

ORDINANCE NO. 98

AN ORDINANCE GRANTING A LEASE TO BAUGHN ALIGNMENT SERVICE, INC. CINCO BAYOU, FLORIDA TO USE, ERECT, MAINTAIN, REPAIR, OPERATE, PAVE, MARK, SUPERVISE PARKING FACILITIES IN, OVER, ALONG, ACROSS AND UPON A PORTION OF THAT CERTAIN PUBLIC RIGHT-OF-WAY KNOWN AS LUVERNE STREET IN THE TOWN OF CINCO BAYOU, FLORIDA IN CONJUNCTION WITH AND ADJACENT TO GRANTEE'S MAINTENANCE AND OPERATION OF THE BUSINESS BAUGHN ALIGNMENT SERVICE, INC.

WHEREAS, the Town Council of the Town of Cinco Bayou, Florida has been presented a request by the business Baughn Alignment Service, Inc. of Cinco Bayou, Florida for the lease of a certain portion of a public right-of-way known as Luverne Street in Cinco Bayou, Florida, and

WHEREAS, the Town has determined that the desired portion of Luverne Street is bordered on the north and east by the K-Mart, Incorporated parking lot, and bordered on the west by Baughn Alignment Service, Inc. and is of little or no value as a thoroughfare because of this dead end, and,

WHEREAS, the desired portion of Luverne Street is eroding and covered with sand because of storm water run-off from the K-Mart, Incorporated parking lot, and,

WHEREAS, the Grantee desires to park the automobiles and small trucks of individuals who frequent Baughn Alignment Service, Inc. upon said portion of Luverne Street, and,

WHEREAS, a public purpose will be accomplished by the granting of said Lease in that Grantees will repair, maintain and prevent further damage from occurring to said portion of Luverne Street, and,

WHEREAS, Grantee will continue to allow full public access to Luverne Street,

NOW, THEREFORE, it is ordained by the Town of Cinco Bayou, Florida:

Section 1. That the Mayor of the Town of Cinco Bayou, Florida is hereby authorized to execute and deliver that Lease, a copy of which is attached and incorporated by reference, to the Lessee,

Section 2. This Ordinance shall become effective upon its adoption by the Council, upon second reading, upon signature of the Mayor, and acceptance by the Grantee.



ADOPTED: FEBRUARY 18, 1985

MAYOR: Max O. Wiley

ATTEST:

Quentin B. Bailey
TOWN CLERK

ACCEPTANCE BY GRANTEE

Grantee, Baughn Alignment Service, Inc., by and through the undersigned hereby accepts the terms and conditions of the above enacted Ordinance and Lease.

DATED: FEBRUARY 21, 1985

BAUGHN ALIGNMENT SERVICE, INC.

BY: Larry Miller

STATE OF FLORIDA)
)
COUNTY OF OKALOOSA)

LEASE

This is a lease between the Town of Cinco Bayou, Florida, a municipal corporation referred to in this Lease as "Lessor", and Baughn Alignment Service, Inc. of Cinco Bayou, Florida, referred to in this Lease as the "Lessee". In consideration of the mutual covenants contained in this Lease, the parties agree as follows:

1. The Lessor leases to the Lessee a certain portion of that real property, public right-of-way, known as Luverne Street (more specifically described hereinafter) in the Town of Cinco Bayou, Florida in conjunction with and adjacent to Lessee's maintenance and operation of the business Baughn Alignment Service, Inc.

2. That certain portion of the public right-of-way known as Luverne Street, which is the subject of this Lease, is described as follows, to-wit:

Begin at the Southwest corner of Lot 11, Block 16, Cinco Bayou Subdivision, as recorded in Plat Book 1 at Page 27A of the Public Records of Okaloosa County, Florida go north along the west lot line of Lot 11 a distance of 75 feet, thence west 90 degrees 50 feet more-or-less to a point on east lot line of Lot 12, Block 15, thence south 90 degrees along east line of Lot 12 to the southeast corner of such lot and thence east 90 degrees 50 feet more-or-less to Point of Beginning.

3. The term of this Lease is for a period of Five (5) years. The Lessee has the option to renew the Lease for an additional Ten (10) years, so long as Lessee is not then in default under this Lease.

4. Lessee will pay to the Lessor as rent the sum of NO (0) Dollars per year which will be payable annually, in advance, during the term of this Lease.

5. Lessee will maintain public liability insurance in amount acceptable to Lessor. Lessor reserves the right to adjust the minimum requirement to comply with changes in Florida law, from time to time. Lessor will be a named insured and Lessee will additionally hold Lessor harmless from any liability and indemnify Lessor for any and all activities conducted on said property by the Lessee.

6. That the Lessor and the Lessee mutually acknowledge that the Lessee may use said portion of public right-of-way as a parking area for passenger vehicles and small trucks.

