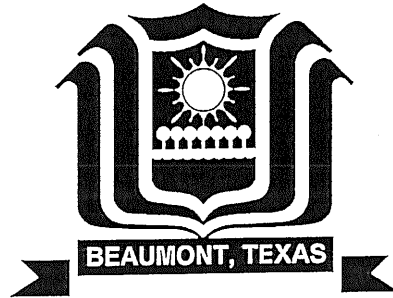


City of Beaumont



*PUBLIC WORKS DEPARTMENT
CAPITAL PROJECTS DIVISION
CITY HALL, SUITE 200
P.O. BOX 3827
801 MAIN STREET
BEAUMONT, TEXAS 77704*

*BEAUMONT MUNICIPAL AIRPORT
RAILROAD RIGHT-OF-WAY CLEARING*

BID NUMBER: CP0309-27

BIDS DUE: FRIDAY, MARCH 20, 2009 @ 10:00 A.M.

Prebid: Monday, March 16, 2009 at 10:00 am on site at the Municipal Airport, located at 455 Keith Road, Beaumont, Texas.

BEAUMONT MUNICIPAL AIRPORT RAILROAD RIGHT-OF-WAY CLEARING

SECTION I - GENERAL -----

1.0 It is the intent of the City of Beaumont to solicit sealed competitive bids for furnishing all labor, equipment, materials, and insurance as required for the Railroad Right-Of-Way (R.O.W.) Clearing as shown on the drawings and as specified herein, at the Beaumont Municipal Airport, located at 455 Keith Road, Beaumont, Texas.

2.0 The bid will be awarded to the bidder having sufficient ability to perform this contract as stated in conjunction with the lowest price. Factors used to determine the award are:

2.1 Capability and experience of the Contractor.

2.2 Price, and

2.3 Completion time.

3.0 Bidders shall include the following information to describe the experience and capability factors of the company:

3.1 Number of years in operation.

3.2 Kind of company, i.e., corporation, partnership or sole proprietor. If a corporation, please list names and addresses of three (3) top corporate officers. If partnership, please list names and addresses of partners.

3.3 Gross revenues of past two (2) years.

3.4 Largest dollar amount of contract currently in effect with a business.

3.5 References from at least three (3) businesses with whom your company has completed similar type work within the last three (3) years. Name, address, phone number and a contact person be stated for each reference. Include at least one (1) contract reference of similar type, size and price of this contract.

3.6 Number of employees currently employed.

***These factors will be evaluated to determine your capability as a supplier. This information shall be submitted by all bidders.**

4.0 Time and Place for Receipt of Bids

4.1 **Bids are due in the Capital Projects Division, 801 Main Street, Suite 200,**

Beaumont, Texas, no later than 10:00 AM, Friday, March 20, 2009.

- 4.2 Performance and Payment bonds are required for projects in excess of \$25,000.
- 4.3 Bid Security: Each bid must be accompanied by a certified or cashiers check or an approved Bidder's Bond underwritten by a surety named in the current list of "Surety Companies Acceptable on Federal bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department, for the sum of five percent (5%) of the amount of the maximum total bid as a guarantee that, if awarded the contract, the Bidder will promptly enter into a contract and execute Performance and Payment Bonds required for (contracts in excess of \$25,000) on the forms included in the contract documents. Certified or cashier's check shall be made payable to the Owner. If bid is accepted, Bidder agrees that he will furnish the required Performance and Payment Bonds within ten (10) calendar days after Notice of Award of the contract to him and that if he fails to do so he will liable to the City of Beaumont, Texas in the amount equal to the difference between the bid of the bidder and the next lowest secured bid for this work and the City of Beaumont may apply the bond or check accompanying this to the said amount and if the damages are greater than said sum, the City of Beaumont shall be entitled to the difference.

Prebid: Monday March 16, 2009 at 10:00 am on site at the Municipal Airport, located at 455 Keith Road, Beaumont, Texas.

5.0 EXECUTION OF AGREEMENT

- 5.1 The Form of Agreement which the successful bidder, as Contractor, will be required to execute is available at the City of Beaumont Purchasing Department.
- 5.2 The bidder to whom the contract is awarded by the Owner shall, within 15 days after notice of award and receipt of Agreement forms from the Owner, sign and deliver to the Owner all required copies.
- 5.3 At or prior to delivery of the signed Agreement, the Contractor shall deliver to the Owner the Labor and Materials Payment Bond and, the Performance Bond (if required), and the policies of insurance or insurance certificates as required by the contract documents. All bonds and policies or certificates of insurance shall be approved by the Owner before the successful bidder may proceed with the work.
- 5.4 Failure or refusal to furnish bonds or insurance policy certificates in a form satisfactory to the Owner shall subject the bidder to loss of time from the allowable construction period equal to the time of delay in furnishing the required material.

6.0 EXAMINATION OF SPECIFICATIONS AND SITE WORK:

- 6.1 Before submitting a bid, each bidder shall carefully read the specifications, and visit the site of the work. Each bidder shall fully inform himself prior to bidding as to all existing conditions and limitations under which the work is to be performed and bid a sum to cover all costs of all items necessary to perform the work as set forth in the bid documents. No allowances shall be made to any bidder because of lack of such examination or knowledge.

The submission of a bid shall be construed as conclusive evidence that the bidder has made such examination. The location of the proposed work is shown on the site plan. The Contractor shall confine his use of the site to the portion indicated on the site plan except as required by the Contract Documents to do work outside of that area.

6.2 If any person contemplating submitting a bid for the work is in doubt as to the true meaning of any part of the specifications, or finds discrepancies in or omissions from any part of the specifications, they may submit to the City a written request for interpretation thereof prior to submitting a bid proposal. The person who submits the request shall be responsible for its prompt delivery.

6.3 Any interpretation or correction of the specifications shall be made only by Addendum and shall be mailed or delivered to each bidder of record. The City shall not be responsible for any other explanations or interpretations of the specifications.

7.0 MATERIAL QUANTITIES:

The contractor shall determine material quantities required to properly provide the work as specified, and shall be totally responsible for the accuracy of his or her total quantities. No requests for extras shall be considered due to measurement and/or take off errors made by the contractor.

8.0 COMPLETION TIME:

Bidders shall state the number of calendar days needed to complete the Work. Designated completion date shall be adhered to.

9.0 INSURANCE REQUIREMENTS:

The successful bidder, within ten (10) days after the contract award, shall furnish the City with proof of insurance as required to perform work for the City of Beaumont.

9.1 A certificate of insurance, or a copy of the insurance policies shall be furnished to the City no later than ten (10) days after the award of bid.

9.2 The City shall be named as additional insured on all policies. Should any insurance required by this contract lapse, the Contractor shall immediately cease all operations as of the time and date of such lapses and not resume any operations until authorized in writing by the City. If the lapse period extends fifteen (15) days, the contract shall automatically terminate and the contractor will be in breach of this contract.

9.3 See Exhibit "C" Union Pacific Railroad Contract Insurance Requirements of the Right of Entry Agreement for all UPRR insurance requirements. The successful bidder will be responsible for meeting all UPRR insurance requirements and all costs incurred.

10.0 INDEMNITY:

The contractor agrees to indemnify and hold harmless the City of Beaumont, its officers, agents, and

employees from any and all claims, causes, actions, and damages of every kind, for injury to or death of any person and damages to property arising out or in connection with the work done by the contractor under this contract, including acts or omission of the City of Beaumont or its officers, agents or employees in connection with said Contract.

11.0 CONTRACTORS' SUPERINTENDENT:

The contractor shall designate a responsible member of his organization to remain full-time at the project site during the progress of the work.

11.1 Identity of the contractor's designated superintendent shall be submitted to the City immediately after the bid award.

11.2. The contractor shall retain the same individual as supervisor throughout the term of the contract unless the individuals' employment is terminated by the contractor or a substitute is requested by the City.

12.0 SUBCONTRACTORS:

12.1 The contractor, immediately after the bid award, shall furnish the City with a written list of subcontractors proposed for each principal portion of the work.

12.2 The contractor may change a subcontractor on the list with prior approval in writing by the City.

13.0 LIQUIDATED DAMAGES BY CONTRACTOR:

It is understood and agreed between the parties hereto that time is of the essence of this Contract, and that for each day of delay beyond the completion date of this Contract, the Contractor shall pay to the Owner as liquidated damages for each day of such delay the sum of one hundred dollars (\$100.00). This sum shall be treated as liquidated damages and not as a penalty, and the Owner may withhold from the Contractor's compensation such sums as liquidated damages.

14.0 QUALITY ASSURANCE:

14.1 **Qualifications of workmen** - The contractor shall provide sufficient skilled workmen and a capable supervisor who shall be present at all times during the execution of the work. No allowances will be made for lack of skill on the part of the workmen when accepting or rejecting the work.

14.2 Work performed by all craftsmen shall be in a first class workmanlike manner and shall be performed in strict accordance with the product manufacturers recommendations and all governing codes and regulations.

14.3 **Materials** - Best grade materials as regularly manufactured by approved manufacturers shall be provided. Materials not displaying the manufacturer's identification as a standard, best-grade product will not be accepted.

