KB [5/30/2013]
Item No. 16A

AN ORDINANCE 2013-05-30-0366

**AUTHORIZING A 10-YEAR LICENSE AGREEMENT WITH CALUMET SAN ANTONIO REFINERY, LLC FOR USE OF PUBLIC RIGHT-OF-WAY TO INSTALL, OPERATE AND MAINTAIN PIPING UNDER OLD CORPUS CHRISTI ROAD (BETWEEN NCB 10927 AND NCB 10879).**

* * * * *

**WHEREAS,** the licensed improvement or facility will not be located on, extend onto, or intrude on (A) the roadway; or (B) a part of the sidewalk needed for pedestrian use;

**WHEREAS,** the licensed improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the municipal street; and

**WHEREAS,** the design and location of licensed the improvement or facility includes all reasonable planning to minimize potential injury or interference to the public in the use of the municipal street.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1**. The City Manager or her designee is authorized and directed to execute and deliver on behalf of the City an instrument in substantially the form attached as **Attachment I**, which is incorporated for all purposes as if fully set forth. The City Manager and her designee should take all other actions necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing all necessary or convenient ancillary instruments and agreements.

**SECTION 2**. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 240000000061 and General Ledger 4202410.

**SECTION 3**. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 4**. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

**PASSED AND APPROVED** this 30th day of May 2013.

**M A Y O R**
Julián Castro

**Attest:**

Leticia M. Vacek, City Clerk

**Approved As To Form:**

Michael D. Bernard, City Attorney

Request for COUNCIL ACTION

City of San Antonio

# Agenda Voting Results - 16A

| | |
|---|---|
| **Name:** | 6, 7, 8, 9A, 9B, 11, 12, 13, 14, 15A, 15B, 16A, 16B, 16C, 17, 18, 20A, 20B, 20C, 21, 22, 25, 26, 27, 28, 29A, 29B, 30A, 30B |
| **Date:** | 05/30/2013 |
| **Time:** | 10:49:32 AM |
| **Vote Type:** | Motion to Approve |
| **Description:** | An Ordinance authorizing a 10-year License Agreement with Calumet San Antonio Refinery, LLC for use of public right-of-way to install, operate and maintain piping under Old Corpus Christi Road (between NCB 10927 and NCB 10879). |
| **Result:** | Passed |

| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
|---|---|---|---|---|---|---|---|
| Julián Castro | Mayor | | x | | | | |
| Diego Bernal | District 1 | | x | | | | |
| Ivy R. Taylor | District 2 | | x | | | | |
| Leticia Ozuna | District 3 | | x | | | | |
| Rey Saldaña | District 4 | | x | | | | x |
| David Medina Jr. | District 5 | | x | | | | |
| Ray Lopez | District 6 | | x | | | | |
| Cris Medina | District 7 | | x | | | | |
| W. Reed Williams | District 8 | | x | | | x | |
| Elisa Chan | District 9 | | x | | | | |
| Carlton Soules | District 10 | x | | | | | |

## Attachment I

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# License Agreement
**(Calumet // Old Corpus Christi Road)**

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This License Agreement ("License") is entered into between Licensee and the City of San Antonio ("Licensor") under the authority of the Authorizing Ordinance.

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## 1. Identifying Information.

**Authorizing Ordinance:**

**Project No.** 1607

**Licensee:** Calumet San Antonio Refinery, LLC

**Licensee's Address:** 1 BDA Crossing, Suite 100, Brooks-City Base, Texas

78235

**Term:** Ten years

**Fee:** $22,817.06

**Premises:** A portion of the public right of way of Old Corpus Christi Road encroached on by Licensee within the Scope of the License as further described in the attached **Exhibit A**, which is incorporated herein for all purposes.

**Scope of License:** Installation, operation, maintenance, and repair of an 8" crude oil line and related facilities.

**Effective Date:** The effective date of the Authorizing Ordinance

**Licensor's Address:** City Clerk, City of San Antonio, P.O. Box 839966/2nd Floor, City Hall, San Antonio, Texas 78283-3966

## 2. Grant of License.

Licensor grants Licensee a license ("License") to use, maintain, and operate the Premises within the Scope of the License. This License is limited to the stated Term and is conditioned on Licensee's payment of the Fee. This license does not relieve Licensee of any other approvals, permits, or licenses that may otherwise be required including but not limited to right-of-way management permits. This license is subject to all pre-existing rights of the San Antonio Water System, CPS Energy, telecommunications and cable companies, and others who have rights in the Premises. Licensor expressly disclaims a covenant of quiet enjoyment as to this License.

