

CONTRACT FOR SALE OF REAL ESTATE

T HIS **CONTRACT FOR SALE OF REAL ESTATE** (the "Agreement") is entered into this ____ day of _____, 2005, by and between **DARRELL HALL** with an address at P.O. Box 1419, Madisonville, Texas 77884 (the "Seller") and the **CITY OF COLLEGE STATION**, a Texas home rule municipality located at 1101 Texas Avenue, College Station, Texas 77842 and the **CITY OF BRYAN**, Texas, a Texas Home Rule Municipality, located at 3005 Texas Avenue, Bryan, Texas 77803 (collectively, the "Purchaser").

The Agreement

1. **PROPERTY.** Seller agrees to sell and Purchaser agrees to buy, on the terms and conditions set forth in this Agreement, Lots 1, 2, 3, 4, and 5 of land containing a total of 22.385 +/- acres located in Deer Meadow Section 1 subdivision, County of Grimes, State of Texas as described on Exhibit "A" attached hereto, including, without limitation, (i) any and all buildings, improvements, personalty and fixtures situated thereon, (ii) any and all crops and timber growing thereon, (iii) any and all surface or subsurface sand, gravel, oil, gas, mineral geothermal, or mineral rights and any stockpiled sand, gravel or minerals, (iv) any and all appurtenant or associated water rights, including any and all well, spring, reservoir, storage, domestic, irrigation, irrigation equipment and facilities, subirrigation, livestock water or ditch rights of any type, including all shares or certificates of any type in ditch or water delivery companies or associations, and (v) all other surface and subsurface rights, any and all other permits, hereditaments, easements, recorded rights of access, historic rights of access, incidents and appurtenances belong thereto (collectively, with the "Land", referred to as the "Property").

SELLERS hereby reserve unto themselves, their successors and assigns, any and all oil, gas and other minerals in, on or under the premises described on the attached Exhibit A; provided that there shall never in any event be any ingress or egress on or across the surface of the above described premises for the purposes of exploration, development, production or transportation of such oil, gas or other minerals, it being expressly contemplated by the parties to this instrument that any

production of such minerals shall be from the surface of other adjacent property and that there shall be no development of any minerals that would require mining, shaft mining, pit mining or any other kind of mining that would require utilization of the surface, or through the pooling of such mineral interests for the development with adjacent parcels and provided further that Seller does not reserve and expressly convey to Purchaser any and all minerals of whatsoever kind and nature owned by Seller down to the depth of two hundred fifty (250) feet from the actual surface of any portion of said tract.

2. **EARNEST MONEY DEPOSIT.** Within seven (7) business days of the execution of this Agreement, Purchaser shall deliver the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) (the "Deposit") in escrow with Navasota Abstract and Title Company (the "Title Company") as escrow agent to be held in an interest bearing account. The earnest money deposit and the interest earned on the deposit are referred to as the "Deposit". The Deposit shall become non-refundable in the event the conditions described herein for the benefit of Purchaser are satisfied or are waived by Purchaser. If and when Closing occurs, the Deposit shall be applied to the Purchase Price of the Property.
3. **PURCHASE PRICE.** The purchase price for the Property, including the Deposit, shall be ONE HUNDRED TEN THOUSAND DOLLARS (\$110,000) (the "Purchase Price"). At Closing, the Purchase Price, less the Deposit, shall be paid to Seller by Purchaser in cash, certified funds, or by wire transfer of federal or other immediately available funds.
4. **CLOSING DATE.** The closing of the transaction contemplated hereunder (the "Closing") shall be held at the office of the Title Company on or before thirty (30) days following the end of the Inspection Period described herein (the "Closing Date"). Possession shall be delivered to Purchaser as of the date of Closing.
5. **SATISFACTORY INSPECTION AND REVIEW.** The Seller and Purchaser expressly covenant and agree that Purchaser's satisfaction upon the review and inspection provided for herein is a specific condition precedent to the obligation of Purchaser to purchase the Property. Purchaser shall have a period in which to review the documents and to make the inspections described below. The period of inspection (the "Inspection Period") shall terminate on the earlier of: (i) Receipt by Seller of notice from Purchaser that the Property is suitable for purchase; or (ii) Midnight, prevailing Eastern Time, thirty (30) days following the Effective Date.

