



Mayor
Ron Silvia
Mayor Pro Tempore
John Happ
Interim City Manager
Glenn Brown

Council Members
Ben White
Ron Gay
Susan Lancaster
Chris Scotti
Nancy Berry

Agenda
College Station City Council
Workshop and Regular Meetings
Thursday, February 23, 2006 3:00 PM
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

1. Presentation, discussion, and possible action on items listed on the consent agenda.
2. Presentation, possible action and discussion on a proposed timeline for the FY07 Outside Agency funding process.
3. Presentation, discussion, and possible action on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

4. Council Calendars

Feb 17	CS Fire Department Annual Employee Banquet – Pebble Creek – 6:30 – 9:00 p.m.
Feb 20	IGC Meeting – Noon – City of Bryan
Feb 23	Council Portraits 1:45 p.m. – Council Chambers
Feb 23	Workshop and Regular Council Meeting – 3:00 p.m.
Feb 23	Community Impact Award Luncheon – Briarcrest Country Club – 11:45 a.m. to 1:00 p.m.
Feb 24	20 th Anniversary of the MSC Leland T & Jesse W. Jordan Institute for International Awareness – Annenberg Presidential Conference Center – 5:30 p.m. to 7:00 p.m.
Feb 27	TxDot Informational Meeting – BVCOG Offices – 9:00 a.m. – noon
Feb 27	Reception for City Manager Candidates – Hilton – 7:00-9:00 p.m.
Feb 28	City Manager Candidate Interviews – CS Conference Center 7:30 a.m. – 5:00 p.m.
Feb 28	5 th Annual Growth & Development in Brazos County – Briarcrest Country Club – 11:30 a.m. – 2:00 p.m.

- Mar 2 Groundbreaking at Veterans Park & Athletic Complex (Phase II Project) - 5:30 pm to 6:30 pm
- Mar 4 2006 Clara Mounce Roast – Pebble Creek Country Club – 11:00 am to 2:00 pm
- Mar 9 Workshop and Regular Meeting of City Council 3:00 p.m.

5. Discussion, review and possible action regarding the following meetings: Brazos County Health Dept., Brazos Animal Shelter, Brazos Valley Council of Governments, Cemetery Committee, City Center, Design Review Board, Façade Improvement Program Advisory Committee, Fraternal Partnership, Historic Preservation Committee, Intergovernmental Committee and School District, Joint Relief Funding Review Committee, Library Committee, Making Cities Livable Conference, Metropolitan Planning Organization, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, The Research Valley Partnership, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, (see attached posted notices for subject matters).

6. Executive Session will immediately follow the workshop meeting in the Administrative Conference Room.

Consultation with Attorney {Gov't Code Section 551.071}; possible action The City Council may seek advice from its attorney regarding a pending and contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. TCEQ Docket No. 2002-1147-UCR, Applications of Brushy Water Supply and College Station (Westside/Highway 60)
- b. TCEQ Docket No. 2003-0544MWD, Application of Nantucket, Ltd.
- c. TXU Lone Star Gas Rate Request.
- d. Cause No. 03-002098-CV-85, *Brazos County, College Station v. Wellborn Special Utility District*
- e. Civil Action No. H-04-4558, U.S. District Court, Southern District of Texas, Houston Division, *College Station v. U.S. Dept. of Agriculture, etc., and Wellborn Special Utility District*
- f. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, *JK Development v. College Station*
- g. GUD No. 9530 – Gas Cost Prudence Review, Atmos Energy Corporation
- h. GUD No. 9560 – Gas Reliability Infrastructure Program (GRIP) rate increases, Atmos Energy Corporation
- i. Cause No. GN-502012, Travis County, *TMPA v. PUC* (College Station filed Intervention

7/6/05)

- j. Legal Review and Advice Regarding M.O.U. and Related Documents for City Conference Center and Hotel
- k. Claim regarding Autumn Chase plat

Real Estate {Gov't Code Section 551.072}; possible action

The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Aggie Field of Honor

Economic Incentive Negotiations {Gov't Code Section 551.087}; possible action

The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city with which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. The proposed city convention center and associated privately developed hotel

Personnel {Gov't Code Section 551.074}; possible action

The City Council may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer. After executive session discussion, any final action or vote taken will be in public. The following public officer(s) may be discussed:

- a. City Manager
 - 7. Final Action on executive session, if necessary.
 - 8. Adjourn.

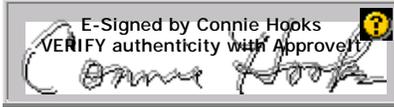
APPROVED:



City Manager

Notice is hereby given that a Workshop Meeting of the City Council of the City of College Station, Texas will be held on the February 23, 2006 at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this 20th day of February, 2006 at 1:00 p.m.



City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on February 20, 2006 at 1:00 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official board at the College Station City Hall on the following date and time: _____ by _____.

Dated this ____ day of _____, 2006.

CITY OF COLLEGE STATION, TEXAS

By _____

Subscribed and sworn to before me on this the ____ day of _____,
_____ Notary Public – Brazos County, Texas

My commission expires: _____

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.

Agenda
College Station City Council
Regular Meeting
Thursday, February 23, 2006 7:00 PM
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

9. Pledge of Allegiance, Invocation, Consider absence requests, Presentation of Regional Athletes of the Year

Hear Visitors: Any citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 6:45 p.m. Please limit remarks to three minutes. A timer alarm will sound after 2 1/2 minutes to signal that you have thirty seconds remaining so that you may conclude your remarks. The City Council will receive the information, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concerns shall be directed to the City Manager.

Consent Agenda

Individuals who wish to address the City Council on a consent or regular agenda item not posted as a public hearing shall register with the City Secretary prior to the Mayor's reading of the agenda item. Registration forms are available in the lobby and at the desk of the City Secretary. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will please state their name and address for the record and provided three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks.

Vision Statement I – Core Services – We will provide high quality customer focused basic city services at a reasonable cost.

- 10.1 Presentation, possible action, and discussion on approval of minutes for Workshop and Regular Meeting of December 15, 2005.
- 10.2 Presentation, possible action and discussion on approving an annual agreement for the purchase of Tires, bid #06-46, awarding a contract to Grays Wholesale Tires for an amount of \$55,178.10.
- 10.3 Presentation, possible action and discussion on renewing Bid #05-41, Contract #05-019 for Electric System Right-of-Way Clearing and Tree Trimming Contract award to Asplundh Tree Expert Company in the amount of \$425,400.00 for the second year.
- 10.4 Presentation, possible action and discussion approving a real estate contract that will authorize the purchase of a public utility easement needed for the

- construction of the Brazos Transmission Tie Line Project, in the amount of \$59,310.
- 10.5 Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the Police Station Additions Project (Project No. GG-0402).
 - 10.6 Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the Fire Station No. 3 Relocation Project (Project No. GG-0401).
 - 10.7 Presentation, possible action, and discussion regarding approval of an award for the purchase of crushed stone material for the Camelot Drainage Improvement Project, from Superior Crushed Stone LC, in an amount not to exceed \$58,050.00.
 - 10.8 Presentation, possible action, and discussion on the resolution approving a construction contract (Contract #06-094) with Dudley Construction, Ltd. in the amount of \$371, 577.01 for sanitary sewer rehabilitation.
 - 10.9 Presentation, possible action and discussion on an amendment extending the completion date to March 31, 2006 and adding \$5,600 to a contract between the City and TEEEX for technical assistance in the development of uniform drainage design guidelines for College Station and Bryan.
 - 10.10 Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct pedestrian improvements at the FM 2818 and Welsh Avenue intersection in an amount not to exceed \$800,000.
 - 10.11 Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct signals at, and improve the intersection of, FM 2818 and F&B Road in an amount not to exceed \$241,300.
 - 10.12 Presentation, possible action, and discussion for an exception to Policy to allow Smiling Mallard Development to construct sewer lines necessary to connect the Indian Lakes patio homes to the City sewer system.
 - 10.13 Presentation, possible action, and discussion regarding the approval of a resolution replacing Resolution No. 05-25-88-12 which established the Bryan/College Station Joint Relief Funding Review Committee.
 - 10.14 Presentation, possible action, and discussion on a resolution creating the College Station Outside Agency Funding Review Committee.

- 10.15 Presentation, possible action and discussion regarding the approval of a resolution accepting from the Governors Division of Emergency Management (GDEM) the 2004 State Homeland Security Sub-recipient Grant funds in the amount of \$ 51,918.70 and naming a City staff member as manager of those grant funds.

Regular Agenda

Individuals who wish to address the City Council **on a regular agenda item not posted as a public hearing** shall register with the City Secretary prior to the Mayor's reading of the agenda item. The Mayor will recognize you to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks.

Individuals who wish to address the City Council on an item **posted as a public hearing** shall register with the City Secretary prior to the Mayor's announcement to open the public hearing. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks. After a public hearing is closed, there shall be no additional public comments. If Council needs additional information from the general public, some limited comments may be allowed at the discretion of the Mayor.

If an individual does not wish to address the City Council, but still wishes to be recorded in the official minutes as being in support or opposition to an agenda item, the individual may complete the registration form provided in the lobby by providing the name, address, and comments about a city related subject. These comments will be referred to the City Council and City Manager.

Vision Statement III – Planning and Development – We will provide a well planned community.

- 11.1 Public hearing, presentation, possible action, and discussion for the approval of an ordinance amending the Comprehensive Plan by amending the Land Use Plan for 28.01 acres of Tract 2.11 of the Robert Stevenson Survey, A-54, generally located southwest of the intersection of Decatur Drive and Alexandria Avenue. The proposed land use plan classifications include a change from Residential Attached to a combination of Retail Regional, Office, and Single-Family Residential, Medium Density.
- 11.2 Public hearing, presentation, possible action, and discussion on a Conditional Use Permit for the WPC Condos to establish a multi-family use with residential uses on the first floor in the Wolf Pen Creek Design District consisting of 7.61 acres

located at 305 Holleman Dr E, generally located on the north side of Holleman between George Bush Drive East and Dartmouth Drive.

Vision Statement II – Parks and Leisure Services – We will provide a large range of recreational and cultural arts opportunities.

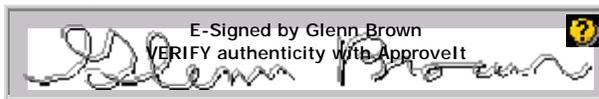
- 11.3 Bid Number 06-47. Presentation, possible action and discussion regarding a resolution awarding the bid and approving a construction contract (Contract No. 06-089) with JaCody, Inc., in the amount of \$5,532,260.00, for the construction of Phase II of the Veterans Park and Athletic Complex, Project Number PK0501 and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Vision Statement I – Core Services – We will provide high quality customer focused basic city services at a reasonable cost.

- 11.4 Presentation, possible action and discussion regarding the racial profile report required annually by Senate Bill 1074, of the Texas 77th legislative session.
12. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for February 23, 2006.
13. Final action on executive session, if necessary.
14. Adjourn.

If litigation issues arise to the posted subject matter of these Council Meetings an executive session will be held.

APPROVED:



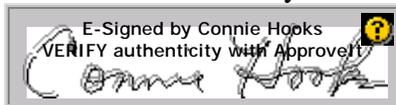
E-Signed by Glenn Brown
VERIFY authenticity with ApprovalIt

The image shows a digital signature of Glenn Brown in cursive script. Above the signature, the text reads "E-Signed by Glenn Brown" and "VERIFY authenticity with ApprovalIt". A small yellow question mark icon is located in the top right corner of the signature box.

City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, February 23, 2006 at 3:00 PM at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda.

Posted this the 20th day of February, 2006 at 1:00 p.m.



E-Signed by Connie Hooks
VERIFY authenticity with ApprovalIt

The image shows a digital signature of Connie Hooks in cursive script. Above the signature, the text reads "E-Signed by Connie Hooks" and "VERIFY authenticity with ApprovalIt". A small yellow question mark icon is located in the top right corner of the signature box.

City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on February 20, 2006 at 2:00 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official posting board at the College Station City Hall on the following date and time: _____ by _____.

Dated this ____ day of _____, 2006.

By _____

Subscribed and sworn to before me on this the ____ day of _____, 2006.

Notary Public – Brazos County, Texas

My commission expires: _____

The building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.

**February 23, 2006
Workshop
FY07 Outside Agency Funding Process**

To: Glenn Brown, Interim City Manager

From: Jeff Kersten, Director of Finance & Strategic Planning

Agenda Caption: Presentation, possible action and discussion on a proposed timeline for the FY07 Outside Agency funding process.

Recommendation(s): Staff recommends adopting the resolution establishing the College Station Outside Agency Funding Review Committee; and seeks any additional direction from Council regarding the FY 07 Outside Agency Review process.

Summary: Staff has submitted a resolution on the consent agenda for Council consideration. This resolution would establish a Citizen Committee to review all Outside Agency funding applications that are not Community Development Block Grant (CDBG) eligible beginning with the FY07 requests. It is recommended that this be a 7 member committee. A proposed timeline regarding the establishment of a committee, advertising for citizen committee applications, seeking funding applications, and the committee's review of these applications and eventual recommendation is included in the attached memo.

Staff would like some direction from Council regarding the types of qualifications, if any, for this committee. Staff would also like to get direction regarding whether the Council would like to interview applicants for this committee.

If the resolution on the consent agenda is approved staff will begin the process of advertising for this committee so that City Council appointments can be made in time to review the requests for the FY 07 budget process.

Budget & Financial Summary: N/A

Attachments:

1. FY07 Outside Agency Proposed Process Memo
2. Council adopted policy
3. Resolution



CITY OF COLLEGE STATION

OFFICE OF BUDGET & STRATEGIC PLANNING

MEMORANDUM

To: Honorable Mayor and City Council

From: The Office of Budget and Strategic Planning

Date: February 23, 2006

Subject: FY07 Outside Agency Proposed Process

FY07 Proposed Process

Per the Comprehensive Outside Agency Policy adopted by Council on August 15, 2005 a Citizen Committee must be seated to review the Outside Agency applications in FY07.

A resolution has been presented to Council that will establish a Citizen Committee to review all Outside Agency funding applications not eligible for CDBG funding. If Council chooses to establish a Citizen Committee to review the Outside Agency funding requests, then the City Secretary's office will publicize for Citizen Committee applications to be submitted. We proposed that applications for the new Citizen Committee be publicized and accepted from February 27th until March 17th. This will allow 3 weeks to get a pool of applications with the intention that a slate of candidates will be available for Council review at the March 23rd Council meeting. Staff seeks Council direction as to whether or not Council desires individual interviews to be a part of the application process. If so, interviews would be scheduled at the convenience of the Council.

The Budget Office will need to advertise for agencies to submit applications for Outside Agency funding. The advertising and accepting of Outside Agency funding applications is proposed to take place from April until June.

Once a committee is seated and funding applications are received, the funding review process will begin. Our intention is that the Citizen Committee will be reviewing the applications June through July and have a recommendation ready to be presented to Council by the end of July.

FY07 Proposed Timeline

Feb. 23rd – Council considers Outside Agency Committee Resolution

Feb. 27 – March 17th – CSO advertises and accepts Outside Agency Committee applications

March 17th – Due date for all Outside Agency Citizen Committee applications

March 23rd – Outside Agency Citizen Committee applications presented to Council

April 1st – June 2nd – Outside Agency funding applications advertised and accepted

April - June – Possibly conduct Outside Agency application workshop(s)

June 2nd – Deadline for Outside Agency funding applications

June – July – College Station Outside Agency Funding Review Committee meetings to review applications

July 31st – Outside Agency Funding Review Committee recommendations ready for Council consideration

Outside Agency Review Policy

The City of College Station funds numerous organizations, and through those funding agreements our citizens receive increased levels of service. In an effort to ensure consistency, and accountability of city resources across all organizations it is recommended that a revised policy for outside agencies requesting funds from the City of College Station be considered.

There will be 2 processes used for considering outside agency funding.

1. The funding of organizations requesting Community Development Block Grant funds is proposed to remain the same with the Joint Relief Funding Review Committee reviewing and making recommendations on all requests for Community Development Block Grant funds. The review and monitoring process is also proposed to remain the same.
2. All other organizations requesting funds will go through a standardized application and review process, and have standardized requirements for monitoring and reporting purposes.

Application and Funding Review Process

- The application process will be announced and advertised so that any and all organizations wishing to apply for funds from the City of College Station will be provided the opportunity to do so. All applications need to be complete and submitted by the established deadline for funding consideration.
- The requirements, to be modeled after the Community Development Block Grant process, will be the same for all organizations requesting funds.
- All funding requests will include the specific purposes for which the funds are being requested. Funding requests will be detailed in nature.
- All applications will be reviewed by a 5-7 member citizen committee that represent a cross section of the community appointed by the City Council. This group will make recommendations on funding priorities and funding levels to the City Council as part of the budget process.
- All requests for Hotel/Motel Tax funds must meet all statutory requirements for the expenditure of these funds.
- The City Council will make all final funding decisions for all organizations as part of the budget process. All funding will be contingent on resources being available.

Reporting and Monitoring Process

- All reporting requirements will include quarterly financial statements that describe specifically how the funds from the City of College Station are being utilized, a narrative of program activities for the organization, and service levels and performance measures for each organization. The City will determine whether all reporting requirements are applicable to all organizations. The City will monitor to ensure all reporting occurs in a timely manner. Continued funding of the organizations is contingent on the timely submission of required documents.
- Organizations that receive funds from the Hotel/Motel Fund will meet the above requirements and will meet all of the requirements listed in the state law regarding the proper reporting and accounting of these funds. City will monitor to ensure all reporting occurs in a timely manner.
- Each quarter a summary report of the status of the reporting and monitoring of all outside agencies will be prepared and provided to the City Council as part of the quarterly financial reporting. This report will provide information to the City Council provided by

the organizations as well as a status report on whether the organizations are meeting all of the reporting requirements.

- An annual report on the status of all of the organizations will be prepared for the City Council as part of the budget review process for the next year.

The above policy will result in the following changes.

- All non CDBG requests will be reviewed by a new Council appointed committee. This will include all requests previously reviewed by the College Station members of the Joint Relief Funding Review Committee and the arts and culture requests forwarded to the Arts Council of Brazos Valley for review.
- All other requests not previously reviewed by a committee will be reviewed by this new committee and make funding recommendations to the City Council.
- All non CDBG funded requests will follow the same application and reporting requirements.
- This revised policy will result in increased accountability in the use of City resources to provide these various services to the citizens of College Station.

Application Requirements

- See attached application

Attachments (Required)

- A. Board members (Name, and Profession)
- B. Board Policy
- C. Financial Audits/Management Letter & Response, if applicable and Form 990 & Review
- D. IRS Letter of Tax Status
- E. Volunteer Policies
- F. Agreement of Collaboration (If Available)
- G. Staff Organizational Chart
- H. Program Evaluation Tool
- I. Letters of Support (Optional)

Reporting Requirements

1. Complete quarterly financial reports
2. Quarterly reports of Hotel/Motel tax expenditures (Organizations receiving Hotel/Motel Tax Funds)
3. Quarterly narrative on summary of activities including summary of how funds from City of College Station have been utilized
4. Quarterly Service Levels and Performance Measures

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE ESTABLISHMENT OF THE COLLEGE STATION OUTSIDE AGENCY FUNDING REVIEW COMMITTEE.

WHEREAS, the City Council of the City of College Station, Texas, adopted a Comprehensive Outside Agency Policy identifying the need for a Citizen Committee to review Outside Agency funding requests; and

WHEREAS, the City Council of the City of College Station, Texas, receives numerous requests for funding from area agencies and would like these requests reviewed by a Citizens Committee; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby approves the establishment of the College Station Outside Agency Funding Review Committee.

PART 2: That the City Council hereby approves that the College Station Outside Agency Funding Review Committee shall consist of seven (7) members from the City of College Station to be appointed by the College Station City Council. Upon initial appointment, places 1 and 2 will serve one (1) year terms; places 3 and 4 will serve two (2) year terms; and places 5, 6 and 7 will serve three (3) year terms. Thereafter, each place shall be appointed to three-year terms for no more than two consecutive terms.

PART 3: That the City Council hereby agrees that the College Station Outside Agency Funding Review Committee shall review all requests for funding other than Community Development Block Grant (CDBG) funding requests. The College Station Outside Agency Funding Review Committee shall make recommendations to the City Council for their consideration.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

E-Signed by Angela M. DeLuca
VERIFIED authenticity with ApproveIt



City Attorney



Mayor
Ron Silvia
Mayor Pro Tempore
John Happ
Interim City Manager
Glenn Brown

Council Members
Ben White
Ron Gay
Susan Lancaster
Chris Scotti
Nancy Berry

Draft Minutes
College Station City Council
Workshop and Regular Meetings
Thursday, December 15, 2005 at 2:00 and 7:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

COUNCIL MEMBERS PRESENT: Mayor Pro Tem Happ, Council members White, Gay, Lancaster, Scotti, Berry

COUNCIL MEMBER ABSENT: Mayor Silvia

STAFF PRESENT: Interim City Manager Brown, City Attorney Cargill Jr., City Secretary Hooks, Assistant City Secretary Casares

Mayor Silvia called the meeting to order at 2:00 p.m.

Workshop Agenda Item No. 1 -- Presentation, discussion, and possible action on items listed on the consent agenda.

No items were removed for discussion at this time.

Workshop Agenda Item No. 2 -- Presentation, discussion, and possible action on the Internal Auditor position approved in the FY 05-06 budget and the creation of an audit committee.

Director of Finance and Strategic Planning Jeff Kersten noted that earlier this year the City Council adopted the Stewardship Enhancement Plan which included a recommendation for the addition of an internal audit function to aid management in fulfilling its oversight duties as effectively and efficiently as possible. Such function would assist management in preventing, detecting and deterring fraud by monitoring the design and proper functioning of internal control policies and procedures, evaluating fraud risks and controls, and recommending action to reduce or eliminate risks and improve controls. Also, included was a recommendation to form an audit committee that would be appointed by the City Council.

Mr. Kersten pointed out that the City Charter provides that the City Council appoints the City Manager, City Attorney, City Secretary, and Municipal Judge. The charter would have to be amended in order for the City Council to appoint an Internal Auditor.

Mr. Tom Willis of Ingram, Willis & Company described the responsibility of the Internal Auditor and answered questions of the City Council.

Council member Gay moved to approve the Internal Auditor position that was approved in the FY 2005-2006 budget, and adding the Charter amendment to the May 13, 2006 Election. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Council member Gay amended his motion to approve the creation of an audit committee. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Workshop Agenda Item No. 1 -- Presentation, discussion, and possible action on items listed on the consent agenda.

The City Council returned to Workshop Agenda Item No. 1.

13.7 – Presentation, possible action and discussion regarding approval of a contract with Young Contractors for the Rehabilitation of Rock Prairie Road, east of Greens Prairie Road, at a cost of \$112,309.00. An exception to the competitive bidding process is being requested in order to preserve or protect the public health or safety of the City’s residents.

Acting Director of Public Works Charles McLemore noted that the project is being built to the City’s specifications and the City does not have a formal traffic study.

13.8 – Presentation, possible action, and discussion regarding approval of a contract for the procurement and installation of an Electronic Citation system for the Police Department with Advanced Public Safety, Inc. for an amount not to exceed \$132,055.81, for additional hardware and software purchases from CISV vendors not to exceed \$103,396, for modifications to the Court software not to exceed \$4,600 by PCSS and for project contingency funds of \$17,948.19 for a project total of \$258,000.

Director of Office of Technology and Information Services Olivia Burnside explained that the system will eliminate the need for the records division to re-enter the information from a paper ticket and the need for Municipal Court staff to add additional information from the ticket.

13.14 - Presentation, possible action, and discussion on approving the budget of the Arts Council of Brazos Valley (ACBV); and presentation, possible action and discussion on a funding agreement between the City of College Station and the Arts Council of Brazos Valley for FY 06 in the amount of \$200,000 for the affiliates of the ACBV.

Interim City Manager Glenn Brown described the budgeted funding source and the funding agreement between the City of College Station and the Arts Council of the Brazos Valley.

13.17 - Presentation, possible action, and discussion on a resolution selecting the law firm of Coats Rose and authorizing expenditures of up to \$80,000 for legal services associated with the proposed Hotel Convention Center project.

City Attorney Harvey Cargill noted that the City's Legal Staff has reviewed this firm's qualifications and has determined that they are qualified to provide these types of legal services.

13.18 - Presentation, possible action, and discussion regarding the adoption of a resolution revising the fees for the collection of vital records.

City Secretary Connie Hooks illustrated the revision of fees for the collection of vital records.

13.20 – Presentation, possible action, and discussion on a Resolution approving a conveyance agreement to transfer ownership of 1202 Arizona, a single-family undeveloped property, to the local habitat for Humanity affiliate.

Community Revitalization Coordinator Art Roach described the process of obtaining low to moderate income homes.

13.21 – Presentation, possible action, and discussion in consideration of an ordinance amending Chapter 10, "Traffic Code," Section 4E(3)(b) of the Code of Ordinances of the City of College Station allowing parking on a section of Dominik Drive.

Interim City Manager Glenn Brown noted that the proposed amendment would allow parking on the north side of Dominik Drive, beginning one hundred and twenty feet north of the intersection of Dominik Drive, Glenhaven Drive and ending at the Dominik Drive cul-de-sac.

13.24 - Presentation, possible action, and discussion on an amendment to the Community Development Division's FY 2005-06 Action Plan and Budget to provide federal CDBG funds to local agencies serving Hurricane Katrina evacuees.

Community Development Project Coordinator Debbie Eller clarified the amount of money that the City of College Station and City of Bryan would contribute to fund local agencies.

13.26 -Presentation, possible action, and discussion regarding repealing Ordinance #2793 on the implementation of the Rental Registration Program for duplex and single family rentals.

Council member Lancaster requested to remove this item from the Consent Agenda for a separate vote.

Workshop Agenda Item No. 3 -- Presentation, possible action, and discussion regarding a follow up report from the Senior Advisory Committee concerning recommendations for a Senior Center.

Senior Service Coordinator Marci Rodgers remarked that on July 28, 2005 the Senior Advisory Committee requested permission from the City Council to seek support and input from the community for a future Senior Citizens Center. The Senior Advisory Committee conducted two public meetings in September and six additional meetings with interested groups in October and November. Information from the meetings was included in a report. The report recommended a facility between 15,000 and 22,000 square feet containing meeting rooms, kitchen, dining areas, exercise facilities, Educational Programs, transportation, health services, and walking space.

Dr. Robert Meyer described the recommendations for a senior center.

Joanne Yeager presented a brief history and study of a senior center.

Ray Reed defined the urgency of a senior center.

Joe LeCour illustrated the practical side of a senior center.

Council member Berry directed staff to move forward with a fiscal impact analysis for the design of the proposed senior center. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry

AGAINST: None

ABSENT: Silvia

Council recessed for a short break at 3:16 p.m. and reconvened the workshop meeting at 3:30 p.m.

Workshop Agenda Item No. 4 – Presentation, discussion and possible action regarding the City Center Project.

Mayor Pro Tem Happ remarked that this item was tabled on May 26, 2005 until after the Council's strategic planning retreat in June.

Council member Berry did not remove this item from the table.

Workshop Agenda Item No. 5 -- Presentation, possible action, discussion regarding a Request for Proposal for Legislative Consulting services for the City of College Station.

Manager of Special Projects and Legislative Affairs Don Fazzino noted that the City of College Station has contracted with Dean International for the last five years. The current contract with Dean International expires on December 31, 2005. Staff was authorized by the City Council to seek proposals for a transportation consultant and to include the City of Bryan and Brazos County in the RFP process. The City of Bryan notified us that they are not interested, and the Brazos County has not committed to participate at this time.

The scope of work includes assisting the City Council and City staff in the coordination and development of the City's state and federal legislative program. There issues may include: public safety, law enforcement, business attraction and retention, infrastructure improvements, telecommunications, transportation, solid waste, environment, affordable housing, economic development, revenue enhancement, mandates, homeland security, and other issues.

The Council Transportation Committee recommended broadening the RFP to include the full range of service that could be used by the City. Staff recommended proceeding with the RFP process.

Council member Gay directed staff to move forward with the RFP process for legislative consulting services for the City of College Station as recommended by staff. Council member White seconded the motion, which carried by a vote of 4-2.

FOR: White, Gay, Scotti, Berry

AGAINST: Happ, Lancaster

ABSENT: Silvia

Workshop Agenda Item No. 6 -- Presentation, discussion, and possible action on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

Council member Gay requested an agenda item regarding a juvenile curfew for the City of College Station. Council member Lancaster seconded the motion, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry

AGAINST: None

ABSENT: Silvia

Council member White requested an agenda item regarding trash problems along the bypass within the City of College Station. Mayor Pro Tem Happ seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Council member Scotti requested an agenda item regarding the relocation of City Hall. Council member White seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Workshop Agenda Item No. 7 – Council Calendars

Agenda Planning Calendar

- Dec. 12-14 Attorney General Open Meetings Conference – Austin, TX.
- Dec. 12 Economic Outlook Luncheon – Hilton – 11:30 a.m.
- Dec. 12 Fraternal Partnership Committee Meeting – 5:30 p.m-Adm Conf Rm
- Dec. 13 Chamber of Commerce Meeting 8:00 a.m.
- Dec. 14 Joint Council/P&Z Meeting – 4:00 p.m. Council Chambers
- Dec. 15 Workshop and Regular Council Meeting, 2:00 pm and 7:00 pm
- Dec. 19 Intergovernmental Committee, Noon Adm Conf. Room CS City Hall
- Dec. 23 Holiday – Office Closed
- Dec. 26 Holiday – Office Closed
- Jan. 2 Holiday – Office Closed
- Jan. 12 Workshop and Regular Council Meeting 3:00 and 7:00 p.m.
- Jan. 16 Holiday – Office Closed

City Secretary Connie Hooks presented an overview of the proposed 2006 City Council calendar.

Workshop Agenda Item No. 8 -- Discussion, review and possible action regarding the following meetings: Brazos County Health Department, Brazos Animal Shelter, Brazos Valley Council of Governments, Cemetery Committee, City Center, Design Review Board, Façade Improvement Program Advisory Committee, Fraternal Partnership, Historic Preservation Committee, Intergovernmental Committee and School District, Joint Relief Funding Review Committee, Library Committee, Making Cities Livable Conference, Metropolitan Planning Organization, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, The Research Valley Partnership, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments.

Council member Gay presented highlights of the Chamber of Commerce Legislative Affairs Committee.

Council member Scotti commented on the relocation of the Research Valley Partnership meeting.

Mayor Pro Tem Happ expressed comments from the Tex-21 Meeting.

Workshop Agenda Item No. 9 – Executive Session

At 4:02 p.m., Mayor Silvia announced in open session that the City Council would convene into executive session pursuant to Sections 551.071, 551.072, 551.074 and 551.087 of the Open Meetings Act, to seek the advice of our attorney with respect to pending and contemplated litigation, to consider the purchase of real property, the evaluation of a public officer and economic development negotiations.

Consultation with Attorney {Gov't Code Section 551.071 }

- a. TCEQ Docket No. 2002-1147-UCR, Applications of Brushy Water Supply and College Station (Westside/Highway 60)
- b. TCEQ Docket No. 2003-0544MWD, Application of Nantucket, Ltd.
- c. TXU Lone Star Gas Rate Request.
- d. Cause No. 03-002098-CV-85, *Brazos County, College Station v. Wellborn Special Utility District*
- e. Civil Action No. H-04-4558, U.S. District Court, Southern District of Texas, Houston Division, *College Station v. U.S. Dept. of Agriculture, etc., and Wellborn Special Utility District*
- f. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, *JK Development v. College Station*
- g. GUD No. 9530 – Gas Cost Prudence Review, Atmos Energy Corporation
- h. GUD No. 9560 – Gas Reliability Infrastructure Program (GRIP) rate increases, Atmos Energy Corporation
- i. Cause No. GN-502012, Travis County, *TMPA v. PUC* (College Station filed Intervention 7/6/05)
- j. Gas Reliability Infrastructure Program (GRIP) 2004
- k. Resolution ordering Atmos Energy to show just cause

Economic Incentive Negotiations {Gov't Code Section 551.087}; possible action

The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city with which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

1. The proposed city convention center and associated privately developed hotel
2. Retail, restaurant, and office development – northwest corner of Highway 6 and Greens Prairie Road
3. Game Day Centers mixed use redevelopment – Church Avenue and Wellborn Road in Northgate

Real Estate {Gov't Code Section 551.072}; possible action

The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the

City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

Aggie Field of Honor

Personnel {Gov't Code Section 551.074}; possible action

The City Council may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer. After executive session discussion, any final action or vote taken will be in public. The following public officer(s) may be discussed:

Council Self-evaluation

Workshop Agenda Item No. 10 – Final Action on executive session, if necessary.

Council returned from executive session at 6:59 p.m. No action was taken.

Regular Meeting

Mayor Pro Tem Happ called the regular meeting to order at 7:00 p.m. He led the audience in the pledge of allegiance. Pastor Kip R. Gilts from A&M United Methodist Church provided the invocation.

Council member Gay moved to approve the absence request from Mayor Silvia. Council member Scotti seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry

AGAINST: None

Mr. M.A. Sterling and the Brazos Valley Troup performed for the City Council and the Citizens of College Station.

Mayor Ernie Wentrcek presented Mayor Pro Tem Happ the Brazos Boot award.

Hear Visitors

Ms. Karen Hall, 5918 East Highway 21, asked the City Council to clarify the power of Eminent Domain in the City of College Station City Charter.

Mr. Hugh Sterns, 316 Suffolk, expressed concerns on the Unified Development Ordinance process.

Consent Agenda

13.1 Approved by common consent an amendment to an Interlocal Agreement between the cities of Bryan and College Station providing for sharing the cost of an

- agreement with TEEEX for technical assistance in the development of uniform drainage design guidelines for College Station and Bryan.
- 13.2 Approved by common consent an amendment adding 122 days and \$5,600 to a contract between the City and TEEEX for technical assistance in the development of uniform drainage design guidelines for College Station and Bryan.
 - 13.3 Approved by common consent Change Order #2 to Professional Services Contract 03-139 with Mitchell and Morgan, LLP for engineering services for the Annexation Sewer Collection Project, increasing the contract by \$3,200.00 for a revised contract amount of \$213,945.00.
 - 13.4 Approved by common consent **Resolution No. 12-15-2005-13.04** awarding the bid and approving a construction contract (Contract No. 06-28) with Elliott Construction in the amount not to exceed \$296,642.90 for construction of the Steeplechase Sewer Impact Fee Line Project, Phase 1.
 - 13.5 Approved by common consent **Resolution No. 12-15-2005-13.05** awarding the bid #06-21 and approving a construction contract (Contract No. 06-001) with Acklam Construction, Inc. in an amount of \$362,741.00, for the construction of Steeplechase Park.
 - 13.6 Approved by common consent a Pipeline Crossing Permit Agreement for the Steeplechase Sewer Impact Fee Project with Union Pacific Railroad. The permit is required to bore under the railroad bed and install the sewer line.
 - 13.7 Approved by common consent a contract with Young Contractors for the Rehabilitation of Rock Prairie Road, east of Greens Prairie Road, at a cost of \$112,309.00. An exception to the competitive bidding process is being requested in order to preserve or protect the public health or safety of the city's residents.
 - 13.8 Approved by common consent a contract for the procurement and installation of an Electronic Citation system for the Police Department with Advanced Public Safety, Inc. for an amount not to exceed \$132,055.81, for additional hardware and software purchases from CISV vendors not to exceed \$103,396, for modifications to the Court software not to exceed \$4,600 by PCSS and for project contingency funds of \$17,948.19 for a project total of \$258,000.
 - 13.9 Approved by common consent renewal of Collection Agreements for delinquent accounts in Utilities, Municipal Ambulance Services and other miscellaneous revenue; and Municipal Court Fines/Fees for an estimated annual expenditure of \$100,000.00 to American Municipal Services Company.
 - 13.10 Approved by common consent a renewal agreement to Brenco Marketing Corp. for gasoline and diesel fuel with annual estimated expenditures totaling \$1,267,340.00.

- 13.11 Approved by common consent a funding agreement between the City of College Station and Keep Brazos Beautiful for FY 06 in the amount of \$45,000.
- 13.12 Approved by common consent the budget of the African American National Heritage Society (AANHS); and approved by common consent a funding agreement between the City of College Station and the African American National Heritage Society for FY 06 in the amount of \$17,000.
- 13.13 Approved by common consent the budget of the Brazos Valley Museum of Natural History; and presentation, approved by common consent a funding agreement between the City of College Station and the Brazos Valley Museum of Natural History for FY 06 in the amount of \$12,000.
- 13.14 Approved by common consent the budget of the Arts Council of Brazos Valley (ACBV); and approved by common consent a funding agreement between the City of College Station and the Arts Council of Brazos Valley for FY 06 in the amount of \$200,000 for the affiliates of the ACBV.
- 13.15 Approved by common consent **Resolution No. 12-15-2005-13.15** approving landscape maintenance contracts with Rainbow Gardens in the amount of \$47,283.00 and Landscape USA in the amount of \$23,170.00.
- 13.16 Approved by common consent **Resolution No. 12-15-2005-13.16** awarding construction Contract No. 06-034 to W.W. Payton Corp. to construct two water wells in minor aquifers. The amount of the contract is \$1,723,000.
- 13.17 Approved by common consent **Resolution No. 12-15-2005-13.17** selecting the law firm of Coats Rose and authorizing expenditures of up to \$80,000 for legal services associated with the proposed Hotel Convention Center project.
- 13.18 Approved by common consent the adoption of a resolution revising the fees for the collection of vital records.
- 13.19 Approved by common consent **Needs Resolution No. 12-15-2005-13.19** for a Public Utility Easements for the Water Service Extension Project. The easements are along the west side of Hwy 6, South, south of Greens Prairie Road.
- 13.20 Approved by common consent **Resolution No. 12-15-2005-13.20** conveyance agreement to transfer ownership of 1202 Arizona, a single-family undeveloped property, to the local Habitat for Humanity affiliate. Council member Berry abstained from this item.
- 13.21 Approved by common consent **Ordinance No. 2854** amending Chapter 10, "Traffic Code," Section 4E(3)(b) of the Code of Ordinances of the City of College Station allowing parking on a section of Dominik Drive.

- 13.22 Approved by common consent a request for Oversize Participation (OP) for a water line improvement for the Quality Suites Hotel located at 3610 Hwy 6 South on Lots 5 through 10 in the Southwood Valley Subdivision Phase 4, being made per City Code of Ordinances, Chapter 9, Subdivision Regulations, Section 9, Responsibility for Payment for Installation Costs, 9-A Oversized Participation in the amount of \$30,067.00.
- 13.23 Approved by common consent a request for Oversize Participation (OP) for a sanitary sewer improvement for the Ameri Suites Hotel on Lot 1 R, Block 1 of the Wheeler Subdivision Phase 2 being made per City Code of Ordinances, Chapter 9, Subdivision Regulations, Section 9, Responsibility for Payment for Installation Costs, 9-A Oversized Participation in the amount of \$5,454.00.
- 13.24 Approved by common consent an amendment to the Community Development Division's FY 2005-06 Action Plan and Budget to provide federal CDBG funds to local agencies serving Hurricane Katrina evacuees.
- 13.25 Approved by common consent an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to paint the existing signal poles at the FM 2154 (Wellborn Road) and Rock Prairie Road intersection as part of the Texas Department of Transportation's project to widen FM 2154 between FM 2818 and SH 40. The estimated cost of the City's participation is \$7,500.
- 13.26 Presentation, discussion and possible action regarding repealing Ordinance #2793 on the implementation of the Rental Registration Program for duplex and single family rentals. Council member Gay move to approve **Ordinance No. 2855** repealing Ordinance No 2793 on the implementation of the Rental Registration Program for duplex and single family rentals. Council member Berry seconded the motion, which carried by a vote of 5-1.

FOR: Happ, White, Gay, Scotti, Berry
AGAINST: Lancaster
ABSENT: Silvia

Regular Agenda

Regular Agenda Item No. 14.1 – Public hearing, presentation, discussion, of an ordinance abandoning a portion of Christine Lane.

Director of Public Works Mark Smith commented that the property owner and developer requested the abandonment of a portion of Christine Lane that stretches along the North side of the O.D. Butler tract from Wellborn Road to the rear of the CSISD administration building. The roadway was not dedicated to the City by plat or deed but was considered a public street by use only. The proposed ordinance abandons the area for use as a roadway and retains a public utility easement. Neither adjacent property owners nor

utility companies object to the proposed abandonment of this section of roadway. The purpose of the abandonment would facilitate the proposed Woodlands development. Staff recommended approval of the proposed ordinance abandoning a portion of Christine Lane.

