

ACTION FORM BRYAN CITY COUNCIL

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| DATE OF COUNCIL MEETING: February 11, 2014 | | DATE SUBMITTED: February 3, 2014 | |
| DEPARTMENT OF ORIGIN: BTU | | SUBMITTED BY: David Werley | |
| MEETING TYPE: | CLASSIFICATION: | ORDINANCE: | STRATEGIC INITIATIVE: |
| <input type="checkbox"/> BCD | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1ST READING | <input type="checkbox"/> PUBLIC SAFETY |
| <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2ND READING | <input type="checkbox"/> SERVICE |
| <input checked="" type="checkbox"/> REGULAR | <input checked="" type="checkbox"/> STATUTORY | | <input checked="" type="checkbox"/> ECONOMIC DEVELOP. |
| <input type="checkbox"/> WORKSHOP | <input type="checkbox"/> REGULAR | | <input type="checkbox"/> INFRASTRUCTURE |
| | | | <input type="checkbox"/> QUALITY OF LIFE |
| AGENDA ITEM DESCRIPTION: Consider authorizing the Mayor to execute an agreement with MAALT Transport, LP for a twenty-four (24) month lease of approximately sixty-eight (68) acres for the purpose of transloading sand and aggregate materials. | | | |
| SUMMARY STATEMENT: This rail spur was constructed for the purpose of transporting materials needed for the construction of Dansby Power Plant approximately 40 years ago, and has been unused by BTU since that time. | | | |
| <p>The following is an overview of particular sections of the proposed lease:</p> <ul style="list-style-type: none"> • Preamble: The proposed Lease is between the City of Bryan doing business as Bryan Texas Utilities and MAALT Transport, LP. • Section 1 (Definitions): The “Definitions” section includes defining “Leased Premises,” which are shown with Exhibit “A.” In general, the location of the Leased Premises is at the intersection of Mumford Road and Louis E. Mikulin Road, which is near the Dansby Power Plant. • Section 2 (Consideration): The lessee is to pay the City \$200 for each of the first 100 cars of Frac Sand transloaded within the Leased Premises; minimum payment is \$12,000 per month or the equivalent of 60 cars of Frac Sand per month during the term of this agreement. The lessee will pay the City \$100 per month, for no more than four months, while the rail spur is prepared for use. If the rail spur is prepared sooner than four months, the \$200 per car or \$12,000 minimum is effective. The lessee will pay the City \$150 for each car of Frac Sand in excess of 100 cars per month. The lessee is to pay the City one-half (1/2) of yard facility use fees received by the lessee for each ton of aggregate transloaded within the Lease Premises during each calendar month. • Section 3 (Payment): The lessee is to make payment to the City by the twentieth (20th) day of each month. The payment will include car count details. • Section 4 (Term): The term of the agreement begins upon the signing by both parties. The lease shall continue for twenty-four (24) months with an option to extend the lease for another twenty-four (24) months upon mutual agreement of both parties; the result is a lease term for a maximum of four (4) years. | | | |
| STAFF ANALYSIS AND RECOMMENDATION: The Lessee will utilize and perform all maintenance and property improvements required to utilize the property for the purpose of transloading materials to be used in the local construction and oil and gas industries. No costs will be incurred by the City of Bryan or Bryan Texas Utilities. Also, this lease will create new revenues, which benefit the citizens of Bryan. The materials delivered to the site may also help to reduce the volume of truck traffic delivering construction and drilling related materials to a regional area around Brazos county, which should serve to reduce some wear on local roads. | | | |

OPTIONS (In Suggested Order of Staff Preference):

1. Approve the lease as per the terms and conditions in the attached Agreement.
2. Modify the Agreement and approve, which may require additional negotiations with the potential lessee and consideration at a future City Council meeting.
3. Do not approve the Agreement.

ATTACHMENTS:

1. Lease (pdf)
2. Property Map (pdf)

FUNDING SOURCE: N/A

APPROVALS: David Werley 2/3/2014; Gary Miller 2/3/2014; BTU Board of Directors 2/10/2014; Hugh R. Walker, 02/04/2014

APPROVED FOR SUBMITTAL: CITY MANAGER

APPROVED FOR SUBMITTAL: CITY ATTORNEY

Revised 05/2013