- 5.1 Documents; Evidence of Title. Not later than ten (10) days after the Effective Date, Seller shall provide, at Seller's expense, to Purchaser: (a) a title commitment issued by the Title Company, together with legible copies of the deed or deeds by which Seller holds title to the Property, legible copies of any instruments listed in the legal description for the Property, and legible copies of all exceptions to title, pursuant to which the Title Company shall issue to Purchaser a standard coverage owner's policy of title insurance, including "gap" and mechanic's lien coverage, insuring title to the Property, including legal access, as of the Closing Date in the amount of the Purchase Price, (b) a Certificate of Taxes Due evidencing that the current installment of all taxes owing on the Property have been paid in full; and (c) a copy of the current and previous year's Notice of Assessment, or other satisfactory evidence of the current and previous year's assessed value and assessment category for the Property. To the extent in Seller's possession, Seller shall, at Seller's expense, provide to Purchaser copies of any surveys or maps of the Land.
- 5.2 Due Diligence, Inspection; Right of Entry. Purchaser shall have the right to enter upon the Property at reasonable times for mapping, surveying, physical and environmental inspection, conducting an appraisal and other reasonable purposes related to the transaction contemplated by this Agreement. Purchaser hereby indemnifies and holds the Seller harmless from and against any and all claims, liens, damages, losses, and causes of action which may be asserted by Purchaser or Purchaser's employees, agents, or any third party who enters upon the Property or conducts tests related to the Property at the request of or on behalf of Purchaser or its agents, provided that such indemnification and hold harmless shall not apply to claims arising out of the negligent, willful or wanton conduct of Seller.
6. **ELECTION AT THE END OF THE INSPECTION PERIOD.** During the Inspection Period and prior to Closing, Purchaser may review all documents or information described herein or pertaining to the Property, and make the above-described physical and environmental inspections, applications, reviews, studies, appraisals, evaluations or surveys required to satisfy itself as to the acceptability and suitability of the Property for purchase. Should, for any reason or no reason and in its sole discretion, Purchaser not be satisfied that the Property is acceptable or suitable, Purchaser shall notify Seller in writing on or before the expiration of the Inspection Period of its dissatisfaction, at

which time this Agreement shall be considered null and void and of no further force and effect and the Deposit shall be promptly returned to Purchaser; provided, however, if the objections of Purchaser are to title or other defects that Seller can reasonably cure within a twenty (20) day period following the receipt of notice from Purchaser, Seller shall have such period to cure such defects to the reasonable satisfaction of Purchaser. Purchaser shall, at any time, have the right to waive the conditions precedent to its performance under this Agreement before the end of the Inspection Period and if Purchaser elects to waive the conditions precedent to its performance and to terminate the Inspection Period, this Agreement will remain in full force and effect and the Deposit shall become non-refundable except as otherwise provided herein. Failure of Purchaser to notify Seller of its dissatisfaction prior to the expiration of the Inspection Period shall be deemed a waiver of this condition precedent and acceptance of the Property as suitable for purchase. Upon termination of the Agreement, Purchaser agrees to return to Seller all data previously delivered to Purchaser under the terms of this Agreement.

7. **CLOSING DOCUMENTS.** At Closing, Seller shall execute and deliver to Purchaser or its assigns a good and sufficient general warranty deed in a form acceptable to Purchaser, conveying good marketable and insurable title to the Property, including access for any and all purposes to the Property, free and clear of all liens, encumbrances and other exceptions, except such easements, restrictions and other exceptions as are of record and are approved by Purchaser during the Inspection Period.

8. **CONDITION OF THE PROPERTY, REPRESENTATIONS.**

8.1 Seller is the record owner of the Property to be conveyed hereunder. Upon the Closing Date, Purchaser will have good, marketable and insurable title, including insurable access to all portions of the Property.

8.2 There are no actions, suits, proceedings or investigations pending or, to Seller's knowledge threatened, against or affecting the Property, or arising out of Seller's conduct on the Property or which would affect the ability of Seller to fulfill its obligations under this Agreement.

8.3 To Seller's knowledge, without investigation or inquiry, Seller is in substantial compliance with the laws, orders, and regulations of each governmental department, commission,

board, or agency having jurisdiction over the Property in those cases where noncompliance would have a material adverse effect on the Property.