7. Additionally, Lessor and Lessee mutually acknowledge that the Lessee must improve and maintain said portion of public right-of-way in the following manner:

- (1) Remove any and all rubbish, junk, vehicle parts from the property.
- (2) Clear and remove from the property all weeds and undergrowth.
- (3) Level the property and remove all excess dirt or rubble.
- (4) Pave, surface all areas to be used for driving and/or parking with asphalt, concrete or oyster shells, insuring the proper drainage of the property. Lessee shall maintain said pavement and regulate and supervise parking thereon and erect any parking signs, if necessary.

- (5) Limit the type of vehicles to be parked in the area to passenger vehicles and small trucks.

8. Lessee may erect chain link type fencing around the property but any fencing will be no closer to Kelly Avenue than the north edge of the north right-of-way line. Should fencing be erected, Lessee will install a gate allowing full motor vehicle access to Luverne Street.

9. Upon termination of this Lease, Lessee will not remove any fencing that may have been erected or damage, destroy or remove any improvements made to the property without the express written consent of the Town Council of Cinco Bayou, Florida.

10. No fee, tax or charge for use or parking on the said property shall be levied against any user of such facility without the express written consent of the Town Council of Cinco Bayou, Florida.

11. In the construction, maintenance, repair and operation of the parking facilities contemplated herein, the Lessee shall use all necessary care to avoid doing or permitting to be done any damage to the water lines, sewers, conduits or any other property of the Town and shall use all reasonable care to avoid injury to the property of the Town and, additionally, shall maintain free and

open access to said water lines, sewer lines and conduits.

12. The Lessee shall make good to the Town all damages to the property of the Town from construction or operation of any parking facilities contemplated herein and shall make good to every owner of property abutting on the described property or which shall be injured by the work, or construction, or operation thereof all physical damage which shall be done to such abutting or injured property through an act or omission of the Lessee or of any contractor, subcontractor or other person in the course of any employment on the construction or operation of the parking facility or any part thereof.

13. The Lessee shall hold the said Town of Cinco Bayou, Florida safe and harmless from all damages or claims for damages arising by reason of the negligence in constructing, or maintaining, or operation of said parking facility.

14. This Lease will not be assigned, or subleased, or transferred in any manner without Lessee obtaining prior written approval by the Town Council of Cinco Bayou, Florida.

15. The Lessor reserves the right to make such additional reasonable regulations, or terms, for the use of the property as may be in the best interest of the residents of the Town of Cinco Bayou, Florida.

16. The Lessor and Lessee further acknowledge that this Lease may be cancelled upon reasonable notice and hearing before the Town Council of Cinco Bayou, Florida should there be a failure, upon Lessee's part, to comply with any of the aforesaid conditions and terms.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 18th day of FEBRUARY, 1965

TOWN OF CINCO BAYOU, FLORIDA,
a municipal corporation

BY: Max Olskey
MAYOR, Lessor

ATTEST:

Quint Borchert
TOWN CLERK



BAUGHN ALIGNMENT SERVICE, INC.

BY: Larry Childers
PRESIDENT, Lessee

ATTEST:

N/A.
SECRETARY

STATE OF FLORIDA

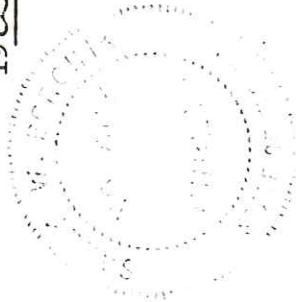
COUNTY OF OKALOOSA

Personally appeared before me, the undersigned authority, duly authorized to take acknowledgments, MAX O. USREY and ALBERT S. BOECHNIK, JR.

 , Mayor and Town Clerk respectively, who acknowledged before the undersigned that they have executed the foregoing Lease on behalf of the Town of Cinco Bayou, Florida, a municipal corporation, and that the contents herein are true and correct.

WITNESS my hand and official seal this 18th day of FEBRUARY,

1985.



Sally W. Borchert
NOTARY PUBLIC

My commission expires:

Notary Public, State of Florida
My Commission Expires July 4, 1987
Bonded Thru Troy Fair: Insurance, Inc.

STATE OF FLORIDA

COUNTY OF OKALOOSA

Personally appeared before me, the undersigned authority, duly authorized to take acknowledgments, LARRY CHILDERS and

 , President ~~and Secretary~~ ^{H-E-H-S} respectively, who acknowledged before the undersigned that ~~they have~~ executed the foregoing Lease on behalf of Baughn Alignment Service, Inc., a Florida corporation, and that the contents herein are

true and correct.

WITNESS my hand and official seal this 21st day of FEBRUARY,
1985.



Quint B. Bailey
NOTARY PUBLIC

My commission expires:

Notary Public, State of Florida

My Commission Expires Sept. 7, 1986

Bonded Thru Troy Fain - Insurance, Inc.