Mayor Pro Tem Happ opened the public hearing.

Chuck Ellison, 302 Holleman Drive East, Suite 76, offered to answer question of the City Council.

Council member Gay moved to approve **Ordinance No. 2856** abandoning a portion of Christine Lane. Council member White seconded the motion, which carried by a vote of 5-1.

FOR: Happ, White, Gay, Scotti, Berry
AGAINST: Lancaster
ABSENT: Silvia

Regular Agenda Item No. 14.2 – Public hearing, presentation, possible action, and discussion on two Comprehensive Plan Amendments for an area totaling 82.2 acres; Part A consists of 26.3 acres and is located at the intersection of Arrington Road at Greens Prairie Road to amend the Land Use Plan from a combination of Institutional and Regional Retail to exclusively Regional Retail; Part B consists of 55.9 acres located between Greens Prairie Road and Arrington Road to amend the Land Use Plan from Single-family Residential Medium Density to Regional Retail and from Single-family Residential Medium Density to Residential Attached.

Senior Planner Trey Fletcher presented the Comprehensive Plan Amendments. This request is consistent with the current Comprehensive Plan policy which encourages regional retail to be centralized around major intersections within the community.

Part A: The Planning and Zoning Commission and staff recommended approval of the request as submitted.

Part B: The Planning and Zoning Commission and staff recommended approval of the request to amend the Land Use Plan from Single-family Residential to Regional Retail as submitted, but recommended denial of the request to amend the plan from Single-family Residential to Residential Attached as submitted.

Mayor Pro Tem Happ opened the public hearing Part A.

The following citizens spoke in favor of the amendments.

Joe Schultz, 1707 Graham Road
Jim Jett, 5004 Congressional Ct.

The following citizen spoke in favor of the amendments for Park B.

Joe Schultz, 1707 Graham Road
Jim Jett, 5004 Congressional Ct.

Council member Berry moved to approve **Ordinance No. 2857** amending the Comprehensive Plan for an area of 26.3 acres located at the intersection of Arrington Road at Greens Prairie road amending the Land Use Plan from a combination of Institutional and Regional retail to Exclusively Regional Retail. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Council member Berry moved to approve **Ordinance No. 2858** amending the Land Use Plan for an area of 55.9 acres located between Greens Prairie Road and Arrington Road from Single-family Residential Medium Density to Regional Retail, with staff recommendation. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Regular Agenda Item No. 14.3 -- Public hearing, presentation, possible action, and discussion on a Comprehensive Plan Amendment to amend the Land Use Plan from Industrial/R&D to Residential Attached and Regional Retail for an area consisting of 22.62 acres and generally located north of Raymond Stotzer Parkway (FM 60) between Turkey Creek Road and FM 2818. (05-0500186)

Senior Planner Trey Fletcher remarked that the property owner requested to amend the Land Use Plan prior to processing rezoning requests for R-4 Multi-Family and C-1 General Commercial. The Unified Development Ordinance requires that zoning map amendment must be in compliance with the Comprehensive Plan. The property owner proposed luxury multi-family and high end retail uses are planed.

The Planning and Zoning Commission recommended approval of the amendment; however staff recommenced denial of the request as submitted, due to its conflict with the F&M Small Area Plan.

Mayor Pro Tem Happ opened the public hearing.

Greg Taggart, Municipal Development Group, spoke in favor of the Comprehensive Plan amendment.

Robert Aiello, Project Developer, spoke in favor of the Comprehensive Plan amendment.

Mayor Pro Tem Happ closed the public hearing.

Council member Barry moved to deny the Comprehensive Plan Amendment. Council member White seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Regular Agenda Item No. 14.4 --Public hearing, presentation, possible action, and discussion regarding an ordinance amending Chapter 9, "SUBDIVISIONS" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, by amending certain sections of the parkland dedication ordinance; providing a severability clause; declaring a penalty; and providing an effective date.

Director of Parks and Recreation Steve Beachy presented a brief overview of the history of the proposed amendment. He described the following proposed changes:

- Section 1: Defines process for "phased" subdivision development.
- Section 2: Provides administrative approval for small developments.
- Section 4: Provides methodology for the developer to construct a park
- Section 10: Provides warranty requirements for park improvements

The Parks and Recreation Board, Planning and Zoning Commission and staff recommenced approval of the proposed amendment to the parkland dedication ordinance.

Mayor Pro Tem Happ opened the public hearing.

No one spoke.

Mayor Pro Tem Happ closed the public hearing.

Council member Gay moved to approve **Ordinance 2859** amending Chapter 9, "Subdivisions" of the Code of Ordinances of the City of College Station, Texas by amending certain sections of the parkland dedication ordinance; providing a severability clause; declaring a penalty; and providing an effective date. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None
ABSENT: Silvia

Regular Agenda Item No. 14.5 –Presentation, possible action, and discussion on the 2005 Gainsharing Distribution.

Director of Finance and Strategic Planning Jeff Kersten noted that Gainsharing is a program designed to share with the employees the successes of being efficient, highly productive, innovative and creative. Gainsharing is a component of the City's compensation system and is a tool to encourage employees to find ways to reduce cost and generate budget savings. The savings are shared throughout the city and the employees. The total savings for 2005 was \$624,943.

Two thirds of this total, \$416,629, remains in the fund it was saved in. Approximately one third, \$208,314, is available to Gainsharing distribution to employees.

Staff recommended approval of the 2005 Gainsharing distribution to eligible employees.

Council member Lancaster moved to approve 2005 Gainsharing distribution to eligible employees. Council member Berry seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry

AGAINST: None

ABSENT: Silvia

Workshop Agenda Item No. 14.6 – Presentation, possible action, and discussion regarding an interlocal agreement between the City of College Station and Brazos County regarding animal control services.

Interim City Manager Glenn Brown remarked that the Brazos County asked the cities of College Station and Bryan to provide animal control services within the County outside city limits. College Station would be responsible for the geographic area south of a line including University Drive in the west, proceeding to FM 158, and ending with State Highway 30 in the east. The City of Bryan would be responsible for the area north of that line.

The County will pay the City an amount not to exceed \$77,000 for the first year of services.

Council member Gay moved to approve an interlocal agreement between the City of College Station and Brazos County regarding animal control services. Council member White seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry

AGAINST: None

ABSENT: Silvia

Workshop Agenda Item No. 14.7 – Presentation, possible action, and discussion regarding a Memorandum of Understanding among the City of College Station, LMZ

Ventures, LTD., and Presidian Destinations, LTD. for the hotel and convention center project.

Director of Community and Economic Development Kim Foutz noted that the Memorandum of Understanding (MOU) outlines the responsibilities of the City, LMZ Ventures, LTD., (LMZ) and Presidian Destinations, LTD. regarding development and operation of the full service hotel and convention center.

The following primary provisions and role in the Memorandum of Understanding include the following:

- n City, as owner of the convention center, is responsible for the financing, construction, and equipping of approximately 37,800-47,800 net leasable s.f. convention center with a cost not to exceed \$25 million. The Convention Center will have a grand ballroom, junior ballroom, exhibit hall, and a break-out meeting space.
- n LMZ, as owner of the hotel, is responsible for the financing and construction of a full service hotel and optional residential condos with a minimum capital investment of \$37,500,000. The hotel will include a 250 room-full service hotel and restaurant with a Marriott brand or brand acceptable to the City.
- n The contract provides for a nine month process to construction.
- n The contract establishes a per-square-foot sale price and an approximate size for the City-owned portion of the site.
- n Negotiation and execution of all necessary agreements including the Development, Project Management, Operating, Management, Pre-opening, and Real Estate Agreements
- n Presidian would manage the Hotel, Convention Center, Shared Facilities, and a jointly owned Parking Garage on behalf of the City pursuant to Management and Operating Agreements and Parking Garage Lease.
- n LMZ will serve as Project Manager pursuant to a Project Management Agreement. Services will include coordination and oversight of the planning, design, construction, and installation of the furniture, fixtures and equipment of the convention center. City has final design control.
- n The obligations of the City are contingent upon participation by the County in the Tax Increment Finance District.
- n LMZ will convey fee simple ownership of a portion of the 4 acre site to the City which is located on Church Avenue on the undeveloped "mud lot".

Mr. Hub Kennedy expressed comments regarding the Hotel and Convention Center.

Council member Scotti moved to approve a Memorandum of Understanding among the City of College Station, LMZ Ventures, LTD., and Presidian Destinations, LTD. for the hotel and convention center project. Council member Gay seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None

ABSENT: Silvia,

Regular Agenda Item No. 14.8 – Presentation, possible action, and discussion on appointments for College Station representatives on the Joint Relief Funding Review Committee, the B-CS Library Board, and the Wolf Pen Creek TIF Board.

City Secretary presented an overview of the various board appointments.

B-CS Library Advisory Board

Council member Gay moved to re-appoint Larry Ringer and Mary Fran Troy to the B-CS Library Board. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None

Wolf Pen Creek TIF Board

Council member Scotti moved to re-appoint Sharon Colson and Marsha Sanford to the Wolf Pen Creek TIF Board. Council member White seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None

Joint Relief Funding Review Committee

Council member White moved to re-appoint Mary Sherwood and Kevin Byrne to the Joint Relief Funding Review Committee. Council member Lancaster seconded the motion, which carried unanimously, 6-0.

FOR: Happ, White, Gay, Lancaster, Scotti, Berry
AGAINST: None

Regular Agenda Item No. 15 – The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for December 15, 2005.

Council completed executive session prior to the regular meeting.

Regular Agenda Item No. 16 -- Final Action on executive session, if necessary.

No action was taken.

Regular Agenda Item No 17 -- Adjourned.

Hearing no objections, the meeting adjourned at 9:08 p.m. Thursday, December 15, 2005.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks

February 23, 2006
Consent Agenda
Annual Price Agreement for Tires

To: Glenn Brown, Interim City Manager

From: Jeff Kersten, Director of Finance and Strategic Planning

Agenda Caption: Presentation, possible action and discussion on approving an annual agreement for the purchase of Tires, bid #06-46, awarding a contract to Grays Wholesale Tires for an amount of \$55,178.10.

Recommendation(s): Staff recommends a contract be awarded to Grays Wholesale Tires for an annual bid of specific tire sizes in the amount of \$55,178.10.

Summary: This was a joint bid between the Cities of College Station and Bryan. The agreement is for a term of one year, renewable annually upon mutual consent for two additional one year terms. A summary of the five (5) bids received follows:

Grays Wholesale Tire	\$55,178.10
Wingfoot Commercial Tire	\$78,620.81
Pilger Tire & Automotive	\$56,328.52
Southern Tire Mart	\$60,723.80
Druery's Tire Service	\$86,700.10

Budget & Financial Summary: Funds are available and budgeted in the Fleet Maintenance Fund which is funded by all other departments.

Attachments:

1. Bid Tabulation

**City of College Station
Bid Tabulation**

**ANNUAL BID FOR TIRES--Joint Bid w/City of Bryan
DEPARTMENT: Public Works/Fleet Div.
BID: #06-46**

CITY OF COLLEGE STATION: Group I A--New Tire Purchases				Wingfoot Commercial Tire Bryan, TX Contact: Shayne Wimberly		Pilger Tire & Automotive College Station, TX Contact: Willie Hess		Grays Wholesale Tire Fort Worth, TX Contact: Ron Harmer		Southern Tire Mart Fort Worth, TX Contact: Bobby Harms		Druery's Tire Service Bryan, TX Contact: Ray Druery	
Item No.	Est. Quan.	Unit Meas.	Description/Size #Type	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
1	130	EA	Tire 11/R22.5 --G159	276.72	35,973.60	193.98	25,217.40	196.90	25,597.00	212.00	27,560.00	285.00	37,050.00
2	85	EA	Tire 11 R22.5 --G244	291.03	24,737.55	222.60	18,921.00	211.10	17,943.50	229.00	19,465.00	295.00	25,075.00
3	8	EA	Tire 11 L15 --Laborer	130.00	1,040.00	67.20	537.60	65.16	521.28	101.00	808.00	145.00	1,160.00
4	16	EA	Tire P235/75R16 --Wrangler ST	84.86	1,357.76	60.72	971.52	58.22	931.52	64.80	1,036.80	157.00	2,512.00
5	8	EA	Tire 11 L16 --Laborer	145.00	1,160.00	72.00	576.00	69.60	556.80	108.00	864.00	148.00	1,184.00
6	10	EA	Tire 425/65R22.5 --G286	459.20	4,592.00	333.90	3,339.00	321.53	3,215.30	327.00	3,270.00	660.00	6,600.00
7	80	EA	P225/60R16-Eagle GT+4 (RSA)	67.08	5,366.40	54.10	4,328.00	51.23	4,098.40	58.00	4,640.00	93.00	7,440.00
8	10	EA	Tire 315/80R22.5 --G286	439.35	4,393.50	243.80	2,438.00	231.43	2,314.30	308.00	3,080.00	567.91	5,679.10
Total Bid \$				\$	78,620.81	\$	56,328.52	\$	55,178.10	\$	60,723.80	\$	86,700.10

Various other tires (not listed above)	Various	State of TX Contract	Various	Various	None quoted
Used auto tire pickup & disposal fee (if any)	\$3.50	\$2.00	\$1.25	\$1.50	\$5.00
Used truck tire pickup & disposal fee	\$8.50	\$7.00	\$8.00	\$3.50	\$10.00
Manufacturer	Goodyear	Bridge/Firestone	Bridge/Firestone	Bridge/Firestone	Various
Certification	Y	Y	Y	Y	Y
Experience & Data Information	Y	Y	Y	Y	Y
Exceptions	N	N	N	N	N
Addenda	Y	Y	Y	Y	Y
Staff Recommendation					

February 23, 2006
Consent Agenda
Electric System Right-of-Way Clearing

To: Glenn Brown, Interim City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action and discussion on renewing Contract #05-019 with Asplundh Tree Expert Company for Electric System Right-of-Way Clearing and Tree Trimming in the amount of \$425,400.00 for the second year.

Recommendation(s): Staff recommends renewing the contract for Electric system Right-Of-Way Clearing and Tree Trimming Contract with Asplundh Tree Expert Company in the amount of \$425,400.00 for the second year.

Summary: This contract was approved by Council on February 24, 2005. The bid requested firm pricing for three years, to be awarded annually. The contract provides for renewals based on acceptable performance during the current contract year. The first year's performance was acceptable, with approximately one-third of the system being trimmed.

Trees are trimmed to keep limbs from touching overhead electrical lines, therefore increasing electrical system reliability. Standard electric utility practices recommend a three year system trimming cycle.

Budget & Financial Summary: Request for bids were sent out and two (2) bids were received and opened on January 21, 2005. Funds are available in the Electric Division Operating Budget.

Attachments:

- 1 Renewal letter
- 2 Bid Tab



01//25/06

ATTN: James Greg Perry
Asplundh Tree Expert Company
6730 Independent BLVD #2
Baytown TX 77521

RE: Renewal--Bid #05-41 Contract #05-019
Electric System Row Clearing and Tree Trimming

Dear Mr. Perry:

The City of College Station appreciates the services provided by Asplundh Tree Expert Company this past year. We would like to exercise our option to renew the above referenced agreement for the term of March 1st, 2006 through February 28, 2007.

If this meets with your company's approval, please complete this renewal agreement (including notarization), and return it no later than Friday, January 27, 2006. We will then issue your company a new purchase order effective 3/1/06 through 2/28/07.

Should you have any questions, please call me at (979) 764-3558.

Sincerely,

Alan Degelman
Buyer

Attachment

PO Box 9960
1101 Texas Avenue
College Station, TX 77842

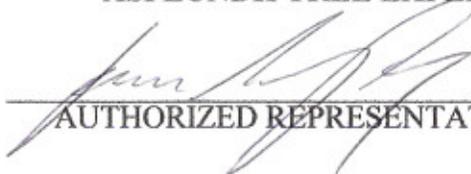
www.cstx.gov

.....
RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #05-019, for the annual agreement, Electric System Row Clearing and Tree Trimming in accordance with all terms and conditions previously agreed to and accepted.

I understand this renewal term will be for the period beginning 3/1/06 through 2/28/07 for the bid amount of \$425,400.00.

ASPLUNDH TREE EXPERT CO.



AUTHORIZED REPRESENTATIVE

2/1/06

DATE

CITY OF COLLEGE STATION

Ron Silvia, Mayor

DATE

ATTEST:

Connie Hooks, City Secretary

DATE

APPROVED:

Glenn D. Brown, Interim City Manager

DATE



City Attorney

DATE

Director of Finance & Strategic Planning

DATE

STATE OF TEXAS

CORPORATE ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged on the 1st day of February, 2006,
by James Greg Perry in his/her capacity as SUPERVISOR of
Asplundh Tree Expert, a TEXAS Corporation, on behalf of said corporation.
Company



Stacy K. Engelmann
Notary Public in and for the
State of Texas

STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged on the _____ day of _____, 2006,
by Ron Silvia, in his capacity as Mayor of the City of College Station, a Texas
home-rule municipality, on behalf of said municipality.

Notary Public in and for the
State of Texas

Electric Utility Right of Way Clearing

Bid No. 05-41

3 Year Cycle

	Asplundh Tree Expert Co circuit total	National Tree Expert Co circuit total
I 2005 Trimming Estimate		
1 Southgate	\$46,500.00	\$60,095.00
2 Welsh North	\$29,500.00	\$33,444.00
3 Carter's Grove	\$29,000.00	\$40,390.00
4 College Hills	\$37,000.00	\$44,824.00
5 Windwood	\$60,500.00	\$60,962.00
6 Raintree	\$35,000.00	\$33,503.00
7 Welsh South	\$46,000.00	\$59,618.00
8 Misc Hourly*	\$56,400.00	\$53,697.60
<i>2005 Subtotal</i>	\$339,900.00	\$386,533.60
II 2006 Trimming Estimate		
1 Rio Grande	\$30,500.00	\$36,165.00
2 Longmire	\$40,000.00	\$58,372.00
3 Shenandoah	\$58,500.00	\$62,246.00
4 Rock Prairie	\$47,500.00	\$39,419.00
5 Mile Drive	\$39,000.00	\$33,990.00
6 Crystal Park	\$58,500.00	\$46,864.00
7 Woodcreek	\$95,000.00	\$70,848.00
8 Misc Hourly*	\$56,400.00	\$53,697.60
<i>2006 Subtotal</i>	\$425,400.00	\$401,601.60
III 2007 Trimming Estimate		
1 Northgate/TX North	\$74,000.00	\$56,835.00
2 2F	\$27,500.00	\$36,318.00
3 East Bypass	\$18,500.00	\$24,179.00
4 Holleman	\$40,500.00	\$55,751.00
5 Langford	\$42,000.00	\$63,517.00
6 Bee Creek/Dartmouth	\$26,500.00	\$24,585.00
7 Wellborn	\$37,500.00	\$27,150.00
8 Industrial/Pebble	\$36,500.00	\$26,561.00
9 Hwy 40/Castlegate	\$25,500.00	\$36,435.00
10 Misc Hourly*	\$56,400.00	\$53,697.60
<i>2007 Subtotal</i>	\$384,900.00	\$405,028.60
GRAND TOTAL	\$1,150,200.00	\$1,193,163.80

* Misc Hourly rate was based on Payroll Charges and Equipment Charges as bid

IV Payroll Charges

1 Class C Trimmer	\$15.00	\$13.95
2 Class B Trimmer	\$17.00	\$15.70
3 Class A Trimmer	\$19.00	\$17.45
4 Foreman	\$23.00	\$22.62

V Equipment Charges

1 Hydraulic Dump Truck	\$8.50	\$8.00
2 Power Saw	\$0.75	\$0.65
3 Bucket Truck	\$12.75	\$12.50
4 Brush Chipper	\$3.00	\$3.50
5 Tractor/Mower	\$18.50	\$17.50
<i>Subtotal</i>	\$117.50	\$111.87
x 40 hours per week	\$4,700.00	\$4,474.80
x 12 weeks	\$56,400.00	\$53,697.60

February 23, 2006

Consent Agenda

**Real Estate Contract for the Purchase of an Easement
to be used for the Brazos Transmission Tie Line Project**

To: Glenn Brown, Interim City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action and discussion approving a real estate contract that will authorize the purchase of a public utility easement needed for the construction of the Brazos Transmission Tie Line Project, in the amount of \$59,310.

Recommendation(s): Staff is recommending that the contract be approved, which will authorize the purchase of a permanent public utility easement needed for the construction of the Brazos Transmission Tie Line Project.

Summary: Staff is requesting that Council authorize the purchase of a permanent public utility easement in order to build the Brazos Transmission Tie Line Project. The total easement property we are purchasing contains 13.04 acres of land lying and being situated in the Morgan Rector League, Abstract No. 46 and the Maria Kegans League, Abstract No. 28, in Brazos County, Texas. The property is owned by Walker Family Partnership and is located between College Station Switch Substation and Nunn Jones Road near its intersection with State Highway 30, running parallel to Harvey Road. The purchase price is \$59,310 which is the appraised value pursuant to an appraisal prepared by John M. Hamilton, Incorporation on November 17, 2005.

The Brazos Transmission Tie Line Project will improve electric reliability within the community.

Budget & Financial Summary: The purchase price for the property is \$59,310.00 (Fifty-Nine Thousand Three Hundred Ten Dollars). Funds are available as budgeted in the College Station Utilities Electric Divisions Capital Improvement Budget.

Attached

1. Real Estate Contract
2. Project Map

REAL ESTATE CONTRACT

THIS CONTRACT OF SALE is made by and between WALKER FAMILY PARTNERSHIP, ("SELLER), and the CITY OF COLLEGE STATION, TEXAS, a Texas Home Rule Municipal Corporation, situated in Brazos County, Texas ("BUYER), upon the terms and conditions set forth herein.

ARTICLE I PURCHASE AND SALE

1.1 SELLER agrees to sell and convey, and BUYER agrees to purchase and pay for, a public utility easement encompassing a 13.04 acre tract or parcel of land, lying and being situated in the Morgan Rector League, Abstract No. 46, and the Maria Kegans League, Abstract No. 28, in Brazos County, Texas, being an easement seventy feet (70') in width extending from Carter's Creek to Nunn Jones Road and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes ("PROPERTY"), together with all and singular the rights and appurtenances pertaining to the PROPERTY, including all right, title and interest of SELLER in and to adjacent roads, streets, alleys or rights-of-way and right of ingress and egress (all of such real PROPERTY, rights, and appurtenances being herein referred to as the "PROPERTY"), together with SELLER's interest in any improvements and fixtures situated on and attached to the PROPERTY, for the consideration and subject to the terms, provisions, and conditions set forth herein. This Contract by BUYER to purchase the PROPERTY is subject to approval by the City Council of the City of College Station, Texas; such approval indicated by signature of BUYER's representatives to this REAL ESTATE CONTRACT.

1.2 BUYER has requested BRAZOS COUNTY ABSTRACT COMPANY to furnish a Commitment for Title Insurance (the "Title Commitment") to insure title to the BUYER for BUYER's review together with legible copies of all instruments referred to in the Title Commitment. The BUYER shall request the title company to furnish these items to BUYER within fifteen (15) calendar days of the date of this Contract. BUYER shall have a period of five (5) business days (the "Title Review Period") after receipt of the Title Commitment and the copies of the instruments referred to in Schedule B as exceptions within which to notify SELLER of BUYER's objection to any item shown on or referenced by those documents (the "Reviewable Matters"). Any Reviewable Matter to which BUYER does not object within the Title Review Period shall be deemed to be accepted by BUYER. If BUYER objects to any such Reviewable Matter and gives notice to SELLER as provided herein, SELLER may at SELLER's election, on

or before closing, attempt to cure same. If SELLER fails to cure same by the closing date, or is unwilling to cure same, the closing date shall be extended for five (5) business days for BUYER to either (a) waive such objections and accept such title as SELLER is able to convey or (b) terminate this Contract by written notice to the Title Company and to SELLER, in which case the earnest money shall be refunded to BUYER, and neither SELLER nor BUYER shall have any further rights or obligations under this Contract.

1.3 (a) The City of College Station, Texas, at its expense, will provide a survey of the PROPERTY, showing, without limitation, all adjacent property lines, record ownership of adjoining properties, encroachments, easements, rights-of-way and other encumbrances of record. The survey will reflect any encroachments onto or by the PROPERTY onto adjoining properties. BUYER shall have a period of five (5) business days (the "Survey Review Period") after receipt of the Survey within which to notify SELLER of BUYER's objection to any item shown on or referenced on the Survey. Any Reviewable Matter to which BUYER does not object within the Survey Review Period shall be deemed to be accepted by BUYER. If BUYER objects to any such Reviewable Matter and gives notice to SELLER as provided herein, SELLER may at SELLER's election, on or before closing, attempt to cure same. If SELLER fails to cure same by the closing date, or is unwilling to cure same, the closing date shall be extended for five (5) business days for BUYER to either (a) waive such objections and accept such title as SELLER is able to convey or (b) terminate this Contract by written notice to the Title Company and to SELLER, in which case any earnest money shall be refunded to BUYER, and neither SELLER nor BUYER shall have any further rights or obligations under this Contract.

(b) The survey drawing shall be addressed to and certified in favor of the BUYER and the Title Company. The field notes description, as prepared by the surveyor, shall be substituted for the description attached to this Contract and shall be used in the General Warranty Deed.

1.4 BUYER may at its cost order a Level 1 Environmental Site Assessment. BUYER shall have a period of ten (10) business days after receipt of the Environmental Site Assessment to review the assessment and notify SELLER of BUYER's rejection of the PROPERTY. BUYER at its option may elect to provide SELLER with an opportunity to cure the environmental problem. If BUYER elects not to provide SELLER with an opportunity to cure or if SELLER fails to cure once BUYER provides that opportunity, this Contract shall be terminated and neither party will have any further liability.

1.5 The parties agree that general real estate taxes on the PROPERTY for the then current year, interest on any existing indebtedness, and rents, if any, shall be prorated as of the closing date and shall be adjusted in cash at the closing. SELLER alone shall be liable for any taxes assessed and levied for prior years resulting from any change in use subsequent to the conveyance to BUYER. If the closing shall occur before the tax rate is fixed for the current year,

the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. All installments that have matured prior to the closing date on any special taxes or assessments shall be paid by SELLER; and any installments that are provided in the special assessment to mature after closing shall be assumed by BUYER.

1.6 The sale of the PROPERTY shall be made by a Public Utility Easement from SELLER to BUYER in the form prepared by BUYER attached hereto as Exhibit "B".

ARTICLE II PURCHASE PRICE

2.1 The purchase price for said PROPERTY shall be the sum of FIFTY-NINE THOUSAND THREE HUNDRED TEN AND NO/100 DOLLARS (\$59,310.00). The purchase price shall be payable in full at closing.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER

3.1 SELLER hereby represents and warrants to BUYER as follows:

(a) SELLER has the full right, power, and authority to enter into and perform SELLER's obligations under this Contract.

(b) SELLER has no actual knowledge of any parties in possession of any portion of the PROPERTY, either as lessees, tenants at sufferance, trespassers, or other persons in possession. Additionally, SELLER has no actual knowledge of any action by adjacent landowners, or any natural or artificial conditions upon the PROPERTY, or any significant adverse fact or condition relating to the PROPERTY, which has not been disclosed in writing to BUYER by SELLER, which would prevent, limit, impede or render more costly BUYER's contemplated use of the PROPERTY.

(c) SELLER has no actual knowledge of any pending or threatened condemnation or similar proceedings or assessment affecting the PROPERTY or any part thereof. SELLER has no actual knowledge of any such proceedings or assessments contemplated by any governmental entity.

(d) SELLER has no actual knowledge that the PROPERTY does not have full and free access to and from public highways, streets, or roads. SELLER has no actual knowledge that there are pending or threatened governmental proceedings that would impair or result in the termination of such access. If SELLER obtains actual knowledge of any such matter subsequent to the date of this Contract that would make any of the representations or warranties untrue if

made as of closing, SELLER shall notify BUYER, and BUYER shall have the election of terminating the Contract and receiving back its earnest money, in which case neither party shall have any further obligation to the other.

(e) The PROPERTY has not been illegally subdivided or otherwise held, managed, or maintained in violation of any federal, state, or local law.

(f) SELLER has no actual knowledge that SELLER has not complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the PROPERTY or any part thereof.

(g) If SELLER obtains actual knowledge of any such matter subsequent to the date of this Contract that would make any of the representations or warranties untrue if made as of closing, SELLER shall notify BUYER, and BUYER shall have the election of terminating the Contract and receiving back its earnest money, in which case neither party shall have any further obligation to the other.

(h) SELLER has no knowledge that the PROPERTY contains any environmental hazard not shown on the environmental assessment provided by SELLER to BUYER.

(i) SELLER is not a "foreign person" within the meaning of the Internal Revenue Code of 1986, as amended, Sections 1445 and 7701 (i.e., SELLER is not a non-resident alien, a foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated thereunder).

(j) To the best of SELLER's knowledge there are no unpaid charges, debts, liabilities, claims or obligations arising from any construction, occupancy, ownership, use or operation of the PROPERTY, or the business operated thereon, if any, which could give rise to any mechanic's or materialmen's or other statutory lien against the PROPERTY, or any part thereof, or for which BUYER will be responsible.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

4.1 BUYER represents and warrants to SELLER as of the effective date and as of the closing date that:

(a) BUYER has the full right, power, and authority to purchase the PROPERTY from SELLER as provided in this Contract and to carry out BUYER's obligations under this Contract, and all requisite action necessary to authorize BUYER to enter into this Contract and to carry out BUYER's obligations hereunder has been obtained or on or before closing will have been taken.

ARTICLE V
CLOSING

5.1 The closing shall be held at BRAZOS COUNTY ABSTRACT COMPANY, within sixty (60) calendar days from the execution and tender of this Real Estate Contract by BUYER, at such time and date as SELLER and BUYER may agree upon (the "closing date").

5.2 At the closing, SELLER shall:

(a) Deliver to BUYER the duly executed and acknowledged Public Utility Easement prepared by BUYER conveying good and marketable title in the PROPERTY, free and clear of any and all liens, encumbrances, except for the Reviewable Matters and subject to the BUYER's election to terminate this Contract in the event BUYER disapproves of any Reviewable Matter, which objection is to be cured by SELLER on or prior to the closing as provided by Article I of this Contract.

(b) Deliver possession of the PROPERTY to BUYER.

(c) Deliver to BUYER, at BUYER's expense, a Title Policy insuring indefeasible title issued by BRAZOS COUNTY ABSTRACT COMPANY, in BUYER's favor in the full amount of the purchase price, insuring BUYER's easement interest in the PROPERTY subject only to such exceptions as shown on the Title Commitment and not objected to by BUYER prior to closing.

(d) Pay any and all required property taxes for 2005 and prior years.

(e) Pay any and all homeowner's or maintenance fees, if any, for 2005 and prior years.

(f) Pay the certificates or reports of ad valorem taxes.

(g) Pay the SELLER's expenses and attorney fees.

5.3 Upon such performance by SELLER at closing, BUYER shall:

(a) Pay the balance of the purchase price.

(b) Pay the escrow fees.

- (c) Prepare, at its cost, the Public Utility Easement document.
- (d) Pay the title insurance.
- (e) Pay the costs to obtain, deliver and record releases or partial releases of all liens to be released at closing.
- (f) Pay the costs to obtain, deliver and record all documents to cure title objections agreed to be cured by SELLER.
- (g) Pay the cost to record the Public Utility Easement document.
- (h) Pay the BUYER's expenses or attorney fees.
- (i) Pay the additional premium for the survey/boundary deletion in the title policy, if the deletion is requested by BUYER.
- (j) Pay the costs of work required by BUYER to have the survey reflect matters other than those required under this contract.

**ARTICLE VI
SPECIAL CONDITIONS**

NONE

**ARTICLE VII
BREACH BY SELLER**

7.1 In the event SELLER fails to fully and timely perform any of SELLER's obligations under this Contract or fails to consummate the sale of the PROPERTY for any reason except BUYER's default, BUYER may:

- (a) Enforce specific performance of this agreement;
- (b) Bring suit for damages against SELLER; and/or
- (c) Terminate this contract and initiate condemnation proceedings.

**ARTICLE VIII
BREACH BY BUYER**

8.1 In the event BUYER fails to consummate the purchase of the PROPERTY (BUYER being in default and SELLER not being in default hereunder), SELLER shall have the right to bring suit against BUYER only for expectancy and incidental damages, if any.

**ARTICLE IX
MISCELLANEOUS**

9.1 Survival of Covenants: Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, pertaining to the period of time following the closing date, shall survive the closing and shall not be merged by deed or otherwise be extinguished.

9.2 Notice: Any notice required or permitted to be delivered by this Contract shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to SELLER or BUYER, as the case may be, at the addresses set forth below:

SELLER: Walker Family Partnership
P. O. Box 37
Falls County
Satin, Texas 76685-0037
Telephone: (979) 777-3601

BUYER: City of College Station
Legal Department
1101 Texas Avenue
College Station, Texas 77840

9.3 Texas Law to Apply: This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this Contract are to be performed in Brazos County, Texas.

9.4 Parties Bound: This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. The persons executing this Contract do so in their capacities as set forth below and in no other capacity whatsoever, and such persons shall have no personal liability for executing this

Contract in a representative capacity. All such liability is limited to the principal for which they execute this document as a representative.

9.5 **Invalid Provision:** In case any one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in the Contract. In lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Contract a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

9.6 **Construction:** The parties acknowledge that each party and its counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

9.7 **Prior Agreements Superseded:** This Contract embodies the entire agreement of the parties and supersedes any and all prior understandings or written or oral agreements between the parties respecting subject matter within and may only be amended or supplemented by an instrument in writing executed by the party against whom enforcement is sought.

9.8 **Time of Essence:** Time is of the essence to this Contract.

9.9 **Gender:** Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

9.10 **Multiple Counterparts:** This Contract may be executed in a number of identical counterparts. If so executed, each of the counterparts shall, collectively, constitute but one agreement. In making proof of this Contract, it shall not be necessary to produce or account for more than one counterpart.

9.11 **Memorandum of Contract:** Upon request of either party, both parties shall promptly execute a memorandum of this agreement suitable for filing of record.

EXECUTED on this the _____ day of _____, 2006.

SELLER:

BUYER:

WALKER FAMILY PARTNERSHIP

CITY OF COLLEGE STATION

BY: Mary Gene Walker
MARY GENE WALKER
Date: 1-26-06

BY: _____
RON SILVIA, Mayor
Date: _____

BY: W.D. Walker III
w. D. WALKER, III
Date: 1-28-06

ATTEST:

BY: Christopher Drews
CHRISTOPHER DREWS
Date: _____

CONNIE HOOKS, City Secretary
Date: _____

APPROVED:

GLENN BROWN, Interim City Manager
Date: _____

JEFF KERSTEN, Finance and Strategic
Planning Director
Date: _____

Carla A. Robinson
City Attorney
Date: _____

THE STATE OF TEXAS
COUNTY OF BRAZOS

§
§
§

ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2006, by RON SILVIA, as Mayor of the CITY OF COLLEGE STATION, a Texas Home Rule Municipal Corporation, on behalf of said municipality.

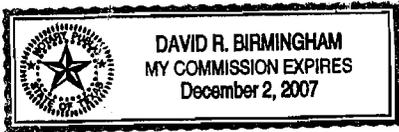
Notary Public in and for the State of Texas

THE STATE OF TEXAS
COUNTY OF FALLS

§
§
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ACKNOWLEDGMENT

This instrument was acknowledged before me on the 26th day of January, 2006, by MARY GENE WALKER, Partner of WALKER FAMILY PARTNERSHIP, on behalf of said WALKER FAMILY PARTNERSHIP.



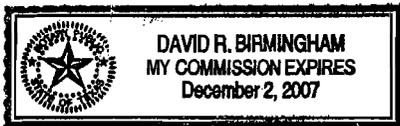
David R. Birmingham
Notary Public in and for the State of Texas

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 28th day of January, 2006, by W. D. WALKER, III, Partner of WALKER FAMILY PARTNERSHIP, on behalf of said WALKER FAMILY PARTNERSHIP.



David R. Birmingham
Notary Public in and for the State of Texas

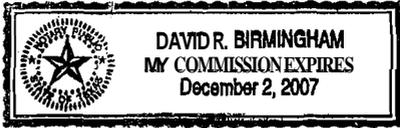
THE STATE OF TEXAS

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ACKNOWLEDGMENT

COUNTY OF ~~LEE~~ BRAZOS

This instrument was acknowledged before me on the 27th day of January, 2006, by CHRISTOPHER DREWS, Partner of WALKER FAMILY PARTNERSHIP, on behalf of said WALKER FAMILY PARTNERSHIP.





Notary Public in and for the State of Texas

Joe Orr, Inc.
Surveyors & Engineers
2167 Post Oak Circle
College Station, TX 77845
(979) 690-3378

Proposed Easement
Walker Family Partnership Tracts
Morgan Rector and Maria Kegans Leagues
Brazos County, Texas
8 December 2005

All that certain tract or parcel of land lying and being situated in the Morgan Rector League, Abstract No 46, and the Maria Kegans League, Abstract No. 28, in Brazos County, Texas, being an easement seventy feet (70') in width extending from Carter's Creek to Nunn Jones Road and being more particularly described as follows:

Beginning at a 24" Oak at a fence corner at the common corner, as fenced, of Lot 10 in Block 1 of Harvey Hillside addition to Brazos County, Texas, described by plat recorded in Volume 263, Page 485 of the Deed Records of Brazos County, Texas, and the 46.7 acre Tract Fifteen of the Walker Family Partnership tracts described in Volume 2321, Pages 246, 250 and 254 of the Official Public Records of Brazos County, Texas, in the west line of Nunn Jones Road.

