

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> July 16, 2013		<b>DATE SUBMITTED:</b> July 16, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Executive Services		<b>SUBMITTED BY:</b> Kevin Russell	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<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 checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consider approving a resolution authorizing the Mayor to execute a deed of sale for a 23.684 acre tract out of the City of Bryan/BTU tract to Axis Pipe and Tube, Inc. ("Axis").			
<b>SUMMARY STATEMENT:</b> If this resolution is approved, the Mayor is hereby authorized to execute a deed for the 23.684 acres of property. The deed shall reserve two easements including a 25-foot water line easement and a 60-foot water line and access easement with the center line being the water line contained in the easement found in Volume 4868, Page 1 of the Official Records of Brazos County, Texas.			
<p>The closing on this sale, as well as execution and recordation of the deed, are contingent upon the closing of the sale by the City of Bryan Brazos County Economic Development Foundation, Inc. of 159.047 acres to Axis Pipe and Tube, Inc. The sale is to be concurrent with the execution of a Nonannexation Agreement between the City of Bryan and Axis Pipe and Tube, Inc. (or its affiliate Kuadrum Pipe and Tube, Inc.) providing for the orderly development of the property and subsequent annexation following the expiration of the ten year term of said agreement. The City has a vested public interest in the economic development of the City and the surrounding area. The construction of the manufacturing facility on the approximately 183 acres is going to bring in hundreds of jobs and millions of dollars in property value. The benefits of this proposed sale will have a positive effect on the City's economy for years to come.</p>			
<p>If adopted, this Resolution shall be effective immediately upon adoption. As the Mayor was previously authorized by the City Council to execute the deed, and such execution took place on July 18, 2013, the Mayor's actions are hereby ratified.</p>			
<b>STAFF ANALYSIS AND RECOMMENDATION</b> Staff recommends approval of the resolution authorizing the Mayor to execute a deed of sale. By approving this resolution, Axis will be able to construct the manufacturing facility as planned. The project will aid in attracting similar development to this area, thus helping achieve the goal of adding new economic development in the City of Bryan/Brazos County. In addition, the selling of land and new construction will bring property values up within and around Texas Triangle Park.			
<p>Approval of this sale allows the City to benefit economically from the creation of at least 285 jobs, and a minimum \$120,000,000 investment. This agreement also allows the project to move forward with current and future economic development activities. Conversely, the City of Bryan will no longer own the 23 acre parcel, which means it will not be available for other potential economic development projects or other uses.</p>			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. Approve the resolution</li> <li>2. Modify the resolution, which may require consideration at a future City Council meeting</li> <li>3. Do not approve the resolution and provide direction to staff</li> </ol>			

**ATTACHMENTS:**

1. Proposed resolution
2. Aerial view of the property

**FUNDING SOURCE:** The proceeds of the sale of this property will go directly into City of Bryan Funds.

**APPROVALS:** Hugh R. Walker, 07/16/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER**

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton 07-16-2013

Revised 04/2013

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BRYAN, TEXAS TO EXECUTE AND CAUSE TO BE FILED IN THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS, A DEED TO A 23.684 ACRE TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE L. MCLAUGHLIN SURVEY, ABSTRACT NUMBER 38.**

WHEREAS, the City of Bryan, Texas (“City”), is a home rule city with the specific and general powers of such under the Constitution and Laws of the State of Texas; and

WHEREAS, the City owns and operates an electric utility system known as “Bryan Texas Utilities” and has delegated certain powers regarding the operation of the electric utility to the Bryan Texas Utilities Board; and

WHEREAS, the City Council has not delegated authority to the Bryan Texas Utilities Board to sell property that is held or managed by Bryan Texas Utilities, and so the City Council must authorize any such sale; and

WHEREAS, section 272.001(k) of the Texas Local Government Code authorizes the City to sell property without providing notice and an opportunity to bid for land held or managed by a municipally owned utility provided that the governing body adopts a resolution stating the conditions and circumstances for the sale and the public purpose that will be achieved; and

