

**LEASE BETWEEN
THE CITY OF CORPUS CHRISTI AND
THE TEXAS A&M UNIVERSITY SYSTEM**

STATE OF TEXAS §

§

KNOW ALL BY THESE PRESENTS

COUNTY OF NUECES §

This lease is entered into by and between the City of Corpus Christi, a Texas home rule municipal corporation, acting through its duly authorized City Manager, or the City Manager's designee, and the **BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM ("TAMUS")** an agency of the State of Texas, for the use and benefit of Texas A&M University-Kingsville, acting through its duly authorized agent or designee.

Section 1. Definitions. For the purposes of this Lease:

Abandoned means that the Leased Premises become vacant or deserted for a continuous period of (30) thirty days.

City means the City of Corpus Christi, Nueces County, Texas, a home rule municipal corporation.

City Manager means the City's City Manager or the City Manager's designee.

City Council means the City Council of the City of Corpus Christi.

Department means the City's Utility Department.

Director means the City's Executive Director of Utilities or the Executive Director of Utilities's designee.

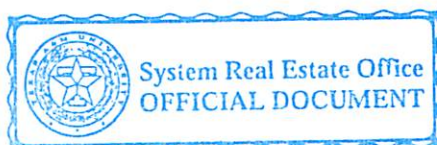
Lease means this document, including all attachments and exhibits that are incorporated by reference into this document.

Leased Premises or *Premises* means that portion of City's Holly Road Pumping Station described in Exhibits "A" and "B."

Lessee means the Board of Regents of the Texas A&M University System ("TAMUS"), for the use and benefit of Texas A&M University-Kingsville or assignee.

Risk Manager means the City's Director of Risk Management or the Director of Risk Management's designee.

Sign means any signs, advertisements, notices, or other lettering that are exhibited, inscribed, painted, erected, or affixed on or about the Premises, or any part of the Premises.



Section 2. Purpose. The purpose of this Lease, between the City and the Lessee, is to enable the Lessee to install and maintain a continuous air monitoring station, known as CAMS 660, with a 10 meter tower at the City's Holly Road Pumping Station with weather sensors for measurements of meteorological parameters, including wind speed, wind direction, temperature and relative humidity. Lessee may not operate the Premises for any other purpose without the Director's prior written approval.

Section 3. Leased Premises. The Leased Premises are certain real property, generally described as an area of land on Holly Road Pumping Station, more specifically described on the attached and incorporated Exhibits "A" and "B."

Section 4. Use of Leased Premises Subject to Lease. The Lessee's use of the Leased Premises is subject to the terms and conditions in this Lease. This Lease is made in consideration of the mutual promises and covenants contained in this Lease.

Section 5. Limitation of Leasehold. The City does not warrant its title to the Leased Premises. This Lease and the rights and privileges granted the Lessee in and to the Leased Premises are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this Lease may be construed to imply the conveyance to the Lessee of rights in the Leased Premises that exceed those owned by the City.

Section 6. Term. The City leases the Premises, subject to all terms and conditions of this Lease, to the Lessee for a period of five (5) years, unless sooner terminated under another section of this lease. This Lease begins on the 61st day after final approval by the City Council.

Section 7. Option to Renew. The Lessee has the option to renew this lease for five (5) years on the same terms and conditions as set out in this lease. The Lessee must exercise this option by giving the City notice at least thirty (30) days prior to the last day of the term of the lease.

Section 8. Abandonment of Leased Premises. If the Lessee abandons the Leased Premises, this Lease terminates automatically and the City Manager may take immediate possession of the Leased Premises.

Section 9. Cessation of Use.

- a. If the Lessee for any reason ceases to use the Leased Premises for the purposes specified in Section 2, the Lessee has the right to terminate this Lease by written notice to the City Manager.
- b. The written notice of termination must be given at least three (3) months prior to the effective date of termination.
- c. If the cessation of use occurs and continues for one (1) year or longer, and the Lessee does not exercise the right to terminate this Lease, then the City may terminate this



Lease by giving the Lessee at least thirty (30) days' notice prior to the effective termination date.

d. During any cessation of use, the Lessee must maintain and regulate the use and occupancy of the Leased Premises at the Lessee's expense as specified in this Lease. Upon termination or expiration of the Lease, the Lessee must remove the improvements from the Leased Premises.