15.0 PRODUCT HANDLING:

- 15.1 **Protection** - The contractor shall be totally responsible for all materials delivered to him and for all parts of the work until final acceptance of the work, and shall be liable for all losses or damages thereto which may occur during the progress of the work and before final acceptance. The contractor shall be required to make good at his own cost any loss, injury or damage which said materials or work may sustain from any source or cause whatsoever before final acceptance thereof.
- 15.2 **Replacements** - The contractor shall be totally responsible for the quality of the merchandise delivered to the job site. All materials shall not be deficient in quality or workmanship. The contractor shall promptly remove and replace any and all materials found to be deficient in any way and shall take full responsibility for any delays or shortages.
- 15.3 **Storage and Delivery** - The contractor shall be responsible for storing all materials and for delivering the materials to the job site as needed. All materials to be delivered to the job site shall be in original, new and unopened packages and shall bear the manufacturer's name and label. The City shall not be responsible for any materials or equipment that is left on the job site.

16.0 PERMITS:

The Contractor shall be responsible for his work and that of his subcontractors complying with ALL APPLICABLE FEDERAL, STATE AND LOCAL CODES, ORDINANCES, REGULATIONS, AND DIRECTIVES including ADA REQUIREMENTS.

Mechanical and Building Contractor's Bonds are required for working within the city of Beaumont. A City Building Permit is required for all City construction projects. Fees for Building Permits for City construction projects will be waived. Contractor shall be responsible for all fees associated with the Mechanical and Building Contractor's Bond, if required. Contractor will also be responsible for complying with all Union Pacific Railroad permitting procedures.

17.0 CLEAN UP:

During the progress of the work, the contractor shall remove all discarded materials, rubbish, and debris from the job site daily. Work areas shall be kept clean and safe at all times.

18.0 FINAL INSPECTION:

Prior to requesting final inspection, the work in all respects shall be complete. The contractor shall notify the Building Services Representative at (409) 880-3792 to schedule final inspection.

19.0 WARRANTY:

Upon completion of the work and prior to final payment, the contractor shall submit a written warranty guaranteeing all materials and workmanship to be free from defects for a period of no less than one (1) year or as indicated in Technical Specifications.

20.0 PAYMENT:

Upon acceptance of the work and receipt of written warranties, payment by the City will be made no later than thirty (30) days after receipt of contractors' invoice.

21.0 WAGE RATES:

Prevailing Building & Construction wage rates for Jefferson County, published as part of the contract documents and subject to revisions, shall govern or control minimum rates for work performed during execution of the contract. Also, qualifications being equal, citizens of the City of Beaumont shall be given preference in employment for work performed under the contract.

22.0 For further clarification of these specifications, please refer to the Technical Specifications and drawings that follow.

23.0 If any further information is needed concerning bid requirements, contact:

City of Beaumont
Brenda Beadle
Capital Projects Manager
801 Main Street, Suite 200
P.O. Box 3827
Beaumont, Texas 77704

Phone: (409) 880-3718
Fax: (409) 785-4733
e-mail: bbeadle@ci.beaumont.tx.us

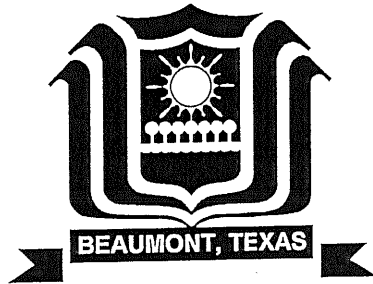
23.0 If any further information is needed concerning technical specifications and construction, contact:

City of Beaumont
Keith Folsom
Building Services
P.O. Box 3827
Beaumont, Texas 77704

Phone: (409) 880-3792
Fax: (409) 833-9332
e-mail: kfolsom@ci.beaumont.tx.us

TECHNICAL SPECIFICATIONS

RAILROAD R.O.W. CLEARING Municipal Airport



CITY OF BEAUMONT BUILDING SERVICES DIVISION

1848 Pine Street ~ Beaumont, Texas 77703 ~ (409) 880-3792 ~ Fax (409) 833-9332

**MUNICIPAL AIRPORT
(RAILROAD R.O.W. CLEARING)**

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Not Applicable

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Not Applicable

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Not Applicable

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Not Applicable

DIVISION 12 - FURNISHINGS

Not Applicable

DIVISION 13 - SPECIAL CONSTRUCTION

Not Applicable

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Not Applicable

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Not Applicable

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Not Applicable

**MUNICIPAL AIRPORT
RAILROAD R.O.W. CLEARING**

SECTION II - TECHNICAL SPECIFICATIONS

DIVISION 1 - GENERAL REQUIREMENTS

1.1 General

- 1.1.1** The location of the proposed work is at 455 Keith Road, Beaumont, Texas. The Contractor shall confine his use of the site to the portion indicated in this specification except as required by the Contract Documents to do work outside of that area.
- 1.1.2** The Contractor will be held to have examined the premises before submitting proposals for this work and to have satisfied himself as to the conditions under which he will be obligated to perform his work, or that will in any manner affect the work under his contract. No extra payments will be allowed for claims for additional work that could have been determined or anticipated by such inspection.
- 1.1.3** The Contractor shall be responsible for his work and that of his subcontractors complying with ALL APPLICABLE FEDERAL, STATE AND LOCAL CODES, ORDINANCES, REGULATIONS, AND DIRECTIVES including ADA REQUIREMENTS AND THE LATEST TEXAS ACCESSIBILITY STANDARDS. He shall be responsible for obtaining all permits and inspections required by the City of Beaumont, however, fees for City of Beaumont permits shall be waived. Any variances between these documents and the Codes shall be brought to the attention of the City's Building Services Superintendent, in writing, immediately upon discovery. The Contractor must abide by all Union Pacific Railroad guidelines while performing work on Railroad property.
- A. The Contractor shall be responsible for paying a nonrefundable fee of \$500.00 to the Union Pacific Railroad Company.**
- 1.1.4** Substitutions: Specific materials or products have been specified for certain items to set the standard of quality desired.
- 1.1.5** All substitutions must be approved in writing by the Owner prior to submission of bid. Substitutions will only be considered after bidding for the following reasons:
- A.** A savings will be offered to the Owner.
B. The product specified would delay the job.
C. The substitute product is better than that specified.
- 1.1.6** The Contractor shall be required to complete all work under this contract in a given

number of calendar days as stated in this proposal. Penalty for non-completion in this length of time will be cause to invoke the liquidated damage clause, as stated herein, until completion of work.

- 1.1.7 The liquidated damages clause will not be invoked for completion delay which is directly attributable to unavailability of materials or due to causes beyond the control of the Contractor, his subcontractors and suppliers, provided that the Contractor provides written proof of such unavailability satisfactory to the Owner as soon as it becomes evident.
- 1.1.8 Bills for extras will only be considered when extra work is ordered in writing. No bills will be considered if based upon verbal orders.
- 1.1.9 Finished or partially finished work that is damaged or defaced during construction and before final acceptance shall be repaired or replaced by the Contractor who originally executed the work. Costs for such repairs or replacement shall be borne by the Contractor whose employees or operations caused damage originally. This protection shall cover existing structures, drives and walks.
- 1.1.10 The Owner and his representative shall at all times have access to the work whenever it is in preparation or progress and the Contractor shall provide proper and safe facilities for such access and for inspection purposes.
- 1.1.11 The Job Supervisor shall be on the job from the start of each work day till the end of each shift and shall remain as the project Supervisor until the project is completed and accepted.
- 1.1.12 All existing streets, curbs, and sidewalks that are damaged or removed due to required excavations and/or construction, shall be patched, repaired, and left in their original condition and to the satisfaction of the Owner. All costs involved shall be borne by the Contractor.
- 1.1.13 The General Contractor shall be responsible for the proper coordination of all subcontractors.
- 1.1.14 Time: Guarantee all work in general for one (1) year from time of substantial completion certificate issue date. ***Refer to Specification Section 1.7 Warranty for additional warranty requirements.***
- 1.1.15 Conditions: Whenever, within the first year of final acceptance of the work, the Contractor is notified by the Owner that any item of equipment, material and/or workmanship has proved defective or is not in any way meeting the specification requirements, he will immediately replace, repair or otherwise correct the defect or deficiencies without cost to the Owner. This guarantee shall cover the repair without

costs to the Owner or damage to the Owner's property.

- 1.1.16 The Contractor shall visit the site or sites to familiarize himself with the existing conditions and/or difficulties which may be encountered with completing this project as per plans and specifications.
- 1.1.17 Materials shall be delivered to the job site in a timely manner and shall be stored in an area designated by the City's Building Services Superintendent. Methods for storing and handling materials shall be in strict accordance with the manufacturers recommendations and protected against inclement weather and damage.
- 1.1.18 The Contractor shall be responsible for the proper care and protection of all his materials and equipment at the site. Placement of building materials and Contractor's equipment at the site shall be subject to the approval of the Owner.
- 1.1.19 This Contractor shall be responsible for requesting prompt clarification when instructions are lacking, conflicts occur in the specifications and/or manufacturer's literature, or the procedure specified is not clearly understood. In the event this Contractor fails to resolve these conflicts which may exist, he shall be responsible for handling the discrepancies in a manner as prescribed by the City of Beaumont at no additional cost.

