

FORT BEND COUNTY FY 2010
COMMISSIONERS COURT AGENDA REQUEST FORM

22B

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: 03/29/2010

Submitted By: Paul Stewart

Court Agenda Date: 04/06/2010

Department: County Attorney

Phone Number: 281-341-4555

Summary of Item:

COMMISSIONER PRECINCT 4:

Take all appropriate action on the First Amendment to Amended and Restated Surface Lease Agreement between Sprint Sand and Clay, LLC and Fort Bend County for an 18.456 acre tract of land in the John Leverton Survey, Abstract No. 402.

RENEWAL AGREEMENT/APPOINTMENT YES ☐ NO ☒
REVIEWED BY COUNTY ATTORNEY'S OFFICE: YES ☒ NO ☐

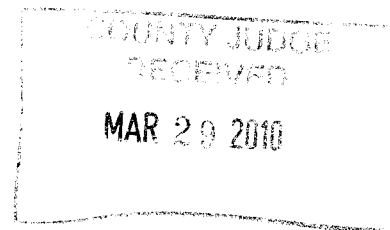
List Supporting Documents Attached: First Amendment to Amended and Restated Surface Lease Agreement

FINANCIAL SUMMARY:

BUDGETED ITEM: YES ☐ NO ☐

FUNDING SOURCE: Accounting Unit: Account Number:
Activity (If Applicable):

DESCRIPTION OF LAWSON ACCOUNT:



Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office ☐ (✓ when completed)

If by E-Mail to ospindon@co.fort-bend.tx.us

If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input checked="" type="checkbox"/> Auditor (281-341-3774)	<input checked="" type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input checked="" type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input checked="" type="checkbox"/> Facilities/Planning (281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input checked="" type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input checked="" type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input checked="" type="checkbox"/> Other: <u>Marc Grant, Road & Bridge</u>	<input checked="" type="checkbox"/> County Atty. (281-341-4557)

RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

4-9-10 2 orig's ret. to Paul at CO Attorney

FIRST AMENDMENT TO AMENDED
AND RESTATED SURFACE LEASE AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF FORT BEND §

That this First Amendment To Amended and Restated Surface Lease Agreement is made and entered into by and between SPRINT SAND AND CLAY, LLC, a Texas limited liability company ("Sprint Sand") and FORT BEND COUNTY, TEXAS (the "County").

I.

RECITALS

Reference is hereby made to that certain Amended and Restated Surface Lease Agreement (the "Lease") dated effective as of July 11, 2003 between Sprint Fort Bend County Landfill, LP as "Lessor" thereunder and the County as "Lessee" thereunder as recorded under Fort Bend County Clerk's File No. 2003098747 of the Official Public Records of Fort Bend County, Texas (the "Official Records")

Reference is also hereby made to that certain Addendum to Amended and Restated Surface Lease Agreement (the "Addendum") dated January 4, 2005 and recorded under Fort Bend County Clerk's File No. 2005003074 of the Official Records and that certain Memorandum of Addendum to Amended and Restated Surface Lease Agreement (the "Memorandum") recorded under Fort Bend County Clerk's File No. 2005003076 of the Official Records, each of which documents are between the County and Fort Bend County Landfill, LP. As used herein, the Lease, the Addendum and the Memorandum are collectively referred to as the "Lease Documents").

The Lease Documents currently cover and affect a 15.000 acre tract of land in Fort Bend County as described by metes and bounds therein (the "Leased Premises").

Sprint Fort Bend County Landfill, LP conveyed the "Leased Premises" (as such term is amended by this Agreement) to Sprint Sand via a special warranty deed dated as of December 31, 2009, and recorded under Fort Bend County Clerk's File No. 2010018274, subject to and burdened by each of the Lease Documents.

Sprint Sand and the County desire to amend the description of the Leased Premises under the Lease Documents.

II.

AGREEMENTS

For and in consideration of the premises and other good and valuable consideration, Sprint Sand and the County hereby agree as follows:

1. The Leased Premises as used and described in all of the Lease Documents are hereby amended as follows:

- a. as of the effective date of this Agreement, the Leased Premises shall no longer mean and refer to the 15.000 acre tract of land originally described by metes and bounds in the Lease Documents; and
- b. as of the effective date of this Agreement, the Leased Premises shall mean and refer to, and all of the Lease Documents shall cover, that certain (i) 18.456 acre, more or less, tract of land and (ii) 0.580 acre tract of land, more or less, tract of land, as described by metes and bounds on Exhibit A attached hereto and made a part hereof for all purposes.

