of appropriate jurisdiction in Nueces County, Texas.
- 3.8. Entire Agreement. This Agreement contains the entire agreement of the Parties and there are no other agreements or promises, oral or written between the Parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the Parties. This Agreement supersedes all other agreements between the Parties concerning the subject matter hereof.
- 3.9. Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The section headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the sections. The Parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts bear the signatures of all the Parties.
- 3.10. Authority for Execution. The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the certificate of formation and organizational documents.
- 3.11. Relationship of Parties. In performing this Agreement, both the City and Developer will act in an individual capacity, and not as agents, representatives, employees, employers, partners, joint-venturers, or associates of one another. The employees or agents of either party may not be, nor be construed to be, the employees or agents of the other party for any purpose.

3.12. Survival of Terms. All representations, warranties, covenants and agreements of the Parties, as well as any rights and benefits of the Parties pertaining to the transaction contemplated hereby, will survive the original execution date of this agreement.

3.13. Disclosure of Interests. The Developer 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 as **Exhibit B**.

3.14. Duplicate Originals. This Agreement shall be executed in duplicate, all original copies of which shall be considered one instrument. When all original copies have been executed by the City and the Developer, this Agreement shall become effective and binding upon and shall inure to the benefits of the parties and their respective heirs, successors and assigns.

EXECUTED in duplicate this ____ day of _____, 2015.

ATTEST:

CITY OF CORPUS CHRISTI, TEXAS

By: _____
Rebecca Huerta
City Secretary

By: _____
Ronald Olson
City Manager

APPROVED AS TO FORM:
This 2 day of July, 2015.
Miles Risley, City Attorney

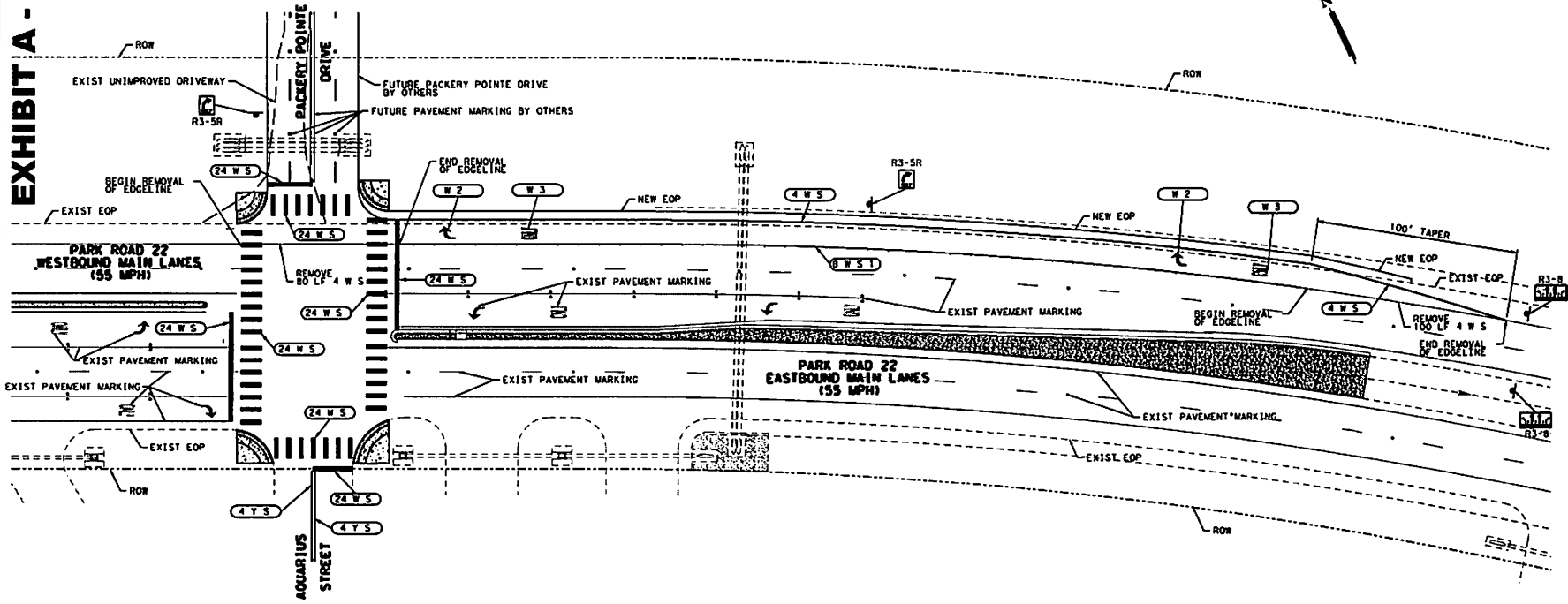
By: Jamie Z Kellogg
Assistant City Attorney

