

City of Alvin, Texas

Paul Horn, Mayor

Gabe Adame, Mayor Pro-tem, District E
Brad Richards, At Large Position 1
Chris Sanger, At Large Position 2
Scott Reed, District A



Adam Arendell, District B
Keith Thompson, District C
Glenn Starkey, District D

ALVIN CITY COUNCIL AGENDA

THURSDAY, JUNE 16, 2016

7:00 P.M.

(Council Chambers)

Alvin City Hall, 216 West Sealy, Alvin, Texas 77511

Persons with disabilities who plan to attend this meeting that will require special services please contact the City Clerk's Office at 281-388-4255 or drobot@cityofalvin.com 48 hours prior to the meeting time. City Hall is wheel chair accessible and a sloped curb entry is available at the east and west entrances to City Hall.

NOTICE is hereby given of a Regular Meeting and Executive Session of the City Council of the City of Alvin, Texas, to be held on **Thursday, June 16, 2016** at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

REGULAR MEETING AGENDA

1. **CALL TO ORDER**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENT**
4. **PRESENTATIONS**
 - A. Presentation of Eagle Scout Awards to Galen Mikel and Andrew Schumann.
 - B. Proclamation; Brazoria County Library Systems 75th Diamond Jubilee Anniversary Celebration; June 18, 2016.
 - C. Parks & Recreation Departmental Update.
 - D. Presentation regarding National Oak Park (requested by City Council member Richards).
5. **PUBLIC HEARING**
 - A. Conduct a public hearing and review of the City of Alvin, Texas, juvenile curfew ordinance, Article IV, curfew hours for juveniles; to determine the need to re-adopt, abolish, continue or modify the ordinance.
6. **CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION:** An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.
 - A. Approve minutes of the June 2, 2016 City Council workshop.
 - B. Approve minutes of the June 2, 2016 City Council meeting.
 - C. Consider Ordinance 16-I; an ordinance of the City of Alvin, Texas continuing the regulations in Article IV; Curfew Hours for Minors a part of Chapter 15 Offenses and Miscellaneous Provisions; concerning offenses for minors, parents of minors, and

business establishments that violate curfew regulations; providing for two (2) public hearings; providing for a penalty; and setting forth other provisions related thereto.

7. OTHER BUSINESS:

Council may approve, discuss, refer, or postpone items under Other Business.

- A. Consider Amendment No. 3 to the Development and License Agreement with the Alvin Restaurant Group, Inc., dba the Barbed Rose Steakhouse and Seafood Company; and authorize the City Manager to sign.
- B. Consider bid award to Mar-Con Services, LLC for the construction of the Mustang Road Improvement Project in an amount not to exceed \$1,102,780.46, which includes the alternate bid item; and authorize City Manager to sign contract upon legal review.
- C. Consider appointments to the 2016 Charter Review Commission.

8. REPORTS FROM CITY MANAGER

- A. Review preliminary list of items for next Council meeting.
- B. Items of Community Interest.

9. REPORTS FROM COUNCIL MEMBERS

Pursuant to S.B. No. 1182, City Council Members may make a report or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

- A. Announcements and requests from Council members.

10. EXECUTIVE SESSION

- A. Section 551.074 of the Government Code: Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing.
 - 1. Discuss the evaluation of city manager.

11. RECONVENE TO OPEN SESSION

- A. Consider action, if any, on item(s) discussed in Executive Session.

12. ADJOURNMENT

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website: www.alvin-tx.gov, in compliance with Chapter 551, Texas Government Code on MONDAY, JUNE 13, 2016 at 4:00 P.M.



A handwritten signature in blue ink, which appears to read "Dixie Roberts", is written over a horizontal line.

Dixie Roberts, City Clerk

Removal Date: _____

**** All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**PARKS AND RECREATION
BOARD MEETING MINUTES
Public Service Facility
March 1, 2016
6:30 pm**

Call to Order: Meeting was called to order at 6:50 p.m. by Dwight Rhodes.

Roll Call: Present: Shala Rios, Dwight Rhodes, Chris Sanger, Cindy DeJongh

Also present was Parks Director Dan Kelinske

Minutes:

- Chris Sanger made a motion to approve the minutes from January meeting. Cindy DeJongh 2nd the motion. Motion passed.
- Chris Sanger made a motion to approve the minutes from the February meeting. Cindy DeJongh. 2nd the motion. Motion passed.

Petitions or Requests from the Public:

- None at this time

Report from the Chairman:

- Dwight Rhodes suggested mulching trees in the parks and also mulching and placing post to protect trees during music festival.

Director's Report:

N/A

Up Coming Events:

N/A

Old Business:

- Work at Talmadge Park is complete.
- Construction on National Oak Park Restrooms is underway.
- Council Member Gabe Adame contacted Dan about a possible site for Frisbee Golf. Dan contacted a professional Disc golfer for more info. on the game. Possible locations for consideration is somewhere along Hike and Bike Trail or Briscoe Park. Professional will bring a presentation to a future Parks board meeting.
- Briscoe Park should be finished (Striping.)
- Canopy to originally go to Morgan Park to cover playground will now go to playground at Briscoe Park.
- Little League Opening Day is March 5, 2016.
- Lion and Schroder Parks both have been striped.

Old Business:

CIP:

- Dan would like Boards Priority Items for Next 3 years
- Board is looking to get Big Ticket items taken care of on the CIP list
- Board was asked to make a motion to approve a 3 year CIP as submitted by Director with emphasis on safety, pedestrian traffic flow and prohibiting vehicle traffic on green space. Chris S. made a motion to approve this CIP. Dwight Rhodes 2nd motion. Motion passed.

Adjournment: A motion to adjourn was made by Chris Sanger. Dwight Rhodes second (2nd) the motion. Motion passed. Meeting was adjourned at 8:35 p.m.

Submitted by:
Shala Rios
Secretary

**PARK AND RECREATION
BOARD MEETING MINUTES
Public Service Facility
May 3, 2016
6:30 p.m.**

Call to Order: Meeting was called to order at 6:50 p.m. by Cindy DeJongh.

Roll Call: Present: Chris Sanger, Terri Beasley, Cindy DeJongh, Debra Palin

Also present was Parks Director Dan Kelinske

Minutes:

- Chris Sanger motioned to approve the minutes from the March meeting. Terri Beasley 2nd the motion. Motion passed.

Petitions or Requests from the Public:

- None at this time

Director's Report:

- Dan Kelinske, Parks Director, reported Budget Meeting tomorrow with City Council.

He will be requesting:

Additional staff:

- Crew Leader (internal promotion)
- facility tech (a second one)
- clerk position (change from part time to full time) stationed at Senior Center

Catering fees

Operational fees increased

- Work order system is working good.
- CAP suggestion of priority

Pearson Park sidewalk

2 trash cans at Talmadge Park

Picnic tables 8 – 10

- CBDG grant last item:

National Oak Park restroom is built and usable as of Sat. 3/30/2016

- CIAP

Requesting City Council stay involved

Observation Deck 10X10

Hexagonal Pavilion Classroom

Butterfly garden

Park Dedication money can be used for 3 city costs (cement pavers, cement testing and irrigation system.)

Meeting tomorrow with County to finalize bid documents.

- Community Survey on website
- Parks Standards Manual

Professional consultant coming in to do manual

Upcoming Events:

- Alvin Clean up Saturday, 7 May 2016 at 8:00 a.m. – 1:00 p.m. at ACC parking lot N (need City of Alvin water bill)
 - Shredding
 - Household recycling
 - Bulk trash
 - Electric recycling FREE
- Keep Alvin Beautiful clean up city wide with crews May 7, 2016
- Art Walk on Gordon Street May 7, 2016 10:00 a.m. – 5 p.m.
- Farmers Market May 21, 2016
- Tunes on the track May 21, 2016 7:00 p.m. – 9:00 p.m.
- Mother Daughter sleepover @ Fun Jump May 8, 2016
- Summer Movie Series starts June
- Free Pool Fridays sponsored by Steven F. Austin

Report Request:

- Cindy DeJongh reported lights are out on soccer field at Pearson Park. Dan Kelinske advised lights are serviced by Texas New Mexico Power Company and the lights are low priority for the company but, he will notify them.
- Cindy DeJongh requested extra dumpsters at Pearson Park be removed. Dan advised they will be removed at the end of May, when league is finished for the season.

Old Business:

None

Adjournment: A motion to adjourn was made by Terri Beasley. Debra Palin second (2nd) the motion. Motion passed. Meeting was adjourned at 8:30 p.m.

Submitted by:

Debra Palin

Parks Board Member

The City of Alvin, Texas

Hereby issues this

CERTIFICATE OF RECOGNITION

awarded to

Galen Mikel
Troop 400

on behalf of the Mayor, City Council and the proud citizens of Alvin for having earned the prestigious and honorable award of Eagle Scout and further recognize him for the many accomplishments and to wish him well on future endeavors.

WITNESS my hand and seal this 16th day of June 2016.

Paul Horn, Mayor

The City of Alvin, Texas

Hereby issues this

CERTIFICATE OF RECOGNITION

awarded to

Andrew Schumann

Troop 400

on behalf of the Mayor, City Council and the proud citizens of Alvin for having earned the prestigious and honorable award of Eagle Scout and further recognize him for the many accomplishments and to wish him well on future endeavors.

WITNESS my hand and seal this 16th day of June 2016.

Paul Horn, Mayor

Office of the Mayor, City of Alvin, Texas



Proclamation

WHEREAS, the Brazoria County Library System (BCLS) has grown from its first branch located in Alvin in 1941 to twelve branches throughout Brazoria County, plus the addition of an e-Branch added in 2016; and

WHEREAS, BCLS libraries help improve our county's communities with progressive services and programs that promote individual growth and encourage reading at any age; and

WHEREAS, BCLS librarians work tirelessly to engage and meet the informational, educational and recreational needs of all patrons; and

NOW, THEREFORE, I, Mayor Paul A. Horn, as Mayor of the City of Alvin Texas and on behalf of the Council do hereby proclaim June 18, 2016 as the

75th Diamond Jubilee Anniversary Celebration

of the Brazoria County Library System and encourage all residents to visit the library this year to take advantage of the wonderful programs and library resources planned for the diamond jubilee celebration at each of the twelve branches in Brazoria County.

WITNESS my hand and seal this 16th
day of June, 2016.

Paul A. Horn, Mayor



AGENDA COMMENTARY

Meeting Date: 6/16/2016

Department: Police Department

Contact: Robert E. Lee, Police Chief

Agenda Item: Conduct a public hearing and review of the City of Alvin, Texas, juvenile curfew ordinance, Article IV, Curfew Hours for Juveniles; to determine the need to adopt, abolish, continue or modify the ordinance.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: Section 370.002 of the Local Government Code requires that after a city adopts a juvenile curfew ordinance, the city must review and readopt the ordinance every three years. The statute requires that a city:

1. review the ordinance's effects on the community and on problems the ordinance was intended to remedy;
2. conduct public hearings on the need to continue the ordinance; and
3. abolish, continue, or modify the ordinance.

Council's last review of this ordinance was in May, 2010.

This is the second of the two required public hearings. The first hearing was held at the City Council meeting on June 2, 2016.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A

Account Number: _____ **Amount:** _____ **1295 Form Required?** Yes ___ No

Legal Review Required: N/A ___ Required **Date Completed:** May 26, 2016

Supporting documents attached: N/A

Recommendation: No action is required for the public hearing.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
CITY COUNCIL WORKSHOP MEETING
THURSDAY JUNE 2, 2016
6:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in regular session at 7:00 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Council members: Adam Arendell, Chris Sanger, Glenn Starkey, Keith Thompson, Scott Reed and Brad Richards.

Staff members present: Sereniah Breland, City Manager; Junru Roland, Assistant City Manager/CFO; Bobbi Kacz, City Attorney; Robert E. Lee, Police Chief; and Dixie Roberts, City Clerk.

ITEMS OF DISCUSSION

Review City Council roles and responsibilities.

David Olson with Olson and Olson LLP, Attorneys at Law, facilitated a discussion on the roles and responsibilities of the City Council.

ADJOURNMENT

Council member Reed moved to adjourn the meeting at 6:54 p.m. Seconded by Council member Arendell; motion carried on a vote of 6 Ayes.

PASSED and APPROVED this _____ day of _____, 2016.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Clerk

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
REGULAR CITY COUNCIL MEETING
& EXECUTIVE SESSION
THURSDAY JUNE 2, 2016
7:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in regular session at 7:05 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn; Council members: Adam Arendell, Chris Sanger, Glenn Starkey, Keith Thompson, Scott Reed and Brad Richards.

Staff members present: Sereniah Breland, City Manager; Junru Roland, Assistant City Manager/CFO; Bobbi Kacz, City Attorney; Dixie Roberts, City Clerk; Robert Lee, Police Chief; and Dan Kelinske, Parks Director.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Horn gave the invocation.

Council member Richards led the Pledge of Allegiance to the American Flag.

Council member Reed led the Pledge to the Texas Flag.

PUBLIC COMMENT

Larry Buehler, Director of Economic Development reported that Empereon-Constar is recruiting 500 qualified candidates for job placement within the next 60 days. The company will be housed out of the old DISH Network location. He reviewed interview dates and times.

PRESENTATIONS

Life Saving Award; Officer McDonald

Chief Lee presented the Life Saving Award to Officer Chesley McDonald in recognition of his for his quick response to a call of a toddler in need of CPR. Family members of both Officer McDonald and the toddler were in attendance for this presentation.

Proclamation - Alvin Noon Lions Club 80th Anniversary Celebration month; June, 2016

Mayor Horn presented a proclamation to the representatives of the Alvin Noon Lions Club in celebration of the Alvin Noon Lions Club's 80th Anniversary.

PUBLIC HEARING

Conduct a public hearing and review of the City of Alvin, Texas, juvenile curfew ordinance, Article IV, curfew hours for juveniles; to determine the need to re-adopt, abolish, continue or modify the ordinance.

Mayor Horn opened the public hearing at 7:19 p.m.

Mayor Horn closed the public hearing at 7:19 p.m.

CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION

Approve minutes of the May 18, 2016 Special City Council Meeting.

Approve minutes of the May 19, 2016 City Council meeting.

Council member Arendell moved to approve the consent agenda as presented. Seconded by Council member Reed; motion carried on a vote of 6 Ayes.

OTHER BUSINESS:

Consider Resolution 16-R-12; honoring Terry Droege for years of service to the community as a member of the Alvin City Council At Large Position 2, from May 2010 – May 2016.

