

**WASTEWATER COLLECTION LINE EXTENSION  
CONSTRUCTION AND REIMBURSEMENT AGREEMENT**

**STATE OF TEXAS           §**

**COUNTY OF NUECES       §**

This Wastewater Collection Line Extension Construction and Reimbursement Agreement ("Agreement") is entered into between the City of Corpus Christi ("City"), a Texas home-rule municipality, and Thomas Davis ("Developer/Owner").

**WHEREAS**, the Developer/Owner, in compliance with the City's Unified Development Code ("UDC"), has a plat, approved by the Planning Commission on February 15, 2012, to develop a tract of land, to wit: approximately 2.5 acres known as Lot 2, Block 1, Saxet Industrial, located on the east side of South Navigation Boulevard and south of Bates Drive, Corpus Christi, Nueces County, Texas ("Property"), as shown in the attached **Exhibit 1**, the content of such exhibit being incorporated by reference into this Agreement;

**WHEREAS**, under the UDC, the Developer/Owner is responsible for construction of the wastewater collection line extension ("Wastewater Extension");

**WHEREAS**, under the UDC, the Developer/Owner is eligible for reimbursement of the Developer/Owner's costs for the construction of the Wastewater Extension;

**WHEREAS**, it is to the best interest of the City that the Wastewater Extension be constructed to its ultimate capacity under the City's applicable Master Plan;

**WHEREAS**, Section 8.5.2.E.2 of the UDC authorizes the acceptance of an application to be eligible for reimbursement in the future when funds become fully available in the Wastewater Collection Line Trust Fund and are appropriated by the City Council; and

**WHEREAS**, the Developer/Owner has submitted an application for reimbursement of the costs from the Wastewater Collection Line Trust Fund for installing the Wastewater Extension, as shown in the attached **Exhibit 2**, the content of such exhibit being incorporated by reference into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained in this Agreement, the parties do covenant and agree as follows:

1. **REQUIRED CONSTRUCTION**. Developer/Owner shall construct the Wastewater Extension, for and on behalf of the City, in compliance with the City's UDC and under the plans and specifications approved by the City's Development Services Engineer.

2. PLANS AND SPECIFICATIONS.

a. Developer/Owner shall contract with a professional engineer, acceptable to the City's Development Services Engineer, to prepare plans and specifications for the Wastewater Extension, as shown in the attached **Exhibit 3**, the content of such exhibit being incorporated by reference into this Agreement, with the following basic design:

1. Install up to 383 but not less than 365 linear feet of 8-inch PVC pipe;
2. Install one (1) 4-foot diameter manhole; and
3. Install up to 383 but not less than 365 linear feet trench safety.

b. The Wastewater Extension must begin at the northwest corner of the Property and extend north along the east side of South Navigation Boulevard approximately 365 feet to the existing wastewater line along Bates Drive.

c. The plans and specification must comply with the City's Wastewater Standards Detail Sheets and Standard Specifications.

d. Before the Developer/Owner starts construction, the plans and specifications must be approved by the City's Development Services Engineer.

3. SITE IMPROVEMENTS. Prior to the start of construction of the Wastewater Extension, Developer/Owner shall acquire and dedicate to the City the required additional public utility easements ("Easements"), if any, necessary for the completion of the Wastewater Extension. If any of the property needed for Easements is owned by a third party and the Developer/Owner is unable to acquire the Easements through reasonable efforts, then the City will use its powers of eminent domain to acquire the Easements.

4. PLATTING FEES. Developer/Owner shall pay to the City the required acreage fees and pro-rata fees as required by the UDC for the area of the Wastewater Extension.

5. DEVELOPER/OWNER TO AWARD CONTRACT FOR IMPROVEMENTS. Developer/Owner shall award a contract and complete the Wastewater Extension, under the approved plans and specifications, by **November 30, 2013**.

6. TIME IS OF THE ESSENCE. Time is of the essence in the performance of this contract.

7. PROMPT AND GOOD FAITH ACTIONS. The parties shall act promptly and in good faith in performing their duties or obligations under this Agreement. If this Agreement calls for review or inspections by the City, then the City's reviews or inspections must be completed thoroughly and promptly.