## 3. Restrictions on Use/Recording.

**3.01.** This License does not grant Licensee authority to use any public rights-of-way beyond the Premises.

**3.02.** This License grants only a privilege, not a real property interest. Licensor may enter the Premises at any time to assert its real property interest or for other purposes not interfering unreasonably with the Scope of License.

**3.03.** A Memorandum of License Agreement in substantially similar form as that in **Exhibit B**, which is incorporated herein for all purposes, will be recorded by Licensor in the Official Public Records of Real Property of Bexar County, Texas. Licensee must pay the recording fees.

## 4. License Fee.

Licensee must pay the Fee in a one-time lump sum, on or before the Effective Date. The Fee must be paid at the Department of Capital Improvement Management Services, 114 W. Commerce St., 2nd Floor (c/o Property Disposition Manager), San Antonio, Texas 78205.

## 5. Construction, Maintenance, and Operations.

**5.01. Costs**. Licensee is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed on the Premises.

**5.02. No Liability**. Licensor assumes neither liability nor expense under this License. Licensor is not liable to Licensee or otherwise for damage to the Premises arising from or related to activities of Licensor in the vicinity.

**5.03. Relocation.** If Licensor's needs require relocation, maintenance, or adjustment in the Premises or improvements by Licensee thereto, the relocation, maintenance, or adjustments will be at Licensee's sole cost and expense.

**5.04. Maintenance.** Licensee, at its sole cost and expense, must maintain all improvements it constructs or installs on the Premises. In so doing, Licensee must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations.

**5.05. No Power to Bind**. Licensee cannot bind or permit another to bind Licensor for payment of money or for any other obligation.

**5.06. Contractors and Subcontractors**. Licensee must promptly pay anyone performing work on behalf of Licensee who could file a mechanics' or materialmen's lien on the Premises. If any such lien is filed, Licensor may treat it as an event of default and terminate this License by delivering 45 days prior written notice to Licensee. But if the lien is removed or released of record within the notice period, this License remains in effect. Licensee remains obligated to clear the lien without cost to Licensor even after termination.

## 6. Indemnity.

6.01. These definitions apply to the indemnity provisions of this License:

6.01.01. **"Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract. A claim is an Indemnified Claim even if the person alleged to be at fault is not a party to this agreement.**

**Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death. Indemnified Claims also include claims in which an Indemnitee shares liability with the Indemnitor.**

6.01.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

6.01.03. "Indemnitor" means Licensee.

**6.02. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims. Indemnitor must indemnify Indemnitees from the consequences of their own negligence or from the negligence of any of them.**

6.03. If one or more Indemnitees are finally adjudged to be liable for an Indemnified Claim, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability arising from the Indemnitees' adjudicated share of liability. But despite allegations of Indemnitee negligence or other fault, Indemnitor must nevertheless defend all Indemnitees until final adjudication. Indemnitor may not recover sums previously spent defending or otherwise indemnifying Indemnitees finally adjudged to be negligent and must continue to indemnify other Indemnitees.

6.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.

6.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

6.06. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

6.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any

Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

6.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

**6.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees, collectively, and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.**

## 7. Insurance.

**7.01.** Without limiting Licensor's rights to indemnity, Licensee must provide and maintain insurance, at its own expense, with companies admitted to do business in the State of Texas and with a rating of A- or better by A. M. Best and Company or provide evidence of self-insurance, in the following types and amounts:

