



Mayor
Ron Silvia
Mayor Pro Tempore
John Happ
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, March 23, 2006 3:00 PM
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

1. Presentation, possible action, and discussion on items listed on the consent agenda.
2. Presentation, possible action, and discussion regarding the creation of residential historic districts.
3. Presentation, possible action, and discussion relating to receiving the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2005.
4. Presentation, possible action, and discussion regarding a resolution replacing the City Council travel policy adopted October 24, 2002 and declaring an effective date.
5. Presentation, possible action, and discussion 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.

6. Council Calendars

Mar 20	Intergovernmental Committee Meeting – Noon – 1:30 p.m.
Mar 20	2006 Spring Girl's Fast Pitch Opening Ceremonies – Jane Pulley Softball Field #2 in Bee Creek Park – 6:00 p.m.
Mar 21	Council Transportation Committee Meeting – Administrative Conference Room 4:30 – 6:00 p.m.
Mar 21	Brazos Community Foundation Tribute Luncheon 12:00 – 1:30 Hilton Bluebonnet Room
Mar 21	The United States Air Force Band Presentation – Rudder Auditorium – 7:30 p.m. – 9:00 p.m.
Mar 23	Inner Circle Luncheon – Briarcrest Country Club 11:45 a.m.

Mar 23	Workshop and Regular Council Meeting 3:00 p.m.
Mar 27	College Station Police Department Employee Banquet 6:30 – 9:00 p.m. Hilton Oakwood Room
Mar 30	2006 Women of Distinction Banquet – Hilton 6:00 – 8:30
Mar 30-31	Tex21 Dinner and Quarterly Meeting - Killeen
Apr 5	Crompton Park Dedication 5:30 – 6:30 p.m.
Apr 6	School of Rural Public Health – 3:00 – 7:00 p.m.
Apr 10	George Bush Award Excellence in Public Service – Rudder Auditorium 5:00 – 7:00 p.m.
Apr 11	Jefferson Awards 9:00 – 10:00 p.m. – George Bush Presidential Library

7. 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, Interfaith Dialogue Student Association, Joint Relief Funding Review Committee, Library Committee, Making Cities Livable Conference, Metropolitan Planning Organization, Outside Agency Review Committee, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership Sister City Association, TAMU Student Senate, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, (see attached posted notices for subject matters).
8. 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

Competitive Matter {Gov't Code Section 551.086}; possible action

The City Council may deliberate, vote, or take final action on a competitive matter in closed session. The City Council must make a good faith determination, by majority vote of the City Council, that the matter is a Competitive Matter. A “Competitive Matter” is a utility-related matter that the City Council determines is related to the City of College Station’s Electric Utility Competitive Activity, including commercial information, which if disclosed would give advantage to competitors or prospective competitors. The following is a general representation of the subject(s) to be considered as a competitive matter.

- a. Electric Rate Structure and Budget and Financial Forecast

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
- 9. Final Action on executive session, if necessary.
- 10. 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 March 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 March, 2006 at 2:00 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 March 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 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, March 23, 2006 at 7:00 p.m.
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

11. Pledge of Allegiance, Invocation, Consider absence requests, Presentation of City Employees Recognition

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.

- 12.1 Presentation, possible action, and discussion on approval of draft minutes for College Station City Council Workshop and Regular Meeting of May 12, 2005, and Special Budget Meetings for August 15, 2005, August 23, 2005, August 29, 2005, and September 6, 2005.

Vision Statement IV – Economic Development – We will provide a strong and diverse economic environment.

- 12.2 Presentation, possible action, and discussion regarding the approval and execution of a conveyance agreement to accomplish the transfer of ownership to the Brazos Valley Community Action Agency (BVCAA) of a single-family undeveloped property located at 909 Fairview originally purchased by the City for \$17,500 for affordable housing development.

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

- 12.3 Bid 06-55. Presentation, possible action, and discussion regarding a construction contract (Contract No. 06-110) with Liteco Electric, Inc., in the amount of \$79,565.00, for the construction of Lemontree Park Softball Field Light Improvements, Project Number PK 0606.
- 12.4 Bid number 06-67. Presentation, possible action, and discussion regarding a resolution awarding the bid and approving a construction contract (Contract No. 06-147) with Fuqua Construction Company, in an amount of \$75,720.00, for the construction of Bee Creek Park Playground replacement.

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

- 12.5 Presentation, possible action, and discussion approving a real estate contract that will authorize the purchase of two lots in the amount of \$7,312.50 needed for drainage control and greenways. The property is owned by Bryan/College Station Habitat for Humanity and is located on Southland Street east of Wellborn Road.
- 12.6 Presentation, possible action, and discussion regarding the award of an annual price agreement for Janitorial Supplies to ProStar Industries, in the amount of \$54,498.31.
- 12.7 Presentation, possible action, and discussion on the resolution approving a Contract Assignment Agreement with Walton and Associates Consulting Engineers. Inc. to LANWalton, a division of Lockwood, Andrews and Newman, Inc.
- 12.8 Presentation, possible action, and discussion of an ordinance amending Chapter 3 “Building Regulations”, Section 2. "Right-of-way Maintenance" "N. Right-of-way and Easement Abandonment" of the Code of Ordinances by repealing language requiring fees for abandonment.
- 12.9 Presentation, possible action, and discussion regarding the approval of a construction contract (Contract #06-129) with Siemens Building Technologies Inc., in the amount of \$64,983.00, for the replacement of the Direct Digital Control Systems (temperature controls) at City Hall and the Public Works Building.
- 12.10 Presentation, possible action, and discussion regarding a resolution approving the bid and awarding a construction contract 06-131 for equipment replacement at Carters Creek Wastewater Treatment Plant to Bryan Construction Company in the amount of \$88,000.00.

- 12.11 Presentation, possible action, and discussion regarding rejection of Item #D-3, Bid #06-50 in the amount of \$55,660.00 from Techline Inc. and award bid item to Hughes Supply in the amount of \$100,280.00 for the purchase of transmission materials for the Spring Creek and Brazos Transmission line construction.
- 12.12 Presentation, possible action, and discussion regarding approval of a resolution to support the nomination of David Coleman, College Station Utilities' Water/Wastewater Division Manager, to fill a vacant municipal representative position as a voting member on the Region G Water Planning Group.
- 12.13 Presentation, possible action, and discussion awarding Bid #06-64 to Stresscrete, Inc., and authorizing the estimated annual expenditures of \$199,557.00 for pre-stressed spun cast concrete poles.
- 12.14 Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct street improvements at Highway 40 and the recently constructed Arrington Road. The estimated cost of the City's participation is \$81,940.
- 12.15 Presentation, possible action, and discussion authorizing the assignment of utility easements along FM 2818 from Bryan Texas Utilities to the City.
- 12.16 Presentation, possible action, and discussion regarding a resolution replacing the City Council travel policy adopted October 24, 2002 and declaring an effective date.
- 12.17 Presentation, possible action, and discussion regarding approval of a five year interlocal agreement with the Texas Agricultural Experiment Station, in a total amount not to exceed \$384,262.00.

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.

- 13.1 Presentation, possible action, and discussion regarding a briefing on the platting process for single family homes currently under construction in Section 12 of the Glade Subdivision, located on Southwest Parkway near Southwood Drive.
- 13.2 Public hearing, presentation, possible action, and discussion on consideration of an ordinance amending Chapter 12, “Unified Development Ordinance” (UDO) of the Code of Ordinances of the City of College Station, consisting of regulations applicable to Northgate Zoning Districts, including NG-1 Core Northgate, NG-2 Transitional Northgate, and NG-3 Residential Northgate.
- 13.3 Public hearing, presentation, possible action, and discussion on an ordinance rezoning Lot 1, Block A of the Haney-Highway 6 Subdivision, 1.2 acres, from C-3 Light Commercial to C-1 General Commercial, located at 3129 Texas Avenue South at the intersection of Texas Avenue, Deacon Drive and the Highway 6 frontage road.
- 13.4 Presentation, possible action, and discussion regarding a resolution supporting the Bee Creek Crossing Bike/Pedestrian Improvement Project, for inclusion in the Statewide Transportation Enhancement Program (STEP).

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

- 13.5 Presentation, possible action and discussion on appointment of members to the Outside Agency Funding Review Committee.
14. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for March 23, 2006.
15. Final action on executive session, if necessary.
16. Adjourn.

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

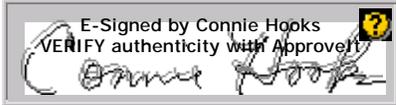
APPROVED:



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, March 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 March, 2006 at 2:00 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 March 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.

**March 23, 2006
Workshop Agenda
Residential Historic District Presentation**

To: Glenn Brown, City Manager

From: Joey Dunn, Director of Planning and Development Services

Agenda Caption: Presentation, possible action, and discussion regarding the creation of residential historic districts.

Recommendation(s): This topic is being provided as an informational item at this time.

Summary: This item was requested by the Council on January 26, 2006. Ms. Bratten Thomason, a representative of the Texas Historical Commission (THC) will provide a presentation regarding the pros and cons of creating residential historic districts.

On January 17, 2006, Ms. Thomason spoke at joint neighborhood meeting of the Oakwood and College Hills Homeowners Associations regarding the procedures for creating historic districts. City Councilperson Nancy Berry was in attendance at the January 17th meeting. On January 26, the City Council approved the placement of a future workshop agenda item for Ms. Thomason to come back to College Station to speak to the Council regarding residential historic districts.

Ms. Thomason has been the State Certified Local Government Coordinator for the THC since 1999. In promoting the Certified Local Government (CLG) program, she works with cities and counties throughout Texas in utilizing preservation tools to protect historic resources. The CLG program is funded by the National Parks Service and administered by commissions in each state. Once communities are accepted as a CLG, they are eligible for matching grants for historic preservation projects and programs.

Educational Resource

National Parks Service website article, "Working on the Past in Local Historic Districts."
<http://www2.cr.nps.gov/workingonthepast/>

Budget & Financial Summary: N/A

Attachments: none

**March 23, 2006
Workshop Agenda**

Presentation of 2005 Audit Reports and Comprehensive Annual Financial Report

To: Glenn Brown, City Manager

From: Jeff Kersten, Director of Finance and Strategic Planning

Agenda Caption: Presentation, possible action, and discussion relating to receiving the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2005.

Recommendation(s): Staff recommends that Council accept the 2005 audit reports and CAFR.

Summary: The City's Charter and Fiscal and Budgetary Policies along with State law require that not less than thirty (30) days prior to the end of each fiscal year, the City Council shall designate a qualified public accountant or accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit the report to the City Council. Also, the City's budgetary policies require that the auditor jointly review the management letter/audit results with the City Council within 30 days of receipt by the staff.

Mr. Tom Wallis of Ingram, Wallis & Associates will present the results of the fiscal year 2005 audit and present, along with staff, the 2005 CAFR. Mr. Wallis will also be available to answer any questions the City Council may have.

Budget & Financial Summary: None

Attachments:

1. Comprehensive Annual Financial Report for the Fiscal Year ended September 30, 2005 (Delivered to Council under separate cover)
2. Single Audit Reports (Delivered to Council under separate cover)
3. Management Letter (Delivered to Council under separate cover)
4. Staff response to Management Letter (Delivered to Council under separate cover)

**Thursday, March 23, 2006
Workshop Agenda
Council Travel Policy**

To: Glenn Brown, City Manager

From: Harvey Cargill, Jr. City Attorney
Connie Hooks, City Secretary

Agenda Caption: Presentation, possible action, and discussion regarding a resolution replacing the City Council travel policy adopted October 24, 2002 and declaring an effective date.

Recommendation(s):
Adopt as presented
Provide direction to staff of changes

Summary: The purpose of this internal control policy is to establish uniform procedures that shall apply to all related expenditures for professional development, legislative, and other necessary expenses incurred by members of the College Station City Council while performing their official duties.

The College Station City Council desires to review their travel and reimbursement policy on an annual basis to ensure that the policy meets the guidelines of the City of College Station Employee Handbook.

Budget & Financial Summary: N/A

Attachments:
Resolution
Attachment A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, REPLACING THE CITY COUNCIL TRAVEL POLICY ADOPTED OCTOBER 24, 2002, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the College Station City Council in fulfilling their duties for the citizens of College Station, may travel for professional development, legislative, any other performance of official duties, or economic development purposes; and,

WHEREAS, the College Station City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties; and,

WHEREAS, the College Station City Council desires to review their travel and reimbursement policy on an annual basis to ensure that the policy meets the guidelines of the City of College Station Employee Handbook; now, therefore,

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

PART 1: That this policy shall be consistent with City administrative travel related policies in the City of College Station Employee Handbook adopted September 2004.

PART 2: That the City Council approves the attached travel policy, "Attachment A".

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

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

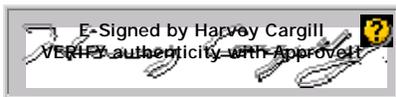
ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

"Attachment A"

CITY OF COLLEGE STATION
CITY COUNCIL TRAVEL POLICY

Purpose

The purpose of this internal control policy is to establish uniform procedures that shall apply to all related expenditures for professional development, legislative, and other necessary expenses incurred by members of the College Station City Council while performing their official duties.

This policy shall be consistent with the City policies defined in the City of College Station Employee Handbook adopted September 2004. In addition to these policies, the City Charter §Section 19 provides that members of the City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties.

General Procedures

The City Manager will allocate general fund monies annually during the budget process for professional development and City business-related travel and reimbursable expenses for the Mayor and Council members. If in a given year, Council members take more trips than projected, the City Manager's office is authorized to transfer adequate amounts from the General Fund Contingency to pay for the trips.

