

AGENDA ITEM

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Justine Cherne

To: Justine Cherne; 'Ann Werlein'; 'Bronsell Mandi (E-mail)'; 'D'Neal Brown'; 'Evans-Smith Felicia (E-mail)'; 'Hegemier Jesse (E-mail)'; 'Hurley Dave (E-mail)'; 'Johnson Laura (E-mail)'; 'Judge Hebert'; 'McCarver Jean (E-mail)'; 'Meyers Andy (E-mail)'; 'Ospina Donna (E-mail)'; 'Patterson James (E-mail)'; 'Prestage Grady (E-mail)'; 'Robin Vrana'; richard.morrison@co.fort-bend.tx.us; 'Sue Brock'; 'gubbepam@co.fort-bend.tx.us'; 'rodgeher@co.fort-bend.tx.us'; 'Dunbar, Glen (gdunbar@co.fort-bend.tx.us)'; 'Cordes Jr., Roy L. (corderoy@co.fort-bend.tx.us)'; 'harrisli@co.fort-bend.tx.us'; 'gutierrm@co.fort-bend.tx.us'; 'chingjen@co.fort-bend.tx.us'; Reveles, Mary (revelmar@co.fort-bend.tx.us)

Cc: 'Bill Jameson (billj@wjinterests.com)'; 'Mike Stone (mikestone@cpmguru.com)'; 'Arroyave Bob (barroyave@browngay.com)'; 'Gary Gehbauer (ggehbauer@browngay.com)'; 'Cliff Kavanaugh (ckavanaugh@firstsw.com)'; Joe B. Allen; Rich Muller; Tina Tobias; 'batallas@hartmannews.com'; 'Jim Condrey (E-mail)'; 'Sturdivant K (E-mail)'; 'james.harris@publicans.com'; 'Graham PE, Glenn D (PBS&J).EML (gdgraham@pbsj.com)'; 'Logsdon, Pamela (pmlgson@sbcglobal.net)'; 'ccotter@browngay.com'; 'Zimmerman PE, Joe R. (jzimmerman@kbhome.com)'; 'Spackman P.E., James (Jim) (jspackman@ljaengineering.com)'; 'Fields, Richard A. (richard.fields@aguirre-fields.com)'; 'jimenmel@co.fort-bend.tx.us'; 'vaughjas@co.fort-bend.tx.us'; 'chadessex@cpmguru.com'; Cindy Acree; 'mbrannen@browngay.com'; 'Terrell, Cliff (terrelc@wcjc.edu)'; 'Terrell, Cliff (cliffterrell@yahoo.com)'; 'ortegjen@co.fort-bend.tx.us'; 'Howard, Olen D.'; 'Rencher, Charles (cgrencher@comcast.net)'; Schmidt, Bonnie (bschmidt.ancom01@insuremail.net); Lentz, Lloyd (llentz@knudsonservices.com)

Subject: Fort Bend County Toll Road Authority Agenda Item Request

Attachments: Knud.pdf

Dear Judge and Commissioners:

Attached is a copy of the contract with Knudson, LP for landscape planting and maintenance for the Fort Bend Parkway, Project A requested for your consideration in e-mail correspondence dated April 16, 2009. The contract was approved by the Board of Directors of the Authority at their regular meeting held on April 15, 2009.

Please place this item for consideration by Commissioners Court on the agenda for the meeting scheduled on May 5, 2009.

As always, if you should have any questions regarding this matter, please don't hesitate to contact any member of the Board of Directors or the Authority's consultants.

Very truly yours,



Richard L. Muller, Jr.

Allen Boone Humphries Robinson LLP
713-860-6415

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (Agreement) is made this ____ day of April, 2009, between Knudson, LP, a Texas Limited Partnership (Knudson) and Fort Bend County Toll Road Authority (Client). In consideration of the mutual promises set forth herein, the parties agree as follows:

SCOPE OF SERVICES / SCHEDULES AND DELIVERABLES

Knudson will provide professional consulting services for the (Project), more fully described in the **Scope of Services (Attachment A)**, attached hereto and made a part of this Agreement.