1.2 Schedules and Reports

- 1.2.1 Within two weeks after the contract has been signed, the Contractor shall submit to the Building Services Superintendent a schedule of work, showing the date that each phase of the work will be started and finished.
- 1.2.2 Within one week after signing the contract, the General Contractor is to provide a list of all subcontractors to be used on the project.
- 1.2.3 The contractor shall notify the Building Services Representative at any time there is need of clarification or interpretation of the Contract Documents. More specifically, the Contractor shall notify the Building Services Representative 24 hours in advance of the following stages of construction:
 - A. Beginning of work.
 - B. Completion of all work.
- 1.2.4 It is required that under the conditions of this Contract, all work shall be closely scheduled and verified before any work will commence. Coordination and scheduling of work activities shall be approved by the Building Services Superintendent prior to work commencement at this site. A pre-construction meeting will be organized and conducted by the Building Services Superintendent at the

Beaumont Municipal Airport Terminal Building, 455 Keith Road, Beaumont, Texas to review and coordinate all related work between this Contractor and other trades who will be involved in other aspects of this project. It is required that this Contractor attend the pre-construction meeting and be prepared to develop a work schedule which will expedite the overall scope of the project.

1.3 Shop Drawings and Samples

(Not Applicable)

1.4 Temporary Facilities

1.4.1 Provide a weather-tight office trailer at site with adequate space for the contractor. (Contractors Option)

1.4.2 Provide a weather-tight storage building for the storage of Contractor's materials and/or tools and equipment. It is highly recommended that the Contractor provide a storage container to secure his miscellaneous materials and/or tools. There will not be an area at the facility to store materials.

1.4.3 Provide sanitary facilities for workmen at the job and remove at completion of project.

1.4.4 Electrical power and water are not available at the site.

1.4.5 Provide a telephone at the job site. (Cellular Phone acceptable)

1.4.6 The Contractor will be responsible for erecting temporary barricades where needed to protect his workers, City of Beaumont Employees and/or the public.

1.5 Clean Up

1.5.1 Keep job site, drives, walks and parking areas free from accumulation of rubbish and waste materials at all times. All trash and/or rubbish shall be hauled off-site on a daily basis.

1.5.2 Prior to delivery of job to the Owner, clean all areas affected by this project. See that site is left clean and free of all debris.

1.6 Project Closeout

1.6.1 Completion of the work, as the term is used in this Contract shall mean substantial completion of the work. Substantial completion shall exist where there has been no willful departure from the terms of the Contract, and no omission in essential points,

and the Contract has been honestly and faithfully performed in its material and substantial particulars, and the only variance consists of relatively minor omissions or defects, and the work can be used or occupied for the purpose for which it was intended.

1.6.2 The date of substantial completion of the Project shall be the date when the construction is sufficiently completed, in accordance with the Contract Documents, as modified by any change orders agreed to by the parties, so that the Owner can occupy or utilize the project for the use for which it was intended and the legislative body of the Owner has accepted the Project as evidenced by and recording of a Notice of Substantial Completion/Notice of Completion.

1.6.3 Upon notification by the Contractor that the work is completed, a final inspection shall be made by the Owner and his representative. A punch list will be made noting all items needing completion or correction. After the work on this list is accomplished, the Owner will inspect same and approve the final pay request.

1.6.4 Failure of the Contractor to complete or correct all such outstanding punch list work to the satisfaction of the Owner within 30 calendar days following acceptance and Notice of Substantial Completion, shall constitute a waiver by the Contractor of all rights to any and all claims it may have to all monies withheld by the Owner under the Contract to cover the value of such uncompleted or uncorrected items.

1.6.5 All guarantees shall be submitted to the Owner in triplicate at the completion of the construction phase.

1.6.6 The Contractor, prior to requesting its final progress payment, shall submit the following items to the Owner:

- A. Releases of liens (Suppliers, Subcontractors, etc.)
- B. Consent of Surety. (If Applicable)
- C. Contractor's Affidavit of Payment and Claims.

1.7 Warranty

1.71 At the completion of this project, the contractor shall submit the following warranties to the owner (in triplicate).

- A. All manufacturer's written warranties for products incorporated into the project.
- B. In addition to the manufacturer's warranties, the contractor shall provide a

written workmanship warranty for a period of one (1) year from the date of substantial completion.

- C. All warranties shall be executed to begin from the date of substantial completion and/or owner's acceptance of the project.

1.8 Unit Prices

1.8.1 Unit Price #1 (Mowing)

Furnish labor and equipment necessary to mow areas as specified by Owner, with brush hog style equipment. This portion of the work, if accepted, would be performed immediately after all clearing is complete.

In the space provided on the bid form, provide a unit price per acre for mowing operations.

1.8.2 Unit Price #2 (Hydro-Mulch Seeding)

Furnish labor, materials and equipment necessary to hydro-mulch seed the entire area scheduled to be cleared. This portion of the work, if accepted, by the Owner, would be performed immediately after all clearing and site dress-up is complete. See Section 2.5 for hydro-mulch seeding.

In the space provided on the bid form, provide a unit price per acre for applying hydro-mulch seed.

End of Division 1

DIVISION 2 - SITE WORK:

2.1 Scope of Work

2.1.1 General

- A. The Railroad R.O.W. shall be cleared of all trees, brush and debris that is within the project limits as indicated on the drawings. The R.O.W. shall be left in such a condition that will allow it to be maintained with a tractor and brush hog mower.
- B. All brush, trees, etc. shall be cut flush with the existing grade. No tree stubs or stumps shall be left above grade.
- C. All wood, brush and debris shall become the property of the Contractor, and shall be removed from the site and disposed of in a proper manner. All cost of disposal shall be paid by the Contractor. **BURNING OF DEBRIS ON SITE WILL NOT BE PERMITTED.**
- D. During the project, and at the final completion of the project, there shall be no debris, wood chips, brush, limbs, etc. left laying on or near the Railroad tracks, or rock ballast areas.
- E. All cleared areas shall be left in such a condition that will allow them to be maintained. Backfill and tamp all ruts, tree stump holes or other minor excavations created during clearing, with a select material brought in from an outside source. Restore the ground surface, including any material worked loose or washed out, to it's original slope. It shall be the Contractor's responsibility to furnish, place and compact all material used for backfill. All backfill material shall be free from vegetation, roots and other objectionable material.

2.2 Project Limits:

- A. The project limits are from the north Airport property fence line to the fence line on the north side of the Railroad. The area of work begins approximately 300 lf. west of Keith Road, and is an estimated 4,000 lf. along each side of the Union Pacific Railroad occupying an estimated 10.25 acres. (As indicated on the drawings, Contractor to field verify).
- B. The Contractor shall limit his activity to the area shown on the site plan. At no time shall Contractor's personnel or equipment encroach the rail area of the R.O.W.. **THE CONTRACTOR'S WORK SHALL AT NO TIME, BE ALLOWED TO IMPEDE THE NORMAL ACTIVITIES OF THE RAILROAD.**

- C. No equipment shall be left unattended in the Railroad R.O.W., regardless of the length of time. The City of Beaumont will allow Contractor's equipment to be parked on the airport property in a designated area.
- D. Access to the site is limited. The Contractor must visit the site and familiarize himself with the site conditions prior to submitting a bid. No change orders will be issued on this project, due to the Contractor's failure to adequately survey the site and familiarize himself with the obstacles, that may be encountered while executing the scheduled scope of work. (No Exceptions).

2.3 Contractor's Responsibilities

See Exhibit "B" of the Union Pacific Railroad Right of Entry Agreement.

- A. Contractor must include with his bid, a detailed description of the procedures he plans to follow to clear the R.O.W. as described in the scope of work. This must include a list of all equipment that may be utilized in performing the work.
- B. Contractor shall verify all utility locations with the utilities designated representative, and all pipeline corridors with the pipeline representative, and alert them concerning the work in this area.
 - 1. Exxon Pipeline Company - Houston, Texas
(713) 656-1234
 - 2. MCI Fiber Optic Cable ID# 45334; 1-800-344-8377 or 1-800-MCI-WORK
 - 3. Protection of Fiber Optic Cable Systems. Prior to beginning any work, the Contractor shall telephone the Railroad at 1-800-336-9193 to determine if any fiber optic cable is buried anywhere on the property set forth herein.

The preceding may not be a complete listing of the utilities in the designated area of work.

- C. The Contractor may install a temporary gate in the barbed wire fence located on the airport property. Once the project is complete, the gate shall be removed and the fence repaired back to it's original or better condition and to the satisfaction of the Owner's representative.
- D. All damage to the site, or the grounds of the airport property that results from this project, shall be repaired back to it's original or better condition, and to the satisfaction of the Owner's representative. All such repairs shall be at the expense of the Contractor.
- E. The Contractor shall be responsible for any damages incurred to the fences of the

private property owners as well as the City of Beaumont within the project limits. All fences shall be repaired back to their original or better condition, and to the satisfaction of Owner's Representative.

2.4 Safety

2.4.1 General

- A. In addition to the Contractor's normal safety policies and procedures, the Union Pacific Railroad has established their own safety standards by which the Contractor and all personnel shall abide.

2.4.2 Safety Instructions

- A. See Exhibit "B", Section 8 of the Union Pacific Railroad Right of Entry Agreement.
- B. In the event a safety violation occurs, and said violation is not expeditiously corrected, the City shall instruct the Contractor, to cease all activities, secure and vacate the jobsite until such time the infractions have been corrected. **Any and all costs and time delays associated with a work stoppage resulting from a safety violation shall be the sole responsibility of the Contractor.**

2.4.3 Flagging

- A. See Exhibit "B", Section 1 of the Union Pacific Railroad Right of Entry Agreement.
- B. The Railroad Representative has deemed a flagman shall be required. The rate shall be \$490.00/day, (based on 8 hrs/day), the fee for working 12 hrs/day and weekends is \$794.00/day for which the Contractor shall be responsible.
- C. The Contractor shall provide their own safety/fire watch person, whose sole responsibility shall be to observe all aspects of the project anytime work is being performed.