Thence S 21° 00' 35" E – 20.25 feet along the West line of Nunn Jones Road;

Thence through tracts Fifteen, Eleven and Eight of the said Walker Family Partnership as follows:

S 31° 22' 21" W – 163.31 feet;
S 05° 49' 43" E – 766.56 feet;
S 42° 17' 38" W – 3113.68 feet;
S 42° 52' 54" W – 630.46 feet;
S 38° 57' 02" W – 3511.81 feet to the center of Carter's Creek;

Thence up the center of Carter's Creek with its meanders, a straight line distance of S 81° 20' 32" W – 103.83 feet, to the most westerly corner of this tract;

Thence through tracts Eight, Eleven and Fifteen of the said Walker Family Partnership as follows:

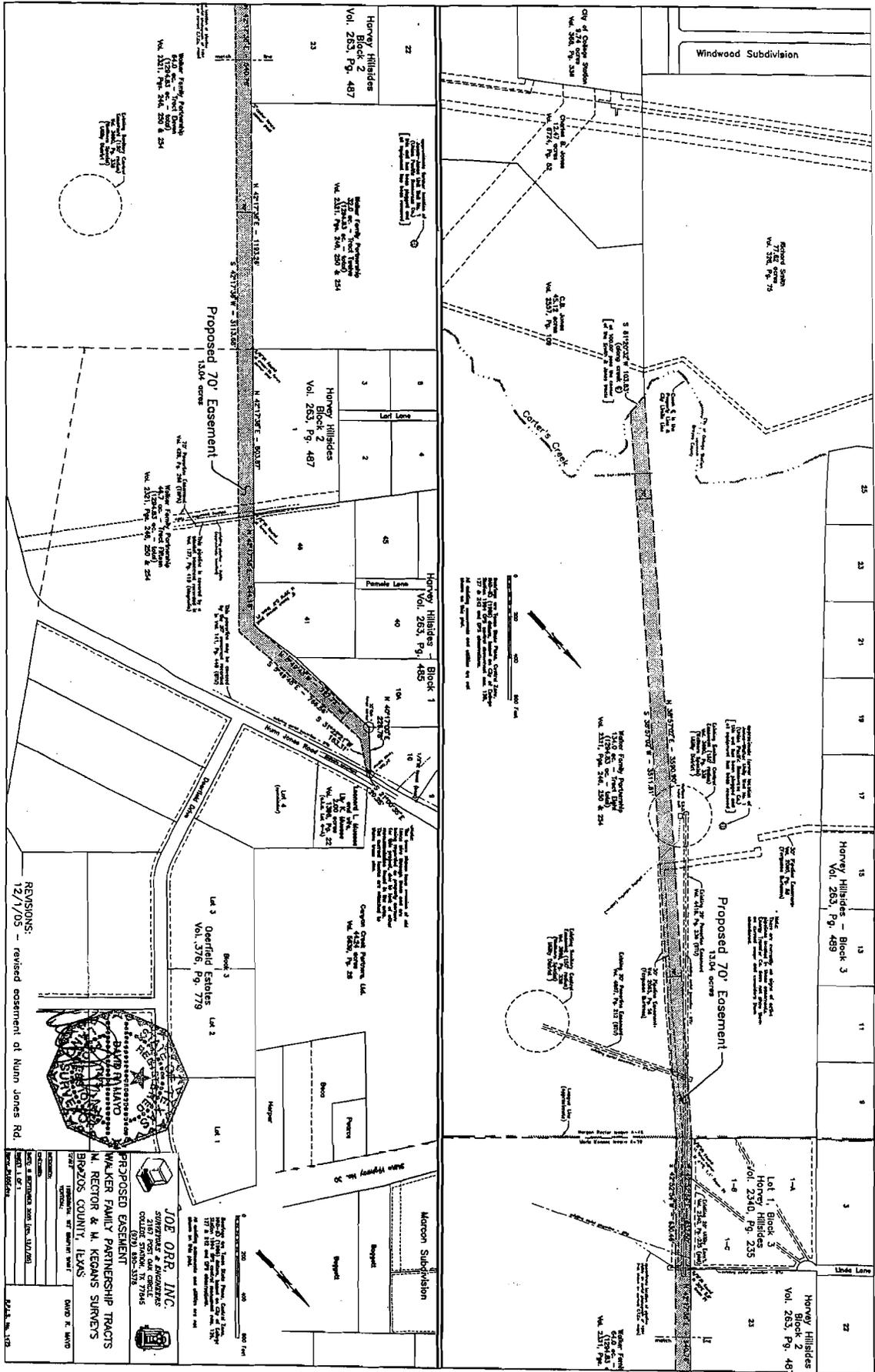
N 38° 57' 02" E – 3590.90 feet to a point from which a 5/8" iron rod was found
N 43° E – 1.1 feet;
N 42° 52' 54" E – 632.50 feet, from which a 5/8" iron rod was found N 30" E-5.0 feet;
N 42° 17' 38" E – 540.76 feet to a 5" cedar fence corner post;

N 42° 17' 38" E – 1193.26 feet to a 5/8" iron rod found at a **cross**ie fence comer;
N 42" 17' 38" E – 803.87 feet to a 1/2" iron rod found at a fence comer;
N 42° 17' 38" E – 544.18 feet to a point **from** which a 5" fence comer post bears
N 29° W – 0.8 feet;
N 05" 49' 43" W – 727.72 feet to a 32" Oak at a fence comer at the common
comer of Lot 10 in Block One of Harvey Hillside, Lot 10A in Block 1 of Harvey
Hillside and the said Tract Fifteen of the Walker Family Partnership tract;

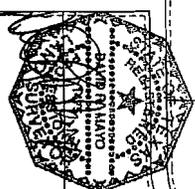
Thence N 40° 17' 00" E – 226.78 feet along the fenced line between the said Lot 10 in
Block 1 of Harvey Hillside and the said Tract Fifteen of the Walker Family Partnership
tract to the Point of Beginning and containing 13.04 acres of land more or less.

Bearings are Texas State Plane, Central Zone, NAD-83 datum, based on City of College
Station 1994 GPS monument nos. 126, 127 and 242 and GPS observations.





REVISIONS:
12/1/05 - revised easement at Nunn Jones Rd.



JOE ORR, INC.
SURVEYORS & ENGINEERS
3161 FIRST OAK CIRCLE
DALLAS, TEXAS 75244
PHONE: (972) 800-3738
FAX: (972) 800-3739

PROPOSED EASEMENT
WALKER FAMILY PARTNERSHIP TRACTS
M. RECTOR & M. KEAGAN SURVEYS
BRAZOS COUNTY, TEXAS

DWAYNE R. SMITH
REGISTERED SURVEYOR
NO. 11728
EXPIRES 12/31/2010

DATE: 12/1/05

EXHIBIT A

EXHIBIT "B"

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.

PUBLIC UTILITY EASEMENT

DATE: _____, 2006

GRANTOR: WALKER FAMILY PARTNERSHIP

GRANTOR'S MAILING ADDRESS: P. O. Box 37
(including County) Falls County
Satin, Texas 76685-0037

GRANTEE: CITY OF COLLEGE STATION, TEXAS

GRANTEE'S MAILING ADDRESS: 1101 Texas Avenue
(including County) Brazos County
College Station, Texas 77842

CONSIDERATION: Ten Dollars (\$10.00) and other good and valuable consideration.

PROPERTY:

All that certain tract or parcel of land containing 13.04 of land, more or less, lying and being situated in the Morgan Rector League, Abstract No. 46, and the Maria Kegans League, Abstract No. 28, in Brazos County, Texas, and being an easement seventy feet (70') in width extending from Carter's Creek to Nunn Jones Road, said 13.04 acres being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all intents and purposes.

This conveyance shall grant the rights herein specified only as to that portion of the above-described Property more particularly described on the attached Exhibit "A" known as the "easement area," and any additional area outside the easement area necessary to install and attach equipment, guy wires, and anchors necessary and incident to the uses of the Easement Area to erect, construct, install, and thereafter use, operate, inspect, repair, maintain, reconstruct, modify and remove the following:

Electric transmission and distribution lines;
Water lines and sanitary sewer lines, connecting lines,
access facilities, and related equipment;
Storm sewers and collection facilities;
Television, telephone, and communications lines;
Drainage ditches, drainage pipes and all other drainage structures,
surface and subsurface;

upon, over, and across the said Property as described and any ways, streets, roads, or alleys abutting same; and to cut, trim, and control the growth of trees and other vegetation on and in the **easement** area or on adjoining property of Grantor, which might interfere with or threaten the operation and maintenance of any public utility equipment, accessories, or operations. It being understood and agreed that any and all equipment and facilities placed upon said property shall remain the property of Grantee.

Grantor expressly subordinates all rights of surface use incident to the mineral estate to the **above-described** uses of said surface by Grantee, and agrees to lender's subordinations on behalf of Grantee. Grantor will provide Grantee with the names and addresses of all lenders.

RESERVATIONS AND RESTRICTIONS:

1. Easement **from** C. Edgar Jones to Magnolia Pipe Line Company, dated October 31, 1946, recorded in Volume 127, Page 419, Deed Records of Brazos County, Texas.
2. Right-of-way Easement from C. Edgar Jones to Wixon Water Supply Corp., dated September 1, 1971, recorded in Volume 309, Page 756, Deed Records of Brazos County, Texas.
3. Easement from Eugenia W. Jones to Texas Municipal Power Agency, dated July 16, 1979, recorded in Volume 428, Page 286, Deed Records of Brazos County, Texas and corrected in Volume 436, Page 708, Deed Records of Brazos County, Texas.
4. Easement from Eugenia W. Jones to Gulf States Utilities Co., dated May 6, 1980, recorded in Volume 451, Page 6, Deed Records of Brazos County, Texas.
5. Right of Way Easement from Mrs. C. Eugenia Jones to Southwestern Gas Pipeline, Inc., dated August 29, 1992, recorded in Volume 2065, Page 58, Official Records of Brazos County, Texas.
6. Right-of-way Easement from Walker Family Partnership to City of Bryan, dated June 11, 1996, recorded in Volume 2623, Page 150, Official Records of Brazos County, Texas.
7. Sanitary Control Easement from Mary Gene Walker et al to Wellborn Special Utility District, dated June 30, 2000, recorded in Volume 3890, Page 338, Official Records of Brazos County, Texas.
8. Right-of-way Easement from Walker Family Partnership to City of Bryan, dated March 20, 2001, recorded in Volume 4139, Page 318, Official Records of Brazos County, Texas.
9. Right-of-way Easement from Walker Family Partnership to City of **Bryan**, dated April 11, 2001, recorded in **Volume** 4418, Page 238, **Official** Records of Brazos County, Texas.
10. Right-of-way Easement from Walker Family Partnership to City of Bryan, dated June 18, 2002, recorded in Volume 4807, Page 212, Official Records of Brazos County, Texas.

12. Terms, conditions and stipulations contained in Memorandum of Water Lease from Walker Family Partnership to Wellborn Special Utility District, dated November 10, 1999, recorded in Volume 3676, Page 70, Official Records of Brazos County, Texas.
13. Mineral Trustee's Distribution Deed from Christopher Drews Trust to Christopher Drews, dated December 14, 1999, recorded in Volume 3681, Page 253, Official Records of Brazos County, Texas.
14. Estate created by Oil and Gas Lease from The Walker Family Partnership to Union Pacific Resources Company, dated June 18, 1995, recorded in Volume 2378, Page 330, Official Records of Brazos County, Texas.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF COLLEGE STATION, TEXAS, and its successors and assigns, forever, and Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, these rights and interests unto the CITY OF COLLEGE STATION, TEXAS, and its successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

WALKER FAMILY PARTNERSHIP

DO NOT EXECUTE AT THIS TIME

By: _____
MARY GENE WALKER

DO NOT EXECUTE AT THIS TIME

By: _____
WILLIAM D. WALKER, III

DO NOT EXECUTE AT THIS TIME

By: _____
CHRISTOPHER DREWS

APPROVED AS TO FORM:
THIS DOCUMENT MAY NOT
BE CHANGED WITHOUT
RE-SUBMISSION FOR APPROVAL.

City Attorney

THE STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF FALLS §

This instrument was acknowledged before me on this _____ day of _____, 2006,
by MARY GENE WALKER, _____ of WALKER FAMILY PARTNERSHIP, on
behalf of said WALKER FAMILY PARTNERSHIP.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF _____ §

This instrument was acknowledge before me on the _____ day of _____, 2006,
by W. D. WALKER, III, Partner of WALKER FAMILY PARTNERSHIP, on behalf of said
WALKER FAMILY PARTNERSHIP.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF LEE §

This instrument was acknowledge before me on the _____ day of _____, 2006,
by CHRISTOPHER DREWS, Partner of WALKER FAMILY PARTNERSHIP, on behalf of said
WALKER FAMILY PARTNERSHIP.

Notary Public in and for the State of Texas

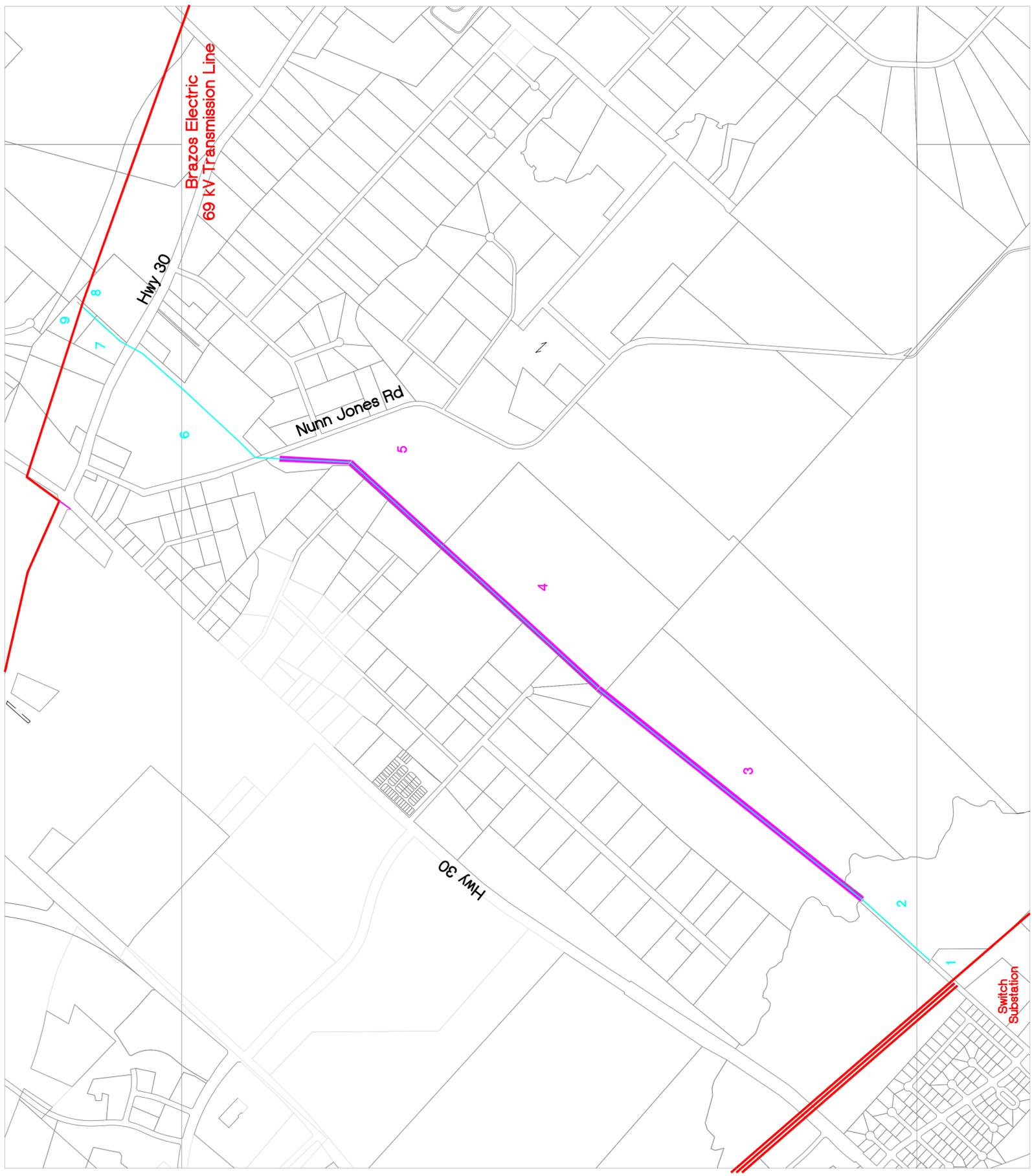
PREPARED IN THE OFFICE OF:
City of College Station
Legal Department
P.O. Box 9960
College Station, TX 77842-9960

AFTER RECORDING, RETURN TO:
City of College Station
Legal Department
P.O. Box 9960
College Station, TX 77842-9960



Property Owners

- 1 JONES, CHARLES B & JEANETTE
004601-0014-0026
12.47 ac
- 2 JONES, CHARLES B & JEANETTE
004601-0014-0023
45.12 ac
- 3 WALKER FAMILY PARTNERSHIP
004600-0001-0000
134 ac
- 4 WALKER FAMILY PARTNERSHIP
002800-0002-0000
64 ac
- 5 WALKER FAMILY PARTNERSHIP
002800-0003-0010
101.869 ac
- 6 CANYON CREEK PARTNERS LTD
002800-0004-0000
47.949 ac
- 7 MARCIN CABINETS, INC
397500-0001-0000
0 sq ft
- 8 BAGGETT, JDE E
002800-0009-0000
9.51 ac
- 9 MARCIN CABINETS, INC
397500-0001-0020
3 ac



LEGEND

- PROPOSED TRANSMISSION LINE
- PROPOSED 70 FT EASEMENT WALKER TRACT
- EXISTING TRANSMISSION LINE
- GRAPHIC SCALE
0 300 600

NOT FOR CONSTRUCTION

CITY OF COLLEGE STATION
Switch Station to Brazos Electric 69KV Transmission Line
PROPOSED TRANSMISSION ROUTE

SCALE: 1"=100'	DATE: 9-3-03	DWP NO.:	SHEET NO.:
DRAWN BY:	JAB CODE:		1 OF 1
			REV:

February 23, 2006
Consent Agenda
Police Station Additions Project (Project No. GG-0402)
Alternate Bid Method

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Assistant Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the Police Station Additions Project (Project No. GG-0402).

Recommendation(s): Staff recommends approval of the resolution.

Summary: This item provides for the use of competitive sealed proposals for the construction of the Police Station Additions Project (Project No. GG-0402).

In entering into a contract for the construction of a facility, a governmental entity may use competitive sealed proposals to select a contractor for the construction services if the governing body determines that the competitive sealed proposals method provides the best value for the governmental entity.

There are two reasons that the competitive sealed proposals method will provide the best value for this project. First, we will be able to consider selection criteria other than price alone in awarding this contract. Factors that we may consider include: the reputation of the vendor and of the vendor's goods and services; the quality of the vendor's goods and services; the extent to which the goods or services meet our needs; the vendor's past relationship with the City; and other relevant criteria as listed in the request for proposals, including proposed construction contract amount and contract time, contractor experience and qualifications, contractor current work schedule and record, contractor key personnel, contractor references, contractor safety record, and contractor financial resources. Second, we will be able to negotiate terms, conditions, and pricing utilizing the competitive sealed proposals method of procurement. Negotiation of terms, conditions, and pricing is not available under the traditional competitive bidding process.

Budget & Financial Summary: The budget for the Police Station Additions Project (Project No. GG-0402) is \$3,610,000.00.

Attachments:

1. Resolution
2. Project Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING WHICH METHOD PROVIDES FOR THE BEST VALUE TO THE CITY OF COLLEGE STATION FOR THE CONSTRUCTION OF THE POLICE STATION ADDITIONS PROJECT AND AUTHORIZING THE USE OF THIS PROCUREMENT METHOD FOR PROJECT NUMBER GG-0402 IN ACCORDANCE WITH SECTION 271.114(a) OF THE TEXAS LOCAL GOVERNMENT CODE.

WHEREAS, the City Council of the City of College Station, Texas, determined a need to construct the Police Station Additions Project (Project No. GG-0402); and

WHEREAS, the City has considered using a method specified by Texas Local Government Code Section 271.113(a) other than competitive bidding; and

WHEREAS, the City Council has determined that the method which provides the best value for the City for the construction of the Police Station Additions Project (Project No. GG-0402) is the use of competitive sealed proposals for construction services as permitted by Texas Local Government Code Section 271.113(a)(2); now, therefore,

BE IT RESOLVED by the City Council of the City of College Station, Texas:

PART 1: That the City Council hereby finds that the use of competitive sealed proposals provides the best value for the City in the construction of the Police Station Additions Project (Project No. GG-0402);

PART 2: That the City Council hereby authorizes the use of competitive sealed proposals as the procurement method for the Police Station Additions Project (Project No. GG-0402);

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

ATTEST:

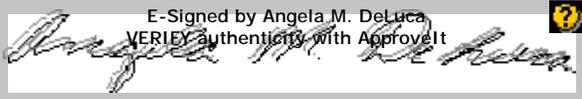
APPROVED:

CONNIE HOOKS, City Secretary

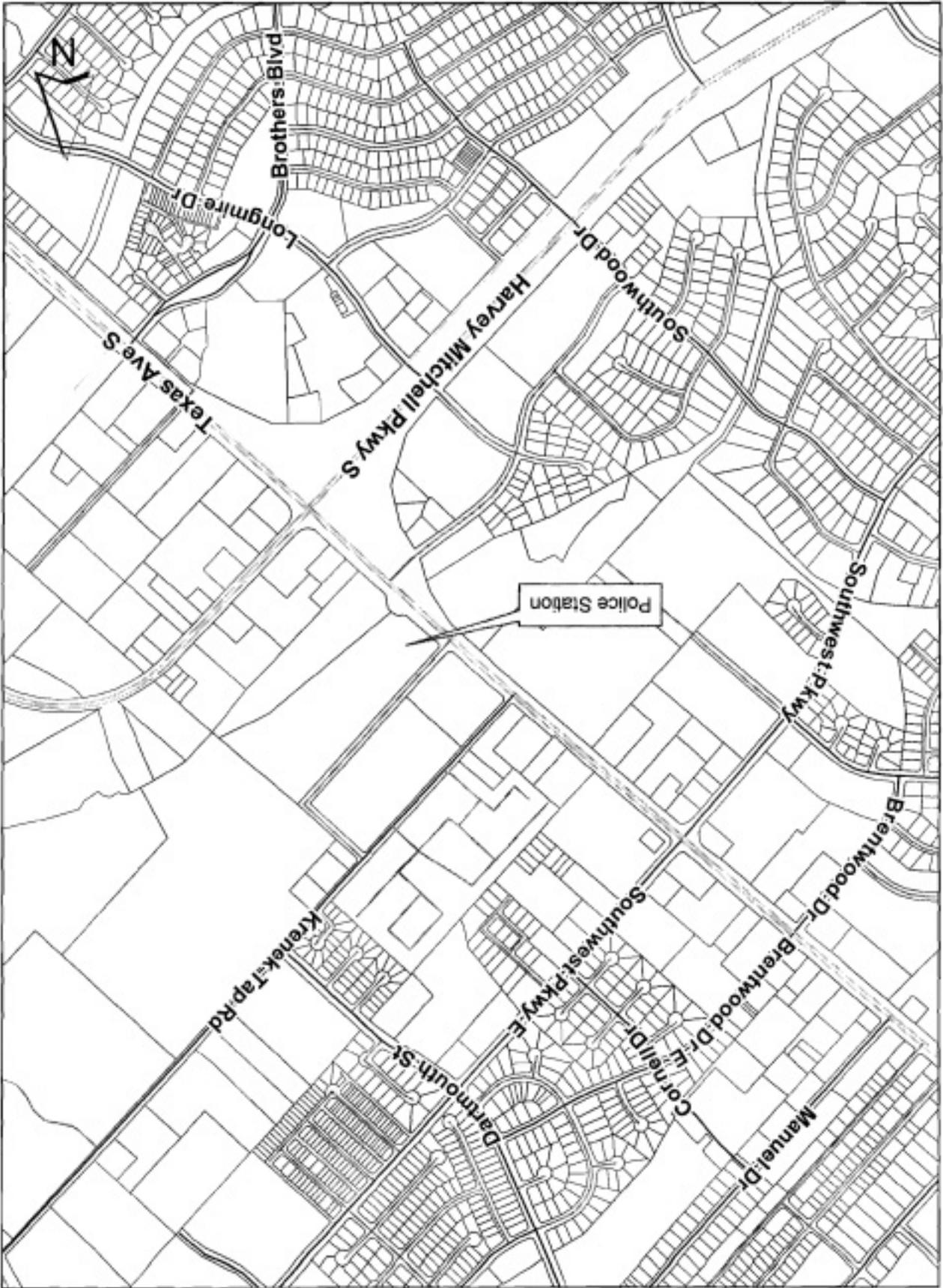
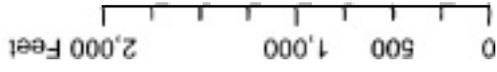
RON SILVIA, Mayor

APPROVED:

E-Signed by Angela M. DeLuca
VERIFY authenticity with ApproveIt



City Attorney



February 23, 2006
Consent Agenda
Fire Station No. 3 Relocation Project (Project No. GG-0401)
Alternate Bid Method

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Assistant Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the Fire Station No. 3 Relocation Project (Project No. GG-0401).

Recommendation(s): Staff recommends approval of the resolution.

Summary: This item provides for the use of competitive sealed proposals for the construction of the Fire Station No. 3 Relocation Project (Project No. GG-0401).

In entering into a contract for the construction of a facility, a governmental entity may use competitive sealed proposals to select a contractor for the construction services if the governing body determines that the competitive sealed proposals method provides the best value for the governmental entity.

There are two reasons that the competitive sealed proposals method will provide the best value for this project. First, we will be able to consider selection criteria other than price alone in awarding this contract. Factors that we may consider include: the reputation of the vendor and of the vendor's goods and services; the quality of the vendor's goods and services; the extent to which the goods or services meet our needs; the vendor's past relationship with the City; and other relevant criteria as listed in the request for proposals, including proposed construction contract amount and contract time, contractor experience and qualifications, contractor current work schedule and record, contractor key personnel, contractor references, contractor safety record, and contractor financial resources. Second, we will be able to negotiate terms, conditions, and pricing utilizing the competitive sealed proposals method of procurement. Negotiation of terms, conditions, and pricing is not available under the traditional competitive bidding process.

Budget & Financial Summary: The budget for the Fire Station No. 3 Relocation Project (Project No. GG-0401) is \$1,710,000.00.

Attachments:

1. Resolution
2. Project Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING WHICH METHOD PROVIDES FOR THE BEST VALUE TO THE CITY OF COLLEGE STATION FOR THE CONSTRUCTION OF THE FIRE STATION NO. 3 RELOCATION PROJECT AND AUTHORIZING THE USE OF THIS PROCUREMENT METHOD FOR PROJECT NUMBER GG-0401 IN ACCORDANCE WITH SECTION 271.114(a) OF THE TEXAS LOCAL GOVERNMENT CODE.

WHEREAS, the City Council of the City of College Station, Texas, determined a need to construct the Fire Station No. 3 Relocation Project (Project No. GG-0401); and

WHEREAS, the City has considered using a method specified by Texas Local Government Code Section 271.113(a) other than competitive bidding; and

WHEREAS, the City Council has determined that the method which provides the best value to the City for the construction of the Fire Station No. 3 Relocation Project (Project No. GG-0401) is the use of competitive sealed proposals for construction services as permitted by Texas Local Government Code Section 271.113(a)(2); now, therefore,

BE IT RESOLVED by the City Council of the City of College Station, Texas:

PART 1: That the City Council hereby finds that the use of competitive sealed proposals provides the best value for the City in the construction of the Fire Station No. 3 Relocation Project (Project No. GG-0401);

PART 2: That the City Council hereby authorizes the use of competitive sealed proposals as the procurement method for the Fire Station No. 3 Relocation Project (Project No. GG-0401);

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

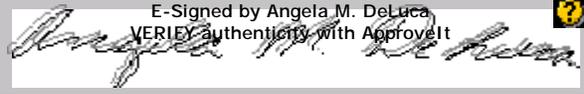
ATTEST:

APPROVED:

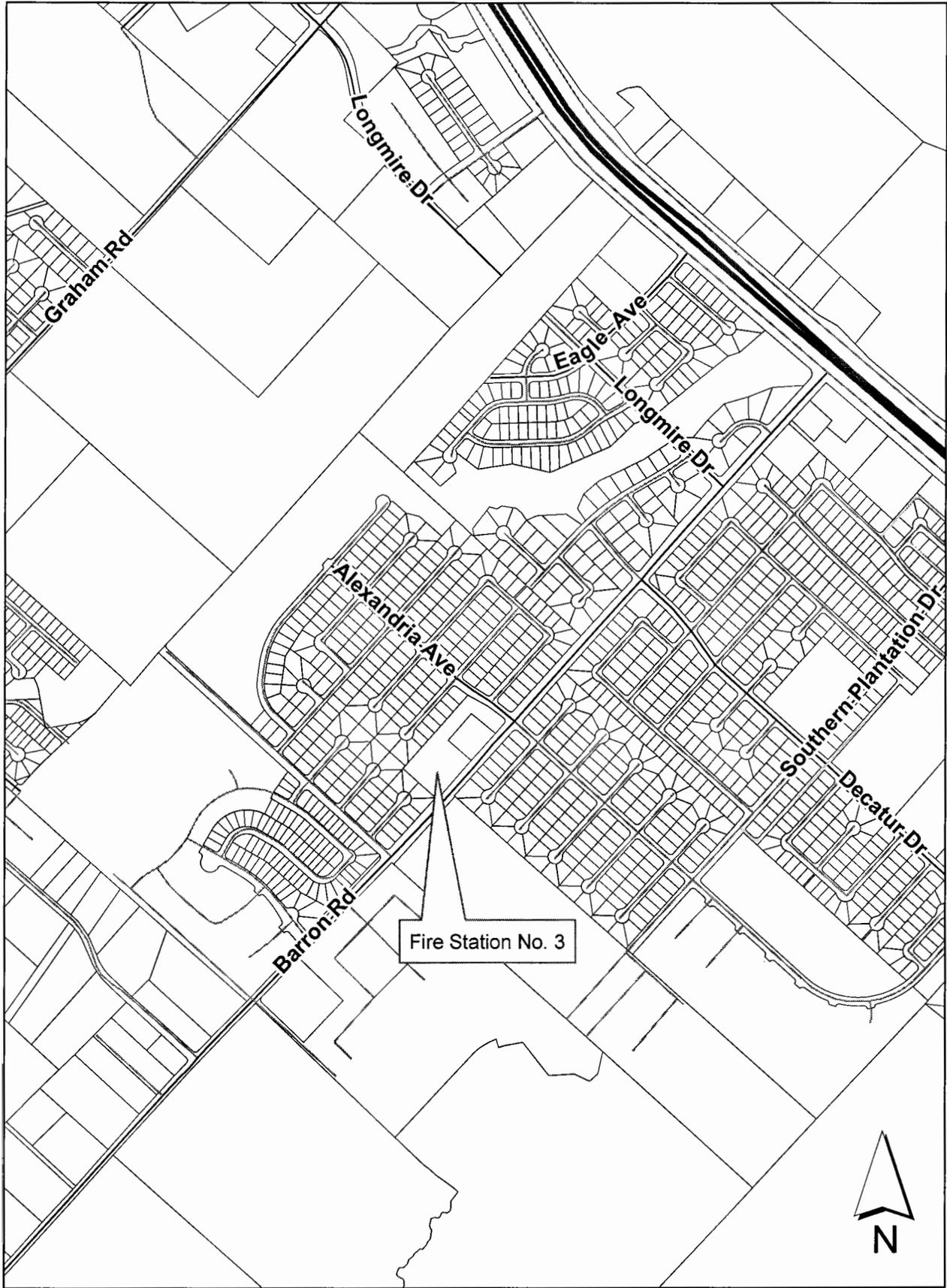
CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

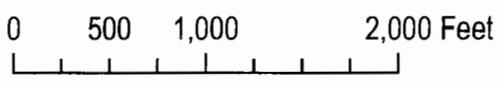
APPROVED:

E-Signed by Angela M. DeLuca
VERIFY authenticity with ApprovalIt 


City Attorney



Fire Station No. 3



February 23, 2006
Consent Agenda
Purchase of Crushed Stone for Camelot Drainage Erosion Control

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding approval of an award for the purchase of crushed stone material for the Camelot Drainage Improvement Project, from Superior Crushed Stone LC, in an amount not to exceed \$58,050.00.

Recommendation(s): Staff recommends award of Bid No. 06-57 to Superior Crushed Stone.

Summary: On January 31, 2006, two bids were received in response to Bid No. 06-57 for the purchase of crushed stone material (rip-rap) for the control of erosion in the Camelot Drainage Improvement Project No. SD0301. The material will be used by the Drainage Division crews to stabilize the banks of Bee Creek to prevent further erosion in the Camelot Subdivision area. Superior Crushed Stone LC submitted the low bid.

Budget & Financial Summary: Funding is budgeted and available in the Drainage Utility Fund. The project budget for the Camelot Drainage Improvement Project (SD0301) is \$200,000 with a current project balance of \$188,000.

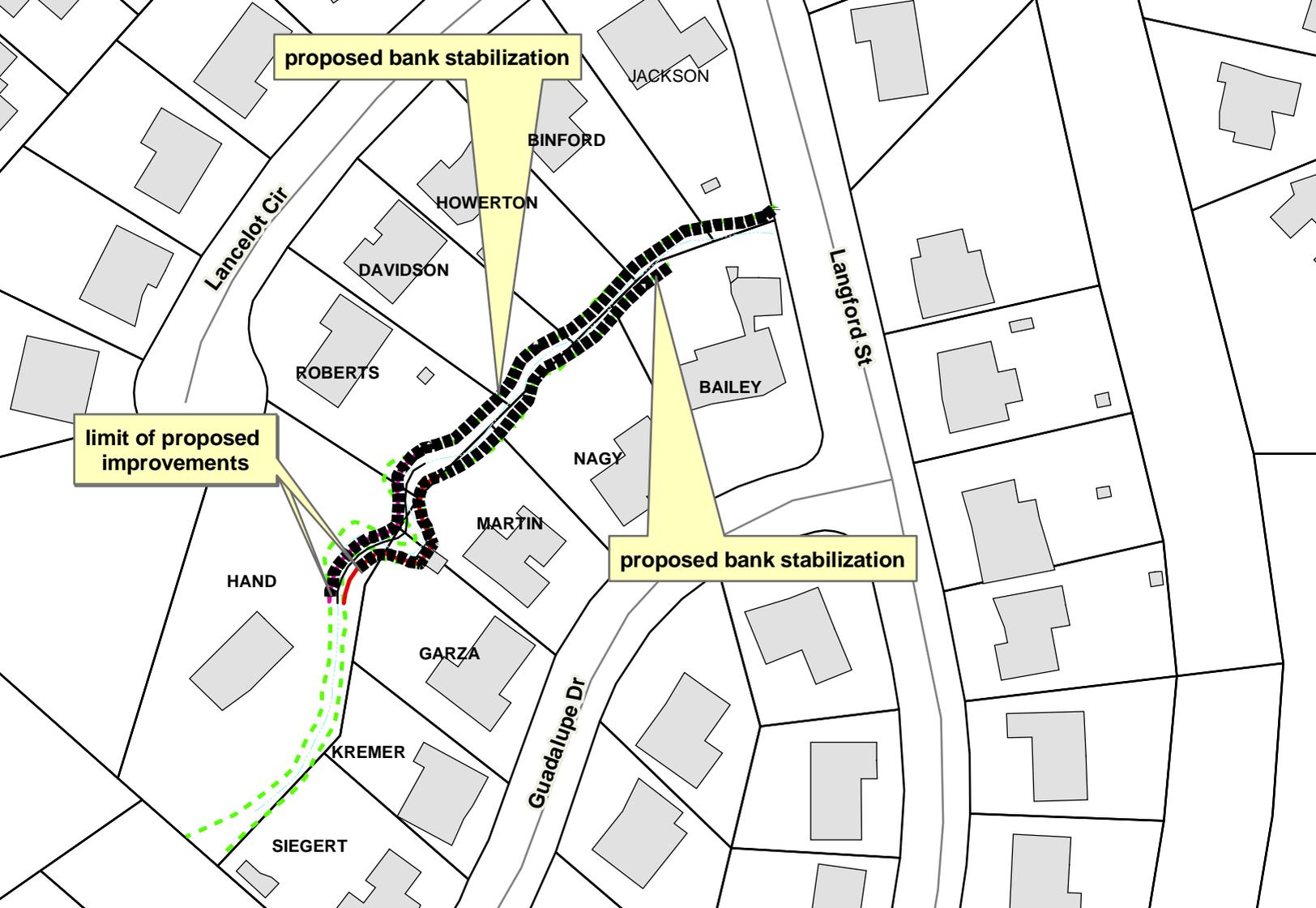
Attachments:

1. Tabulation of Bid No. 06-57
2. Location map

**CRUSHED LIMESTONE FOR CREEK BANK EROSION CONTROL
 BID TABULATION #06-57
 PUBLIC WORKS**

Item	Qty	Unit	Description	Superior Crushed Stone, LC		Young Contractors	
				Unit Price	Item Total	Unit Price	Item Total
1	3,000	tons	Crushed Stone, 4"-6" (Pick up by City)	*Non Responsive		25.000	\$ 75,000.00
2	3,000	tons	Crushed Limestone (Delivered)	19.350	\$ 58,050.00	No Bid	

*Not in the 30 mile radius as specified in the bid for pickup by City Trucks
 City Staff Recommends Superior for Delivery to City's Site



proposed bank stabilization

JACKSON

BINFORD

HOWERTON

DAVIDSON

ROBERTS

BAILEY

Langford St

limit of proposed improvements

NAGY

MARTIN

proposed bank stabilization

HAND

GARZA

Guadalupe Dr

KREMER

SIEGERT

**February 23, 2006
Consent Agenda
Northeast Sanitary Sewer Trunkline Construction Contract**

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on the resolution approving a construction contract (Contract #06-094) with Dudley Construction, Ltd. in the amount of \$371, 577.01 for sanitary sewer rehabilitation.

Recommendation(s): Staff recommends award of the contract to the lowest, responsible bidder meeting specifications, Dudley Construction, Ltd.

Summary: This contract is for the sanitary sewer rehabilitation across Earl Rudder Freeway just north of University Drive. Sealed competitive bids were received from two (2) contracting firms and the summary of the results is as follows:

Dudley Construction, Ltd.	\$371, 577.01
Elliot Construction	\$420, 903.00

Budget & Financial Summary: Funds are budgeted and available for this project from the Wastewater Utility Fund.

Attachments:

1. Resolution
2. 06-49 Bid Tab
3. Project Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE WEST PARK REHABILITATION PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Northeast Sanitary Sewer Trunkline Project; and

WHEREAS, the selection of Dudley Construction, Ltd., is being recommended as the lowest responsible bidder for the construction services related to the Northeast Sanitary Sewer Trunkline Project; now, therefore,

BE IT RESOLVED by the City Council of the City of College Station, Texas:

PART 1: That the City Council hereby finds that Dudley Construction, Ltd., is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Dudley Construction, Ltd. for \$ 371,577.01 for the labor, materials and equipment required for the improvements related the Northeast Sanitary Sewer Trunkline Project.

PART 3: That the funding for this Project shall be as budgeted from the Wastewater Utility Fund in the amount of \$ 371,577.01.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 23 day of February, A.D. 2006.

ATTEST:

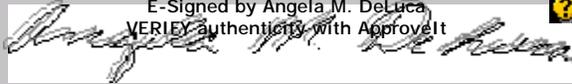
APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:

E-Signed by Angela M. DeLuca
VERIFY authenticity with ApproveIt



City Attorney

**NORTHEAST SANITARY SEWER TRUNKLINE
 BID TABULATION 06-49
 PUBLIC WORKS - ENGINEERING**

BID ITEM NO.	QTY	UNIT	BID ITEM DESCRIPTION	DUDLEY CONSTRUCTION		ELLIOTT CONSTRUCTION	
				UNIT PRICE BID IN NUMBERS	AMOUNT BID	UNIT PRICE BID IN NUMBERS	AMOUNT BID
1	1	L.S.	Initial Mobilization for project	\$47,000.00	\$47,000.00	\$53,000.00	\$53,000.00
2	476	L.F.	Furnish and install 36-inch diameter steel encasement pipe, 1/2-inch wall thickness by boring, jacking, or tunneling, complete in place	\$442.78	\$210,763.28	\$500.00	\$238,000.00
3	476	L.F.	Furnish and install 24-inch C905 PVC DR 25 (165 psi) carrier pipe with thrust restraints & spacers or 24-inch Ductile Iron Pipe (200 psi) with field locked gaskets & spacers inside 36-inch encasement pipe, complete in place	\$128.21	\$61,027.96	\$143.00	\$68,068.00
4	73	L.F.	Furnish and install 24inch diameter ASTM F679 (T-1) PVC sanitary sewer, 6-feet to 8-feet deep, by open cut, including embedment, backfill, and all incidentals, complete in place.	\$81.86	\$5,975.78	\$89.00	\$6,497.00
5	66	L.F.	Furnish and install 24inch diameter ASTM F679 (T-1) PVC sanitary sewer, 8-feet to 10-feet deep, by open cut, including embedment, backfill, and all incidentals, complete in place	\$73.66	\$4,861.56	\$92.00	\$6,072.00
6	47	L.F.	Furnish and install 12-inch diameter ASTM D 3034 PVC sanitary sewer, 6-feet to 8-feet deep, by open cut, including embedment, backfill, and all incidentals, complete in place	\$40.85	\$1,919.95	\$64.00	\$3,008.00
7	28	L.F.	Furnish and install 12-inch diameter ASTM D 3034 PVC sanitary sewer, 8-feet to 10-feet deep, by open cut, including embedment, backfill, and all incidentals, complete in place	\$36.76	\$1,029.28	\$66.00	\$1,848.00
8	550	L.F.	Abandon existing 18-inch sanitary sewer and fill with grout, complete in place	\$15.06	\$8,283.00	\$14.00	\$7,700.00
9	5	EA.	Furnish and install 5-foot diameter concrete manholes all depths, complete in place	\$4,901.00	\$24,505.00	\$5,680.00	\$28,400.00
10	3	EA.	Remove existing sanitary sewer manhole and backfill, compete in place	\$476.00	\$1,428.00	\$1,000.00	\$3,000.00
11	1	L.S.	Furnish, install, maintain, and removeTraffic Control Plan, complete in place	\$1,517.00	\$1,517.00	\$1,500.00	\$1,500.00
12	260	L.F.	Furnish, install, maintain, and remove Filter Fabric Fence, complete in place	\$3.86	\$1,003.60	\$4.00	\$1,040.00
13	260	L.F.	Furnish and implement Trench Safety Plan, complete in place	\$2.56	\$665.60	\$2.00	\$520.00
14	1	L.S.	Hydromulch disturbed ground, complete in place	\$947.00	\$947.00	\$1,500.00	\$1,500.00
15	10	C.Y.	Furnish and install crushed stone for trench stabilization,not for embedment, complete in place	\$65.00	\$650.00	\$75.00	\$750.00

TOTAL BASE BID =	<u>\$371,577.01</u>	<u>\$420,903.00</u>
CALENDAR DAYS TO SUBSTANTIAL COMPLETION =	<u>75</u>	<u>100</u>
NUMBER OF ADDENDA RECEIVED =	<u>2</u>	<u>2</u>



PROJECT LOCATION

Frontage 6 Rd E

Frontage 6 Rd W

University Dr E

University Dr

Forest Dr

University Dr E

Glenhaven Dr

Onramp 6 S

Onramp 6 N

**February 23, 2006
Consent Agenda
Amendment to TEEEX Contract**

To: Glenn Brown, Interim City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion on an amendment extending the completion date to March 31, 2006 and adding \$5, 600 to a contract between the City and TEEEX for technical assistance in the development of uniform drainage design guidelines for College Station and Bryan.