TBD-Q PACKERY POINTE, LP

By: TBD Padre GP, LLC
Its General Partner

By: Walter G. Busby
Walter G. Busby
Manager

EXHIBIT A - Page 1



- NOTES:
1. ALL REFLECTIVE PAVEMENT MARKINGS TYPE 1 SHALL BE PLACED WITH TYPE 11.
 2. ALL DIMENSIONS ARE TO THE CENTER OF PAVEMENT MARKINGS, UNLESS OTHERWISE INDICATED.
 3. ALL EXISTING FEATURES ARE SHOWN SCREENED BACK, I.E. FADED.

ITEM	DESCRIPTION	UNIT	QTY
0636-2001	ALUMINUM SIGNS (TY A)	SF	40
0644-2022	INS SM RD SM SLP & AM TY S80 (1) SA (P)	EA	2
0644-2025	INS SM RD SM SLP & AM TY S80 (1) SA (T)	EA	2
0668-2021	PREFAB PAV MKR TY A (W) (ARROW)	EA	2
0668-2031	PREFAB PAV MKR TY A (W) (WORD)	EA	2
0672-2017	REFL PAV MKR TY 11-C-R	EA	45
0677-2001	ELIM EXIST PAV MKR & MARKS 1-4 IN	LF	180
6110-2010	REF PAV MKR TY 1 (W)14 IN(SLD)100 MIL	LF	550
6110-2016	REF PAV MKR TY 1 (W)18 IN(SLD)100 MIL	LF	450
6110-2051	REF PAV MKR TY 1 (W)24 IN(SLD)100 MIL	LF	610
6110-2057	REF PAV MKR TY 1 (Y)4 IN(SLD)100 MIL	LF	90
6110-2084	REF PAV MKR TY 11 (W)14 IN(SLD)	LF	550
6110-2092	REF PAV MKR TY 11 (W)18 IN(SLD)	LF	450
6110-2096	REF PAV MKR TY 11 (W)24 IN(SLD)	LF	610
6110-2098	REF PAV MKR TY 11 (Y)14 IN(SLD)	LF	90

INTERIM REVIEW ONLY
 Submittal Requirements: EOP Impacted for
 Detail, Signing or Construction
 Engineer: PAUL A. BUSH
 P.E. License No. 2007
 Date: 8/21/2014

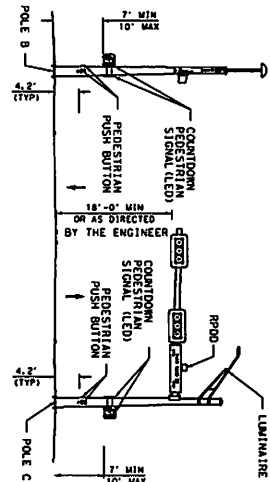
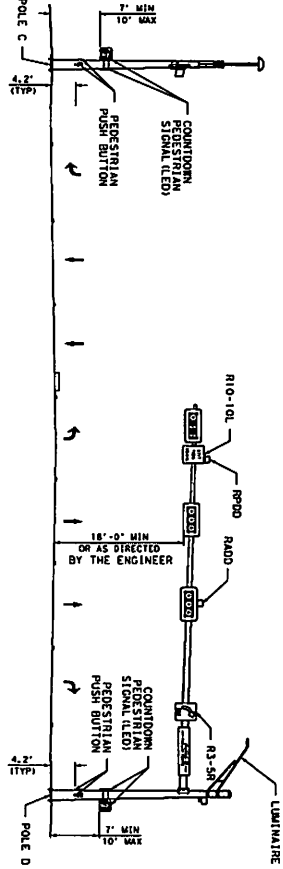
RAISED REFLECTIVE PAVEMENT MARKING & MARKERS