Council Member Arendell moved to approve Resolution 16-R-12; honoring Terry Droege for years of service to the community as a member of the Alvin City Council At Large Position 2, May 2010-May 2016. Seconded by Council Member Richards; motion carried a vote of 6 Ayes.

Mayor Horn presented Council member Droege with a copy of Resolution 16-R-12.

Consider agreement through the Houston Galveston Area Council (HGAC) PlanSource Procurement Program with Kendig Keast Collaborative for the purpose of updating the current Park Master Plan and creating a Park Standards Manual, in an amount not to exceed \$50,000; and authorize City Manager to sign.

On April 7, 2016, city council amended the FY16 budget to appropriate funds (\$50,000) to update the 10-year Park Master Plan and create a Park Standards Manual which was adopted by council on May 18, 2006. The purpose of a Parks Master Plan is to develop a comprehensive vision for parks & recreation, including management of open spaces, recreation opportunities and programming related to location, natural resources and visions of the community for the next ten years.

Staff is recommending utilizing the Houston Galveston Area Council (H-GAC) PlanSource Procurement Program to engage the services of Kendig Keast Collaborative for the purpose of updating the Park Master Plan and creating a Park Standards Manual. Kendig Keast Collaborative recently completed the City's 2035 Comprehensive Master Plan. The scope of the services includes: demographic analysis; input from the Parks and Recreation Board, city staff, and residents; and an assessment of land, facilities, and improvements.*

**H-GAC PlanSource assists local governments in reducing costs by streamlining their procurement processes through a competitive bidding process. H-GAC PlanSource qualified 35 planning firms, giving local governments access to top local, national, and international planning firms while providing competitive rates and expediting the procurement process.*

Council Member Starkey moved to approve agreement through the Houston Galveston Area Council (HGAC) PlanSource Procurement Program with Kendig Keast Collaborative for the purpose of updating the current Park Master Plan and creating a Park Standards Manual, in an amount not to exceed \$50,000; and authorize City Manager to sign. Seconded by Council Member Richards; motion carried on a vote of 6 Ayes.

REPORTS FROM CITY MANAGER

Review preliminary list of items for next Council meeting.

Ms. Breland reviewed the preliminary list for the June 16, 2016 City Council meeting.

Items of Community Interest.

Mrs. Roberts reviewed items of community interest.

REPORTS FROM COUNCIL MEMBERS

Announcements and requests from Council members.

Council member Thompson thanked Officer McDonald for his life saving efforts. He also thanked all of the Police Officers for the job they do every day.

Council member Reed congratulated Officer McDonald in receiving the lifesaving efforts. He also encouraged everyone to be safe in dealing with the major flood event occurring within the County.

Council member Arendell thanked Mr. Buehler and staff for the announcement he gave earlier regarding new jobs coming to the area. He also congratulated Officer McDonald in receiving the Life Saving Award as well as Chief Lee for recognizing his efforts. Council member Arendell thanked Terry Droege for his many years of service to the City.

Council member Richards thanked Officer McDonald. He also thanked all of the department heads for the great job they do.

Council member Sanger thanked Officer McDonald. He also encouraged citizens to be safe in dealing with the major flood event occurring within the County.

Council member Starkey thanked Officer McDonald and expressed his appreciation to the Police Department for the job they do 24/7. He encouraged citizens to also take ownership in the fight of mosquitoes from the recent heavy rains. He also thanked the Parks Department for keeping the parks neatly manicured during the recent rain events.

EXECUTIVE SESSION

Mayor Horn called for an Executive Session at 7:38 p.m. in accordance to the following:

Section 551.071(2) Attorney consultation to receive attorney advice and counsel in connection with the city's legal rights, duties, privileges, and obligations related to the ongoing negotiations of a Collective Bargaining Agreement.

Section 551.074 Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

1. Discuss the evaluation of city attorney.

RECONVENE TO OPEN SESSION

Mayor Horn reconvened to Open Session at 9:48 p.m.

Consider action(s), if any, on item(s) discussed in Executive Session.

No action taken.

ADJOURNMENT

Council member Richards moved to adjourn the meeting at 9:48 p.m. Seconded by Council member Arendell; motion carried on a vote of 6 Ayes.

PASSED and APPROVED this _____ day of _____, 2016.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Clerk



AGENDA COMMENTARY

Meeting Date: 6/16/2016

Department: Police

Contact: Chief Robert E Lee

Agenda Item: Consider Ordinance 16-I; an ordinance of the City of Alvin, Texas continuing the regulations in Article IV; Curfew Hours for Minors a part of Chapter 15 Offenses and Miscellaneous Provisions; concerning offenses for minors, parents of minors, and business establishments that violate curfew regulations; providing for two (2) public hearings; providing for a penalty; and setting forth other provisions related thereto.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: State law requires the City Council to review a juvenile curfew ordinance every three years and to review the ordinance's effect on a community. In the last three years we have issued eleven (11) warnings to juveniles, six (6) warnings to parents of juveniles and two (2) citations. In each of these cases the existence of the curfew ordinance allowed officers the ability to identify juveniles and notify parents or legal guardians in order to insure that these unaccompanied minors were picked up/delivered into the hands of a responsible adult. In some cases, the parent/guardian had no idea that the juvenile was absent from adult oversight. The overarching intent of the ordinance is to provide for the safety of juveniles, to curb the commission of juvenile crime and to maintain the general peace of the City during curfew hours.

The curfew hours are Sunday – Thursday 11pm to 6am the following day and 12:01am – 6am on any Saturday and Sunday. These hours apply to juveniles ten (10) years of age or older and under seventeen (17) at the time of the violation. The juvenile and/or the parent may be charged with a violation, as well as any owner, operator or employee of any establishment that knowingly violates this ordinance.

Some of the exceptions (defenses) to the ordinance include: being accompanied by parent or guardian, traveling to/from place of employment (direct route), emergency, school/religious/government activity and on an errand for a parent/guardian with written permission.

The cities of Manvel, Angleton, League City, Webster, Pearland and Friendswood all have juvenile ordinances in place currently.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A

Account Number: _____ **Amount:** _____ **1295 Form Required?** Yes ___ No

Legal Review Required: N/A ___ Required **Date Completed:** June 8, 2016

Supporting documents attached:

- Ordinance 16-I; Juvenile Curfew

Recommendation: Move to approve Ordinance 16-I; an ordinance of the City of Alvin, Texas continuing the regulations in Article IV; Curfew Hours for Minors a part of Chapter 15 Offenses and Miscellaneous Provisions; concerning offenses for minors, parents of minors, and business establishments that violate curfew regulations; providing for two (2) public hearings; providing for a penalty; and setting forth other provisions related thereto.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

ORDINANCE NO. 16-I

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS BY RE-ADOPTING ARTICLE IV., ENTITLED CURFEW HOURS FOR JUVENILES, OF CHAPTER 15 OFFENSES AND MISCELLANEOUS PROVISIONS; CREATING OFFENSES FOR JUVENILES, PARENTS OF JUVENILES, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR TWO (2) PUBLIC HEARINGS; PROVIDING FOR A PENALTY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, by Ordinance No. 94-BBB, the City Council initially adopted a curfew ordinance establishing curfew hours for juveniles; further adoptions were enacted by Ordinance No. 98-XX, Ordinance No.01-LL; Ordinance 07-P and Ordinance 10-C; and

WHEREAS, Section 370.002 of the Local Government Code requires the City Council to review the curfew ordinance's effects on the community and on problems the ordinance intended to remedy; conduct two (2) public hearings on the need to continue the curfew ordinance; and determine whether to abolish, continue, or modify the ordinance; and

WHEREAS, more than three (3) years have elapsed since the enactment of Ordinance No. 10-C, and such ordinance has expired by law; and

WHEREAS, the City Council has the authority to re-adopt the curfew ordinance in its entirety; and

WHEREAS, on June 16, 2016, the Police Chief, or his designee, presented information to the City Council affirming the positive effects of the curfew ordinance on the community, including decreases in juvenile crime; and

WHEREAS, public hearings were held on June 2, 2016 and June 16, 2016, to receive comments on the need to re-enact the ordinance; and

WHEREAS, the City Council has reviewed the effects of the curfew ordinance on the community and on problems the ordinance was intended to remedy; and

WHEREAS, the City Council has determined that because of the lack of maturity and experience, persons under the age of seventeen (17) are particularly susceptible to participating in unlawful and gang-related activities and to becoming victims of older perpetrators of crime; and

WHEREAS, the City Council desires to re-establish regulations to protect juveniles from the influence of older persons and from each other, to protect members of the general public, and to enforce parental control of and responsibility for their children; and

WHEREAS, the City Council has determined that a curfew for persons between the ages of ten (10) and seventeen (17) addresses the objective of reducing juvenile crime within the City and provides protections for those persons as well as members of the general public; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN:

Section 1. That the City Council hereby adopts the recitals and findings set forth in the preamble to this Ordinance.

Section 2. That the Code of Ordinances, City of Alvin, Texas is hereby amended by re-enacting Article IV., entitled Curfew Hours for Juveniles as part of Chapter 15 Offenses and Miscellaneous Provisions to read as follows:

“ARTICLE IV. CURFEW HOURS FOR JUVENILES

Sec. 15-61. Definitions.

In this article the following definitions shall apply:

Chief of Police: the Chief of Police of the City of Alvin, or a designated representative.

Curfew hours: 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Direct Route: the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

Emergency means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate medical care to prevent serious bodily injury or loss of life.

Establishment: any privately-owned place of business operating for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

Holding Location: a place designated by the Chief of Police, to which a juvenile taken into custody for a violation of this section will be delivered to await pick up by a parent or juvenile authorities.

Juvenile: any person ten (10) years of age or older and under seventeen (17) years of age at the time of the act or offense.

Operator: any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent: a person who is (i) a natural or adoptive parent of another person; (ii) a court-appointed guardian of another person; or (iii) at least 18 years of age and authorized by a parent, court order, or court-appointed guardian to have the care and custody of another person.

Public Place: any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain: to linger or stay unnecessarily; or fail to leave any premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Sec. 15-62. Offenses.

- (a) It shall be unlawful for any juvenile to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the City of Alvin during curfew hours.
- (b) It shall be unlawful for the parent of a juvenile to knowingly permit or allow the juvenile to remain, walk, run, stand, drive or ride about in or upon any public place in the City of Alvin during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if such person knowingly allows a juvenile to remain upon the premises of an establishment during curfew hours.

Sec. 15-63. Defenses.

- (a) It is a defense to prosecution under Section 15-62 that the juvenile was:
 - (1) Accompanied by the juvenile's parent or guardian, or an adult authorized by the parent or guardian;
 - (2) On an errand at the direction of the juvenile's parent and was using a direct route, and the juvenile has in their possession a written permission paper, which contains contact information;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in a lawful employment activity, including but not limited to, newspaper delivery, and was using a direct route;
 - (5) Engaged in volunteer work at a recognized charitable or civic institution or going to or from such activity by direct route;
 - (6) Involved in an emergency;
 - (7) On the sidewalk abutting the juvenile's residence or abutting the residence of the next-door neighbor if the juvenile has permission from the parent to be on the

sidewalk of the next-door neighbor and the neighbor did not complain to the police officer about the juvenile's presence;

- (8) Attending a school, government-sponsored or religious activity or going to or returning home by a direct route from an official school, government - sponsored or religious activity;
- (9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or
- (10) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under Section 15-62(c) that the owner, operator, or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

Section 15-64. Enforcement Procedure.

- (a) Any police officer, upon finding a juvenile in violation of Section 15-62(a) of this Ordinance, shall determine the name and address of the juvenile, and the name and address of his or her parent(s). A warning notice shall be issued to the juvenile, who shall contact the parent or guardian, and obtain transportation home. A copy of the notice shall be forwarded to the Juvenile Case Manager of the City of Alvin Police Department who shall send a letter to the parent(s) of the juvenile advising the parent(s) that the juvenile was found in violation of this ordinance and soliciting parental cooperation in the future.
- (b) Any police officer, upon finding a juvenile in violation of section 15-62(a) who has previously been found in violation and issued a warning as provided for in paragraph (a) above, shall transfer the case to proper authorities for handling under the provisions of V.T.C.A., Family Code Title 3, Juvenile Justice Code. In addition, a complaint may be filed against the parents in Municipal Court for violation of section 15-62(b) hereof.

Sec. 15-65. Penalties.

- (a) Any juvenile violating the provisions of this Ordinance shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of the Texas Family Code, Title 3, Juvenile Justice Code.
- (b) A parent of a juvenile violating this Ordinance shall be guilty of a misdemeanor which shall be punishable by a fine prescribed by Section 1-5 of the Code of Ordinances of the City.
- (c) The owner, operator or employee of an establishment who violates Section 15-62(c) of this Ordinance shall be guilty of a misdemeanor which shall be punishable by a fine prescribed by Section 1-5 of the Code of Ordinances of the City.

Section 3. That all rights and remedies which have accrued in favor of the City under Chapter 15 and all amendments thereto shall be and are preserved for the benefit of the City.

Section 4. That all ordinances in force when this Ordinance becomes effective and which are inconsistent or in conflict with this Ordinance are hereby repealed insofar as such ordinances are inconsistent or in conflict with this Ordinance.

Section 5. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be judged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Alvin, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 6. Open Meetings Act. It is hereby officially found and determined that the meetings at which this ordinance were passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't Code*.

PASSED AND APPROVED on this _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor



AGENDA COMMENTARY

Meeting Date: 6/16/2016

Department: Legal

Contact: Bobbi Kacz

Agenda Item: Consider Amendment No. 3 to the Development and License Agreement with the Alvin Restaurant Group, Inc., dba The Barbed Rose Steakhouse and Seafood Co., and authorize the City Manager to sign.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: In June 2010, Council approved a License Agreement that allowed the Alvin Restaurant Group to build a parking lot and a private cooler/storage Facility on City park property to enhance enjoyment of National Oak Park for park patrons. The Agreement was solely with the Barbed Rose Steakhouse and Seafood Co and prohibited any assignment of the agreement to anyone else.

Council approved Amendment No. 1 to the License Agreement January 6, 2011 amending the terms for the parking lot improvements to be built by the City and costs paid by the Owner.

Council approved Amendment No. 2 to the License Agreement December 4, 2014 amending the terms to expand the scope of the real estate to two properties able to use the Facility, allowing the License Agreement to be 'assignable' by the Owner of the two properties to tenants with food establishments and only with council approval, and prohibiting the storage of alcoholic beverages in the Facility.

Council approved an Assignment to the License Agreement December 4, 2014 approving the assignment of the use of the Facility to a new food establishment entity.