Section 10. Surrender. Subject to the holdover provisions in this Lease, the Lessee acknowledges and understands that the City's agreement to lease the Premises to Lessee is expressly conditioned on the understanding that the Premises must be surrendered, upon the expiration, termination, or cancellation of this Lease, in as good a condition as received, reasonable use and wear, acts of God, fire and flood damage, or destruction where the Lessee is without fault, excepted.

Section 11. Consideration. For and in consideration of the rights and privileges granted in this Lease, the Lessee agrees to allow the City full access, via the Lessee's web page, to the monitoring information gathered by the Lessee from the air monitoring station situated at the Leased Premises during the entire term of this Lease.

Section 12. Alterations.

a. The Lessee may not make any alterations, additions, or improvements to, in, on, or about the Premises, without the prior consent of the Director.

b. Prior to making any alterations, additions, or improvements to, in, on, or about the Premises, the Lessee must submit the plans and specifications for the alterations, additions, or improvements to the Director for review.

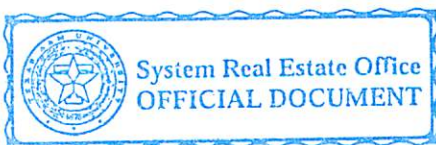
c. If the Director consents to the alterations, additions, or improvements, the Lessee shall obtain all required permits for the construction and the construction is subject to inspection by the Director, City's Building Official, Director of Capital Programs, and their designated representatives.

Section 13. Assignment and Subleasing.

a. Lessee may not assign or encumber this Lease, without the prior written consent of the City Manager. Any assignment or sublease must be approved in advance by the City Manager.

b. Upon approval of the assignment, the Lessee may request the City to release the Lessee from any further liability under the Lease. The City will grant the release if the assignee covenants to assume all obligations and duties of the Lessee of this Lease.

c. Any attempted assignment or sublet without the prior written consent of the City Manager renders this Lease void.



- d. An assignment of the Lease under the same terms and conditions is not an amendment of the Lease.
- e. Each provision, term, covenant, obligation, and condition required to be performed by the Lessee must be binding upon any assignee, and is partial consideration for the City's consent to the assignment.
- f. Any failure of assignee to strictly comply with each provision, term, covenant, obligation, and condition in this Lease may render this Lease null and void.

Section 14. Signs.

- a. The Lessee may not exhibit, inscribe, paint, erect, or affix any Sign at, on, or about the Premises, or any part of this Lease, without the Director's prior written approval.
- b. The City may require the Lessee to remove, repaint, or repair any Signs allowed. If the Lessee does not remove, repaint, or repair the Signs within ten (10) days of the Director's written demand, the City may do or cause the work to be done, and the Lessee shall pay the City's costs within thirty (30) days of receipt of the Director's invoice. If timely payment is not made, the City may terminate this Lease upon ten (10) days written notice, to Lessee. Alternatively, the City may elect to terminate this Lease after ten (10) days written notice to the Lessee.

Section 15. Laws Affecting Operation of Premises and Performance. The Lessee shall comply with all Federal, State, and local laws, ordinances, rules, and regulations applicable to the Lessee's operation of the Premises and the Lessee's performance under this Lease. This Lease is also subject to applicable provisions of the City Charter.

Section 16. Nondiscrimination. The Lessee covenants and agrees that the Lessee will not discriminate nor permit discrimination against any person or group of persons, with regard to employment and the provision of services at, on, or in the Premises, on the grounds of race, religion, national origin, marital status, sex, age, disability, or in any manner prohibited by the laws of the United States or the State of Texas. The City hereby reserves the right to take the action as the United States may direct to enforce this covenant.