2. Except as amended hereby, all of the Lease Documents shall remain unchanged and in full force and effect.

III.

MISCELLANEOUS

The terms hereof shall extend to, be binding upon, and inure to the benefit of the respective legal representatives, successors, and assigns of the parties hereto.

The party or parties who are signing below warrant and represent (i) in the case of Lessee, that all appropriate governmental action has been taken to cause this Agreement to be binding upon the County and (ii) in the case of Sprint Sand, that all company action has been taken to cause this Agreement to be binding upon Sprint Sand.

This Agreement may be executed in counterparts and such counterparts executed by all parties hereto, together, shall be and constitute but one single instrument and agreement, the pages of which may be aggregated to form a single instrument.

Executed on the dates of the acknowledgments set forth below, to be effective as of the date on which both Sprint Sand and the County have executed and acknowledged this Agreement.

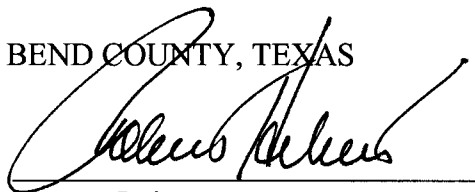
SPRINT SAND

SPRINT SAND AND CLAY, LLC
a Texas limited liability company


By: 
Donald Poarch
Vice President

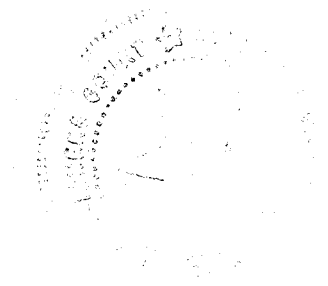
THE COUNTY

FORT BEND COUNTY, TEXAS

By: 
County Judge Robert Hebert

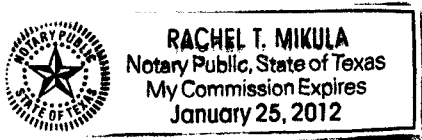
Date: April 6, 2010

Attest: 
County Clerk Dianne Wilson



THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on March 1, 2010 by Donald Poarch, Vice President of Sprint Sand and Clay, LLC, a Texas limited liability company, on behalf of such limited liability company.



Rachel T. Mikula
Notary Public in and for the State of Texas

Rachel T. Mikula
Printed Name of Notary

My Commission Expires: 1.25.2012

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on April 6, 2010 by Robert Hebert, County Judge of Fort Bend County, a body corporate and public, on behalf of Fort Bend County.



D'Neal Krisch
Notary Public in and for the State of Texas

D'Neal Krisch
Printed Name of Notary

My Commission Expires: 4/2/11

EXHIBIT A

KELLY R. KALUZA & ASSOCIATES, INC.

Consulting Engineers & Surveyors
3014 Avenue I, Rosenberg, Texas 77471
(281) 341-0808 ■ FAX (281) 341-6333

December 16, 2008

A FIELD NOTE DESCRIPTION of 18.456 Acres of Land being a portion of a call 16.3257 Acre Tract (Fort Bend County Clerk's File No. 9757250), being a portion of a call 3.1622 Acre Tract (Parcel No. 4, Fort Bend County Clerk's File No. 9655317), being a portion of a call 3.1622 Acre Tract (Parcel No. 3, Fort Bend County Clerk's File No. 9655317) and a portion of a call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655319) being in the John Leverton Survey, Abstract No. 402, Fort Bend County, Texas. The reference bearing for this description being the Northerly West line of a call 187.0178 Acre Tract (Volume 2569, Page 2006; Official Records of Fort Bend County, Texas) being the Easterly line of a call 9.787 Acre Tract (Fort Bend County Clerk's File No. 2001115166) being North 1 Degree, 1 Minute, 56 Seconds East as monumented on the ground.