Travel Reimbursement Procedures

Lodging

The City will pay training class/seminar, conference, and meeting related out-of-town lodging costs at the single occupancy rate. The City will pay for the cost of the room and business telephone calls only. Councilmembers may, at their own expense, upgrade their lodging. Additionally, Councilmembers are responsible for payment of non-reimbursable expenses such as: in-room movies, personal phone calls, etc.

Transportation

The City will pay all reasonable and necessary transportation costs incurred for required travel relating to the performance of official duties or professional development.

Air Travel

If air travel is selected, payment will be made for the commercial coach fare rate only. Discount fares and/or airline specials are offered by airlines. If a discounted fare and/or airline special

require a Councilmember to leave or stay over an extra day, the City will pay for the lodging and meals for the extra day(s) provided the costs do not exceed the savings on the airfare.

Personal Vehicle

If a personal vehicle is used for travel, mileage reimbursement will be made at the current mileage rate set by the Internal Revenue Service (IRS). The reimbursed amount is expected to cover all of the personal vehicle related expenses for meetings outside Brazos County. The Mayor and Council members shall be reimbursed mileage at the IRS rate per mile for travel from City Hall to business-related meetings, luncheons, and ceremonial functions. Reimbursement shall not cover travel from home to business related meetings and city facilities.

Meals

Meals purchased within the City of College Station and the immediate surrounding area shall be paid for by the City if the purpose of the expense is clearly in the best interest of the city. Council members may use the City procurement card. If a personal credit card or cash is used instead, a Council member shall be reimbursed up to the amount indicated on the meal receipt. This includes, but is not limited to meetings with local, state or federal officials, dignitaries, business representatives, or for recognition functions at local organizations of which the City is a member. The business purpose must be noted on the receipt.

Reporting

Purchasing Card

Upon taking the elected official's oath of office and attendance at orientation, a newly elected official will be provided a City procurement card. All procurement cards are the property of the City of College Station and for authorized purposes only. All expenditures on procurement cards must be reported to the City Secretary's office within two (2) days business days after the purchase is made. It is at the discretion of the Council member to retain the card at all times or the City shall maintain in a safe and secure location until needed.

A lost, stolen, or misplaced card should be immediately reported to the credit card company as well as the City Secretary's office, 764-3541.

Approval Process

The Mayor or Mayor Pro Tem shall review and consider any transaction necessary for City related business activities by any Council member. These officials will be responsible for signing the necessary documentation that such expenditures were made in accordance with this policy.

Travel expenses for spouse or guest accompanying Council members to conferences or meetings shall be paid for by the Council member.

Miscellaneous

Council members shall notify the City Secretary's office as far in advance as possible to provide greatest flexibility in obtaining advantageous airfares and lodging rates. In the event, a Council member is unable to attend a scheduled trip, he should notify the City Secretary's office as soon as possible to ensure that notification can be made to airlines or hotels for reimbursement of deposits in a timely manner and additional costs are not incurred. A Council member may be responsible for costs incurred to the City if cancellation is not due to an emergency.

APPROVED this _____ day of _____.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks

APPROVED:

City Attorney

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Mayor
Ron Silvia
Mayor Pro Tempore
Dennis Maloney
City Manager
Thomas F. Brymer

City Council
James Massey
John Happ
Robert Wareing
Susan Lancaster
Nancy Berry

Draft Minutes
College Station City Council
Workshop and Regular Meetings
Thursday, May 12, 2005 at 2:00 p.m. and 7:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

COUNCIL MEMBERS PRESENT: Mayor Silvia, Mayor Pro Tem Maloney, Massey, Wareing, Berry

COUNCIL MEMBERS ABSENT: Happ, Lancaster

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

Mayor Silvia called the meeting to order at 2:02 p.m.

Workshop Agenda Item No. 1 -- Discussion of consent agenda items listed for Regular Council Meeting.

Councilmembers did not remove any items from the consent agenda.

Workshop Agenda Item No. 5 – Presentation, discussion, and possible action regarding the City Center Committee Quarterly Report and Follow-up recommendation regarding the approved City Center concept.

Mayor Pro Tem Maloney made a motion to receive an updated report and analysis to the public and City Council at this meeting, without any Council action at this meeting. Motion seconded by Councilmember Wareing, which carried unanimously, 5-0.

FOR: Silvia, Maloney, Wareing, Berry, Massey

AGAINST: None

ABSENT: Happ, Lancaster

Following the vote, Councilmembers heard a quarterly report and an update from Bottino Grund Architects and Walter P. Moore Associates and staff on the College Station City Center.

No formal action was taken.

Workshop Agenda Item No. 2 – Presentation, discussion and possible on an ordinance amending Chapter 11 “Utilities” of the Code of Ordinance of the City of College Station, Texas by replacing the current Chapter 11 “Utilities” in its entirety as set out in Exhibit “A” providing a severability clause and an effective date.

Director of Office of Technology and Information Services Olivia Burnside described the ordinance amending Chapter 11 Utility Code by clarifying descriptions, changing language to bring consistency among sections, and changing the policy current regulatory requirements and current practices.

No action was taken.

Workshop Agenda Item No. 4 – Presentation, discussion and possible action on creating a policy for council appointed committees.

City Secretary Connie Hooks pointed out key items in the proposed policy. Council directed staff to preview with new Council. No action was taken.

Workshop Agenda Item No. 5 – Discussion and possible action on future agenda items.

No items were presented. Councilmember Lancaster arrived to the meeting at 4:55 pm.

Council Calendars

Agenda Planning Calendar

May 7 Election Day

May 7 Tour of Historic TAMU Bldgs. – Rudder Tower Stark Gallery – 8:30 a.m.

May 9 – 12 Legislative Trip to Washington D.C.

May 9 CSPD Awards Banquet – Hilton -6:30 p.m.

May 10 Hospitality Celebration – Pebble Creek 11:30 a.m.– 1:30 p.m. – B/CS CVB

May 11 Fraternal Partnership – 5:30 p.m. – City Hall

May 12 Workshop and Regular Meeting 2:00 p.m.

May 16 Intergovernmental Meeting – TAMU – noon

May 16 Planning and Development Forum, CS Conference Center 11:30

May 17 Chamber of Commerce – 8:30 a.m.

May 17 Transportation Committee – 4:30 p.m. – City Hall

May 18 Research Valley Partnership – 3:00 p.m.

May 18 Canvass of Election Special Meeting – Noon – Council Chambers

May 18 Police Memorial Day - noon

May 18 Exploring History Lunch – CS Conference Center 11:30

May 21 Tour of Carnegie Center of Brazos Valley History – 8:30 a.m.

May 26 Workshop and Regular Meeting – 3:00 p.m.

May 30 Memorial Day Ceremony – Chet Edwards – BV Veterans Memorial Park 6:30

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, Zoning Board of Adjustments

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

At 5:12 pm Mayor Silvia announced that the City Council convened into executive session pursuant to Sections 551.071, 551.074, and 551.087 of the Open Meetings Act to seek the advice of our attorney, to consider the purchase of real property, and economic development negotiations.

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. To 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 an 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:

1. TCEQ Docket No. 2002-1147-UCR, Applications of Brushy Water Supply and College Station (Westside/Highway 60)
2. TCEQ Docket No. 2003-0544MWD, Application of Nantucket, Ltd.
3. TXU Lone Star Gas Rate Request.
4. Cause No. 03-002098-CV-85, Brazos County, College Station v. Wellborn Special Utility District
5. 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
6. TCEQ Docket No. 582-04-2840, Application of Wellborn Special Utility District
7. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division JK Development v. College Station
8. GUD No. 9530 – Gas Cost Prudence Review, Atmos Energy Corporation
9. GUD No. 9560 – Gas Reliability Infrastructure Program (GRIP) rate increases, Atmos Energy Corporation

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:

1. Aggie Field of Honor
2. Land acquisition on Wellborn Road for proposed cemetery

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. Incentives for University Town Center.

10. Final action on Executive Session, if necessary.

Council returned to open session at 7:00 pm

11. Mayor Silvia led the audience in the Pledge of Allegiance. , Invocation
Presentations: International Students Presentation – Panama, Council Service Awards
Mayor Silvia presented service awards to three outgoing Councilmembers; James Massey, Dennis Maloney, and Robert Wareing

12. Hear Visitors

Tim Rhome, 700 Driver Ct. expressed his gratitude for the City's vision to build a Fire Station on Greens Prairie Road.

- 13.1 Approved by common consent the award of Professional Services Contract 05-185 with Mitchell and Morgan, LLP for engineering services as related to the TxDOT Wellborn Road Widening Project, in an amount not to exceed \$231,000.00.
- 13.2 Approved by common consent the renewal agreement with Badger Meter Inc. for the annual purchase of water meters to be maintained in inventory, Bid No. 04-44, for an annual expenditure of \$101,603.00.
- 13.3 Approval by common consent the annual renewal agreement(s) for Temporary Employment Services with Human Resource Connection in the amount of \$79,000 and Willstaff Worldwide in the amount of \$25,000.
- 13.4 Approved by common consent of additional funding for professional legal services related to utility litigation for Bickerstaff, Heath, Smiley, Pollan, Keever & McDaniel, L.L.P. (hereinafter called “Bickerstaff”), in the amount of \$150,000 for a total of \$300,000.
- 13.5 Approved by common consent **Resolution No. 5-12-2005.13.5** requesting that the Texas Department of Transportation establish a 55 mph construction speed zone on sections of SH 6 main lanes extending from north of Greens Prairie Road to the southern city limits, and a 45 mph construction speed zone on sections of the SH 6 frontage roads within the same limits.
- 13.6 Approved by common consent **Ordinance No. 2803** amending Chapter 11 “Utilities” of the Code of Ordinance of the City of College Station, Texas by replacing the current Chapter 11 “Utilities” in its entirety as set out in Exhibit “A”, providing a severability clause and an effective date.
- 13.7 Approved by common consent the upgrade of existing three-lead Medtronic Physio Control ECG (Electro Cardio Graph) units to twelve lead Lifepak units and the purchase of five new Medtronic Physio Control twelve-lead ECG Lifepak Units from Medtronic Emergency Response Systems for a total of \$134,702.75. This purchase is exempt from competitive bidding as item(s) available from only one source as captive replacement parts or components for equipment LGC 252(a)(7)(D).

Mayor Pro Tem Maloney made a motion to approve Consent Agenda Items No. 13.1 – 13.7. Motion seconded by Councilmember Berry which carried unanimously, 6-0.

Regular Agenda

Vision Statement III – Planning and Development

- 14.1 Public hearing, discussion and possible action on an ordinance rezoning Lot 1A, Lot 16, and the southeast 25 feet of Lot 15, College Heights Block D, generally located at the intersection of University Drive and Macarthur Street, and north of the intersection of University Drive and Nimitz Street, from PDD Planned Development District, A-P Administrative Professional and R-2 Duplex Residential to P-MUD Planned Mixed Use District.

Staff Planner Jennifer Prochazka presented the staff report. Staff and Planning and Zoning Commission recommended approval of the rezoning request by applicant Benjamin Knox. Mayor Silvia opened the public hearing. No one spoke. He closed the public hearing.

Councilmember Berry made a motion to approve **Ordinance No. 2804** amending Chapter 12, "Unified Development Ordinance" Section 4.2, Official Zoning Map" of the Code of Ordinance of the City of College Station by changing the zoning district boundaries, Lot 1A, Lot 16, southeast 25 feet of Lot 15, College Heights Block D, generally located at the intersection of University Drive and MacArthur, and north of the intersection of University Drive and Nimitz Street, from PDD Planned Development District, A-P Administrative Professional and R-2 Duplex Residential to P-MUD Planned Mixed Use District.

The motion was seconded by Councilmember Lancaster and carried unanimously, 6-0.

FOR: Silvia, Berry, Maloney, Lancaster, Massey, Wareing

AGAINST: None

ABSENT: Happ

Benjamin Knox thanked City Council for their support of his business expansion on University Drive.

- 14.2 Public hearing, discussion, and possible action on a Conditional Use Permit for a Night Club, located in Suite D at 2551 Texas Avenue South in the Homestead Place Shopping Center (05-39).

Joey Dunn, Director of Planning and Development Services presented the staff report. The applicant requested a conditional use permit in order to open a nightclub with limited food service in a vacant lease space in the Homestead Place Shopping Center on Texas Avenue. He noted that some concerns were expressed from adjacent landowners regarding parking and other impacts at the Planning and Zoning Commission public hearing.

Staff and Planning and Zoning Commission recommended approval

Councilmember Happ arrived to the meeting at 7:55 pm.

Mayor Silvia opened the public hearing.

Mark Sweden, owner of the nightclub stated that the hours of operation are: Wed- Sunday, 11:00 am to 10:00 pm, Thurs-Saturday, 11:00 am to midnight.

Mayor Silvia closed the public hearing.

Mayor Pro Tem Maloney made a motion to approve **Ordinance No. 2805** 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 by granting a conditional use permit for a nightclub located at 2551 Texas Avenue South, Suite D.

Motion seconded by Councilmember Happ which carried unanimously, 7-0.

FOR: Silvia, Maloney, Massey, Lancaster, Berry, Happ, Wareing
AGAINST: None

Vision Statement IV – Economic Development

14.3 Presentation, discussion, and possible action regarding an economic impact report of the Research Valley Partnership.

Bob Malaise, a member of the Research Valley Partnership Board provided a summary of a report that provided a cost benefit analysis and return on investments of the activities of the RVP from 1996 to 2004, specifically focused on activities in College Station.