WHEREAS, the City is the owner of several tracts of land including the 23.684 acre tract of land that is the subject of this resolution, which are held or managed by the City’s municipally owned utility, and that were purchased for the purpose of constructing the Dansby Power Plant as well as Lake Bryan, and to provide access to and from same; and

WHEREAS, the City has received a request to sell 23.684 acres of the property to Axis Pipe and Tube, Inc. in conjunction with its purchase of adjacent property in the Texas Triangle Park; and

WHEREAS, the City Council determines that the sale of this property to Axis Pipe and Tube, Inc. is appropriate and in the best interest of the City on the condition that the sale of the 23.684 acres is in conjunction with the sale of 159.047 acres of adjacent property in the Texas Triangle Park; and

WHEREAS, the City Council deems it in the best interest of the citizens to support the economic development of the City, specifically within the Texas Triangle Park, and that this sale is in furtherance of that public purpose; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN TEXAS THAT:**

1.

The Mayor is hereby authorized to execute a deed for the 23.684 acres of property more particularly described in **Exhibit A**. The deed shall reserve two easements including a 25-foot water line easement and a 60-foot water line and access easement with the center line being the water line contained in the easement found in Volume 4868, Page 1 of the Official Records of Brazos County, Texas.

2.

The closing on this sale, as well as execution and recordation of the deed, are contingent upon the closing of the sale by the City of Bryan Brazos County Economic Development Foundation, Inc. of 159.047 acres to Axis Pipe and Tube, Inc. The sale is to be concurrent with the execution of a Nonannexation Agreement between the City of Bryan and Axis Pipe and Tube, Inc. (or its affiliate Kuadrum Pipe and Tube, Inc.) providing for the orderly development of the property and subsequent annexation following the expiration of the ten year term of said agreement.

3.

The City has a vested public interest in the economic development of the City and the surrounding area. The construction of the manufacturing facility on the approximately 183 acres is going to bring in hundreds of jobs and millions of dollars in property value. The benefits of this proposed sale will have a lasting effect on the City's economy for years to come and that is the public purpose to be achieved by this sale.

4.

This Resolution shall be effective immediately upon adoption. As the Mayor was previously authorized by the City Council to execute the deed, and such execution took place on July 18, 2013, the Mayor's actions are hereby ratified.

APPROVED AND ADOPTED by the City Council of the City of Bryan, Texas, this 23<sup>rd</sup> day of July, 2013.

ATTEST

CITY OF BRYAN

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Janis K. Hampton, City Attorney

**Exhibit A**  
**23.684 Acres**

Being 23.684 acres, more or less, out of and a part of the following tracts lying and being situated in the L. McLaughlin Survey, Abstract No. 38, Brazos County, Texas:

- 1.) 100.805 acres as described in deed executed by Clara M. Konecny, et al to The City of Bryan, recorded in Volume 296, Page 216, Deed Records of Brazos County, Texas.
- 2.) 29.726 acres as described in deed executed by Esther Jane Grant McDougal to The City of Bryan, recorded in Volume 307, Page 200, Deed Records of Brazos County, Texas.
- 3.) 29.726 acres as described in deed executed by Pauline Bruce Grant to The City of Bryan, recorded in Volume 307, Page 204, Deed Records of Brazos County, Texas.

AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A FOUND 1/2" IRON ROD WITH CAP #2003 MARKING THE MOST EASTERLY CORNER OF THE SAID (3.) 29.726 ACRE TRACT RECORDED IN VOLUME 307, PAGE 204 O.R.B.C.T.;

**THENCE:** SOUTH 41 DEGREES 08 MINUTES 17 SECONDS WEST, WITH A SOUTHEAST LINE OF THE SAID (3.) 29.726 ACRE TRACT, A DISTANCE OF 2696.93 FEET TO A FOUND 1/2" IRON ROD FOR CORNER BEING THE SOUTHERLY CORNER OF THE SAID (2.) 29.726 ACRE TRACT RECORDED IN VOLUME 307, PAGE 200 O.R.B.C.T.;