Recommendation(s): Staff recommends approval of the contract amendment with TEEEX.

Summary: Council approved a similar amendment to the agreement back on December 15, 2005. There were some errors on the face of the agreement. The previous agreement called for an increase of the correct amount but an error of \$1,000 was made in adding the amended amount to the original contract. Also, the dates for the extension did not provide for adequate time to complete the contract.

The amendment accompanying this agenda item contains the correct amount and date.

Budget & Financial Summary: The funds for the development of the drainage design standards are available and budgeted in the Drainage Utility Fund.

Attachments:

1. Contract Amendment



**AMENDMENT No. 1
TO CONTRACT BETWEEN THE
TEXAS ENGINEERING EXTENSION SERVICE
AND
City of College Station**

This Amendment No. 1 is made and entered into by the Texas Engineering Extension Service (hereinafter referred to as "TEEX"), and the City of College Station (hereinafter referred to as "the City"), each of the aforementioned being referred to individually as the "Party" or collectively as the "Parties";

WHEREAS, the Parties originally executed an Agreement, dated December 29, 2004, hereinafter referred to as "Contract";

WHEREAS, the Parties desire to amend the Contract to extend the termination date and increase the dollar limit;

NOW, THEREFORE, the Parties hereto agree as follows:

1. Extend the termination date of the original MOA #05-27-10136 to March 31, 2006.
2. Increase the dollar limit of the original contract by \$5,600 (from \$24,400 to \$30,000).

This Amendment shall incorporate by reference the remainder of the terms of the original Agreement, which shall remain in effect to the extent not contradicted by the modifications provided herein.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to be executed by their authorized representative.

TEXAS ENGINEERING EXTENSION SERVICE

City of College Station

By: *Dan Gray*

By: _____

Name: Dan Gray

Name: _____

Title: Division Director

Title: _____

Date: 2-6-06

Date: _____

CITY OF COLLEGE STATION

ATTEST:

City Secretary

Date

APPROVED:

City Manager

Date

Carla A. Robinson

City Attorney

Date

Director of Fiscal Services

Date

February 23, 2006
Consent Agenda
Construction of Pedestrian Improvements
at the FM 2818 and Welsh Avenue Intersection

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct pedestrian improvements at the FM 2818 and Welsh Avenue intersection in an amount not to exceed \$800,000.

Recommendation(s): Staff recommends approval of the AFA.

Summary: The Strategic Plan update (February 2005) listed this project as a medium term initiative "Core Services Strategy #2 - Work with TxDOT on pedestrian safety issues".

The City of College Station and the Texas Department of Transportation have worked together to investigate ways to improve the capacity of this intersection and enhance the safety of the pedestrians and bicyclists that use this intersection. The resulting agreement was for the Texas Department of Transportation to prepare the detailed construction plans, specifications and estimate (PS&E) for the project and the City of College Station to acquire the necessary right of way, adjust any utilities, and administer the construction contract. The estimated cost of the City's participation in the AFA is \$800,000.

At the November 22, 2005 city council meeting, a resolution was passed seeking approval from the Texas Department of Transportation to allow the City of College Station to let and administer the construction contract for this project. After the approval and execution of this AFA, TxDOT will begin developing the PS&E for the project.

Budget & Financial Summary: Funds for this project are available from several projects and available in the FY 2006 budget and the proposed FY 2007 budget. Sources of funds for this project are:

	PROJECT	Amount	Availability
ST 0517	Sidewalk Improvements	\$50,036	FY 2006
ST 0511	Traffic Safety Improvements	61,370	FY 2006
ST 0512	New Traffic Signal Projects	200,200	FY 2007
	Streets CIP Interest Income	102,000	FY 2006
ST 0516	Ped. Improvements @ 2818	47,906	FY 2006
ST 9928	Victoria OP	280,361	FY 2006
		<u>\$ 741,873</u>	

The AFA estimates a cost of \$800,000. This estimate included right of way acquisition and utility relocation. The city anticipates there will no charge for these items.

Attachments:

1. AFA
2. Location Map

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
FOR A LOCAL GOVERNMENT TO
CONSTRUCT AN ON-SYSTEM IMPROVEMENT
WITH 50% to 100% LOCAL FUNDS**

THIS AGREEMENT (the Agreement) is made by and between the State of Texas, acting by and through the Texas Department of Transportation hereinafter called the “State”, and the City of College Station, acting by and through its duly authorized officials, hereinafter called the “Local Government.”

WITNESSETH

WHEREAS, Transportation Code, Section 201.209 authorizes the State and a Local Government to enter into agreements to increase the efficiency and effectiveness of government within the scope of their authorized duties; and,

WHEREAS, Texas Transportation Code, Section 222.052 allows a Local Government to contribute funds for the development and construction of the public roads and state highway system; and,

WHEREAS, the Local Government has provided for the improvement of the FM 2818 intersection with Welsh Avenue in the City of College Station (the Project) to improve the safety and operations of the public roads and state highway system as approved by a resolution or ordinance which is attached hereto and made a part hereof as Attachment “A.”

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

- 1. Period of the Agreement.** This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided herein.

- 2. Scope of Work.** The Local Government will fund and develop the Project described as the contract letting, contract administration and construction funding of improvements to the FM 2818 intersection with Welsh Avenue in the City of College Station. The project is at the location described in Project Location Map, attached hereto and made a part hereof as Attachment "B".
- 3. Right of Way.** No right-of-way or real property acquisition will be required for FM 2818. Additional right-of-way and real property acquisition for Welsh Avenue shall be the responsibility of the Local Government. Title to right-of-way and other related real property must be acceptable to TxDOT before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of the project site under this Agreement, the Local Government shall permit TxDOT or its authorized representative access to occupy the site to perform all activities required to execute the work.

All parties to this agreement will comply with and assume the costs for compliance with all the requirements of 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., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to TxDOT and its representatives for review and inspection.

- A. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to TxDOT, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- B. The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to TxDOT and to submit to TxDOT a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values.

4. Project Funding.

- a. The Local Government shall provide 100% (one hundred percent) of the funds necessary for the construction of the Project, including but not limited to: boundary surveys and the preparation of right-of-way maps and documents; right-of-way acquisition; required utility work; any mitigation or remediation required to clear the Project environmentally; all costs associated with letting the Project to contract; all construction bid item costs; all construction contract management costs; all construction bid item change order costs, should they become necessary; and all construction bid item material and equipment testing costs. An Estimated Project Budget is attached as Attachment C.
- b. The State shall be responsible for funding and/or providing the following items: environmental assessment; preliminary and final design work, including the preparation of the complete plans, specifications and estimate (PS&E). The State may inspect any construction and test any materials associated with any item of work that will be the State's to maintain upon the completion of the Project. The State will work through the Local Government's project manager in the event any deficiencies are found.
- c. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

5. Project Responsibilities. The Local Government is responsible for all aspects of the Project unless otherwise indicated in this Agreement.

- a. **Utilities.** The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures.

The Local Government will be responsible for all costs associated with additional adjustment, removal, or relocation during the construction of the project, unless this work is provided by the owners of the utility facilities:

- i. per agreement;
- ii. per all applicable statutes or rules, or;
- iii. as specified otherwise in a LPAFA.

Prior to letting a construction contract for a local project, a utility certification must be made available to the State upon request stating that all utilities needing to be adjusted for completion of the construction activity have been adjusted.

b. Environmental Assessment and Mitigation.

- i. The Local Government must comply with all applicable federal, state, and local environmental laws and regulations and permitting requirements.
- ii. The State is responsible for preparing the appropriate environmental documents, for all coordination and environmental clearance.
- iii. The State is responsible for the identification and assessment of any environmental problems associated with the Project.
- iv. The Local Government is responsible for the cost of the mitigation or remediation of any environmental problems identified during the process of securing the environmental clearance of the Project.
- v. The Local Government is responsible for providing any public meetings or public hearings, if required.
- vi. The Local Government shall provide the State with written certification that identified environmental problems have been mitigated or remediated in accordance with the terms of the environmental documents and the coordination with the applicable resource agencies.

- c. Compliance with Texas Accessibility Standards and ADA.** The State shall ensure that the plans for Project are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

The Local Government shall ensure that the Project is constructed in accordance with the construction plans provided by the State and that all pedestrian elements are constructed in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

d. Preliminary Engineering.

- i. The State is responsible for the preparation of the plans, specifications and estimate (PS&E) for the Project. The State shall prepare the PS&E in accordance with the latest AASHTO or State standards and in a format consistent with projects constructed on state highways. All work will be done in accordance with the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges adopted by the department on June 1, 2004.
 - ii. The Local Government is responsible for providing any other contract documents specific to the Local Government's bidding procedures that may be required for the local letting and construction of the Project.
 - iii. The State shall afford the Local Government the opportunity to review and comment on the PS&E at the 30% and 90% stages of completion. The Local Government shall review all plan work and associated documentation and return their comments to the State in a timely manner.
 - iv. The Local Government shall not advertise for the construction contract until the State has provided the Local Government with the complete PS&E documents.
 - v. The Local Government shall submit shop drawings for all materials intended for use on the traffic signals and related items to the State for the State's approval, prior to fabrication and/or use.
- e. Bidding.** The Local Government shall have its own construction contract letting and award procedures approved by the State or the Local Government shall agree to use the applicable Local Government Project Procedures provided by the State at the following website: <http://txdot-webdev/business/localgov.htm>. The Local Government shall advertise for construction bids, issue bid proposals, receive and tabulate the bids and award a contract for construction of the Project in accordance with existing procedures and applicable laws.

The Local Government shall notify the State once the project is advertised for bids. Once the bid tabulations have been received, the Local Government shall obtain approval from the State prior to awarding the contract to the successful bidder.

f. Construction.

- i. The State will be responsible for auditing and construction oversight.
- ii. The Local Government shall notify the State before actual construction work on State right of way begins. Said notification shall include, but is not limited to: invitation to all pre-letting and pre-construction meetings; invitation to all work-in-progress meetings;

and a minimum of 3 workdays notice prior to performing major items of work (such as placing or modifying traffic control plans, placing any concrete items, and/or performing any work items on the existing or proposed traffic signal system) on the Project.

- iii. In the event it becomes necessary to modify the PS&E, the State and the Local Government will mutually agree upon the need and the scope of the work. Once an agreement has been reached, the State will prepare the change order documents for use by the Local Government and their contractor.
 - iv. The Local Government or its engineer will supervise and inspect all work performed by the construction contractor and will provide such engineering, inspection and testing services as may be required to ensure that the construction of the Project is accomplished in accordance with the approved PS&E and with the applicable TxDOT standards and specifications. The Local Government shall test (or cause to be tested) all construction bid item materials and equipment in accordance with TxDOT testing standards. The Local Government shall provide written results of the various tests to the State within 3 workdays following the completion of each test. In cases where a material or an equipment test indicates that the material or equipment fails to meet TxDOT standards, the Local Government shall recommend a course of corrective action to the State. The State shall have the authority to accept or reject the corrective action. If the corrective action plan is rejected by the State, the Local Government shall continue to seek-out a corrective action plan until it develops one that is acceptable to the State. All costs associated with material and/or equipment corrective actions shall be borne solely by the Local Government.
 - v. The Local Government shall submit all concrete mix designs to the State for approval prior to use on the project.
 - vi. The State shall have and retain oversight of all inspection of all items of work performed within the State right of way that will be the State's to maintain upon the completion of the project. The State shall periodically inspect the project's signs, barricades and traffic control plan to ensure compliance with the Texas Manual on Uniform Traffic Control Devices (TxMUTCD). The State shall attend all pre-work and pre-construction meetings.
- 6. Final Inspection.** The Local Government shall request by letter within fifteen (15) days of physical completion of the work that the local State office perform its final inspection and acceptance.
- 7. Project Maintenance.** The Local Government shall be responsible for maintenance of its own local public roads after completion of the Project. The State and the Local Government shall be responsible for the maintenance of the state highway system after completion of the Project in accordance with the Municipal Maintenance Agreement in effect at the time the maintenance is required.

- 8. Termination of this Agreement.** This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless the:
- a. Agreement is terminated in writing with the mutual consent of the parties;
 - b. Agreement is terminated because either party has breached the contract; or
 - c. Agreement is terminated by the Local Government if the Local Government's participation in the construction of the Project exceeds the amount budgeted by the Local Government for its construction.
- 9. Amendments.** Amendments to this Agreement due to changes in the character of the work or terms of the Agreement, or responsibilities of the parties relating to the Project must be enacted through a mutually agreed upon, written amendment.
- 10. Remedies.** This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.
- 11. Notices.** All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

Local Government:	State:
Glenn Brown, Interim City Manager City of College Station P.O. Box 9960 College Station, Texas 77840	Bryan Alan Wood, P.E. District Engineer 1300 North Texas Avenue Texas Department of Transportation Bryan, Texas 77803-2760

All notices shall be deemed given on the date so delivered or so deposited in the regular mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

- 12. Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal or unenforceable provision.
- 13. Responsibilities of the Parties.** The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

14. **Ownership of Documents.** Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government.
15. **Compliance with Laws.** The parties shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.
16. **Sole Agreement.** This Agreement constitutes the sole and only Agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.
17. **Retention of Records and Inspection.** The Local Government shall keep a complete and accurate record to document the performance of the work and to expedite any audit that might be conducted. The Local Government shall maintain all books, documents, papers, accounting records and other documentation relating to costs. Records shall include, but not be limited to, diaries, materials received (invoices), test reports, manufacturer's certificates, warranties, change orders, and time extensions. The Local Government shall make such materials available to the State, the Local Government, or their duly authorized representatives for verification, review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved.
18. **Insurance.** If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.
19. **Signatory Warranty.** The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

CSJ: 2399-01-047
District: 17-Bryan
Code Chart 64: 09050-College Station
Project: C 2399-1-47

IN TESTIMONY HEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE LOCAL GOVERNMENT

Name of the Local Government City of College Station

By _____ Date _____

Typed or Printed Name and Title Ron Silvia, Mayor, City of College Station

ATTEST:

Connie Hooks, City Secretary
Date: _____

APPROVED:

Glenn Brown, Interim City Manager
Date: _____

Carla A Robinson

City Attorney
Date: _____

Jeff Kersten, Finance & Strategic Planning Director
Date: _____

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

Janice Mullenix
Director of Contract Services Section
Office of General Counsel
Texas Department of Transportation

Date

ATTACHMENT A

Resolution or Ordinance

RESOLUTION NO. 11-22-2005-13.08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, IN SUPPORT OF IMPROVING THE INTERSECTION OF FM 2818 (HARVEY MITCHELL PARKWAY) AND WELSH AVENUE.

WHEREAS, Farm-to-Market Road (FM) 2818 (Harvey Mitchell Parkway) intersects with Welsh Avenue in the City of College Station (City); and

WHEREAS, said intersection is near the A&M Consolidated High School; and

WHEREAS, the City and the State have worked together to investigate ways to improve the capacity of this intersection and enhance the safety of the pedestrians and bicyclists that use this intersection; and

WHEREAS, the City and the State have agreed upon a plan to improve this intersection (the "Project"); and

WHEREAS, it is now necessary to prepare the detailed construction plans, specifications and estimate (PS&E); clear the Project environmentally; acquire the right of way needed to construct the Project; adjust any utilities that might conflict with the construction; let the Project to contract and administer and inspect the construction; and fund the construction of the Project; and

WHEREAS, the City and the State desire to share the responsibilities in the development and construction of the Project with the State responsible for preparing the detailed construction plans, specifications and estimate (PS&E); clearing the Project environmentally; and funding the same; and the City responsible for acquiring the right of way needed to construct the Project; adjusting any utilities that might conflict with the construction; letting the Project to contract and administering and inspecting the construction; and funding the same; and

WHEREAS, the City is required to seek approval from the State to perform those responsibilities as set forth above; now, therefore,

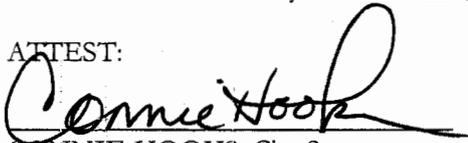
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby requests that the State permit the City to let the Project to contract and administer and inspect construction of the Project

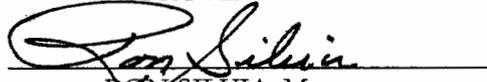
PART 2: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 22nd day of November, A.D. 2005.

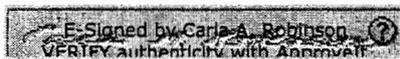
ATTEST:


CONNIE HOOKS, City Secretary

APPROVED:


RON SILVIA, Mayor

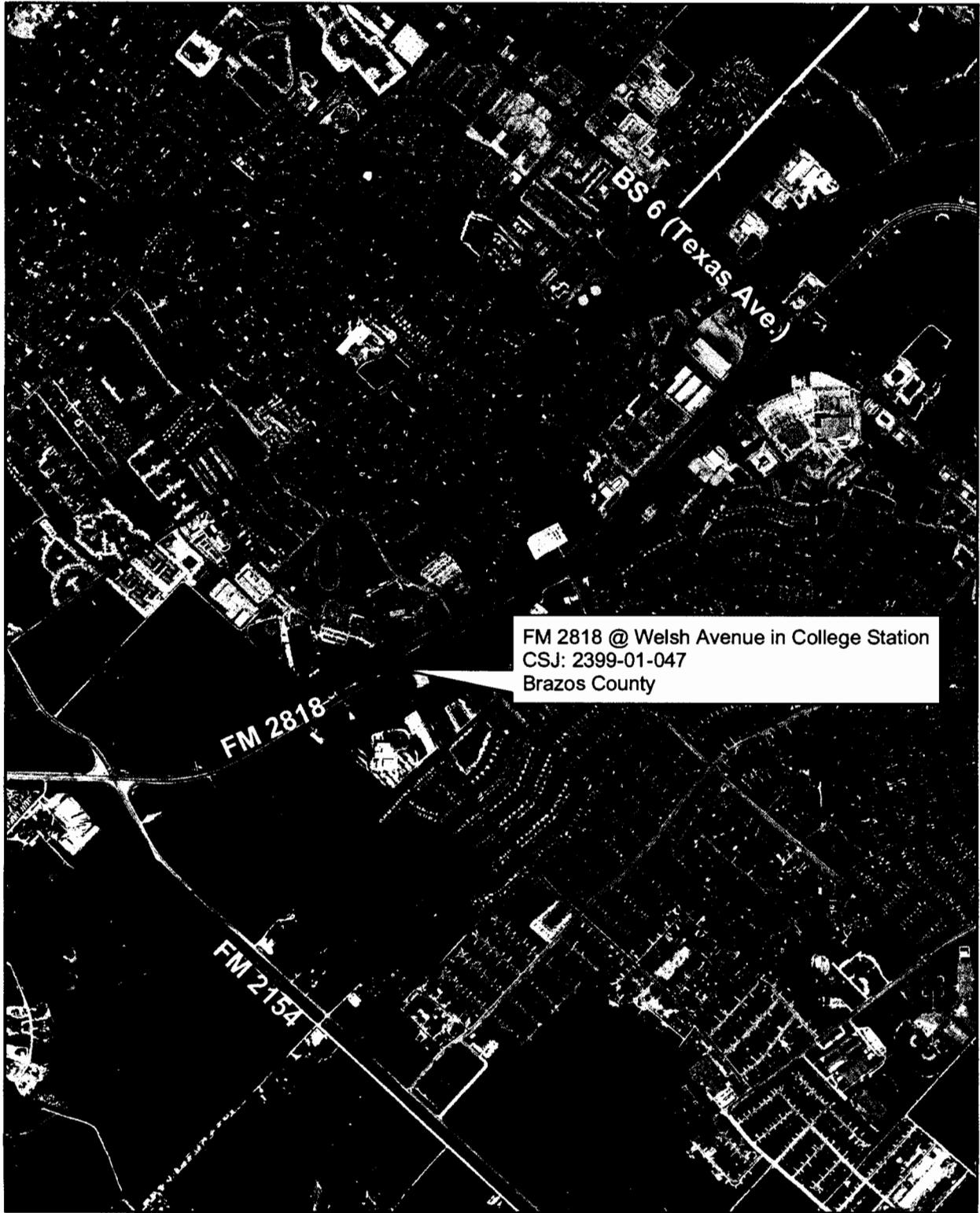
APPROVED:



City Attorney

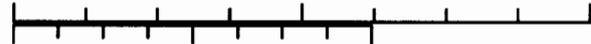
ATTACHMENT B

**Project Location Map
Showing Project**



FM 2818 @ Welsh Avenue in College Station
CSJ: 2399-01-047
Brazos County

0 0.25 0.5 1 Miles



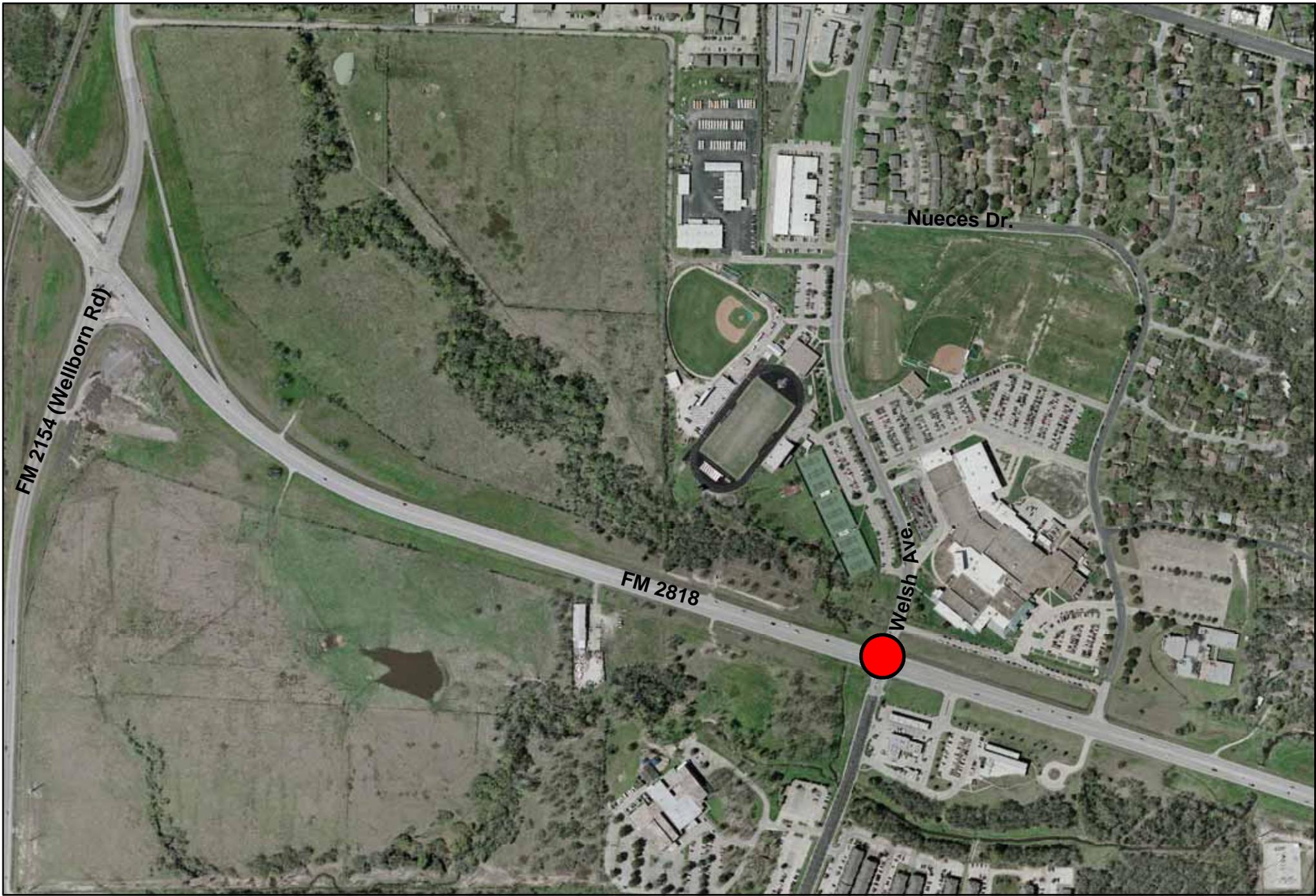
0 0.25 0.5 1 Kilometers

K

ATTACHMENT C

Estimated Project Budget

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
CONSTRUCTION COSTS							
PS&E	\$100,000	0%	\$0	100%	\$100,000	0%	\$0
Construction (includes right-of-way and utility costs)	\$800,000	0%	\$0	0%	\$0	100%	\$800,000
Direct State Costs (including plan review, inspection and oversight)	\$80,000	0%	\$0	100%	\$80,000	0%	\$0
Indirect State Costs (no local participation required except for service projects)	\$5,632	0%	\$0	100%	\$5,632	0%	\$0
TOTAL	\$985,632		\$0		\$185,632		\$800,000



Location Map

Proposed Pedestrian Improvements



January 26, 2006

February 23, 2006
Consent Agenda
Construction of Signals at the FM 2818 and F&B Road intersection

To: Glenn Brown, Interim City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct signals at, and improve the intersection of, FM 2818 and F&B Road in an amount not to exceed \$241,300.

Recommendation(s): Staff recommends approval of the AFA.

Summary: This is a collaborative effort with TAMU that adds right-turn lanes and a traffic signal at the intersection of FM 2818 and F&B Road.

The need for this project is caused by new facilities construction near the intersection of Agronomy Road and F&B road on the Texas A&M University campus. Significantly increased traffic flow is expected at the FM 2818 and F&B Road intersection once the new office building is occupied. The estimated cost of the City's participation is \$241,300.

The council can expect to see an item in the future requesting the abandonment of a portion of Finfeather once the Agronomy Road extension has been completed. This request is also related to the on campus building plan.

Budget & Financial Summary: \$241,300 is available in the 2003 General Obligation Bonds approved for the Traffic System Safety Improvements.

Attachments:

1. AFA
2. Location Map

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY
LOCAL GOVERNMENT CONTRIBUTIONS
TO TRANSPORTATION IMPROVEMENT
PROJECTS WITH NO REQUIRED MATCH**

THIS AGREEMENT IS MADE BY AND BETWEEN the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and the City of College Station, acting by and through its duly authorized officials, hereinafter called the "Local Government."

WITNESSETH

WHEREAS, Transportation Code, Chapters 201, 221, 227, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and,

WHEREAS, Commission Minute Order Number 108410 authorizes the State to undertake and complete a highway improvement generally described as miscellaneous work consisting of the addition of turn lanes at FM 2818 (Harvey Mitchell Parkway) and F&B Road; and,

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the installation traffic signals and safety lighting at this location, hereinafter called the "Project"; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Time Period Covered

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and the Local Government will consider it to be in full force and effect until the Project described herein has been completed and accepted by all parties or unless terminated, as hereinafter provided.

Article 2. Project Funding and Work Responsibilities

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract.

In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

Article 3. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

Article 4. Adjustments Outside the Project Site

The Local Government will provide for all necessary right-of-way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

Article 5. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider.

Article 7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

Article 8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated herein by reference, or special specifications approved by the State.

Article 9. Increased Costs

In the event it is determined that the funding provided by the Local Government will be insufficient to cover the State's cost for performance of the Local Government's requested work, the Local Government will pay to the State the additional funds necessary to cover the anticipated additional

cost. The State shall send the Local Government a written notification stating the amount of additional funding needed and stating the reasons for the needed additional funds. The Local Government shall pay the funds to the State within 30 days of the written notification, unless otherwise agreed to by all parties to this agreement. If the Local Government cannot pay the additional funds, this contract shall be mutually terminated in accord with Article 10 - Termination. If this is a fixed price agreement as specified in Attachment A, Payment Provision and Work Responsibilities, this provision shall only apply in the event changed site conditions are discovered or as mutually agreed upon by the State and the Local Government.

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the local government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

Article 10. Maintenance

Upon completion of the Project, the State will assume responsibility for the maintenance of the completed Project unless otherwise specified in Attachment A to this agreement.

Article 11. Termination

This agreement may be terminated in the following manner:

- ◆ by mutual written agreement and consent of both parties;
- ◆ by either party upon the failure of the other party to fulfill the obligations set forth herein;
- ◆ by the State if it determines that the performance of the Project is not in the best interest of the State.

If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.

- ◆ Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

Article 12. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	State:
Mr. Glen Brown, Interim City Manager City of College Station P.O. Box 9960 College Station, Texas 77842	Mr. Bryan A. Wood, P.E. Bryan District Engineer 1300 North Texas Avenue Bryan, Texas 77803

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

Article 13. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

Article 14. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

Article 15. Amendments

By mutual written consent of the parties, this contract may be amended prior to its expiration.

Article 16. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

Article 17. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

Article 18. Signatory Warranty

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party they represent.

IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT have executed duplicate counterparts to effectuate this agreement.

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

THE LOCAL GOVERNMENT

Name of the Local Government City of College Station

By _____ Date _____

Typed or Printed Name and Title Ron Silvia, Mayor, City of College Station

ATTEST:

Connie Hooks, City Secretary
Date: _____

APPROVED:

Glenn Brown, Interim City Manager
Date: _____

Carla A Robinson
City Attorney
Date: _____

Jeff Kersten, Finance & Strategic Planning Director
Date: _____

ATTACHMENT A

**Work Responsibilities
and
Payment Provision**

Description of the Items of Work:

1. The Local Government has requested to participate in the State's proposed project to improve the existing intersection of F&B Road with FM 2818 (Harvey Mitchell Parkway). Specifically, the Local Government will participate by funding 100 percent of the installation of new traffic signals, including pedestrian signals if warranted, and safety lighting at this location in conjunction with the proposed roadway improvements created by the design and construction of this project.

The Local Government is also responsible for a portion of the total contract cost of Mobilization, Barricades, Signs and Traffic Handling and construction engineering and contingencies. These costs will be based on the cost of the work for which the Local Government is responsible and will be expressed as a percentage of the total project cost.

The Local Government's participation in this project is listed below:

Estimated Construction Cost.....	\$ 190,000
Mobilization (10% of Construction Cost).....	\$ 19,000
Barricades, Signs and Traffic Handling (1% of Construction Cost)	\$ 1,900
Construction Engineering and Contingencies (16% of Construction Cost).....	\$ 30,400
 Total Estimated Cost to the Local Government.....	 \$ 241,300

2. The State, or an authorized third party, is responsible for completing all preliminary engineering, environmental documents and clearances, for the development and preparation of the plans, specifications and estimate (PS&E) necessary to perform the work and for all right-of-way acquisition and utility adjustments. The State is responsible for the contract award and administration and for the cost of the construction engineering and contingencies except as noted in Item 1.
3. The State is responsible for all construction costs of all roadway improvements, for all required improvements to ADA facilities such a curb ramps and landings, for all required upgrades to existing signs and pavement markings and markers and for all other work not associated with the work funded by the Local Government as outlined in Item 1.

Schedule of Payments

Ninety (90) days prior to the date set by the State to receive bids for this Project, the State will notify the Local Government in writing of the total estimated amount the Local Government owes for its participation in this Project. This amount will be calculated using the Project's estimated cost as shown in the plans estimate prepared by the State for the project and will cover only those items of work outlined in Item 1 above and agreed to by the Local Government.

Within thirty (30) days of the date of this written notification, the Local Government will remit a check or warrant made payable to the Texas Department of Transportation in an amount sufficient to cover its total estimated participation in the cost of the Project. The State will not authorize the beginning of this work until the required funding has been made available to the State.

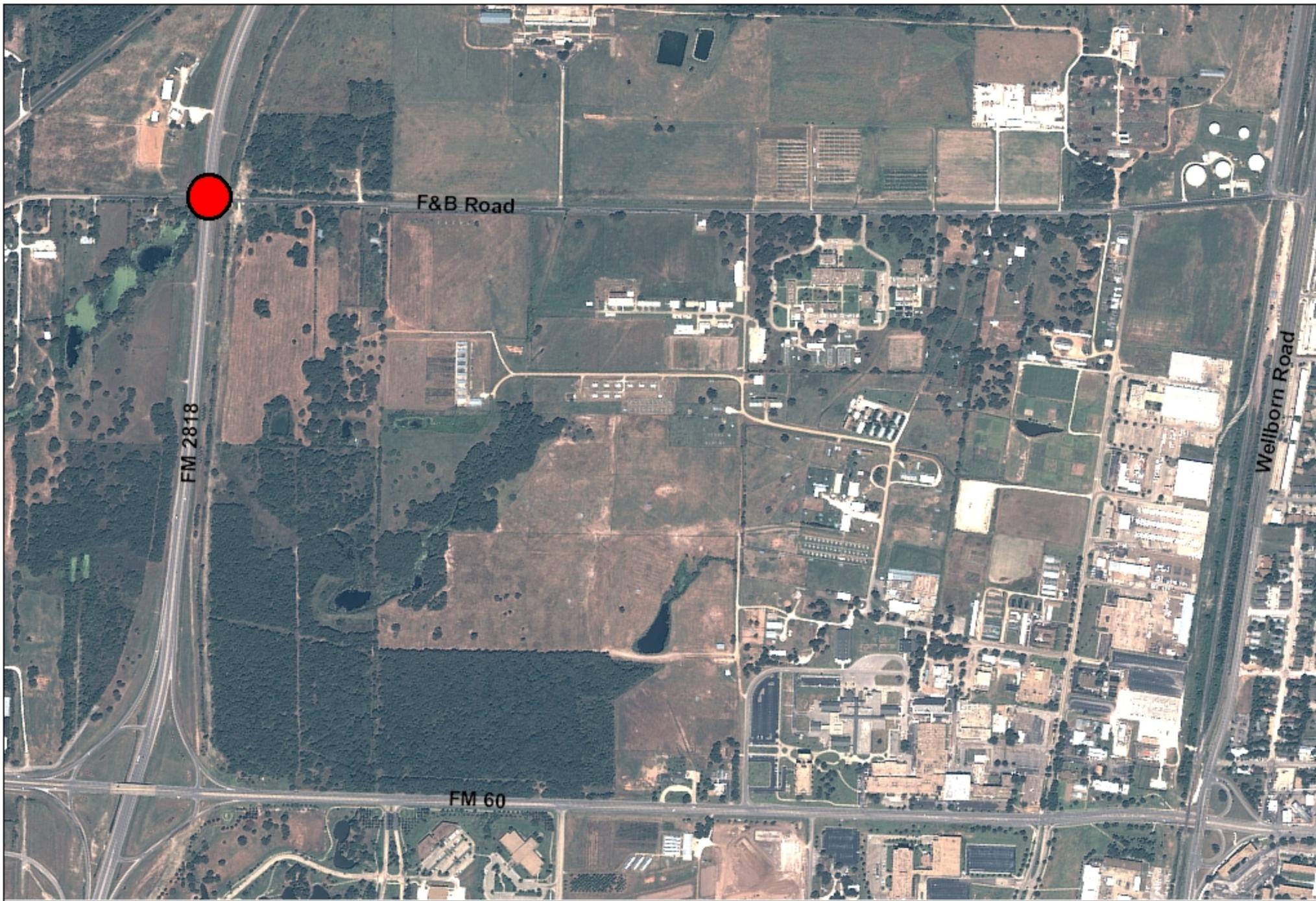
In accordance with Article 8, Increased Costs, the Local Government will be responsible for the actual cost of their portion of the work, which will be based on actual or negotiated unit bid prices and final quantities. Any increase in the cost of the Project to the Local Government due to changes in site conditions will be mutually agreed upon by the State and the Local Government prior to the authorization of any work.

Operation

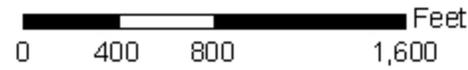
A signal at this location is not warranted by the current traffic conditions. The Local Government may not activate this signal until the appropriate signal warrants are met and approved by the State. These warrants should be submitted to the State by mail to the address shown in the agreement for their review and approval.

Maintenance

Upon the completion of the Project, the Local Government will be responsible for the maintenance of the Project in accordance with the Municipal Maintenance Agreement between the State and the Local Government that is in effect at the time the maintenance is required.



Location Map Proposed Signal Construction



December 15, 2005

February 23, 2006
Consent Agenda
Exception to Policy for Sewer Service to Indian Lakes Patio Homes

To: Mr. Glenn Brown, Interim City Manager

From: Mr. John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action, and discussion for an exception to Policy to allow Smiling Mallard Development to construct sewer lines necessary to connect the Indian Lakes patio homes to the City sewer system.

Recommendation(s): Staff recommends Council approve this exception to Policy to allow the Indian Lakes patio homes to connect into the City sewer system.

Summary: Smiling Mallard Development, Ltd has received approval of their preliminary plat to construct a section of patio homes in the Indian Lakes Development, which is located in the City's extra-territorial jurisdiction (ETJ). The City has applied to the Texas Commission on Environmental Quality (TCEQ) for the sewer Certificate of Convenience and Necessity (CCN) in this area, and the Developer has written to TCEQ requesting the area of these patio homes be included in the City's CCN. This letter is provided as attachment (1). The City's sewer CCN application has not yet been approved by the TCEQ, however, the area is presently not certificated and the City has the legal right to provide this sewer service.

A City sewer line will be constructed soon in the Nantucket area, which will provide adequate capacity for the Indian Lakes patio homes to be connected. Smiling Mallard has proposed to bear all cost and obtain all easements to construct a sewer line from the patio homes to the City's Nantucket sewer line, as shown on attachment (2).

City Policy, attachment (3), states that the City may provide sewer service outside the City limits when the owner has petitioned for annexation. In this case, annexation is not possible since the property is not contiguous with the City limits. However, the City Policy also allows for exceptions to the Policy, so that sewer service may be provided outside the City limits or the City's CCN in certain situations. Since the City does not yet hold the CCN for the Indian Lakes area, an exception to Policy is required.

Exceptions are allowed for three cases, one of which is for health and safety reasons. The health and safety of all the Indian Lakes residents is much better served by having the patio homes connected to the City sewer system, rather than being served by a small sewage treatment package plant that would discharge into one of the local ponds. On this basis, Staff recommends approval of this exception to Policy.

Budget & Financial Summary: City funds are not required to execute this project. An oversize participation request will likely be presented for Council consideration in the future.

Attachments:

- (1) Letter from Smiling Mallard to the TCEQ
- (2) Map showing location of proposed sewer line
- (3) Policy on extension of utilities to the ETJ

December 27, 2005

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P.O. Box 13087
Austin, TX 78711-3087

RE: **Amendment to Request for Hearing** on City of College Station's Application to Amend CCN No. 20126 in Brazos County, Texas; Application No. 35107-C (the "Application")

To Whom It May Concern:

This letter is intended to serve as an amendment to Smiling Mallard Development, Ltd.'s (the "Developer") request for hearing on the City of College Station's Application to expand its sanitary sewer CCN service area in the southern part of Brazos County, Texas. The Developer sent a letter dated November 18, 2005 requesting a hearing (the "Request for Hearing") for all of its property in the area covered under the Application. The Developer now desires to amend its Request for Hearing so as to remove certain of its properties from the Request for Hearing. Specifically, the Developer no longer requests a hearing on the Application for the following property:

- The Villages of Indian Lakes, Phase 9, Block 16, Lots 1-19
- The Villages of Indian Lakes, Phase 9, Block 17, Lots 1-25
- The Villages of Indian Lakes, Phase 9, Common Areas

Please refer to the attached Exhibit A for the general location of the subject property. Final boundary lines delineating the subject property are included in the CCN coverage area map submitted by the City of College Station as a part of its Application.

With this amendment to its Request for Hearing, the Developer does not intend to represent in any way, shape, or form its intention to include any other property owned by the Developer within this request. The Developer seeks to exclude only the property noted above and shown on the attached Exhibit A from its Request for Hearing on the Application.

The development plans for the other property owned by Smiling Mallard Development consists of 1-acre or greater residential lots, which by state regulation, are permitted to obtain sewer service through the implementation of permitted on-site sewer facilities.

If you have any questions regarding this request, please contact me at (979) 846-4384.

Thank you for your time and consideration.

Sincerely,



Travis Martinek
Design & Construction Manager
Smiling Mallard Development, Ltd.