Section 17. Drug Policy. The Lessee must adopt a Drug Free Workplace and Drug Testing policy that substantially conforms to the City's policy.

Section 18. Violence Policy. The Lessee must adopt a Violence in the Workplace and related hiring policy that substantially conforms to the City's policy.

Section 19. Maintenance. The Lessee shall maintain the Leased Premises and all improvements in good and safe condition during the Lease term.



Section 20. Furniture, Fixtures, and Equipment.

All personal property and trade fixtures furnished by or on behalf of the Lessee remain the property of the Lessee, unless the personal property and trade fixtures are specifically donated to the City during the term of this Lease or any Holdover Period.

Section 21. Utilities. The Lessee shall pay for all utilities related to usage of the Premises. Failure to pay any utility bill(s) prior to the due date constitutes grounds for termination of this Lease.

Section 22. City Use. The City retains the right to use or cross the Premises with utility lines and easements. The City may exercise these rights without compensation to the Lessee for damages to the Premises from installing, maintaining, repairing, or removing the utility lines and easements. The City must use reasonable judgment in locating the utility lines and easements to minimize damage to the Premises.

Section 23. Default. Any of the following events, if uncured after 10 days written notice and right to cure, constitute a default under this Lease:

- (1) Failure to pay utilities before the due date.
- (2) Failure to perform scheduled maintenance.
- (3) Abandonment of the Premises.
- (4) Failure to timely pay City's invoice for the removal, repainting, or repair of any Signs at the Premises.
- (5) Failure to keep, perform, and observe any other promises, covenants and conditions contained in this Lease.

Section 24. Insurance. The City acknowledges that, because Lessee is an agency of the State of Texas, liability for the tortious conduct of the agents and employees of Lessee or for injuries caused by conditions of tangible state property is provided for solely by the provision of the Texas Tort Claims Act (Texas Civil Practice and Remedies Code, Chapters 101 and 104), and that Workers' Compensation Insurance coverage for employees of Lessee is provided by Lessee as mandated by the provisions of Chapter 502, Texas Labor Code. Lessee shall have the right, at its option, to (a) obtain liability insurance protecting Lessee and its employees and property insurance protecting Lessee's buildings and the contents, to the extent authorized by Section 51.966, Texas Education Code, or other law, or (b) self-insure against any risk that may be incurred by Lessee as a result of its operations under this Agreement.

Section 25. City's Remedies on Lessee's Default.

a. Upon the occurrence of any event of default, the City may, at its option, in addition to any other remedy or right given under this Lease or by law:



(1) Give notice to the Lessee that this Lease terminates upon the date specified in the notice, which date will be no earlier than five (5) days after the giving of the notice.

(2) Immediately or at any time after the occurrence of the event of default and without notice or demand, or upon the date specified in a notice, if given, or in any notice issued under law, enter upon the Premises or any part of this Premises in the name of the whole and, upon the entry, this Lease terminates.

b. In the event of default by the Lessee under Section 23, the City has the option to pursue any one or more of the remedies provided in this lease or afforded the City by law, without further notice or demand and without prejudice to any other remedy:

(1) The City may enter into and upon the Premises and retake possession, by legal proceedings or otherwise, expel the Lessee and anyone claiming through or under the Lessee, remove the Lessee's or a claimant's goods and effects, forcibly, if necessary, and store the goods in the name and at the expense of the Lessee.

(2) After retaking possession as set out in paragraph 1 of this section, or upon abandonment of the Premises by the Lessee, the City may at the City's option relet the Premises or any part of the Premises, in the name of the City or otherwise, for a term or terms that may be less than or exceed the period that would otherwise constitute the balance of the term of this Lease. The term of such reletting by the City is evidence of the fair rental value of the Premises for the balance of the term and the Lessee shall be liable to the City for the amount by which the rent and other charges due under this Lease for the balance of its term exceeds the fair rental value of the Premises for that period.