8. DEFAULT. The following events shall constitute default:

- a. Developer/Owner fails to engage a professional engineer for the preparation of plans and specifications by the 10th calendar day after the date of approval of this Agreement by City Council.
- b. Developer/Owner's professional engineer fails to submit the plans and specifications to the City's Director of Engineering Services and to the Development Services Engineer by the 60th calendar day after the date of approval of this Agreement by City Council.
- c. Developer/Owner fails to award a contract for the construction of the Wastewater Extension, according to the approved plans and specifications, by the 90th calendar day after the date of approval of this Agreement by City Council.
- d. Developer/Owner's contractor does not reasonably pursue construction of the Wastewater Extension under the approved plans and specifications.
- e. Developer/Owner's contractor fails to complete construction of the Wastewater Extension, under the approved plans and specifications, on or before November 30, 2013.
- f. Either the City or Developer/Owner otherwise fails to comply with its duties and obligations under this Agreement.

9. NOTICE AND CURE.

- a. In the event of a default by either party under this Agreement, the non-defaulting party shall deliver notice of the default, in writing, to the defaulting party stating, in sufficient detail, the nature of the default and the requirements to cure such default.
- b. After delivery of the default notice, the defaulting party has 15 business days from the delivery of the default notice ("Cure Period") to cure the default.
- c. In the event the default is not cured by the defaulting party within the Cure Period, then the non-defaulting party may pursue its remedies in this section.
- d. Should the Developer/Owner fail to perform any obligation or duty of this Agreement, the City shall give notice to the Developer/Owner, at the address stated in Section 11, of the need to perform the obligation or duty, and should Developer/Owner fail to perform the required obligation or duty within 15 days of receipt of the notice, the City may perform the obligation or duty, charging the cost of such performance to Developer/Owner by reducing the reimbursement amount due Developer/Owner.

e. In the event of an uncured default by the Developer/Owner, after the appropriate notice and Cure Period, the City has all its common law remedies and the City may:

1. Terminate this Agreement after the required notice and opportunity to cure the default;
2. Refuse to record a related plat or issue any certificate of occupancy for any structure to be served by the project; and/or
3. Perform any obligation or duty of the Developer/Owner under this Agreement and charge the cost of such performance to Developer/Owner. The Developer/Owner shall pay to City the reasonable and necessary cost of the performance within 30 days from the date Developer/Owner receives notice of the cost of performance. In the event the Developer/Owner pays the City under the preceding sentence, and is not otherwise in default under this Agreement, then the Agreement shall be considered in effect and no longer in default.

f. In the event of an uncured default by the City after the appropriate notice and Cure Period, the Developer/Owner has all its remedies at law or equity for such default.

#### 10. FORCE MAJEURE.

a. The term "force majeure" as employed in this Agreement means and refers to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; insurrections; riots; epidemic; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; or other causes not reasonably within the control of the party claiming the inability.

b. If, by reason of force majeure, either party is rendered wholly or partially unable to carry out its obligations under this Agreement, then the party claiming force majeure shall give written notice of the full particulars of the force majeure to the other party within ten (10) business days after the occurrence or waive the right to claim it as a justifiable reason for delay. The obligations of the party giving the required notice, to the extent affected by the force majeure, are suspended during the continuance of the inability claimed, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

#### 11. NOTICES.

a. Any notice or other communication required or permitted to be given under this Agreement must be given to the other party in writing at the following address:

1. If to the Developer/Owner:

Thomas Davis  
P. O. Box 248  
Corpus Christi, Texas 78403

2. If to the City:

City of Corpus Christi  
Attn: Director, Development Services Department  
2406 Leopard Street / 78408  
P. O. Box 9277  
Corpus Christi, Texas 78469-9277

with a copy to:

City of Corpus Christi  
Attn: Assistant City Manager, Business Support Services  
1201 Leopard Street / 78401  
P. O. Box 9277  
Corpus Christi, Texas 78469-9277

b. Notice must be made by United States Postal Service, First Class mail, certified, return receipt requested, postage prepaid; by a commercial delivery service that provides proof of delivery, delivery prepaid; or by personal delivery.

c. Either party may change the address for notices by giving written notice of the change to the other party pursuant to the provisions of this section.