The Owner of the two parcels of real estate that enjoy the benefits of the License Agreement, now intends to sell one of the parcels. The current License Agreement needs to be amended in order for the Buyer to have use of the Facility. This Amendment No. 3 provides a process that allows the License Agreement to transfer to the Buyer of the real estate, and includes the following contributions by the Buyer: 1. Provide portable restrooms for up to 5 City events each year in National Oak Park at Buyer's cost; 2. Provide 100 hours of volunteer community service per year in favor of the City park; 3. Provide live music and entertainment for an annual concert at the City Park at Buyer's cost; 4. Buyer will donate a caboose on loan to the City Park to enhance the Depot district. This Amendment also includes a provision for "sub-licensing" to tenants with Council approval under the same terms and conditions of the License Agreement.

Although I prefer an entirely new License Agreement due to the change in ownership of one of the properties, this Amendment will allow the parties to sell/buy within their desired closing date. A new License Agreement will be submitted to Council in the near future clarifying all the terms in a single document.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A
Account Number: _____ **Amount:** _____ **1295 Form Required?** Yes ___ No
Legal Review Required: N/A ___ Required **Date Completed:** June 13, 2016

Supporting documents attached:

- Amendment No. 3 to Development and License Agreement with Alvin Restaurant Group, Inc. dba The Barbed Rose Steakhouse and Seafood Co. with Exhibits

Recommendation: Move to approve Amendment No. 3 to the Development and License Agreement with Alvin Restaurant Group, Inc. dba The Barbed Rose Steakhouse and Seafood Co. and authorize the City Manager to sign.

Reviewed by Department Head, if applicable
Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable
Reviewed by City Manager

AMENDMENT NO. 3 TO
DEVELOPMENT AND LICENSE AGREEMENT
WITH THE ALVIN RESTAURANT GROUP, INC. dba
THE BARBED ROSE STEAKHOUSE AND SEAFOOD CO.

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

THIS AMENDMENT NO 3 to the DEVELOPMENT AND LICENSE AGREEMENT is entered into as of this the ____ day of June 2016, by and between the City of Alvin, Texas (the “City”) and The Alvin Restaurant Group, Inc. d/b/a The Barbed Rose Steakhouse and Seafood Co. (the “Developer”).

WHEREAS, the City and the Developer entered into an unassignable Development and License Agreement dated June 22, 2010, (attached hereto as “Exhibit 1”) to enhance the uses of the National Oak Park (the “Property”) allowing the Developer to construct a parking lot (the “Lot”) and a cooler/storage facility (the “Facility”), and encourage the licensing of the Facility for storage and use of a cooler unit, which shall be used to enhance The Barbed Rose Steakhouse and Seafood Co. Restaurant (the “Restaurant”) and therefore further enhanced the amenities for patrons of the Property;

WHEREAS, the City and the Developer entered into an Amendment No 1 to Development and License Agreement with The Alvin Restaurant Group, Inc. d/b/a The Barbed Rose Steakhouse and Seafood Co. dated January 6, 2011 (attached hereto as “Exhibit 2”) amending the parties agreement regarding the improvements to the Property and restricting leveraging the property as collateral;

WHEREAS, the City and the Developer entered into an Amendment No 2 to Development and License Agreement with The Alvin Restaurant Group, Inc. d/b/a The Barbed Rose Steakhouse and Seafood Co. dated December 4, 2014 (attached hereto as “Exhibit 3”) amending the definition of “Restaurant” to include an expanded scope of real estate, making the Agreement assignable to tenants of the Developer upon Council approval, and clarifying the prohibition of storage of alcoholic beverages in the Facility;

WHEREAS, the Developer desires to sell the property upon which the Restaurant(s) sit and the City desires to obtain additional benefits from the Developer’s successors in interest;

WHEREAS, this Amendment is necessary to adopt revisions to the Agreement due to the mutual desire of the City and the Developer to receive additional benefits; and

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BRAZORIA §

DEVELOPMENT AND LICENSE AGREEMENT

This Development and License Agreement (collectively called the "Agreement") is entered into as of the 22nd day of June, 2010, by and between the City of Alvin, Texas, a home-rule city (the "City") and the Alvin Restaurant Group, Inc., dba The Barbed Rose Steakhouse and Seafood Co., a Texas Corporation (the "Developer").

RECITALS

Developer has proposed to the City the construction of a parking lot (the "Lot") and a cooler/storage facility (the "Facility") to be located on National Oak Park (the "Property").

City is the owner of the Property located in Alvin, Texas.

To enhance the use of the Property, the City desires to allow the Developer to construct the Lot and Facility (collectively called the "Improvements") on the Property. The City also desires to encourage the licensing of the Facility located on the Property by Developer for storage and use of a cooler unit, which shall be used to enhance The Barbed Rose Steak and Seafood Co. (the "Restaurant") and therefore further enhance the amenities available for patrons of the Property.

Additionally, the Developer agrees to provide access from the Property to the outdoor patio portion of the Restaurant and provide concessions for walk-up customers from the Property, thus further enhancing the amenities available for patrons of the Property. The City does therefore find these Improvements to be a benefit to the patrons of the Property.

The purpose of this Agreement is to set forth the general terms and conditions of the construction and development of the Improvements, and also set forth the general terms and conditions for the license granted Developer for exclusive use of the Facility.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I STATUS OF TITLE

The parties acknowledge that the City is and shall remain the owner of the Property, more fully described in **Exhibit "A"** (commonly referred to as "National Oak Park"). Developer acknowledges and agrees that it does not now have, and never shall have, title to the Property and any Improvements made thereto; provided however, upon termination or expiration of the License Agreement, Developer shall be allowed to remove items considered to be non-fixtures, such as but not limited to the cooler unit as further outlined in this Agreement.

After construction of the Improvements, the parties intend that fee title to the Improvements shall vest in the City, regardless of a License Agreement granted to Developer for exclusive use of the Facility.

ARTICLE II ACCESS TO THE PROPERTY

The City does hereby grant access to Developer on the Property, to construct the Improvements as proposed and further described in **Exhibit "B"** and to be located on the Property.

ARTICLE III DEVELOPMENT AND CONSTRUCTION OF THE IMPROVEMENTS

Subject to the terms and conditions of this Agreement, Developer shall undertake and be responsible for the development and construction of the Improvements. The Developer agrees to

construct all of the Improvements on a concurrent timeframe and complete the construction of all Improvements within ninety (90) days from the date of execution of this Agreement. If the Improvements are not completed within ninety (90) days from the date of execution of this Agreement, unless City Council otherwise agrees to an extension of such timeframe, the City may terminate the License Agreement in accordance with Article X of this Agreement. The Improvements shall be designed and constructed in accordance with, and subject to all applicable City of Alvin site development standards, landscaping standards, parking standards, standards for access, drainage standards, permitting requirements, and all other applicable regulations for the City of Alvin. Developer shall choose the architect, engineer, and/or other members of the design team of the Improvements. Developer shall submit to the City a copy of the preliminary construction plans and specifications with respect to the Improvements. Developer shall consult with the City regarding such plans and specifications. The Improvements shall be constructed in accordance with the plans and specifications submitted to and approved by the City. City approval shall be based upon the Improvements meeting the terms of this Agreement; applicable City building codes; and other applicable laws and regulations.

Developer shall determine the general contractor for construction of the Improvements. Developer shall comply with applicable laws with regard to the construction of the Improvements. In particular, but without limiting the generality of the foregoing, no provision of this Agreement shall relieve Developer from the obligation to obtain appropriate building permits from the City and to comply with all applicable construction codes of the City in construction of the Improvements. Developer shall further comply with all subdivision ordinances, flood, disaster, and environmental protection laws, federal, state and city laws, rules and regulations, and other laws applicable to construction of the Improvements. The City agrees to grant a building permit if the Improvements are proposed to be constructed in accordance with the City's building code and all other applicable laws, and in compliance with the plans and specifications submitted by Developer and approved by the City.

The City shall have the right, but not the obligation, to review construction activities regarding the Improvements so long as such review does not substantially delay or interfere with construction activities. This section does not limit nor restrict the authority of the City to inspect

construction in accordance with applicable laws and ordinances. A review by the City shall not make the City liable for any construction activities whatsoever.

The City Manager or his designee shall have the authority to act on behalf of the City with regard to any approvals or decisions required by the City. Developer shall designate a similar representative.

ARTICLE IV FINANCING

Developer shall be solely responsible for completing construction of the Improvements at its own cost and expense. Developer **shall not** have the right to pledge or otherwise encumber the Improvements or Developer's rights under this Agreement.

ARTICLE V LIENS AND ENCUMBERANCES

The City expressly **denies** Developer the right and privilege to encumber, by lien, deed of trust, security interest, easement or other method, any of Developer's rights hereunder, including the fee title to the Improvements and/or the Property. Any agreements to subordinate the fee title of City to the Improvements and/or the Property shall not be binding upon the City or in any way constitute an obligation of the City. The parties intend by this Paragraph to prohibit Developer from encumbering Developer's rights hereunder; fee title to the Improvements; and prohibit any encumbrance by Developer of the fee title of the City to the Property. Prior to acceptance of the Improvements, the City shall require the Developer to provide subrogation letters or release of lien statements by all applicable lienholders as it relates to all Improvements and the Property.

ARTICLE VI ASSIGNMENT

Developer may not assign this Agreement. It is agreed by and between the parties hereto that under no condition and under no circumstances shall there be any pledge or assignment of this Agreement.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER

Developer hereby warrants and represents to the City the following:

1. Developer is duly authorized to conduct business in Texas. The execution and delivery and performance by Developer of this Agreement are within Developer's powers and have been duly authorized by all necessary action of Developer. Neither the execution and delivery of this Agreement nor the consummation of any of the transactions contemplated therein will contravene the organizational documents of Developer, or to Developer's knowledge, any provision of law, statute, rule or regulation to which Developer is subject, or any judgment, decree, license, order, or permit applicable to Developer or will conflict or be inconsistent with, or result in the breach of any of the terms of, any agreement to which Developer is a party or by which Developer is bound.

2. This Agreement is the legal, valid, and binding obligation of Developer enforceable against Developer in accordance with its terms except as limited by applicable debtor relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization, or similar laws affecting the rights or remedies of creditors generally as in effect from time to time. Developer warrants that there is no action, proceeding, inquiry, or investigation before any court or other governmental entity pending or threatened against Developer concerning the validity of any action to be taken by Developer pursuant to this Agreement or seeking to prohibit, restrain, or enjoin the execution, delivery, or performance by Developer of this Agreement or which would adversely affect the financial position of Developer or its ability or authority to carry out the terms hereof. Developer is not in any default in the performance, observation, or fulfillment of any of the obligations contained in any material agreement or instrument to which Developer is a party.

3. Neither this Agreement nor any other written statement delivered by Developer to the City contains any untrue statement of a material fact or omits to state any material fact necessary to keep the statements contained herein or therein, in light of the circumstances in which they were made, from being misleading. There is no fact known to Developer not disclosed to the City and which could adversely affect the execution, delivery, or performance of this Agreement by Developer. With the sole exception of building permits, certificates of occupancy, and other such governmental approvals which Developer expects to obtain in the ordinary course of business, there is no consent necessary to the construction of the Improvements, which Developer has not obtained; provided, this representation in no event excuses Developer from the duty to comply with all applicable laws.

**ARTICLE VIII
REPRESENTATIONS AND WARRANTIES OF THE CITY**

City warrants and represents to Developer as of the date hereof:

1. The City is a Texas home-rule city duly organized under the laws of the State of Texas. The execution and delivery and performance by the City of this Agreement are within the City's powers and have been duly authorized by all necessary action of the City. Neither the execution and delivery of this Agreement nor the consummation of any of the transactions contemplated therein will contravene the organizational documents of the City, or to the City's knowledge, any provision of law, statute, rule or regulation to which the City is subject, or any judgment, decree, license, order, or permit applicable to the City or will conflict or be inconsistent with, or result in the breach of any of the terms of, any agreement to which the City is a party or by which the City is bound.
2. This Agreement shall be the legal, valid, and binding obligations of the City enforceable against the City in accordance with its respective terms except as limited by applicable debtor relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization, or similar laws affecting the rights or

remedies of creditors generally as in effect from time to time. The City warrants that there is no action, proceeding, inquiry, or investigation before any court or other governmental entity pending or threatened against the City concerning the validity of any action to be taken by the City pursuant to this Agreement or seeking to prohibit, restrain, or enjoin the execution, delivery, or performance by the City of this Agreement or which would adversely affect the financial position of the City or its ability or authority to carry out the terms of this Agreement. Neither this Agreement nor any other written statement delivered by the City to Developer contains any untrue statement of a material fact or omits to state any material fact necessary to keep the statements contained herein or therein, in light of the circumstances in which they were made, from being misleading. There is no fact known to the City not disclosed to Developer and which could adversely affect the execution, delivery, or performance of this Agreement.

3. In connection with all utility services whether provided by the City or by other utility companies, Developer shall be responsible for bringing any such utilities to the Facility.

ARTICLE IX TITLE TO IMPROVEMENTS

Upon completion of construction of the Improvements, title to the Improvements shall vest in the City. Developer shall execute any appropriate legal documents to evidence the transfer of the title to the Improvements from Developer to the City.

ARTICLE X LICENSE AGREEMENT

After Developer has satisfied the development requirements of this Agreement and the City accepts the Improvements, the City shall grant a license to Developer for exclusive use of the Facility for storage and cooler purposes. As of the date of acceptance of the Improvements, the City shall grant Developer a license for ten (10) years, with an option for two (2) renewal periods of ten

(10) years each. In order for Developer to exercise an option for renewal, Developer must notify the City of its intention to renew the license at least thirty (30) days prior to the expiration of any such term. The City may terminate the License Agreement at any time if any of the following conditions occur:

1. Developer fails to complete the construction of all Improvements within ninety (90) days from the date of execution of this Agreement, unless such timeline is extended by City Council.
2. Developer ceases to own and/or operate the Restaurant, unless a successor and/or assign is authorized by the City,
3. Developer ceases to use the Facility for storage and cooler purposes,
4. Developer fails to maintain the Facility and/or the Lot in accordance with the City's rules and regulations,
5. The City determines that the use of the Facility exclusively by Developer is inconsistent with an authorized use for park purposes, or
6. The City determines, at its sole discretion, that it is not in the best interest of the public to continue the License Agreement with Developer.

If the City terminates this License Agreement in accordance with this Section, Developer may remove any non-fixtures, including but not limited to the portable cooler facility, upon final authorization by the City. Any non-fixtures removed in accordance with this Section must be removed within thirty (30) days of the date the License Agreement terminates. Otherwise, all non-fixtures become property of the City. Any and all fixtures and permanent improvements, including but not limited to the Lot and the remainder of the Facility, shall remain part of the Property owned in fee title by the City.