14.4 Presentation, discussion, and possible action on appointing a City representative to the Research Valley Partnership Board of Directors to fill an expired term.

Councilmember Massey moved to appoint Larry Marriott to the Research Valley Partnership Board of Directors. Motion seconded by Councilmember Lancaster.

Councilmembers Maloney, Happ, and Berry expressed comments about delaying the appointment for a future meeting.

FOR: Silvia, Wareing, Lancaster, Massey

AGAINST: Happ, Berry

ABSTAIN: Maloney

15. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for May 12, 2005.

Council completed the executive session prior to the regular meeting.

16. Final action on executive session, if necessary.

17. Adjourn.

Hearing no other business, the meeting was adjourned at 8:15 pm on Thursday, May 12, 2005.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks

**Draft Minutes
College Station City Council
Special Meetings
Tuesday, August, 15, 2005 at 4:00 pm
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas**

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

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

Mayor Silvia called the special meeting to order at 4:03 p.m.

Special Meeting Agenda Item No. 1 -- Presentation, discussion, and possible action on the proposed Outside Agency Policy changes.

Interim City Manager Glenn Brown described the outside agency funding benefits. He noted that the City Council provided direction that increased accountability was necessary in the Outside Agency process. Staff reviewed the existing police and application process. He noted that an inconsistency does exist in the current process. Mr. Brown illustrated the following current process:

- Joint Relief Funding Review Committee – Reviews CDBG requests.
- College Station members of the JRFRC review some Outside Agency requests.
- Arts Council reviews the arts and culture related requests.
- Other requests are presented by staff in the budget process.

Staff recommended the proposed proposes:

- CDBG process remains the same.
- All other agencies requesting funds will go through a standardized process which includes a standardized application process, Council appointed Citizen Committee review requests, agency and staff reporting, staff monitoring, and City Council provides ultimate decision on which agencies get funded and at what level they are funded.

Council members expressed comments on the proposed proposes.

Council member Lancaster moved to restore all funding for the agencies that were included in last year's budget and the Council consider the 2005-2006 requests. The Policy modifications will be completed after the budget process with the participation of the stakeholders.

Council members expressed an area of concern with implementing the proposed process during the 2005-2006 budget review.

Mayor Silvia opened the meeting for public comments.

The following citizens addressed the regarding proposed Outside Agency policy changes:

Netta J. Simek, 4720 Hunington Drive,
Robert Borden, 2109 Wayside Drive,
Ruth Clearfield 1809 Laura Lane,
Carol Wagner, 203 Ember Glass,
John Simek, 4720 Hunington Drive,
Jane Wolf, 3217 Westchester,
Dick Birdwell, 3 Forest Drive,
Paul A Boatright, 5259 Cole Lane,
David Marion, 10276 N. Dowling Road,
Jim Rosales, 4304 Apache Court,
Tim Bryan, 763 Rosemary Drive,
Berry Bigger, 812 Holston Hills,
Lynn McIlhaney, 2022 Oakwood Drive,
Mike Beal 506 Crescent Street,
John E. Velasquez, 4988 Winding Creek,
Blake Whitaker, 206 Luther,
Tom Lynch, 8705 Chippendale,
Mell Pruitt, 804 Waco,
Wendi Lamphear, 1300 Chesapeake Court,
Cesara Beeler, 4308 Brompton,
Donna Jones, 10328 Cottontrail
M.A. Sterling, 4302 College Main,
Silas Moores, Goode,
Eva L. Benavides, 1707 Dillon,
Jane Stowell, 705 East 31st Street,
Laura Klemm, Grassbur Road

Council member Lancaster repeated her motion. Council member Lancaster moved to restore all funding for the agencies that were included in last year's budget and the Council consider the 2005-2006 requests. The Policy modifications will be completed after the budget process with the participation of the stakeholders. Council member White seconded the motion.

Council recessed for a short break and reconvened the special meeting at 6:32 p.m.

Following continued council discussion, the motion failed by a vote of 3-4.

FOR: Lancaster, White, Silvia

AGAINST: Happ, Gay, Berry, Scotti

Motion made by Mayor Pro Tem John Happ to adopt the staff's recommendation to revise the funding policy for outside agencies by requiring a new reporting and

monitoring process based on baseline funding, and initiate requirements for quarterly basis reporting. Also directed staff to provide City Council on agency's funding expenditures. He indicated that a citizen committee could be formed prior to next year's budget process.

Motion seconded by Council member Scotti.

Additional comments related to the Council's direction to review the funding requests and allocation of monies in the next few weeks.

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

AGAINST: None

Special Meeting Agenda Item No. 2 - Presentation, discussion and possible action on the FY 2005-2006 proposed budget.

This item was rescheduled for August 23, 2005.

Special Meeting Agenda Item No. 3 - Presentation, discussion, and possible action on FY 2005-2006 tax rate options.

Jeff Kersten, Director of Finance and Strategic Planning Services, presented important facts about the proposed ad valorem tax rate of 43.94 cents which lowers tax rate to the effective tax rate which will fund the proposed budget and an additional \$230,096; fund pay plan market adjustment, \$156,000, or other unfunded priorities.

Council members asked questions about specific calculations regarding the effective tax rate and its impact on the budget. Jeff informed Council with tax rate scenarios that affect the proposed budget and future budgets.

No action was taken.

Special Meeting Agenda Item No. 4 -- Adjourn.

Council member White made the motion to adjourn. Motion seconded by Council member Berry. Motion carried unanimously. The meeting was adjourned at 7:50 pm.

PASSED AND APPROVED this day of , 2006.

APPROVED:

ATTEST:

Mayor Ron Silvia

City Secretary Connie Hooks



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

Minutes
College Station City Council
Special Meeting
Tuesday, August, 23, 2005 at 4:00 pm
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

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

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

Mayor Silvia called the special meeting to order at 4:02 p.m.

Special Meeting Agenda Item No. 1 -- Presentation, discussion, and possible action on the FY 2005-2006 Proposed Budget.

Director of Human Resources Julie O'Connell presented an overview of the Pay Play Policy. She described the components of the Pay Plan, highlighted the 2005 salary survey and pointed out the findings of the survey. The findings of the survey noted below:

- Police actual salaries 8.2% below market
- Fire actual salaries 9.6% below
- Non-public safety actual salaries 1.2% below market

Ms. O'Connell made the following recommendations:

- Fund skills plan, performance/competency pay
- Fund 2% market adjustment for non-public safety, April 2006
- Fund 3% market adjustment for public safety, April 2006
- Cost - \$1,344,263 (City-wide fiscal year cost)

Mr. Kersten described the General Fund regarding Revenue Assumptions, Current Services, Service Level Adjustments and Impact on Forecast. He also pointed out important budget items in the General Fund, Police and Fire Departments, and Public Works Department.

Mayor opened the meeting for public comments.

The following citizens addressed the City Council.

Larry Ringer, St. Andrews Drive addressed the City Council on the need to expand the City Library and additional funds for a children librarian in the amount of \$43,000.

David Hart, 1306 Bayou Woods, addressed outside agency fund request.

Special Meeting Agenda Item No. 2 – Presentation, discussion and possible action to call public hearings, if needed, on an ad valorem tax rate for fiscal year 2005-2006.

Mr. Kersten noted that the current tax rate is 46.40 cents, the effective tax rate is 43.94 cents per \$100 valuation, and the rollback rate is 46.33 cents per \$100 valuation.

Council member Berry directed staff to proceed with the effective tax rate of 43.94 cents to provide flexibility for monies in the General Fund.

Council member Lancaster moved to hold two public hearings on September 8th and 13th, 2005 at 7:00 p.m., with posting of 46.32 ad valorem tax rate per \$100 per evaluation. Included in the motion was the publication of an ad to explain the tax rate to the citizens of College Station. Council member Scotti seconded the motion, which carried by a vote of 5-2.

FOR: Silvia, Lancaster, Scotti, Happ, White

AGAINST: Gay, Berry

Council changed the meeting schedule from September 22, 2005 to September 21, 2005 to accommodate Councilmembers' absences.

Regular Agenda Item No. 3 – Adjourn.

Hearing no objections, the meeting adjourned at 6:33 p.m. Tuesday, August 23, 2005.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks



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

Minutes
College Station City Council
Special Meeting
Monday, August 29, 2005 at 4:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

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

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

Mayor Silvia called the meeting to order at 4:05 p.m.

Special Agenda Item No. 1-- Presentation, discussion and possible action on whether to initiate a referendum on the College Station convention center project.

Interim City Manager Glenn Brown stated that the purpose of this item was to receive input from the City Council about an initiative referendum on the Convention Center project.

Comments were made from the audience.

Ron Fulton, President of the Restaurant Association opposed the referendum.

Hub Kennady, 5001 Crystal Downs, opposed the referendum

Leonard Ross, owner of the Plaza Hotel spoke in favor of a referendum

Council member Gay made a motion to place on the September 6, 2005 council agenda, discussion and consideration of a ballot proposition on the November constitutional ballot on the conference center issue. Scotti seconded the motion. Motion failed, 2-5.

FOR: Scotti and Gay

AGAINST: White, Happ, Lancaster, Berry, Silvia

Special Agenda Item No. 2 – Presentation, discussion and possible action on the proposed timeline and review process for the selection of an executive search firm to assist in the process of hiring a City Manager.

Purchasing Manager Cheryl Turney described a proposed timeline for the selection of an executive search firm in the process of hiring a City Manager. Council committed to rank the search firms at

the September 8th Council meeting and preferred a regular timeline rather than a fast paced approach for the selection of City Manager.

Special Agenda Item No. 3 – Presentation, discussion and possible action on the FY 2005-2006 Proposed Budget.

Jeff Kersten, Director of Fiscal and Strategic Planning Services presented information about the General Fund Proposed budget for Parks Department. Steve Beachy, Parks and Recreation Director responded to Council questions.

Jeff briefly discussed the funds proposed for operations of Larry J. Ringer Library. Council directed staff to add an additional \$43,000 for the children's librarian position at an annual cost.

Planning and Development Services Director Joey Dunn explained staff's plans and funding scenarios for the Comprehensive Plan Amendment Project, Congress of Neighborhoods, and Gateways to Neighborhoods.

Council came to a consensus to continue with the proposed budget and staff's work plan toward the Comprehensive Plan Update Project and Congress of Neighborhoods Program. Council asked staff to modify the proposed budget to include \$15,000 for Neighborhood Gateway Projects in the General Fund proposed budget.

No additional action was taken.

Special Agenda Item No. 4 – Executive Session.

Mayor Silvia announced that the City Council convened into executive session pursuant to Sections 551.071, 551.086, and 551.087 of the Open Meetings Act to seek the advice of the city attorney with respect to pending and contemplated litigation, to consider economic development negotiations, and competitive matters.

Council began executive session at 6:15 pm on Monday, August 29, 2005.

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 Co, College Stat. v.Wellborn Special Util District

- e. Civil Action No. H-04-4558, U.S. District Court, Southern District of Texas, Houston Div. College Stat v. U.S. Dept. of Agriculture, etc., @ 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. Claim letter from Café Eccell

Competitive Matters {Gov't Code Section 551.086}; possible action

The City Council may deliberate vote, or take final action on a competitive matter in closed session. The City Council must make a good faith determination, by majority vote of the City Council, that the matter is a Competitive Matter. A "Competitive Matter" is a utility-related matter that the City Council determines is related to the City of College Station's Electric Utility Competitive Activity, including commercial information, which if disclosed would give an advantage to competitors or prospective competitors. The following is a general representation of the subject(s) to be considered as a competitive matter.
Electric Fund Proposed Budget

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. The proposed city conference center and associated privately developed hotel.

Special Agenda Item No. 5 – Action on executive session, if necessary.

Council recessed the executive session at 7:35 pm. Council returned to open session.

No action was taken.

Special Agenda Item No. 6 – Presentation, discussion and possible action on the FY 2005-2006 Proposed budget.

Jeff continued with key points within the General Fund Proposed Budget by department. Items related to Office of Technology and Information Services, Fiscal Services Department, and General Government Departments.

Council directed staff to include monies in the proposed budget to change part time position to full time position in the City Secretary and City Manager's office, approximately net cost, \$20,000 in the City Secretary Fund.

Jeff reviewed the changes Council proposed for FY 06 budget, approximately \$184,000 in the General Fund.

Jeff presented a summary of other governmental funds within the proposed budget:

- 4 Debt tax rate was 26.98¢ per \$100 valuation
- 4 Revised debt tax rate is 24.98¢ per \$100 valuation.
- 4 Parks Xtra Education \$99,105
- 4 Economic Development Fund \$425,000
- 4 Court Security Fund \$89,028
- 4 Court Technology Fund \$99,000
- 4 Police Seizure Fund \$10,000

Jeff discussed the key capital projects for which funds are proposed to be appropriated from the General Government Fund. Projects estimated at \$16,971,541.

Also discussed were FY 05-06 Enterprise Funds Budgets which included Water Fund, Sanitation Fund, BVSWMA, Drainage Utility Fund, and Parking Enterprise Fund.

Jeff reminded Council about next budget session , September 6 to discuss funding requests from outside agencies, internal revenue funds, and special funds.

Discussion concluded.

At 10:15 pm, Mayor Silvia announced that the City Council convened into executive session pursuant Section 551.087 of the Open Meetings Act to consider economic development negotiations.

Council completed executive session at 11:00 pm on Monday, August 29, 2005. The Council returned to open session. No action was taken from executive session.

Special Agenda Item No. 7 – Adjourn.