12. THIRD-PARTY BENEFICIARY. Developer/Owner's contracts with the professional engineer for the preparation of the plans and specifications for the construction of the Wastewater Extension, contracts for testing services, and contracts with the contractor for the construction of the Wastewater Extension must provide that the City is a third party beneficiary of each contract.

13. PERFORMANCE AND PAYMENT BONDS. Developer/Owner shall, before beginning the work that is subject of this Agreement, execute a performance bond and a payment bond. The performance and payment bonds must comply with Texas Government Code, Chapter 2253.

14. WARRANTY. Developer/Owner shall fully warranty the workmanship of and function of the Wastewater Extension and the construction of the Wastewater Extension for a period of one year from and after the date of acceptance of the facilities by the City's Director of Engineering Services and the Development Services Engineer.

15. REIMBURSEMENT.

a. Subject to the conditions for reimbursement from the Wastewater Collection Line Trust Fund and the appropriation of funds, the City will reimburse the Developer/Owner the reasonable actual cost of the construction of the Wastewater Extension up to an amount not to exceed **\$11,782.50** as shown in the attached **Exhibit 4**, the contents of such exhibit being incorporated by reference into this Agreement.

b. The City agrees to reimburse the Developer/Owner on a monthly basis upon invoicing for work performed. The reimbursement will be made no later than 30 days from the date of the invoice. Developer/Owner shall submit all required performance bonds, payment bonds, and proof of required insurance under the provisions of this Agreement.

c. To be eligible for reimbursement, the work completed in a good and workmanlike manner and must have been inspected and accepted by the City. The City agrees to conduct periodic inspections and approve the progress of the work at key points during construction.

d. In the event this Agreement is terminated by the City at a time when there has been a partial completion and/or partial payment for the improvements, then the City shall only reimburse Developer/Owner for its costs that were legitimately incurred towards the completion of the improvements that have been inspected and accepted by the City up to the time that there is an uncured default by the Developer.

16. **INDEMNIFICATION. DEVELOPER/OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, OFFICIALS, EMPLOYEES AND AGENTS ("INDEMNITIEES") FROM ANY AND ALL SUITS, CLAIMS, DEMANDS, ACTIONS, LOSSES, COSTS, EXPENSES, LIABILITY, DAMAGES, AND JUDGEMENTS RECOVERED FROM OR ASSERTED AGAINST CITY FOR ANY AND ALL PROPERTY DAMAGE OR INJURIES SUSTAINED BY ANY PERSON, INCLUDING WITHOUT LIMITATION, WORKERS' COMPENSATION, PERSONAL INJURY OR DEATH, ARISING FROM OR INCIDENT TO, BE CAUSED BY, OR BE IN ANY WAY CONNECTED WITH, EITHER PROXIMATELY OR REMOTELY, WHOLLY OR IN PART, THIS AGREEMENT AND THE CONSTRUCTION OF THE WASTEWATER EXTENSION.**

17. COVENANT RUNNING WITH THE LAND. This Agreement is a covenant running with the land, to wit: approximately 2.5 acres known as Lot 2, Block 1, Saxet Industrial, Corpus Christi, Nueces County, Texas, and must be recorded in the Official Public Records of Nueces County, Texas.

18. ASSIGNMENT OF AGREEMENT. This Agreement or any rights under this Agreement may not be assigned by the Developer/Owner to another without the written approval and consent of the City's City Manager.

19. DISCLOSURE OF OWNERSHIP INTERESTS. Developer/Owner agrees, in compliance with the City Ordinance No. 17110, to complete, as part of this Agreement, the Disclosure of Interest form attached to this Agreement as **Exhibit 5**.

20. EFFECTIVE DATE. This agreement becomes effective and is binding upon and inures to the benefit of the City and Developer/Owner and their respective heirs, successors, and assigns from and after the date of execution by all parties.

21. AUTHORITY. The person signing this Agreement on behalf of the parties represents, warrants, and guarantees that they have authority to act on behalf of the party and make this Agreement binding and enforceable by their signature.