2.5 Hydro-Mulch Seeding (Unit Price #2)

2.5.1 General

- A. This section provides for the covering of channel bottom, side slopes, berms and berm ditches with healthy permanent and rooted grass system for erosion prevention. The work covered by this section consists of furnishing all plant, labor, materials, equipment, supplies, supervision and tools, and performing all work necessary for topsoiling, smoothing, seeding, fertilizing, watering, maintenance and clean-up of the top and side slopes of the rectified channel sections, all in accordance with the

drawings and specifications.

- B. The hydro-mulch seeding operations, together with all other necessary related work, shall conform to the requirements specified in this section. The area to be hydro-mulch seeded may include the entire area, or sections of the area scheduled to be cleared. Areas that are not disturbed and which have a well established turf, will not require hydro-mulch seeding.

2.5.2 Payment

Payment for hydro-mulch seeding will be at the unit price per acre for hydro-mulch seeding as stated in Division 1, Section 1.8.2, Unit Price #2.

2.5.3 Equipment

- A. The contractor shall use equipment necessary for proper completion of the project.
- B. Mulching equipment may be used for clearing. If the Contractor elects this method of operation, the debris/chips may remain on the R.O.W., but shall be spread out in a uniform manner.
- C. The Contractor shall provide the following fire protection equipment.
 - 1. Five (5) round point shovels.
 - 2. Two (2) manual pump type water sprayers with a five (5) gallon capacity each equivalent to Wildfire Metal Water Tank #SKU:DBS-90G or Indian Poly Pump #SKU:DBS-500FER from wildfire-equipment.com
 - 3. Twenty (20) additional gallons of water.

2.5.4 Materials

- A. Seed: All seed must meet the requirements of U.S. Department of Agriculture Rules and Regulations as set forth in Federal Seed Act and Texas Seed Law. Type of seed, purity and germination requirements, rate of application and planting dates are as follows:

Application Rate:

Type: Unhulled Common Bermuda Grass 98/88

Pounds Per Acre: 40

Planting Date: January 1 to April 15

Type: Annual Rye Grass (Gulf)

Pounds Per Acre: 100

Planting Date: January 1 to April 15

Type: Hulled Common Bermuda Grass 98/88
Pounds Per Acre: 40
Planting Date: April 15 to October 1

Type: Millet
Pounds Per Acre: 40
Planting Date: April 15 to October 1

Type: Hulled Common Bermuda Grass 98/88
Pounds Per Acre: 40
Planting Date: October 2 to January 1

Type: Unhulled Common Bermuda Grass 98/88
Pounds Per Acre: 40
Planting Date: October 2 to January 1

Type: Annual Rye Grass (Gulf)
Pounds Per Acre: 100
Planting Date: October 2 to January 1

- B. Fertilizer: Fertilizer shall be water soluble with analysis of 15 percent (15%) nitrogen, 15 percent (15%) phosphoric acid and 15 percent (15%) potash. Rate of application shall be 750 pounds per acre except during the period of April 15 thru September 1, when the rate shall be reduced to 600 pounds per acre.
- C. Mulch: Mulch shall be virgin wood cellulose fiber made from whole wood chips. Within the fiber mulch material at least 20 percent (20%) of the fibers will be 10.7 mm in length and 0.27 mm in diameter. Rate of application shall be 2,000 pounds per acre. Soil stabilizers such as Terra Type III, (or approved equal) shall be applied at a rate of 40 pounds per acre on the side slopes and "Terra Tack I" (or approved equal) shall be applied at a rate of 40 pounds per acre in the flatter upper portions of the channel areas.

2.5.5 Execution

Apply a mulch mixture to the cleared area at the rates specified:

- A. Prepare the area to be seeded as required.
- B. Apply the mulch mixture to the area at the specified rates.
- C. Fertilize, water and cultivate the application to insure a good product.

D. Reapply a mulch mixture if necessary to get a stable growth.

2.5.6 Guarantee

The hydro-mulch seeding shall be adequately watered until established. Any areas damaged by erosion or areas that do not have an acceptable turfing shall be redone to the satisfaction of the Owner.

Contractor will guarantee a permanent covering grass after sufficient time for germination.

2.6 Exhibits

See Attached Herewith:

- A. Contractor's Endorsement
- B. Right of Entry Agreement
- C. Exhibit "A"
- D. Exhibit "A-1"
- E. Exhibit "B"
- F. Exhibit "C"

End of Division 2

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____ Contractor, as Principal,
and _____ as Surety,
are held and firmly bound unto City of Beaumont, Texas, herein called Owner, in the
sum of \$ _____ (Figure) _____ (Written Form)

(not less than 5 percent of the largest total amount of the bid)

for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors,
administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has submitted a Bid to said Owner to perform the Work required under the
Bidding Schedule(s) of the Owner's Contract Documents entitled:

MUNICIPAL AIRPORT - RAILROAD RIGHT-OF-WAY CLEARING

NOW THEREFORE, if said Principal is awarded a contract by said Owner, and, within the time, and in the
manner required in the Notice Inviting Bids and the Instructions to Bidders, enters into a written Agreement
on the form of agreement bound with said Contract Documents, furnishes the required Certificates of
Insurance, and furnishes the required Performance Bond and Payment Bond, then this obligation shall be null
and void, otherwise it shall remain in full force and effect. In the event suit is brought upon this bond by said
Owner and Owner prevails, said Surety shall pay all costs incurred by said Owner in such suit, including a
reasonable attorney's fee to be fixed by the court.

SIGNED AND SEALED, this _____ day of _____, 20_____.

(Principal) (Seal)

(Witness)

(Title)

(Surety) (Seal)

(Witness)

(Title)

PERFORMANCE BOND

STATE OF TEXAS

COUNTY OF _____

BOND NO. _____

KNOW ALL BY THESE PRESENTS:

That _____ as Contractor,
and _____ as Surety, are held firmly
bound unto the City of Beaumont, Texas, hereinafter called Owner, in the penal sum of _____
dollars, for the payment of which sum well and truly to be made, we bind ourselves, our
heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS said Contractor has been awarded and is about to enter into the Agreement with said Owner to
perform the Work as specified or indicated in the Contract Documents entitled:

MUNICIPAL AIRPORT - RAILROAD RIGHT-OF-WAY CLEARING

NOW THEREFORE, if said Contractor shall perform all the requirements of said Contract Documents
required to be performed on its part, at the times and in the manner specified herein, then this obligation shall
be null and void, otherwise it shall remain in full force and effect. If said Contractor fails in any contract
requirement, Surety will, upon demand of Owner, proceed to complete the Contractor's obligations, at
Surety's expense.

PROVIDED, that any alterations in the Work to be done or the materials to be furnished, or changes in the
time of completion, which may be made pursuant to the terms of said Contract Documents, shall not in any
way release said Contractor or said Surety thereunder, nor shall any extensions of time granted under the
provisions of said Contract Documents, release either said Contractor or said Surety, and notice of such
alterations or extensions of the Agreement is hereby waived by said Surety.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Article 5160 of the
Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance
with the provisions of said article to the same extent as if it were copied at length herein.

SIGNED AND SEALED, this _____ day of _____, 20____.

(Contractor)
By: _____
(Signature)
Title: _____

(Surety)
By: _____
(Signature)
Title: _____
Address: _____

(SEAL)

(SEAL)

PAYMENT BOND

STATE OF TEXAS

COUNTY OF: _____

BOND NO. _____

KNOW ALL BY THESE PRESENTS:

That _____ as Contractor,
and _____ as Surety, are held
firmly bound unto the City of Beaumont, Texas, hereinafter called Owner, in the penal sum of _____ dollars,

for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Contractor has been awarded and is about to enter into the Agreement with said Owner to perform the Work as specified or indicated in the Contract Documents entitled:

MUNICIPAL AIRPORT - RAILROAD RIGHT-OF-WAY CLEARING

NOW THEREFORE, if said Contractor, or subcontractor, fails to pay for any materials, equipment, or other supplies, or for rental of same, used in connection with the performance of the work contracted to be done, or for amounts due under applicable State law for any work or labor thereon, said Surety will pay the same in an amount not exceeding the sum specified above, and, in the event suit is brought upon this Bond, a reasonable attorney's fee to be fixed by the Court. This Bond shall inure to the benefit of any and all persons, companies, or corporations entitled to file claims under applicable State law.

PROVIDED, that any alterations in the work to be done or the materials to be furnished, or changes in the time of completion, which may be made pursuant to the terms of said Contract Documents, shall not in any way release said Contractor or said Surety thereunder, nor shall any extensions of time granted under the provisions of said Contract Documents, release either said Contractor or said Surety, and notice of said alterations or extensions of the Agreement is hereby waived by said Surety.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Article 5160 of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provisions of said article to the same extent as if it were copied at length herein.

SIGNED AND SEALED, this _____ day of _____, 20_____.