Hearing no objections the special meeting adjourned at 11:06 pm on Monday, August 29, 2005.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks



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
Special Meeting
Tuesday, September 6, 2005 at 4:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

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

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

Mayor Silvia called the meeting to order at 4:05 p.m.

Special Agenda Item No. 1-- Presentation, discussion and possible action on the FY 2005-2006 Outside Agency Funding requests.

Director of Budget and Strategic Planning Jeff Kersten presented an overview of the Outside Agency and the CDBG funding process.

Mr. Kersten noted that staff reviewed funding applications for the Arts Council affiliates to determine if they meet the two part test necessary for Hotel/Motel funding. Staff requested Council direction regarding the level and source of funding recommended.

Arts Council	\$340,000
Grants to Affiliates	\$100,000
Public Art	\$ 50,000
Total	\$490,000

Mayor opened the floor for public comments.

The following individuals addressed the City Council.

Al Jones, 4720 Stonebriar, Veterans Memorial
Berry Bigger, 715 University Drive East, Bryan College Station Convention and Visitors Bureau
Rebecca Von Gonten, 2012 Broken Arrow, Keep Brazos Beautiful

Kate Mason, 1504, South Texas Avenue, MHMR
Leslie Schueckler, 15206 Post Oak Bend, Sister City Association
Heather Prestridge, 3380 University Drive, Texas Cooperative Wildlife Collection
Leianne Pettus, 1901 Holleman #104, CARPOOL
Dr. P. David Romei, 3200 Innsbruck, Arts Council
Monica Reese, George Bush Library and Museum

Mayor recessed the meeting for a short break at 6:14 p.m. and reconvened the special meeting at 6:26 p.m.

Public comment continued.

Carol Holtzaple, C.S., Childre's Museum of the Brazos Valley
Doug Weeden, 3600 Tabor Road, Twin City Mission
Bob Malaise, Research Valley Partnership
David Hart, Bayou Woods

Mayor Silvia recessed the Special meeting at 7:06 p.m. for a dinner break and reconvened the Special meeting at 7:46 p.m.

Non CDBG requests recommended by the Joint Relief Funding Review Committee

Council member Gay abstained from voting on requested funds for MHMR and Twin City Mission.

Mayor Pro Tem Happ abstained from voting on requested funds for Research Valley Partnership.

Council member Gay moved to approve funding for the Alzheimer's Association in the amount of \$14,706. Council member Berry seconded the motion which carried unanimously, 7-0.

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

Council member Berry moved to approve funding for the Barbara Bush Parent Center in the amount of \$14,887. Council member White seconded the motion which carried unanimously, 7-0.

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

After a brief discussion, the consistence of the City Council was to approve \$20,000 for CARPOOL, \$10,000 for Dispute Resolution Center and \$7,500 for Texas Cooperative Wildlife Collection as requested.

Council member White moved to approve funding for MHMR in the amount of \$25,000. Council member Lancaster seconded the motion, which carried unanimously, 6-0-1.

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

Council member Lancaster moved to approve funding for Twin City Mission in the amount of \$35,000. Mayor Pro Tem Happ seconded the motion, which carried unanimously, 6-0-1.

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

Recommended Funding for Other Requests

Mr. Kersten described the funding source for each of the agency's request.

Council member Gay moved to end the practice of pass through policy for outside agency requests recommended by City staff, the monies will be a direct contribution to the agencies. Council member Berry seconded the motion, carried by a vote of 5-2.

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

After a brief discussion, the consensus of the City Council was to approve \$50,000 for Veterans Park Memorial, \$30,000 for Children's Museum of the Brazos Valley and \$12,000 for Brazos Valley Museum of Natural History, \$960,000 for the Convention and Visitors Bureau and \$293,287 for the Research Valley Partnership as requested.

Mayor Silvia moved to increase the Bush Presidential Library funding to \$50,000. Council member Gay seconded the motion, which carried unanimously, 7-0.

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

Council member Berry moved to table the funding for the African American National Heritage Society until the next Council Meeting. Council member Lancaster seconded the motion, which carried unanimously, 7-0.

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

Council member Gay moved to increase the Sister Cities Association funding to \$5,000. Council member Lancaster seconded the motion, which carried unanimously, 7-0.

Council member White moved to approve funding for Keep Brazos Beautiful in the amount of \$45,000. Council member Berry seconded the motion, which carried unanimously, 7-0.

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

Council member Gay moved to approve funding for CS Noon Lions Club in the amount of \$20,000. Council member White seconded the motion which carried unanimously, 7-0.

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

Arts Council Request

Council member Lancaster moved to approve funding for the Arts Council request in the amount of \$490,000. Council member White seconded the motion, which failed by a vote of 2-5.

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

Council member White moved to table the funding for the Arts Council until the September 8, 2005 Workshop Meeting. Mayor Pro Tem Happ seconded the motion, which carried by a vote of 6-1.

FOR: Silvia, Happ, White, Lancaster, Scotti, Barry
AGAINST: Gay

Special Agenda Item No. 2 – Presentation, discussion and possible action on the FY 2005-2006 Proposed budget.

Finance and Strategic Planning Director Jeff Kersten outlined the various funds to be discussed. These include the Revenue Funds and Internal Services Funds.

Mr. Kersten reviewed the key budget decision points and upcoming budget calendar.

No formal action was taken.

Special Agenda Item No. 3 – Presentation, discussion and possible action on an update to the hurricane relief efforts in Bryan/College Station and Brazos County.

Fire Chief Alley provided a brief overview to date of the hurricane relief efforts in Bryan/College Station and Brazos County.

No formal action was taken.

Special Agenda Item No. 4 – Adjourn.

Hearing no objections the Special Meeting adjourned at 10:41 p.m. Tuesday September 6, 2005.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks

**March 23, 2006
Consent Agenda
Conveyance of 909 Fairview to BVCAA**

To: Glenn Brown, City Manager

From: Charles Wood, Acting Director of Economic and Community Development

Agenda Caption: Presentation, possible action, and discussion regarding the approval and execution of a conveyance agreement to accomplish the transfer of ownership to the Brazos Valley Community Action Agency (BVCAA) of a single-family undeveloped property located at 909 Fairview originally purchased by the City for \$17,500 for affordable housing development.

Recommendation(s): Staff is recommending approval of the resolution and deed conveying this property to BVCAA.

Summary: BVCAA is the City's only Community Housing Development Organization (CHDO), and receives HOME funds from the City to develop affordable housing. This lot will allow the CHDO, using its HOME grant funding, to develop a new, affordable home, which will then be sold to lower income homebuyers. The City is required to make 15% of each year's federal HOME grant allocation available for non-profit agencies that meet the definition of a CHDO. While the transfer of this lot does not count toward the required 15% allocation, it will, however, facilitate the timely expenditure of those annual CHDO contributions when the new home is constructed.

Budget & Financial Summary: 909 Fairview was purchased at a sheriff's sale auction in October 2004 using \$17,500 in Community Development Block Grant funds.

Attachments:

- 1 Resolution
- 2 Real Property Conveyance Agreement
- 3 Map showing location of subject property

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE REAL PROPERTY CONVEYANCE AGREEMENT WITH BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC. AND APPROVING THE SPECIAL WARRANTY DEED CONVEYING AN UNDEVELOPED LOT TO BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC.

WHEREAS, the City of College Station, Texas has adopted the strategy of promoting revitalization and redevelopment of declining areas through the development of low-to-moderate income housing;

WHEREAS, Brazos Valley Community Action Agency, through its express purpose as set forth in its corporate bylaws, shares this common goal with the City;

WHEREAS, the City has previously acquired real property, the southeast forty feet of Lot 18 and the adjoining northwest thirty-five feet of Lot 19, Block 3, Breezy Heights (909 Fairview), College Station, Brazos County, Texas ("Land" hereinafter) by means other than condemnation;

WHEREAS, Brazos Valley Community Action Agency, Inc., a non-profit corporation, has requested that the City convey this property to facilitate each entity's mutual objective of providing for the development of adequate, decent, safe, and sanitary low-to-moderate income housing for the City's citizens;

WHEREAS, the City has determined that transfer of the Land to the Brazos Valley Community Action Agency, Inc., will facilitate development of the Land into low-to-moderate income housing and thereby serves a valid public purpose; and

WHEREAS, the City has determined that the Brazos Valley Community Action Agency, Inc., is qualified to receive real property conveyances pursuant to LOCAL GOVERNMENT CODE §272.001(g), §253.011, and applicable Department of Housing and Urban Development Regulations, 24 CFR 570.201 (a) & (b); 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 City is authorized to convey land to Brazos Valley Community Action Agency, Inc., a non-profit corporation, for the development of low to moderate income housing.

PART 2: That the City Council hereby approves the Real Property Conveyance Agreement with Brazos Valley Community Action Agency, Inc. to convey the

southeast forty feet of Lot 18 and the adjoining northwest thirty-five feet of Lot 19, Block 3, Breezy Heights (909 Fairview) by Special Warranty Deed.

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

**City Of College Station
Real Property Conveyance Agreement
with
Brazos Valley Community Action Agency, Inc.**

This Agreement is made and entered into on this the 23 day of February, 2006, by and between the CITY OF COLLEGE STATION (“City” and/or “Grantor” hereinafter), a Home Rule Municipal Corporation incorporated under the laws of the State of Texas, and BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC. (“Agency” and/or “Grantee” hereinafter), a Texas non-profit corporation.

WHEREAS, the City has the objective of providing for the development of low-to-moderate-income housing for citizens of the City through its Community Development Office;

WHEREAS, the Agency, through its express purposes as set forth in its corporate bylaws, shares this common goal with the City as a Department of Housing and Urban Development (“HUD” hereinafter) approved Community Housing Development Organization;

WHEREAS, the City has previously acquired certain real property (“Land” hereinafter, further identified herein below) by means other than condemnation;

WHEREAS, the Agency has requested that the City convey said Land to the Agency to facilitate their mutual objective of providing for the development of adequate, decent, safe, and sanitary low-to-moderate-income housing for the City’s citizens;

WHEREAS, the City has determined that transfer of the Land to the Agency will facilitate development of the Land into low-to-moderate-income housing and thereby serves a valid public purpose;

WHEREAS, the City has determined that the Agency is qualified to receive real property conveyance(s) pursuant to both Local Government Code §272.001(g) and applicable Department of Housing and Urban Development regulations; and

WHEREAS, the City has determined that it is appropriate to convey title of the Land to the Agency to facilitate the development of adequate, decent, safe, and sanitary low-to-moderate-income housing for the City’s citizens;

NOW, THEREFORE, the City and the Agency for and in consideration of the covenants and promises as set forth herein, do agree as follows:

TERMS AND CONDITIONS:

Article I – Conveyance(s)

1. For the consideration of ten dollars (\$10) per each listed property and the further covenants and promises contained herein, the City shall provide to the Agency a Special Warranty Deed in the form attached hereto as Exhibit "A" conveying the following real properties for the purposes described herein:

- 1.1. 909 Fairview, College Station, Texas, being more particularly described by its legal description as follows:

Being all that certain lot, tract or parcel of land lying and being situated in Brazos County, Texas and being the southeast forty feet (40') of Lot Eighteen (18) and the adjoining northwest thirty-five feet (35') of Lot Nineteen (19), Block Three (3), BREEZY HEIGHTS, an addition to the City of College Station, Texas, according to plat recorded in Volume 125, Page 433, Deed Records of Brazos County, Texas.

Being the same property described in Sheriff's Deed executed October 26, 2004, by Christopher C. Kirk, Sheriff, Brazos County, Texas to City of College Station, Texas, recorded in Volume 6365, Page 23, Official Records of Brazos County, Texas.

Said tract referred to as the "Land" hereinafter.

2. The Agency acknowledges and agrees that said Special Warranty Deed shall contain the following reservations and/or exceptions, among others as may be deemed appropriate in the sole discretion of the City, from and to conveyance and warranty of each particular tract as listed above:

- 2.1. For GRANTOR and GRANTOR's successors and assigns, in common with GRANTEE and GRANTEE's successors, a reservation of the free, uninterrupted, and perpetual use of an easement over the entire property for the purposes expressly provided for in the Blanket Utility Easement which GRANTEE has conveyed to GRANTOR as part of this conveyance.
- 2.2. This conveyance is conditioned on the construction of a dwelling meeting HUD approved requirements on the property within eighteen (18) months from date of this deed. If GRANTEE does not complete construction of such dwelling in the time period allotted, GRANTOR shall have an automatic reversion of GRANTOR's interest.

3. The Agency agrees that any subsequent conveyance of the Land or any portion thereof by the Agency shall be by Special Warranty Deed.

Article II – Construction of Dwelling Unit(s)

4. The Agency agrees to the following terms and conditions regarding construction of dwelling unit(s) on each tract of land described herein:

- 4.1. The Agency, having previously inspected the property to determine the feasibility of low-to-moderate-income dwelling development, will review the work write-up(s) and cost proposal(s) to be obtained by the Agency and use them as the technical specifications of the bid document(s). After bid advertisement(s) and acceptance of the bid proposal(s) by the Agency, where appropriate, a Construction Contract will be signed by the Agency with the selected contractor on a standard construction contract provided by City. The Construction Contract shall contain provisions essentially stating that construction of the dwelling unit(s) shall be completed ***not later than*** October 1, 2007. **Failure to complete construction by the stated date shall constitute grounds, pursuant to this Agreement, for the City to exercise its reversionary interests in the tract of land.**
- 4.2. The Agency will select a contractor screened by the City and included on the City's list of approved bidders for City-assisted Residential Construction projects. The City will monitor progress, performance, and quality of work by the contractor through periodic on-site inspections until work is completed as specified in the Construction Contract documents and until the final inspection report is signed by the Agency.
- 4.3. The Agency shall aid in the development of the construction proposal and cost negotiations with the contractor, maintain the photographic work needed for the write-up and documentation, carry out on-site inspections to monitor contractor performance and quality assurance, and process approved change orders for performance of additional or modified work activities, as required by the construction.
- 4.4. The Agency agrees that it is the Agency's responsibility to see that the contractor completes the work specified and that the City has no responsibility for any faulty or incomplete work of the construction contractor. The Agency also agrees that hidden or latent conditions not covered by the original inspection or work write-up are not the fault of the City, nor is the City liable for such conditions.