- 8.4 Seller is not party to nor subject to or bound by any agreement, contract or lease of any kind relating to the Property.
- 8.5 The Property, to Seller's knowledge, is not in violation of any federal, state or local law, ordinance or regulation relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions. Neither Seller, nor to the best of Seller's knowledge any third party, has used, generated, manufactured, refined, produced, processed, stored or disposed of on, or under the Property or transported to or from the Property any Hazardous Materials nor does Seller intend to use the Property prior to closing date for the purpose of generating manufacturing, refining, producing, storing, handling, transferring, processing or transporting Hazardous Materials. For the purposes hereof, "Hazardous Materials" shall mean any flammable explosives, radioactive materials, asbestos, petroleum, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability or standard of conduct concerning any hazardous, toxic or dangerous substance or material, as now or at any time hereafter in effect, and in the regulations adopted, published and/or promulgated pursuant to said laws. To Seller's knowledge, there are no underground storage tanks situated in the Property nor have such tanks been previously situated thereon.

- 8.6 No representation, warranty, or statement made herein by Seller contains any untrue statement of any material fact or omits to state any material fact necessary in order to make such representation, warranty, or statement not misleading.
- 8.7 Seller is duly authorized and has taken all necessary actions to execute and perform this Agreement and this Agreement is enforceable against Seller in accordance with its terms.
9. **INDEMNIFICATION.** Seller agrees to indemnify and hold harmless Purchaser, Purchaser's successors by operation of law, and assigns against and in respect of, any and all damages, claims, losses, liabilities and expenses, including without limitation, reasonable legal, accounting, consulting, engineering and other expenses, which may be imposed upon or incurred by the Purchaser, Purchaser's successors by operation of law or assigns, by any other party or parties (including, without limitation, a governmental entity), arising out of or in connection with the Seller's use, ownership, and operation of the Property through the Closing Date and/or any "Hazardous Materials" situated therein as of or prior to the Closing Date hereof, including the exposure of any person to any such "Hazardous Materials", or exposure resulting from activities of Seller or Seller's predecessors in interest. This indemnity shall survive the closing of this transaction, and shall be in addition to Seller's obligation for breach of any representation or warranty.
10. **TAXES.** Seller shall pay any sales, excise, conveyance or transfer tax, assessment or fee of any type and any recapture, roll-back or deferred tax, assessment or fee, of any type, including, but not limited to, any tax, assessment or fee due as a result of the sale or any potential change of use, for any period prior to Closing. Seller shall pay all general and special taxes, assessments, fees and charges of any type (including without limitation, any for water, sewer, irrigation and special districts), for the Property for the current year and all years prior to Closing. At Closing real property taxes and assessments and other taxes and assessment shall be prorated as of the date of Closing based on the most recent ascertainable tax or other bill or the current assessment of the Property.
11. **PRESERVATION OF PROPERTY; RISK OF LOSS.** Except as otherwise set forth herein, Seller agrees that the Property shall remain as it now is until Closing, that no timber, crops (except in the normal course of agricultural or ranching operations), sand, gravel, minerals, improvements or any other part of the Property shall be sold or removed from the Property, and that that Seller shall neither use nor consent to any use of the Property for any purpose or in any manner which would

adversely affect Purchaser's intended use of the Property as a conservation area or similar use. This covenant expressly precludes any timber cutting on the Property. In the event Seller shall use or consent to such use of the Property, Purchaser may, without liability, refuse to accept the conveyance of title, in which event the Deposit shall be refunded; or it alternatively may elect to accept the conveyance of title to the Property or any portion thereof, in which case there shall be an equitable adjustment of the Purchase Price based on the change in circumstances and/or maintain an action against Seller for damages.

12. **COSTS AND FEES.** All Closing fees and costs including, but not limited to, the Property transfer tax(es) and the owner's title insurance policy premium shall be paid by the Seller. Each party shall be responsible for its own attorneys' fees.

13. **LIQUIDATED DAMAGES; DEFAULT.**

13.1 Seller's Remedies. In the event that: (i) all of the conditions to this Agreement for the benefit of Purchaser shall have been satisfied, or waived by Purchaser, (ii) Seller shall have fully performed or tendered performance of its obligations under this Agreement, and (iii) Purchaser shall be unable or shall fail to perform its obligations under this Agreement, then the entire amount of the Deposit shall be retained by Seller as liquidated damages under this Agreement, and Purchaser shall have no further liability to Seller. Purchaser and Seller hereby acknowledge and agree that Seller's damages would be difficult or impossible to determine and that the amount of the Deposit is the parties' best and most accurate estimate of the damages Seller would suffer in the event the transaction provided for in this Agreement fails to close, and is reasonable under the circumstances existing as of the date of this Agreement. Purchaser and Seller agree that Seller's right to retain the Deposit shall be the sole remedy of Seller in the event of a breach of this Agreement by Purchaser.