ARTICLE XI GIFTS TO THE CITY

All improvements constructed by Developer to the Property are a gift to the City of Alvin for the benefit and enhancement of National Oak Park; and are therefore considered, along with the use of such Improvements in conjunction with the adjoining Restaurant an additional amenity

available to the National Oak Park patrons.

**ARTICLE XII
RIGHTS UPON TERMINATION**

Should this Agreement be terminated, unless otherwise provided for in Article X above, title to all Improvements located on Property shall vest in the City.

**ARTICLE XIII
DEFAULT AND BREACH OF THIS AGREEMENT**

Developer and the City will give prompt written notice to the other party when either party becomes aware of the occurrence or failure to occur, or the impending or threatened occurrence or failure to occur, of any fact or event that would cause any of its representations or warranties contained in this Agreement to be untrue or the failure by such party to perform any of its obligations contained in this Agreement. If either party desires to bring action against the other party for the breach of this Agreement, it shall deliver a written notice to the other party of the reason for such decision, specifying the factual basis therefore in reasonable detail. The party receiving such notice may cure the alleged breach within thirty (30) days following receipt of the notice; provided however, this shall not encumber the City's ability to terminate all or part of this Agreement at its sole discretion, in accordance with the terms of this Agreement.

**ARTICLE XIV
FORCE MAJEURE**

The obligations of Developer hereunder and of the City shall be suspended during any period of Force Majeure. The term "Force Majeure" shall mean any cause beyond the control of Developer or the City, including, but not restricted to, flood, earthquake, storm, fire, lightning, epidemic, war, acts of the public enemy, riot, civil disturbance or disobedience, strike, lockout, work stoppages, other industrial disturbance or dispute, whether determined to have arisen out of an unfair labor practice of any party hereto, labor or material shortage, sabotage, restraint by court order or other public authority, and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by the exercise of

due diligence such party could not reasonably have been expected to avoid. Nothing contained herein shall be construed so as to require a party to settle any strike lockout, work stoppage, or other industrial disturbance or dispute in which it may be involved. Any party rendered unable to fulfill any of its obligations under this Agreement by reason of uncontrollable force shall exercise due diligence to remove such inability with all reasonable dispatch.

**ARTICLE XV
SEVERABILITY**

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of each such deleted provision, there shall be added automatically as part of this Agreement a provision as similar in terms and substance to such deleted provision as may be possible and yet be legal, valid and enforceable.

**ARTICLE XVI
ATTORNEYS' FEES**

If, on account of any breach or default by the City or Developer of their obligations to the other party hereto under the terms, conditions or covenants of this Agreement, it shall become necessary for either party hereto to engage an attorney, or to use an attorney employed by either party, to enforce and defend any of its rights or remedies hereunder and should such party prevail, such prevailing party shall be entitled to any reasonable attorneys' fees, costs or expenses incurred by such party in connection herewith.

**ARTICLE XVII
SUCCESSORS**

If authorized by the City, this Agreement shall be binding upon the successors and assigns of the parties hereto.

**ARTICLE XVIII
AMENDMENTS**

This Agreement may be amended at any time, but only by a written instrument signed by both Developer and the City.

**ARTICLE XIX
MEDIATION**

In the event of any dispute hereunder, the parties shall first resort to mediation, to be held in Alvin, Texas, before a mediator or mediators acceptable to the parties and in accordance with Chapter 154 of the Texas Civil Practice and Remedies Code.

**ARTICLE XX
MISCELLANEOUS**

The City and Developer shall execute such further assurances, in writing, as are necessary to carry out the intent and purposes of this Agreement.

The laws of the State of Texas shall govern this Agreement. Venue on any dispute arising out of this agreement shall be in Brazoria County, Texas, and the place where performance is primarily to occur.

Neither the consummation of the transactions contemplated in this Agreement, the delay or omission of a party to exercise any of its rights hereunder, nor any investigation or disclosure of any party, shall affect the liability of the parties to one another for breaches of this Agreement or prevent any party from relying upon the representations and warranties made in this Agreement.

This Agreement including all exhibits or schedules constitutes the full and entire understanding and agreement between the parties and supersedes any prior or contemporaneous written or oral agreements between the parties. Except as expressly provided in this Agreement, it

may not be amended, waived, discharged, or terminated except by a written instrument signed by both parties.

Notices shall be in writing mailed by first-class mail, telecopied, or delivered by messenger, or overnight courier and shall be deemed given when received at the address of the parties set forth below.

If, to the City:

City of Alvin
216 West Sealy
Alvin, Texas 77511
Attention: City Manager

With a copy to:

City of Alvin
216 West Sealy
Alvin, Texas 77511
Attention: City Attorney

If, to the Developer:

THE JOSEPH SCHNEIDER
13802 COUNTY RD 185
ALVIN, TX 77511
Attention: _____

With a copy to:

Attention: _____

Nothing in this Agreement is intended to create any partnership or joint venture between the parties, and any implication to the contrary is expressly disapproved. This Agreement does not

create a joint enterprise of any kind and does not appoint either party as an agent of the other for any purpose whatsoever. Neither party shall in any way assume any liability of the other for the acts of the other or obligations of the other. In particular, the City shall have no liability whatsoever with regard to the Improvements until title has passed to the City.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

No member of the City Council, officer, official, agent, or employee of the City shall have personal liability whatsoever pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of June 22nd 2010, to be effective from and after such date.

ATTEST:

BY: Thomas M. Peebles
Tommy Peebles
City Clerk

THE CITY OF ALVIN, TEXAS

BY: Gary Appelt
Gary Appelt
Mayor

ATTEST:

BY: Sarah Chaney

The Alvin Restaurant Group, Inc. dba
The Barbed Rose Steakhouse & Seafood Co.

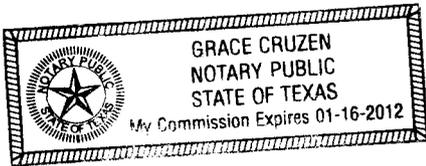
BY: [Signature]

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared Gary Appelt, Mayor of The City of Alvin, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 1 day of July, 2010.



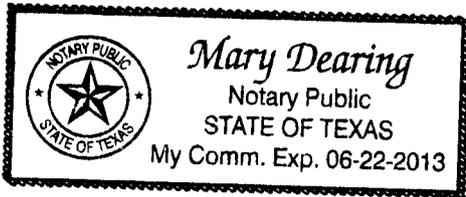
Grace J
Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared Joseph Schneider, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 28 day of June, 2010.



Mary Dearing
Notary Public in and for the State of Texas

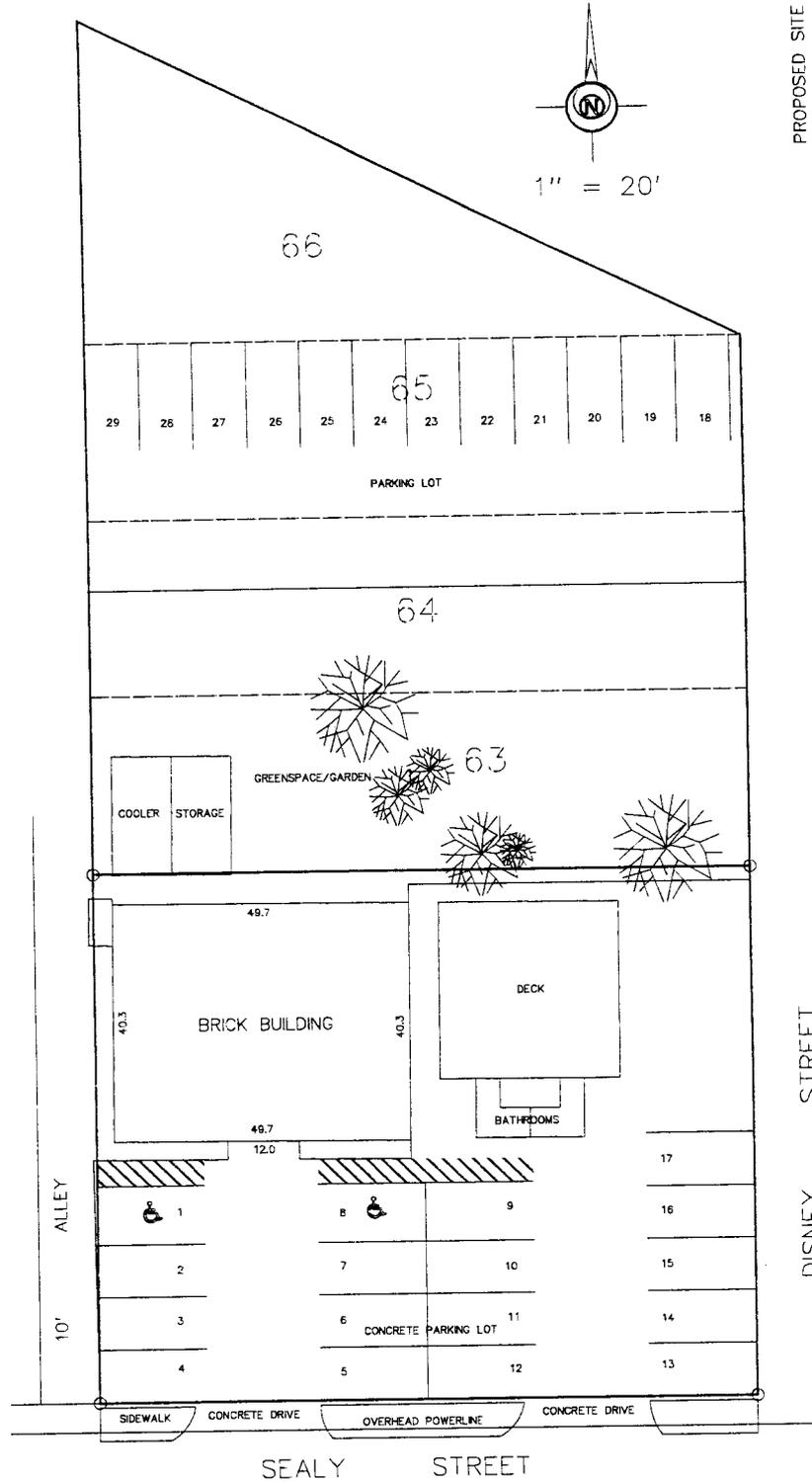
Exhibit "A"

National Oak Park Property

Lots 63, 64, 65, and 66 of Leclere's Addition to Alvin No. 1, according to the plat as recorded in Volume 5, Page 49, Deed Records, Brazoria County, Texas

PROPOSED SITE PLAN
 THE BARBED ROSE STEAKHOUSE
 AND SEAFOOD COMPANY

CONTACT: PATRICK BURFORD
 281.850.1577
 113 E. SEALY
 ALVIN, TX 77511



PROPOSED SITE PLAN
 THE BARBED ROSE STEAKHOUSE AND SEAFOOD COMPANY

JUNE 21, 2010

NOW, THEREFORE, for and in consideration of the premises and mutual benefits and agreements hereafter set forth, the City and the Developer agree to amend the Agreement as follows:

**“ARTICLE VI
ASSIGNMENT**

The Developer (“Assignor”), at its option, upon Council approval, may assign this Agreement to a lessee (“Assignee”) and/or a purchaser of the Developer’s land (i.e., the Eligible Property described by Amendment No. 2) for as long as the Assignee performs all of the following:

- a) Provides portable restrooms for up to five (5) City events each year at the adjoining park, at Assignee’s cost;
- b) Volunteers 100 hours of community service per year in favor of the City park;
- c) Provides live music and entertainment for an annual concert, at Assignee’s costs, at the City park on a mutually determined date;
- d) Will donate a caboose on loan to City Park to enhance the depot district.

**“ARTICLE X
LICENSE AGREEMENT**

The City grants a license to Developer, and its successors in interest, for exclusive use of the Facility for any lawful purpose, including but not limited to storage, heating and cooling, cooking purposes, but specifically excluding the storage of alcoholic beverages as prohibited by Section 16½ - 22 of the City’s Code of Ordinances. The Developer, and its successors in interest, may create a sub-license of this License in favor of tenants of the Facility so long as any sub-license contains the same terms and restrictions as the License between the City and Developer. Any sub-license of this License by Developer or its successors in interest requires council approval to create an authorized use of the Facility.

***”

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of which shall be deemed to be an original, as of the Effective Date of this Amendment.

THE CITY OF ALVIN, TEXAS

By: _____
Sereniah Breland, City Manager

ATTEST:

By: _____
Dixie Robert, City Clerk

The Alvin Restaurant Group, Inc. dba
The Barbed Rose Steakhouse & Seafood Co.

By: _____
Joseph S. Schneider
("Developer/Assignor")

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared Joseph S. Schneider, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of June, 2016.

Notary Public in and for the State of Texas

**AMENDMENT NO. 1 TO
DEVELOPMENT AND LICENSE AGREEMENT
WITH THE ALVIN RESTAURANT GROUP, INC. dba
THE BARBED ROSE STEAKHOUSE AND SEAFOOD CO.**

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

This Amendment No. 1 (the "Amendment") to the Development and License Agreement (collectively called the "Agreement") is made and entered into as of the 6th day of January 2011 (the "Effective Date"), by and between the City of Alvin, Texas (the "City"), and the Alvin Restaurant Group, Inc. dba The Barbed Rose Steakhouse and Seafood Co., a Texas Corporation (the "Developer").

WHEREAS, the City and the Developer entered into the Agreement, dated June 16, 2010, to enhance the use of National Oak Park (the "Property") by allowing the Developer to construct a parking lot (the "Lot") and a cooler/storage facility (the "Facility"), and encourage the licensing of the Facility for storage and use of a cooler unit, which shall be used to enhance The Barbed Rose Steakhouse and Seafood Co. Restaurant (the "Restaurant") and therefore further enhance the amenities available for patrons of the Property; and

WHEREAS, this Amendment is necessary to adopt revisions to the Agreement due to the mutual desire of the City and the Developer; and

NOW, THEREFORE, for and in consideration of the premises and mutual benefits and agreements hereafter set forth, the City and the Developer agree to amend the Agreement as follows:

1.