- 4.5. In the event that the Agency wishes to terminate the Construction Contract with the contractor, the Agency must obtain concurrence of the City. The Agency understands and agrees that breach of the Construction Contract by either the Agency or contractor resulting in failure to meet the requirements set forth in Paragraph 2.2 of this Agreement shall constitute grounds, pursuant to this Agreement, for the City to exercise its reversionary interests in the Land.
- 4.6 At Closing, the Agency shall dedicate at no cost, a Blanket Utility Easement in the form attached hereto as Exhibit "B".

Article III – Property Maintenance

5. As part of the consideration for the conveyance(s) described above, the Agency agrees to comply with all of the following terms in reference to the Land and contemplated dwelling(s) (collectively, the Property) for so long as the Agency holds title to the Land:

- 5.1. The Property must be constructed and maintained to meet all applicable City code requirements;
- 5.2. All debris on the Property, both during and after construction, must be regularly collected in a neat and orderly manner and properly disposed;
- 5.3. All vegetation on the Property, including any lawn, turf, shrubs, bushes, and trees, must be maintained and trimmed on a regular basis;
- 5.4. The interior of the dwelling shall be kept in a clean and sanitary living condition;

Article IV – Records And Reports

6. The Agency shall maintain fiscal records and supporting documents in the form of receipts, canceled checks, payroll records, employee time sheets and other mutually agreed upon documentation to verify all expenditures of funds by the Agency on each contemplated construction project.

7. The Agency shall submit activity reports to the City on a bi-annual basis, and as may otherwise be required in writing by the City. The format of such reports shall, at a minimum, consist of a narrative summary of activities and an activity report that describes the client(s) served by the Agency through the Land conveyance(s) under this Agreement. This summary report will include information on the following: racial and ethnic identification; household income information as to whether low or moderate income (as stipulated by HUD regulations); head of household status; and city of residence status. The Agency will maintain supporting

back-up documentation regarding all reports and make such available to the City upon request. The activity reports and reimbursement requests, including documentation, shall be submitted to the City within thirty (30) days following a reporting period.

8. The City shall conduct a monitoring review of the Agency's Program on a bi-annual basis or as otherwise deemed necessary by the City so as to evaluate the Agency's compliance with the provisions of this Agreement or any applicable regulation. A minimum of one on-site monitoring review will be conducted by the City during the term of this Agreement.

Article V – Administrative Requirements

9. The Agency further agrees to comply with all the terms and conditions contained in the City's Community Development Administrative Guidelines, as they may be amended, and the Deed(s) referenced in paragraph 1, *et seq.*, herein.

10. The Agency further agrees to comply with all applicable local, State, and Federal laws, ordinances, and regulations, including but not limited to HUD requirements and the following:

10.1. For any property rehabilitated under this Agreement that lies within the 100 year flood plain, the Agency agrees to purchase Federal Flood Insurance as required under the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001 et. Seq.

10.2. The Agency agrees to comply with the policies and procedures relating to removal and non-use of lead-based paints in accordance with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §§ 4822, and the implementing regulations at 24 C.F.R. § 35.

10.3. The Agency agrees to comply with the provisions of 24 C.F.R. § 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement on ineligibility status.

Article VI – General Provisions

11. The City and the Agency attest that, to the best of their knowledge, no member of the City of College Station City Council and no other officer, employee or agent of the City, who exercises any function or responsibility in connection with the carrying out of this Agreement, has any personal interest, direct or indirect, in this Agreement.

12. The Agency covenants and agrees that, during the term of this Agreement, it will not discriminate against any employee or applicant for employment because of race, color, religion,

sex, national origin or disability. The Agency will take affirmative action to ensure that applicants who are employed are treated, during employment, without regard to their race, color, religion, sex, national origin or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection. The Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination requirement.

13. The Agency expressly agrees that, in all solicitations or advertisements for employees placed by or on behalf of Agency, there will be a statement that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or disability.

14. The Agency certifies that it will not limit services or give preference to any person assisted through this Agreement on the basis of religion and that it will provide no religious instruction or counseling, conduct no religious worship or services, and engage in no religious proselytizing in the provision of services or the use of facilities or furnishings assisted in any way under this Agreement.

15. The parties to this Agreement agree and understand that the Agency is an independent contractor and not an agent or representative of the City, that the obligation to compensate Agency's employees and personnel furnished or used by the Agency to provide the services specified herein shall be the sole responsibility of the Agency, and that said employees and personnel shall not be deemed employees of the City for any purpose.

16. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

17. This Agreement has been made under and shall be governed by the laws of the State of Texas.

18. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

19. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective organizations.

20. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof.

No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

21. The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

22. This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.

23. It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

24. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

25. It is understood that this Agreement contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

26. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein. Each party has the right to change its business address by giving at least thirty (30) days advance written notice of the change to the other party. Written notices shall be delivered as follows unless otherwise notified by either party:

Agency:

Attn: _____
Brazos Valley Community Action Agency, Inc.
504 East 27th Street
Bryan, Texas 77803

City:

Attn: Randy Brumley, Administrator
Community Development Division
City of College Station
P.O. Box 9960
College Station, Texas 77842

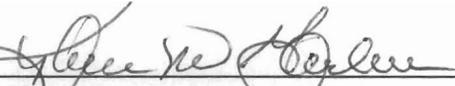
27. Headings provided herein are for convenience only and in no manner limit or effect the provisions contained herein.

EXECUTED this _____ day of _____, 2006.

CITY OF COLLEGE STATION

**BRAZOS VALLEY COMMUNITY
ACTION AGENCY, INC.**

By: _____
Glenn Brown, Interim City Manager

By:  _____
Printed Name: Karen M. Garber
Title: Executive Director

APPROVED:

 _____
City Attorney Dated

Jeff Kersten Dated
Financial and Strategic Planning Director

Randy Brumley, Comm. Dev. Admin. Dated

THE STATE OF TEXAS §
 § **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the _____ day of _____, 2006, by Glenn Brown, as Interim City Manager of the City of College Station, Texas, Texas Home Rule Municipality, on behalf of said municipality.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 § **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 23 day of February, 2006, by Karen M. Garber, as Executive Director of BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC., a Texas non-profit organization, on behalf of said organization.

Cynthia O. Solis
Notary Public in and for the State of Texas

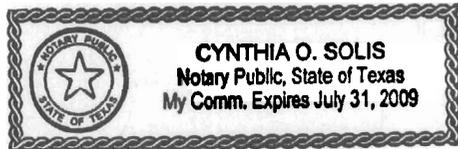


EXHIBIT "A"

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.

SPECIAL WARRANTY DEED

DATE: _____, 2006

GRANTOR: CITY OF COLLEGE STATION, TEXAS
a Texas Home Rule Municipal Corporation

GRANTOR'S MAILING ADDRESS: 1101 Texas Avenue
(including county) Brazos County
College Station, Texas 77840

GRANTEE: BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC.
a Texas non-profit corporation

GRANTEE'S MAILING ADDRESS: 504 East 27th Street
(including County) Brazos County
Bryan, Texas 77803

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

PROPERTY:

Being all that certain lot, tract or parcel of land lying and being situated in Brazos County, Texas and being the southeast forty feet (40') of Lot Eighteen (18) and the adjoining northwest thirty-five feet (35') of Lot Nineteen (19), Block Three (3), BREEZY HEIGHTS, an addition to the City of College Station, Texas, according to plat recorded in Volume 125, Page 433, Deed Records of Brazos County, Texas.

Being the same property described in Sheriff's Deed executed October 26, 2004, by Christopher C. Kirk, Sheriff, Brazos County, Texas to City of College Station, Texas, recorded in Volume 6365, Page 23, Official Records of Brazos County, Texas.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. Restrictive covenants recorded in Volume 126, Page 23, Deed records of Brazos County, Texas.
2. For GRANTOR and GRANTOR's successors and assigns, in common with GRANTEE and GRANTEE's successors, a reservation of the free, uninterrupted, and perpetual use of an easement over the entire property for the purposes expressly provided for in the Blanket Utility Easement which GRANTEE has conveyed to GRANTOR as part of this conveyance.
3. This conveyance is conditioned on the construction of a dwelling meeting HUD approved requirements on the property within eighteen (18) months from date of this deed. This dwelling primarily promotes a public purpose of the City. If GRANTEE does not construct such dwelling in the time period allotted, GRANTOR shall have an automatic reversion of GRANTOR's interest.

AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTOR AND GRANTEE AGREE THAT GRANTEE IS TAKING THE PROPERTY AS IS WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES.

GRANTOR, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to GRANTEE the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to GRANTEE, GRANTEE's successors and assigns forever. GRANTOR binds GRANTOR and GRANTOR's successors and assigns to warrant and forever defend all and singular the property to GRANTEE and GRANTEE's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under GRANTOR but not otherwise, except as to the reservations from and exceptions to conveyance and warranty.

EXECUTED THIS _____ DAY OF _____, 2006.

ATTEST:

CITY OF COLLEGE STATION,
a Texas Municipal Corporation

CONNIE HOOKS, City Secretary

BY: _____
RON SILVIA, Mayor

APPROVED:

City Attorney

THE STATE OF TEXAS

§
§
§

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged before me on the _____ day of _____, 2006, by RON SILVIA as Mayor of the City of College Station, a Texas Municipal Corporation, on behalf of said municipality.

NOTARY PUBLIC in and for State of Texas

PREPARED IN THE OFFICE OF:

City of College Station
Legal Department
P.O. Box 9960
College Station, Texas 77842-9960

AFTER RECORDING RETURN TO:

City of College Station
Legal Department
P. O. Box 9960
College Station, Texas 77842-9960

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.

BLANKET UTILITY EASEMENT

DATE: _____, 2006

GRANTOR: BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC.
a Texas non-profit corporation

GRANTOR'S MAILING ADDRESS: 504 East 27th Street
Brazos County
Bryan, TX 77803

GRANTEE: CITY OF COLLEGE STATION, TEXAS

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

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

PROPERTY:

Being all that certain lot, tract or parcel of land lying and being situated in Brazos County, Texas and being the southeast forty feet (40') of Lot Eighteen (18) and the adjoining northwest thirty-five feet (35') of Lot Nineteen (19), Block Three (3), BREEZY HEIGHTS, an addition to the City of College Station, Texas, according to plat recorded in Volume 125, Page 433, Deed Records of Brazos County, Texas.

Being the same property described in Sheriff's Deed executed October 26, 2004, by Christopher C. Kirk, Sheriff, Brazos County, Texas to City of College Station, Texas, recorded in Volume 6365, Page 23, Official Records of Brazos County, Texas.

ESTATE GRANTED:

1. GRANTOR grants to GRANTEE an undefined or "blanket" easement for various utilities, to be restricted hereafter to the as-built area, and defined by subsequent survey or plat.
2. GRANTOR does hereby grant, bargain, sell and convey unto GRANTEE, its successors and assigns, an undefined easement in and to the above-described parcel of land; GRANTEE to install, maintain, repair, rebuild, operate, inspect and remove all utility facilities, including conduits, duct lines, vaults, fittings, appliances and equipment, under the above-described property.

RESERVATIONS AND RESTRICTIONS:

1. This conveyance is only of the right, privilege and easement for the aforesaid purposes. GRANTOR and its successors and assigns shall have the right to use and to grant to others the right to use the easement area for any purpose which will not unreasonably interfere with the safe and reasonable maintenance and operation of installations to be made by GRANTEE therein.
2. GRANTEE covenants and agrees to interfere as little as possible with the normal flow of vehicular and pedestrian traffic over and upon the site, and to restore the surface of the site, whenever and wherever disturbed by GRANTEE, to as good a condition as existed at the time of such disturbance.
3. GRANTEE hereby covenants and agrees that in the event the future development or expansion of either the site or adjacent land, or both, requires the relocation of the facilities already constructed and installed in the easement area, GRANTEE will relocate such facilities, at the request and expense of GRANTOR, provided such relocation is sound and feasible from an engineering standpoint as reasonably determined by GRANTEE, and provided further that GRANTOR shall grant to GRANTEE a substitute easement, by instrument in recordable form providing for such relocation.

4. The easement is intended to be temporary, but the rights granted hereunder shall not terminate unless GRANTOR shall deliver a final "As Built" survey or plat, as approved by GRANTEE, showing the location of utility service, equipment, and facilities. The "As Built" survey or plat shall delineate a proposed permanent easement area to enable GRANTEE to maintain, repair, rebuild, and operate the equipment described in paragraph number 2 above, and GRANTEE or its successors shall thereafter execute an instrument in recordable form perfecting the rights existing hereunder in and to the "As Built" area.

5. GRANTOR warrants that the right of GRANTEE shall be superior to those of all persons claiming under or through GRANTOR but not otherwise.

BRAZOS VALLEY COMMUNITY
ACTION AGENCY, INC.

BY: _____
Printed Name: _____
Title: _____

APPROVED:

City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2006,
by _____, _____ of BRAZOS VALLEY
COMMUNITY ACTION AGENCY, INC., a Texas non-profit corporation, on behalf of said
corporation.