(Contractor)

(Surety)

By: _____
(Signature)

By: _____
(Signature)

Title: _____

Address: _____

(SEAL)

(SEAL)

AGREEMENT

THIS AGREEMENT made this ____ day of _____ in the year 20____, by and between The City of Beaumont, a legal entity organized and existing in the State of Texas, hereinafter designated as the Owner, and _____ hereinafter designated as the CONTRACTOR.

The Owner and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. THE WORK

The Contractor shall complete the Work as specified or indicated under the Bid Schedule(s) of the Owner's Contract Documents entitled:

MUNICIPAL AIRPORT - RAILROAD RIGHT-OF-WAY CLEARING

The Work is generally described as follows: **RAILROAD RIGHT-OF-WAY CLEARING AT THE BEAUMONT MUNICIPAL AIRPORT**

ARTICLE 2. TIME OF COMMENCEMENT OF COMPLETION

The Work to be performed under this Contract shall be commenced on the date specified by the Owner in the Notice to Proceed and the Work shall be fully completed in _____ calendar days.

The Owner and the Contractor recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in this Article 2, herein, plus any extensions thereof allowed in accordance with Article 4 of the General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Owner and the Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the Owner the sum of \$_____ for each calendar day that expires after the time specified in this Article 2, herein.

ARTICLE 3. CONTRACT PRICE

The Owner shall pay the Contractor for the completion of the Work in accordance with the Contract Documents in current funds the Contract Price(s) named in the Contractor's Bid and Bid Schedule(s).

ARTICLE 4. THE CONTRACT DOCUMENTS

The Contract Documents consist of: Notice Inviting Bids, Instructions to Bidders, Scope of Work, Bid Forms (Bid, Bid Schedule(s) and Bid Summary), Bid Bond, Corporate Resolution, Information Required of Bidder, Agreement, Performance Bond, Payment Bond, Minority Business Utilization Commitment, MBE Schedule C, Schedule of Prevailing Local Wage Rates, General Conditions of the Contract, Supplementary General Conditions of the Contract, General Summary of the Work, Technical Specifications, Special Specifications, Drawings listed in the Schedule of Drawings in the Supplementary General Conditions of the Contract, General Notes, Addenda Number ____ to ____, inclusive, and all Change Orders and Work Directive Changes which may be issued subsequent to the Effective Date of the Agreement and are not attached hereto.

Documents which will become part of these Contract Documents subsequent to Award consist of: Notice of Award, Certificates of Insurance, Evidence of Workers Compensation coverage, Surety's Powers of Attorney (to accompany the executed Performance and Payment Bonds) and Notice to Proceed.

ARTICLE 5. PAYMENT PROCEDURES

Payment will be made in accordance with Article 5 of the General Conditions of Agreement.

ARTICLE 6. NOTICES

Whenever any provision of the Contract Documents requires the giving of written Notice, it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the Notice.

ARTICLE 7. MISCELLANEOUS

Terms used in this Agreement which are defined in Article I of the General Conditions and Supplementary General Conditions will have the meanings indicated in said General Conditions and Supplementary General Conditions.

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

The Owner and the Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, the Owner and the Contractor have caused this Agreement to be executed the day and year first written above.

CITY OF BEAUMONT
STATE OF TEXAS

By: _____
City Manager

Attest: _____
City Clerk

Contractor

By: _____
Title

Attest: _____
Secretary

(Affix Corporate Seal)

GENERAL DECISION: TX20080014 01/23/2009 TX14

Date: January 23, 2009

General Decision Number: TX20080014 01/23/2009

Superseded General Decision Number: TX20070014

State: Texas

Construction Type: Building

Counties: Hardin, Jefferson and Orange Counties in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	02/08/2008
1	04/25/2008
2	06/27/2008
3	08/15/2008
4	11/21/2008
5	12/26/2008
6	01/23/2009

ASBE0022-001 06/01/2008

	Rates	Fringes
--	-------	---------

Insulator/asbestos worker (includes application of all insulating materials, protective coverings, coatings and finishing to all types of mechanical systems).....	\$ 19.93	8.30
---	----------	------

BRTX0001-009 06/01/2008

	Rates	Fringes
--	-------	---------

BRICKLAYER.....	\$ 21.92	7.80
-----------------	----------	------

ELEC0479-001 09/01/2003

	Rates	Fringes
--	-------	---------

ELECTRICIAN (Including pulling or installing low or no voltage cable through conduit but only to junction box or plate where wire is loosely attached or coiled for fire alarms, phones, heating, etc.).....	\$ 21.80	7.68+3%
---	----------	---------

* PLUM0068-002 10/01/2008

	Rates	Fringes
--	-------	---------

PLUMBER (Excluding HVAC Pipe Work).....	\$ 27.04	8.73
--	----------	------

 SHEE0054-011 07/01/2007

	Rates	Fringes
SHEET METAL WORKER.....	\$ 21.07	9.42

SUTX2000-001 02/16/2000

	Rates	Fringes
Carpenters:		
ACOUSTICAL.....	\$ 14.00	
DRYWALL AND METAL STUDS.....	\$ 14.00	
FORM BUILDER AND SETTER.....	\$ 14.52	
ALL OTHER WORK.....	\$ 15.68	

CEMENT MASON/CONCRETE FINISHER...\$ 13.50

Fire Alarm Installer
 (Installation Of Fire Alarm
 Apparatus Only, Excludes
 Pulling Or Installing Of
 Low Or No Voltage Wiring).....\$ 14.00 1.48

GLAZIER.....\$ 11.50

Insulator, Batt & Blown.....\$ 11.21 1.00

Laborers:

Brick Tender.....	\$ 8.84
Common/Unskilled.....	\$ 8.39
Plaster Tender.....	\$ 8.00

Painters:

Brush.....	\$ 15.00
Drywall Taping and Finishing.....	\$ 15.00
Roller.....	\$ 12.00
Spray.....	\$ 15.00

PIPEFITTER (HVAC Pipe Only).....\$ 15.27

PLASTERER.....\$ 15.07

Power equipment operators:
 Backhoe.....\$ 14.28

ROOFER, Including Built Up,
 Composition and Single Ply
 Roofs (Including Metal Roofs)....\$ 10.50

WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within
 the scope of the classifications listed may be added after
 award only as provided in the labor standards contract clauses
 (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

CONTRACTOR'S ENDORSEMENT

Folder No. 2528-92.

A. As a condition to entering upon Licensor's right-of-way to perform work pursuant to this Agreement, Licensee's contractor (*Fill in*):

(hereinafter "Contractor") agrees to comply with all the terms and provisions of this Agreement relating to the work to be performed and the insurance requirements set forth in Exhibit C.

B. Before the Contractor commences any work, the Contractor will pay the Licensor a nonrefundable payment of \$500 upon execution and return of this Contractor's Endorsement, and will provide the Licensor with a certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit C in a policy which contains the following type endorsement:

UNION PACIFIC RAILROAD COMPANY is named as an additional insured with respect to all liabilities arising out of Insured's performance of work on behalf of the Licensee.

All insurance correspondence shall be directed to: Mary Gross - Folder No. 2528-92, Union Pacific Railroad Company, 1400 Douglas Street STOP 1690, Omaha, Nebraska 68179-1690.

(Please print Contractor's Name above)

X _____
Title: _____

RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of November 05, 2008; by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (hereinafter the "Railroad"), and **CITY OF BEAUMONT**, a Texas municipal corporation, to be addressed at 801 Main Street, , , Beaumont, TX 77701 (hereinafter the "Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to the Licensee shall include the Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

Article 2. RIGHT GRANTED; PURPOSE.

The Railroad hereby grants to the Licensee the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the portion of Railroad's property in the vicinity of Mile Post 453.65, Beaumont Subdivision, at or near Beaumont, Texas, for the purpose of clearing and hauling away the trees and underbrush, as described in the attached Exhibit A-1. The right herein granted to Licensee is limited to those portions of the Railroad's property specifically described herein in the location shown on the print marked Exhibit A, attached hereto and hereby made a part hereof, or designated by the Railroad Representative named in Article IV.

Article 3. TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.

The terms and conditions contained in Exhibits B and C, hereto attached, are hereby made a part of this Agreement.

**Article 4. ALL EXPENSES TO BE BORNE BY LICENSEE;
RAILROAD REPRESENTATIVE.**

The Licensee shall bear any and all costs and expenses associated with any work performed by the Licensee, or any costs or expenses incurred by the Railroad relating to this Agreement. All work performed by Licensee on Railroad's property shall be performed in a manner satisfactory to the representative local Manager of Track Maintenance of the Railroad or his authorized representative (hereinafter the Railroad Representative):

Heath D. Landrum, MTM
Union Pacific Railroad Company
550 Lindburgh Drive
Beaumont, Texas 77070
Work: 409/225-9308
Email: hdlandru@up.com

Article 5. TERM; TERMINATION.

A. The grant of right herein made to Licensee shall commence on the date of this Agreement, and continue until May 31, 2009 unless sooner terminated as herein provided, or at such time as Licensee has completed its work on Railroad's property, whichever is earlier. Licensee agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

Article 6. CERTIFICATE OF INSURANCE.

A. Before commencing any work, the Licensee will provide the Railroad with a Certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit C of this Agreement in a policy which contains the following type of endorsement:

"Union Pacific Railroad Company is named as additional insured with respect to all liabilities arising out of Insured's, as Licensee, performance of any work on the property of the Railroad."

B. Licensee warrants that this Agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agent(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

C. All insurance correspondence shall be directed to: Union Pacific Railroad Company, Director (Attn.: Mary Gross - Folder No.2528-92), 1400 Douglas Street STOP 1690, Omaha, Nebraska 68179-1690.