The Developer completed construction of the Facility pursuant to the terms of the Agreement. This Amendment refers solely to the development and construction of the Lot Improvement. The Agreement is hereby amended by deleting ARTICLE III and ARTICLE IV provisions of the Agreement as they relate to the Lot Improvement and adding the following to replace the deletions, to provide as follows:

**“ARTICLE III
DEVELOPMENT AND CONSTRUCTION OF THE IMPROVEMENTS**

Subject to the terms and conditions of this Agreement, Developer shall be responsible for the payment of the construction cost (see revised plan attached hereto as **Exhibit “B-1”** and the overall site plan on **Exhibit “B-2”** and made a part of this Amendment No. 1 and the original Agreement hereof). The revised plan provides for additional paving to accommodate more parking spaces on the Lot. The Developer agrees to be responsible for making payment to the City for the cost of construction associated with the parking lot as identified on **Exhibit “C”**. The City shall provide the design for the Lot Improvement as depicted on **Exhibit “B-1”**. The Lot Improvement shall be designed and constructed in accordance with, and subject to all applicable City of Alvin site development standards, landscaping standards, parking standards, standards for access, drainage standards, permitting requirements, and all other applicable regulations for the City of Alvin. The Lot Improvement shall be constructed in accordance with the plans and specifications approved by the City. City approval shall be based upon the Lot Improvement meeting the terms of this Amendment to the Agreement; applicable City building codes; and other applicable laws and regulations.

The City agrees to provide the storm water drainage system for the Lot Improvement including the system’s design, engineering and cost in accordance with all applicable regulations for the City of Alvin.”

**“ARTICLE IV
FINANCING**

Developer shall be responsible for the construction costs of the Lot Improvement as stated above. Upon the City’s inspection and acceptance of the Lot Improvement, the City will deliver an invoice for the Lot Improvement to the Developer. The Developer shall pay the City for the Lot Improvement construction costs within 15 days of receipt of the invoice. Developer **shall not** have the right to pledge or otherwise encumber the Lot Improvements or Developer’s rights under this Agreement.”

2.

The Agreement is hereby further amended by deleting Exhibit “B” in the original Agreement and substituting the revised **Exhibits “B-1 & B-2,”** which are attached hereto and made a part hereof.

3.

The amendments to the Agreement affected by this Amendment No. 1 shall not lessen, forgive, or excuse any obligation of any of the parties hereto accruing under the Agreement prior to the execution of this Amendment.

4.

This Amendment shall be governed by, and interpreted and construed according to, the laws of the State of Texas. The venue of any action or proceeding relating to this Amendment shall be in Brazoria County, State of Texas.

5.

This Amendment shall be subject to change or modification only with the written mutual consent of each of the parties hereto.

6.

As modified hereby, the terms and provisions of the Agreement shall remain in full force and effect. In the event of any conflict between the Agreement and this Amendment, this Amendment shall control.

7.

The provisions of this Amendment are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Amendment or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Amendment and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Amendment to other persons or circumstances shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of which shall be deemed to be an original, as of the Effective Date of this Amendment No. 1 hereof.

ATTEST:

THE CITY OF ALVIN, TEXAS

BY: Thomas W. Peebles
Thomas W. Peebles, City Clerk

BY: Gary Appelt
Gary Appelt, Mayor

ATTEST:

The Alvin Restaurant Group, Inc. dba
The Barbed Rose Steakhouse & Seafood Co.

BY: [Signature]

BY: [Signature]

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared Gary Appelt, Mayor of The City of Alvin, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 7th day of January, 2011.



Diane Harper
Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared JOSEPH S. SCHNEIDER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 11th day of January 2011.



Diane Harper
Notary Public in and for the State of Texas

Exhibit "B-1"

**National Oak Park Parking Lot (the "Property")
Revised Plan**



2. PARKING LOT

EXHIBIT
B-1

2. SLAB

IRICK BLDG.

Exhibit "B-2"

**National Oak Park Parking Lot (the "Property")
Revised Plan**

Site Plan of Depot Centre and National Oak Park

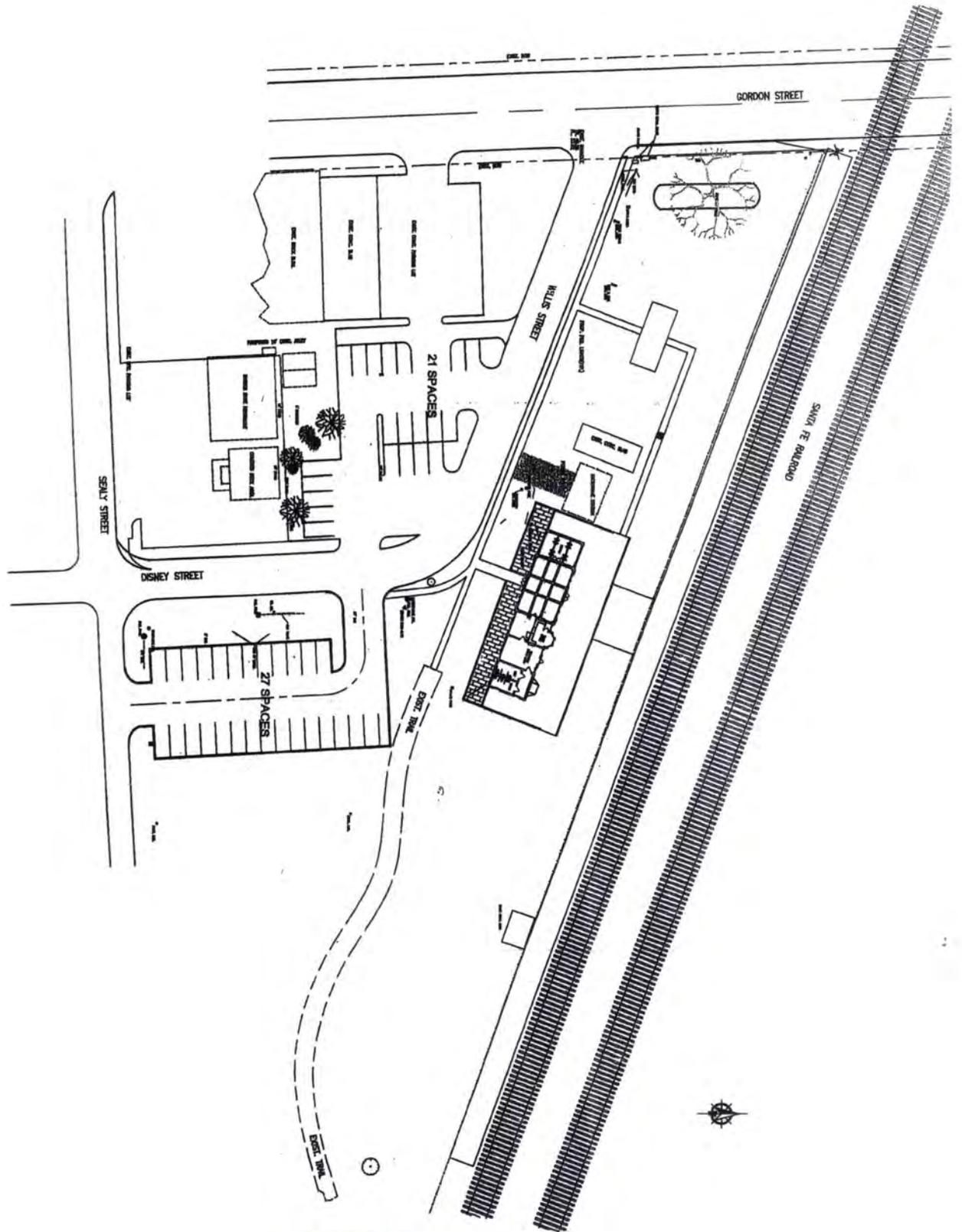


EXHIBIT
B-2

Exhibit "C"

**Pre-Bid Cost Estimates
National Oak Park Parking Lot (north of the Restaurant)**

PRE-BID COST ESTIMATES
November 15, 2010

National Oak Park Parking Lot (north of Restaurant)

(Area B on the Plan)

*1. 6" Concrete Pavement	1300 SY	@ \$55.00	Total \$ 71,500.00
*2. 6" Concrete Curb	525 LF	@ \$10.00	Total \$ 5,250.00
*3. Striping	LS	@ \$1,500.00	Total \$ 1,500.00
*4. Excavation	425 CY	@ \$9.00	Total \$ 3,825.00
*5. Mobilization	LS	@ \$1,000.00	Total \$ 1,000.00
*6. Lime Stabilization	1300 SY	@ \$6.50	<u>Total \$ 8,450.00</u>
		Restaurant Owner Subtotal	\$ 91,525.00

7. 18" RCP	200 LF	@ \$35.00	Total \$ 7,000.00
8. Type "A" Inlet 3 Ea.	3 EA	@ \$1,500.00	Total \$ 4,500.00
9. Storm Sewer Manhole	1 EA	@ \$3,000.00	<u>Total \$ 3,000.00</u>
		City's Subtotal	\$ 14,500.00
		TOTAL	\$ 106,025.00
		10% contingency	<u>\$ 10,602.50</u>
		GRAND TOTAL	<u>\$ 116,627.50</u>

* To be paid by Restaurant Owner per Amendment No. 1 to Development Agmt (approx. \$91,525)

EXHIBIT

C

**AMENDMENT NO. 2 TO
DEVELOPMENT AND LICENSE AGREEMENT
WITH THE ALVIN RESTAURANT GROUP, INC dba
THE BARBED ROSE STEAKHOUSE AND SEAFOOD CO.**

**STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §**

This Amendment No. 2 (the "Amendment 2") to the Development and License Agreement (collectively called the "Agreement") is made and entered into as of the ____ day of December, 2014 (the "Effective Date"), by and between the City of Alvin, Texas (the "City") and the Alvin Restaurant Group, Inc., dba The Barbed Rose Steakhouse and Seafood Co., a Texas Corporation (the "Developer").

WHEREAS, the City and Developer entered into the Agreement, dated June 16, 2010, to enhance the use of National Oak Park (the "Property") by allowing the Developer to construct a parking lot (the "Lot") and a cooler/storage facility (the "Facility"), collectively called the "Improvements," and encourage the licensing of the Facility for storage and use of a cooler unit, which shall be used to enhance The Barbed Rose Steakhouse and Seafood Co. Restaurant (the "Restaurant") and therefore further enhance the amenities available for patrons of the Property; and

WHEREAS, this Amendment 2 is necessary to adopt revisions to the Agreement due to the mutual desire of the City and the Developer; and

NOW, THEREFORE, for and in consideration of the premises and mutual benefits and agreements hereafter set forth, the City and the Developer agree to amend the Agreement as follows:

1.

The Agreement was entered into for the purpose of enhancing the Restaurant and therefore further enhancing the amenities available for patrons of the Property. The Developer now owns another commercial building adjacent to the Property and the Restaurant, which is currently being

utilized for restaurant and food establishment purposes. The City desires to expand the amenities available to patrons of the Property by extending the licensing and use of the Improvements to adjacent properties owned now or in the future by the Developer that will be utilized for restaurant and food establishment purposes, while precluding the storage of alcoholic beverages (as such term is defined by the Texas Alcoholic Beverage Code) on such Property. For these stated reasons, the Agreement is hereby amended by expanding the scope of the old term "Restaurant" to now include additional property under the new term "Eligible Property," by deleting and creating a new third paragraph in the "RECITALS," and by providing a procedure for assignment of the Agreement, by deleting and creating a new "ARTICLE VI ASSIGNMENT", and by adding a condition for termination of the Agreement by prohibiting the storage of alcoholic beverages at the "Facility"; with all three amendments to provide as follows:

1. First Amendment to the Agreement:

"RECITALS

*** * ***

To enhance the use of the Property, the City desires to allow the Developer to construct the Lot and Facility (collectively called the "Improvements") on the Property. The City also desires to encourage the licensing of the Facility located on the Property by Developer for storage and use of a cooler unit, which shall be used to further enhance the old The Barbed Rose Steak and Seafood Co. property or any other adjacent property owned by the Developer, including property being leased from the Developer when the Developer/Lessor of such property has obtained a City Council approved Assignment in accordance with Article VI of this Agreement, and so long as any of the above mentioned property is being utilized as a restaurant and/or food establishment (the "Eligible Property") and therefore further enhances the amenities available for patrons of the Property."

2. Second Amendment to the Agreement:

**“ARTICLE VI
ASSIGNMENT**

After consideration and approval by City Council, the Developer (“Assignor”) may assign this Agreement to a lessee (“Assignee”) of property considered an Eligible Property for use of the Improvements, as provided for in the Recitals of this Agreement, and so long as such property is being utilized for restaurant and/or food establishment purposes. If any such assignment of this Agreement is approved by City Council, the Assignee shall enjoy all the rights and obligations of the Developer/Assignor provided for in this Agreement.”

3. *Third Amendment to the Agreement:*

**“ARTICLE X
LICENSE AGREEMENT**

* * *

7. Developer unlawfully stores any alcoholic beverage at the Facility, in violation of the City’s Park Director Rules and Regulations concerning the use of City Parks, as prescribed by Section 16½ -22 of the City’s Code of Ordinances.”

2.

The amendments to the Agreement affected by this Amendment No. 2 shall not lessen, forgive, or excuse any obligation of any of the parties hereto accruing under the Agreement prior to the execution of this Agreement.

3.

This Amendment shall be governed by, and interpreted and construed according to the laws of the State of Texas. The venue of any action or proceeding relating to this Amendment shall be in Brazoria County, Texas.

4.

This Amendment shall be subject to change or modification only with the written mutual consent of each of the parties hereto.

5.

As modified hereby, the terms and provisions of the Agreement shall remain in full force and effect. In the event of any conflict between the Agreement and this Amendment, this Amendment shall control.

6.

The provisions of this Amendment are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Amendment or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Amendment and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Amendment to other persons or circumstances shall not be affected thereby.

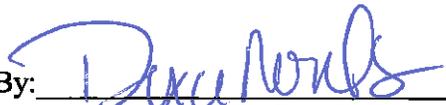
IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of which shall be deemed to be an original, as of the Effective Date of this Amendment No. 2 hereof.

THE CITY OF ALVIN, TEXAS

BY: 

Paul A. Horn, Mayor

ATTEST:

By: 

Dixie Roberts, City Clerk

The Alvin Restaurant Group, Inc. dba
The Barbed Rose Steakhouse & Seafood Co.

BY: 
Joseph S. Schneider
("Developer/Assignor")

ATTEST:

BY: 
Printed Name: Joseph S. Schumm

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared **Paul A. Horn, Mayor of the City of Alvin, Texas**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 16 day of December, 2014.