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, Texas 77842-9960
RE: 909 Fairview

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

909 Fairview Location Map



**March 23, 2006
Consent Agenda
Lemontree Park Softball Field Light Improvements Bid Award**

To: Glenn Brown, City Manager

From: Eric Ploeger, Assistant Director of Parks and Recreation

Agenda Caption: Bid 06-55. Presentation, possible action, and discussion regarding a construction contract (Contract No. 06-110) with Liteco Electric, Inc., in the amount of \$79,565.00, for the construction of Lemontree Park Softball Field Light Improvements, Project Number PK 0606.

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

Summary: This item will replace the softball field lighting at Lemontree Park. This single girls' softball field was constructed in 1978 and has the oldest lighting system in the Parks Department's inventory. The new system will improve player safety and greatly improve the reliability of the system. The installation will include new wiring, lights, poles, and the Skylogics Remote Lighting Control System.

Staff recommends the inclusion of the single alternate bid for dark colored poles.

Budget & Financial Summary: Three (3) sealed, competitive bids were received and opened on February 9, 2006. The FY 2006 General Fund budget contains \$78,000 for Lemontree softball field lighting improvements. Design fees for the project were in the amount of \$4,000. Additional funding for the project in the amount of \$5,565, including the sole alternate for dark colored poles, will come from the Parks Capital Projects Fund from funds remaining in the Central Park Soccer field lighting project completed in FY 2005 (PK 0406).

Attachments:

1. Resolution
2. Bid Tabulation
3. Lemontree Park Location Map
4. Lemontree Park Site Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE LEMONTREE SOFTBALL LIGHTS IMPROVEMENTS CONSTRUCTION PROJECT PK 0606 AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction of the Lemontree Softball Lights Improvements Construction Project ; and

WHEREAS, the selection Liteco, Inc., is being recommended as the lowest responsible bidder for the construction services related to the construction of the Lemontree Softball Lights Improvement 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 Liteco, Inc., is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Liteco, Inc., for \$79,565.00 for the labor, materials, and equipment required for the improvements related to the Lemontree Softball Field Lights Improvements Construction Project. This includes alternate #1 .

PART 3: That the funding for this project shall be as budgeted from the FY2006 General Fund budget in the amount of \$74,000.00 and the additional \$5,565.00 from the Parks Capital Projects Fund.

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

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

ATTEST:

APPROVED:

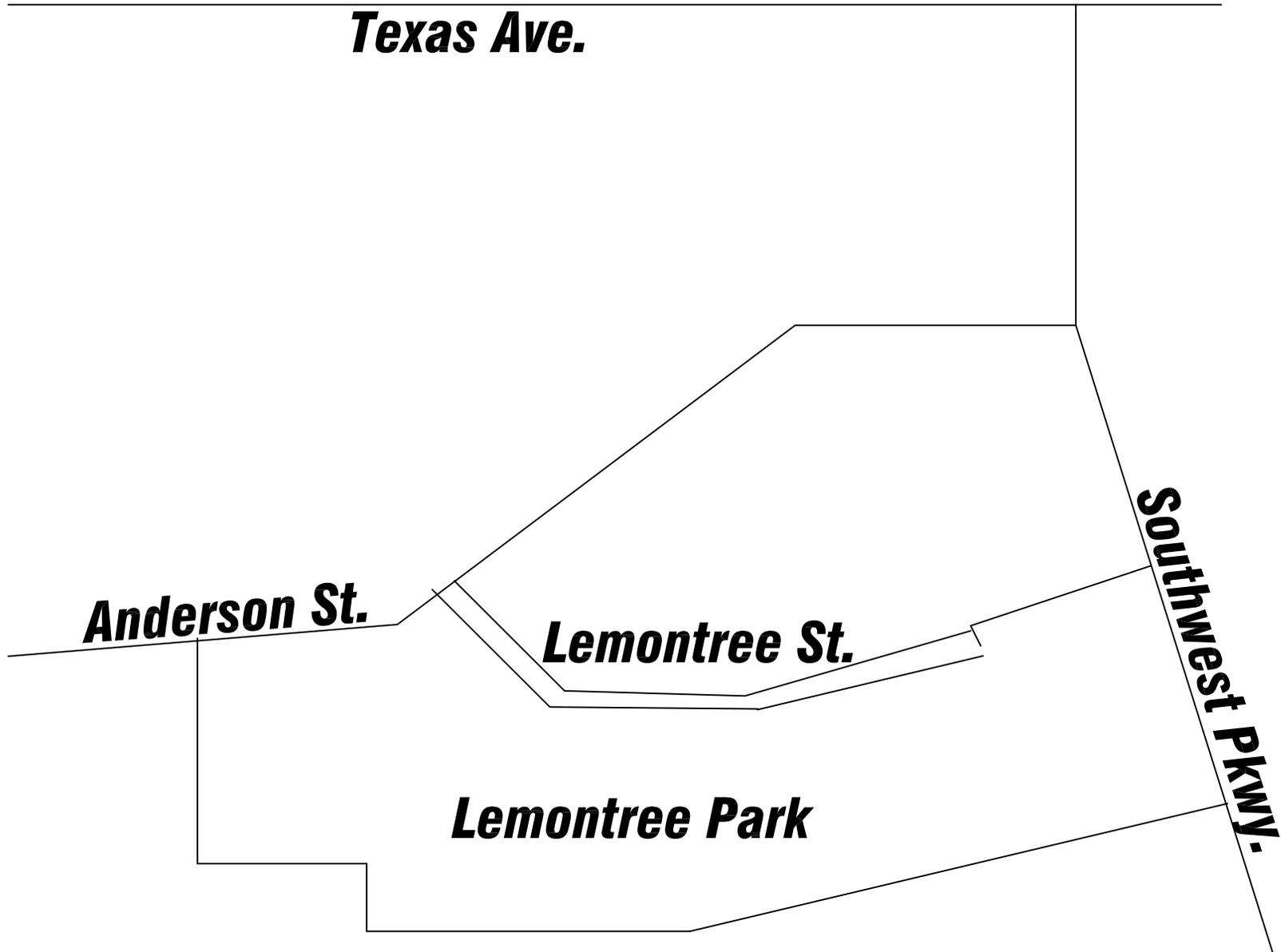
CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

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



City Attorney



Lemontree Park Location Map



**March 23, 2006
Consent Agenda
Bee Creek Park Playground Replacement Bid Award**

To: Glenn Brown, City Manager

From: Eric Ploeger, Assistant Director of Parks and Recreation

Agenda Caption: Bid Number 06-67. Presentation, possible action, and discussion regarding a resolution awarding the bid and approving a construction contract (Contract No. 06-147) with Fuqua Construction Company, in an amount of \$75,720.00, for the construction of Bee Creek Park Playground replacement.

Recommendation(s): Staff recommends approval of the resolution and award of the construction contract to Fuqua Construction Company.

Summary: This project will replace the existing playground in Bee Creek Park that was originally installed in 1986. This playground unit is the largest and one of the most heavily used units in College Station's inventory.

This planned replacement is part of a program to replace older playgrounds in order to improve user safety and control repair costs. The replacement will include a rubber cushion surface and a shade cover.

Budget & Financial Summary: Seven (7), sealed, competitive bids were received and opened on March 1, 2006. Funds are budgeted and available in the FY 2006 General Fund Parks Operations Budget.

Attachments:

1. Resolution
2. Bid Tabulation
3. Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE BEE CREEK PARK PLAYGROUND REPLACEMENT PROJECT.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Bee Creek Park Playground Replacement Project; and

WHEREAS, the selection of Fuqua Construction Company is being recommended as the lowest responsible bidder for the construction services related to the construction of the Bee Creek Park Playground Replacement 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 Fuqua Construction Company is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Fuqua Construction Company for \$75,720.00 for the labor, materials and equipment required for the construction of the Bee Creek Park Playground Replacement.

PART 3: That the funding for this project shall be as budgeted from the FY 2006 General Fund Parks Operations Budget in the amount of \$75,720.00

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

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

ATTEST:

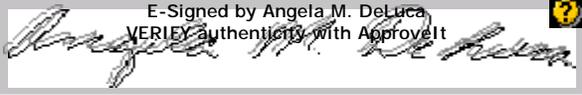
APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:

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



City Attorney

Bee Creek Playground Improvements
2/28/06 **BID NO. 06-67**

	Fuqua Construction	Acklam Construction	JaCody Inc.	Marek Brothers
1 Lump Sum - Remove Old Playground	\$2,390.00	\$3,135.00	\$2,240.00	\$3,324.00
2 Lump Sum - Install New Playground	\$58,209.00	\$57,415.00	\$61,755.00	\$63,692.00
3 Lump Sum - Shade Cover for Playground	\$14,745.00	\$17,560.00	\$17,987.00	\$15,500.00
4 Lump Sum - Finish Grading and Seeding	\$376.00	\$250.00	\$560.00	\$930.00
TOTAL Construction Costs	\$75,720.00	\$78,360.00	\$82,542.00	\$83,446.00

Notes

Calendar Days for Completion	90	90	90	90
Certification of Bid	Y	Y	Y	Y
Addendum Acknowledged	Y	Y	Y	Y
Bid Bond	Y	Y	Y	Y
Deviations/Conditions	N	N	N	N

	Orion Construction	Dudley Construction	CEDA-Tex Services
1 Lump Sum - Remove Old Playground	\$1,960.00	\$2,000.00	\$18,280.00
2 Lump Sum - Install New Playground	\$60,483.00	\$65,250.00	\$71,225.00
3 Lump Sum - Shade Cover for Playground	\$20,980.00	\$21,000.00	\$19,345.00
4 Lump Sum - Finish Grading and Seeding	\$522.00	\$500.00	\$3,600.00
TOTAL Construction Costs	\$83,945.00	\$88,750.00	\$112,450.00

Notes

Calendar Days for Completion	90	90	90
Certification of Bid	Y	Y	Y
Addendum Acknowledged	Y	Y	Y
Bid Bond	Y	Y	Cashiers Check
Deviations/Conditions	N	N	N

APARTMENTS

ANDERSON

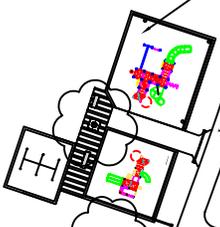


LOCATION OF
PLAYGROUND
REPLACEMENT

POOL

TENNIS
COURT

BIKE LOOP



March 23, 2006
Consent Agenda
Real Estate Contract for the Purchase of Property
for Drainage Control and Greenways

To: Glenn Brown, City Manager

From: Mark McAuliffe, Land Agent

Agenda Caption: Presentation, possible action, and discussion approving a real estate contract that will authorize the purchase of two lots in the amount of \$7,312.50 needed for drainage control and greenways. The property is owned by Bryan/College Station Habitat for Humanity and is located on Southland Street east of Wellborn Road.

Recommendation(s): Staff is recommending that the contract be approved, which will authorize the purchase of land.

Summary: The property is two vacant lots that are bisected by a creek and lie in the Bee Creek floodplain - a designated suburban greenway. Upon purchase, the land will be used for drainage and greenway, as it cannot be developed. Staff has already acquired two homes on this street and plans to purchase one more for the same purposes - drainage and greenway.

Budget & Financial Summary: The purchase price for the property is \$7,312.50 (Seven Thousand Three Hundred Twelve and 50/100 Dollars). In addition, closing costs and associated expenses (surveying, etc) have been estimated to be an amount not to exceed \$3,000 (Three Thousand Dollars). Funds for this purchase are available in the Drainage Utility Fund - Drainage Projects / Land.

Attachments:

- City Map
- Project Map
- Real Estate Contract

Property for Drainage Control and Greenways



Lots 21 & 22, Block 2, Southland Addition



Holleman Drive

Habitat for Humanity

Wellborn Road

Southwest Pkwy

REAL ESTATE CONTRACT

THIS CONTRACT OF SALE is made by and between, BRYAN/COLLEGE STATION HABITAT FOR HUMANITY, INC. ("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

- (select one) [x] in fee simple
[] public utility easement
[] right-of-way easement,

and BUYER agrees to purchase and pay for:

(select one)

out of a _____ acre tract conveyed to _____ in Volume _____, Page _____ of the Official Records of Brazos County, Texas, more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes

[x] Lot 21 & 22, Block 2, SOUTHLAND ADDITION College

Station, Brazos County, Texas, as shown in the plat recorded in Volume 134, Page 423, of the Official Records of Brazos County, Texas hereinafter called "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 (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 Manager of the City of College Station, Texas; such approval indicated by signature of BUYER's representatives to this CONTRACT OF SALE.

1.2 BUYER has requested BRAZOS COUNTY ABSTRACT 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 are 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.

Contract No. _____

Initial [Signature]

- 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 are 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, Public Utility Easement or Right-of-Way Agreement.

Check if applicable:

- 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
 (select one) General Warranty Deed
 Public Utility Easement
 Right of Way Easement
 from SELLER to BUYER in the form prepared by BUYER attached hereto as Exhibit "A".

Contract No. _____

Initial RCB

ARTICLE II
PURCHASE PRICE

2.1 The purchase price for said PROPERTY shall be the sum of SEVEN THOUSAND THREE HUNDRED TWELVE AND 50/100 DOLLARS (\$7,312.50). The purchase price shall be payable in full at closing

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

3.1 SELLER hereby represents and warrant to BUYER as follows:

- (a) SELLER has the full right, power, and authority to enter into and perform their 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).