**EXECUTED IN TRIPLICATE** originals this \_\_\_\_\_ day of \_\_\_\_\_, 2013

**ATTEST:**

**CITY OF CORPUS CHRISTI**

\_\_\_\_\_  
Armando Chapa  
City Secretary

\_\_\_\_\_  
Wes Pierson  
Assistant City Manager

**APPROVED AS TO FORM:** \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Elizabeth Hundley  
Assistant City Attorney  
for the City Attorney

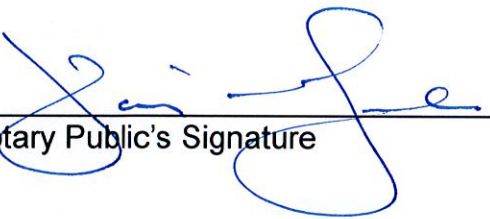
**DEVELOPER/OWNER:**

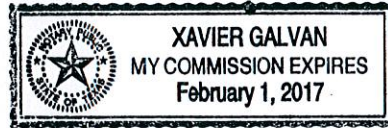
  
\_\_\_\_\_  
Thomas Davis

**STATE OF TEXAS       §**

**COUNTY OF NUECES   §**

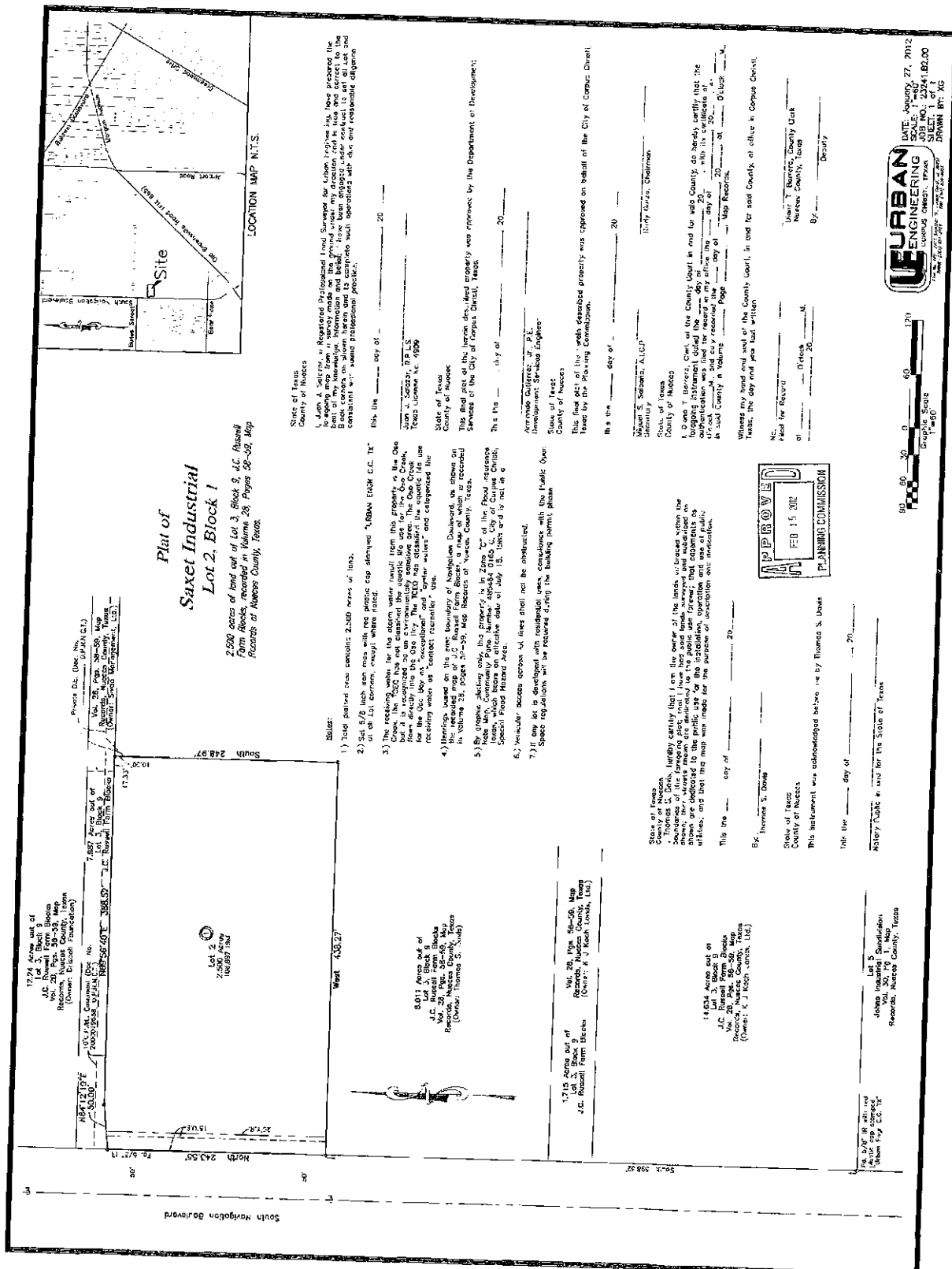
This instrument was acknowledged before me on June 13, 2013, by  
Thomas Davis.