| | Type | Amount |
|---|---|---|
| 1. | Worker's Compensation during the performance of improvements to the Premises or an approved alternate plan at other periods during the Term. | Statutory, with a waiver of subrogation in favor of Licensor |
| 2. | Employers' Liability during improvements to the Premises or an approved alternate plan at other periods during the Term. | $500,000 per category, with a waiver of subrogation in favor of Licensor |
| 3. | Commercial General (Public) Liability – to include coverage for the following where the exposure exists:<br>(a) Premises/Operations<br>(b) Independent Contractors<br>(c) Products/Completed<br>(d) Personal Injury Liability<br>(e) Contractual Liability<br>(f) Explosion, Collapse and Underground Property<br>(g) Broad Form Property Damage | For Bodily Injury and Property Damage: $1,000,000 per Occurrence, $2,000,000 general aggregate or its equivalent in Umbrella or Excess Liability coverage. |
| 4. | Property Insurance -- for physical damage to the property of Licensee including improvements and betterments to the Premises. | Coverage for a minimum of 80% of the actual cash value of the improvements. |

Any substitute for Workers' Compensation and Employer's Liability must be approved in advance by Licensor's Risk Manager.

**7.02.** Licensor's Risk Manager may reasonably modify the above requirements if he determines the modification is in the Licensor's best interest. If Licensee believes the requested change is unreasonable, Licensee has 60 days to give notice of termination. The termination provisions then apply.

**7.03.** With respect to the above required insurance, each insurance policy required by this License must contain the following clauses:

> "No insurance or self-insurance provided by Licensee can be canceled, limited in scope or coverage, or non-renewed until after 30 days' prior written notice has been given to:
>
> Department of Capital Improvement Management Services
> City of San Antonio
> P.O. Box 839966
> San Antonio, Texas 78283-3966
> Attention: Property Disposition Manager"
>
> "Any insurance or self-insurance provided by Licensee is primary to any insurance or self-insurance maintained by the City of San Antonio."
>
> "Any insurance or self-insurance maintained by the City of San Antonio applies in excess of, not in contribution with, insurance provided by this policy."

**7.04.** Each insurance policy required by this License, excepting policies for Workers' Compensation, Employer's Liability and Professional Liability, must contain the following clause:

> "The City of San Antonio, its elected officials, employees, agents, and representatives are added as additional insureds."

**7.05.** Licensee must deliver to Licensor, within 30 days after the Effective Date, endorsements to the above-required policies adding the applicable clauses referenced above. Such endorsements must be signed by an authorized representative of the insurance company and show the signatory's company affiliation and title. Licensee must deliver to Licensor documentation acceptable to Licensor confirming the authority of those signing the endorsements.

**7.06.** The Notices and Certificates of Insurance must be provided to the same address as for notices of cancellation.

**7.07.** This License does not limit Licensee's liability arising out of or related to the Premises or Licensee's activities thereon.

**7.08. Licensee waives all claims against Licensor for injury to persons or property on or about the Premises, whether or not caused by Licensor's negligence.**

## 8. Termination.

**8.01.** Licensor may terminate this License at any time before expiration by giving Licensee 30 days' written notice.

**8.02.** Upon expiration or termination, all rights and privileges immediately cease, and Licensee must immediately cease use of the Premises. Licensor may direct Licensee to either (a) abandon the encroaching improvements and appurtenances, including lines and equipment; or (b) remove all or any part of them and restore the Premises, at Licensee's sole cost, to original condition. Improvements or appurtenances not removed within 90 days after termination, whether by expiration or otherwise, become the property of Licensor. Licensor may, without liability to Licensee, dispose of such property at a public or private sale, without notice to Licensee. Licensee is liable for Licensor's costs incurred in connection with Licensee's property.

## 9. Assignment/Sublicensing.

This License cannot be assigned or sublicensed, other than to Licensee's parent or subsidiaries. Licensee must give Licensor 30 days' written notice before such an assignment or sublicense. Licensee cannot lease or sublease the Premises.

## 10. Condemnation.

If the Premises are taken, in whole or in part, by eminent domain, Licensor may terminate this License as of the date title to the taken land vests in the condemning authority. Licensee waives any claim to condemnation proceeds paid to Licensor. Licensee may seek a separate condemnation award.

## 11. Attorney's Fees and Court Costs.

In any action in which Licensee is found to have materially defaulted hereunder, Licensor can recover from Licensee its reasonable attorney's fees.