Article 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Prior to beginning any work, the Licensee shall telephone the Railroad at **1-800-336-9193** (a 24-hour number) to determine if fiber optic cable is buried anywhere on the property set forth herein. If it is, the Licensee shall also comply with and be subject to the provisions contained in Section 6 of Exhibit B.

Article 8. ENFORCEABILITY; CHOICE OF LAW; CHOICE OF FORUM.

This Agreement shall be governed, construed, and enforced in accordance with the laws of the state of Nebraska. Litigation arising out of or connected with this Agreement may be instituted and maintained in the courts of the state of Nebraska and Texas only, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

Article 9. LICENSE FEE.

Licensee shall pay, and Railroad shall accept, upon the execution and return of this instrument, the nonrefundable sum of **One Thousand Five Hundred Dollars (\$1,500.00)** to cover Railroad's cost to prepare and administer this Agreement.

Flagging charges are not included in the sum recited in the preceding paragraph, and will be billed separately, if incurred.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY
Federal Taxpayer I.D. #94-6001323

CITY OF BEAUMONT

By: _____
Manager - Contracts

By: _____
Title: _____

(Pursuant to ordinance, resolution, or other evidence of proper authority to execute this instrument, a copy of which shall be attached to the Railroad's original counterpart of this document.)

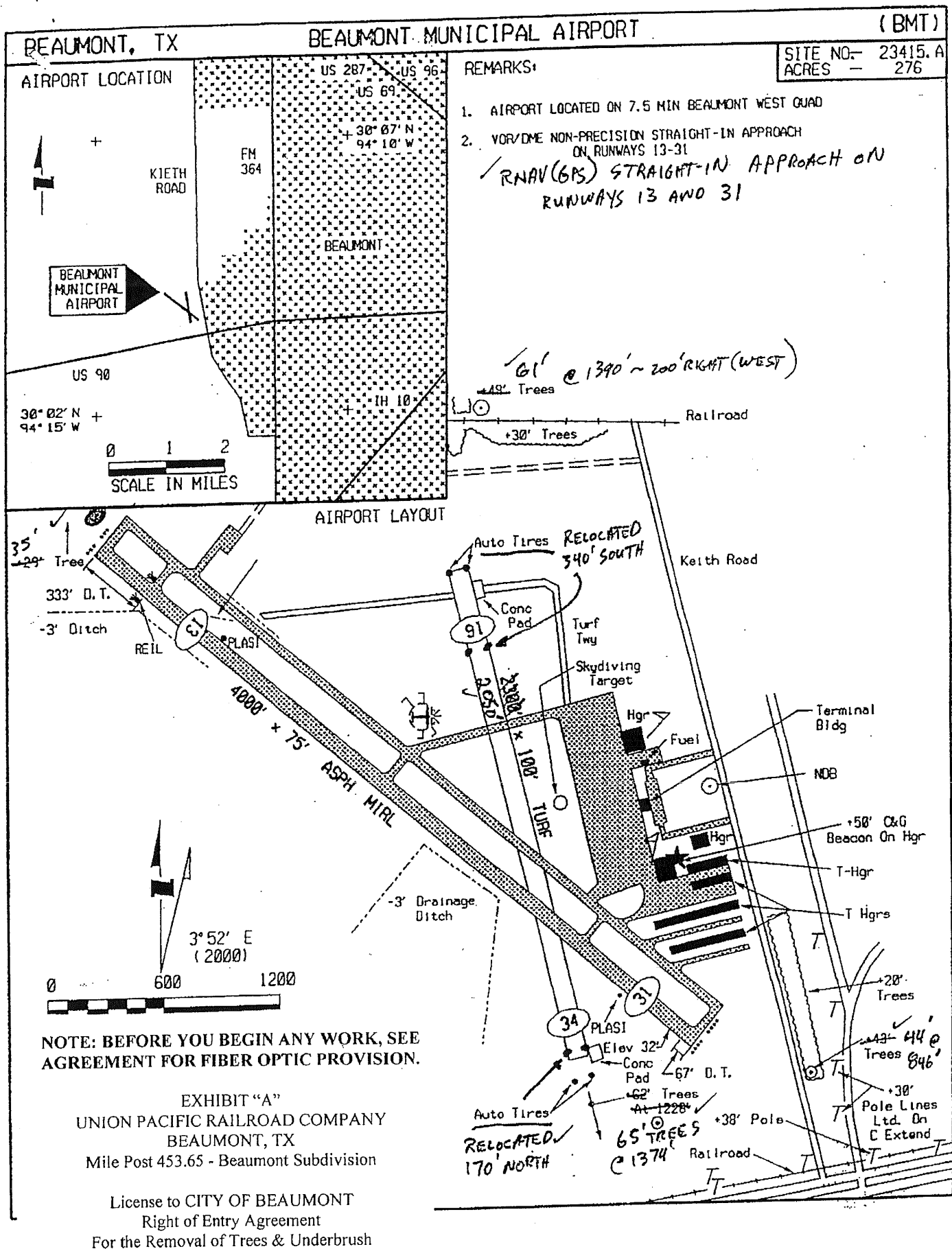


Exhibit "A-1"

City of Beaumont, Texas Municipal Airport

A recent inspection by the Texas Department of Transportation - Aviation Division, revealed some penetrations in the imaginary surfaces as defined in Federal Aviation Regulation Part 77, "Objects Affecting Navigable Airspace." The approach surface at the approach end of runway 13 is obstructed by trees which occupy the ROW of the Union Pacific Rail Road.

Scope of Work:

It is the intention of the City of Beaumont, (upon receipt of Right of Entry permission) to let a contract for the purpose of clearing and hauling away the trees and under brush, that lies within the ROW of the Union Pacific Rail Road. The impacted area is shown on the drawing attached herewith.

The time frame for completing this project is uncertain. The actual work to be performed should take no more than thirty (30) days; however, the time to let a contract and return the signed agreement with the pertinent contractor information, including proof of insurance, is unclear at this time pending Right of Entry approval.

**NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISION.**

EXHIBIT "A-1"
UNION PACIFIC RAILROAD COMPANY
BEAUMONT, TX
Mile Post 453.65 - Beaumont Subdivision

License to CITY OF BEAUMONT
Right of Entry Agreement
For the Removal of Trees & Underbrush

REAL ESTATE DEPARTMENT
OMAHA, NE Date: 11/5/2008
Folder: 2528-92

EXHIBIT B

Section 1 - NOTICE OF COMMENCEMENT OF WORK – FLAGGING.

The Licensee agrees to notify the Railroad Representative at least Ten (10) days in advance of Licensee commencing its work and at least 24 hours in advance of proposed performance of any work by the Licensee in which any person or equipment will be within 25 feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within 25 feet of any track. Upon receipt of such notice, the Railroad Representative will determine and inform the Licensee whether a flagman need be present and whether the Licensee need implement any special protective or safety measures. If any flagmen or other special protective or safety measures are performed by the Railroad, such services will be provided at Licensee's expense with the understanding that if the Railroad provides any flagging or other services, the Licensee shall not be relieved of any of its responsibilities or liabilities set forth herein.

Section 2 - LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

a. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Licensee or to any other party for compensation or damages.

b. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3 - NO INTERFERENCE WITH RAILROAD'S OPERATION.

No work performed by Licensee shall cause any interference with the constant, continuous and uninterrupted use of the tracks, property and facilities of the Railroad, its lessees, licensees or others, unless specifically permitted under this Agreement, or specifically authorized in advance by the Railroad Representative. Nothing shall be done or suffered to be done by the Licensee at any time that would in any manner impair the safety thereof. When not in use, Licensee's machinery and materials shall be kept at least 50 feet from the centerline of Railroad's nearest track, and there shall be no crossings of Railroad's tracks except at existing open public crossings.

Section 4 - PERMITS.

Prior to beginning any work, the Licensee, at its sole expense, shall obtain all necessary permits to perform any work contemplated by this Agreement.

Section 5 - MECHANIC'S LIENS.

The Licensee shall pay in full all persons who perform labor or provide materials for the work to be performed by Licensee. The Licensee shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be enforced against any property of the Railroad for any such

work performed. The Licensee shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

Section 6 - FIBER OPTIC CABLE SYSTEMS.

In addition to other indemnity provisions in this Agreement, the Licensee shall indemnify and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Licensee, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Licensee shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 7 - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, the Licensee shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Licensee shall use only such methods as are consistent with safety, both as concerns the Licensee, the Licensee's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Licensee (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's property. If any failure by the Licensee to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Licensee shall reimburse and indemnify the Railroad for any such fine, penalty, cost or charge, including without limitation attorneys' fees, court costs and expenses. The Licensee further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

Section 8 - SAFETY INSTRUCTIONS.

Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work pursuant to this Agreement. As reinforcement and in furtherance of overall safety measures to be observed by the Licensee (and not by way of limitation), the following special safety rules shall be followed:

a. The Licensee shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job. The Licensee shall have proper first aid supplies available on the job site so that prompt first aid services can be provided to any person that may be injured on the job site. The Licensee shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries occurring to any person that may arise during the work performed on the job site. The Licensee shall have a non-delegable duty to control its employees, while they are on the job site or any other property of the Railroad to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage or illegally obtained drug, narcotic or other substance that may inhibit the safe performance of work by an employee.

b. The employees of the Licensee shall be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing or free use of their hands or feet. Only waist length shirts with sleeves and trousers that cover the entire leg are to be worn. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching. The employees should wear sturdy and protective footwear. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes or other shoes that have thin soles or heels that are higher than normal. In addition, the Licensee shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations or Railroad officials overlooking the work at the job site. In particular, the protective equipment to be worn shall be:

(1) Protective head gear that meets American National Standard-Z89.1-latest revision. It is suggested that all hardhats be affixed with Licensee's or subcontractor's company logo or name.

(2) Eye protection that meets American National Standard for occupational and educational eye and face protection, Z87.1-latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, burning, etc.; and

(3) Hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site.

c. All heavy equipment provided or leased by the Licensee shall be equipped with audible back-up warning devices. If in the opinion of the Railroad Representative any of Licensee's or any of its subcontractors' equipment is unsafe for use on the Railroad's right-of-way, the Licensee, at the request of the Railroad Representative, shall remove such equipment from the Railroad's right-of-way.

Section 9 - INDEMNITY.

a. As used in this Section, "Railroad" includes other railroad companies using the Railroad's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (i) injury to or death of persons whomsoever (including the Railroad's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and (ii) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Railroad, or property in its care or custody).

b. As a major inducement and in consideration of the license and permission herein granted, the Licensee agrees to indemnify and hold harmless the Railroad from any Loss which is due to or arises from any cause and is associated in whole or in part with the work performed under this Agreement, a breach of the Agreement or the failure to observe the health and safety provisions herein, or any activity or omission arising out of performance or nonperformance of this Agreement; regardless of whether caused solely or contributed to in part by the negligence or fault of the Railroad.

c. Any liability of either party hereunder to one of its employees under any Workers' Compensation Act or the Federal Employers' Liability Act shall not be questioned or in any way challenged by the other party, nor shall any jury or court findings, resulting from any employee's suit against either party pursuant to any such Act(s), be relied upon or used by either party in any attempt to assert common law liability against the other.

Section 10 - RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Licensee to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Licensee, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Railroad, its officers, agents and employees, against and from any and all liability, loss, damages, claims, demands, costs and expenses of whatsoever nature, arising from the taking down of any fence or the moving or disturbance of any other property of the Railroad.

Section 11 - WAIVER OF BREACH.

The waiver by the Railroad of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach thereof.

Section 12 - ASSIGNMENT - SUBCONTRACTING.

The Licensee shall not assign, sublet or subcontract this Agreement, or any interest therein, without the written consent of the Railroad and any attempt to so assign, sublet or subcontract without the written consent of the Railroad shall be void. If the Railroad gives the Licensee permission to subcontract all or any portion of the work herein described, the Licensee is and shall remain responsible for all work of subcontractors and all work of subcontractors shall be governed by the terms of this Agreement.

EXHIBIT C

Union Pacific Railroad Contract Insurance Requirements

Right of Entry Agreement

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

A. **Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$2,000,000 for each accident.

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.

- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. **Workers Compensation and Employers Liability** insurance. Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. Railroad Protective Liability insurance. Licensee must maintain Railroad Protective Liability insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. A binder stating the policy is in place must be submitted to Railroad before the work may be commenced and until the original policy is forwarded to Railroad.

E. Umbrella or Excess insurance. If Licensee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

F. Pollution Liability insurance. Pollution Liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Licensee must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

G. All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Licensee's liability under the indemnity provisions of this Agreement.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed..

I. Licensee waives all rights against Railroad and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability or commercial umbrella or excess liability insurance obtained by Licensee required by this agreement.

J. Prior to commencing the work, Licensee shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

K. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

L. The fact that insurance is obtained by Licensee or by Railroad on behalf of Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Licensee or any third party will not be limited by the amount of the required insurance coverage.

BID SHEET NO. 1, PAGE 1

BID DUE DATE: Friday, March 20, 2009
10:00 A.M.

BEAUMONT, TEXAS

CITY BID NUMBER: CP0309-27

BID SHEET (revised)

FOR FURNISHING: Municipal Airport - Railroad R.O.W. Clearing

(AS PER SPECIFICATIONS AND DRAWINGS)

OUTLINE OF BID DATA:

DESCRIPTION	BID AMOUNT
Base Bid for Scope of Work as Specified	\$
Unit Price #1 Furnish labor and equipment necessary to mow areas as specified by Owner, with brush hog style equipment.	\$ / Acre
Unit Price #2 Furnish labor, materials and equipment necessary to hydro-mulch seed selected areas that are scheduled to be cleared.	\$ / Acre
Completion Time: _____ calendar days	

COMPANY NAME

STREET ADDRESS ZIP

SIGNATURE OF BIDDER

P.O. BOX ZIP

(PRINT OR TYPE NAME)

CITY STATE ZIP

TITLE

TELEPHONE NUMBER / FAX NUMBER

****PLEASE COMPLETE BID SHEET NO.1, PAGES 1-2****

continued on page 2

BID SHEET NO. 1, PAGE 2

DATE OF DELIVERY AFTER RECEIPT OF ORDER _____
WARRANTY _____

Receipt is hereby acknowledged of the following addenda to the Specifications:

Addendum No. 1 dated _____

Received _____

Addendum No. 2 dated _____

Received _____

DOES YOUR BID MEET SPECIFICATIONS? YES ___ NO ___

IF NO IS INDICATED, ATTACH SHEET INDICATING EXCEPTIONS

PLEASE CHECK THE FOLLOWING THAT WILL APPLY TO YOUR COMPANY:

Ownership of firm (51% or more) ___ Non-Minority ___ Hispanic ___ Black ___ Other ___ Minority (please specify) _____ Female Owned ___ Handicapped owned ___ Small Business (less than \$1,000,000 annual receipts or 100 employees) _____

CERTIFICATE OF CORPORATE BIDDER

I, _____, CERTIFY THAT I AM _____
_____, (title) OF THE CORPORATION NAMED AS
BIDDER HEREIN; THAT _____ WHO SIGNED THIS
BID ON BEHALF OF THE BIDDER, WAS THEN _____
_____, (title) OF SAID CORPORATION; THAT SAID BID
WAS DULY SIGNED FOR AND ON BEHALF OF SAID
CORPORATION BY AUTHORITY OF ITS GOVERNING
BODY AND IS WITHIN THE SCOPE OF ITS
CORPORATE POWERS.

SIGNATURE OF OFFICER

TYPE OR PRINT NAME

TITLE OF OFFICER

Bidders

The undersigned affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other Bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this bid.

Vendor _____

Address _____

Bidder _____

(Signature)

Bidder _____

(Print Name)

Position With Company _____
(Title)

STATEMENT OF CITY CHARTER
PROVISION ON CONFLICT OF INTEREST

The following provision was adopted in an effort to avoid potential conflict of interest with prospective bidders and City employees or officers in the awarding of City contracts:

1. No officer, elected or appointed, or other employee of the City shall have a financial interest, direct or indirect, or by reason of ownership of stock or share exceeding one percent (1%) in a business entity contracting with the City. Nor shall such officer or employee be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services from such business entity, except on behalf of the City in his official capacity as an officer or employee.
2. Any willful violation of this provision shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit their office or position.
3. Any violation of this section with the knowledge expressed or implied of the person or business entity contracting with the City shall render the contract involved null and void. (Beaumont City Charter, Article XVII, Section 9.)

I, _____, (name) have read and hereby understand the aforementioned Beaumont City Charter provision prohibiting conflict of interest between City employees or officers and prospective bidders in the award of City contracts. I affirm to the best of my knowledge and belief, that there is no conflict of interest between the herein stated person or business entity and any City officer or employee if a City contract is awarded. I further state that I have no outside interests that conflict or suggest a potential conflict of interest with the City. I understand that knowledge, express or implied, or concealment of such material fact could nullify and void any such City contract awarded.

If I am awarded this contract, I herein agree to report promptly any further situation that might involve or appear to involve me in any conflict of interest with the City. SIGNED this the ____ day of _____, 20 ____.

NAME

TITLE

GENERAL CONDITIONS OF BIDDING
REVISED 10/8/08

FAILURE TO COMPLY WITH THESE GENERAL CONDITIONS OF BIDDING MAY RESULT IN THE BID BEING DISQUALIFIED.

1. BIDDING:

- A. All bids must be on blank forms furnished by the Public Works Division, and must be written in ink or by typewriter. Pencil quotations will not be considered. The bid must be executed personally by the bidder, or, if executed by an agent, a power of attorney or other evidence of his authority to act on behalf of the bidder should be sent with the bid. If the bidder is a corporation, the certificate of corporate bidder must be executed under the corporate seal by some duly authorized officer of the corporation other than the officers signing the bid. By execution of the bid, the bidder accepts all general and special conditions of the contract and the specifications.

- B. TIME AND DATE: Formal bids must be in the office of the City Clerk by 2:00 p.m., local time, on the day bids are due: unless otherwise specified, an early postmark will not suffice. Be sure you have allowed ample time for postal delivery. The City will not be responsible for the delivery of your bid to the office of the City Clerk. If you choose to send your bid by postal delivery then it is recommended that you call the City Clerk's office to verify receipt of your bid prior to bid opening. A return envelope and/or label is furnished for your convenience. Informal bids are due at the date and time stated in the bid document.