Contract No. _____

Page 3 of 8

Initial RGB

- (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 FORTY FIVE (45) calendar days from the execution and tender of this 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
 (select one) General Warranty Deed
 Public Utility Easement
 Right of Way 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
 (select one) BUYER's
 SELLER'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
 (select one) easement interest
 fee simple 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 and prorated taxes for the year 2006.
 - (e) Pay the SELLER's expenses and attorney fees.
 - (f) Pay the escrow fees.
 - (g) Pay one-half (1/2) of the escrow fees.
 - (h) Pay the title insurance

- (i) Pay any and all homeowner's or maintenance fees for prior years and for the current year prorated up to the date of closing.
- (j) Pay the costs to obtain, deliver and record releases or partial releases of all liens to be released at closing.
- (k) Pay the costs to record all documents to cure title objections agreed to be cured by SELLER.
- (l) Pay the certificates or reports of ad valorem taxes.

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

- (a) Pay the balance of the purchase price.
- (b) Prepare, at its cost, the
(select one) General Warranty Deed
 Public Utility Easement
 Right of Way Easement
- (c) Pay the BUYER's expenses or attorney fees.
- (d) Pay the additional premium for the survey/boundary deletion in the title policy, if the deletion is requested by BUYER.
- (e) Pay the costs of work required by BUYER to have the survey reflect matters other than those required under this contract.
- (f) Pay the escrow fees.
- (g) Pay one-half (1/2) of the escrow fees.
- (h) Pay the title insurance.
- (i) Pay the costs to obtain, deliver and record all documents other than those to be recorded at SELLER's expense.

ARTICLE VI
SPECIAL CONDITIONS

NONE

ARTICLE VII
BREACH BY SELLER

7.1 In the event SELLER fails to fully and timely perform any of their obligations under this Contract or fail 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.

Contract No. _____

Initial RCB

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: BRYAN/COLLEGE STATION HABITAT FOR HUMANITY, INC
119 LAKE STREET
BRYAN, TX 77801

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 _____, 200__.

SELLER:

Patricia G. Burk for
BRYAN/COLLEGE STATION
HABITAT FOR HUMANITY

BY:

Patricia G. Burk
Printed Name: Patricia G Burk
Title: Executive Director
Date: 1-31-06

BUYER:

CITY OF COLLEGE STATION

BY: _____

RON SYLVIA, Mayor

Date: _____

ATTEST: _____

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 §
 § ACKNOWLEDGMENT
COUNTY OF BRAZOS §

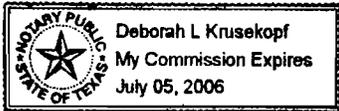
This instrument was acknowledged before me on the _____ day of _____, 200__, by RON SILVIA, Mayor, of the CITY OF COLLEGE STATION, a Texas Home Rule Municipal Corporation, on behalf of said municipality.

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 31st day of January, 2006, by Patricia G. Burk, as Executive Director FOR BRYAN/COLLEGE STATION HABITAT FOR HUMANITY, A TEXAS CORPORATION, ON BEHALF OF SAID CORPORATION.

Deborah L. Krusekopf
Notary Public in and for
the STATE OF TEXAS



Contract No. _____

Initial _____

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.

GENERAL WARRANTY DEED

DATE: _____

GRANTOR:

GRANTOR'S MAILING ADDRESS:

(including county)

Brazos County
College Station, Texas 77840

GRANTEE: CITY OF COLLEGE STATION, TEXAS

GRANTEE'S MAILING ADDRESS:

(including county)

1101 Texas Avenue
Brazos County
College Station, Texas 77840

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

PROPERTY:

>>INSERT PROPERTY DESCRIPTION<<

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

>>INSERT RESERVATIONS AND EXCEPTIONS<<

GRANTORS hereby reserve unto themselves, their successors and assigns, any and all oil, gas and other minerals in, on or under the premises described on the attached Exhibit A; provided that there shall never in any event be any ingress or egress on or across the surface of the above described premises for the purposes of exploration, development, production or transportation of such oil, gas or other minerals, it being expressly contemplated by the parties to this instrument that any production of such minerals shall be from the surface of other adjacent property and that there shall be no development of any minerals that would require mining, shaft mining, pit mining or any other kind of mining that would require utilization of the surface, or through the pooling

of such mineral interests for the development with adjacent parcels and provided further that GRANTORS do not reserve and expressly convey to GRANTEE any and all minerals of whatsoever kind and nature owned by GRANTORS down to the depth of two hundred fifty (250) feet from the actual surface of any portion of said tract.

GRANTOR waives all rights with respect to the surface and no owner of the mineral estate shall ever have rights of ingress or egress except as may have been reserved by GRANTOR under the reservations and exceptions expressly listed in this deed or its predecessors in title.

GRANTOR, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, GRANTS, SELLS, and CONVEYS to GRANTEE the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to GRANTEE and GRANTEE's successors and assigns forever. GRANTOR binds GRANTOR and GRANTOR's heirs, executors and administrators, to warrant and forever defend all and singular the property to GRANTEE and GRANTEE's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

NAME

THE STATE OF TEXAS)

)

ACKNOWLEDGMENT

COUNTY OF BRAZOS)

This instrument was acknowledged before me on this the ____ day of _____, 2004, by _____.

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, Texas 77842-9960

RETURN ORIGINAL DOCUMENT TO:
City of College Station
Legal Department
P. O. Box 9960
College Station, Texas 77842-9960

**March 23, 2006
Consent Agenda
Annual Price Agreement for Janitorial Supplies**

To: Glenn Brown, City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding the award of an annual price agreement for Janitorial Supplies to ProStar Industries, in the amount of \$54,498.31.

Recommendation(s): Staff recommends award of the contract to Pro Star Industries for \$54,498.31.

Summary: Bids were solicited from 25 vendors with eight responses. This is an annual price agreement for one (1) year with two (2) additional year renewals upon mutual consent of the City and the vendor. Four of the bidders bid on all items. A summary of the four (4) bids follows:

ProStar Industries	\$54,498.31
TK sales	\$63,915.95
Criswell	\$68,727.30
Scaramdo Foodservice	\$68,783.00

Budget & Financial Summary: Funds are budgeted and available for this contract in the Facilities Maintenance Operations Budget.

Attachments: Bid Tabulation

**ANNUAL BLANKET ORDER FOR JANITORIAL SUPPLIES
 BID TABULATION #06-44
 PUBLIC WORKS - FACILITIES**

Item No.	Qty	Description	ProStar Industries		TK Sales		Criswell		Scarmardo Foodservice, Inc.	
			Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
1	225	Toilet tissue	\$ 32.60	\$ 7,335.00	\$ 41.440	\$ 9,324.00	\$ 36.500	\$ 8,212.50	\$ 37.900	\$ 8,527.50
2	175	Paper towels- multi fold	\$ 16.63	\$ 2,910.25	\$ 17.310	\$ 3,029.25	\$ 15.250	\$ 2,668.75	\$ 18.900	\$ 3,307.50
3	150	Roll Towels	\$ 13.26	\$ 1,989.00	\$ 17.930	\$ 2,689.50	\$ 18.950	\$ 2,842.50	\$ 18.900	\$ 2,835.00
4	150	Paper towels, C-fold	\$ 15.41	\$ 2,311.50	\$ 19.260	\$ 2,889.00	\$ 17.950	\$ 2,692.50	\$ 19.900	\$ 2,985.00
5	75	Roll towels, perforated	\$ 17.79	\$ 1,334.25	\$ 18.620	\$ 1,396.50	\$ 18.500	\$ 1,387.50	\$ 19.900	\$ 1,492.50
6	100	Wipers - Wype-all	\$ 25.79	\$ 2,579.00	\$ 28.630	\$ 2,863.00	\$ 40.750	\$ 4,075.00	\$ 51.900	\$ 5,190.00
7	100	Wipers - Wype-all Plus	\$ 41.92	\$ 4,192.00	\$ 46.640	\$ 4,664.00	\$ 41.950	\$ 4,195.00	\$ 52.900	\$ 5,290.00
8	100	Wipers - Economizer	\$ 31.88	\$ 3,188.00	\$ 28.630	\$ 2,863.00	\$ 24.500	\$ 2,450.00	\$ 45.900	\$ 4,590.00
9	100	Wipers - Wypall banded	\$ 47.53	\$ 4,753.00	\$ 43.760	\$ 4,376.00	\$ 40.750	\$ 4,075.00	\$ 56.900	\$ 5,690.00
10	15	Hand soap-DermaPro	\$ 18.79	\$ 281.85	\$ 28.630	\$ 429.45	\$ 27.960	\$ 419.40	\$ 24.900	\$ 373.50
11	15	Hand soap - Pink	\$ 16.56	\$ 248.40	\$ 16.970	\$ 254.55	\$ 23.800	\$ 357.00	\$ 21.900	\$ 328.50
12	30	Spray & wipe cleaner-19 oz.	\$ 27.81	\$ 834.30	\$ 21.650	\$ 649.50	\$ 24.000	\$ 720.00	\$ 27.900	\$ 837.00
13	30	Glass Cleaner, window-19 oz.	\$ 20.44	\$ 613.20	\$ 21.630	\$ 648.90	\$ 19.920	\$ 597.60	\$ 21.900	\$ 657.00
14	15	Glass Cleander, Triple S	\$ 11.14	\$ 167.10	\$ 13.290	\$ 199.35	\$ 15.800	\$ 237.00	\$ 19.900	\$ 298.50
15	15	Hand Cleaner, Derma Care 2000	\$ 39.89	\$ 598.35	\$ 50.440	\$ 756.60	\$ 60.000	\$ 900.00	\$ 21.900	\$ 328.50
16	30	Urinal Screens w/blocks	\$ 9.58	\$ 287.40	\$ 13.910	\$ 417.30	\$ 16.560	\$ 496.80	\$ 16.900	\$ 507.00
17	20	Metered aerosol	\$ 27.47	\$ 549.40	\$ 32.630	\$ 652.60	\$ 35.400	\$ 708.00	\$ 12.900	\$ 258.00
18	20	Dust cloth-Masslin treated	\$ 3.83	\$ 76.56	\$ 5.610	\$ 112.20	\$ 5.950	\$ 119.00	\$ 64.500	\$ 1,290.00
19	150	Trash liners, 16"x14"x36", black	\$ 9.33	\$ 1,399.50	\$ 13.390	\$ 2,008.50	\$ 13.750	\$ 2,062.50	\$ 16.900	\$ 2,535.00
20	225	Trash liners, 23"x17"x46", white	\$ 9.13	\$ 2,054.25	\$ 11.470	\$ 2,580.75	\$ 15.750	\$ 3,543.75	\$ 9.900	\$ 2,227.50
21	650	Trash liners, 38"x63", clear	\$ 25.84	\$ 16,796.00	\$ 32.480	\$ 21,112.00	\$ 39.950	\$ 25,967.50	\$ 29.900	\$ 19,435.00
TOTAL				\$ 54,498.31		\$ 63,915.95		\$ 68,727.30		\$ 68,983.00
Discount on products not listed				35%		25%		20%		20%

Item No.	Qty	Description	MSC Industrial Supply		All American Poly		NCH Corp.		Unipak Corp.	
			Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
1	225	Toilet tissue	\$ 55.220	\$ 12,424.50		\$ -		\$ -		\$ -
2	175	Paper towels- multi fold	\$ 26.940	\$ 4,714.50		\$ -		\$ -		\$ -
3	150	Roll Towels	\$ 45.900	\$ 6,885.00		\$ -		\$ -		\$ -
4	150	Paper towels, C-fold	\$ 34.920	\$ 5,238.00		\$ -		\$ -		\$ -
5	75	Roll towels, perforated		\$ -		\$ -		\$ -		\$ -
6	100	Wipers - Wype-all		\$ -		\$ -		\$ -		\$ -
7	100	Wipers - Wype-all Plus	\$ 79.320	\$ 7,932.00		\$ -		\$ -		\$ -
8	100	Wipers - Economizer	\$ 69.990	\$ 6,999.00		\$ -		\$ -		\$ -
9	100	Wipers - Wypall banded	\$ 85.750	\$ 8,575.00		\$ -		\$ -		\$ -
10	15	Hand soap-DermaPro		\$ -		\$ -		\$ -		\$ -
11	15	Hand soap - Pink		\$ -		\$ -		\$ -		\$ -
12	30	Spray & wipe cleaner-19 oz.		\$ -		\$ -	\$ 69.750	\$ 2,092.50		\$ -
13	30	Glass Cleaner, window-19 oz.		\$ -		\$ -	\$ 70.800	\$ 2,124.00		\$ -
14	15	Glass Cleander, Triple S		\$ -		\$ -		\$ -		\$ -
15	15	Hand Cleaner, Derma Care 2000		\$ -		\$ -		\$ -		\$ -
16	30	Urinal Screens w/blocks	\$ 19.430	\$ 582.90		\$ -	\$ 80.370	\$ 2,411.10		\$ -
17	20	Metered aerosol		\$ -		\$ -		\$ -		\$ -
18	20	Dust cloth-Masslin treated		\$ -		\$ -		\$ -		\$ -
19	150	Trash liners, 16"x14"x36", black	\$ 20.550	\$ 3,082.50	\$ 14.560	\$ 2,184.00		\$ -	\$ 11.200	\$ 1,680.00
20	225	Trash liners, 23"x17"x46", white	\$ 17.810	\$ 4,007.25	\$ 11.630	\$ 2,616.75		\$ -	\$ 13.450	\$ 3,026.25
21	650	Trash liners, 38"x63", clear		\$ -	\$ 21.520	\$ 13,988.00		\$ -	\$ 28.000	\$ 18,200.00

Discount on products not listed Incomplete 0% Incomplete 1% Incomplete 10% Incomplete 75%

March 23, 2006
Consent Agenda
Contract Assignment Agreement with Walton and Associates

To: Glenn Brown, City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on a resolution approving a Contract Assignment Agreement with Walton and Associates Consulting Engineers, Inc. to LANWalton, a division of Lockwood, Andrews and Newman, Inc. Walton and Associates is the firm that designed the Longmire Extension South project.