CC: Charles Ellison, The Ellison Firm
David Coleman, College Station Utilities
Carol Cotter, College Station Planning and Development Services

Administrative Offices
3608 E. 29th Street, Suite 100 • Bryan, Texas • 77802
Phone: (979) 846-4384 • Fax: (979) 846-1461



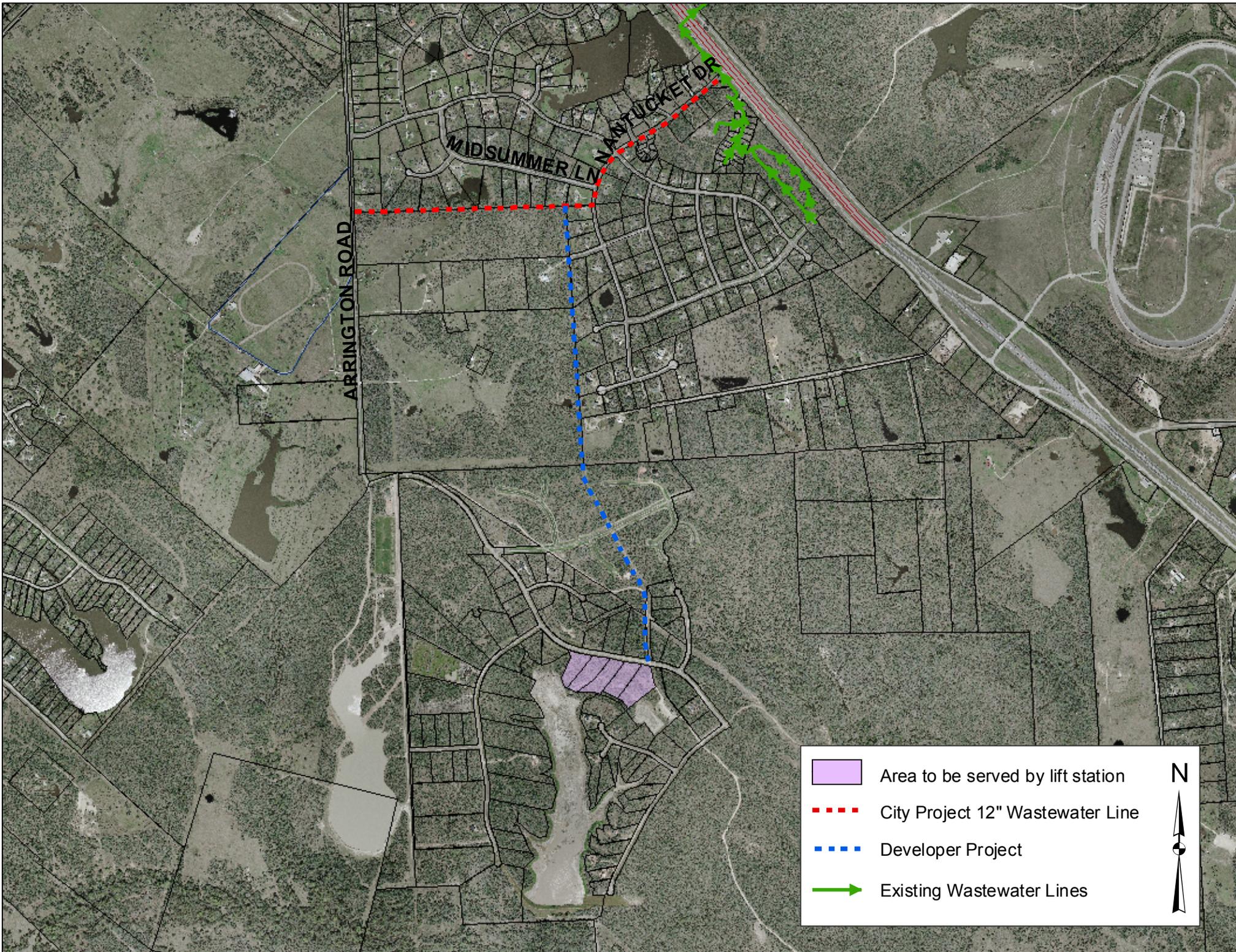
**VILLAGES OF
INDIAN LAKES**

EXHIBIT A

12/27/05

 **SUBJECT PROPERTY**

SCALE: 1" = 400'



	Area to be served by lift station	
	City Project 12" Wastewater Line	
	Developer Project	
	Existing Wastewater Lines	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AN OFFICIAL POLICY REGARDING THE EXTENSION OF WATER AND SEWER UTILITY SERVICES TO PROPERTIES WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF COLLEGE STATION, TEXAS.

WHEREAS, The City Council of the City of College Station adopted its current Comprehensive Plan in 1997, that includes *Section 2.09 Utility Goals and Objectives*; and

WHEREAS, The City Council of the City of College Station adopted, as part of the Comprehensive Plan, *Utility Objective 2.1* that states “Water service should be extended to undeveloped areas outside the city limits only as a condition of annexation”; and

WHEREAS, The City Council of the City of College Station adopted, as part of the Comprehensive Plan, *Utility Objective 3.1* that states “Sewer service should be extended to undeveloped areas outside the city limits only as a condition of annexation”; and

WHEREAS, the City of College Station has a Certificate of Convenience and Necessity for water and a Certificate of Convenience and Necessity wastewater is pending in certain parts of the City's Extraterritorial Jurisdiction in order to facilitate orderly development in that area; and

WHEREAS, under State law a certificated entity has the duty to serve in the area of convenience and necessity; and

WHEREAS, under State law cities have no land use control authority beyond the City Limits; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby approves this resolution adopting a policy stating that water and sewer utility services will not be available to properties outside the City's corporate limits without a petition for annexation from said properties meeting the legal requirements of such petitions or areas not certificated to the City of College Station for that service.

PART 2: That the City Council hereby requires that if the extension of service to a property is requested that is outside the City Limits of College Station, the Developer will extend utility service to the property under the supervision of City Staff and based on construction plans approved by the City Engineer. All construction will be in accordance with the fire code, TCEQ, and the City Subdivision Ordinance, whichever is more restrictive. The cost of the extension

of utility service will be borne solely by the Developer. Any upgrades in infrastructure required to meet fire, pressure, and/or TCEQ rules will be completed by the Developer at their expense. In the event of future connections to the utility service by other Subdivisions or Developers the original Developer will be reimbursed a prorated share based on calculations and methodology established within Chapter 11, Section 3: Water and Sewer Main Extension Policies. The cost shall be determined based on the point of connection of the new development.

If a developer determines that circumstances require that a package sewage treatment plant facility is appropriate, the cost and construction of such shall be borne by the developer and dedicated to the City for operation and maintenance. At such time that sewer lines can be extended by the City (or other new developments in the vicinity) to serve an area being served by a package plant, the facility shall be abandoned and removed at the City's discretion.

PART 3: That the City Council hereby agrees that it may grant exceptions as it deems necessary to the best interests of the City of College Station in the following cases:

- for other governmental agencies through an inter-local agreement,
- for the purpose of economic development; or
- for health and safety reasons

PART 4: That the City Council hereby establishes an annexation policy and program to incorporate affected areas in a manner that sufficiently addresses planning and development issues for these utility systems.

PART 5: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:


City Attorney

February 23, 2006
Consent Agenda Item
Resolution to change guidelines for Joint Relief Funding Review Committee

To: Glenn Brown, Interim City Manager

From: Connie Hooks, City Secretary

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a resolution replacing Resolution No. 05-25-88-12 which established the Bryan/College Station Joint Relief Funding Review Committee.

Summary:

The City Council adopted the Comprehensive Outside Agency Policy on August 15, 2005. Per the policy, staff was instructed to create guidelines for a new Citizen Committee, the Outside Agency Funding Committee, for the purpose of reviewing and making appropriate recommendations to City Council for outside agency request for City of College Station general fund monies.

Therefore, the guidelines for the Joint Relief Funding Review Committee have changed to be consistent with the new outside agency policy. The attached resolution amends the purpose of the Joint Relief Funding Review Committee to continue to review and make appropriate recommendations to City Council for funding of Community Development Block Grant Funds to eligible agencies and public programs.

Budget & Financial Summary: N/A

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE COLLEGE STATION CITY COUNCIL REPLACING
RESOLUTION NO. 05-25-88-12 WHICH ESTABLISHED THE BRYAN/COLLEGE
STATION JOINT RELIEF FUNDING REVIEW COMMITTEE.**

WHEREAS, the City of College Station City Council established the Bryan/College Station Joint Relief Funding Review Committee on May 26th, 1988 to review requests for municipal funding; and,

WHEREAS, the City of College Station City Council has determined the need to replace Resolution No. 05-25-88-12 to allow the Bryan/College Station Joint Relief Funding Review Committee to focus on funding requests for Community Development Block Grant Funds and to reflect current procedures; and,

WHEREAS, the City Councils of the City of Bryan and College Station desire to continue the Joint Relief Funding Review Committee for review of proposals and public programs eligible to receive monies from the Community Development Grant Funds; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION,
TEXAS:

PART 1: That the City Council hereby approves that the Bryan/College Station Joint Relief Funding Review Committee shall consist of three (3) representatives from Bryan, Places 1,2, and 3; and three (3) representatives from College Station, Places 4,5 and 6. Each place shall be appointed to three-year terms for no more than two consecutive terms.

PART 2: That the City Council hereby authorizes the Bryan/College Station Joint Relief Funding Review Committee to review all proposals for specific programs eligible to receive funds from the Community Development Block Grant Funds. The Bryan/College Station Joint Relief Funding Review Committee shall make recommendations to the City Councils for their consideration.

PART 2: That the City Council hereby approves that the Chairperson of the Bryan/College Station Joint Relief Funding Review Committee shall be selected from among its members on an annual basis.

PART 3: That this resolution shall replace Resolution No. 5-26-1988-12 and take effect immediately from and after its passage.

ADOPTED this _____ of _____, A.D. 2006.

ATTEST:

CONNIE HOOKS, City Secretary

APPROVED:

RON SILVIA, Mayor

APPROVED:



E-Signed by Angela M. DeLuca
VERIFY authenticity with ApproveIt

Angela M. DeLuca

City Attorney

February 23, 2006
Consent Agenda
Outside Agency Funding Review Committee Resolution

To: Glenn Brown, Interim City Manager

From: Jeff Kersten, Director of Finance & Strategic Planning

Agenda Caption: Presentation, possible action and discussion on a resolution creating the College Station Outside Agency Funding Review Committee.

Recommendation(s): Staff recommends approval of the resolution.

Summary: As part of the 2005-2006 budget process the City Council approved a Comprehensive Outside Agency Policy. Per this policy, a Citizen Committee is to be appointed by Council to review all Outside Agency requests other than Community Development Block Grant (CDBG) request funding. This resolution would establish the Citizen Committee to begin reviewing the FY07 Outside Agency requests. It is recommended that this be a 7 member committee.

If the resolution is approved staff will begin the process of advertising for this committee so that City Council appointments can be made in time to review the requests for the FY 07 budget process.

This item was included on the workshop agenda for discussion.

Budget & Financial Summary: N/A

Attachments:
Outside Agency Funding Review Committee resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE ESTABLISHMENT OF THE COLLEGE STATION OUTSIDE AGENCY FUNDING REVIEW COMMITTEE.

WHEREAS, the City Council of the City of College Station, Texas, adopted a Comprehensive Outside Agency Policy identifying the need for a Citizen Committee to review Outside Agency funding requests; and

WHEREAS, the City Council of the City of College Station, Texas, receives numerous requests for funding from area agencies and would like these requests reviewed by a Citizens Committee; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby approves the establishment of the College Station Outside Agency Funding Review Committee.

PART 2: That the City Council hereby approves that the College Station Outside Agency Funding Review Committee shall consist of seven (7) members from the City of College Station to be appointed by the College Station City Council. Upon initial appointment, places 1 and 2 will serve one (1) year terms; places 3 and 4 will serve two (2) year terms; and places 5, 6 and 7 will serve three (3) year terms. Thereafter, each place shall be appointed to three-year terms for no more than two consecutive terms.

PART 3: That the City Council hereby agrees that the College Station Outside Agency Funding Review Committee shall review all requests for funding other than Community Development Block Grant (CDBG) funding requests. The College Station Outside Agency Funding Review Committee shall make recommendations to the City Council for their consideration.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor



City Attorney

**23 February 2006
Consent Agenda
State Homeland Security Program Grant**

To: Glenn Brown, Interim City Manager

From: Robert Alley, Fire Chief

Agenda Caption: Presentation, possible action and discussion regarding the approval of a resolution accepting from the Governors Division of Emergency Management (GDEM) the 2004 State Homeland Security Sub-recipient Grant funds in the amount of \$ 51,918.70 and naming a City staff member as manager of those grant funds.

Recommendation(s): Staff recommends acceptance of the grant from Governors Division of Emergency Management (GDEM) and recommends the emergency management coordinator be designated as the "Point of Contact" for administration of this grant.

Summary: The City of College Station has been awarded the State Homeland Security program grant of \$51,918.70 through GDEM. The funding will be used by city departments to purchase equipment that will enhance our response capabilities to terrorist threats or catastrophic events. Attached is the equipment list for the FY-04 State Homeland Security Grant Program which funds are to be expended. The period of performance of this agreement shall be from December 1, 2003 – February 28, 2006.

Budget & Financial Summary: This is an equipment grant and the City of College Station has no matching funds committed. Dependent upon equipment requested future budgets might include requests for O&M for equipment obtained.

Attachments:

Resolution

2004 State Homeland Security Program Notice of Sub-recipient Award – 15976

2004 City of College Station Equipment List

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ACCEPTING THE 2004 HOMELAND SECURITY SUB-RECIPIENT AWARD FOR THE PURCHASE OF RESPONSE EQUIPMENT AND AUTHORIZING A CONTACT PERSON FOR THE CITY.

WHEREAS, the Office for Domestic Preparedness, a component of the U.S. Department of Homeland Security, has awarded the Governor's Division of Emergency Management (GDEM) the 2004 Homeland Security Grant Program; and

WHEREAS, the Governor's Division of Emergency Management (GDEM) has served the City of College Station with a Notice of Sub-recipient Award for the 2004 Homeland Security Grant Program in the amount of \$51,918.70;

WHEREAS, the intent of this sub-grant is to aid in the City's ability to enhance its capacity to prevent, respond to and recover from acts of terrorism and natural disasters; and now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the City Council hereby accepts the Sub-recipient Award for the 2004 Homeland Security Grant Program in the amount of \$51,918.70 from the Governor's Division of Emergency Management (GDEM).

PART 2: That the City Council hereby authorizes the Emergency Management Coordinator for the City of College Station to sign agreements with the Governor's Division of Emergency Management and designates him as the contact person for this award on behalf of the City of College Station.

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:

A rectangular box containing a handwritten signature in cursive, the text "E-Signed by Angela M. DeLuca, VERIFY authenticity with ApproveIt", and a small yellow question mark icon in the top right corner.

City Attorney



DIVISION OF EMERGENCY MANAGEMENT
Office of the Governor

RICK PERRY
Governor

STEVEN McCRAW
Director
Office of Homeland Security

Mailine Address:
PO Box 4087
Austin, Texas 78773-0220

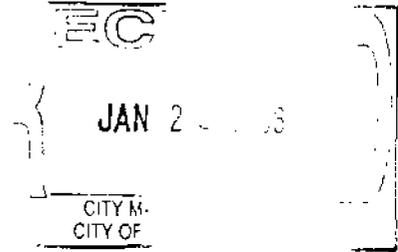
Contact Numbers:
512-424-2138 Duty Hours
512-424-2277 Non-Duty Hours
512-424-2444 Fax

Physical Address:
5805 N. Lamar Blvd.
Austin, Texas 78752

JACK COLLEY
Chief

January 16, 2006

The Honorable Ron Silvia
Mayor, City of College Station
P.O. Box 9960
College Station, TX 77842-0960



Dear Mayor Silvia:

I am pleased to inform you that the Governor's Division of Emergency Management (GDEM) has been awarded the FY '04 Homeland Security Grant Program (HSGP). The enclosed Notice of Sub-recipient Award for the 2004 HSGP is being sent to you as the chief elected official for College Station. Management of the FY '04 SHSP, initially administered by the Texas Engineering Extension Service has been moved to the Governor's Division of Emergency Management.

In association with the transition, an extension of the grant period was authorized from November 30, 2005 to February 28, 2006 for encumbering costs. The deadline for submitting invoices to GDEM is March 31, 2006. This encumbrance extension allows jurisdictions to order approved equipment that might not have been ordered due to uncertainty when this award would be made to GDEM from the federal Office of Grants and Training (G&T), formerly ODP. All jurisdictions have until Feb. 28, 2006 to encumber funds and order equipment already listed and approved on their equipment list on the DPA website.

The intent of the sub-grant is to aid your jurisdiction's ability to enhance its capacity to prevent, respond to and recover from acts of terrorism and catastrophic events. Our Texas Domestic Preparedness Assessment website indicates that Mr. Brian Hilton is the Point of Contact (POC) for your jurisdiction. If the POC is no longer serving, please provide this letter and its attachments to the individual who is now performing these duties and notify the SAA of this change as soon as possible.

The Notice of Sub-recipient Award must be signed by an individual authorized by the governing board of the jurisdiction or organization to accept grants and returned to GDEM in order to activate the grant. At the city and county level, individuals authorized to accept grants may include county judges, mayors, city managers, or chief financial officers. Other signatures will require an accompanying statement from the senior elected official authorizing the individual to sign for the jurisdiction. For agencies and organizations, authorized individuals typically include the Executive Director or Director.

In addition, a Direct Deposit Authorization form has been included and is available at the Texas State Comptroller's website: http://www.window.state.tx.us/taxinfo/taxforms/74-158.pdf. This form must also be filled out and submitted with the signed sub-recipient agreement to GDEM. If you have already submitted a completed direct deposit authorization form with your 2005 Grant Acceptance Notice you DO NOT have to submit another. A copy of the signed Notice of Sub-recipient Award and Direct Deposit Authorization should be made and retained for your grant files.

Continued

You will also find enclosed instructions for the process we would like for you to follow in the submission of your invoices. We understand that many of you have encountered distress with the 2004 Grant transition. We understand the frustration and would like to ensure you we will do everything possible to get your payments to you promptly, as we receive your completed invoices.

The SAA cannot make payments until a signed sub-recipient agreement is received. Jurisdictions are to return their signed (original signature) sub-recipient agreements through the mail to the SAA as soon as possible. Once the signed sub-recipient agreement has been returned to the SAA, invoices are to be submitted using the instructions page that is a part of this award packet. Do not submit invoices prior to February 1, 2006.

The deadline to return the signed *Notice of Sub-recipient Award* and the *Direct Deposit Authorization (if applicable)* is February 28, 2006. The signed notice must be mailed or postmarked by the due date. The offer of award will be withdrawn if the signed *Notice of Sub-recipient Award* is not returned by the due date.

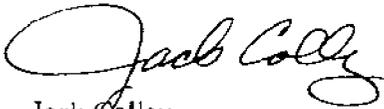
Please mail the signed Notice of Sub-Recipient Award to:

**Division of Emergency Management
Office of the Governor
Attention: SAA Section
PO Box 4087
Austin, Texas 78773-0270**

If you have any program questions regarding the HSGP, please contact Ben Patterson, SAA Section Manager at (512) 424-7809.

Congratulations, and we look forward to working with you.

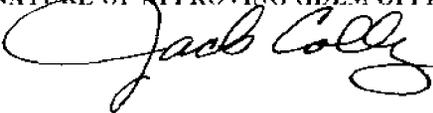
Sincerely,



Jack Colley
Chief

Enclosures: *2004 Notice of Sub-recipient Award*
Direct Deposit Authorization Form
Instructions for submission of Invoices

Copy: Brian Hilton
✓ Chief R. B. Alley

GOVERNOR'S DIVISION OF EMERGENCY MANAGEMENT (GDEM)		Grant Award Notice For College Station	
HOMELAND SECURITY GRANT PROGRAM (HSGP)			
1. SUB-RECIPIENT NAME AND ADDRESS: The Honorable Ron Silvia Mayor, City of College Station P.O. Box 9960 College Station, TX 77842-0960		4. SUB-AWARD NUMBER: 2004 HSGP - 15976	
		5. PERFORMANCE PERIOD: FROM DEC. 1, 2003 - FEB. 28, 2006 BUDGET PERIOD: FROM DEC. 1, 2003 - FEB. 28, 2006	
2. FEDERAL GRANT TITLE: HOMELAND SECURITY GRANT PROGRAM		6. DATE OF FEDERAL AWARD TO GDEM: DECEMBER 28, 2005	
3A. FEDERAL GRANT AWARD NUMBER: 2004-GE-T4-4015		7. AMOUNT OF SUBAWARD: \$51,918.70	
3B. FEDERAL GRANTING AGENCY: OFFICE FOR DOMESTIC PREPAREDNESS (ODP) DEPARTMENT OF HOMELAND SECURITY (DHS)		8. SUBAWARD DATE JANUARY 16, 2006	9. ACTION INITIAL AWARD
10. SPECIAL CONDITIONS This Sub award is subject to the ODP FY 2004 Homeland Security Grant Program Guidelines and Application Kit. The Guidelines and Kit can be accessed at http://www.ojp.usdoj.gov/odp/grants_programs.htm . The ODP periodically publishes Information Bulletins to release, update, amend or clarify grants and programs which it administers. ODP's Information Bulletins can be accessed at http://www.ojp.usdoj.gov/odp/docs/bulletins.htm and are incorporated by reference into this Sub award. This Sub award is also subject to the Federal Grant Award and to the grant guidance imposed upon GDEM by DHS.			
11. STATUTORY AUTHORITY FOR GRANT This project is supported under Public Law 108-90, the Department of Homeland Security Appropriations Act of 2004.			
12. A-133 REPORTING REQUIREMENT: All sub-recipients must submit an audit report to the Federal Audit Clearinghouse if they expended more than \$500,000 in federal funds in one fiscal year. The Federal Audit Clearinghouse submission requirements can be found at http://harvester.census.gov/sac/ . A report must be submitted to GDEM - SAA each year this grant is active. Sub-recipient shall comply with the audit requirements set forth in OMB Circular A-133.			
13. METHOD OF PAYMENT Primary method is reimbursement. See the enclosed instructions for the process to follow in the submission of invoices.			
14. DEBARMENT / SUSPENSION CERTIFICATION: By signing in block 19 below, the sub-recipient official certifies that any contractors utilized are not listed on the excluded parties listed system at http://www.epls.gov .			
15. NON-SUPPLANTING CERTIFICATION: By signing in block 19 below, the sub-recipient official certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Sub-recipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.			
AGENCY APPROVAL		SUB-RECIPIENT ACCEPTANCE	
16. APPROVING GDEM OFFICIAL Jack Colley, Chief Division of Emergency Management Office of the Governor		17. TYPED NAME AND TITLE OF AUTHORIZED SUB-RECIPIENT OFFICIAL	
18. SIGNATURE OF APPROVING GDEM OFFICIAL 		19. SIGNATURE OF AUTHORIZED SUB-RECIPIENT OFFICIAL	20. DATE
21. AWARD BREAKDOWN CFDA 97.073 SHSP 2004 \$20,018.70 CFDA 97.074 LETPP 2004 \$31,900.00			

**GOVERNOR'S DIVISION OF EMERGENCY
MANAGEMENT (GDEM)**

**HOMELAND SECURITY GRANT PROGRAM
(HSGP)**

**Grant Award Notice
For
College Station**

AWARD NUMBER: 2004 HSGP-15976

AWARD DATE: JANUARY 16, 2006

SPECIAL CONDITIONS

- 1) **Purpose:** Sub-grant funds will be used to (a) provide assistance for homeland security and emergency operations planning; (b) purchase specialized equipment to enhance the capability of state and local agencies to prevent, respond to and mitigate incidents of terrorism involving the use of chemical, biological, radiological, nuclear, explosive (CBRNE) and cyber attacks; (c) provide assistance for costs related to design, development and conduct of a state CBRNE and cyber security training programs and attendance at ODP sponsored CBRNE training courses; (d) provide assistance for cost related to the design, development, conduct and evaluation of CBRNE and cyber security exercises; (e) provide assistance for costs associated with implementing state homeland security assessments and strategies.
- 2) **Overview:** Funds provided shall be used to provide law enforcement and emergency response communities with enhanced capabilities for detecting, deterring, disrupting, and preventing acts of terrorism as described in the Federal Program Guidelines, specifically: planning, equipment, training and exercise needs. All costs under these categories must be eligible under OMB Circular No. A-87 Attachment A, located at <http://www.whitehouse.gov/omb/circulars/index.html>.
- 3) The *Notice of Sub-recipient Award* is only an offer until the sub-recipient returns the signed copy of the Notification of Sub-recipient Award in accordance with the date provided in the transmittal letter.
- 4) Sub-recipient agrees to comply with any additional requirements set by their council of governments, i.e. mutual aid agreements and UASI working group approvals.
- 5) Sub-recipient agrees to comply with the applicable financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide located at <http://www.ojp.usdoj.gov/oc/>.
- 6) Sub-recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide.
- 7) Sub-recipient agrees to make no request for reimbursement prior to return of this agreement and signed by the authorized sub-recipient representative.
- 8) Sub-recipient agrees to make no request for reimbursement for goods or services procured by sub-recipient prior to the performance period start date of this agreement.
- 9) Sub-recipient agrees to comply with the U.S. Department of Homeland Security Fiscal Year 2004 Urban Areas Security Initiative Grant Program Guidelines and Application Kit and the Notice of Award from ODP to GDEM.
- 10) Sub-recipient agrees to monitor the activities of program participants as necessary to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that the performance goals are achieved.
- 11) Notwithstanding any other agreement provisions, the parties hereto understand and agree that GDEM's obligations under this agreement are contingent upon the receipt of adequate funds to meet GDEM's liabilities hereunder. GDEM shall not be liable to the Sub-recipient for costs under this Agreement which exceed the amount specified in the Notice of Sub-recipient Award.
- 12) Projects identified in the Domestic Preparedness Assessment website (www.texasdpa.com) must identify and relate to the goals and objectives indicated by the applicable Texas Homeland Security Strategic Plan for the grant period of performance.

- 13) Sub-recipient agrees to comply with all reporting requirements and shall provide such information as required to GDEM for reporting as noted in the 2004 Federal Grant Guidelines.
- 14) Sub-recipient must prepare and submit quarterly performance reports to GDEM for the duration of the grant performance period or until all grant activities are completed and the grant is formally closed. Sub-recipient may also be required to submit additional information and data requested by GDEM.
- 15) Sub-recipient agrees that exercise and training funds will be retained by GDEM (State Administrative Agency) who will contract with National Emergency Response and Training Center (NERTC) to provide training and exercise services for local jurisdictions
- 16) Sub-recipient agrees that, during the performance period of this grant, any and all changes to their sub-recipient agreement regarding planning, training, equipment, and exercises must be routed through the appropriate reviewing authority, either the local Council of Government or Urban Areas Security Initiative (UASI) Working Group
- 17) During the performance period of this grant, sub-recipient must maintain an emergency management plan at the Basic Level of planning preparedness, as prescribed by GDEM. This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an interjurisdictional emergency management program that meets the required standards. If GDEM identifies deficiencies in the sub-recipient's plan, sub-recipient will correct deficiencies within 60 days of receiving notice of such deficiencies from GDEM.
- 18) During the performance period of this grant, sub-recipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.
- 19) If the sub-recipient is a participant in a UASI program, during the performance period of this grant, sub-recipient agrees to adhere to the UASI strategy, goals, objectives, and implementation steps.
- 20) Sub-recipient agrees that, during the performance period of this grant, all communications equipment purchases must be reviewed and approved by the UASI points of contact (voting members) Interoperability Committee.
- 21) GDEM may perform periodic reviews of sub-recipient performance of eligible activities and approved projects. These reviews may include, without limitation: performance of on-site audit and compliance monitoring - including inspection of all grant-related records and items, comparing actual sub-recipient activities to those approved in the sub-award application and subsequent modifications if any, ensuring that advances have been disbursed in accordance with applicable guidelines, confirming compliance with grant assurances, information provided on performance reports and payment requests, needs and threat assessments and strategies
- 22) GDEM may suspend or terminate sub-award funding, in whole or in part, or other measures may be imposed for any of the following reasons: failing to comply with the requirements or statutory objectives of federal law, failing to make satisfactory progress toward the goals or objectives set forth in the sub-award application, failing to follow grant agreement requirements or special conditions, failing to submit required reports, filing a false certification in the application or other report or document.
- 23) GDEM will close a sub-award after receiving sub-recipient's final performance report indicating that all approved work has been completed and all funds have been disbursed, completing a review to confirm the accuracy of the reported information, and reconciling actual costs to awards modifications and payments. If the close out review and reconciliation indicates that the sub-recipient is owed additional funds, GDEM will send the final payment automatically to the sub-recipient. If the sub-recipient did not use all the funds received, GDEM will issue an invoice to recover the unused funds.
- 24) Sub-recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of ODP.

- 25) The sub-recipient agrees that all allocations and use of funds under this grant will be in accordance with the Fiscal Year 2004 Homeland Security Grant Program Guidelines and Application Kit and must support the goals and objectives included in the State Homeland Security Strategy and the Urban Area Homeland Security Strategies.
- 26) When implementing Office of State and Local Government Coordination and Preparedness (SLGCP) funded activities, the sub-recipient must comply with all federal civil rights laws, to include Title VI of the Civil Rights Act, as amended. The sub-recipient is required to take reasonable steps to ensure persons of limited English proficiency have meaningful access to language assistance services regarding the development of proposals and budgets and conducting SLGCP funded activities.
- 27) The sub-recipient agrees that all publications created with funding under this grant shall prominently contain the following statement: 'This Document was prepared under a grant from the SLGCP, United States Department of Homeland Security. Point of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of SLGCP or the U.S. Department of Homeland Security.'
- 28) The sub-recipient agrees that any equipment purchased with grant funding shall be prominently marked as follows: 'Purchased with funds provided by the U.S. Department of Homeland Security.' Exceptions to this requirement are limited to items where placing of the marking is not possible due to the nature of the equipment.
- 29) The sub-recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
- 30) Approval of this award does not indicate approval of any consultant rate in excess of \$450 per day. A detailed justification must be submitted to and approved by GDEM prior to obligation or expenditure of such funds.
- 31) Sub-recipient acknowledges that SLGCP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (1) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a recipient or sub-recipient purchases ownership with Federal support. The Recipient agrees to consult with SLGCP regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- 32) Sub-recipient shall provide the assurances required by ODP. Failure to comply may result in the withholding of funds, termination of the award or other sanctions.
- 33) Sub-recipient must register as a user of the Texas Regional Response Network (TRRN) and identify all major resources such as vehicles and trailers, equipment costing \$5,000 or more and specialized teams/response units equipped and/or trained using grant funds (i.e. hazardous material, decontamination, search and rescue, etc.). This registration is to ensure jurisdictions or organizations are prepared to make grant funded resources available to other jurisdictions through mutual aid.
- 34) Sub-recipients must maintain an updated inventory of equipment purchased through this grant program.
- 35) If a financial hardship exists, a sub-recipient may request an advance of grant funds for expenditures incurred under this program. Requests must be made in writing by the chief elected official and submitted to GDEM. Letters must also indicate that a financial hardship exists for the sub-recipient's organization. GDEM will determine whether an advance will be made.
- 36) If a sub-recipient is approved for an advance, the funds must be deposited in a separate interest bearing account and are subject to the rules outlined in the Uniform Rule 28 CFR Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, at http://www.access.gpo.gov/nara/cfr/waisidx_04/28cfrv2_04.html and the Uniform Rule 28 CFR Part 70, Uniform Administrative Requirements for Grants and Agreements (including sub-awards) with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, at http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr70_03.html. Any interest earned in excess of \$100 must, on a quarterly basis, be remitted to:

United States Department of Health and Human Services
Division of Payment Management Services
P.O. Box 6021
Rockville, MD 20852

Sub-recipients must report any interest remitted to GDFM.

- 37) Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

The Honorable Ron Silvia
Mayor, City of College Station
P.O. Box 9960
College Station, TX 77842-0960

Jack Colley, Chief
Division of Emergency Management
Office of the Governor
PO Box 4087
Austin, TX 78773-0220

Important

The SAA will begin accepting 2004 SHSP, LETPP and UASI invoices for approved items on February 1, 2006. All necessary forms and information can be obtained at www.texasdpa.com. The process for submitting invoices is as follows:

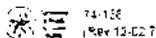
After logging into the Texasdpa site, check the “Information Page” link on the Homepage for the latest instructions.

- 1. Locate the item in your 2004 grant equipment spreadsheet.**
- 2. Click on “Needs Invoice”.**
- 3. Complete all information on the invoice page.**
- 4. At this point you will have the option of saving this information and entering additional invoices for other items or printing the cover sheet(s) required to submit the invoice(s).**
- 5. Place the invoice behind the appropriate system-generated cover page.**
- 6. Fax all pages and invoices to the SAA at 512-424-7825.**

Again, this process will not be available until February 1, 2006.

If you have problems with this process please call 877-612-4357 for assistance.

Important



For Comptroller's use only		

DIRECT DEPOSIT AUTHORIZATION

INSTRUCTIONS

- Use only BLUE or BLACK ink
- Alterations must be initialed
- Section 7 must be completed by the paying state agency
- Check all appropriate box(es)

For further instructions, see the back of this form.

TRANSACTION TYPE

SECTION 1	<input type="checkbox"/> New setup (Sections 2, 3 & 4)	<input type="checkbox"/> Change financial institution (Sections 2, 3 & 4)
	<input type="checkbox"/> Cancellation (Sections 2 & 3)	<input type="checkbox"/> Change account number (Sections 2, 3 & 4)
	<input type="checkbox"/> Interagency transfer (Sections 2 & 3)	<input type="checkbox"/> Change account type (Sections 2, 3 & 4)
	<input type="checkbox"/> Exemption (Sections 2 & 5)	

PAYEE IDENTIFICATION

SECTION 2	1 Social Security number or Federal Employer's Identification (FEI) <input type="checkbox"/>		2 Mail code (if not known, will be completed by Paying State Agency) <input type="checkbox"/>		
	3 Name			4 Business phone number <input type="text"/>	
	5 Street address		6 City	7 State	8 ZIP code

AUTHORIZATION FOR SETUP, CHANGES OR CANCELLATION

SECTION 3	9 Pursuant to Section 403.016 Texas Government Code, I authorize the Comptroller of Public Accounts to deposit by electronic transfer payments owed to me by the State of Texas and, if necessary, debit entries and adjustments for any amounts deposited electronically in error. The Comptroller shall deposit the payments in the financial institution and account designated below. I recognize that if I fail to provide complete and accurate information on this authorization form, the processing of the form may be delayed or that my payments may be erroneously transferred electronically.		
	I consent to and agree to comply with the National Automated Clearing House Association Rules and Regulations and the Comptroller's rules about electronic transfers as they exist on the date of my signature on this form or as subsequently adopted, amended or repealed.		
	10 Authorized signature	11 Printed name	12 Date

FINANCIAL INSTITUTION (Completion by financial institution is recommended.)

SECTION 4	13 Name		14 City	15 State
	16 Routing transit number		17 Customer account number	18 Dashes required <input type="checkbox"/> YES
	19 Representative name (Please print)		20 Title	
	21 Representative signature (Optional)		22 Phone number <input type="text"/>	23 Date

EXEMPTION:

SECTION 5	I claim exemption and request payment by state warrant (check) because		
	24 <input type="checkbox"/> I hold a position that is classified below group 8 in the position classification salary schedule.		
	25 <input type="checkbox"/> I am unable to establish a qualifying account at a financial institution.		
	26 <input type="checkbox"/> I certify that payment by direct deposit would be impractical and/or more costly to me than payment by warrant.		
	27 Authorized signature	28 Printed name	29 Date

CANCELLATION BY AGENCY

SEC. 6	30 Reason	31 Date

PAYING STATE AGENCY

SECTION 7	32 Signature		33 Printed name		
	34 Agency name			35 Agency number <input type="text"/>	
	36 Comments		37 Phone number <input type="text"/>	38 Date	

WHITE - Comptroller

YELLOW - Agency

PINK - Payee

INSTRUCTIONS FOR DIRECT DEPOSIT AUTHORIZATION

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code.

SECTION 1: Check the appropriate box(es)

- **NEW SETUP** - If payee is not currently on direct deposit with the state
 - a. Complete Sections 2, 3 & 4
 - b. Section 4 is recommended to be completed by financial institution.
- **CANCELLATION** - If payee wishes to stop direct deposit with the state
 - a. Payee completes Sections 2 & 3
- **INTERAGENCY TRANSFER** - For state employees only who transfer from one state agency to another
 - a. Employee completes Sections 2 & 3
 - b. Employee should submit form to the new paying state agency for completion of Section 7
- **EXEMPTION** - If payee claims an exemption granted by Tex. Govt. Code Ann. §403.016
 - a. Payee completes Sections 2 & 5
- **CHANGE FINANCIAL INSTITUTION**
 - a. Payee completes Sections 2 & 3.
 - b. Section 4 is recommended to be completed by financial institution
- **CHANGE ACCOUNT NUMBER**
 - a. Payee completes Sections 2 & 3
 - b. Section 4 is recommended to be completed by financial institution
- **CHANGE ACCOUNT TYPE**
 - a. Payee completes Sections 2 & 3.
 - b. Section 4 is recommended to be completed by financial institution

SECTION 2: PAYEE IDENTIFICATION

- Item 1 Leave the shaded boxes blank if you do not have your 11-digit Comptroller Payee Identification number. The paying state agency will provide the information to be entered in the shaded boxes. Enter your 9-digit Social Security number or your Federal Employer's Identification (FEI) number
- Item 2 If your 3-digit mail code is not known, it will be assigned by the paying state agency

SECTION 3: AUTHORIZATION FOR SETUP, CHANGES OR CANCELLATION

Items 10, 11 & 12 The individual authorizing must sign, print their name and date the form

NOTE: No alterations to this section will be allowed.

SECTION 4: FINANCIAL INSTITUTION

Section 4 is recommended to be completed by financial institution.

NOTE: Alterations to routing and/or account number must be initialed by the financial institution representative or the payee

SECTION 5: EXEMPTION

- a. If you qualify for an exemption, check the appropriate box
- b. Complete items 27, 28 and 29

NOTE: Exemption forms are maintained by the paying state agency

SECTION 6: CANCELLATION BY AGENCY

Sections 6 & 7 must be completed by the paying state agency.

SECTION 7: PAYING STATE AGENCY

Section 7 must be completed by the paying state agency before the form can be processed.

Submit the completed form to your paying state agency.