Informal bids may be faxed.
(409) 785-4733.

- C. WITHDRAWAL OF BID: A bidder may withdraw his proposal before council acceptance of his bid without prejudice to himself, by submitting a written request for its withdrawal to the City Clerk.

- D. Bids should show net prices, extensions and net total. In case of conflict between unit price and extensions, the unit price will govern.

- E. No change in price will be considered after bids have been opened.

- F. Unless otherwise specified, any catalog or manufacturer's reference or brand name used in describing an item is merely descriptive, and not restrictive, and is used only to indicate type, style or quality of material desired. If a bidder quotes on an article other than the one specified, which he considers comparable, the name and grade of said article must be specified in the bid and sufficient specifications and descriptive data must accompany same to permit thorough evaluation. In the absence of these qualifications, he will be expected to furnish the article called for.

- G. If this proposal is altered, any erasure or alteration of figures on the item on which the erasure or alteration is made must be initialed by signee of this proposal.

- H. Bids will not be considered in cases in which bidder quotes an item price and also an alternate price on the proposed substitute item, except in cases in which alternate bids are called for.

- I. All bids are to be delivered not later than the time stated in the specifications, F.O.B. Beaumont, Texas unless otherwise stated in the specifications and/or bid form.
 - J. Bidders are invited to be present at the opening of bids. After opening, bids may be inspected in the Public Works Division Office.
 - K. If there is an honest mistake in the bid, due to clerical errors, and the bidder calls attention thereto promptly, he will not be bound by the bid.
 - L. Where the mistake was a result of bidder's negligence, and City has no knowledge of the mistake when bids were opened, and contract awarded, he will not be released and shall be bound by the bid.
 - M. If a mistake is not discoverable and verifiable by the City, bidder's incorrect interpretation of Engineering specifications set forth in a construction contract will not release him from his obligations once a contract has been awarded by City Council and bidder has received notice of such award.
 - N. Sealed formal bids due in the City Clerk's office will not be accepted through facsimile equipment.
2. TAXES:
 - A. The City is exempt from the Federal Excise and Transportation Tax, and the Limited Sales and Use Tax. Unless the bid form or specification specifically indicates otherwise, the price bid must be net exclusive of above mentioned taxes, and will be so construed. A vendor desiring refunds of, or exemptions from taxes paid on merchandise accepted by the City, must submit the proper forms. The Capital Projects Manager, if satisfied as to the facts, will approve or issue the necessary certificates.
3. AWARD:
 - A. The City reserves the right to consider and make awards of bids on articles of similar nature that in all respects will serve the purpose for which the purchase is being made. The City reserves the right to be the sole judge as to whether such articles will serve the purpose.
 - B. Unless otherwise specified, the City reserves the right to accept or reject in whole or in part any bid submitted or to waive any informalities in the best interest of the City.
4. BID DEPOSIT:
 - A. No bid deposit will be expected of bidder unless specifications expressly provide otherwise.
 - B. When specifications expressly call for a bid deposit, the deposit may be in the form of a cashier's check, cash, a certified check made payable to the City of Beaumont or a bond. The bond shall be executed by a surety authorized by the Texas State Insurance Commission and must be signed by both the surety and the bidder.
 - C. An envelope is enclosed marked "Bid Deposit". When specifications call for a bid deposit, it should be placed in a separate bid envelope and enclosed with your bid. Should your bid deposit not be acceptable to the City, your bid will be returned.
5. DELIVERIES:
 - A. Unless otherwise stated in the bid form or specifications, deliveries must consist only of new and unused merchandise.
 - B. Full fare must be allowed and no charge made for packages.
 - C. In the event that the deliveries of the supplies covered in the proposal are not made within the number of days specified, or in the event that the supplies delivered are rejected, and are not removed and replaced within the number of days specified in the official notice of rejection, the City reserves the right to purchase said supplies in the open market. Upon any such breach of contract, the City reserves the right to proceed against the successful bidder and/or the surety on his bond for any and all damages occasioned by the breach.
6. REJECTIONS:
 - A. Articles not in accordance with samples and specifications must be removed by the bidder at his expense. All disputes concerning quality of supplies delivered under this proposal will be determined by the City Capital Projects Manager or his/her designated representative.
 - B. All articles enumerated in the proposal shall be subject to inspection or delivery by an officer designated for the purpose and if found inferior to the quality called for, or not equal in value to the department's samples, or deficient in weight, measurements, workmanship or otherwise, this fact shall be certified to the Capital Projects Manager who shall have the right to reject the whole or any part of the same.
7. BILLING:
 - A. All bills are subject to approval by the Capital Projects Manager.
8. PATENTS:
 - A. The contractor agrees to indemnify and save harmless the City, the Capital Projects Manager, and his/her assistants from all suits and actions of every nature and description brought against it or any of them, for or on account of the use of patented appliances, products or processes, and he

shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted, upon request of the Capital Projects Manager, as a necessary requirement in connection with the final estimate for payment in which such patented appliances, products or processes are used.

9. CONDITIONS PART OF BID:

- A. The general conditions of bidding defined herein shall be a part of the attached bid.

10. CONTRACT:

- A. No formal contract will be executed. The following will comprise the contract between the City and the successful bidder.

1. Notice to bidders.
2. General specifications.
3. General conditions to bidding.
4. The bid.
5. Resolution awarding the bid.

- B. In case of conflict, the specifications shall be controlling.

11. OSHA REQUIREMENTS:

- A. The vendor or contractor hereby guarantees to the City of Beaumont, Texas, that all material, supplies and equipment as listed on the proposal, contract or purchase order meets the requirements, specifications and standards as provided for under the Federal Occupational Safety and Health Act of 1970, as amended and in force at the date hereof.

12. BIDS:

- A. Bids must remain firm for thirty (30) days from bid opening date to allow for award by Council unless otherwise specified.

13. DISCOUNTS:

- A. Prompt payment discounts will be considered in making the award provided the period of the discount offered is sufficient to permit payment within such period in the regular course of business (minimum 10 days). Prompt payment discounts will not be considered for contract purchases.

- B. In connection with any discount offered, time will be computed from the date of receipt of supplies or services or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

14. DISCLOSURE FORMS:

- A. All forms must be signed and returned with your bid sheet.

15. EXCEPTIONS:

- A. If exceptions are being taken to any part of specifications, have them listed separately on your letterhead and manually sign it.

16. LOCAL BIDDER CONSIDERATION

- A. Should bids for goods and/or commodities be received from a local vendor and an out of town vendor, a sales tax impact analysis formula shall be applied to the local vendor's bid. If it is determined by this formula that the local vendor's bid generates more sales tax revenue to the City than the difference between the two bids, award may be made to the local vendor.

PROTEST PROCEDURES - Any actual or prospective bidder or proposer who believes they are aggrieved in connection with or pertaining to a bid or proposal may file a protest. The protest must be delivered in writing to the Capital Projects Manager, in person or by certified mail return receipt requested prior to award. The written protest must include:

1. Name, mailing address, and business phone number of the protesting party;
2. Appropriate identification of the bid or proposal being protested;
3. A precise statement of the reasons for the protest; and
4. Any documentation or other evidence supporting the protest and any alleged claims.

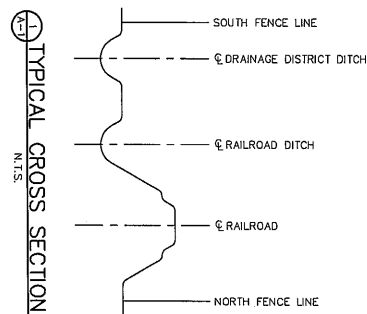
The Public Works Division will attempt to resolve the protest, including at the Capital Projects Manager's option, meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution, with specifics on each point addressed in the protest, will be forwarded to the Public Works Director.

If the Public Works Division is not successful in resolving the protest, the protesting party may request in writing that the protest be considered by the Public Works Director. Applicable documentation and other information applying to the protest will be forwarded to the Public Works Director, who will promptly review such documentation and information. If additional information is desired, the Public Works Director may notify the necessary party or parties to the protest to provide such information.

If the Public Works Director is not successful in resolving the protest, the Public Works Director may forward to the City Manager a request for review. The decision of the City Manager will be final.

18. PUBLIC INFORMATION ACT

- A. Texas Government Code, Chapter 552, gives you the right to access government records; and an officer for public information and the officer's agent may not ask why you want them. All government information is presumed to be available to the public. Certain exceptions may apply to the disclosure of the information. Governmental bodies shall promptly release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought.

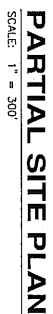


IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO ACQUIRE INGRESS AND EGRESS FROM PRIVATE PROPERTY OWNERS, IN AREAS WHERE PUBLIC ACCESS IS NOT AVAILABLE. (THIS INCLUDES NORTH CHEMICAL PLANT ENTRANCE).

TREES & BRUSH TO BE REMOVED

* INFORMATIONAL PURPOSES ONLY, CONTRACTOR TO FIELD VERIFY.

AREAS = ± 10.25 ACRES



SCALE: 1" = 300'

**CITY
OF
BEAUMONT**



BEAUMONT TEXAS

**BUILDING
SERVICES
DIVISION**

SHEET NO
A-1

03/02/2009	PLOT DATE
RDL 01/23/2009	
DRAWN BY / DATE	
CHECKED BY	
APPROVED BY	
PROJECT NO.	