## 12. Taxes and Licenses.

Licensee must pay, on or before the due date all federal, state, and local taxes, license fees, permit fees, and similar charges now or hereafter levied on Licensee or its property or on the Premises and arising from Licensee's use thereof.

## 13. Prohibited Interests in Contracts.

**13.01**. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

(a) a City officer or employee;

(b) his parent, child or spouse;

(c) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;

(d) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

**13.02.** Licensee warrants and certifies as follows:

(a) Licensee and its officers, employees and agents are neither officers nor employees of the City.

(b) Licensee has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

**13.03**. Licensee acknowledges that City's reliance on the above warranties and certifications is reasonable.

## 14. Licensee Financing.

Licensee may encumber Licensee's personal property on the Premises, and any lien of Licensor (whether by statute or under this License) is subordinate to the financing lien. Licensor will acknowledge this subordination in writing, if the proffered documents do not modify the rights and obligations of this License. The City Manager or a designee may execute such documents, without a further ordinance. But if the documents modify the License, then a specific ordinance is required.

## 15. Lien for License Fee, Taxes, Fees and Other Charges.

Licensee grants Licensor a security interest in Licensee's property on the Premises. The security interest secures payment of the Fee and all taxes, fees, and other charges owing because of Licensee's use under this License. Licensee may dispose of the property free

of the security interest in the ordinary course of business. At Licensor's request, Licensee must execute a financing statement.

## 16. Consent/Approval of Licensor.

When Licensor's consent and approval is called for under this License, the consent and approval may be granted or withheld by the Director of Capital Improvement Management Services, unless the City Charter requires Council action.

## 17. Appropriations.

All obligations of the City of San Antonio under this instrument are subject to the discretion of City Council whether to appropriate funding for any given year of a term. The City need not pay any sum not appropriated by City Council.

## 18. Miscellaneous Provisions

**18.01. Relationship Limited.** This instrument creates only the relationship of Licensor and Licensee. The parties are not principal and agent, partners, joint venturers, or participants in any other enterprise between them.

**18.02. Nondiscrimination**. Licensee must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

**18.03. Release From Liability.** If Licensor transfers the Premises, Licensor will have no liability relating to the period after transfer. Licensor's transferee will succeed to all Licensor's rights hereunder.

**18.04. Yielding Up.** Licensee must, at termination, whether by expiration or otherwise, yield the Premises up peacefully.

**18.05. Authority to Execute.** The party or parties executing this License on behalf of Licensee personally warrant that each of them has full authority to do so.

**18.06. Acknowledgment of Reading.** The parties acknowledge reading this License, including exhibits or attachments, and have received the advice and counsel necessary to form a complete understanding of their rights and obligations. Having so done, they execute this License freely and voluntarily.

**18.07. Applicable Law**. **The Construction Of This License And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas.** But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations of both parties are performable in San Antonio, Bexar County, Texas.

**18.08. Severability**. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

**18.09. Successors**. This License inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

**18.10. Integration. This Written License Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties**.

**18.11. Modification**. This License may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

**18.12. Third Party Beneficiaries**. This License is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries.

**18.13. Notices**. Notices must be in writing and by certified mail, return receipt requested. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice. Unless changed, notice to Licensee goes to Licensee's address specified at the beginning, and notice to Licensor goes to:

| | | |
|---|---|---|
| City Clerk<br>City of San Antonio<br>P.O. Box 839966<br>San Antonio, Texas 78283-3966 | With a copy to | Director, Capital Improvement Management Services<br>City of San Antonio<br>P.O. Box 839966<br>San Antonio, Texas 78283-3966 |

**18.14. Pronouns**. In construing this License, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire License, not to any particular provision of it.

**18.15. Captions**. Paragraph captions in this License are for ease of reference only and do not affect the interpretation hereof.

**18.16. Counterparts**. This License may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this License, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

**18.17. Further Assurances**. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties under this License

**18.18. Ambiguities Not to Be Construed Against Drafter**. Ambiguities in this License must be resolved without constructing against the drafter.

**18.19. Administrative Actions and Agreements**. The Director of Capital Improvements Management Services ("CIMS") and the Assistant Director for Real Estate of CIMS may, without further council action, agree to, sign, and deliver on behalf of the City all consents, certificates, memoranda, estoppels, and modifications of nonmaterial rights and obligations arising under this License and may declare Licensee defaults and pursue remedies for such defaults, including terminating this License. This paragraph does not authorize amendments or renewals without council consent.