- WIDTH (IN) MARKER TYPE/SPACE (SEE BELOW)
 WHITE/YELLOW BROKEN/SOLID
- 1 - TY 11-C-R @ 10' C-C
 - 2 - REFL PAV MKR (W) ARROW
 - 3 - REFL PAV MKR (W) WORD

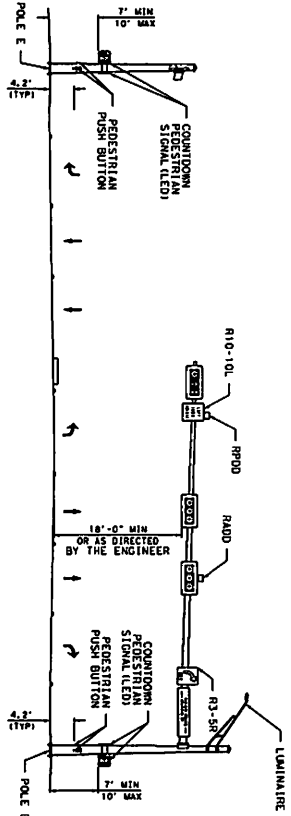


PACKERY POINTE DEVELOPMENT PAVEMENT MARKING LAYOUT
 PAUL A. BUSH
 P.E. License No. 2007

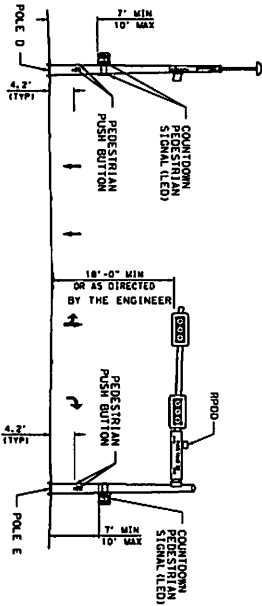
EXHIBIT A - Page 2



WESTBOUND (PARK ROAD 22)
N. T. S.



SOUTHBOUND (PACKERY POINTE DRIVE)
N. T. S.



Design Filename: P:\84\18\00\Design\Civil\Traffic\841800ELEV01.dgn

Plotted on: 8/21/2014

DO NOT SCALE OR ALTER THIS DRAWING. ALL DIMENSIONS SHOWN ARE TO BE USED UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

INTERTEC ENGINEERS, INC.
 12345 Main Street
 Suite 100
 New York, NY 10001
 Tel: (212) 555-1234
 Fax: (212) 555-5678
 www.intertec.com

DATE: 8/21/14	PROJECT: PACKERY POINTE DEVELOPMENT
DRAWN BY: [Signature]	CHECKED BY: [Signature]