**THENCE:** SOUTH 48 DEGREES 23 MINUTES 43 SECONDS EAST, WITH A NORTHEAST LINE OF THE SAID (1.) 100.805 ACRE TRACT, A DISTANCE OF 924.93 FEET TO A FOUND 1/2" IRON ROD FOR CORNER;

**THENCE:** SOUTH 41 DEGREES 48 MINUTES 08 SECONDS WEST, WITH A SOUTHEAST LINE OF THE SAID (1.) 100.805 ACRE TRACT, A DISTANCE OF 204.12 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 48 DEGREES 23 MINUTES 43 SECONDS WEST, A DISTANCE OF 1191.57 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 41 DEGREES 08 MINUTES 17 SECONDS EAST, A DISTANCE OF 401.79 FEET TO A SET 1/2" IRON ROD WITH CAP CORNER;

**THENCE:** SOUTH 48 DEGREES 51 MINUTES 43 SECONDS EAST, A DISTANCE OF 200.00 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 41 DEGREES 08 MINUTES 17 SECONDS EAST, A DISTANCE OF 177.57 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 07 DEGREES 21 MINUTES 46 SECONDS EAST, A DISTANCE OF 147.29 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 48 DEGREES 51 MINUTES 43 SECONDS WEST, A DISTANCE OF 118.12 FEET TO A SET 1/2" IRON ROD WITH CAP FOR CORNER;

**THENCE:** NORTH 41 DEGREES 08 MINUTES 17 SECONDS EAST, A DISTANCE OF 1397.45 FEET TO A SET 1/2" IRON ROD WITH CAP FOR THE BEGINNING OF A CURVE TO THE LEFT;

**THENCE:** AROUND SAID CURVE TO THE LEFT TO A SET 1/2" IRON ROD WITH CAP ON SAID CURVE HAVING A RADIUS OF 470.87 FEET, ARC DISTANCE OF 336.78 FEET, CHORD DISTANCE OF 329.64 FEET AND CHORD BEARING OF NORTH 20 DEGREES 38 MINUTES 54 SECONDS EAST TO THE END OF CURVE;

**THENCE:** NORTH 00 DEGREES 09 MINUTES 31 SECONDS EAST, A DISTANCE OF 182.74 FEET TO A SET 1/2" IRON ROD WITH CAP FOR THE BEGINNING OF A CURVE TO THE RIGHT;

**THENCE:** AROUND SAID CURVE TO THE RIGHT TO A SET 1/2" IRON ROD WITH CAP ON SAID CURVE HAVING A RADIUS OF 430.04 FEET, ARC DISTANCE OF 263.14 FEET, CHORD DISTANCE OF 259.05 FEET AND CHORD BEARING OF NORTH 17 DEGREES 41 MINUTES 17 SECONDS EAST TO A CORNER IN THE SOUTHWEST LINE OF THE UNION PACIFIC RAILROAD 100' RIGHT OF WAY;