## 19. Public Information.

Licensee acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

**In Witness Whereof**, the parties have caused their representatives to set their hands:

| **Licensor:** | **Licensee**: |
|---|---|
| **City of San Antonio,**<br>a Texas municipal corporation | **Calumet San Antonio Refinery, LLC,**<br>a Delaware limited liability company |
| _____<br>(Signature) | _____<br>(Signature) |
| _____<br>(Printed Name) | _____<br>(Printed Name) |
| _____<br>(Representative Capacity) | _____<br>(Representative Capacity) |
| _____<br>(Date) | _____<br>(Date) |

KB [5/30/2013]
Item No. 16A

**Approved As To Form**:

_____

City Attorney

KB [5/30/2013]
Item No. 16A

# Exhibit A

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**30 FOOT WIDE**
**PIPELINE EASEMENT**
**LEGAL DESCRIPTION**

**STATE OF TEXAS**
**COUNTY OF BEXAR**

**BEING** a 30 foot wide pipeline easement situated in the William Small Survey, Abstract No. 670, Bexar County, Texas and being out of Old Corpus Christi Road, City of San Antonio and this 30 foot wide pipeline easement being more particularly described by metes and bounds as follows;

**BEGINNING** at a point in the east line of that tract described as Lots 40, 45, and the 32 foot strip marked 'reserved", Block 3 of the D. E. Henderson Subdivision No. 2 and recorded in Volume 2222, Page 77 of the Deed and Plat Records of said county and the west right-of-way line of Old Corpus Christi Road for the northwest corner of the herein described pipeline easement, said point having a Texas State Plane coordinate NAD 83 Texas South Central Zone of X = 2,141,877.65 and Y = 13,673,620.60, and being located South 20° 11' 49' East a distance of 21.61 feet from an existing 5/8 inch iron rod with Cap marked Baker Surveying at the northeast corner of said Lots 40, 45, and the 32 foot strip marked 'reserved", Block 3 of the D. E. Henderson Subdivision No. 2;

**THENCE** North 75° 22' 29" East and crossing Old Corpus Christi Road for a distance of 62.32 feet to a point in the west line of that remaining 1308.68 acre tract described in Volume 9481, Page 934 of the Official Public Records of said county and the east right-of-way line of Old Corpus Christi Road for the northeast corner of the herein described pipeline easement;

**THENCE** South 12° 46' 50" East with the west line of said remaining 1308.68 acre tract and the east right-of-way line of Old Corpus Christi Road for a distance of 30.02 feet to a point for the southeast corner of the herein described pipeline easement,

**THENCE** South 75° 22' 29" West and crossing Old Corpus Christi Road for a distance of 58.43 feet to a point in the west right-of-way line of Old Corpus Christi Road and the east line of said as Lots 40, 45, and the 32 foot strip marked 'reserved", Block 3 of the D. E. Henderson Subdivision No. 2 for the southwest corner of the herein described pipeline easement;

**THENCE** North 20° 11' 49" West with the west right-of-way line of Old Corpus Christi Road and the east line of said Lots 40, 45, and the 32 foot strip marked 'reserved", Block 3 of the D. E. Henderson Subdivision No. 2 for a distance of 30.14 feet to the **POINT OF BEGINNING**, Containing 1811.33 square feet or 0.04 acre of land.

Reference is made to that plat accompanying this legal description.

The above pipeline traverses the City of San Antonio Old Corpus Christi Highway Tract for a distance of 59.39 feet or 3.60 rods

Bearings are based on GPS Observation converted to Texas Coordinate System NAD83 South Central Zone.

The above legal description was prepared from survey information provided by NuStar Energy, L.P. and Percheron Surveying, LLC.