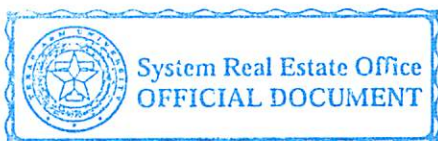
Section 26. Modifications. No changes or modifications to this Lease may be made, nor any provisions waived, unless the change or modification is made in writing and signed by persons authorized to sign agreements on behalf of each party.

Section 27. Contact Person/Lease Administrator. For this Lease, the City's contact person and lease administrator is the Director.

Section 28. Notice.

a. All notices, demands, requests, or replies provided for or permitted under this Lease by either party must be in writing and must be delivered by one of the following methods: (i) by personal delivery; (ii) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; (iii) by prepaid telegram; (iv) by deposit with an overnight express delivery service, for which service has been prepaid; or (v) by fax transmission.

b. Notice deposited with the United States Postal Service in the manner described above will be deemed effective two (2) business days after deposit with the United States Postal Service. Notice by telegram or overnight express delivery service will be deemed



effective one (1) business day after transmission to the telegraph company or overnight express carrier. Notice by fax transmission will be deemed effective upon transmission with proof of delivery.

c. All notice shall be made to the following:

IF TO CITY:

City of Corpus Christi
Attn: Executive Director of Utilities
P.O. Box 9277
Corpus Christi, Texas 78469-9277

IF TO LESSEE:

Texas A&M University – Kingsville
Attn: Associate VP, Support Services
700 University Blvd., MSC 212
Mail Stop Code 212
Kingsville, Texas 78363-8202

With copy to:

The Texas A&M University System
Office of General Counsel
Attn: System Real Estate Office
301 Tarrow, 6th Floor
College Station, Texas 77840-7896

d. Either party may change the address to which notice is sent by using a method set out in subsection c of this section. The Lessee shall notify the City of an address change within ten (10) days after the address is changed.

Section 29. Force Majeure. No party to this Lease shall be liable for delays or failures in performance due to any cause beyond their control including, without limitation, any delays or failures in performance caused by strikes, lock outs, fires, acts of God or the public enemy, common carrier, severe inclement weather, riots or interference by civil or military authorities. The delays or failures to perform extend the period of performance until these exigencies have been removed. The Lessee shall inform the City in writing of proof of the force majeure within three (3) business days or otherwise waive this right as a defense.

Section 30. Relationship of Parties. This Lease establishes a landlord/tenant relationship, and no other relationship. This Lease must be construed conclusively in favor of that relationship. In performing this Lease, both the City and the Lessee will act



in an individual capacity and not as agents, representatives, employees, employers, partners, joint-ventures, 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.

Section 31. Not for Benefit of Third Parties. This Lease is only for the benefit of the City and the Lessee, and no third party has any rights or claims under this Lease or against the City.

Section 32. Publication Costs. The Lessee shall pay for the cost of publishing the Lease description and related ordinance, as required by the City's Charter, in the legal section of the local newspaper.

Section 33. Interpretation. This Lease will be interpreted according to the Texas laws that govern the interpretation of contracts.

Section 34. Survival of Terms. Termination or expiration of this Lease for any reason does not release either party from any liabilities or obligations under this Lease that (a) the parties have expressly agreed survive any the termination or expiration; (b) remain to be performed; or (c) by their nature would be intended to be applicable following any the termination or expiration of this Lease.

Section 35. Captions. The captions utilized in this Lease are for convenience only and do not in any way limit or amplify the terms or provisions of this Lease.

Section 36. Severability.

a. If, for any reason, any section, paragraph, subdivision, clause, provision, phrase, or word of this Lease or the application of this Lease to any person or circumstance is, to any extent, held illegal, invalid, or unenforceable under present or future law or by a final judgment of a court of competent jurisdiction, then the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those as to which it is held illegal, invalid, or unenforceable, will not be affected by the law or judgment, for it is the definite intent of the parties to this Lease that every section, paragraph, subdivision, clause, provision, phrase, or word of this Lease be given full force and effect for its purpose.

b. To the extent that any clause or provision is held illegal, invalid, or unenforceable under present or future law effective during the term of this Lease, then the remainder of this Lease is not affected the law, and in lieu of any illegal, invalid, or unenforceable clause or provision, a clause or provision, as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable, will be added to this Lease automatically.