GENERAL TERMS AND CONDITIONS

BILLING AND PAYMENT

Knudson will invoice monthly in accordance with the Knudson Proposal Letter, dated April 10, 2009, (**Attachment A**). The Client hereby agrees to pay upon receipt of such invoice. Knudson may stop all work (Stop Work Order) if the Client fails to pay invoices within forty five (45) days after Client's receipt of invoice. In order for Knudson to proceed with any further service or release any work product, Client will need to pay the entire balance on the Project in order to lift the Stop Work Order. It will also be necessary for Client to pay Knudson an additional fee for costs incurred by Knudson in mobilizing to complete the work.

ADDITIONAL SERVICES

Should the Client make changes to the **Project Scope (Attachment A)** or schedule resulting in additional work, this will be considered additional services for which Knudson will be compensated by the Client. Knudson will begin work on Additional Services upon receipt of written authorization from the Client.

TERMINATION

This Agreement may be terminated at any time by Knudson or Client with or without cause by giving thirty (30) days written notice of such termination by registered or certified mail or nationally/regionally recognized overnight courier or delivery service to the either party's principal place of business. If this Agreement is terminated, Knudson shall be paid in accordance with the provisions of this Agreement for all work performed up to the date of termination, as determined as a percentage of the lump sum amount corresponding to the percent of completion of the task, plus all reimbursable expenses incurred by Knudson.

ACCESS TO THE SITE

Unless otherwise stated, and to the extent within Client's control, Knudson will have access to the Project site for activities necessary for the performance of the services. Knudson will exercise reasonable care but is not liable for any damage that may occur through no act or omission of its own.

INDEMNIFICATIONS - Refer to "Rider A", attached.

INSURANCE - Refer to "Rider B", attached.

FORCE MAJEURE

The term force majeure as used herein shall mean an unforeseen event, occurrence beyond the control and without the fault or negligence of a party including, but not limited to: earthquake, weather, flood, fire, explosion, malicious mischief, insurrection, riot, labor strike, lockouts, boycott, acts of a public enemy, war, compliance with any order or directive of any governmental agency. To the extent that a party's performance under this Agreement is rendered impossible or impracticable due to force majeure, that party shall be relieved of any further obligation under this Agreement except as to obligations incurred prior to the force majeure event which by their nature survive termination, including payment and indemnity obligations hereunder.

OWNERSHIP OF DOCUMENTS

Upon receipt of payment for services rendered, all documents produced by Knudson under this Agreement shall become the property of the Client. Electronic documents prepared by Knudson as part of the scope of work will be supplied in a read only format. Any modification, manipulation or use of these documents by the owner, whether approved by Knudson or not, is the responsibility of the owner. Knudson assumes no responsibility for documents modified or manipulated by anyone other than Knudson. Knudson assumes no responsibility for the accuracy of data supplied by others but used by Knudson in the preparation of any document required by the scope of work. Knudson is not responsible for supplying software, licensees or hardware which the owner may need to read the electronic version of any documents supplied as part of the scope of services. The owner will obtain all software, licensees and hardware to view the documents at its own expense.

Governing Law

This Agreement shall be governed by the laws of the State of Texas. Venue for any and all disputes will be exclusively in Ft. Bend County, Texas.

ENTIRE AGREEMENT

This Agreement and any attachments or exhibits hereto represent the entire Agreement between Knudson and Client. There are no prior unwritten, oral, or other agreements between the parties regarding this matter. This Agreement may be amended or modified only with the written approval of both Knudson and Client.

CLIENT CONTACT INFORMATION

The Client contact, primary business location, address of Client is:

Mr. Chad J. Essex
7002 Riverbrook Drive
Suite 700
Sugar Land, Texas 77479

The Client's phone number is: **713.574.5261**

The Client's e-mail address is: **chadessex@cmpguru.com**

The Clients Project Name is: **Ft. Bend Parkway Landscape Consultation**

These shall be used by Knudson for all contract correspondence and invoices. Should any of the Clients contact information change Client will notify Knudson of the new contact information.