Dixie Roberts

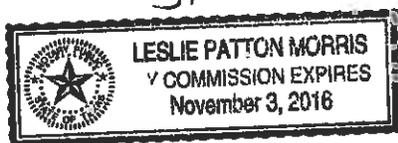
Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared **Joseph S. Schneider**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 9th day of ~~December, 2014.~~
January, 2015



Leslie P. Morris
Notary Public in and for the State of Texas



AGENDA COMMENTARY

Meeting Date: 6/16/2016

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Consider bid award to Mar-Con Services, LLC for the construction of the Mustang Road Improvement Project in an amount not to exceed \$1,102,780.46, which includes the alternate bid item; and authorize City Manager to sign contract upon legal review.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: On May 31, 2016 bids were opened for the Mustang Road Improvement Project and Mar-Con Services LLC. was the qualified low bidder. The Engineering Department has worked with this contractor before and was highly satisfied with the work performed.

Project Budget:	\$1,500,000.00	
Contract Amount:	\$1,011,872.50	
Alternate Bid Item:	\$38,394.60	(Construction of a new sidewalk along the west side of the road)
5% Contingency:	\$52,513.36	
Total Amount:	\$1,102,780.46	(Project is \$397,219.54 below budget)

The project consists of the removal and replacement of concrete pavement, curb, driveways, sidewalk, storm sewer pipe, inlets, and manholes along the existing alignment of Mustang Road from S. Gordon Street to Bypass 35. The existing Mustang Road intersection with S. Gordon Street will be permanently closed and relocated 650 feet south on currently vacant property that was acquired by the City of Alvin in 1999. This project has been in design for the past three years and has been in the planning stage since 2003.

On January 7, 2016 a City Council workshop was held to discuss the project, as well as, to hear concerns from a resident that lives along Mustang Road regarding the plan to construct a new sidewalk along the west side of the roadway as a part of this project. The Council discussed the proposed sidewalk and the intersection realignment at length and direction was given to staff to bid the sidewalk along the west side of the road as an alternate item that could be included or removed at Council's discretion at the time of bid award.

The Mustang Road and S. Gordon intersection is being relocated in an effort to ease traffic congestion at the S. Gordon and South Street signal controlled intersection. This relocation has been approved/permitted by the Texas Department of Transportation (TXDOT).

The project is scheduled to start in early July and has a construction time of 180 days.

The \$397,219.54 in excess funds will remain in the Sales Tax Fund, to be used for future street improvements.

Funding Expected: Revenue ___ Expenditure X N/A ___ **Budgeted Item:** Yes X No ___ N/A ___

Account Number: 312-5501-00-9063 **Amount:** \$1,102,780.46 **1295 Form Required?** Yes X No ___

Legal Review Required: N/A ___ Required X **Date Completed:** June 8, 2016

Supporting documents attached:

- Bid Tabulation
 - Proposal
-

Recommendation: Move to award a bid to Mar-Con Services, LLC for the construction of the Mustang Road Improvement Project for the total amount not to exceed \$1,102,780.46, which includes the alternate bid item; and authorize City Manager to sign contract upon legal review.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

BID TABULATION
Mustang Road Improvements Project

City of Alvin, Texas				Mar-Con Services, LLC		Triple B Services		Precise Services, Inc.		Hassell Construction Co. Inc.		Tandem Services, LLC		DWC Management, LLC	
Item	Description	Unit	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Site Demolition Concrete Pavement & Concrete Curb	S.Y.	8,136	\$2.30	\$18,712.80	\$1.90	\$15,458.40	\$1.75	\$14,238.00	\$1.85	\$15,051.60	\$5.00	\$40,680.00	\$4.00	\$32,544.00
2	8" Concrete Pavement Mustang Road & New Intersection	S.Y.	8,595	\$45.50	\$391,072.50	\$52.00	\$446,940.00	\$46.00	\$395,370.00	\$51.40	\$441,783.00	\$61.25	\$526,443.75	\$69.00	\$593,055.00
3	Roadway Excavation and Backfill	C.Y.	991	\$8.90	\$8,819.90	\$17.15	\$16,995.65	\$25.00	\$24,775.00	\$11.15	\$11,049.65	\$10.00	\$9,910.00	\$15.00	\$14,865.00
4	8" Lime Stabilized Subgrade Includes 6% Lime	S.Y.	9,555	\$5.10	\$48,730.50	\$2.75	\$26,276.25	\$9.75	\$93,161.25	\$5.10	\$48,730.50	\$8.50	\$81,217.50	\$8.20	\$78,351.00
5	Extra Commercial Lime Slurry	TON	50	\$161.30	\$8,065.00	\$190.00	\$9,500.00	\$173.45	\$8,672.50	\$170.00	\$8,500.00	\$250.00	\$12,500.00	\$190.00	\$9,500.00
6	Site Demolition 4" Concrete Sidewalk East Side Only	S.Y.	909	\$1.70	\$1,545.30	\$1.75	\$1,590.75	\$9.00	\$8,181.00	\$1.65	\$1,499.85	\$6.00	\$5,454.00	\$4.00	\$3,636.00
7	4" Concrete Sidewalk East Side Only	S.Y.	909	\$40.60	\$36,905.40	\$52.75	\$47,949.75	\$31.50	\$28,633.50	\$60.00	\$54,540.00	\$59.40	\$53,994.60	\$41.00	\$37,269.00
8	Concrete Sidewalk Ramps Including Detectable Warning Indicator Single	EA.	2	\$1,022.20	\$2,044.40	\$2,450.00	\$4,900.00	\$1,000.00	\$2,000.00	\$900.00	\$1,800.00	\$700.00	\$1,400.00	\$1,196.00	\$2,392.00
9	Install Type "C" Inlet	EA.	2	\$2,165.00	\$4,330.00	\$4,250.00	\$8,500.00	\$1,990.00	\$3,980.00	\$2,100.00	\$4,200.00	\$4,140.00	\$8,280.00	\$2,464.00	\$4,928.00
10	Remove Existing Inlet & Install Type "BB" Inlet	EA.	8	\$2,485.30	\$19,882.40	\$4,500.00	\$36,000.00	\$2,300.00	\$18,400.00	\$2,500.00	\$20,000.00	\$2,820.00	\$22,560.00	\$2,580.00	\$20,640.00
11	6" Concrete Curb	L.F.	4,439	\$2.50	\$11,097.50	\$3.80	\$16,868.20	\$2.59	\$11,497.01	\$2.65	\$11,763.35	\$4.00	\$17,756.00	\$4.60	\$20,419.40
12	Install Type "A" Inlet	EA.	1	\$1,207.70	\$1,207.70	\$5,050.00	\$5,050.00	\$1,400.00	\$1,400.00	\$2,200.00	\$2,200.00	\$1,400.00	\$1,400.00	\$1,476.00	\$1,476.00
13	Storm Water Manhole	EA.	2	\$1,926.10	\$3,852.20	\$2,840.00	\$5,680.00	\$2,100.00	\$4,200.00	\$3,100.00	\$6,200.00	\$3,340.00	\$6,680.00	\$2,743.00	\$5,486.00
14	Storm Water 5' X 5' Box	EA.	6	\$2,447.00	\$14,682.00	\$9,008.50	\$54,051.00	\$2,500.00	\$15,000.00	\$4,000.00	\$24,000.00	\$4,000.00	\$24,000.00	\$2,970.00	\$17,820.00
15	Site Demolition Existing Driveways	S.Y.	943	\$4.50	\$4,243.50	\$2.55	\$2,404.65	\$9.00	\$8,487.00	\$1.60	\$1,508.80	\$6.00	\$5,658.00	\$4.00	\$3,772.00
16	6" Concrete Driveways	S.Y.	1,097	\$52.60	\$57,702.20	\$110.00	\$120,670.00	\$56.00	\$61,432.00	\$53.70	\$58,908.90	\$64.35	\$70,591.95	\$51.00	\$55,947.00
17	18" RCP Open Area	L.F.	20	\$60.10	\$1,202.00	\$60.00	\$1,200.00	\$86.20	\$1,724.00	\$70.00	\$1,400.00	\$54.00	\$1,080.00	\$86.00	\$1,720.00
18	18" RCP Paved Area	L.F.	64	\$62.60	\$4,006.40	\$65.00	\$4,160.00	\$91.25	\$5,840.00	\$70.00	\$4,480.00	\$54.00	\$3,456.00	\$86.00	\$5,504.00
19	24" RCP Open Area	L.F.	26	\$69.20	\$1,799.20	\$75.00	\$1,950.00	\$82.00	\$2,132.00	\$80.00	\$2,080.00	\$68.00	\$1,768.00	\$97.00	\$2,522.00
20	24" RCP Paved Area	L.F.	60	\$76.90	\$4,614.00	\$75.00	\$4,500.00	\$102.00	\$6,120.00	\$80.00	\$4,800.00	\$76.00	\$4,560.00	\$97.00	\$5,820.00
21	14" X 23" Arch Pipe Open Area	L.F.	57	\$111.60	\$6,361.20	\$85.00	\$4,845.00	\$94.50	\$5,386.50	\$85.00	\$4,845.00	\$99.00	\$5,643.00	\$114.00	\$6,498.00
22	14" X 23" Arch Pipe Paved Area	L.F.	141	\$111.60	\$15,735.60	\$110.00	\$15,510.00	\$117.50	\$16,567.50	\$85.00	\$11,985.00	\$99.00	\$13,959.00	\$114.00	\$16,074.00
23	12" PVC Pipe Paved Area	L.F.	26	\$44.70	\$1,162.20	\$35.00	\$910.00	\$140.00	\$3,640.00	\$60.00	\$1,560.00	\$45.00	\$1,170.00	\$77.00	\$2,002.00
24	Remove Existing Storm Pipe All Sizes as Shown on Plans	L.F.	797	\$13.10	\$10,440.70	\$10.00	\$7,970.00	\$18.00	\$14,346.00	\$25.25	\$20,124.25	\$10.00	\$7,970.00	\$17.00	\$13,549.00
25	36" RCP Paved Area	L.F.	540	\$106.40	\$57,456.00	\$120.00	\$64,800.00	\$150.00	\$81,000.00	\$142.00	\$76,680.00	\$95.00	\$51,300.00	\$155.00	\$83,700.00
26	Concrete Pavement Expansion Joints	L.F.	1,311	\$3.70	\$4,850.70	\$7.00	\$9,177.00	\$7.50	\$9,832.50	\$8.00	\$10,488.00	\$5.90	\$7,734.90	\$3.90	\$5,112.90
27	Asphalt Transition Includes Base Material & Asphalt Pavement	S.Y.	345	\$55.90	\$19,285.50	\$25.00	\$8,625.00	\$60.50	\$20,872.50	\$89.35	\$30,825.75	\$124.40	\$42,918.00	\$50.00	\$17,250.00
28	Concrete Pilot Channel	L.F.	97	\$36.10	\$3,501.70	\$150.00	\$14,550.00	\$21.00	\$2,037.00	\$28.00	\$2,716.00	\$41.50	\$4,025.50	\$21.00	\$2,037.00
29	Storm Water Prevention	L.S.	1	\$3,780.00	\$3,780.00	\$4,400.00	\$4,400.00	\$7,000.00	\$7,000.00	\$5,155.00	\$5,155.00	\$15,000.00	\$15,000.00	\$9,595.00	\$9,595.00
30	Mobilization Not to Exceed 5%	L.S.	1	\$50,000.00	\$50,000.00	\$16,450.50	\$16,450.50	\$48,587.99	\$48,587.99	\$53,500.00	\$53,500.00	\$40,807.17	\$40,807.17	\$71,209.00	\$71,209.00
31	Trench Safety	L.F.	934	\$0.20	\$186.80	\$0.01	\$9.34	\$4.50	\$4,203.00	\$1.60	\$1,494.40	\$2.30	\$2,148.20	\$2.00	\$1,868.00
32	Concrete Saw Cut	L.F.	2,500	\$6.30	\$15,750.00	\$7.00	\$17,500.00	\$9.00	\$22,500.00	\$9.55	\$23,875.00	\$8.00	\$20,000.00	\$10.00	\$25,000.00
33	Traffic Control	L.S.	1	\$125,777.00	\$125,777.00	\$5,275.00	\$5,275.00	\$10,800.00	\$10,800.00	\$8,000.00	\$8,000.00	\$15,000.00	\$15,000.00	\$29,331.00	\$29,331.00
34	Remove & Replace Brick Paver Driveway	L.S.	1	\$1,326.10	\$1,326.10	\$3,250.00	\$3,250.00	\$7,000.00	\$7,000.00	\$6,000.00	\$6,000.00	\$3,530.00	\$3,530.00	\$2,300.00	\$2,300.00
35	Crush Stone Base for Temporary Driveway	TON	200	\$24.60	\$4,920.00	\$45.00	\$9,000.00	\$27.50	\$5,500.00	\$200.00	\$40,000.00	\$35.00	\$7,000.00	\$60.00	\$12,000.00
36	Roadway Signage	L.S.	1	\$2,336.30	\$2,336.30	\$2,500.00	\$2,500.00	\$5,300.00	\$5,300.00	\$2,400.00	\$2,400.00	\$5,150.00	\$5,150.00	\$3,200.00	\$3,200.00
37	Remove & Replace Traffic Loops Coordinate with TXDOT	EA.	3	\$2,408.00	\$7,224.00	\$820.00	\$2,460.00	\$5,500.00	\$16,500.00	\$4,200.00	\$12,600.00	\$3,000.00	\$9,000.00	\$3,910.00	\$11,730.00
38	Solid Sod St. Augustine Includes Gordon St Intersection & Detention Pond	S.Y.	6,000	\$3.40	\$20,400.00	\$4.25	\$25,500.00	\$4.95	\$29,700.00	\$4.00	\$24,000.00	\$5.70	\$34,200.00	\$4.00	\$24,000.00
39	Pavement Marking 24" White Thermal Plastic	L.F.	197	\$4.90	\$965.30	\$5.00	\$985.00	\$6.75	\$1,329.75	\$7.00	\$1,379.00	\$7.00	\$1,379.00	\$7.40	\$1,457.80
40	Pavement Marking 4" Yellow Thermal Plastic	L.F.	3,200	\$0.50	\$1,600.00	\$0.50	\$1,600.00	\$1.07	\$3,424.00	\$0.50	\$1,600.00	\$0.80	\$2,560.00	\$1.00	\$3,200.00
41	Pavement Marking 4" White Thermal Plastic	L.F.	1,690	\$0.50	\$845.00	\$0.50	\$845.00	\$0.80	\$1,352.00	\$0.50	\$845.00	\$0.80	\$1,352.00	\$1.30	\$2,197.00