Item Number	Grant	Department	Equipment Name	Quantity	Unit Price	Total Price	On Order	Received	Reimbursed
1	SHSP	BVSWMA	Tyvek Coveralls	1	\$ 908.62	\$ 908.62	Yes	Yes	No
2	SHSP	BVSWMA	Gas Vapor Masks	3	\$ 14.70	\$ 44.10	Yes	Yes	No
3	SHSP	BVSWMA	Gas Vapor Masks	3	\$ 14.70	\$ 44.10	Yes	Yes	No
4	SHSP	BVSWMA	Gas Vapor Mask Filters	10	\$ 22.05	\$ 220.50	Yes	Yes	No
5	SHSP	BVSWMA	Boot Covers	1	\$ 119.69	\$ 119.69	Yes	Yes	No
6	SHSP	BVSWMA	Gloves (inner)	12	\$ 10.40	\$ 124.80	Yes	Yes	No
7	SHSP	BVSWMA	Gloves (outer)	3	\$ 90.20	\$ 270.60	Yes	Yes	No
8	SHSP	BVSWMA	Safety glasses	25	\$ 1.65	\$ 41.25	Yes	Yes	No
9	SHSP	Public Works	Master Locks	1	\$ 296.11	\$ 296.11	Yes	Yes	No
10	SHSP	Public Works	Hearing Protection	40	\$ 8.15	\$ 326.00	Yes	Yes	No
11	SHSP	Public Works	Safety Flags	12	\$ 3.75	\$ 45.00	Yes	Yes	No
12	SHSP	Public Works	Spray Paint	36	\$ 3.95	\$ 142.20	Yes	Yes	No
13	SHSP	Public Works	Paint Stripping Machine	2	\$ 22.50	\$ 45.00	Yes	Yes	No
14	SHSP	Public Works	Gloves, Driver Large	36	\$ 4.00	\$ 144.00	Yes	Yes	No
15	SHSP	Public Works	Gloves, Driver X Large	12	\$ 4.00	\$ 48.00	Yes	Yes	No
16	SHSP	Police	Radio footpats & connections for MOC	1	\$ 3,490.10	\$ 3,490.10	Yes	Yes	No
17	SHSP	Fire	PEAC WMD Software	2	\$ 1,200.00	\$ 2,400.00	No		
18	SHSP	Police	HP Compaq Business Notebook nc8230	1	\$ 2,049.00	\$ 2,049.00	No		
19	SHSP	Police	Dual Video Card	1	\$ 103.00	\$ 103.00	No		
20	SHSP	Police	Wireless Keyboard/Mouse (2)	2	\$ 150.00	\$ 300.00	No		
21	SHSP	Police	Cingular Air Card	1	\$ 300.00	\$ 300.00	No		
22	SHSP	Police	HP Workstation xw6200	1	\$ 2,702.00	\$ 2,702.00	No		
23	SHSP	Police	HP DJ 6840 Printer	1	\$ 180.00	\$ 180.00	No		
24	SHSP	Police	HP Scanjet 4850 Scanner	1	\$ 150.00	\$ 150.00	No		
25	SHSP	Police	11 in 1 Smart card reader	1	\$ 35.00	\$ 35.00	No		
26	SHSP	Police	Firenix 40GB portable drives (3)	3	\$ 139.99	\$ 419.97	No		
27	SHSP	Police	Photoshop CS (full version)	1	\$ 490.00	\$ 490.00	No		
28	SHSP	Police	MS Office & Client Access License (2)	2	\$ 322.00	\$ 644.00	No		
29	SHSP	Police	Norton Virus (2)	2	\$ 28.00	\$ 56.00	No		
30	SHSP	Police	Novell GroupWise (2)	2	\$ 65.00	\$ 130.00	No		
31	SHSP	Police	Advanced Password Recovery Toolkit	1	\$ 300.00	\$ 300.00	No		
32	SHSP	Police	EnCase Forensic Pro Suite	1	\$ 716.00	\$ 716.00	No		
33	SHSP	Police	Conversion Plus/Password Plus Suite	1	\$ 69.99	\$ 69.99	No		
34	SHSP	Police	Win DVD version 7 platinum (2)	2	\$ 69.99	\$ 139.98	No		
35	SHSP	Police	Desktop Screen Capture software	1	\$ 319.00	\$ 319.00	No		
36	SHSP	Police	Steiner Binoculars 7x50	1	\$ 299.99	\$ 299.99	No		
37	SHSP	Police	Telephone Voice Transformer	1	\$ 499.00	\$ 499.00	No		
38	LE	Police	Chairs, Rolling HNT Trailer	4	\$ 339.00	\$ 1,356.00	No		
39	LE	Police	Light Set HNT Trailer	1	\$ 3,000.00	\$ 3,000.00	No		
40	LE	Police	HNT/Command Trailer	1	\$ 28,338.50	\$ 28,338.50	Yes	Yes	No
41	LE	Police	Folding Tables and Chairs for HNT Trailer	1	\$ 547.22	\$ 547.22	Yes	Yes	No

Grant Total \$ 51,918.73

List Total \$ 51,914.72

\$ 3.98

**February 23, 2006
Regular Agenda
Spring Creek Comprehensive Plan Amendment**

To: Glenn Brown, Interim City Manager

From: Joey Dunn, Director of Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion for the approval of an ordinance amending the Comprehensive Plan by amending the Land Use Plan for 28.01 acres of Tract 2.11 of the Robert Stevenson Survey, A-54, generally located southwest of the intersection of Decatur Drive and Alexandria Avenue. The proposed land use plan classifications include a change from Residential Attached to a combination of Retail Regional, Office, and Single-Family Residential, Medium Density.

Recommendation(s): This item came before the Planning and Zoning Commission on January 19, 2005 and February 2, 2006. The Commission recommended approval of an alternative plan for Single-Family Residential, Medium Density, Office, and Retail Regional land uses. Staff recommends Single Family Residential Medium Density for the entire tract.

Summary: This item is an owner-initiated amendment to the Land Use Plan for approximately 28.01 acres of land currently designated as Residential Attached, located at the future intersection of Decatur Drive and Arrington Road. The original application proposed approximately 20 acres of Retail Regional and 8 acres of Single-Family Residential, Medium Density (Attachment 3). At the January 19th P&Z meeting, the applicant brought forth an alternative request for approximately 7 acres of Retail Regional (within 500 feet of Arrington Road), approximately 13 acres for Office, and 8 acres for Single Family Residential Medium Density (Attachment 4). A public hearing was held, and the item was tabled to give Staff time to consider the applicant's alternative proposal.

On February 2, 2005, the Planning & Zoning Commission removed the item from the table and heard from staff and the applicant regarding the modified request (Attachment 4). Staff maintained that the area identified as Greenways on the Comprehensive Plan (which is made up of a conservation easement and a large regional detention facility), serves as an important distance buffer and transition between residential uses north of Arrington Road and large-scale commercial uses at the Greens Prairie / SH6 intersection. Staff also believes that more retail property in this area is unnecessary, given the large amount (approximately 300 acres) of vacant property designated as Retail Regional.

Following discussion of anticipated traffic impacts and the inadequacy of the existing detention area to serve as a natural buffer, the Planning & Zoning recommended to approve the alternative request (Attachment 4), incorporating a step-down land use approach beyond the future Decatur Drive / Arrington Road intersection.

Budget & Financial Summary: N/A

Attachments:

1. Small Area Map
2. Aerial Map
3. Comprehensive Plan Map – Original Request
4. Comprehensive Plan Map – Alternative Request
5. Comprehensive Plan Map – Staff Recommendation
6. Additional Item Background
7. Ordinance
8. Draft P&Z Meeting Minutes, January 19, 2006
9. Draft P&Z Meeting Minutes, February 2, 2006



DEVELOPMENT REVIEW

SPRING CREEK GARDENS

Case:
05-238

COMP. PLAN
AMENDMENT



DEVELOPMENT REVIEW

SPRING CREEK GARDENS

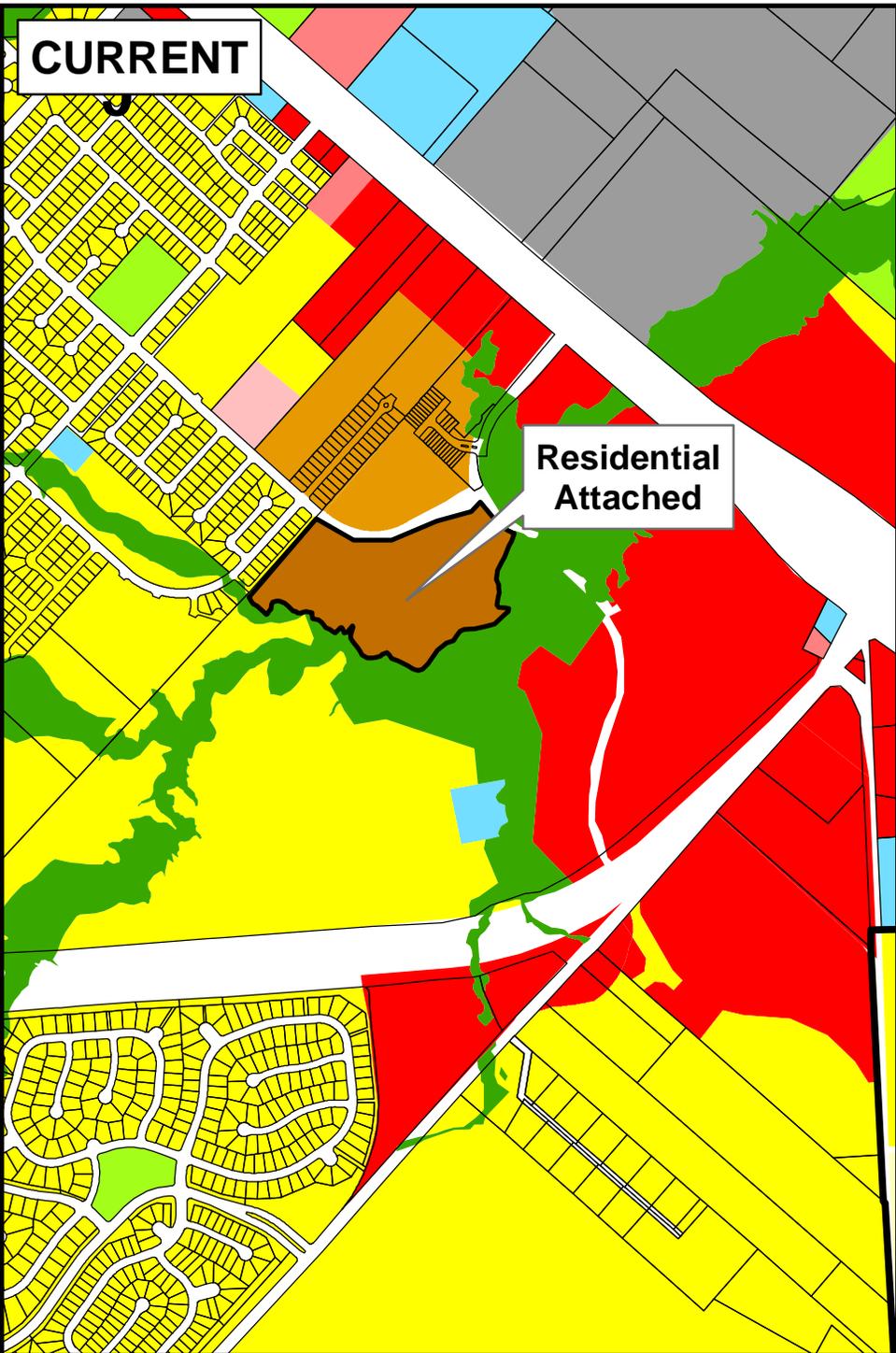
Case:

05-238

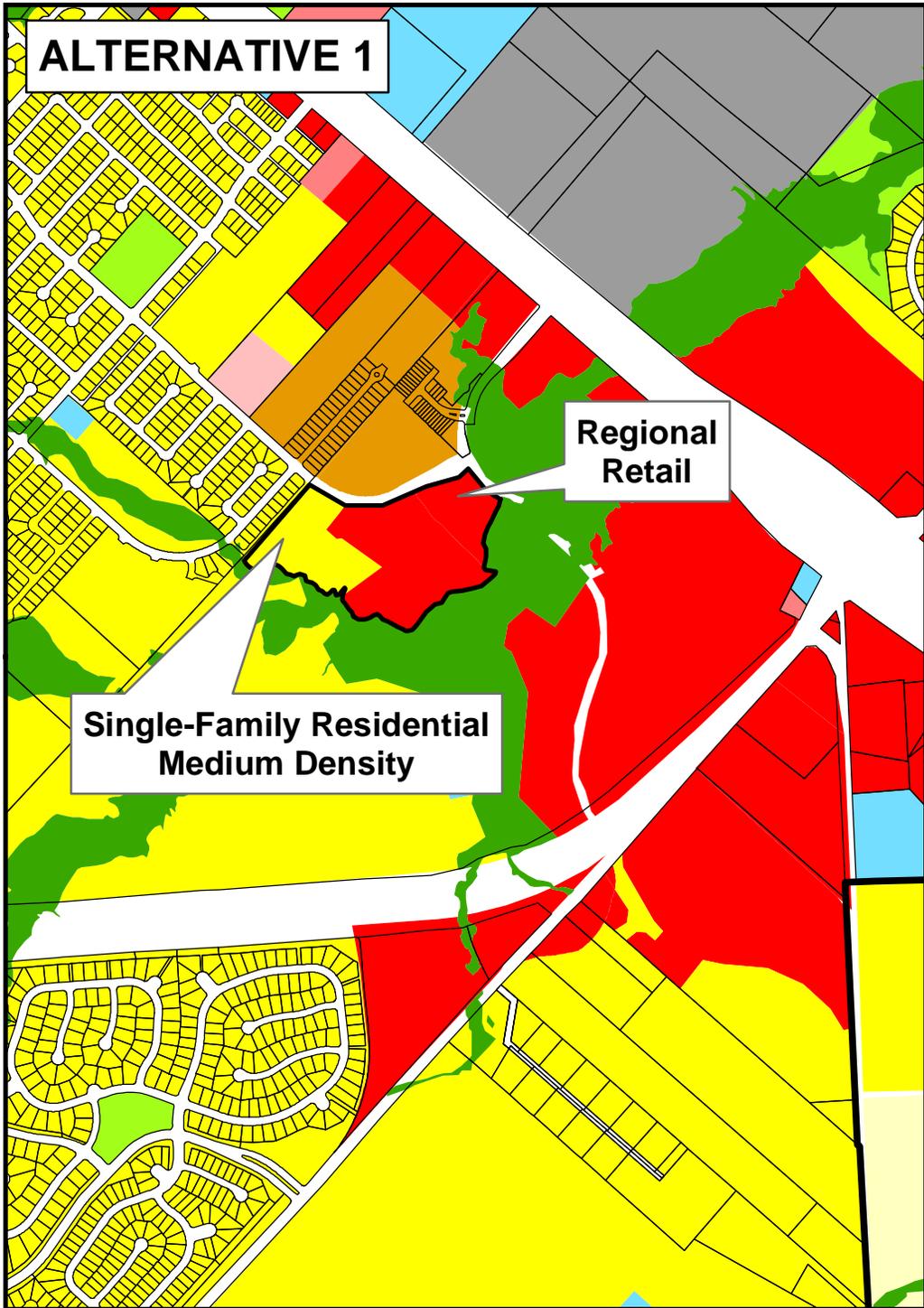
COMP. PLAN
AMENDMENT



CURRENT



ALTERNATIVE 1

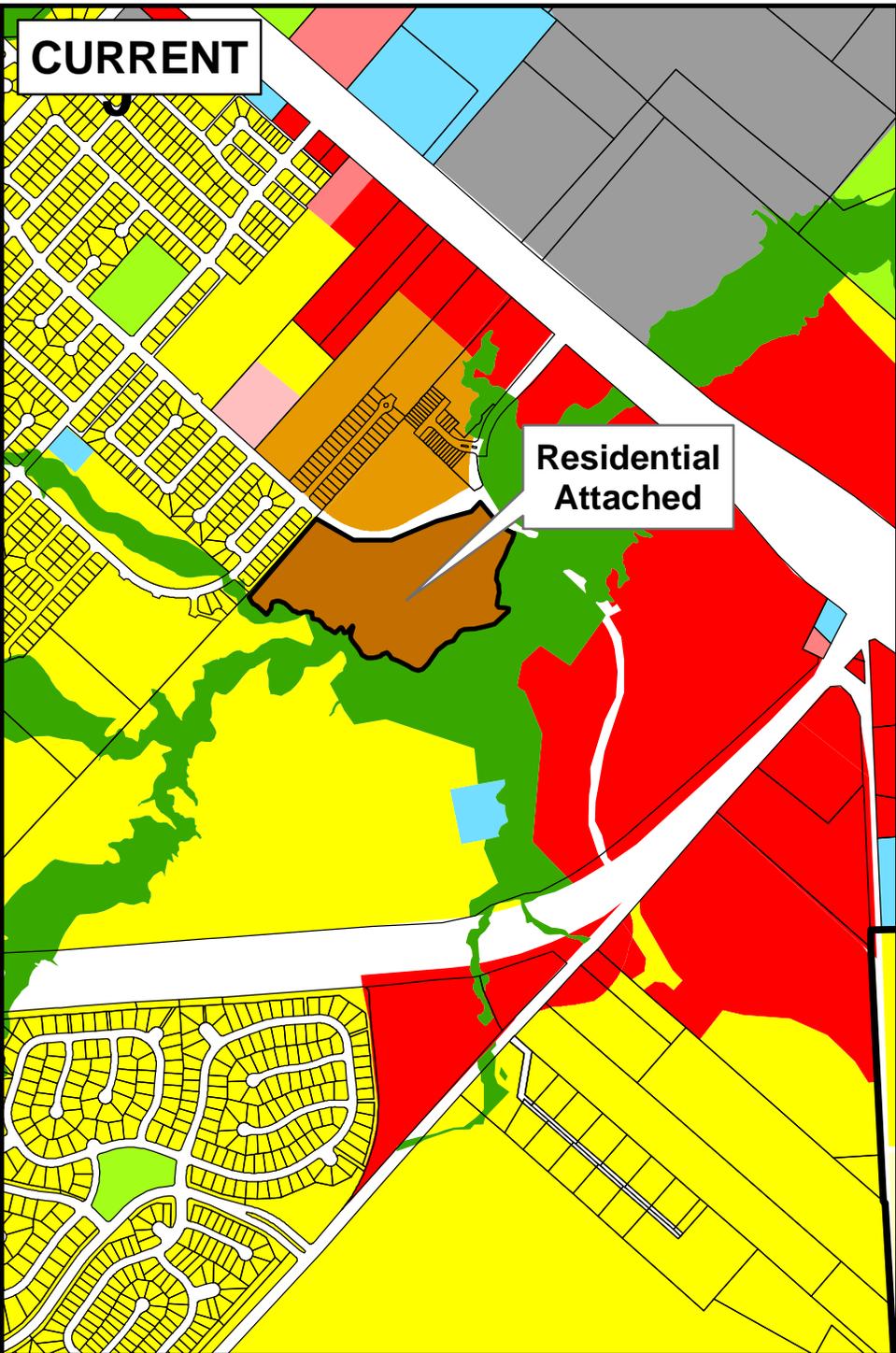


Residential Attached

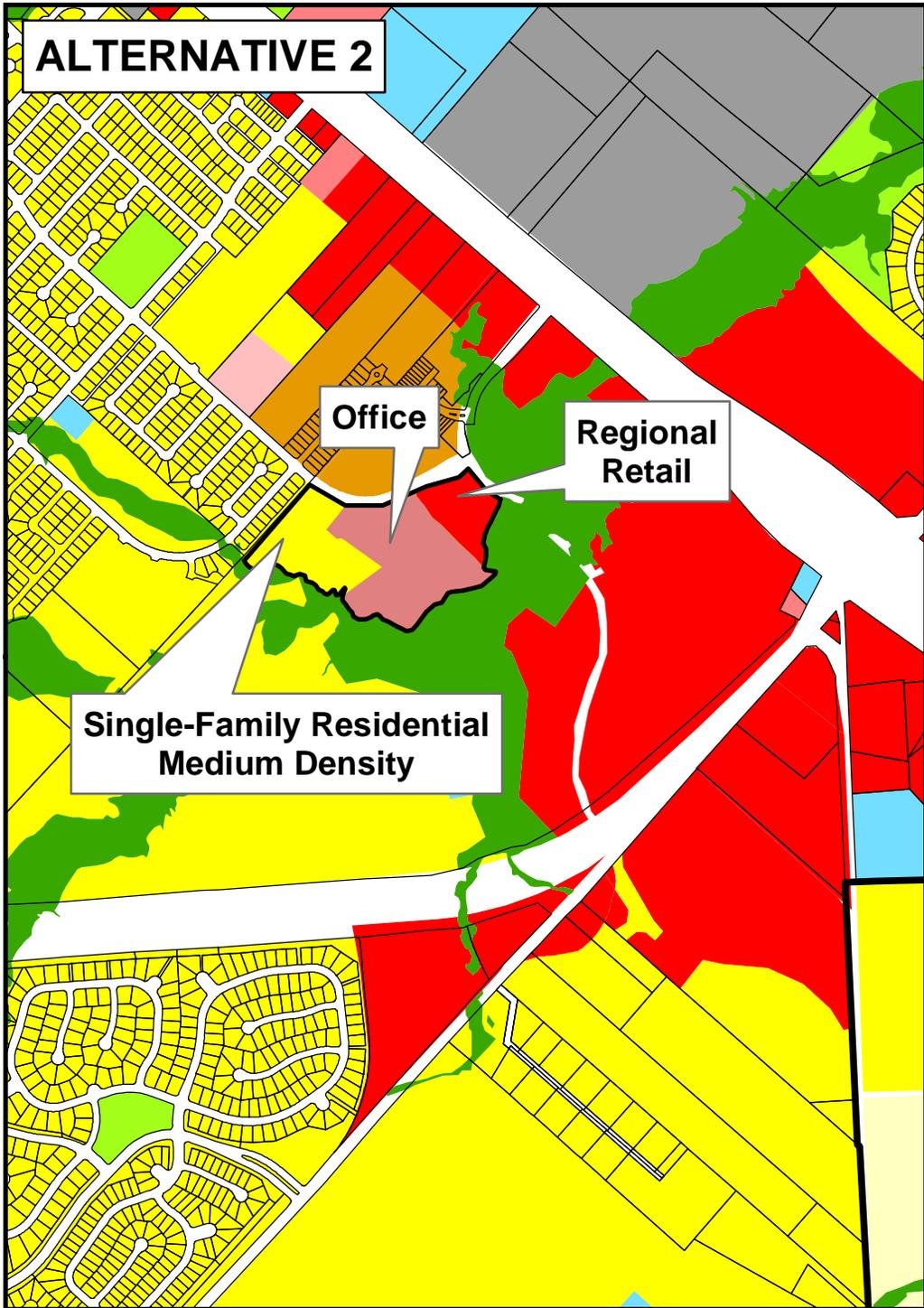
Regional Retail

Single-Family Residential Medium Density

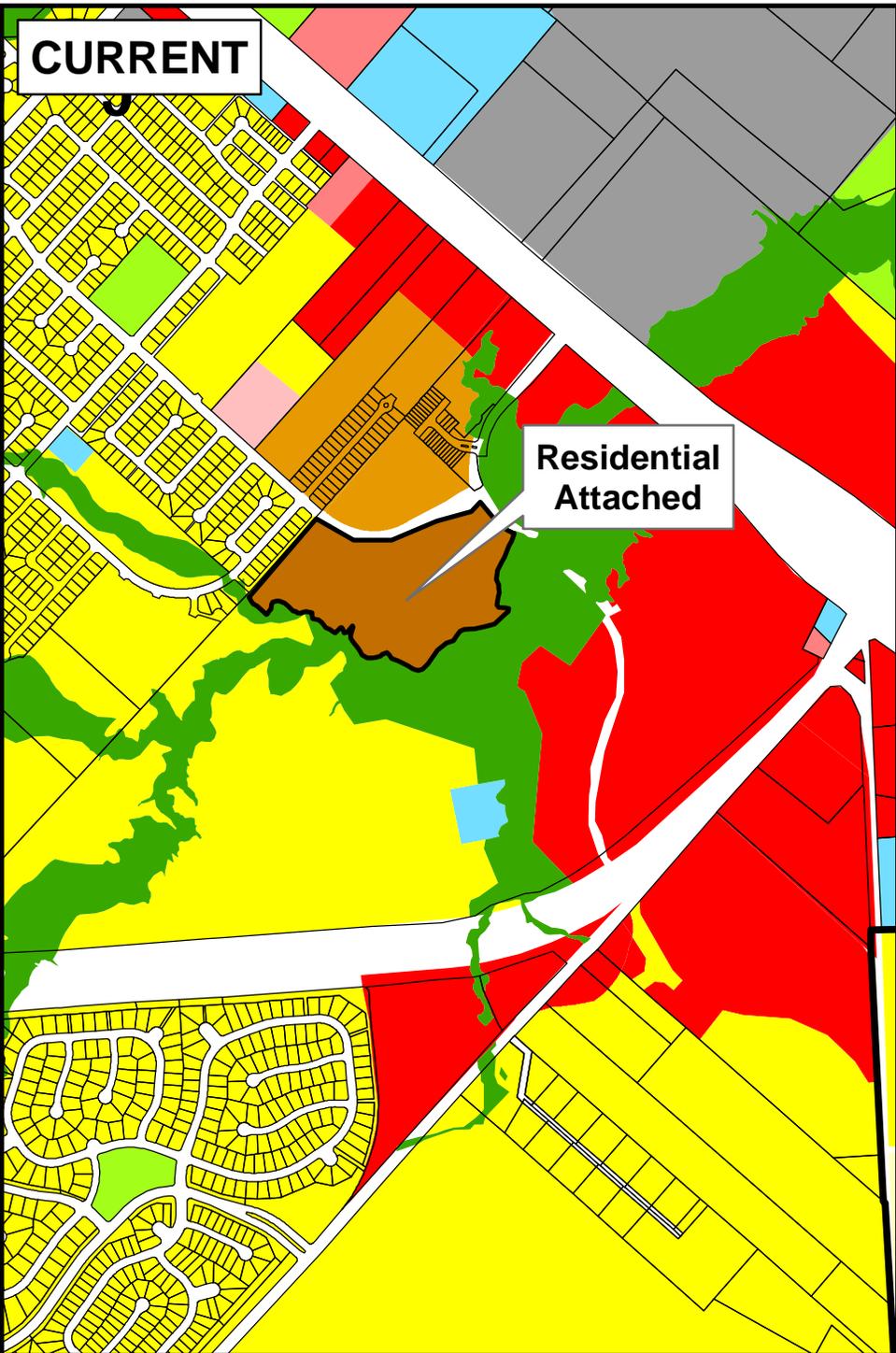
CURRENT



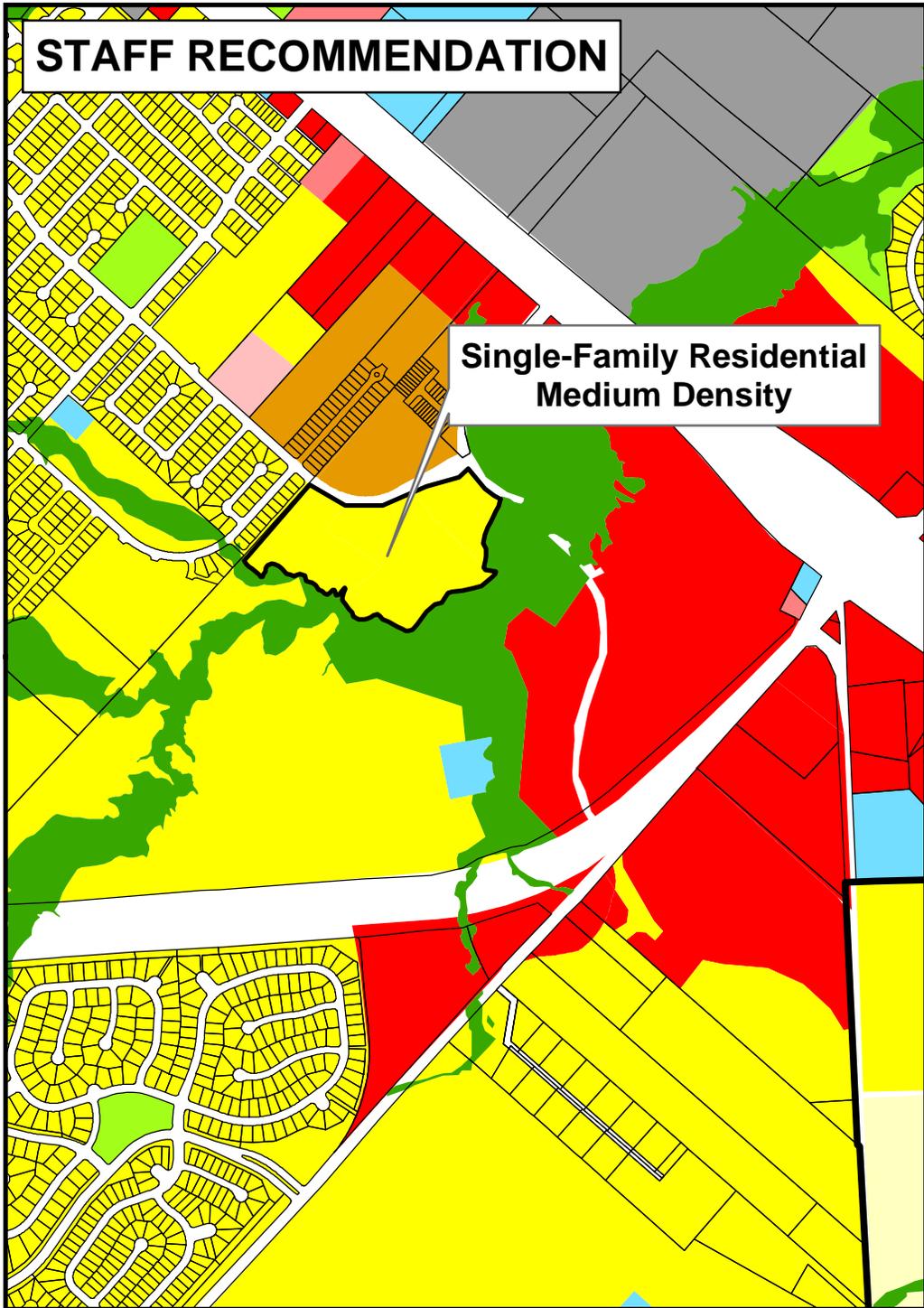
ALTERNATIVE 2



CURRENT



STAFF RECOMMENDATION



Attachment 6 – Additional Item Background

The subject property currently has a 1.5 acres oil well and drill site, otherwise the property remains vacant. The property is surrounded by greenways around the southern and western sides, and Shenandoah Phase 8 to the north. The east side of the tract is separated from Single-Family Residential, High Density by the future extension of Decatur Drive, an identified Major Collector on the City's Thoroughfare Plan.

In both the previous comprehensive plan – College Station Plan 2000, and the current 1997 Comprehensive Plan, this tract was identified for medium density residential development. In 2000, a master plan for Castlegate was approved which included this entire tract. At that time, the tract was identified for multi-family development. In 2003, the Comprehensive Plan was amended to reflect the changes approved in the 2000 master plan and the subsequent rezonings that were approved.

Since the amendment of the Plan, there have been a number of developments in this area. New phases to the Shenandoah subdivision (Single Family Residential, Medium Density) have been approved, along with Planned Development Districts for Spring Creek Townhomes and Spring Creek Gardens, both indicated as Single Family Residential, High Density. Across the greenway to the west, a PDD rezoning and Concept Plan have been approved for the Castlerock residential subdivision, indicated as Single-Family Residential, Medium Density.

Based on policies to locate multi-family residential within a mile of the University, as well as the pattern of single-family residential being developed in this area, amending the residential attached to single-family medium density residential is appropriate for this area.

Staff has seen significant pressure for retail development in this area, as evidenced by a number of Comprehensive Land Use amendments at the intersection of Greens Prairie Road and State Highway 6 to Regional Retail. Over 300 vacant acres of land planned for commercial is located at the intersection of Greens Prairie Road and State Highway 6, over half of this area is within half a mile of the subject property.

Goal Three from the Comprehensive Plan states that "College Station should continue to protect, preserve, and enhance existing and future neighborhoods," and Objective 3.1 associated with this goal states that "College Station should continue to protect the integrity of residential areas by minimizing intrusive and incompatible land uses and densities." The intensity of commercial development next to single family residential has been an issue for a number of neighborhoods around the City, which has resulted in the creation of a buffer requirement between incompatible land uses. The Spring Creek greenway creates a natural break between these uses, without additional buffering being required, thereby protecting the existing and proposed neighborhoods.

Due to the nearby area that is already allocated for retail development, and the natural buffer provided by the greenway between the neighborhoods and the retail, Regional Retail is not appropriate for the subject property.

The subject property was annexed in 1983 and subsequently zoned A-O. In 2001, the property was rezoned to R-4 in compliance with the master plan. This property is

located in the Spring Creek Impact Area for sewer. The property is currently unplatted.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING THE COMPREHENSIVE LAND USE PLAN FOR THE 28.01 ACRE AREA GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF DECATUR DRIVE AND ALEXANDRIA PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the "Comprehensive Plan of the City of College Station" be amended by amending the "Land Use Plan" as set out in Exhibits "A" and "B", for the identified area and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 23rd day of February, 2006.

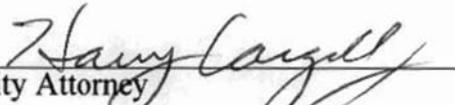
ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



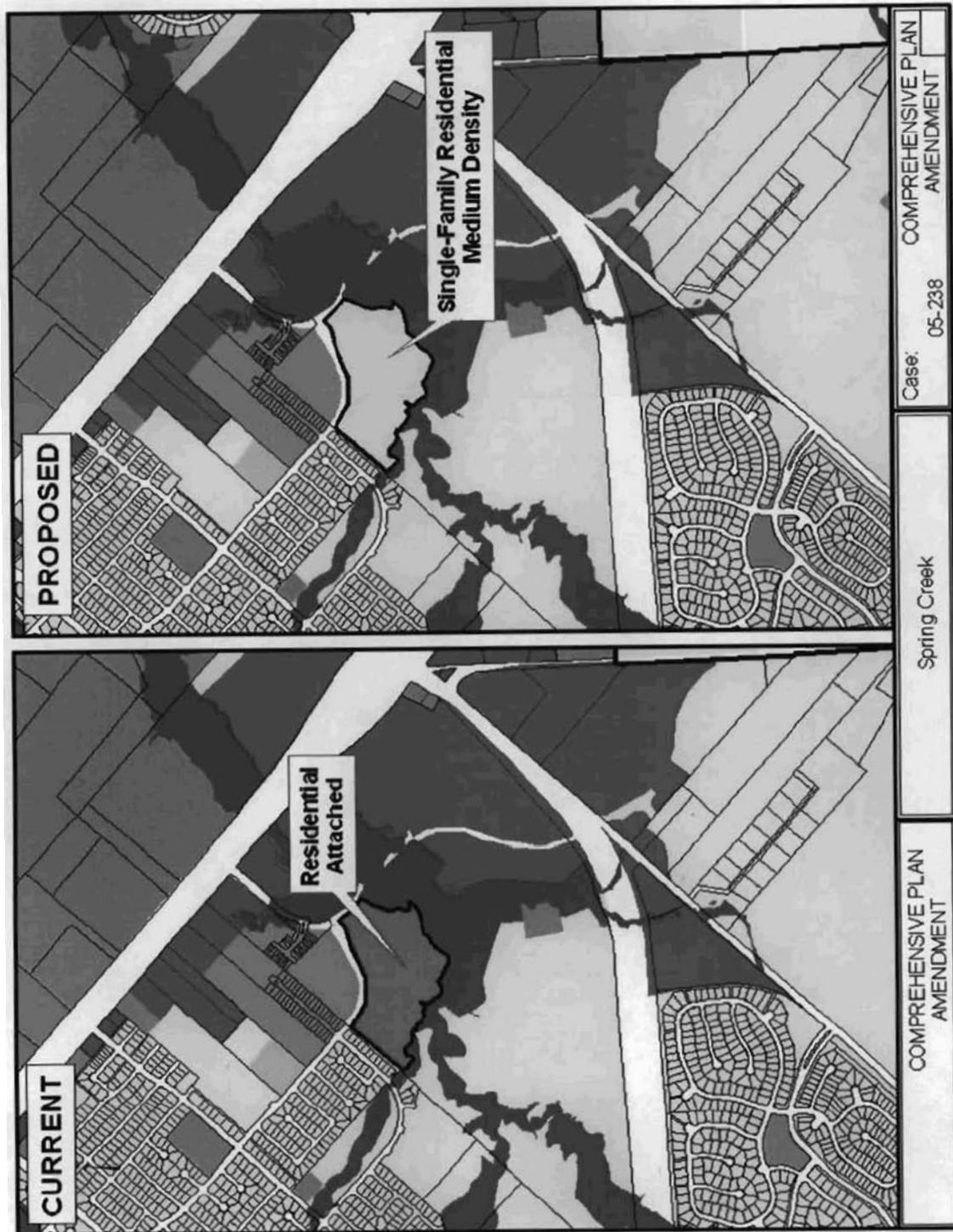
City Attorney

EXHIBIT "A"
AMENDED AREA OF
COLLEGE STATION LAND USE MAP

That the "Comprehensive Plan" of the City of College Station, Texas, is hereby amended by amending the College Station Land Use Plan Map as follows:

The 28.01 acres generally located southwest of the intersection of Decatur Drive and Alexandria Avenue is amended from Residential Attached to Single-Family Residential, Medium Density, as shown on the attached Exhibit "B".

EXHIBIT "B"





MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, January 19, 2006, at 7:00 p.m.
Council Chambers, College Station City Hall
1101 Texas Avenue
College Station, Texas

COMMISSIONERS PRESENT: Chairman Scott Shafer, Commissioners Dennis Christiansen, Bill Davis, John Nichols, Ken Reynolds, Marsha Sanford, and Harold Strong.

COMMISSIONERS ABSENT: None.

CITY COUNCIL MEMBERS PRESENT: John Happ

PLANNING & DEVELOPMENT SERVICES STAFF PRESENT: Staff Planners Lindsay Boyer, Crissy Hartl, and Jennifer Reeves, Senior Planners Jennifer Prochazka and Trey Fletcher, Planning Administrator Molly Hitchcock, Senior Assistant City Engineer Alan Gibbs, Graduate Civil Engineers Josh Norton and Carol Cotter, Transportation Planner Ken Fogle, Director Joey Dunn, Assistant Director Lance Simms, and Staff Assistant Lisa Lindgren.

OTHER CITY STAFF PRESENT: Assistant City Attorney Carla Robinson and Action Center Representative Brian Cook.

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:05 p.m.

9. Public hearing, presentation, possible action, and discussion on a Comprehensive Plan Amendment by amending the Land Use Plan for 28.01 acres of Tract 2.11 of the Robert Stevenson Survey, A-54, generally located southeast of the intersection of Decatur Drive and Alexandria Avenue. The proposed land use plan classifications include a change from Residential Attached to a combination of Retail Regional and Single-Family Residential, Medium Density. Case #05-500238 (LB)

Lindsay Boyer, Staff Planner, presented the Comprehensive Plan Amendment. Ms. Boyer stated that the property owner had requested that the land use plan be changed from Residential Attached to approximately 20 acres of Retail Regional and 8 acres of Single-Family Residential, Medium Density. She also stated that no calls regarding the subject property had been received.

Chuck Ellison, 2902 Camille Drive, College Station, Texas. Mr. Ellison stated that he represented the owner of the subject property. Mr. Ellison stated that he felt that natural buffers were important as indicated in the staff report, but that in this case natural buffers would not protect against the high volume of traffic that will occur at the corner of Arrington and Decatur. Mr. Ellison stated that what they would like to see happen is for the Planning and Zoning Commission to recommend to City Council that the Comprehensive Plan Amendment be amended to show the 500 feet that backs up to Arrington Road be Retail Regional, that 20.034 acres be zoned Administrative

Professional and for the remaining 7.95 acres be zoned Single-Family Residential. He stated that the proposed plan removes the residential area from a very high-traffic area and that that would provide the best use for the subject property.

Wallace Phillips, 4490 Castlegate, College Station, Texas. Mr. Phillips stated that he agreed with the points made by Mr. Ellison. He also stated that homeowners consider traffic noise when purchasing a home, and that he felt that it was not a good idea to put houses up against roads any more than you have to. Mr. Phillips suggested that Commercial, C-1, A-P, is a great transition.

Ken Reynolds motioned to table the Comprehensive Plan Amendment until the February 2, 2006, meeting to allow staff time to respond to the applicant's suggestion of the subject property. John Nichols seconded the motion, motion passed (7-0).

DRAFT

MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, February 2, 2006, at 7:00 p.m.
Council Chambers, College Station City Hall
1101 Texas Avenue
College Station, Texas



COMMISSIONERS PRESENT: Chairman Scott Shafer, Commissioners Harold Strong, Ken Reynolds, Bill Davis, Dennis Christiansen, John Nichols and Marsha Sanford.

STAFF PRESENT: Director, Joey Dunn, Transportation Planner, Ken Fogle, Assistant City Engineer, Alan Gibbs, Planning Administrator, Molly Hitchcock, Assistant Director, Lance Simms, Graduate Civil Engineers Carol Cotter and Josh Norton, Senior Planners Trey Fletcher and Jennifer Prochazka, Staff Planners Lindsay Boyer, Crissy Hartl, and Jennifer Reeves, Staff Assistant, Lisa Lindgren and Jessica Kramer.

OTHER CITY STAFF PRESENT: First City Attorney, Carla Robinson and OTIS, Bryan Cook.

CITY COUNCIL MEMBERS PRESENT: Councilman Ron Gay.

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:00 p.m.

11. Presentation, possible action, and discussion on a Comprehensive Plan Amendment by amending the Land Use Plan for 28.01 acres of Tract 2.11 of the Robert Stevenson Survey, A-54, generally located southwest of the intersection of Decatur Drive and Alexandria Avenue. The proposed land use plan classifications include a change from Residential Attached to a combination of Retail Regional and Single-Family Residential, Medium Density. **Case #05-500238 (LB)**

Commissioner Davis motioned to take the item off the table. Commissioner Sanford seconded the motion, motion passed (7-0).