Section 37. Entirety Clause. This Lease and the attachments and exhibits incorporated into this Lease constitute the entire agreement between the City and the Lessee for the purpose granted. All other agreements, promises, representations, and



understandings, oral or otherwise, with reference to the subject matter of this Lease, unless contained in this Lease are expressly revoked, as the parties intend to provide for a complete understanding within the provisions of this Lease and its exhibits of the terms, conditions, promises, and covenants relating to Lessee's operations and the Premises to be used in the operations.

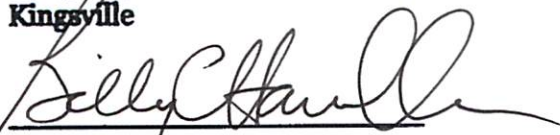
Section 38. Binding Lease. It is further mutually understood and agreed that the covenants and agreements contained in the Lease, to be performed by the respective parties, are binding on the parties, and their respective successors and assigns.

Section 39. Acknowledgment. Each party expressly agrees that it has independently read and understood this Lease. By the Lessee's execution of this Lease, the Lessee acknowledges and understands that this Lease is not binding on the City until properly authorized by the Council and executed by the City Manager or by his designee.

Section 40. Effective Date. This Lease is effective on _____, 2015.

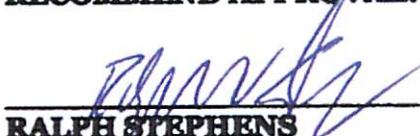
EXECUTED IN DUPLICATE, each of which shall be considered an original, on the ____ day of _____, 2015.

BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM,
an agency of the State of Texas, for the use and benefit of Texas A&M University-
Kingsville




BILLY HAMILTON
Executive Vice Chancellor and
Chief Financial Officer

RECOMMEND APPROVAL:



RALPH STEPHENS
Associate VP, Support Services
Texas A&M University - Kingsville

APPROVED AS TO FORM:

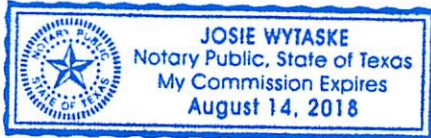


GINA M. JOSEPH
Assistant General Counsel
Office of General Counsel
The Texas A&M University System



STATE OF TEXAS §
 COUNTY OF BRAZOS §

This instrument was acknowledged before me this 24th day of June, 2015, by **BILLY HAMILTON**, Executive Vice Chancellor and Chief Financial Officer of The Texas A&M University System, on behalf of the Board of Regents of The Texas A&M University System, an agency of the State of Texas.



Josie Wytaske
 Notary Public

ATTEST:

CITY OF CORPUS CHRISTI

REBECCA HUERTA
 City Secretary

RONALD L. OLSON
 City Manager

APPROVED AS TO LEGAL FORM:

LISA AGUILAR
 Senior Assistant City Attorney
 For City Attorney

STATE OF TEXAS §
 COUNTY OF NUECES §

This instrument was acknowledged before me this _____ day of _____, 2015, by **RONALD L. OLSON**, City Manager, City of Corpus Christi, a Texas home rule municipal corporation, on behalf of said entity.

 Notary Public



EXHIBIT "A"

Holly Road Pumping Plant
TAMU-K Tower Lease

STATE OF TEXAS
COUNTY OF NUECES

BEING a tract of land containing 9 Sq. Ft. of land out of Country Club Village Unit 2 as shown on plat thereof recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas. This 9 SQ. FT. tract being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8" Iron Rod at the northwest corner of Country Club Village Unit 2 as recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas;

THENCE S31°39'35"E through said Country Club Village Unit 2 a distance of 465.55' to the Point of Beginning of this tract, said point being a set 60D nail;

THENCE N25°44'16"E continuing through said Country Club Village Unit 2 a distance of 3.00' to a Point, being the northwest corner of this tract;

THENCE S64°15'44"E continuing through said Country Club Village Unit 2 a distance of 3.00' to a Point, being the northeast corner of this tract;

THENCE S25°44'16"W continuing through said Country Club Village Unit 2 a distance of 3.00' to a Point, being the southeast corner of this tract;

THENCE N64°15'44"W continuing through said Country Club Village Unit 2 a distance of 3.00' to the POINT AND PLACE OF BEGINNING and containing 9 Sq. Ft. of land.