42	Pavement Marking 12" White Thermal Plastic	L.F.	70	\$2.80	\$196.00	\$3.00	\$210.00	\$4.50	\$315.00	\$3.00	\$210.00	\$4.35	\$304.50	\$3.80	\$266.00
43	Pavement Marking 12" Yellow Thermal Plastic	L.F.	150	\$2.50	\$375.00	\$2.50	\$375.00	\$5.00	\$750.00	\$3.00	\$450.00	\$4.35	\$652.50	\$6.20	\$930.00
44	Pavement Marking 8" White Thermal Plastic	L.F.	372	\$1.10	\$409.20	\$1.25	\$465.00	\$2.50	\$930.00	\$1.20	\$446.40	\$1.90	\$706.80	\$3.20	\$1,190.40
45	Pavement Marking "ONLY" Thermal Plastic	EA.	5	\$121.00	\$605.00	\$125.00	\$625.00	\$300.00	\$1,500.00	\$100.00	\$500.00	\$115.00	\$575.00	\$247.00	\$1,235.00
46	Pavement Marking Right Turn Arrow & Left Turn Arrow Thermal Plastic	EA.	5	\$117.60	\$588.00	\$6.00	\$30.00	\$275.00	\$1,375.00	\$100.00	\$500.00	\$115.00	\$575.00	\$247.00	\$1,235.00
47	Pavement Marking Blue Reflector Class B Type II -BB	EA.	3	\$13.40	\$40.20	\$15.00	\$45.00	\$11.00	\$33.00	\$15.00	\$45.00	\$5.00	\$15.00	\$8.00	\$24.00
48	Tree Removal Including Roots & Disposal	L.S.	1	\$3,920.00	\$3,920.00	\$6,500.00	\$6,500.00	\$15,500.00	\$15,500.00	\$18,000.00	\$18,000.00	\$7,530.00	\$7,530.00	\$23,296.00	\$23,296.00
49	Adjusting Manholes, Inlets, Valve Boxes to grade	EA.	5	\$300.10	\$1,500.50	\$165.00	\$825.00	\$336.00	\$1,680.00	\$180.00	\$900.00	\$1,500.00	\$7,500.00	\$350.00	\$1,750.00
50	Install Brick Paver Concrete Island	S.Y.	255	\$9.00	\$2,295.00	\$75.00	\$19,125.00	\$112.00	\$28,560.00	\$150.00	\$38,250.00	\$72.00	\$18,360.00	\$100.00	\$25,500.00
51	24" X 6" Concrete Curb & Gutter	L.F.	90	\$16.50	\$1,485.00	\$20.00	\$1,800.00	\$44.50	\$4,005.00	\$48.10	\$4,329.00	\$15.00	\$1,350.00	\$38.00	\$3,420.00
52	Safety End Treatment	EA.	1	\$2,039.60	\$2,039.60	\$2,000.00	\$2,000.00	\$3,200.00	\$3,200.00	\$1,500.00	\$1,500.00	\$1,725.00	\$1,725.00	\$1,780.00	\$1,780.00
TOTAL BID					\$1,011,872.50		\$1,078,806.49		\$1,089,970.00		\$1,129,698.45		\$1,230,530.37		\$1,321,603.50

Alternate Items															
	Description	Unit	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
A1	4" Concrete Sidewalk West Side Only	S.Y.	810	\$40.90	\$33,129.00	\$45.00	\$36,450.00	\$31.50	\$25,515.00	\$63.00	\$51,030.00	\$59.40	\$48,114.00	\$41.00	\$33,210.00
A2	Concrete Sidewalk Ramps Including Detectable Warning Indicator Single	EA.	4	\$1,169.40	\$4,677.60	\$2,200.00	\$8,800.00	\$1,000.00	\$4,000.00	\$975.00	\$3,900.00	\$700.00	\$2,800.00	\$1,196.00	\$4,784.00
A3	Pavement Marking 24" White Thermal Plastic	L.F.	120	\$4.90	\$588.00	\$5.50	\$660.00	\$6.70	\$804.00	\$7.15	\$858.00	\$8.75	\$1,050.00	\$8.00	\$960.00
TOTAL ALTERNATE BID					\$38,394.60		\$45,910.00		\$30,319.00		\$55,788		\$51,964.00		\$38,954.00

PROPOSAL

TO: The Honorable Mayor and City Council
The City of Alvin, Texas

FROM: **Mustang Road Improvement Project**
Bid No. B-16-12
Acc. No. 312-5501-00-9063

The undersigned, as Bidder, declares that the only person or parties interested in this proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation; that he has carefully examined the form of Contract, Notice to Bidders, Specifications and the Plans therein referred to, and has carefully examined the location, conditions and classes or materials of the proposed work, and agrees that he will provide all the necessary labor, material, superintendence, machinery, tools, apparatus, and other items incidental to construction, and will do all the work and furnish all the materials necessary to accomplish the work called for in the Plans and Specifications in the manner prescribed therein and according to the requirements of the Engineer as therein set forth.

In submitting this bid, the undersigned Bidder does hereby certify that the bid is not made in the interest of other firms, corporations or on behalf of any undisclosed person or interest other than sole bidder submitting this bid by signatures. The Bidder also certifies that he is not solicited or being induced by any other firms to submit a false or sham bid for obtaining advantage over any other bidder that is submitting a bid on this project.

The five percent (5%) bid security accompanying this Proposal shall be returned to the Bidder, unless in case of the acceptance of the Proposal the successful Bidder shall fail to execute a Contract and file a Performance Bond and a Payment Bond within fifteen (15) days after its acceptance in which case the bid security will become the property of the Owner, and shall be considered as payment for damages due to delay and other inconveniences suffered by the Owner. The Bidder will also furnish the Owner with a satisfactory Maintenance Bond indemnifying the City against defective workmanship and material for a period of one year.

The undersigned certifies that the bid prices quoted on the Proposal have been carefully checked and are submitted as correct and final.

The undersigned proposal is to complete the work quoted above on or before **180 Calendar days** after the effective date of the work order. The undersigned further agrees that the Owner will suffer damages if the above quoted work is not finished and completed within the time allotted for such work and that these damages will accrue to the Owner as liquidated in the amount of **\$250.00 Per Calendar Day.**

The following unit prices are bid and shall be complete compensation as measured in place for all materials, labor, overhead, profits and any other cost that is necessary to complete the job to the Engineers specifications and satisfaction. It is also understood that the quantities shown are only an estimate of the work to be done. No renegotiation of bid prices will be made for over runs or under runs of quantities.

PROPOSAL

Mustang Road Improvement Project

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1	8136	S.Y.	Site Demolition Concrete Pavement & Concrete Curb Mustang Road Complete in place. 02220	\$----- 2.30	\$----- 18,712.80 Eighteen Thousand Seven Hundred Twelve Dollars and ----- Eighty cents
2	8595	S.Y.	8" Concrete Pavement Mustang Road & New Intersection Complete in Place 02751	\$----- 45.50	\$----- 391,072.50 Three Hundred Ninety One Thousand Seventy Two Dollars and ----- Fifty cents
3	991	C.Y.	Roadway Excavation And Backfill Including Asphalt & Base Intersections & Detention Pond Complete in place. 02316	\$----- 8.90	\$----- 8,819.90 Eighty Eight Hundred Nineteen Dollars and ----- Ninety cents
4	9555	S.Y.	8" Lime Stabilized Subgrade Including 6% Lime Complete in Place 02335	\$----- 5.10	\$----- 48,730.50 Forty Eight Thousand Seven Hundred Thirty Dollars and ----- Fifty cents
5	50	TON	Extra Commercial Lime Slurry Complete in Place 02335	\$----- 161.30	\$----- 8,065.00 Eight Thousand Sixty Five Dollars and ----- Zero cents

475,420.70

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
6	909	S.Y.	Site Demolition 4" Concrete Sidewalk East Side Only Complete in Place 02220	\$-----1.70	\$-----1,545.30 Fifteen Hundred Forty Five Dollars and -----Thirty-cents
7	909	S.Y.	4" Concrete Sidewalk East Side Only Complete in Place 02751	\$-----40.60	\$-----36,905.40 Thirty Six Thousand Nine Hundred Five Dollars and -----Forty-cents
8	2	EA.	Concrete Sidewalk Ramps Including Detectable Warning Indicator Single Complete in Place 02751	\$-----1,022.20	\$-----2,044.40 Two Thousand Forty Four -----Dollars and -----Forty-cents
9	2	EA.	Install Type "C" Cast in Place Inlet 02632	\$-----2,165.00	\$-----4,330.00 Forty Three Hundred Thirty -----Dollars and -----Zero-cents
10	8	EA	Remove Existing Inlet & Install Type "BB" Inlet Cast in Place Complete in Place 02632	\$-----2,485.30 Nineteen Thousand Eight	\$-----19,882.40 Hundred Eighty Two Dollars and -----Forty-cents
11	4439	L.F.	6" Concrete Curb Complete in Place 02770	\$-----2.50	\$-----11,097.50 Eleven Thousand Ninety Seven Dollars and -----Fifty-cents

551, 205.70

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
12	1	EA.	Install Type "A" Inlet Cast in Place Complete in Place 02632	\$ 1,207.70 Twelve Hundred Seven Dollars and Seventy cents	\$ 1,207.70 Twelve Hundred Seven Dollars and Seventy cents
13	2	EA.	Storm Water Manhole Cast in Place Complete in Place 02632	\$ 1,926.10 Thirty Eight Hundred Fifty Two Dollars and Twenty cents	\$ 3,852.20 Thirty Eight Hundred Fifty Two Dollars and Twenty cents
14	6	EA.	Storm Water 5' X 5' Box Cast in Place Complete in Place 02542	\$ 2,447.00 Fourteen Thousand Six Hundred Eighty Two Dollars and Zero cents	\$ 14,682.00 Fourteen Thousand Six Hundred Eighty Two Dollars and Zero cents
15	943	S.Y.	Site Demolition Existing Driveways Complete in Place 02220	\$ 4.50 Forty Two Hundred Forty Three Dollars and Fifty cents	\$ 4,243.50 Forty Two Hundred Forty Three Dollars and Fifty cents
16	1097	S.Y.	6" Concrete Driveway Complete in Place 02751	\$ 52.60 Fifty Seven Thousand Seven Hundred Two Dollars and Twenty cents	\$ 57,702.20 Fifty Seven Thousand Seven Hundred Two Dollars and Twenty cents
17	20	L.F.	18" RCP Open Area Complete in Place 02630	\$ 60.10 Twelve Hundred Two Dollars and Zero cents	\$ 1,202.00 Twelve Hundred Two Dollars and Zero cents
18	64	L.F.	18" RCP Paved Areas Complete in Place 02630	\$ 62.60 Four Thousand Six Dollars and Forty cents	\$ 4,006.40 Four Thousand Six Dollars and Forty cents

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
19	26	L.F.	24" RCP Open Areas Complete in Place 02630	\$ 69.20 Seventeen Hundred Ninety Nine Dollars and Twenty cents	\$ 1,799.20 Seventeen Hundred Ninety Nine Dollars and Twenty cents
20	60	L.F.	24" RCP Paved Areas Complete in Place 02630	\$ 76.90 Forty Six Hundred Fourteen Dollars and Zero cents	\$ 4,614.00 Forty Six Hundred Fourteen Dollars and Zero cents
21	57	L.F.	14" X 23" Arch RCP Open Area Complete in Place 02630	\$ 111.60 Sixty Three Hundred Sixty One Dollars and Twenty cents	\$ 6,361.20 Sixty Three Hundred Sixty One Dollars and Twenty cents
22	141	L.F.	14" X 23" Arch RCP Paved Area Complete in Place 02630	\$ 111.60 Fifteen Thousand Seven Hundred Thirty Five Dollars and Sixty cents	\$ 15,735.60 Fifteen Thousand Seven Hundred Thirty Five Dollars and Sixty cents
23	26	L.F.	12" PVC Pipe Paved Areas Complete in Place 02630	\$ 44.70 Eleven Hundred Sixty Two Dollars and Twenty cents	\$ 1,162.20 Eleven Hundred Sixty Two Dollars and Twenty cents
24	797	L.F.	Remove Existing Storm Pipe All Sizes as Shown on Plans Complete in Place 02630	\$ 13.10 Ten Thousand Four Hundred Forty Dollars and Seventy cents	\$ 10,440.70 Ten Thousand Four Hundred Forty Dollars and Seventy cents
25	540	L.F.	36" RCP Paved Areas Complete in Place 02630	\$ 106.40 Fifty Seven Thousand Four Hundred Fifty Six Dollars and Zero cents	\$ 57,456.00 Fifty Seven Thousand Four Hundred Fifty Six Dollars and Zero cents

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
26	1311	L.F.	Concrete Pavement Expansion Joints Complete in Place 02770	\$----- 3.70 Forty Eight Hundred Fifty	\$----- 4,850.70 Dollars and ----- Seventy cents
27	345	S.Y.	Asphalt Transition Includes Base Materials And Asphalt Pavement Complete in Place 02710 02741 02742	\$----- 55.90 Nineteen Thousand Two	\$----- 19,285.50 Hundred Eighty Five Dollars And ----- Fifty cents
28	97	L.F.	Concrete Pilot Channel Complete in Place 02751	\$----- 36.10 Thirty Five Hundred One	\$----- 3,501.70 Dollars And ----- Seventy cents
29	1	L.S.	Storm Water Prevention Complete in Place 01565 01566	\$----- 3,780.00 Thirty Seven Hundred Eighty	\$----- 3,780.00 Dollars and ----- Zero cents
30	1	L.S.	Mobilization Not to Exceed 5% of Total Bid Complete in Place 01505	\$----- 50,000.00 Fifty Thousand	\$----- 50,000.00 Dollars and ----- Zero cents
31	934	L.F.	Trench Safety Complete in Place 01570	\$----- 0.20 One Hundred Eighty Six	\$----- 186.80 Dollars and ----- Eighty cents
32	2500	L.F.	Concrete Saw Cut Full Depth Complete in Place 02751	\$----- 6.30 Fifteen Thousand Seven Hundred Fifty	\$----- 15,750.00 Dollars and ----- Zero cents