Lindsay Boyer, Staff Planner, presented the item and additional information requested by Commissioners at the January 19, 2006, Planning and Zoning meeting. Ms. Boyer stated that the item was not notified for a public hearing. She stated that at the January 19, 2006, meeting the property owner had requested an amendment to the land use plan from Residential Attached to a combination of Retail Regional and Single-Family Residential Medium Density. Approximately 20 acres are for consideration of Retail Regional and 8

acres of Single-Family Residential Medium Density. Ms. Boyer stated that during the January 19, 2006, meeting the applicant brought forth an alternative which involved 500 feet from Arrington Road to be considered Regional Retail and the remainder of that original retail portion to be considered as officed buffer between the retail uses and the residential component. Staff considered the discussion that took place during that meeting and has met with the applicant to try and work out the situation. Staff continues to feel that the buffer provides the natural transition between these uses and continues to support Single-Family Residential for the tract. Ms. Boyer stated that in the past the city has used the natural greenways to transition between incompatible land uses and these greenways do serve as this type of buffer, be it vegetative or distance between the lights, noise and other negative impacts of the residential and office components. Ms. Boyer stated that for that reason staff has developed a buffer ordinance. Ms. Boyer referred to the summary slide that was presented to the Commission. She stated that the slide included options that were brought before the Commission and those they included different buffer requirements that the City would have for office and retail uses against Single-Family Residential.

Ms. Boyer stated that if the Commission decided to jump the buffer and that was appropriate, staff would consider the alternative that was presented during the January 19, 2006, meeting. The alternative is as follows, 7.957 acres Single-Family Medium Density with no buffer, 7.197 acres Retail Regional with no buffer against the office and 12.837 acres of Office with 10 foot with fence against Single-Family Residential.

The Commission allowed Chuck Ellison to make his comments regarding the project.

Chuck Ellison, 2902 Camille Drive, College Station, Texas. Mr. Ellison stated that he represented the land owner and the developer of the project. Mr. Ellison stated that the Comprehensive Plan basically consisted of four primary components, a land use component, thoroughfare component, parks component and a greenways component. He stated that in their opinion the thoroughfare component of the land use plan has already breached the buffer. Mr. Ellison stated that the traffic is the negative impact that is going to generate light, noise and safety concerns. He stated that it is their opinion that what should happen is that the land use component should now be amended to mitigate the thoroughfare plan components negative impact.

Commissioners requested to hear from Kelly Templin with the IPS Group.

Kelly Templin, IPS Group, 511 University Drive, College Station, Texas. Mr. Templin stated that the green swamp presents itself as a pretty formidable barrier but what is being reviewed is 21 acres and it is a dry detention basin. He stated that at Arrington at the frontage road, on either side are commercial sites that comprise about 11 ½ acres, he asked that Commissioners note the 54 foot paved section of the road. Mr. Templin stated that it is designed to handle approximately 20,000 cars per day. He stated that at the intersection of Decatur and Arrington the topographic differential drops down to the bottom to the detention basin and it is about 10 feet. He stated that panning south or to the right the spillway can be seen. Mr. Templin stated that standing at that point there were three noticeable things. He stated that what was notable is the plateau is 55 feet above the intersection. He stated when a car is at the intersection that there will be a very clear view of commercial that flanks at Arrington Road and that there will be

approximately 75 acres of commercial towards the South sitting on a plateau. Mr. Templin stated that was the green area on the map and that would not offer a lot of buffer as far as the traffic noise from the 20,000 cars a day which would drive past the backyards backing to Arrington Road. He stated that the sound would carry over that barrier and 300 plus acres of commercial produces a good amount of non point light pollution. Mr. Templin stated that the well site is about 1 ½ acres and it is an active well site but that very little of it is encumbered by the well itself. Mr. Templin stated that \$15,000 worth of work has been done around the well-site in order to make the well site a healthier buffer. He stated that they would like for the Commission to keep in mind the step down zoning that is being offered.

Commissioner Sanford motioned to approve and recommend to City Council alternative 2 as presented by staff. Alternative 2 included 7.957 acres Single-Family Medium Density with no buffer, 7.197 acres Retail Regional with no buffer against office and 12.837 acres of Office with 10 foot fence against the Single-Family Residential. Commissioner Christiansen seconded the motion, motion passed (7-0).

DRAFT

**February 23, 2006
Regular Agenda
Conditional Use Permit for WPC Condos**

To: Glenn Brown, Interim City Manager

From: Joey Dunn, Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on a Conditional Use Permit for the WPC Condos to establish a multi-family use with residential uses on the first floor in the Wolf Pen Creek Design District consisting of 7.61 acres located at 305 Holleman Dr E, generally located on the north side of Holleman between George Bush Drive East and Dartmouth Drive.

Recommendation(s): This item came before the Planning and Zoning Commission on February 2, 2006. Staff recommended denial of the request as presented. Following the public hearing and significant discussion, the Commission voted to recommend approval of the request with the following conditions:

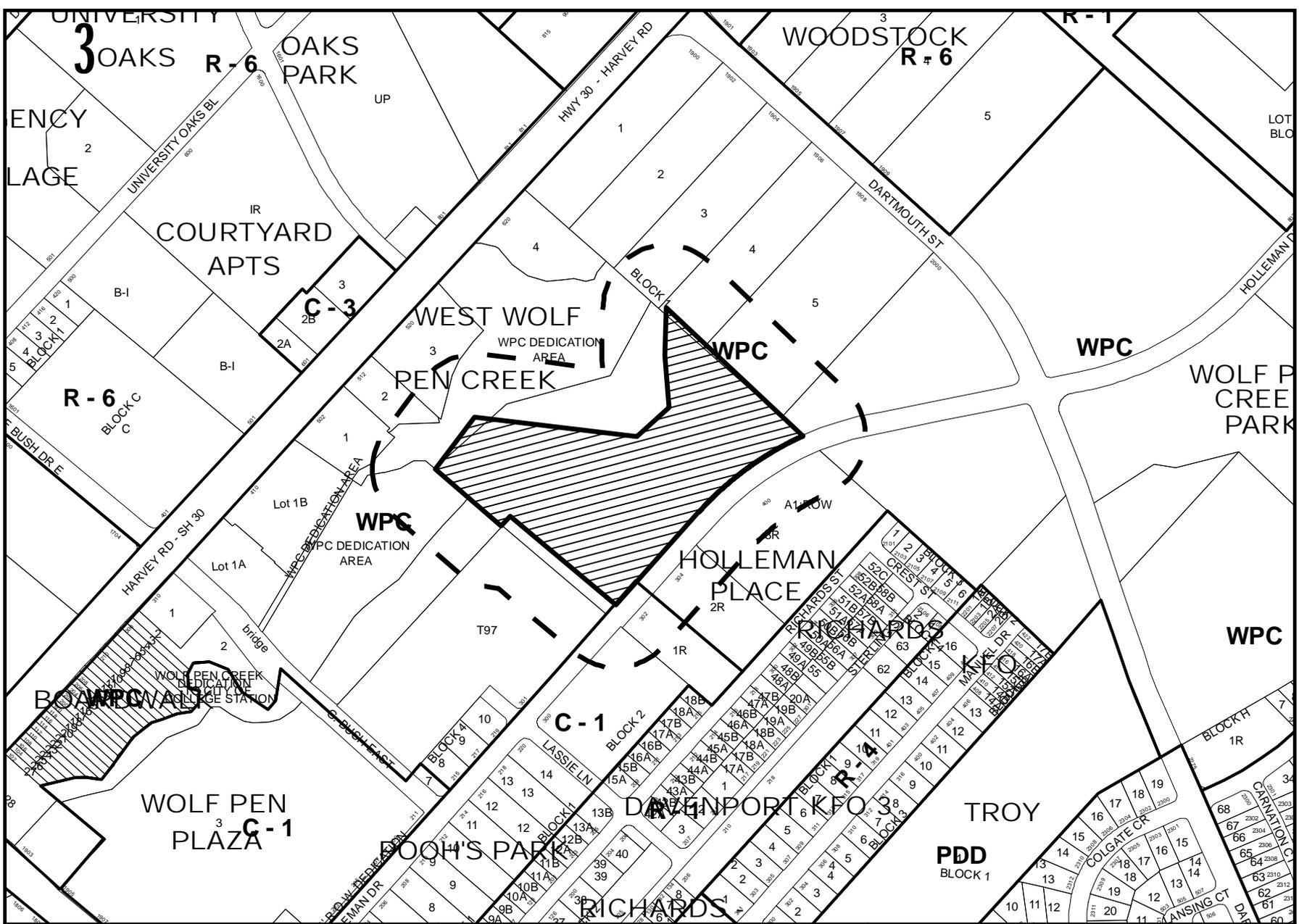
1. A more detailed site plan should be brought back to the Planning & Zoning Commission for review before it is considered by the Design Review Board.
2. The more detailed site plan should reflect public pedestrian access from Holleman through the complex connecting to the public trails along Wolf Pen Creek.
3. The more detailed site plan should more specifically reflect overflow visitor parking spaces within the project.

Summary: Projects that are developed with retail on the first floor are permitted by right in the Wolf Pen Creek (WPC) District. The purpose of the request for a Conditional Use Permit is to establish a multi-family development (90 dwelling units) with residential uses on the first floor rather than retail uses (refer to Attachment 4 Concept Plan for proposed project).

Budget & Financial Summary: N/A

Attachments:

1. Small Area Map
2. Aerial
3. Item Background
4. Concept Plan
5. Ordinance
6. Feb. 2, 2006 P&Z Minutes



DEVELOPMENT REVIEW

305 HOLLEMAN

Case: 06-50001

CUP



3



DEVELOPMENT REVIEW

305 HOLLEMAN

Case:
06-50001

CUP

Item Background

Comprehensive Plan Considerations: The Land Use Plan shows this area as Wolf Pen Creek, and it is also zoned as the Wolf Pen Creek District. The City Council adopted the Wolf Pen Creek Corridor Study in 1988. An update, consisting primarily of a revised Master Plan map, was adopted in July, 1998. Specific uses for this parcel were not contemplated in either document. The purpose of the WPC District is “to promote development that is appropriate along Wolf Pen Creek, which, upon creation was a predominantly open and undeveloped area challenged by drainage, erosion, and flooding issues. Development proposals are designed to encourage the public and private use of Wolf Pen Creek and the development corridor as an active and passive recreational area while maintaining an appearance consistent with the Wolf Pen Creek Master Plan.”

As referenced in the summary above, multi-family development in the WPC District requires a Conditional Use Permit unless the multi-family development has retail uses on the first floor. In this case, they are permitted by right. The purpose of this requirement is to force consideration of this design concept in this district. In addition to the improvements made by the City of College Station such as the amphitheater, trail network, parks and open space, new / expanded retail venues serve to anchor the east and west ends of the district with Regional Retail types of uses. Recently, Arctic Wolf Ice Rink opened providing a unique recreational opportunity for the entire Brazos Valley. All of these serve to attract trips to the WPC District along the Holleman and Dartmouth corridors. Another emphasis of the district is restaurants, hospitality and entertainment. While many of these opportunities exist along Harvey, and Holleman near SH 6, only a few large tracts remain as greenfields, having never been developed. The parcel is within one-mile of the TAMU main campus.

The Thoroughfare Plan shows Holleman Drive as a Minor Arterial, and requires 100' of public right-of-way. The concept plan indicates that a 15-foot right-of-way dedication is proposed. This dedication would occur in conjunction with the plat. The project site is located between George Bush Drive East and Dartmouth Drive. Both of these thoroughfares are also Minor Arterials on the Thoroughfare Plan.

The parcel is also within a tax increment finance district (TIF #1).

Item Background: The parcel was annexed into the City of College Station in 1958. It is zoned WPC, Wolf Pen Creek and is not platted. Across the street, offices and the Arctic Wolf Ice Rink have been constructed. At the northeast corner of Holleman and Dartmouth, the City of College Station is completing

facilities identified in the Master Plan to promote the district, enhance access to trails, and provide additional parking for the amphitheater.

Staff Analysis: Section 3.13 of the Unified Development Ordinance authorizes the existence of conditional uses. The Commission may permit a conditional use subject to appropriate conditions and safeguards when, after public notice and hearing the Commission finds that:

(Staff comments are in italics)

1. "The proposed use shall meet the purpose and intent of this UDO and the use shall meet the all the minimum standards established in the ordinance for the type of use." *The current parking arrangement is not satisfactory. The proposed site plan shows that garage spaces and the spaces in the front of the garages area being counted to satisfy the minimum parking requirement. Areas have been designated on the site plan as areas that are appropriate to establish required parking. To alleviate this condition, at least 90 parking spaces should be created, and distributed throughout the site. The applicant intends to seek a waiver to parking space requirements as provided in Section 7.2.H.9 if the development meets the goals of the master plan for WPC.*
2. "The proposed use shall be consistent with the development policies and goals and objectives as embodied in the Comprehensive Plan for Development of the City." *Through the WPC Master Plan Update and the UDO, the land uses in this district should consist of mixed uses versus single use parcels. One of the intents for the significant municipal investment has been to create focal points for the district and attract residents and visitors, and as a result, a "captive market" for retail sales and service establishments to thrive off Texas Avenue.*
3. "The proposed use shall not be detrimental to the health, welfare, or safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property." *The public hearing is an opportunity for the Commission to measure the potential impact on surrounding land uses.*
4. The proposed site plan and circulation plan shall be harmonious with the character of the surrounding area." *Specific requirements are enumerated in Section 5.6 of the UDO to address the relationship of buildings to the site as well as the relationship of buildings and the site to adjoining areas.*
5. The proposed use shall not negatively impact existing uses in the area or in the City through impacts on public infrastructure such as roads, parking facilities, electrical, or water and sewer systems, or on public services such

as police and fire protection, solid waste collection, or the ability of existing infrastructure and services to adequately provide services. *Refer to the Infrastructure and Facilities section attached.*

6. The proposed use shall not negatively impact existing uses in the area or in the City.
7. That the proposed use meets the purposed and intent of the ordinance and is in harmony with the development policies.

The Commission may impose additional reasonable restrictions or conditions to carry out the spirit and intent of the ordinance and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, additional landscaping, and additional improvements such as curbing, sidewalks and screening.”

Related Advisory Board Recommendations: The Wolf Pen Creek District is a referred to as a Design District in the Unified Development Ordinance (UDO). Typically, the Design Review Board (DRB) has the final word on site plans in this district. Under Section 3.1 of the UDO, the Administrator has accepted the Concept Plan to complete the application submittal for this application. Conditional Use Permits generally require a site plan to be processed in conjunction with the request. If it is the desire of the Planning & Zoning Commission and/or the City Council to review a detailed site plan, either body may request to do so within the motion.

As a residential development, the Parks and Recreation Advisory Board must make a recommendation regarding Parkland Dedication requirements prior the approval of the Preliminary Plat by the Planning & Zoning Commission.

Commission Action Options: The Commission has final authority over the Conditional Use Permit and associated site plan. The options regarding the use permit are:

1. Approval as submitted;
2. Approval with conditions relating to specific site characteristics or with time limitations;
3. Denial with specified reasons for denial;
4. Table; or,
5. Defer action to a specified date.

Supporting Materials:

1. Location Map
2. Application
3. Infrastructure and Facilities
4. Copy of Site Plan

INFRASTRUCTURE AND FACILITIES

Water: There is an existing 8" water line at the southern corner of the property. A water design report will be required to show there is adequate fire flows for the proposed project.

Sewer: There is an existing 15" sewer line that bisects the property. This project is proposing to relocate this line and abandon the associated PUE.

Streets: Holleman Drive is classified a Minor Arterial on the City's Thoroughfare Plan. An additional 15-foot dedication will be required when platting and is indicated on the site plan.

Off-site Easements: At this time it does not appear that any off-site easements will be required.

Drainage: Drainage is to Wolf Pen Creek.

Flood Plain: A portion of this property is located within FEMA floodplain and floodway. This project includes the reclamation of some of the floodplain.

Oversize request: None requested at this time.

Impact Fees: Not applicable.

NOTIFICATION:

Legal Notice Publication(s): The Eagle; 1-19-2006 and 2-9-2006

Advertised Commission Hearing Dates(s): 2-2-2006

Advertised Hearing Dates: 2-23-2006

Number of Notices Mailed to Property Owners within 200': 13

Response Received: None as of date of staff report.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", SECTION 3.13, "DEVELOPMENT REVIEW PROCEDURES, CONDITIONAL USE PERMIT", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 12, "Unified Development Ordinance", Section 3.13, "Development Review Procedures, Conditional Use Permit", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibits "A", "B" and "C", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____ 2006.

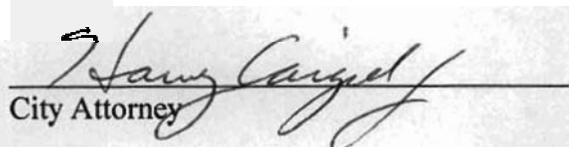
ATTEST:

APPROVED:

Connie Hooks, City Secretary

RON SILVIA, MAYOR

APPROVED:



City Attorney

EXHIBIT "A"

That the Official Zoning Map of the City of College Station, Section 3.13, "Development Review Procedures, Conditional Use Permit", of Chapter 12, "Unified Development Ordinance", is hereby amended as follows:

That a Conditional Use Permit is hereby granted for a multi-family residential use without retail uses on the first floor as provided for in Chapter 12, "Unified Development Ordinance", Section 3.13, "Development Review Procedures, Conditional Use Permit", of the Code of Ordinances of the City of College Station. The property located at 305 Holleman Drive East is granted a Conditional Use Permit for a multi-family residential use without retail uses on the first floor.

Conditions to the Conditional Use Permit:

1. Detailed site plan be presented by the Planning & Zoning Commission before it goes forward to the Design Review Board for final site plan approval to address the following:
 - Provide for access to trails
 - Provide for overflow parking

MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, February 2, 2006, at 7:00 p.m.
Council Chambers, College Station City Hall
1101 Texas Avenue
College Station, Texas



COMMISSIONERS PRESENT: Chairman Scott Shafer, Commissioners Harold Strong, Ken Reynolds, Bill Davis, Dennis Christiansen, John Nichols and Marsha Sanford.

STAFF PRESENT: Director, Joey Dunn, Transportation Planner, Ken Fogle, Assistant City Engineer, Alan Gibbs, Planning Administrator, Molly Hitchcock, Assistant Director, Lance Simms, Graduate Civil Engineers Carol Cotter and Josh Norton, Senior Planners Trey Fletcher and Jennifer Prochazka, Staff Planners Lindsay Boyer, Crissy Hartl, and Jennifer Reeves, Staff Assistant, Lisa Lindgren and Jessica Kramer.

OTHER CITY STAFF PRESENT: First City Attorney, Carla Robinson and OTIS, Bryan Cook.

CITY COUNCIL MEMBERS PRESENT: Councilman Ron Gay.

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:00 p.m.

7. Public hearing, presentation, possible action, and discussion on a Conditional Use Permit for WPC Condos to establish a multi-family use with residential uses on the first floor in the Wolf Pen Creek Design District consisting of 7.61 acres located at 305 Holleman Dr E, generally located on the north side of Holleman between George Bush Drive East and Dartmouth Drive. **Case #06-500001 (TF/CC)**

Trey Fletcher, Senior Planner, presented the item. Staff recommended denial of the Conditional Use Permit for WPC Condos in the Wolf Pen Creek District. Mr. Fletcher stated that the following reasons were the reasons staff recommended denial. **(Note...staff comments are italicized below)**

The proposed use shall meet the purpose and intent of this UDO and the use shall meet the all the minimum standards established in the ordinance for the type of use. *The current parking arrangement is not satisfactory. The proposed site plan shows that garage spaces and the spaces in the front of the garages area being counted to satisfy the minimum parking requirement. Areas have been designated on the site plan as areas that are appropriate to establish required parking. To alleviate this condition, at least 90*

parking spaces should be created, and distributed throughout the site. The applicant intends to seek a waiver to parking space requirements as provided in Section 7.2.H.9 if the development meets the goals of the master plan for WPC.

The proposed use shall be consistent with the development policies and goals and objectives as embodied in the Comprehensive Plan for Development of the City. *Through the WPC Master Plan Update and the UDO, the land uses in this district should consist of mixed uses versus single use parcels. One of the intents for the significant municipal investment has been to create focal points for the district and attract residents and visitors, and as a result, a “captive market” for retail sales and service establishments to thrive off Texas Avenue.*

The proposed use shall not be detrimental to the health, welfare, or safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property. *The public hearing is an opportunity for the Commission to measure the potential impact on surrounding land uses.*

The proposed site plan and circulation plan shall be harmonious with the character of the surrounding area. *Specific requirements are enumerated in Section 5.6 of the UDO to address the relationship of buildings to the site as well as the relationship of buildings and the site to adjoining areas.*

The proposed use shall not negatively impact existing uses in the area or in the City through impacts on public infrastructure such as roads, parking facilities, electrical, or water and sewer systems, or on public services such as police and fire protection, solid waste collection, or the ability of existing infrastructure and services to adequately provide services. *Refer to the Infrastructure and Facilities section attached.*

Mr. Fletcher stated that one phone call was received and it was to inquire and ask questions regarding the project.

Jane Kee, IPS Group, 511 University Drive, College Station, Texas. Ms. Kee gave a lengthy presentation and spoke in favor of the Conditional Use Permit. In short, Ms. Kee stated that the three items that would make this project a success would be location, timing and the amenities to be offered. Ms. Kee stated that she would like to see that the Planning and Zoning Commission approve the project and recommend it to the City Council.

Bart Munroe, Property Owner and Hank McQuaid, 2939 SH 30, College Station, Texas. Both gentlemen spoke in favor of the project.

Commissioner Nichols motioned to recommend approval to the City Council of the Conditional Use Permit as requested for the Wolf Pen Creek Condos. The Planning and Zoning Commission would like to see an additional more detailed site plan regarding access to trails on Holleman and reconsideration of overflow parking allocations to the area. The Planning and Zoning Commission would also like to see the requested site plan before it goes forward to the Design Review Board. Commissioner Davis seconded the motion, motion passed (7-0).

February 23, 2006
Regular Agenda
Construction Contract (06-089) for Phase II of Veterans Park and Athletic Complex

To: Glenn Brown, Interim City Manager

From: Eric Ploeger, Assistant Director of Parks and Recreation

Agenda Caption: Bid Number 06-47. Presentation, possible action and discussion regarding a resolution awarding the bid and approving a construction contract (Contract No. 06-089) with JaCody, Inc., in the amount of \$5,532,260.00, for the construction of Phase II of the Veterans Park and Athletic Complex, Project Number PK0501 and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Recommendation(s): Staff recommends approval of the resolution and award of the construction contract to JaCody, Inc.

Summary: This item will construct Phase II of the Veterans Park and Athletic Complex. This includes three additional soccer fields with lighting, three additional softball fields with lighting, a softball concession-restroom building, maintenance facility enlargement, a soccer restroom building, a large pavilion with seating capacity for 500 people, a one-mile walking trail, utilities, parking, and drinking fountains.

The design team, approved by City Council in October 2004, included O'Malley Engineers, Holster and Associates (architectural), and Swoboda Engineering (M.E.P.). The recommended award includes alternates 1 through 4, but not 5. Alternate 5 is a reduction alternate that would substitute a concrete culvert for a pedestrian bridge between the large pavilion and the Phase I soccer parking lot.

Budget & Financial Summary: Five (5) sealed, competitive bids were received and opened on January 30, 2006. The FY 2006 General Government Parks Capital Improvement Projects budget contains \$6,235,000 for Veterans Park and Athletic Complex, Phase II construction. Design fees currently total \$458,485.00. The total project budget from the 2003 General Obligation Bond Authorization is \$6,925,000.

The "Resolution Declaring Intention to Reimburse Certain Expenditures With Proceeds from Debt" is necessary for this bid award because the \$6,925,000 bonds have not yet been issued for the Veterans Park Phase II project. These bonds are scheduled to be issued later this year.

Staff anticipates that additional items will be requested in this project due to the favorable bid received and the funding approved for the park development. No priorities or recommendations have been established at this point.

Attachments:

1. Resolution awarding the bid and approving the contract
2. Resolution Declaring Intention to Reimburse Certain Expenditures From Proceeds From Debt
3. Bid Tabulation
4. Location Map
5. Phase II Site Plan
6. Veterans Park Master Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT NUMBER 06-089 FOR THE VETERANS PARK AND ATHLETIC COMPLEX, PHASE II CONSTRUCTION PROJECT (PK-0501) AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction of the Veterans Park and Athletic Complex, Phase II Construction Project; and

WHEREAS, the selection of JaCody, Inc., is being recommended as the lowest responsible bidder for the construction services related to the construction of the Veterans Park and Athletic Complex, Phase II Construction Project; now, therefore,

BE IT RESOLVED by the City Council of the City of College Station, Texas:

PART 1: That the City Council hereby finds that JaCody, Inc., is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with JaCody, Inc., for \$5,532,260.00 for the labor, materials, and equipment required for the improvements related to the Veterans Park and Athletic Complex, Phase II Construction Project. This includes alternates A(1), B(2), C(3), and D(4).

PART 3: That the funding for this project shall be as budgeted from the FY2006 General Government Parks Capital Improvements Projects budget in the amount of \$5,532,260.00.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

RESOLUTION NO. _____

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH
PROCEEDS FROM DEBT

WHEREAS, the City of College Station, Texas (the "City") is a home-rule municipality and political subdivision of the State of Texas;

WHEREAS, the City expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described on Exhibit "A" hereto (collectively, the "Project") prior to the issuance of obligations by the City in connection with the financing of the Project from available funds;

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS THAT:

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed \$6,235,000, for the purpose of paying the aggregate costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

PASSED AND APPROVED THIS 23TH DAY OF FEBRUARY, 2006.

Ron Silvia, Mayor

ATTEST:

Connie Hooks, City Secretary

(Seal)

APPROVED:



McCull, Parkhurst & Horton L.L.P.
Bond Counsel

Exhibit "A"

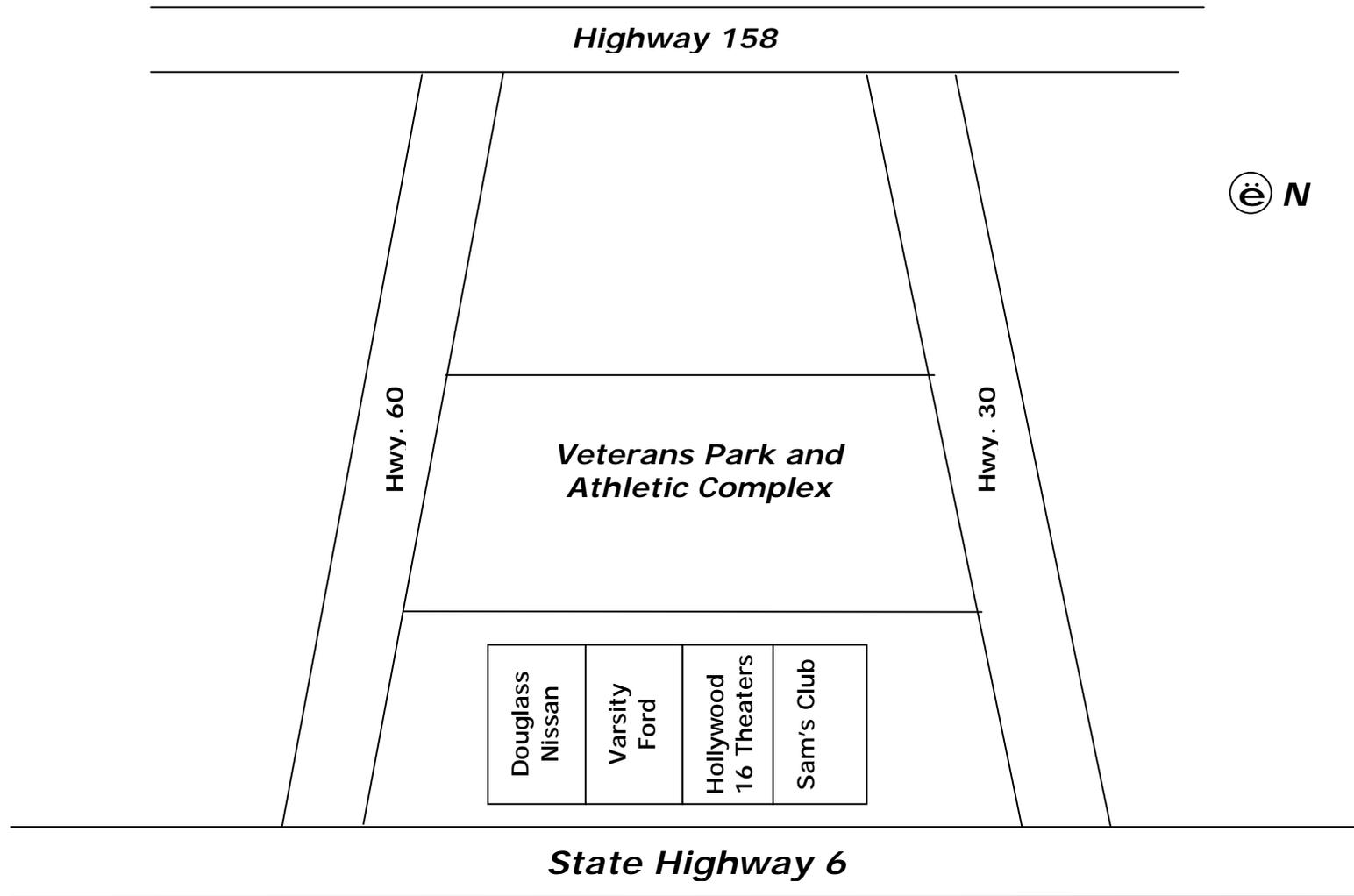
The projects to be financed that are the subject of this Statement are:

Veterans Park Phase II

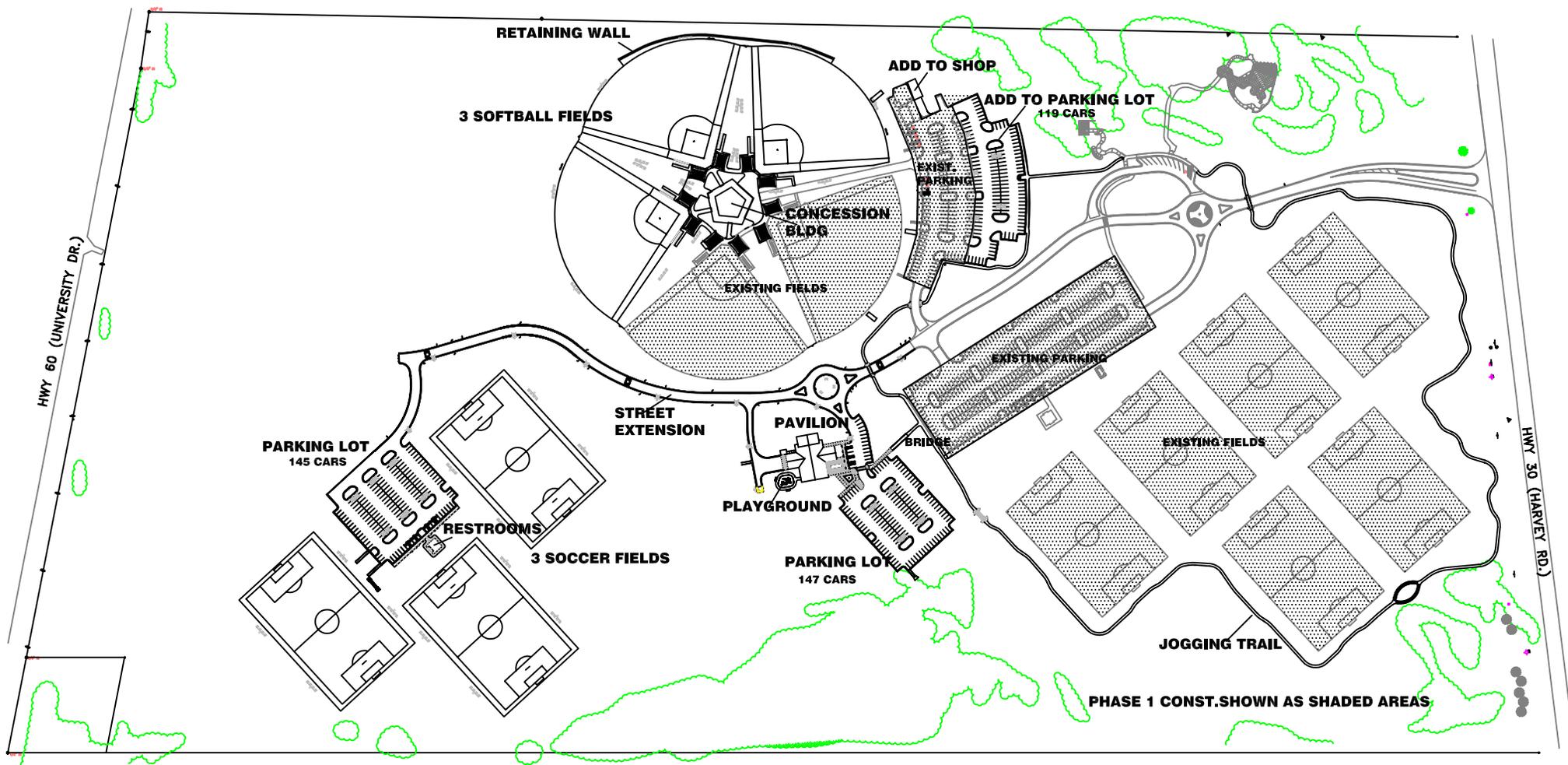
**VETERANS PARK - PHASE II
 BID TABULATION #06-47
 PARKS**

BASE BID			JACOBY		SPAW GLASS		ACKLAM		
ITEM NO.	EST. QUANT.	UNIT	Description	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
1	1	LS	Base Bid	5,161,034.00	5,161,034.00	5,744,000.00	5,744,000.00	5,843,830.00	5,843,830.00
ALTERNATES									
A1	1	LS	Larger Soccer Restrooms	36,306.00	36,306.00	58,100.00	58,100.00	51,260.00	51,260.00
B2	1	LS	Improvements in Lighting	222,500.00	222,500.00	286,300.00	286,300.00	262,471.00	262,471.00
C3	1	LS	Eighteen Pavilion Picnic Tables	8,250.00	8,250.00	7,900.00	7,900.00	11,955.00	11,955.00
D4	1	LS	Ten Bleacher Cover Structures	104,170.00	104,170.00	110,000.00	110,000.00	128,620.00	128,620.00
E5	1	LS	Deduct to Construct Culverts in Lieu of Bridge	14,241.00	(14,241.00)	17,500.00	(17,500.00)	18,200.00	(18,200.00)
Alternates					\$356,985.00		\$444,800.00		\$436,106.00
Base Bid					\$5,161,034.00		\$5,744,000.00		\$5,843,830.00
Grand Total with All Alternates					\$5,518,019.00		\$6,188,800.00		\$6,279,936.00
Grand Total with Alternates A1-D4					\$5,532,260.00		\$6,206,300.00		\$6,298,136.00
				Certification	Y		Y		Y
				Experience & Data Information	Y		Y		Y
				Addenda Received	Y		Y		Y
				Exceptions	N		N		N
				Bid bond	Y		Y		Y

BASE BID			FUQUA CONSTRUCTION		STEWART CONSTRUCTION		
ITEM NO.	EST. QUANT.	UNIT	Description	Unit Price	Item Total	Unit Price	Item Total
1	1	LS	Base Bid	6,200,000.00	6,200,000.00	6,300,000.00	6,300,000.00
ALTERNATES							
A1	1	LS	Larger Soccer Restrooms	36,300.00	36,300.00	55,000.00	55,000.00
B2	1	LS	Improvements in Lighting	279,000.00	279,000.00	270,000.00	270,000.00
C3	1	LS	Eighteen Pavilion Picnic Tables	11,000.00	11,000.00	9,000.00	9,000.00
D4	1	LS	Ten Bleacher Cover Structures	106,000.00	106,000.00	84,000.00	84,000.00
E5	1	LS	Deduct to Construct Culverts in Lieu of Bridge	42,000.00	(42,000.00)	15,000.00	(15,000.00)
Alternates					\$390,300.00		\$403,000.00
Base Bid					\$6,200,000.00		\$6,300,000.00
Base Bid with All Alternates					\$6,590,300.00		\$6,703,000.00
Base Bid with Alternates A1-D4					\$6,632,300.00		\$6,718,000.00
				Certification	Y		Y
				Experience & Data Information	Y		Y
				Addenda Received	Y		Y
				Exceptions	N		N
				Bid bond	Y		Y



**VETERANS PARK AND ATHLETIC COMPLEX
LOCATION MAP**



PHASE 2
VETERANS PARK & ATHLETIC COMPLEX



**BRAZOS VALLEY
VETERANS MEMORIAL**

**APPROVED
MASTER PLAN
May 25, 2000**

VETERANS PARK AND ATHLETIC COMPLEX CITY OF COLLEGE STATION

**February 23, 2006
Regular Agenda
2005 Racial Profiling Analysis Report**

To: Glenn Brown, Interim City Manager

From: Michael Clancey, Chief of Police

Agenda Caption: Presentation, possible action and discussion regarding the racial profile report required annually by Senate Bill 1074, of the Texas 77th legislative session.

Recommendation(s): No recommendations required. This item is presented according to statutory requirements and for informational purposes only.

Summary: Since January 1, 2002, the College Station Police Department, in accordance with the Texas Racial Profiling Law (SB No. 1074), has been required to implement policy and procedures to satisfy the requirements of the law. The requirements include:

- Development of a policy, which clearly defines the acts that constitute racial profiling and prohibits any peace officer employed by the department from engaging in racial profiling.
- Conduct Racial Profiling Training to Law Enforcement Officers.
- Implementation and publication of complaint and disciplinary processes for addressing racial profiling complaints.
- Development of a policy which establishes procedures for reviewing video and audio documentation.
- Collection of tier 1 traffic stop data.
- Production of an annual report on police traffic contacts (tier 1) and presentation of the report to the City Council before March 1 of each year.

The presentation of this report to Council is in compliance with the above mentioned requirements.

Budget & Financial Summary: n/a

Attachments:
2005 Racial Profiling Analysis Report

The College Station Police Department Annual Traffic Contact Report (2005)



Del Carmen Consulting, LLC

(I) Introduction

Opening Statement

January 31, 2006

College Station City Council
1011 Texas Avenue South
College Station, Texas 77842

Dear Distinguished Council Members,

It is clear that racial profiling continues to be regarded as a prevalent theme among law enforcement agencies in the United States. Almost four years ago, the Texas legislature, in an attempt to address the issue of racial profiling in policing, passed the Texas Racial Profiling Law. Since, the College Station Police Department, in accordance with the law, has collected and reported traffic-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices among police officers.

In this report, the reader will encounter three sections that contain information on traffic-based contact data along with documentation which aims at demonstrating the manner in which the College Station Police Department has complied with the Texas Racial Profiling Law. Specifically, section 1 contains the table of contents in addition to the Texas Senate Bill (SB1074) which introduced the Texas Racial Profiling Law. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education) is included. In addition, sections 2 and 3 contain documentation which demonstrates compliance of the College Station Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the implementation of a racial profiling complaint process (which has been disclosed to the public), and the training administered to all law enforcement personnel are included.

The final component of this report provides statistical data relevant to contacts, made during the course of traffic stops, between 1/1/05 and 12/31/05. This information has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard and to the traffic-based contact data collected in 2002, 2003 and 2004. The final analysis and recommendations are also included in this report.

I am hopeful that the findings presented in this report serve as evidence of the College Station Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE
STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy

adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing

body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) [~~7~~] the date of conviction; and

(9) [~~8~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

(II) Responding to the Law

Institutional Policy on Racial Profiling

BIASED BASED PROFILING

The practice of bias based policing by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It often alienates citizens and may foster distrust of law enforcement within the community.

This directive reaffirms the department's commitment to unbiased policing by identifying specific acts that would be considered bias based policing and outlining procedures to address requirements of Article 2.131-137 of the Code of Criminal Procedure.

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender or sexual orientation is an identifying factor in determining the existence of probable cause for taking police action.