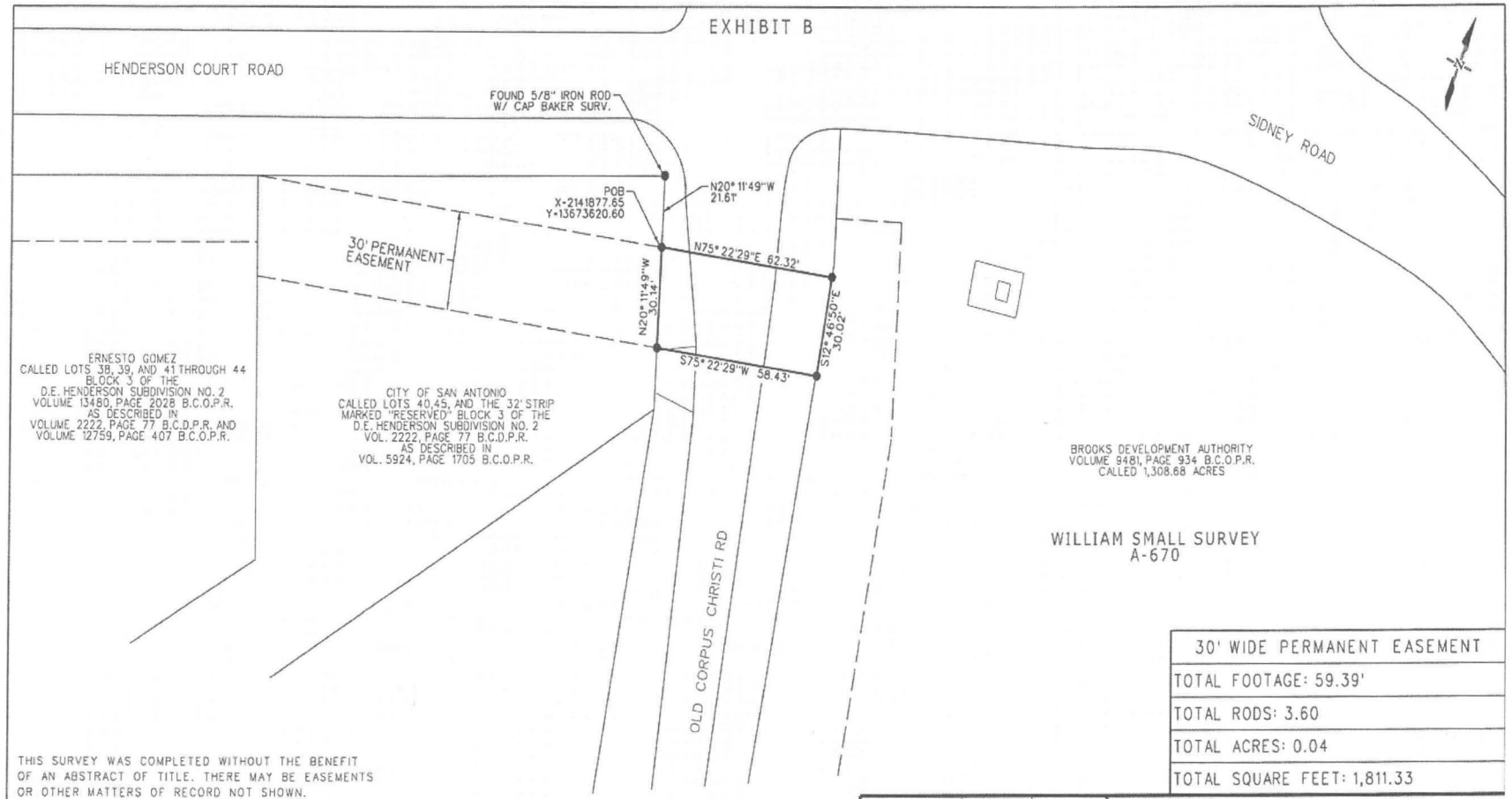
Date 01/16/2012

Ganem & Kelly Surveying, Inc.
By: George A. Ganem, Jr.
Registered Professional Land Surveyor
Texas No. 4681

STATE OF TEXAS
REGISTERED
GEORGE A. GANEM JR.
4681
PROFESSIONAL
LAND SURVEYOR

City of San Antonio Old Corpus Christi Highway Tract
NuStar Energy, L.P.
PC11121

# EXHIBIT B




| 30' WIDE PERMANENT EASEMENT |
|---|
| TOTAL FOOTAGE: 59.39' |
| TOTAL RODS: 3.60 |
| TOTAL ACRES: 0.04 |
| TOTAL SQUARE FEET: 1,811.33 |

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THERE MAY BE EASEMENTS OR OTHER MATTERS OF RECORD NOT SHOWN.