PACKERY POINTE DEVELOPMENT
TRAFFIC SIGNAL PLAN

PAPE-CAYSON ENGINEERS

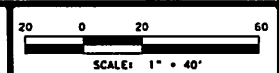
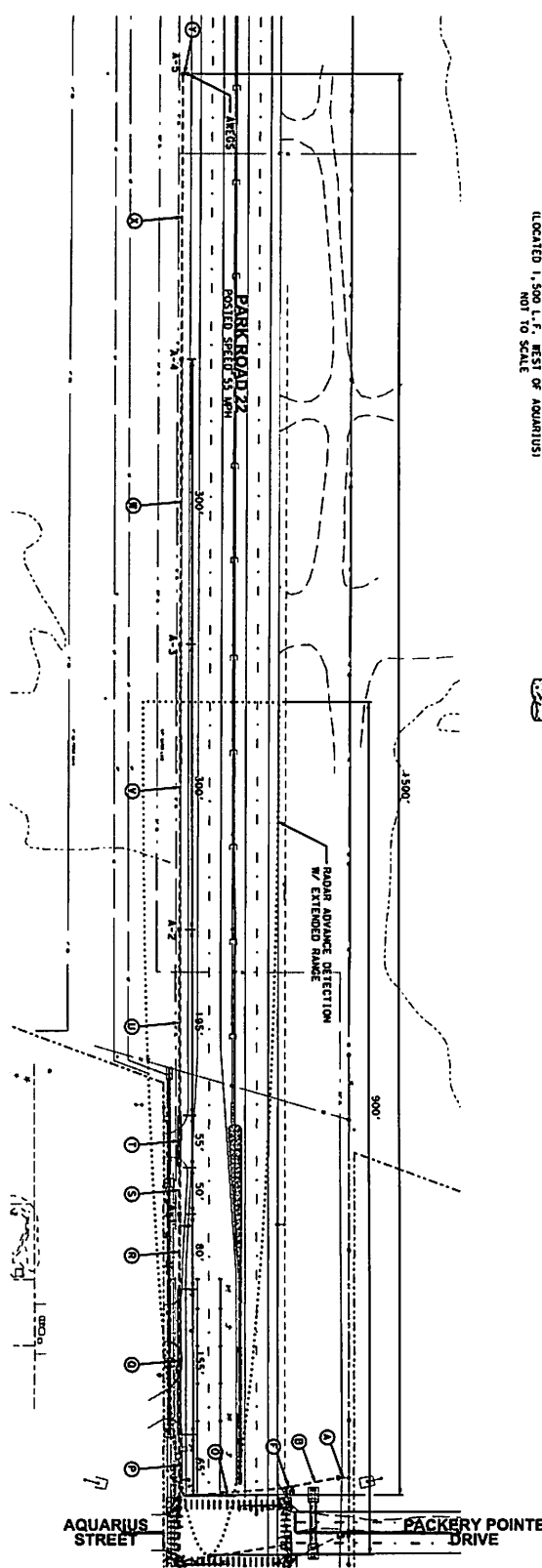


EXHIBIT A - Page 3

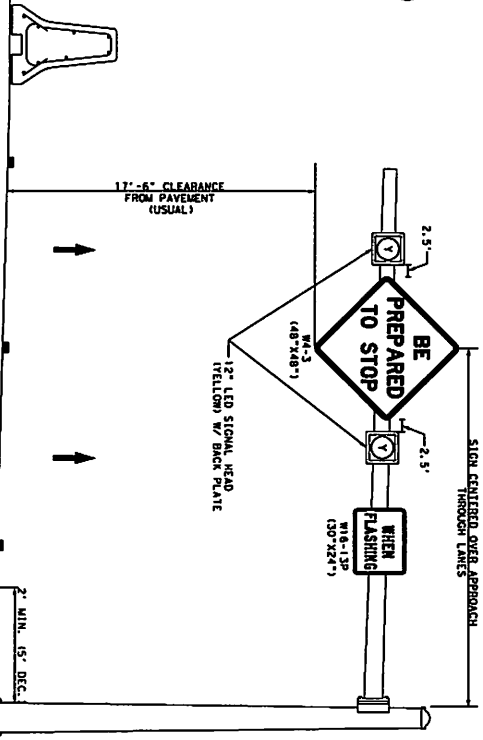
NO CONTRACT AND ESD REVISIONS FROM ORIGINAL. THE 10% STAMP SHOULD BE MAINTAINED UNLESS OTHERWISE NOTED AND THE ESD INDICATES A TOTAL SET OF THE 10% AND 50% REVISIONS BEFORE THE CONTRACTOR'S COMMENCEMENT AND SET.