13.2 Purchaser's Remedies. If Seller shall fail to consummate the transaction contemplated hereunder for any reason, or if such transaction shall fail to close for any reason other than default by Purchaser, Purchaser may elect, at Purchaser's sole option: (i) to terminate this Agreement and be released from its obligations hereunder, in which event the Deposit shall be returned to Purchaser; or (ii) to proceed against Seller for specific performance of this Agreement. In either event, Purchaser shall have the right to seek

and recover from Seller all damages suffered by Purchaser as a result of Seller's default in the performance of its obligations hereunder.

14. **NOTICES.** All notices required or permitted hereunder will be deemed to have been delivered upon sending of such notice. All notices required or permitted hereunder shall be given by hand delivery, or sent by telecopier, or sent by Federal Express or other courier, directed as follows, or to such other address as either party may designate by giving notice to the other party as provided herein:

If to Seller:

Darrell Hall
P.O. Box 1419
Madisonville, Texas 77884

If to Purchaser: City of College Station
1101 Texas Avenue
College Station, Texas 77842

and

City of Bryan, Texas
3005 Texas Avenue
Bryan, Texas 77803

15. **MISCELLANEOUS.**

- 15.1 Broker's Commission. Except as otherwise set forth herein, Seller and Purchaser each represents to the other that they have not contracted with any broker or finder with regard to this transaction.
- 15.2 Affidavit. At or prior to Closing, Seller shall furnish to Purchaser a duly executed Affidavit of Non-Foreign Status (the "Affidavit") in the form attached to this Agreement as Exhibit "B". Seller hereby declares and represents to Purchaser that Seller is not a "foreign person" for purposes of withholding of federal tax as described in such Affidavit.
- 15.3 Assigns. Purchaser may assign this Agreement and its rights as Purchaser hereunder (including the Deposit) by written assignment in which the assignee assumes the obligations of Purchaser hereunder.
- 15.4 Binding Effect. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of Seller's heirs, executors, administrators, successors and assigns.
- 15.5 Exhibits. The exhibit(s) hereto constitute an integral part of this Agreement and are incorporated herein by reference.
- 15.6 Counterparts. This Agreement may be executed in counterparts, all of which shall constitute one agreement, which shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or the same counterpart. Signatures may be evidenced by facsimile transmission and at the request of any party documents with original signatures shall be provided to the other party.
- 15.7 Severability. If any provision of this Agreement shall be held invalid, the other provisions hereof shall not be affected thereby and shall remain in full force and effect.

- 15.8 Entire Agreement. This Agreement represents the entire agreement of the parties and may not be amended except by a writing signed by each party thereto.
- 15.9 Authority. Each party to this Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.
- 15.10 Merger. The obligations, covenants, representations, warranties and remedies set forth in this Agreement shall not merge with transfer of title but shall remain in effect during the period of the ownership of the Property by Purchaser.
- 15.11 Further Actions. Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to convey the Property to Purchaser and to vest in each party all rights, interests and benefits intended to be conferred by this Agreement.
- 15.12 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Texas.
- 15.13 Offer. When signed and delivered to the Seller by Purchaser, this Agreement will constitute an offer to the Seller that can be accepted only by the Seller signing and delivering to Purchaser an executed original of this Agreement on or before (but not after) December 12, 2005. Purchaser may withdraw such offer in writing at any time prior to its acceptance.
- 15.14 Labor and Material; Existing Leases. Seller will execute and deliver to the Title Company at Closing a Mechanic's Lien Affidavit and Indemnity and such other documents and information as may be required by the Title Company to obtain deletion of the standard preprinted exception pertaining to mechanic's liens from Purchaser's policy of title insurance.
- 15.15 1099 Reporting. The Title Company is designated as the party responsible for filing a Form 1099 with the Internal Revenue Service promptly after Closing, to the extent required by the Internal Revenue Code and Treasury Regulations.
- 15.16 Delivery of Property. Seller shall be responsible for the removal of all items left on the Property, which Purchaser does not want or which the Purchaser wishes to have removed.