BEGINNING at a 5/8 inch diameter iron rod with plastic cap set in the intersection of the Southerly right-of-way line of Boss-Gaston Road (50 feet wide) with the Westerly right-of-way line of Old Richmond Road (width varies) for the Northeast corner of said call 16.3257 Acre Tract and for the Northeast corner of this 18.456 Acre Tract;

THENCE; South 3 Degrees, 51 Minutes, 37 Seconds West - 1009.62 feet along the Westerly right-of-way line of said Old Richmond Road being along the Easterly line of said call 16.3257 Acre Tract to a 1/2 inch inside diameter iron pipe found for the Southeast corner of this tract; Said corner being the Southeast corner of said call 16.3259 Acre Tract and being the Northeast corner of a call 2.4236 Acre Tract (Lot No. 1, Volume 932, Page 41; Deed Records of Fort Bend County, Texas);

THENCE; North 89 Degrees, 26 Minutes, 44 Seconds West - 419.76 feet along the Southerly line of said call 16.3259 Acre Tract and along the Northerly line of said call 2.4236 Acre Tract to a point for the Southwest corner of this tract where a 5/8 inch diameter iron rod with cap found for reference bears South 39 Degrees East - 0.83 feet; Said corner being the most Easterly corner of the West Belfort Right-of-Way Parcel 34R - 6.286 Acre Tract (Fort Bend County Clerk's File No. 2008114222) and the Northeast corner of the West Belfort Right-of-Way Tract 35 - call 0.2757 Acre Tract (Fort Bend County Clerk's File No. 2005087733);

THENCE; Northwesterly, along the Northeasterly line of said 6.286 Acre Tract with the following courses and distances:

North 35 Degrees, 25 Minutes, 49 Seconds West - 225.32 feet to a 5/8 inch diameter iron rod found for corner;

Along a tangent curve to the left with the following curve data:

A Field Note Description
18.456 Acres of Land
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Radius: 1,750.00 feet
Delta: 24 Degrees, 46 Minutes, 34 Seconds
Length: 756.74 feet
Tangent: 384.38 feet
Chord: North 47 Degrees, 49 Minutes, 6 Seconds West -
750.86 feet to a 5/8 inch diameter iron rod with cap
found for corner;

North 14 Degrees, 29 Minutes, 18 Seconds West - 20.86 feet to a 5/8 inch
diameter iron rod with cap found for the most Westerly corner of this tract;

THENCE; Northerly, along an Easterly line of said 6.286 Acre Tract with the following courses
and distances:

North 31 Degrees, 28 Minutes, 36 Seconds East - 62.49 feet to a 5/8 inch
diameter iron rod with cap found for corner;

Along a tangent curve to the left with the following curve data:

Radius: 250.00 feet
Delta: 29 Degrees, 36 Minutes, 53 Seconds
Length: 129.22 feet
Tangent: 66.09 feet
Chord: North 16 Degrees, 40 Minutes, 9 Seconds East -
127.79 feet to a 5/8 inch diameter iron rod with cap
found for corner;

Along a reverse curve to the right with the following curve data:

Radius: 30.00 feet
Delta: 74 Degrees, 42 Minutes, 31 Seconds
Length: 39.12 feet
Tangent: 22.90 feet
Chord: North 39 Degrees, 12 Minutes, 58 Seconds East -
36.40 feet to a 5/8 inch diameter iron rod with plastic
cap set for the Northwest corner of this tract; Said
corner being an Easterly corner of said 6.286 Acre
Tract;

THENCE; North 85 Degrees, 15 Minutes, 4 Seconds East, at 23.12 feet pass a point where
a 1/2 inch inside diameter iron pipe found for reference bears North - 0.09 feet, at
174.05 feet pass a point where a 1/2 inch inside diameter iron pipe found for
reference bears North - 0.34 feet, at 322.73 feet pass a point where a 1/2 inch
inside diameter iron pipe found for reference bears North - 0.51 feet, in all 383.60
feet along the Southerly right-of-way line of said Boss-Gaston Road being along the
Northerly lines of said call 6.3149 Acre Tract, said call 3.1622 Acre Tracts and said
call 16.3257 Acre Tract to a 5/8 inch diameter iron rod with cap found for the
Northwest corner of a 15.000 Acre Agreement Tract (Fort Bend County Clerk's File
No. 2005003074);

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THENCE; North 85 Degrees, 10 Minutes, 11 Seconds East - 707.89 feet continuing along the Southerly right-of-way line of said Boss-Gaston Road and along the Northerly line of said call 16.3257 Acre Tract to the **PLACE OF BEGINNING** and containing 18.456 Acres of Land.

C. Tim Griffith
C. Tim Griffith, R.P.L.S. No. 4349



KELLY R. KALUZA & ASSOCIATES, INC.