833 025.30

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
33	1	L.S.	Traffic Control Complete in Place 01555	\$ 125,777.00 One Hundred Twenty Five Thousand Seven Hundred Seventy Seven	\$ 125,777.00 Dollars and Zero cents
34	1	L.S.	Remove & Replace Brick Paver Driveway Complete in Place Sheet D3	\$ 1,326.10 Thirteen Hundred Twenty Six	\$ 1,326.10 Dollars and Ten cents
35	200	Ton	Crush Stone Base for Temporary Driveways Complete in Place 02710	\$ 24.60 Forty Nine Hundred Twenty	\$ 4,920.00 Dollars and Zero cents
36	1	L.S.	Roadway Signage Complete in Place 02763	\$ 2,336.30 Twenty Three Hundred Thirty Six	\$ 2,336.30 Dollars and Thirty cents
37	3	EA.	Remove & Replace Traffic Loops Coordinate with TXDOT Complete in Place Sheet 5	\$ 2,408.00 Seventy Two Hundred Twenty Four	\$ 7,224.00 Dollars and Zero cents
38	6000	S.Y.	Solid Sod St. Augustine Includes Gordon St. Intersection & Detention Pond Complete in Place 02922	\$ 3.40 Twenty Thousand Four Hundred	\$ 20,400.00 Dollars and Zero cents
39	197	L.F.	Pavement Marking 24" - White Thermal Plastic Complete in Place 02760	\$ 4.90 Nine Hundred Sixty Five	\$ 965.30 Dollars and Thirty cents

195, 974

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
40	3200	L.F.	Pavement Marking 4" – Yellow Thermal Plastic Complete in Place 02760	\$----- 0.50 Sixteen Hundred	\$----- 1,600.00 Dollars and ----- Zero-cents
41	1690	L.F.	Pavement Marking 4" – White Thermal Plastic Complete in Place 02760	\$----- 0.50 Eight Hundred	\$----- 845.00 Forty Five Dollars and ----- Zero-cents
42	70	L.F.	Pavement Marking 12" – White Thermal Plastic Complete in Place 02760	\$----- 2.80 One Hundred	\$----- 196.00 Ninety Six Dollars and ----- Zero-cents
43	150	L.F.	Pavement Marking 12" – Yellow Thermal Plastic Complete in Place 02760	\$----- 2.50 Three Hundred	\$----- 375.00 Seventy Five Dollars and ----- Zero-cents
44	372	L.F.	Pavement Marking 8" – White Thermal Plastic Complete in Place 02760	\$----- 1.10 Four Hundred	\$----- 409.20 Nine Dollars and ----- Twenty-cents

399 399 20

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
45	5	EA.	Pavement Marking "ONLY" Thermal Plastic Complete in Place 02760	\$----- 121.00 \$----- Six Hundred Five	\$----- 605.00 \$----- Six Hundred Five Dollars and ----- Zero cents
46	5	EA.	Pavement Marking Right Turn Arrow and Left Turn Arrow Thermal Plastic Complete in Place 02760	\$----- 117.60 \$----- Five Hundred Eighty Eight	\$----- 588.00 \$----- Five Hundred Eighty Eight Dollars and ----- Zero cents
47	3	EA.	Pavement Marking Blue Reflector Class B Type II-BB Complete in Place 02760	\$----- 13.40 \$-----	\$----- 40.20 \$----- Forty Dollars and ----- Twenty cents
48	1	L.S.	Tree Removal Including Roots & Disposal Complete in Place Sheet 6A	\$----- 3,920.00 \$----- Thirty Nine Hundred Twenty	\$----- 3,920.00 \$----- Thirty Nine Hundred Twenty Dollars and ----- Zero cents
49	5	EA.	Adjusting Manholes, Inlets, Valves Boxes to Grade 02633	\$----- 300.10 \$----- Fifteen Hundred	\$----- 1,500.50 \$----- Fifteen Hundred Dollars and ----- Fifty cents
50	255	S.Y.	Install Brick Paver Concrete Island Complete in Place	\$----- 9.00 \$----- Twenty Two Hundred Ninety Five	\$----- 2,295.00 \$----- Twenty Two Hundred Ninety Five Dollars and ----- Zero cents
51	90	L.F.	24"X 6" Concrete Curb & Gutter Complete in Place 02770	\$----- 16.50 \$----- Fourteen Hundred Eighty Five	\$----- 1,485.00 \$----- Fourteen Hundred Eighty Five Dollars and ----- Zero cents

1,069,832.90

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
52	1	EA.	Safety End Treatment Complete in Place Sheet 15	\$ 2,039.60 Two Thousand	\$ 2,039.60 Thirty Nine Dollars and Sixty cents

TOTAL BASE BID AMOUNT	\$ 1,011,872.50	One Million Eleven Thousand Eight Hundred Seventy Two Dollars and Fifty cents
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ALTERNATE ITEMS

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
A1	810	S.Y.	4" Concrete Sidewalk West Side Only Complete in Place 02751	\$ <u>40.90</u> <small>Thirty Three Thousand One Hundred Twenty Nine</small>	\$ <u>33,129.00</u> <small>Dollars and <u>Zero</u> cents</small>
A2	4	EA.	Concrete Sidewalk Ramps Including Detectable Warning Indicator Single Complete in Place 02751	\$ <u>1,169.40</u> <small>Forty Six Hundred Seventy Seven</small>	\$ <u>4,677.60</u> <small>Dollars and <u>Sixty</u> cents</small>
A3	120	L.F.	Pavement Marking 24" – White Thermal Plastic Complete in Place 02760	\$ <u>4.90</u> <small>Five Hundred Eighty Eight</small>	\$ <u>588.00</u> <small>Dollars and <u>Zero</u> cents</small>

TOTAL ALTERNATE BID	\$ <u>38,394.60</u>	<u>Thirty Eight Thousand Three Hundred Ninety Four</u> Dollars and <u>Sixty</u> cents
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Receipt is hereby acknowledged of the following addendum to the Contract Documents:

Addendum No. 1 Dated 5/26/2016 Received 5/26/2016

Addendum No. 2 Dated _____ Received _____

Addendum No. 3 Dated _____ Received _____

Accompanying this proposal is a Certified Check, Cashier's Check, or Bid Bond in the amount of five (5%) of the greatest amount bid and payable to the Owner.

Bidder: MAR-CON SERVICES, LLC

Address: 1410 Preston Ave, Bldg H

Pasadena, Texas 77503

Telephone: 713-473-1800

Date: 5/31/2016

ATTEST: 

Secretary of Corporation _____

(Seal of Bidder Corporation)

Receipt is hereby acknowledged of the following addendum to the Contract Documents:

Addendum No. 1 Dated 5/26/2016 Received 5/26/2016

Addendum No. 2 Dated _____ Received _____

Addendum No. 3 Dated _____ Received _____

Accompanying this proposal is a Certified Check, Cashier's Check, or Bid Bond in the amount of five (5%) of the greatest amount bid and payable to the Owner.

BIDDER:

Name of Corporation: MAR-CON SERVICES, LLC

Signature: 

Printed Name: Mario Ramos

Title Owner

Address: 1410 Preston Rd., Bldg H

Pasadena, TX 77503

Telephone: 713-473-1800

Date: May 31, 2016

E-Mail: mario@marconllc.com

ATTEST: 

Secretary of Corporation _____

(Seal of Bidder Corporation)

STATEMENT OF MATERIALS AND OTHER CHARGES

MATERIALS INCORPORATED INTO THE PROJECT: \$ _____

ALL OTHER CHARGES: \$ _____

*TOTAL: \$ _____

*This total must agree with the total figure shown in the Item and Quantity Sheets in the bound contract.

For purposes of complying with the Texas Tax Code, the contractor agrees that the charges for any materials incorporated into the project in excess of the estimated quantity provided for herein will be no less than the invoice price for such materials to the contractor.

NOTE: ONLY THE COPY OF THIS FORM IN THE EXECUTED CONTRACTS IS TO BE FILLED OUT.



AGENDA COMMENTARY

Meeting Date: 6/16/2016

Department: City Clerk

Contact: Dixie Roberts, City Clerk

Agenda Item: Consider appointments to the 2016 Charter Review Commission.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: What is a city charter? A charter is similar to a municipal constitution that is written and adopted by an election of the citizens. The charter defines and limits the powers, duties and responsibilities of local government based on local preferences and desires. It defines the form of local government and establishes organizational provisions. The citizens determine the necessary controls over their city government such as elections, referendums, initiatives and recall.

The Alvin Charter requires a review of its Charter document at least every four (4) years but not more than every two (2) years. The review is done by a charter review commission consisting of seven (7) citizens of the city of Alvin and appointed by the city council.

At the commission's first meeting, members will appoint a chair, vice chair and secretary, set meeting dates and times, and review duties assigned to the commission. Once appointed, the commission will have six (6) months to submit their report to city council (December 15, 2016). The report is then required to be published in the *The Alvin Sun*. City council will decide whether or not to place said items before a vote of the people. If so, a special election will be called for May, 2017. The timeframe to call such an election will occur within the first 2 months of 2017.

Advertisements seeking members to serve on this commission were published in *The Alvin Sun* and posted to the city's various social media sites. The following individuals submitted an application to serve: Terry Droege, Missy Jordan, Jimmy Kitchens, Debra McDonald, Tommy Peebles, Brenda Smith, Roger Stuksa and Kerry Ulm (a nonresident applied but lacks the residency requirement). Please note that City Council has the authority to appoint willing citizens to the commission who haven't yet filled out an application to serve. A spreadsheet of applicant information has been created and is included in your packet. The only requirement to serve on the commission is to be a citizen of the City of Alvin. All applicants submitted before council meet the requirement.

The last charter review commission was appointed in June, 2012. On December 10, 2012 the commission delivered their final report consisting of ten proposed charter amendments to city council. On February 21, 2013 the city council called a special election for May, 2013 to take the proposed amendments before a vote of the people. Eight (8) out of the ten (10) amendments submitted were approved.

Wording from the City Charter regarding the Charter Review Commission:

Sec. 16. - Charter Review Commission. The council shall appoint, at its first regular meeting in June, the year 2001 and in June of every fourth year thereafter, a Charter Review Commission of seven (7) citizens of the city. The Council may appoint a Charter Review Commission any time after two (2) years has elapsed from the date of appointment of the commission.

It shall be the duty of the Charter Review Commission to:

- (a) Inquire into the adequacy of, consistency with state and federal law, and correctness of Charter provisions to determine whether any such provisions require revision. To this end one or more public hearings may be held and the commission shall have the power to compel attendance of the city manager and/or city attorney and to require the submission of any of the city records which it may consider necessary to its duties. Issues regarding charter compliance shall be referred to city council for investigation and disposition;
- (b) Make any recommendation it considers desirable to update and/or revise the provisions of the Charter;
- (c) Propose amendments to this Charter to improve the effective application of said Charter to current conditions;
- (d) Report its findings and present its proposed amendments, if any, to the council.

The Charter Review Commission shall submit its report to the council within six (6) months of the date of its appointment by the council. The council shall receive and have published in the official newspaper of the city any report presented by the Charter Review Commission, shall consider any recommendations made and, if any amendment or amendments be presented as a part of such report, may order such to be submitted to the voters of the city in the manner provided by the applicable statute of the State of Texas.

Except as provided herein, the term of office of the Charter Review Commission shall not extend beyond eight (8) months. After submission of a report the Charter review commission shall convene for the sole purpose of meeting with council to discuss its report. If no report is issued by the Charter review commission, the term of office shall not extend beyond six (6) months. Furthermore, if no report is presented to the council, then all records of the proceedings of the commission shall be filed with the city manager and become a public record.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A
Account Number: _____ **Amount:** _____ **1295 Form Required?** Yes ___ No
Legal Review Required: N/A ___ Required **Date Completed:** June 8, 2016

Supporting documents attached:

- Spreadsheet of applicant information

Recommendation: Move to appoint _____ to serve on the 2016 Charter Review Commission.

Reviewed by Department Head, if applicable
 Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable
 Reviewed by City Manager

Charter Review Commission - Applicant Information 6/16/16

First Name	Last Name	Employment	Occupation	Resident of Alvin	Past Boards Served on	Notes Provided on Consent and Willingness to Serve Form
Terry	Droege	TDEC Inc.	Business Owner	24 years	Former member of Council	<i>Applied 06/06/16</i> - "I just want to help and serve the community. Involved in Alvin Rotary, Alvin Sunrise Rotary, YMCA, Meals on Wheels, AISD Foundation and ACC Foundation. Served as a member of City Council, Planning Commission and Electrical Board. Also served on the San Jacinto College Electrical Board".
Missy	Jordan	Bunky and Son Construction, LLC	Business Owner	5 years	Planning Commission, 2035 Comp Plan, Downtown Revitalization Committee	<i>Applied 04/26/16</i> - "Own and operate small family construction business for the past 20 years which has provided me with good construction, management experience where planning is concerned. I enjoy living in Alvin. The City of Alvin has good, family/friendly qualities and had the potential for other awesome areas of growth. From working on the committees, I have learned the growth of Alvin is important to the community. I have enjoyed serving on the Planning Commission and meeting city staff. I would enjoy working on the Charter Commission and feel it would be a good option for me to continue community service after working on the committees I've been on".
Jimmy	Kitchens	Comfort Systems USA	Account Executive	15 years		<i>Applied 05/10/16</i> - "I am someone that is looking to help the community that I live in and I want to help in making Alvin the best community it can be. Currently served on Alvin Little League Board - TAFC Board. My family and I are very active in the community and in my children's extracurricular activities. We volunteer at school, church and anything else we are involved with. Both my children play youth sports, in which we are also very active. My wife and her family have been long time residents of Alvin".
Debra	McDonald	Sr. Project Accountant	Bechtel Corp.	27 years	Library Board	<i>Applied 06/06/16</i> - "Currently serve on the Library Board. Work for a corporation that has 55,000 worldwide employees - so I have a great understanding of cultural diversity. Also attend intensive ethics and compliance training yearly. Lead the American Cancer Society Relay for Live of Alvin-Manvel from 2013 to 2015. I have served on the Library Board since July, 2014. I would like to serve on the Charter Review Commission".
Tommy	Peebles	Retired	City of Alvin - City Clerk	68 years	Charter	<i>Applied 04/19/16</i> - "Retired 40 year employee of the City of Alvin, served 16 years as City Clerk and served and met with several Charter Review Commissions in the past. Former president of Alvin Museum Society. Member and past president of Alvin Noon Lions Club. Past President of Alvin High School Alumni Society".
Roger	Stuksa	Retired		60 years	Former member of Council	<i>Applied 05/03/16</i> - Former member of City Council for 9 years (3 terms). I would like to serve as a member of the Charter Review Commission.
Brenda	Smith	Retired		30 years		<i>Applied 03/02/16</i> - Applied to serve on all boards - wherever needed. "I am retired and would like to volunteer to help my city in any position. I like helping our seniors. I am a people person. I was in the dental profession for 30 years and patients trusted me to help them. Activity director for nursing home clients, habitat for humanity, meals on wheels, support group for interstitial cystitis patients, training dental assistance, manger of dental offices".
Kerry	Ulm	Friendswood Animal Clinic	Vet Tech	1 year		<i>Applied 04/19/16</i> - "I would like to serve on the Charter Review Commission or any other board or commission for the City of Alvin".