16. **SATURDAYS, SUNDAYS, HOLIDAYS.** If the final date of any time period of limitation set out in any provision of this Agreement falls on a Saturday, Sunday or a legal holiday under the laws of the state in which the Property is situated, then the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.
17. **WAIVERS OF APPLICATION OF TITLE 42 U.S.C.A. SECTION 4601 AND/OR JUST COMPENSATION UNDER APPLICABLE STATE STATUTES.** Purchaser may assign this Agreement and its rights as Purchaser hereunder including the Deposit by written assignment to a governmental agency or entity, which assumes the obligations of Purchaser hereunder. Seller hereby waives any right to demand fair market value for the Property. In addition, recognizing that this Agreement is made in order to procure lands for public ownership and that condemnation will not be used in any way as part of this transaction or in securing the Property, Seller hereby knowingly waives any potential right to receive compensation for the Property consistent with the requirements of either (i) Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601, et seq. (Public Law 91-646, as amended) including those provisions relating to incidental expenses incurred by Seller and/or (ii) applicable state statutes and regulations. Seller makes this waiver knowing that a governmental agency or entity will ultimately own the Property and/or that a governmental agency or entity may be an assignee of this Agreement.
18. **EFFECTIVE DATE.** The Effective Date of this Agreement shall be the last date signed by either party.
19. **CONDITION PRECEDENT.** A specific condition precedent to Purchaser's obligation to perform under the terms of this Agreement is approval of the transaction contemplated herein by Purchaser's City Council.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER



DARRELL HALL

Date: 11-17-2005

PURCHASER

City of College Station,
a Texas home rule municipality

By: ~~see separate signature page~~
Printed Name: _____
Title: _____
Date: _____

City of Bryan,
a Texas Home Rule Municipality

By: _____
Printed Name: _____
Title: _____
Date: _____

[NOTARY ACKNOWLEDGMENTS FOLLOW]

STATE OF)
) Ss:
COUNTY OF)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for the jurisdiction aforesaid, personally appeared _____, _____, of the CITY OF COLLEGE STATION known to me to be the person(s) who executed the foregoing instrument for and on behalf of the City of College Station.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

My Commission Expires: _____

STATE OF)
) Ss:
COUNTY OF)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for the jurisdiction aforesaid, personally appeared _____, _____, of the CITY OF BRYAN known to me to be the person(s) who executed the foregoing instrument for and on behalf of the City of College Station.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

My Commission Expires: _____

STATE OF Texas)
COUNTY OF Madison) Ss:

On this 17th day of November, 2005, before me, the undersigned, a Notary Public in and for the jurisdiction aforesaid, personally appeared DARRELL HALL known to me to be the person who executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Bandy Kellaugh
Notary Public