BEARINGS ARE BASED ON GPS OBSERVATION NAD 83 TEXAS SOUTH CENTRAL ZONE. COORDINATES AND DISTANCES SHOWN HEREON ARE GRID

THE ABOVE PLAT WAS PREPARED FROM SURVEY INFORMATION PROVIDED BY NUSTAR ENERGY L.P. AND PERCHERON SURVEYING, LLC.

01/16/2012

GEORGE A. GANEM, JR. DATE
GANEM & KELLY SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 4681

STATE OF TEXAS
REGISTERED
GEORGE A. GANEM JR.
4681
PROFESSIONAL
LAND SURVEYOR

| | | |
|---|---|---|
| DRAWN BY | G&K/GKS | 01-16-12 |
| DRAWING APPR. | G&K/GKS | 01-16-12 |
| PROJECT APPR. | | |
| ENG. APPR. | | |
| SCALE: 1" - 40' | | |
| JOB NO: PC11-121 | | |
| REVISION: | | |
| PREPARED BY: | | |

GANEM & KELLY SURVEYING, INC.
LAMAR STREET, SUITE 5
POINT COMFORT, TEXAS 77978
(361) 987-2011

NuStar Energy L.P.
2330 LOOP 1604 W
SAN ANTONIO, TEXAS 78248
Tel: (210) 918-2000
1-800-531-7911

30' WIDE PIPELINE EASEMENT

CITY OF SAN ANTONIO
OLD CORPUS CHRISTI HIGHWAY

BEXAR COUNTY, TEXAS

KB [5/30/2013]
Item No. 16A

## Exhibit B

**Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All of the Following Information from this Instrument Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.**

# Memorandum of License Agreement
**(Calumet // Old Corpus Christi Road)**

This Memorandum of License Agreement is entered into between Licensee and the City of San Antonio (Licensor), under the authority of the Authorizing Ordinance.

| | |
|---|---|
| **Authorizing Ordinance:** | |
| **Project No.:** | 1607 |
| **Licensee:** | Calumet San Antonio Refinery, LLC |
| **Licensee's Address:** | 1 BDA Crossing, Suite 100 , Brooks-City Base, Texas 78235 |
| **Term:** | 10 Years |
| **Premises:** | A portion of the public right of way of Old Corpus Christi Road encroached on by Licensee within the Scope of the License as further described in the attached **Exhibit A**, which is incorporated herein for all purposes. |
| **Scope of License:** | Installation, operation, maintenance, and repair of an 8" crude oil line and related facilities. |
| **Effective Date:** | The effective date of the Authorizing Ordinance. |
| **Licensor's Address:** | Director, Capital Improvement Management Services, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966 |

Licensor has granted a license to Licensee as described above. For more detailed terms, refer to the License Agreement.

The License is personal to Licensee and cannot be assigned or sublicensed except as provided in the License.

In Witness Whereof, the parties have hereunto caused their representatives to set their hands:

**Licensor:**

**Do not sign. This is merely an example of what the parties have agreed to deliver and accept at closing. This example is neither ready nor suitable to be signed.**

**City of San**
a Texas muni

_____
(Signature)

_____
(Printed Name)

_____
(Representative Capacity)

_____
(Date)

**Approved As To Form**:

_____
City Attorney

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me by _____, _____ of the City of San Antonio, a Texas municipal corporation, on behalf of that municipal corporation.

Dated:_____

_____
Notary Public, in and for State of Texas

KB [5/30/2013]
Item No. 16A

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was this date acknowledged before me by _____, of Calumet San Antonio Refinery, LLC, on behalf of that entity and in the capacity stated.

Dated:_____

_____
Notary Public, in and for State of Texas

**After Recording Return to**:

City of San Antonio
Department of Capital Improvement Management Services
P.O. Box 839966/2nd Floor, Municipal Plaza
San Antonio, Texas 78283-3966
Attn: Property Disposition Manager