  
\_\_\_\_\_  
Notary Public's Signature



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**Plat of  
Saxel Industrial  
Lot 2, Block 1**

2,500 acres of land out of Lot 3, Block 9, J.C. Russell Farm Blocks, recorded in Volume 28, Pages 58-59, Map Recordings of Anderson County, Texas.

State of Texas  
County of Nueces

I, **John A. Saxel**, a Registered Professional Land Surveyor for License No. 11576, in and for said County, do hereby certify that I have examined the plat of my aforesaid survey and find that it is in accordance with the laws of this State and the rules and regulations of the State Board of Professional Engineers and Surveyors and I am satisfied that the same are correct and conform to all laws and regulations in that behalf made.

This is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

John A. Saxel, P.L.S.  
1600 Wilshire Dr. #100  
Houston, Texas 77002

State of Texas  
County of Nueces

This plat of the \_\_\_\_\_ acres described property was approved by the Department of Development, Services of the City of Corpus Christi, Texas.

This is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved by the City of Corpus Christi, Texas  
Development Services Dept.  
City of Corpus Christi, Texas  
County of Nueces

This final plat of the \_\_\_\_\_ acres described property was approved on behalf of the City of Corpus Christi, Texas by the Planning Commission.

This is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved by the City of Corpus Christi, Texas  
Planning Commission  
City of Corpus Christi, Texas  
County of Nueces

I, **Thomas S. Deane**, Clerk of the County Court, in and for said County, do hereby certify that the foregoing instrument dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, was duly recorded in the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in said County in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the \_\_\_\_\_.

Witness my hand and seal of the County Court, in and for said County, at office in Corpus Christi, Texas, the day and year first written.

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
County Clerk

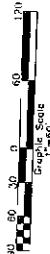
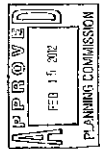
- Notes:
- 1) Total parcel area consists 2,500 acres of land.
  - 2) Set 8/8 inch met. iron pins with zinc electro plate sleeves "RBM ENGR C.C. TX" at all lot corners, except where noted.
  - 3) The recording date for the above plat is the date of recording of this plat. The plat is not to be used as a title document until the plat is recorded. The plat is not to be used as a title document until the plat is recorded. The plat is not to be used as a title document until the plat is recorded.
  - 4) All rights based on this plat boundary of the above described property are hereby acknowledged to be the property of the City of Corpus Christi, Texas.
  - 5) No other claims or interests in the above described property are known to exist.
  - 6) No other claims or interests in the above described property are known to exist.
  - 7) If any lot is developed with residential uses, compliance with the applicable zoning regulations will be required during the building permit phase.

1724 Area out of Lot 2, Block 9, J.C. Russell Farm Blocks, recorded in Volume 28, Pages 58-59, Map Recordings of Anderson County, Texas.

2500 Area out of Lot 2, Block 9, J.C. Russell Farm Blocks, recorded in Volume 28, Pages 58-59, Map Recordings of Anderson County, Texas.