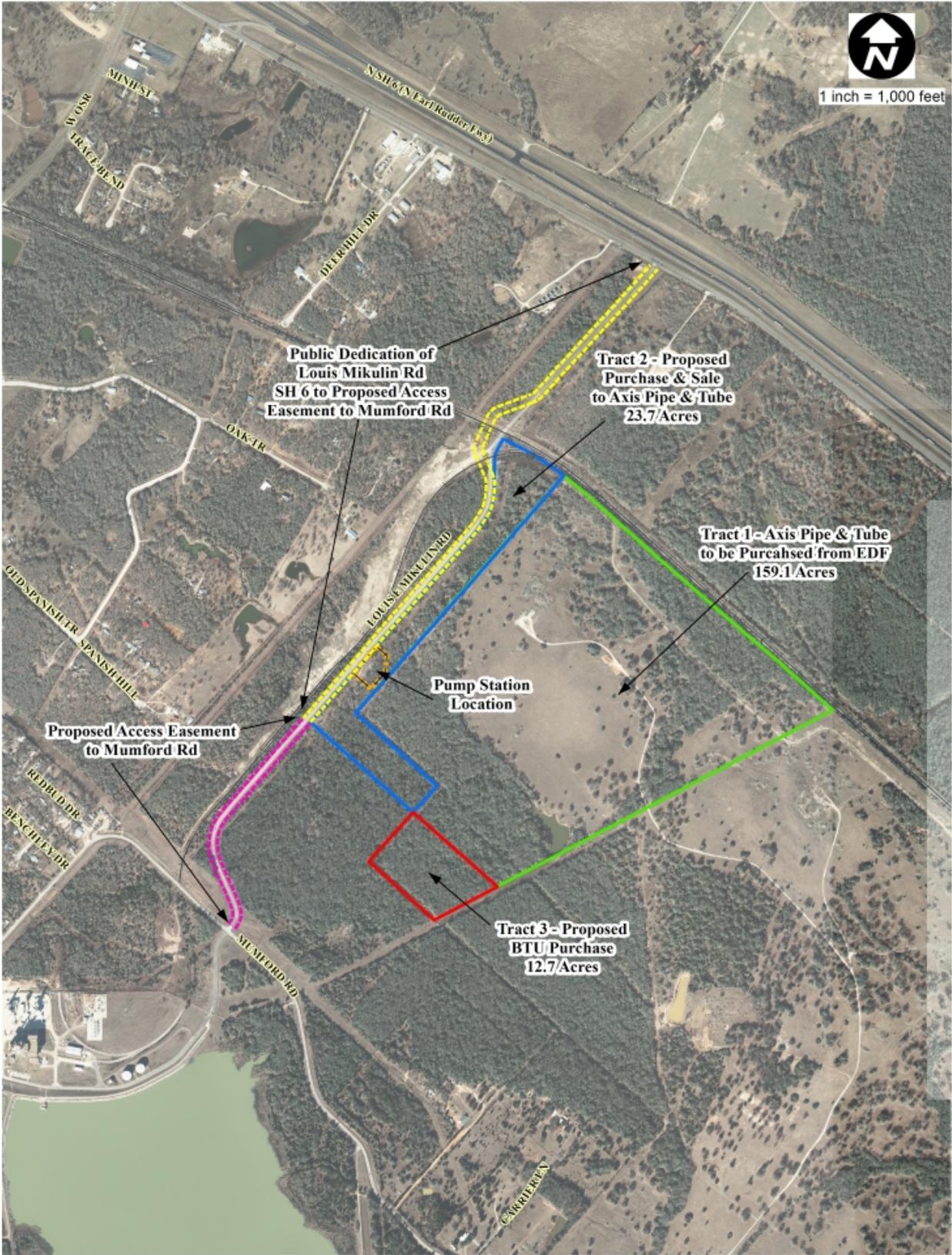
**THENCE:** SOUTH 65 DEGREES 41 MINUTES 36 SECONDS EAST, A DISTANCE OF 10.62 FEET TO A POINT FOR THE BEGINNING OF A CURVE TO THE RIGHT;

**THENCE:** AROUND SAID CURVE TO THE RIGHT TO A FOUND 1/2" IRON ROD WITH CAP #2003 ON SAID CURVE HAVING A RADIUS OF 2814.93 FEET, ARC DISTANCE OF 608.78 FEET, CHORD DISTANCE OF 607.59 FEET AND CHORD BEARING OF SOUTH 59 DEGREES 29 MINUTES 52 SECONDS EAST TO THE **PLACE OF BEGINNING** AND CONTAINING 1,031,693 SQUARE FEET OR 23.684 ACRES OF LAND.

Paul A. Coyne  
Registered Professional Land Surveyor  
Texas Registration No. 6374



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1 inch = 1,000 feet

Public Dedication of  
Louis Mikulin Rd  
SH 6 to Proposed Access  
Easement to Mumford Rd

Tract 2 - Proposed  
Purchase & Sale  
to Axis Pipe & Tube  
23.7 Acres

Tract 1 - Axis Pipe & Tube  
to be Purchased from EDF  
159.1 Acres

Pump Station  
Location

Proposed Access Easement  
to Mumford Rd

Tract 3 - Proposed  
BTU Purchase  
12.7 Acres