Consulting Engineers & Surveyors
3014 Avenue I, Rosenberg, Texas 77471
(281) 341-0808 ■ FAX (281) 341-6333

December 16, 2008

A FIELD NOTE DESCRIPTION of 0.580 Acre of Land being a portion of a call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655319) and a portion of a call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655320) being in the John Leverton Survey, Abstract No. 402, Fort Bend County, Texas. The reference bearing for this description being the Northerly West line of a call 187.0178 Acre Tract (Volume 2569, Page 2006; Official Records of Fort Bend County, Texas) being the Easterly line of a call 9.787 Acre Tract (Fort Bend County Clerk's File No. 2001115166) being North 1 Degree, 1 Minute, 56 Seconds East as monumented on the ground.

FOR CONNECTION, begin at a 1/2 inch inside diameter iron pipe found for the Northwest corner of said call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655320); Said corner being the Northeast corner of a call 0.9972 Acre Tract (Fort Bend County Clerk's File No. 9662184), being in the Southerly right-of-way line of Boss-Gaston Road (50 foot wide) and being in a Northerly line of the West Bellfort Right-of-Way Parcel 34R - 6.286 Acre Tract (Fort Bend County Clerk's File No. 2008114222); Thence; North 85 Degrees, 15 Minutes, 4 Seconds East, at 318.71 feet pass a point for the Northeast corner of said call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655320) and for the Northwest corner of said call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655319) being 0.09 feet North of a 1/2 inch inside diameter iron pipe found for reference, in all 339.23 feet along the Southerly line of said Boss-Gaston Road and along the Northerly line of said West Bellfort Parcel 34R - 6.286 Acre Tract to a 5/8 inch diameter iron rod with plastic cap set for a Northeasterly corner of said 6.286 Acre Tract; Said corner being the Northwest corner of and **PLACE OF BEGINNING** for this 0.580 Acre Tract;

THENCE; North 85 Degrees, 15 Minutes, 4 Seconds East - 155.35 feet leaving the Northerly line of said 6.286 Acre Tract along the Southerly right-of-way line of said Boss-Gaston Road being along the Northerly line of said call 6.3149 Acre Tract (Fort Bend County Clerk's File No. 9655319) to a 5/8 inch diameter iron rod with plastic cap set for the Northeasterly corner of this tract; Said corner being a Northwesterly corner of said 6.286 Acre Tract;

THENCE; Southerly, along a Westerly line of said 6.286 Acre Tract with the following courses and distances:

Along a non-tangent curve to the right with the radius point bearing South 3 Degrees, 8 Minutes, 55 Seconds West with the following curve data:

Radius:	30.00 feet
Delta:	100 Degrees, 2 Minutes, 20 Seconds
Length:	52.38 feet
Tangent:	35.78 feet
Chord:	South 36 Degrees, 49 Minutes, 55 Seconds East - 45.98 feet to a point for corner where a 5/8 inch diameter iron rod found for reference bears North 78 Degrees West - 0.18 feet;

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Along a compound curve to the right with the radius point bearing North 76 Degrees, 48 Minutes, 45 Seconds West with the following curve data:

Radius:	250.00 feet
Delta:	18 Degrees, 17 Minutes, 21 Seconds
Length:	79.80 feet
Tangent:	40.24 feet
Chord:	South 22 Degrees, 19 Minutes, 56 Seconds West - 79.46 feet to a 5/8 inch diameter iron rod with cap found for corner;

South 31 Degrees, 28 Minutes, 36 Seconds West - 65.80 feet to a 5/8 inch diameter iron rod with cap found for corner;

South 74 Degrees, 16 Minutes, 56 Seconds West - 22.02 feet to a 5/8 inch diameter iron rod with cap found for the most Southerly corner of this tract;

THENCE; Northwesterly, along a Northerly line of said 6.286 Acre Tract being along a non-tangent curve to the left with the radius point bearing South 26 Degrees, 50 Minutes, 37 Seconds West, with the following curve data:

Radius:	1,750.00 feet
Delta:	4 Degrees, 16 Minutes, 39 Seconds
Length:	130.65 feet
Tangent:	65.35 feet
Chord:	North 65 Degrees, 17 Minutes, 43 Seconds West - 130.62 feet to a 5/8 inch diameter iron rod with plastic cap set for the Southwest corner of this tract;

THENCE; North 11 Degrees, 51 Minutes, 34 Seconds East - 107.22 feet along an Easterly line of said 6.286 Acre Tract to the **PLACE OF BEGINNING** and containing 0.580 Acre of Land.

C. Tim Griffith
C. Tim Griffith, R.P.L.S. No. 4349