AWEGS
EASTBOUND PARK RD 22
 (LOCATED 1,500' I.F. WEST OF AQUARIUS)
 NOT TO SCALE

SEE SHEET 15-FD-98 FOR FOUNDATION DETAIL

2" CONDUIT STUBBED OUT & STOPPED



ITEM	DESCRIPTION	UNIT	QTY
0418-2004	SHIELD SIGN 12.5' DIA.	LF	1312
0418-2010	CONDUIT 1.5" DIA. 10' L.	LF	1312
0418-2011	CONDUIT 1.5" DIA. 10' L. (BENCH)	LF	238
0418-2012	ELECTRICAL CONDUIT 1.5" DIA. 10' L.	LF	1448
0418-2008	GROUND BOX 12" X 12" X 12" (TYPE A)	EA	2
0418-2003	ALUMINUM SIGN 12" X 12" (TYPE A)	EA	2
0418-2002	12" LED SIGNAL HEAD (TYPE A)	EA	1448
0418-2005	POST 1.5" DIA. 10' L. (TYPE A)	EA	1
0418-2006	POST 1.5" DIA. 10' L. (TYPE B)	EA	1

LEGEND

- RADAR DETECTION ZONE
- NEW CONDUIT (BENCH)
- NEW CONDUIT (BORER)
- A-1 - GROUND BOX TYPE A

NOT TO SCALE

DATE: 8/21/2014
 DRAWN BY: J. D. [Name]
 CHECKED BY: [Name]
 PROJECT: PACKERY POINTE DEVELOPMENT
 SHEET: 15-FD-98

PACKERY POINTE DEVELOPMENT AWEGS AND RADAR DETECTION ZONE PLAN			
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SUPPLIER NUMBER
TO BE ASSIGNED BY CITY
PURCHASING DIVISION

CITY OF CORPUS CHRISTI DISCLOSURE OF INTEREST

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". See reverse side for Filing Requirements, Certifications and definitions.

COMPANY NAME: TBD-Q Packery Pointe, LP

P. O. BOX: _____

STREET ADDRESS: 3462 Magic Drive, Suite 245 CITY: San Antonio, TX ZIP: 78229

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

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)
None	
_____	_____
_____	_____
_____	_____

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
None	
_____	_____
_____	_____
_____	_____

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
None	
_____	_____
_____	_____
_____	_____

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 3% or more of the ownership in the above named "firm."

Name	Consultant
None	
_____	_____
_____	_____
_____	_____

FILING REQUIREMENTS

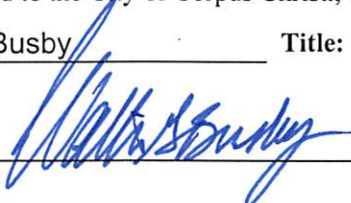
If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any City official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, you shall disclose that fact in a signed writing to the City official, employee or body that has been requested to act in the matter, unless the interest of the City official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary. [Ethics Ordinance Section 2-349 (d)]

CERTIFICATION

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: Walter G. Busby Title: Manager
(Type or Print)

Signature of Certifying Person:



Date: 4/30/15

DEFINITIONS

- a. "Board member." A member of any board, commission, or committee appointed by the City Council of the City of Corpus Christi, Texas.
- b. "Economic benefit". An action that is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof.
- c. "Employee." Any person employed by the City of Corpus Christi, Texas either on a full or part-time basis, but not as an independent contractor.
- d. "Firm." Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- e. "Official." The Mayor, members of the City Council, City Manager, Deputy City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judges of the City of Corpus Christi, Texas.
- f. "Ownership Interest." Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate, or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture or partnership agreements."
- g. "Consultant." Any person or firm, such as engineers and architects, hired by the City of Corpus Christi for the purpose of professional consultation and recommendation.