KNUDSON CONTACT INFORMATION

Knudson primary business location and address is **8588 Katy Freeway, Suite 441, Houston, Texas 77024**.
The Knudson Phone Number is **713-463-8200** and contact person for this contract is: **Lloyd Lentz**,
Director of Landscape Architecture

ACCEPTANCE

When executed by both parties this Agreement shall evidence the entire agreement between Knudson and Client. This document is being executed in two (2) counterpart originals with attachments, each of which has the full force and effect of an original.

AGREED AND ACCEPTED THIS ____ DAY OF April, 2009

K&A MANAGEMENT, LLC

CLIENT

By: **K&A MANAGEMENT, LLC**,
General Partner
Patricia Knudson Joiner, President
Or
Jarl W. Molander, Senior Vice President

Signature

Typed Name

Title

RIDER A

KNUDSON SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS CLIENT, ITS DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, AND AFFILIATES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, OR CAUSES OF ACTION (AND ALL LOSSES, LIABILITIES, EXPENSES, AND JUDGMENTS INCURRED IN CONNECTION THEREWITH, INCLUDING ATTORNEYS' FEES AND EXPENSES, COURT COSTS, AND OTHER EXPENSES INCURRED IN ENFORCING THIS INDEMNITY PROVISION) BROUGHT BY KNUDSON OR ANY OF KNUDSON'S EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, OUTSIDE ADVISORY OR SUPPORT CONSULTANTS, OR REPRESENTATIVES, OR BY ANY THIRD PARTY, BASED UPON, OR IN CONNECTION WITH, RESULTING FROM, OR ARISING OUT OF, THE NEGLIGENCE, OMISSION, OR MISCONDUCT OF KNUDSON'S EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, OUTSIDE ADVISORY OR SUPPORT CONSULTANTS, OR REPRESENTATIVES.

RIDER B

Knudson shall procure and maintain throughout the term of this Agreement, at its sole cost and expense, insurance of the types and in the minimum amounts set forth below. Knudson shall furnish to the Client certificates of insurance and any endorsement required hereunder issued by the insurance carrier evidencing compliance with the insurance requirements hereof. Certificates shall list Knudson, the name of the insurance company, the policy number, the term of coverage, and the limits of coverage. Knudson shall cause its insurance companies to provide the Client with at least thirty (30) days prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation, or non-renewal of the insurance coverage required under this Agreement. Knudson shall obtain such insurance from such companies having a Bests rating of B+/VII or better, licensed or approved to transact business in the State of Texas.

The Client and the Client's agents and employees shall be added as additional insureds to all coverages required under this Agreement, except for worker's compensation insurance and professional liability insurance, using ISO form CG 2010 (07 04) or equivalent. All policies written on behalf of Knudson shall contain a waiver of subrogation in favor of the Client and the Client's agents and employees, with the exception of professional liability insurance. In addition, all of the aforesaid policies shall be endorsed to provide that they are primary coverages and not in excess of any other insurance available to the Client, and without rights of contribution or recovery against the Client or from any such other insurance available to the Client. Knudson, and not the Client, shall be responsible for paying the premiums and deductibles, if any, that may from time to time be due under all of the insurance policies required of Knudson.

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Minimum insurance limits:

1. Worker's Compensation insurance in accordance with the laws of the State of Texas, and Employer's Liability coverage with a limit of not less than \$500,000 each employee for Occupational Disease; \$500,000 policy limit for Occupational Disease; and Employer's Liability of \$500,000 each accident.
2. Commercial General Liability insurance, including coverage for Products/Completed Operation, Blanket Contractual, Contractors' Protective Liability Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than
 - \$2,000,000 general aggregate limit
 - \$1,000,000 each occurrence, combined single limit
 - \$1,000,000 aggregate Products, combined single limit
 - \$1,000,000 aggregate Personal Injury/Advertising Liability
 - \$50,000 Fire Legal Liability
 - \$5,000 Premises Medical
3. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles, with limits of not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
4. Umbrella Excess Liability insurance written as excess of Employer's Liability, with limits not less than \$1,000,000 each occurrence combined single limit.
5. Professional Liability insurance with limits not less than \$1,000,000 each claim/annual aggregate.