14,824 Area out of Lot 2, Block 9, J.C. Russell Farm Blocks, recorded in Volume 28, Pages 58-59, Map Recordings of Anderson County, Texas.

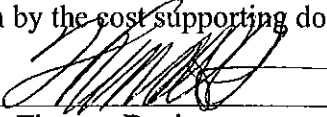
1715 Area out of Lot 2, Block 9, J.C. Russell Farm Blocks, recorded in Volume 28, Pages 58-59, Map Recordings of Anderson County, Texas.



**UFURBAN**  
ENGINEERING  
L.L.P.  
DATE: January 27, 2012  
JOB NO.: 23241.02.00  
DRAWN BY: J.S.

**APPLICATION FOR WASTE WATER REIMBURSEMENT**

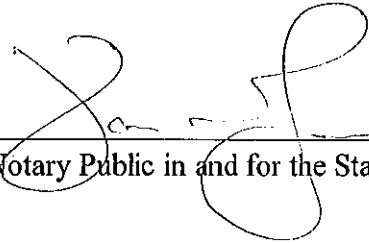
Thomas Davis, P.O. Box 248, Corpus Christi, Texas 78403, developer of Saxet Industrial, Lot 2, Block 1, hereby requests reimbursement of \$11,782.50 for the installation of the waste water collection line in conjunction with said lot as provided for by City Ordinance No. 17092. \$45,121.25 is the construction cost, including 10% Engineering and Surveying, as shown by the cost supporting documents attached herewith.

By:   
Thomas Davis

**State of Texas**  
**County of Nueces**

This instrument was acknowledged before me on May 20, 2013, by Thomas Davis.



  
Notary Public in and for the State of Texas

**CERTIFICATION**

The information submitted with this application for reimbursement has been reviewed and determined to be correct. Reimbursement is subject to:

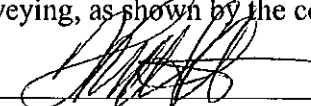
- (a) Sufficiency of funds in the Collection Line Trust Fund, and
- (b) Appropriation and approval by City Council, and
- (c) Thomas S. Davis acquiring title to Saxet Industrial, Lot 2, Block 1

  
Development Services Engineer

5/21/13  
(Date)

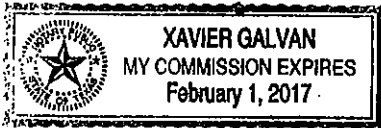
**APPLICATION FOR WASTE WATER CREDIT**

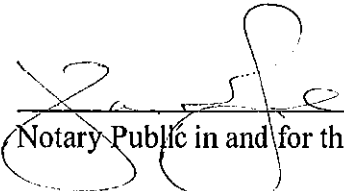
Thomas Davis, P.O. Box 248, Corpus Christi, Texas 78403, developer of Saxet Industrial, Lot 2, Block 1, hereby applies for \$3,927.50 credit towards the waste water acreage fee for the collection line Extension in conjunction with said lot as provided for by City Ordinance No. 17092. \$45,121.25 is the construction cost, including 10% Engineering and Surveying, as shown by the cost supporting documents attached herewith.

By:   
Thomas Davis

**State of Texas**  
**County of Nueces**

This instrument was acknowledged before me on May 20, 2013, by Thomas J Davis.



  
Notary Public in and for the State of Texas

**CERTIFICATION**

The information submitted with this application has been reviewed and determined to be correct and a credit of \$3,927.50 is herewith approved.

  
Development Services Engineer

5/21/13  
(Date)







City of  
Corpus  
Christi

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: Thomas Davis

P. O. BOX: P.O. Box 248

STREET ADDRESS: \_\_\_\_\_ CITY: Corpus Christi ZIP: 78403

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)
<u>N/A</u>	<u>N/A</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>N/A</u>	<u>N/A</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>N/A</u>	<u>N/A</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 3% or more of the ownership in the above named "firm."

Name	Consultant
<u>N/A</u>	<u>N/A</u>
_____	_____
_____	_____


### 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: Thomas Davis Title: owner  
(Type or Print)

Signature of Certifying Person:  Date: 5-20-13

### 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.

## EXHIBIT 5

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