My Commission Expires: 3-26-2006

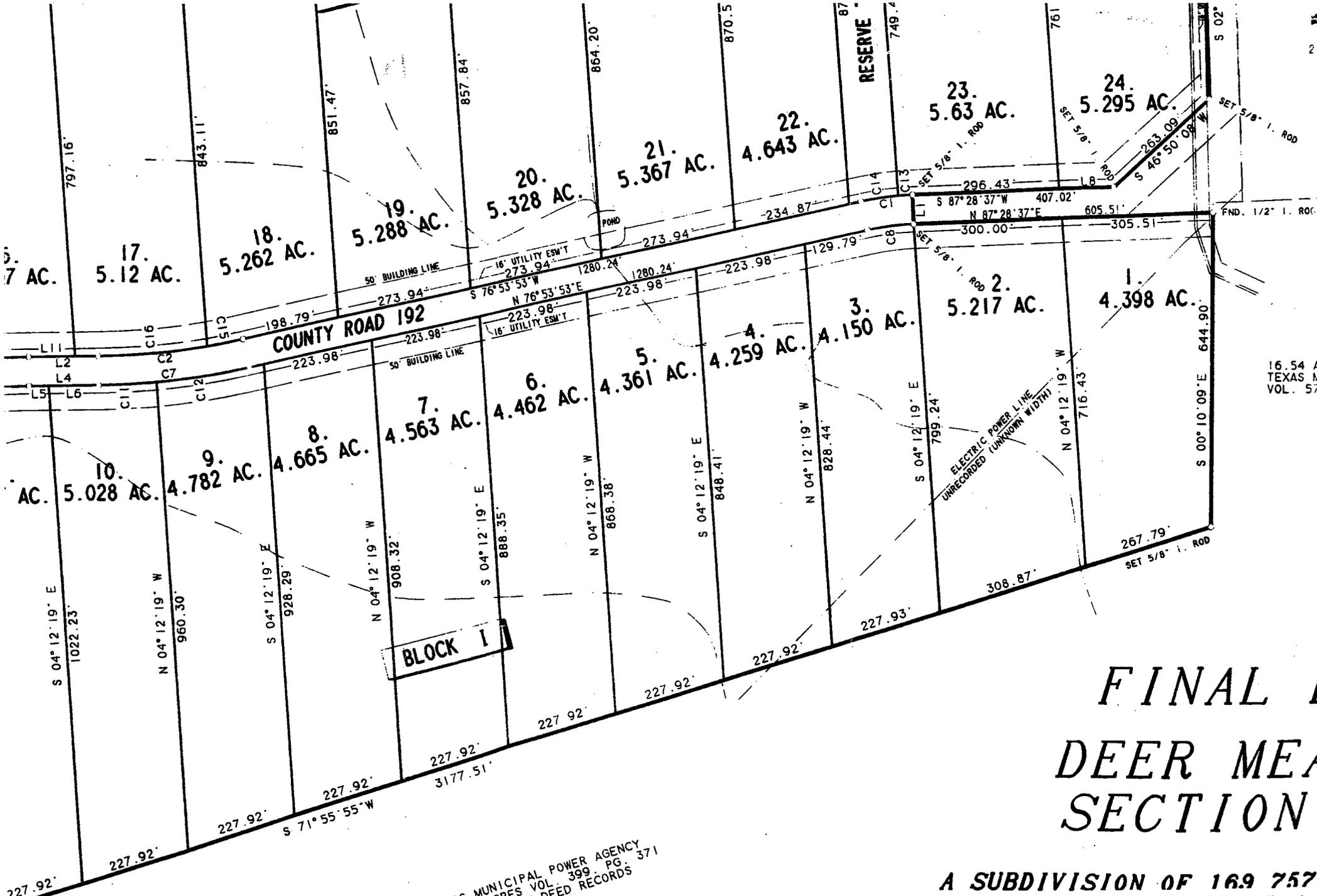


Exhibit A:
 Tracts 1-5
 Deer Meadow Subdivision
 Section 1
 Grimes County TX

BLOCK 1

16.54 AC
 TEXAS MUI
 VOL. 579

FINAL F DEER MEA SECTION

A SUBDIVISION OF 169 757

TEXAS MUNICIPAL POWER AGENCY
 ACRES VOL. 399 PG. 371
 DEED RECORDS

Exhibit "B"

AFFIDAVIT OF NON-FOREIGN STATUS

Section 1445 and Section 6045 of the Internal Revenue Code provide that the Transferee of a real property interest must withhold tax if the Transferor is a foreign person and must provide certain sales related information to the Internal Revenue Service. To inform the **CITY OF COLLEGE STATION and CITY OF BRYAN** (the "Transferee") that withholding of tax is not required upon its disposition of a U.S. real property interest, more particularly described in the Agreement annexed hereto **DARRELL HALL** (the "Transferor"), hereby certifies that:

1. Transferor is not a non-resident alien for purposes of U.S. income taxation as defined in the Internal Revenue Code and Income Tax Regulations.
2. Transferor's tax identification/ social security number is/are:
_____.
3. Transferor's principal address is:

_____.
4. The gross sales price of this transfer is: _____.

Transferor understands that this affidavit and information contained herein will be disclosed to the Internal Revenue Service by the Transferee and, that any false statement made herein by Transferor could be punished by fine, imprisonment, or both.

Under penalties of perjury, Transferor declares that Transferor has examined this affidavit and, to the best of Transferor's knowledge and belief, it is true, correct and complete and further declares that he/she is duly authorized to execute this affidavit or has the authority to execute on behalf of Transferor.

TRANSFEROR:



DARRELL HALL

Date: 11-17-2005

CITY OF COLLEGE STATION

BY: _____
Ron Silvia, Mayor

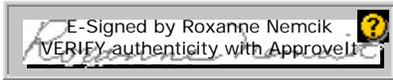
Date: _____

ATTEST:

Connie Hooks, City Secretary
Date: _____

APPROVED:

Glenn Brown, Interim City Manager
Date: _____



City Attorney
Date: _____

Jeff Kersten, Finance & Strategic
Planning Director
Date: _____