8588 Katy Freeway
Suite 441
Houston, TX 77024
713-463-8200

Information@knudsonservices.com

"ATTACHMENT A"

April 22, 2009

Fort Bend County Toll Road Authority
P.O. Box 2789
Sugar Land, TX 77489

Attn: Chad Essex

Reference: Landscape Maintenance
Ft. Bend Parkway

Dear Mr. Essex:

Thank you for taking time to meet with me and discuss landscape maintenance concerns along the Parkway. As discussed, Knudson has prepared this proposal to address the top deficiencies we noted during our tour of the site, which include:

- Trees that have been blown over
- Trees that have bark damage or are otherwise in distress
- Trees that need pruning
- Areas of ornamental grasses that need weeding and maintenance
- Tree mulching to facilitate growth and vigor, and to protect from mowers

Scope

The following is a summary of tasks and deliverables that we recommend to begin addressing these deficiencies. We recommend that individual tasks be made separately on a "Task Order" basis.

- a. Our landscape architectural staff will walk the Parkway and flag dead trees or trees to be removed, restaked, pruned and mulched. Knudson will provide a copy of our field notes to the Authority.
- b. Designate ornamental grass areas for weeding and clean up
- c. Provide tree staking, mulching, pruning and weeding specifications, notes and details
- d. Provide an annual maintenance schedule for tree maintenance
- e. Solicit and analyze bids from qualified landscape maintenance contractors for mowing and tree maintenance
- f. Prepare planting plan for 500 to 600 new 5 gallon Live Oak Trees to be provided by Ft. Bend County, including field verification of proposed planting locations, planting details and specifications

Fee Basis

We propose to perform these services on a "Lump Sum Basis", as noted for each item above:

- | | |
|--|-------------|
| a. Flag trees for restaking, mulching and pruning | \$ 5,000.00 |
| b. Mark ornamental grass areas for weeding and clean up | \$ 600.00 |
| c. Staking, mulching, pruning and weeding specifications and details | \$ 800.00 |
| d. Provide an annual maintenance schedule for tree maintenance | \$ 1,500.00 |
| e. Solicit and analyze bids for mowing and tree maintenance | \$ 1,500.00 |
| f. Prepare planting plan for 500 to 600 new 5 gallon Live Oak Trees | \$ 3,500.00 |

Mr. Chad Essex
March 3, 2009
Page 2

Reimbursable Expenses

Reimbursable expenses are not included in the above fees. Reimbursable expenses include vehicle mileage to and from the site or project meetings, delivery and courier fees, printing and reproduction costs, and postage. Costs for delivery and courier fees and commercial reproduction will be paid for at cost times a 1.10 multiplier. Vehicle mileage will be reimbursed at the current IRS approved rate. In-house printing will be reimbursed at the rates shown below:

Reimbursable Expense	Billing Rate
Vehicle Mileage	IRS Standard Rate
Non-Labor Expenses	Cost + 10%
In house paper copies (Black & White)	\$0.50/page
In house paper copies (Color)	\$1.50/page
In house plotting	\$14.00/SF

Schedule

Knudson will initiate and complete each task as it is authorized on a mutually agreed upon time table.

Form of Contract / Authorization

Two copies of Knudson's standard Professional Services Agreement (PSA) are attached, along with a copy of our Notice to Proceed (NTP). If you find the terms of this Proposal to be acceptable, please execute and return both copies of the PSA and one copy of the NTP. We will sign and return one copy of the PSA for your use.

Although we are not recommending implementation of a GIS landscape maintenance data base as part of this Proposal, we recommend that the Toll Road Authority consider this option in the future. A GIS landscape maintenance data base can help the Authority preserve its beautification investment by creating a structure for monitoring the condition of plant materials and maintenance needs on a regular basis. In addition, a GIS landscape data base can help retain cost and activity records as the historical basis for future budgeting.

Again, we appreciate this opportunity to be of service to the Ft. Bend County Toll Road Authority.

Sincerely,
Knudson, LP



Lloyd Lentz, ASLA
Director of Landscape Architecture

Attachments:

Professional Services Agreement
Notice to Proceed