POLICY:

Members of the College Station Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based policing. Personnel will focus on the behavior of an individual and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture, or interdiction solely on the basis of race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. Appropriate corrective action will be taken, after investigation, against any employee who engages in bias based policing. Such an investigation may result in disciplinary action up to and including termination. [1.2.9\(a\)\(c\)](#)

DEFINITIONS:

1. Arrest - To deprive a person of his liberty by legal authority.
2. Bias Based Profiling - The targeting of an individual for enforcement action, detention or interdiction based solely on a trait common to a group of people. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. For purpose of this directive the term "racial profiling" is a part of Biased Based Profiling.
3. Detention - any restriction upon a person's liberty imposed by a peace officer, based upon reasonable suspicion. If the individual is not free to go, the individual will be considered detained.
4. Pedestrian Stop - an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
5. Race or Ethnicity - heritage of a particular descent, including Caucasian {W}, African {B}, Hispanic {H}, Asian {A}, Native American {NA}, or Other {O} descent.
6. Seizure - any taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest. Seizure also includes any filing of documents with the District Attorney for the purpose of asset forfeiture.

PROCEDURE:

1. Reporting Requirements

- a. Traffic Stops
 - (1) Article 2.132 of the Code of Criminal Procedure requires specific information must be recorded for each traffic stop in which a citation is issued or an arrest results from the traffic stop. The required information includes:
 - (a) The race or ethnicity of the individual detained; and

- (b) Whether a search was conducted and, if so, whether the person detained consented to the search.
 - (2) Required fields have been incorporated into the citation and arrest forms to accommodate this data collection requirement.
- b. Reports Required for Traffic and Pedestrian Stops
 - (1) Article 2.133 of the Code of Criminal Procedure requires the following information be recorded each time a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense:
 - (a) A physical description of each person detained as a result of the stop to include the person's gender and the person's race or ethnicity as stated by the person, or if not stated, as determined by the officer to the best of the officer's ability. The abbreviations to be use for the following race or ethnicity's are:

(i) Caucasian	W
(ii) African	B
(iii) Hispanic	H
(iv) Asian	A
(v) Native American	NA
(vi) Other	O
 - (b) The traffic law or ordinance alleged to have been violated or the suspected offense;
 - (c) Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
 - (d) Whether any contraband was discovered in the course of the search and the type of contraband discovered;
 - (e) Whether probable cause to search existed and the facts supporting the existence of that probable cause;
 - (f) The street address or approximate location of the stop; and
 - (g) Whether the officer made an arrest as a result of the stop or the search, including a description of the warning or a statement of the violation charged.
 - (2) This reporting requirement only applies to those police vehicles and police motorcycles routinely used to make traffic stops. Members of the department are exempt from the reporting requirements of article 2.133 of the Code of Criminal Procedure as outlined in 1 b. (1) above, provided each traffic and pedestrian stop is recorded by mobile video/audio recording equipment as directed by Chapter 62 of this manual entitled *Mobile Video/Audio Recording*.
 - (3) The law also requires the collection of data for pedestrian stops, defined in the law as “an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest”. It is important for officers to recognize that pedestrian stops will now require a different thought process in order to meet the state law requirements. A “pedestrian stop” in this new law in practice is:
 - (a) a pedestrian stop self-initiated (on-view) by the officer based only upon reasonable suspicion, and
 - (b) in which no offense is clearly evident at the time of the stop.
 - (4) Pedestrian stop does not apply to:
 - (a) citizens stopped during dispatched calls, or
 - (b) citizen stops initiated by offenses committed in the officer’s presence (fights, indecent exposure, etc.).
- c. While not totally inclusive, the following examples are provided to assist officers in understanding when documentation of a pedestrian is required and when it is not:

- (1) Officer responding to a “burglary in progress” call stops a pedestrian leaving the scene. This is part of the open burglary call and is not considered a “pedestrian stop”.
 - (2) One day after a robbery, officers stop a pedestrian in the area matching the suspect description. This is not an open call and is considered a “pedestrian stop”.
 - (3) Officer observes a person throwing a rock through a window. Officer stops and arrests the subject. There was an offense clearly evident at the time the officer decided to make the stop. Officer initiates a criminal mischief call and clears as he does currently. This is not a “pedestrian stop”.
 - (4) Officer observes two persons walking behind a closed business. No offense is clearly evident. The officer stops the subjects and one subject is arrested for a warrant. The second subject is released at the scene. The officer initiates a call, for warrant arrest. The warrant service call is cleared as currently done. Both subjects are considered “pedestrian stops”.
- d. The law does not specifically address passengers in vehicles. The law does include the specific terms “pedestrians” and “pedestrian stop”. Therefore, the law does not apply to passengers in vehicles.
- e. Warning, Citation, Arrest, and FIR forms have been modified to comply with new data collection requirements for use by officers to record traffic and pedestrian stops made in the absence of functional mobile video/audio recording equipment.
- (1) Designated fields will be completed any time mobile video/audio recording equipment is inoperable or unavailable.
 - (2) Records personnel will ensure additional information from these forms is entered into the computer.
- f. A copy of all seizures related to asset forfeiture filed with the District Attorney will be provided to the person that oversees the Asset Forfeiture records and fund.

2. Responsibilities

- a. Patrol Officers
 - (1) Are responsible for ensuring mobile video/audio recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on duty shift supervisor as soon as possible.
 - (2) Conduct traffic stops in a professional manner as outlined in the chapter of this manual entitled *Traffic Safety*.
 - (3) Are responsible for ensuring all required fields on associated paperwork are completed including those fields required for those occasions when the mobile video/audio recording equipment is not operational or is unavailable.
 - (4) Ensure that all paperwork is turned into their supervisors at the end of their tour of duty.
- b. Patrol Supervisors
 - (1) Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.
 - (2) First line supervisors shall randomly review the mobile video/audio recording tapes of each of their subordinates with the intent to determine compliance with this and other applicable directives. At a minimum, one review per officer per month will be conducted.
 - (3) Supervisor reviews will be documented in the appropriate location on monthly officer inspection form (Log 09).
 - (4) Summary reports on these reviews will be completed on a quarterly basis and submitted to the Chief through the chain of command. The Chief will then file this report with the Internal Affairs Administrator who will use this report for annual reporting requirements.

- c. Recruiting & Training Lieutenant [1.2.9\(b\)](#)
 - (1) Will ensure the training of all affected department personnel on racial profiling issues as determined appropriate by the Texas Commission on Officer Standards and Education.
- d. Internal Affairs Supervisor
 - (1) The Internal Affairs Administrator is responsible for investigating any complaints of bias based profiling filed against any member of the College Station Police Department as outlined in Chapter 26 Internal Affairs.
 - (2) If a video or audio recording was made of an incident, which is the basis of a complaint, the Internal Affairs Administrator or his designee will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form, routed through the chain of command to the Chief of Police.
 - (3) Perform a comparative analysis of the data collected for traffic stops and traffic stop arrests (tier 1 reporting) and a separate comparative analysis for any data collected on traffic and pedestrian stops due to non-operational or unavailable audio/video equipment (tier 2 reporting). [1.2.9\(d\)](#)
 - (a) Analysis for each report will be based on a calendar year.
 - (b) Summary reports of the analysis must be submitted to the office of the Chief of Police and the City Council before March 1st of each year.
 - (c) The reports must include:
 - [1] A determination of the prevalence of racial profiling
 - [2] An examination of the disposition of traffic and pedestrian stops, including searches resulting from the stops
 - [3] An examination of quarterly supervisor review summary reports; and
 - [4] Information relating to each complaint filed within the department alleging racial profiling.
 - [5] The report may not include identifying information about an officer or about the person stopped. [1.2.9\(d\)](#)
 - (4) Will annually review and update department brochures, which serve to educate the public about the internal affairs complaint process.
 - (5) May make recommendations to the department training committee, or the recruiting and training division based on findings of summary reports.
- e. Public Information Officer

The Public Information Officer will annually post a statement in the local newspaper outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in bias based profiling with respect to the individual.

- f. Department Web page Master

The Department's web page master will maintain a statement on the website outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in racial profiling with respect to the individual.

3. Training Requirements

- a. Officers are responsible for adherence of all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

4. Complaint Investigation

- a. Any and all complaints alleging Biased Based Policing will be readily accepted in accordance to the College Station Police Department Policy Manual Chapter 26, entitled "Complaints/Internal Affairs".
- b. If practical, any video and/or audiotapes associated with a biased-based policing complaint shall be forwarded through the chain of command with the complaint.

5. Public Education

- a. This department will inform the public of its policy against biased based policing and the complaint process. Methods that may be utilized to inform the public include but are not limited to television, radio, service or civic presentations, brochures, the Internet, as well as governing board meetings.
- b. Additionally, information will be made available as appropriate in languages other than English.

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the College Station Police Department

One of the requirements of the Texas Racial Profiling Law is that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, in 2001 the College Station Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department makes available, in the lobby area and on their web site, information relevant to department policy on the issue and how to file a complaint on a racial profiling violation by a College Station police officer. In addition, the complaint policy is publicized once a year in the local newspaper again in both English and Spanish. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all College Station police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the College Station Police Department have completed the TCLEOSE basic training on racial profiling. The main outline used to train the officers of College Station has been included in this report.

It is important to recognize that the Chief of the College Station Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the College Station Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
 2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
 3. Vehicle is rented
 4. Driver is a young male, 20-35
 5. No visible luggage, even though driver is traveling
 6. Driver was over-reckless or over-cautious in driving and responding to signals
 7. Use of air fresheners
- B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
 2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
 3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
 4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow
 2. Driver is overly cautious, or driver/passengers repeatedly look at police car
 3. Driver begins using a car- or cell-phone when signaled to stop
 4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/05---12/31/05, based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the College Station Police Department has not received any complaints, on any members of its police force, for having violated the Texas Racial Profiling Law during the time period of 1/1/05 ---- 12/31/05.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint No.	Alleged Violation			Disposition of the Case
IA2005-05	Alleged violation of Texas Racial Profiling Law			Exonerated
IA2005-17	Alleged violation of Texas Racial Profiling Law			Exonerated

Additional Comments:

Tables Illustrating Traffic Contact

Tier 1 Data

(I) Tier 1 Data

Traffic-Related Contact Information (1/1/05—12/31/05)

Race/Ethnicity *	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests***	
	N	%	N	%	N	%	N	%	N	%
Caucasian	14,767	76	167	69	83	70	84	68	222	54
African	1,715	9	34	14	18	15	16	13	79	19
Hispanic	2,020	11	38	16	15	13	23	19	106	26
Asian	701	4	3	.01	2	2	1	1	2	.5
Native American	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
Total	19,203	100**	242	100**	118	100**	124	100**	409	100**

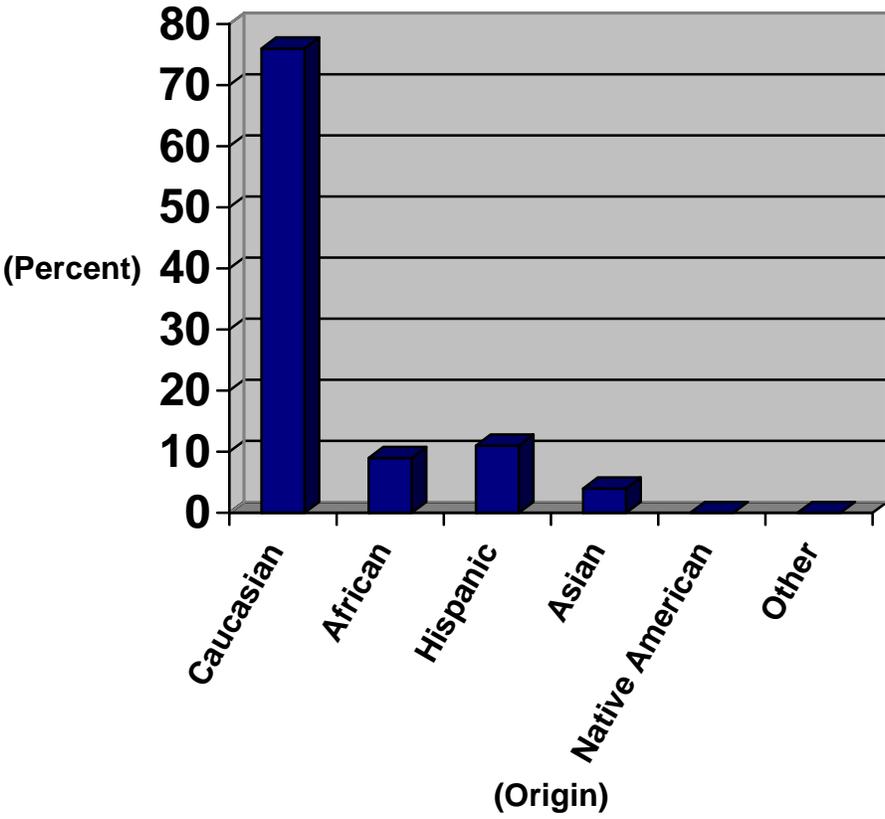
“N” represents “number” of traffic-related contacts

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

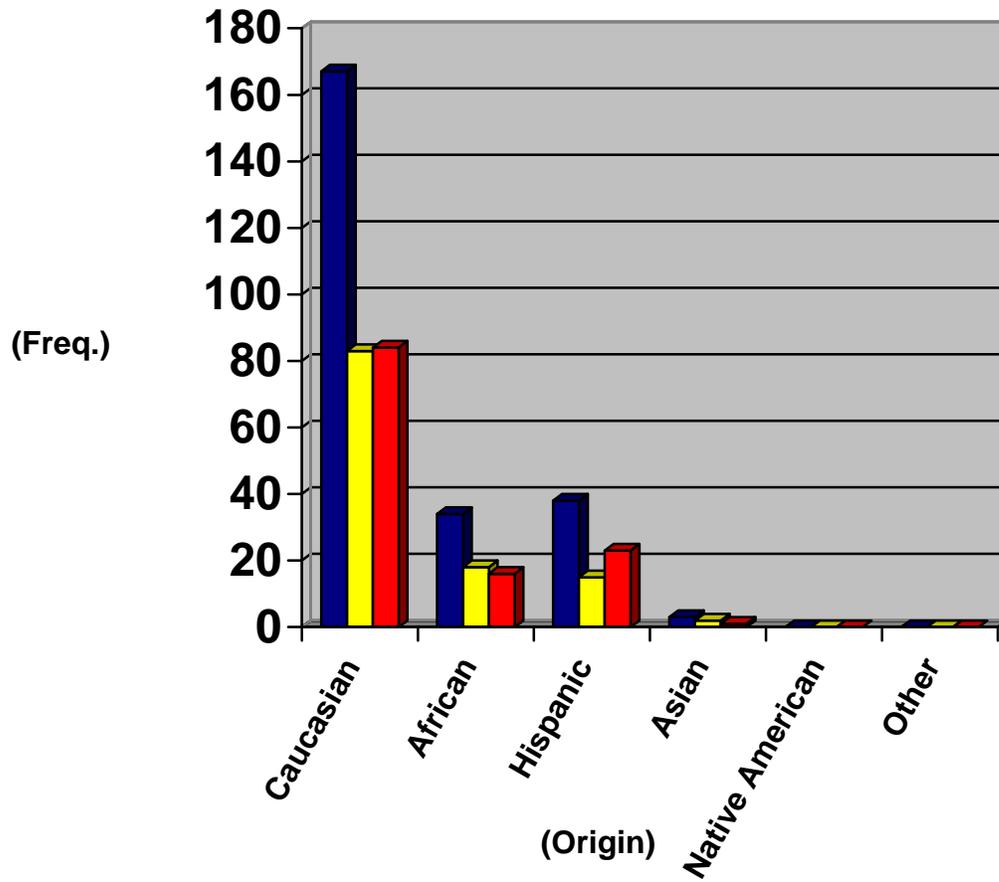
**Figure has been rounded

*** Includes warrant arrests where officers’ discretion is limited

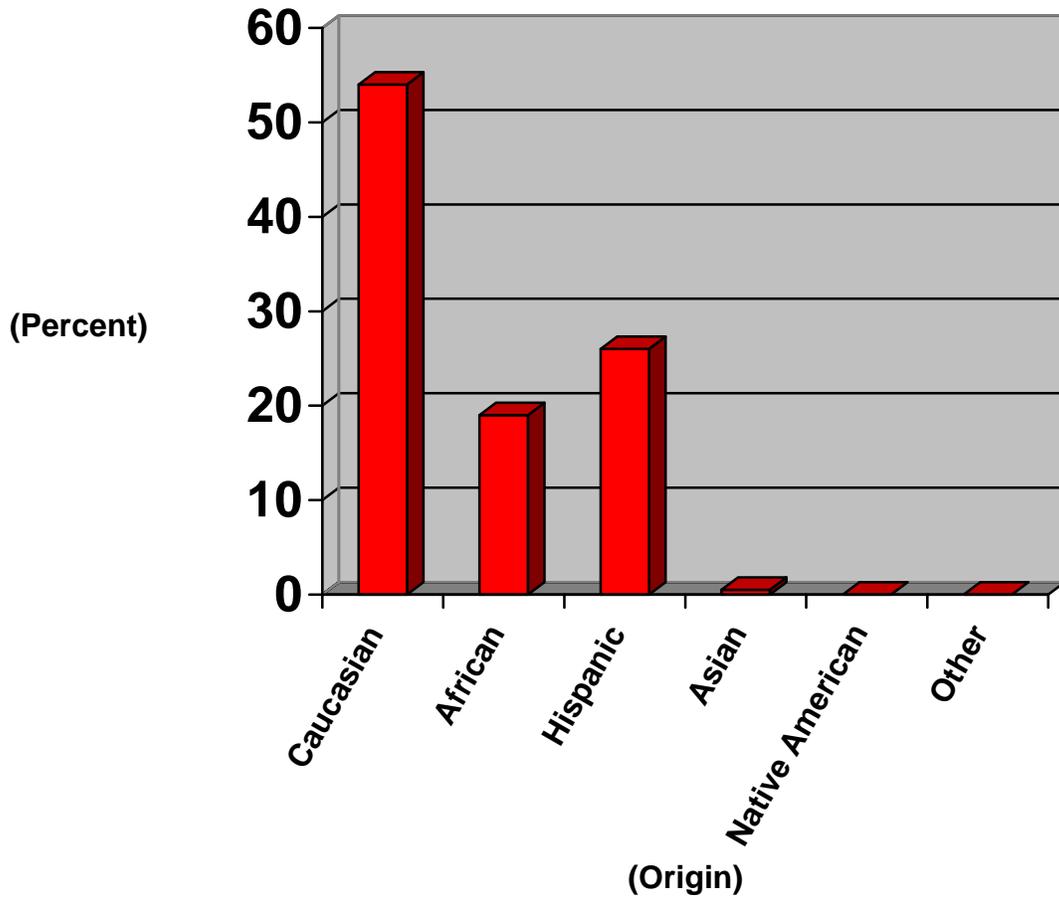
Tier 1 Data (Traffic Contacts)



Tier 1 Data (Searches)



Tier 1 Data (Arrests)



**Tier 1 Baseline Comparison
(Fair Roads Standard)**

(II) Traffic-Contacts and Fair Roads Standard Comparison

Comparison of traffic-related contacts with households in College Station that have vehicle access (in percentages). (1/1/05—12/31/05)

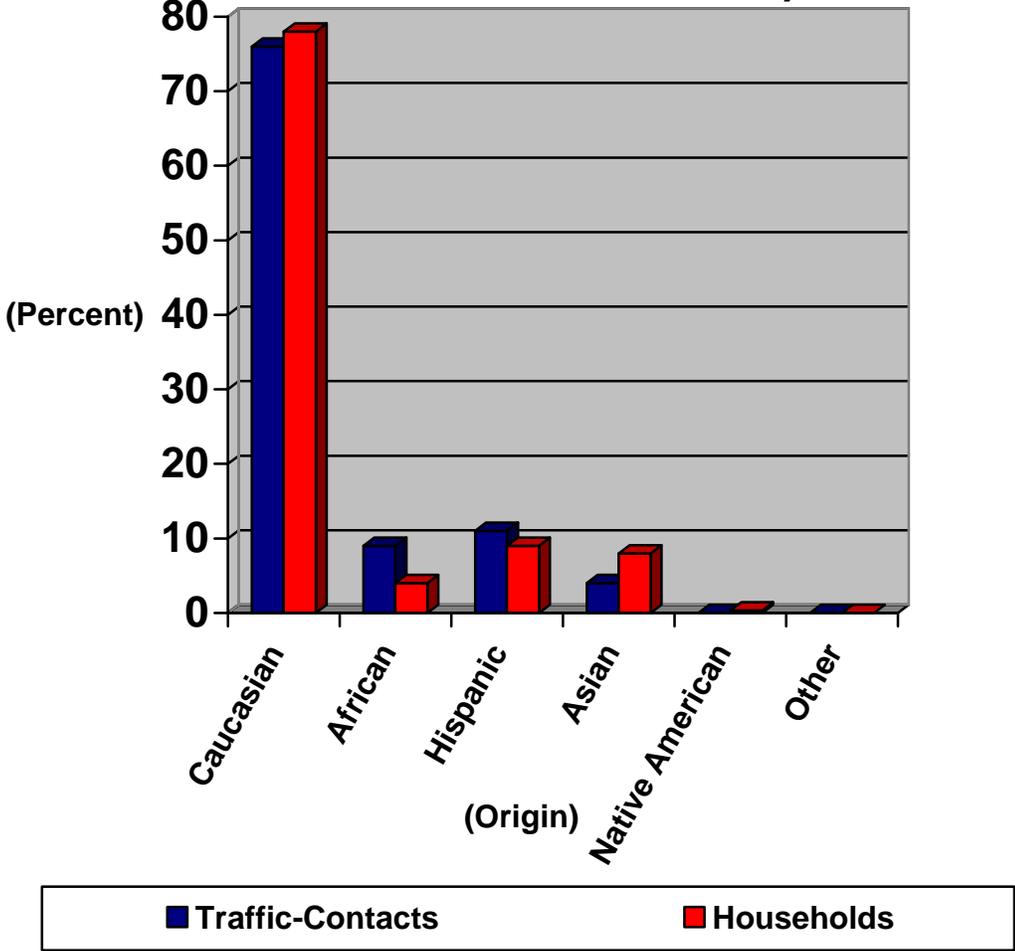
Race/Ethnicity*	Traffic-Contacts (in percentages)	Households with Vehicle Access (in percentages)
Caucasian	76	78
African	9	4
Hispanic	11	9
Asian	4	8
Native American	0	.34
Other	0	N/A
Total	100**	99.3***

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

**Represents rounded figure

***Amount does not total 100% since Census data does provide value of “other” category.

Tier 1 (Traffic-Contacts and Households/05)



Tier 1 Data
(Four-Year Comparative Analysis)
(2002—2005)

(III) Four-Year Tier 1 Data Comparison

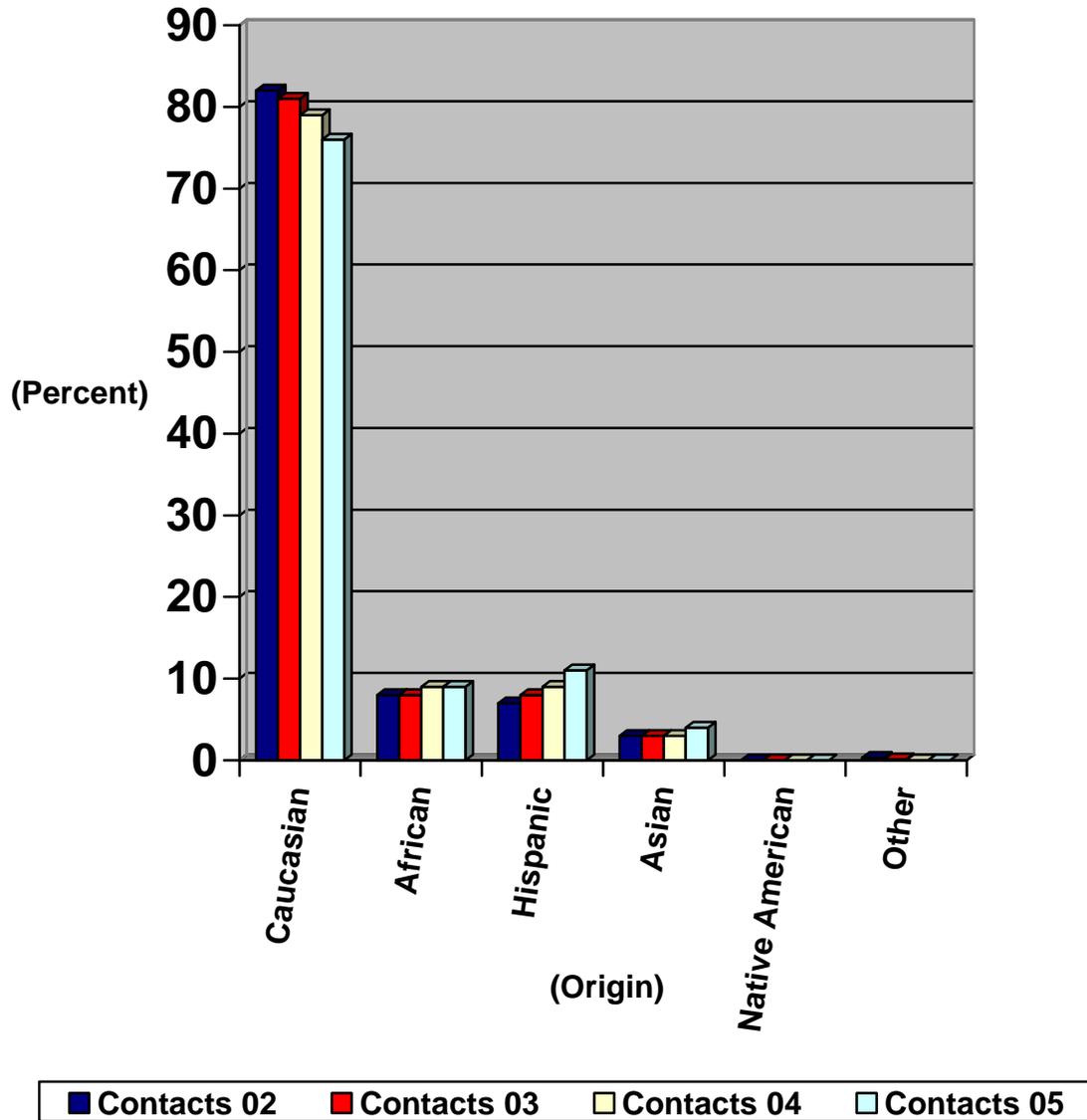
Percentage Comparison of Four-Year Traffic-Related Contacts (1/1/02---12/31/05)

Race/Ethnicity*	Traffic-Related Contacts (Percentages)			
	(02)	(03)	(04)	(05)
Caucasian	82	81	79	76
African	8	8	9	9
Hispanic	7	8	9	11
Asian	3	3	3	4
Native American	.005	0	0	0
Other	.3	.1	0	0
Total	100**	100**	100**	100**

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

Tier 1 Data (Traffic-Contacts 02-05)



**Percentage Comparison of Four-Year Traffic-Related Searches
(1/1/02---12/31/05)**

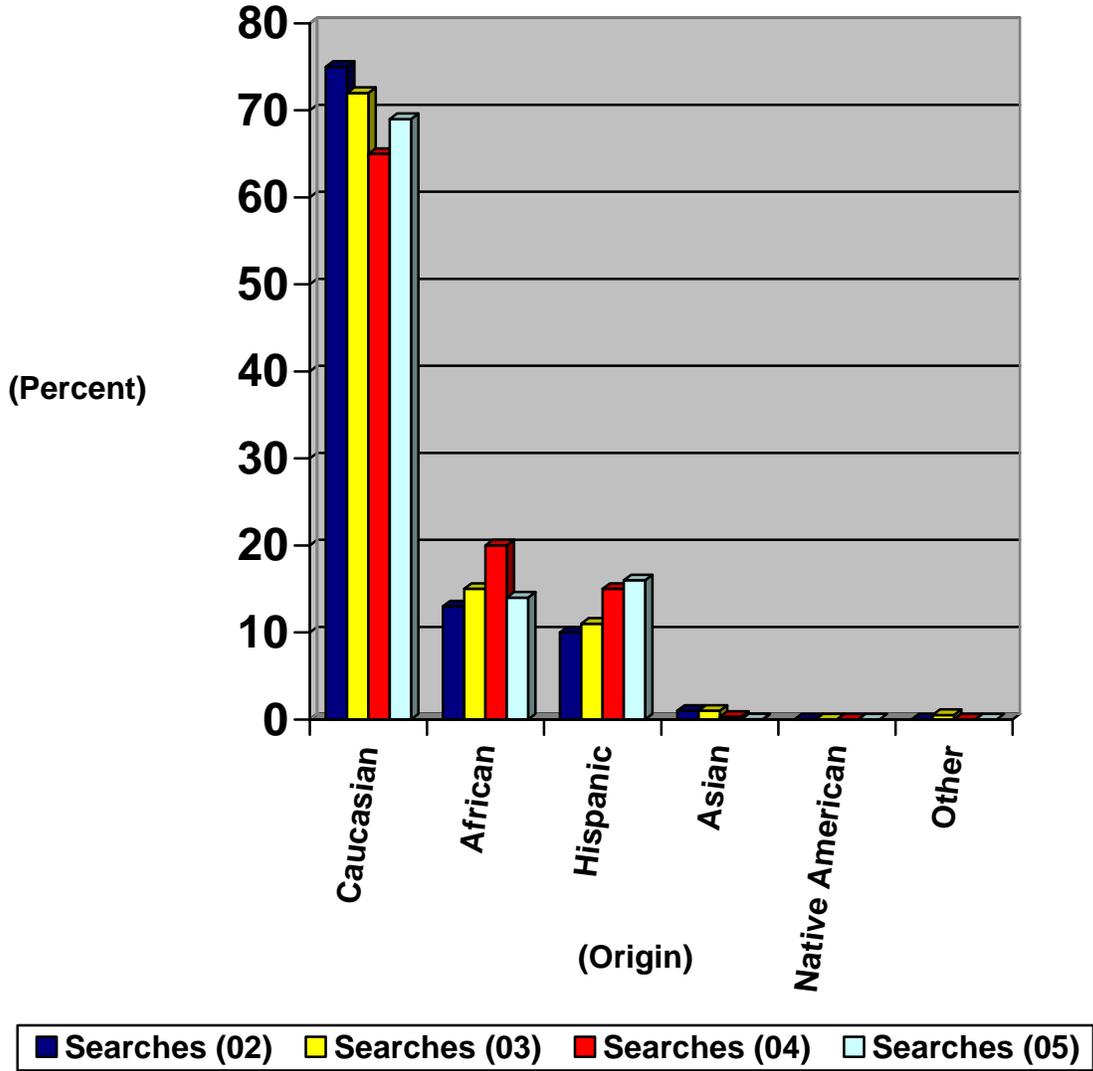
Race/Ethnicity*	Traffic-Related Searches (Percentages)			
	(02)	(03)	(04)***	(05)
Caucasian	75	72	65	69
African American	13	15	20	14
Hispanic	10	11	15	16
Asian	1	1	.3	.01
Native American	0	0	0	0
Other	0	.5	0	0
Total	100**	100**	100**	100

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

***Searches for this particular year included incident to arrest searches where officer discretion is limited.

Tier 1 Data (Searches 02-05)



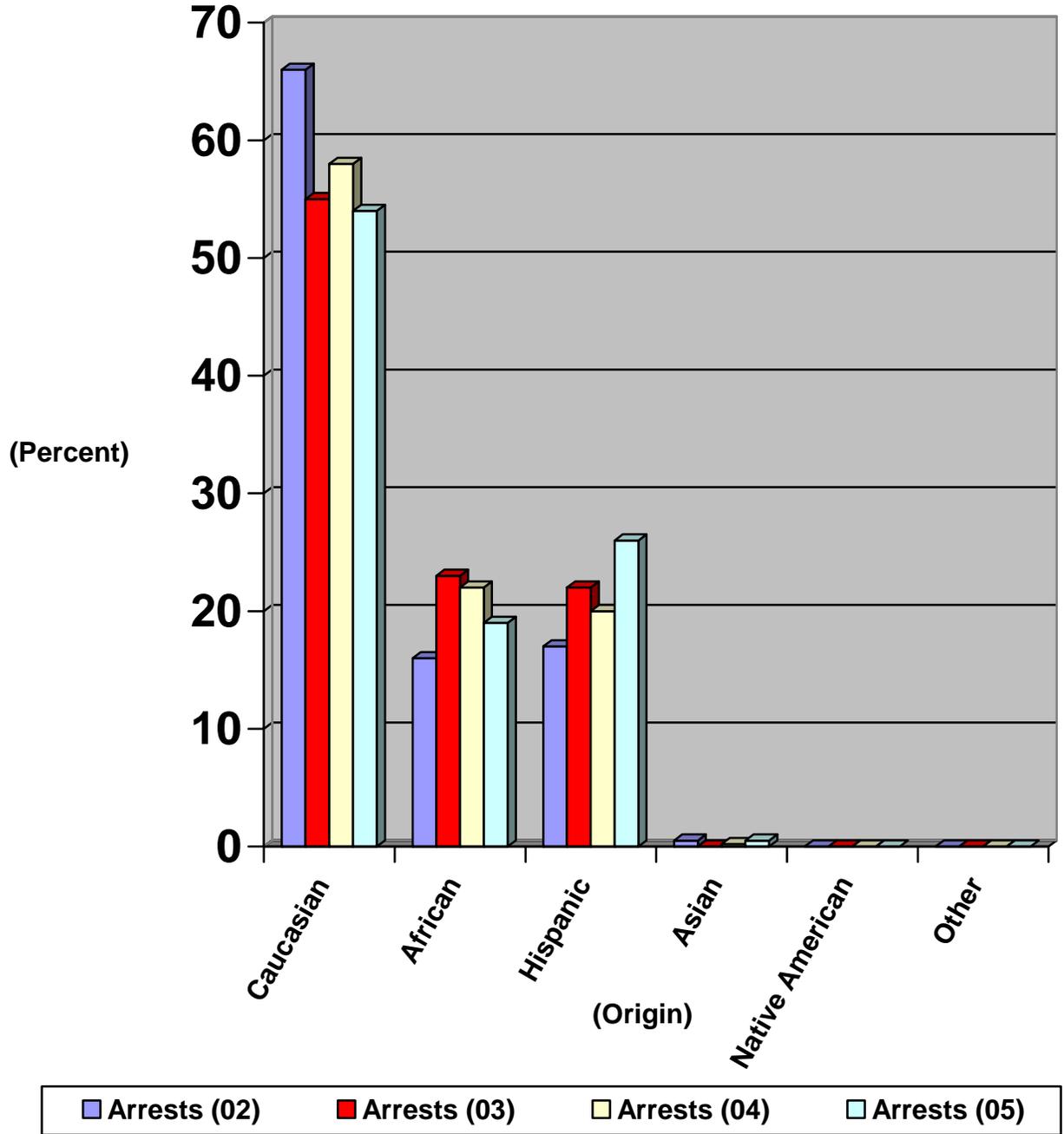
**Percentage Comparison of Four-Year Traffic-Related Arrests
(1/1/02---12/31/05)**

Race/Ethnicity*	Traffic-Related Arrests (Percentages)			
	(02)	(03)	(04)	(05)
Caucasian	66	55	58	54
African American	16	23	22	19
Hispanic	17	22	20	26
Asian	.5	0	.2	.5
Native American	0	0	0	0
Other	0	0	0	0
Total	100	100	100**	100**

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

Tier 1 Data (Arrests 02-05)



Analysis and Interpretation of Data

Analysis

In 2001, the Texas Legislature passed Senate Bill 1074 which later became the Texas Racial Profiling Law. This particular law, which became effective January 1, 2002, requires that all police departments in the state collect traffic-related data and report this information to their local governing authority by March 1st of each year. The purpose in collecting and presenting this information is to determine if a police officer is engaging in the practice of profiling minority motorists.

As it is the case in other states with similar laws, the racial profiling law in Texas requires the interpretation of traffic data. Although most researchers would probably agree with the fact that it is a good idea for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police departments are engaging in racial profiling, from a review of aggregate data. That is, it is challenging to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic-related contacts.

Despite this, the College Station Police Department, in an effort to comply with The Texas Racial Profiling Law (S.B. 1074), commissioned the analysis of its 2005 traffic contact data. Thus, three different types of analyses were conducted. The first of these involved a careful evaluation of the 2005 traffic stop data. This particular analysis measured, as required by S.B. 1074, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, and individuals belonging to the “other” category, that came in contact with the police and were issued a citation or arrested after an initial traffic-related contact, in 2005. In addition, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Finally, the data analysis highlighted the number and percentage of individuals who, after they came in contact with the police for a traffic-related reason, were arrested.

The second type of analysis was based on a comparison of the 2005 traffic-contact data with a particular baseline. When reviewing this particular analysis, one should keep in mind that there is a great deal of disagreement, in the academic literature, regarding the type/form of baseline to be used when analyzing traffic-related contact information. Of all the baseline measures available, the College Station Police Department decided to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the College Station Police Department in 2005 but live outside city limits. In some cases, the percentage of the population that come in contact with the police but live outside city limits may range from 60 to 90 percent of all contacts.

Despite this, several civil rights organizations in Texas have expressed their desire and made recommendations that all police departments use, in their analysis, the Fair Roads Standard. This contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the College Station Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to College Station.

The final analysis was conducted while using the 2002, 2003, 2004 and 2005 traffic contact data. Specifically, all traffic-related contacts made in 2005 were compared to similar figures reported in 2002, 2003 and 2004. Although most researchers do not support the notion that in four years, a “significant” trend can take place, when considering this analysis, it was determined that comparing four years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the four-year comparison has the potential of revealing early indicators that a possible trend of traffic-based contacts with regards to members of a specific minority group, may in fact, develop.

Tier 1 (2005) Traffic-Related Contact Analysis

The Tier 1 data collected in 2005 showed that most traffic-related contacts were made with Caucasian drivers. This was followed by Hispanic and African American drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by Hispanics and African Americans. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in traffic-related contacts; this was followed by Hispanics and African Americans. In addition, no arrests were made, in traffic related incidents, of drivers of “Native American” descent or those belonging to the “other” category.

Fair Roads Standard Analysis

When comparing traffic contacts to the census data relevant to the number of “households” in College Station who indicated, in the 2000 census, that they had access to vehicles, the analysis produced interesting findings. That is, the percentage of individuals of “Caucasian”, “Asian” and “Native American” descent who came in contact with the police was lower than the percentage of Caucasian, Asian and Native American households in College Station that claimed, in the 2000 census, to have access to vehicles. With respect to African American and Hispanic drivers, a higher percentage of contacts were detected. That is, the percentage of African American and Hispanic drivers that came in contact with the police in 2005 was higher than the percentage of African American and Hispanic households in College Station with access to vehicles.

Four-Year Comparison

The four-year comparison (02-05) showed remarkable similarities with respect to the traffic-related contacts. As evident in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the College Station Police in 2005 was almost identical to the percentage of drivers, from the same racial/ethnic groups that came in contact with the College Station Police Department in 2004, 2003 and 2002. There has been, however, an increase in percentage of contacts relevant to Hispanic drivers while a decrease in percentage was detected among Caucasians.

The search figures for all four years showed similar patterns. That is, an increase in percentage was detected in Caucasian and Hispanic searches while a decrease in percentage was noted among African Americans. It should be noted when considering search patterns that in 2004, searches reported included those made in the course of an incident to arrest. Therefore, officer discretion in these was limited. When considering the arrests made, the data revealed that the percentage of arrests increased among Hispanics while a decrease in percentage was evident among Caucasians and African Americans.

Summary of Findings

As it is evident from the data reviewed, the Fair Roads Standard comparison showed that the College Station Police Department came in contact (in traffic-related incidents) with the same or smaller percentage of Caucasian, Asian and Native American drivers than the percentage that resided in College Station and had access to vehicles. Further, the data suggested that the percentage of African American and Hispanic drivers that came in contact with the police in 2005 was higher than the percentage of African American and Hispanic College Station households with access to vehicles.

When reviewing the four-year traffic contact data comparison, the findings suggested that the College Station Police Department has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past 4 years is in place despite the fact the city demographics are expected to have changed, thus, increasing the number of subjects likely to come in contact with the police.

Overall, it is recommended that the College Station Police Department continue to collect and assess additional traffic-contact data (i.e., reason for PC searches, contraband detected) which may prove to be useful when determining, in subsequent reports, the nature of the traffic contacts police officers are making with all individuals, particularly with African American and Hispanic drivers. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all traffic contacts made with the public. As part of this effort, the College Station Police Department is also encouraged to consider the utility of performing an independent search analysis on the search data collected in 2005. Further, it is strongly encouraged that the Department continues to commission data audits in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

It is clear that the College Station Police Department continues to address the issue of racial profiling in a serious manner. The information provided in this report serves as evidence that the College Station Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **were** met by the College Station Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act of actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the College Station Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Produce an annual report on police contacts (Tier 1) and present this to local governing body by March 1, 2006.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

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