Bearings are with reference to the southwest right-of-way line of Holly Road as shown on Plat of the Country Club Village Unit 2 as recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas;

State of Texas
County of Nueces

I, Russell D. Ochs, a Registered Professional Land Surveyor for the City of Corpus Christi, TX, hereby certify that the foregoing field notes were prepared by me from a land survey made on the ground under my direction.

This the 4TH day of December, 2009

Russell D. Ochs

Russell D. Ochs
State of Texas License No. 5,241



EXHIBIT "A"

**Holly Road Pumping Plant
TAMU-K Equipment Pad Lease**

**STATE OF TEXAS
COUNTY OF NUECES**

BEING a tract of land containing 1,350 Sq. Ft. of land out of Country Club Village Unit 2 as shown on plat thereof recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas. This 1,350 SQ. FT. tract being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8" Iron Rod at the northwest corner of Country Club Village Unit 2 as recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas;

THENCE S29°56'04"E through said Country Club Village Unit 2 a distance of 454.30' to the **Point of Beginning** of this tract, being the northwest corner of this tract;

THENCE S61°31'38"E continuing through said Country Club Village Unit 2 a distance of 45.00' to a Point, being the northeast corner of this tract;

THENCE S28°28'22"W continuing through said Country Club Village Unit 2 a distance of 30.00' to a Point, being the southeast corner of this tract;

THENCE N61°31'38"W continuing through said Country Club Village Unit 2 a distance of 45.00' to a Point, being the southwest corner of this tract;

THENCE N28°28'22"E continuing through said Country Club Village Unit 2 a distance of 30.00' to the **POINT AND PLACE OF BEGINNING** and containing 1,350 Sq. Ft. of land.

Bearings are with reference to the southwest right-of-way line of Holly Road as shown on Plat of the Country Club Village Unit 2 as recorded in Volume 32, Page 31 of the Map Records of Nueces County, Texas;

**State of Texas
County of Nueces**

I, Russell D. Ochs, a Registered Professional Land Surveyor for the City of Corpus Christi, TX, hereby certify that the foregoing field notes were prepared by me from a land survey made on the ground under my direction.

This the 26TH day of January, 2010

Russell D. Ochs

Russell D. Ochs
State of Texas License No. 5,241

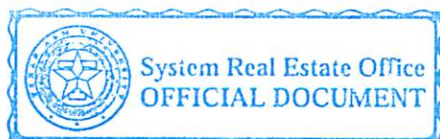
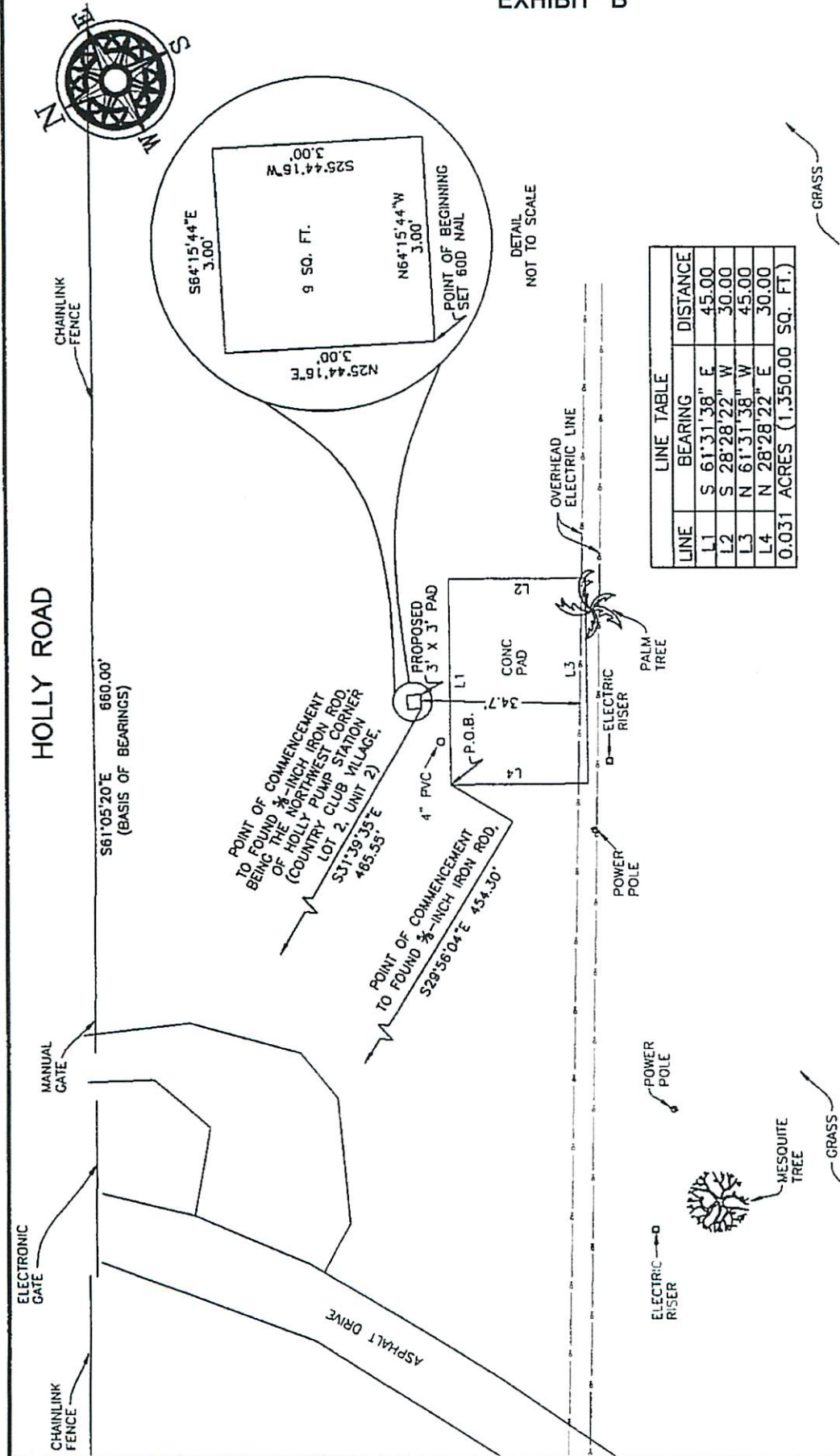


EXHIBIT "B"



PAD SITE(S), LYING WITHIN THE COUNTRY CLUB VILLAGE, LOT 2, UNIT 2 VOLUME 32, PAGE 31, M.R.N.C.T.

NOTE:
DRAWING NOT TO SCALE
MAP TO ACCOMPANY FIELD NOTES

CITY of CORPUS CHRISTI, TEXAS
Department of Engineering Services
Survey Division 361-826-3551

LEASE SKETCH SHOWING PROPOSED PAD SITE FOR 30 FOOT TOWER AND EXISTING PAD SITE

OWNER: TAMU-KINGSVILLE/CITY OF CORPUS CHRISTI

Drawn By: A. JIMENEZ
Checked By: R. OCHS
Date Drawn: 01/26/2010
Project: 95008

File: C:\PROJECTS\HOLLY PUMP STATION\DWG\HOLLY PAD SITES.DWG

SHEET 1 OF 1



System Real Estate Office
OFFICIAL DOCUMENT