Recommendation(s): Staff recommends approval of the Contract Assignment Agreement.

Summary: A Professional Services Contract for the design of the Longmire Extension South was awarded to Walton and Associates Consulting Engineers, Inc. (WACE) on March 22, 2001. Walton and Associates Consulting Engineers, Inc. have now been acquired by Lockwood, Andrews and Newman, Inc. and is a division of that company now known as LANWalton.

The construction of the Longmire Extension South was completed on September 8, 2005. The WACE contract terminated upon completion of the project; however, a provision of the contract requires that Professional Liability Insurance be maintained for a two year period following its termination. The approval of the Contract Assignment Agreement allows the Professional Liability Insurance of Lockwood, Andrews and Newman, Inc. to assume that coverage.

Budget & Financial Summary: NA

Attachments:

1. Contract Assignment Agreement
2. Project Location Map

Contract Assignment Agreement

The undersigned acknowledge that the City of College Station, Texas (hereinafter the "Client") and Walton and Associates Consulting Engineers, Inc. (hereinafter "WACE") entered into a Contract (hereinafter the "Contract") on the 22nd day of March, 2001, for Professional Engineering Services for the design of Longmire Extension South and that the Contract and the obligations and responsibilities of the Client and WACE as set forth in the Contract have not been completely executed by either of such parties. WACE now desires to assign and transfer the Contract to LANWalton, a division of Lockwood, Andrews & Newnam, Inc., a Texas corporation, with offices located at 1722 Broadmoor, Suite 100, Bryan, Texas 77802, (hereinafter "LANWalton") and WACE has discussed such assignment with the Client. The Client and WACE have agreed to such assignment and LANWalton has agreed to accept such assignment. The parties desire to document such assignment and their agreement thereto and acceptance thereof in this document.

The Client and WACE hereby agree to the assignment of the Contract by WACE to LANWalton effective on the 20th day of May, 2005, and LANWalton hereby accepts the assignment of the Contract from WACE, including all terms and conditions thereof including insurance. WACE and LANWalton agree with the Client that the same personnel who have been and who are now providing the services and work for the benefit of the Client will continue to provide such services and work throughout the term of the Contract unless any member of such personnel resigns his or her employment and must be replaced in order for such services and work to be completed or unless the Client agrees in writing that other individuals or personnel may provide the same. The Client agrees that all future invoices for such services and work will be submitted by LANWalton in accordance with the Contract and the Client agrees to pay LANWalton for such invoices in accordance with the Contract.

In witness whereof, each of the parties has caused this Assignment to be signed by a person so authorized on behalf of each party on the dates shown below.

City of College Station, Texas

By: _____

Printed Name: _____

Printed Title: _____

Date: _____

Walton & Associates Consulting Engineers, Inc

By: *Ned E. Walton*

Printed Name: Ned E. Walton

Printed Title: President

Date: 6/13/05

LANWalton

By: *Ned E. Walton*

Printed Name: Ned E. Walton

Printed Title: Director

Date: 6/13/05

ATTEST:

Connie Hooks, City Secretary

Date: _____

APPROVED:

Glenn Brown, Acting City Manager

Date: _____

Carla A. Robinson

Carla A. Robinson

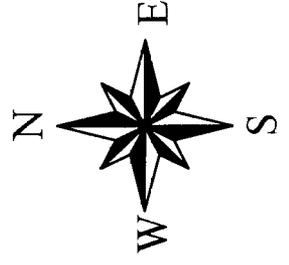
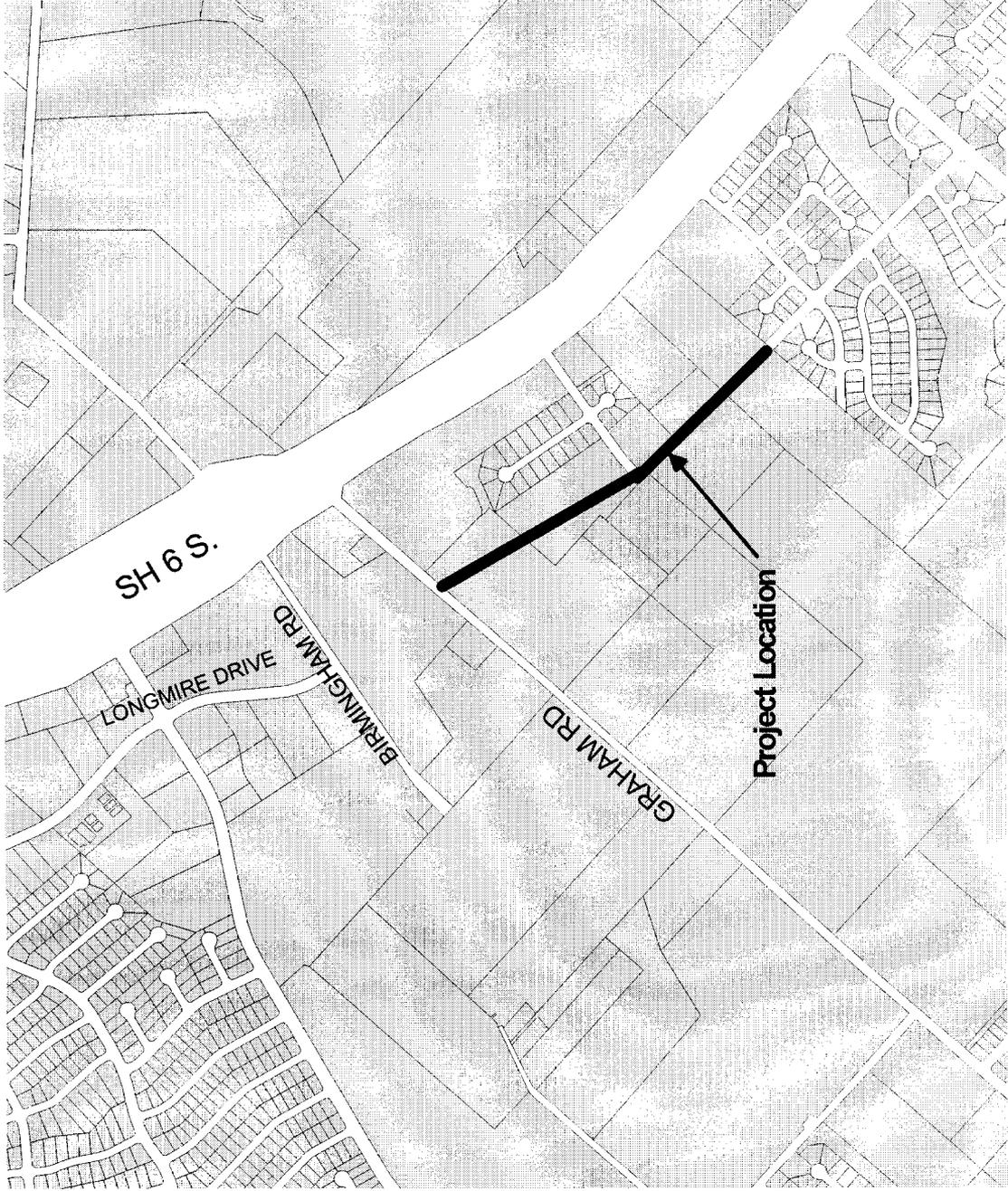
City Attorney

Date: _____

Jeff Kersten, Finance & Strategic
Planning Director

Date: _____

Longmire Extension



March 23, 2006
Consent Agenda
Amendment of Right-of-Way and Easement Abandonment Ordinance

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion of an ordinance amending Chapter 3 "Building Regulations", Section 2. "Right-of-way Maintenance" "N. Right-of-way and Easement Abandonment" of the Code of Ordinances by repealing language requiring fees for abandonment.

Recommendation(s): Staff recommends approval of the ordinance amending the right-of-way and easement abandonment section of the code of ordinances.

Summary: The proposed ordinance amends the ordinance that was adopted by Council on November 10, 2005. The repeal of this ordinance was requested under the hear visitors item on March 9, 2006, and staff believes that action is appropriate at this time. Staff still believes a variation of this ordinance is needed and will bring an alternate version later this year. The amendment of the right-of-way and easement abandonment section of the code of ordinances removes the portions of the ordinance that requires that the City be compensated for the value of such abandonments.

Budget & Financial Summary: Recovering the value of abandoned public property rights would generate some revenue. Because of the variable values and unknown number of abandonment requests the amount of revenue can not be determined at this time.

Attachments:

1. Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3, "BUILDING REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; 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 Chapter 3, "Building Regulations", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto 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.

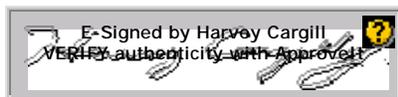
PASSED, ADOPTED and APPROVED this _____ day of _____, 2005.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary



City Attorney

EXHIBIT “A”

That Chapter 3, “Building Regulations”, Section 2 “Right-of-Way Maintenance” paragraph “N. Right-of-Way and Easement Abandonment” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

“N. RIGHT-OF-WAY AND EASEMENT ABANDONMENT

(1) **Criteria**

- (a) The City Council of the City of College Station, at the request of one or more underlying fee simple or abutting property owners, or upon the City's own initiative, may, after holding a public hearing, abandon an easement or right-of-way only upon affirmative findings regarding the following criteria:
 - (i) That the abandonment will not result in property that does not have access to public roadways or utilities.
 - (ii) That there is no current public need or use for the easement or right-of-way.
 - (iii) That there is no anticipated future public need or use for the easement or right-of-way.
 - (iv) That all public utilities have access to serve current and future customers.
- (b) In order to make the affirmative findings listed above, the City Council may consider, but is not limited to, the following: the proposed use of the property involved, existing uses of land in the neighborhood, the utilities or roadways located in the easement or right-of-way, the purpose of the easement or right-of-way, and the probable effect of the abandonment upon the immediate preservation of the order, public health, safety, convenience and welfare of the community.

March 23, 2006
Consent Agenda
Replacement of HVAC controls for City Hall and Public Works buildings

To: Glenn Brown, City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a construction contract (Contract #06-129) with Siemens Building Technologies Inc., in the amount of \$64,983.00, for the replacement of the Direct Digital Control Systems (temperature controls) at City Hall and the Public Works Building.

Recommendation(s): Staff recommends award of the contract to Siemens Building Technologies, Inc. for \$64,983.00.

Summary: In years past renovations to the Public Works building and the center section of the City Hall building (Legal & Human Resources area) has caused the existing heating, ventilation, and air conditioning (HVAC) system to become unbalanced. To correct this situation a new temperature control system that rebalances the comfort zones in the refurbished areas is required. This system can also be monitored at the Facility Maintenance Office workstation.

This contract is for the replacement of the existing heating, ventilation and cooling control system with the Siemens Direct Digital Control temperature control system. This purchase will be made utilizing the Texas Building and Procurement Commissions Catalog Information Systems Vendor list (C.I.S.V.). Purchases made from the State CISV program satisfies our requirement for competitive bidding. Purchasing this control system follows the management team decision to standardize the cities control systems.

Budget & Financial Summary: Funds are budgeted and available for this project in the Facilities Maintenance Operations Budget.

Attachments:

1. Construction Contract

**CITY OF COLLEGE STATION
STANDARD FORM OF CONSTRUCTION AGREEMENT**

This Agreement is entered into by and between the **City of College Station**, a Texas home-rule municipal corporation (the "City") and **Siemens Building Technologies, Inc.**, a Delaware corporation (the "Contractor"), for the installation of Direct Digital Control (DDC) Controls for City Hall and the Public Works Building.

1. DEFINITIONS

1.01. Calendar Day. A "calendar day" is any day of the week or month, no days being excepted.

1.02. City. Whenever the word "City" is used, it shall mean and be understood as referring to the City of College Station, Texas.

1.03. City's Representative. Whenever the words "City's Representative" or "Representative" are used, it shall mean and be understood as referring to the City Manager or his delegate, who shall act as City's agent. The City's Representative may inspect and issue instructions but shall not directly supervise the Contractor.

1.04. Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices times the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City.

1.05. Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.

1.06. Contractor. Whenever the word "Contractor" is used, it shall mean the person(s), partnership, or corporation who has agreed to perform the work embraced in this Agreement and the other Contract Documents.

1.07. Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing **prior** to the work being done by the Contractor.

1.08. Final Completion. The term "Final Completion" shall mean that all the work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.

1.09. Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.

1.10. Nonconforming work. The term "nonconforming work" shall mean work or any part thereof that is rejected by City 's Representative as not conforming with the Contract Documents.

1.11. Parties. The "parties" are the City and the Contractor.

1.12. Project. The term "Project" shall mean and include all that is required to obtain a final product that is acceptable to the City. The term "work" shall have like meaning.

1.13. Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.

1.14. Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.15. Work. The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The term "Project" shall have like meaning. This Project includes the following:

Direct Digital Control (DDC) Controls Replacement for the City Hall and Public Works Buildings – more fully described in Siemens Proposal No 05-086-REVISED.

1.16. Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

2. CONTRACT DOCUMENTS

2.01. The Contract Documents and their priority shall be as follows:

- 2.01.01. This signed Agreement
- 2.01.02. Addendum to this Agreement
- 2.01.03. General Conditions
- 2.01.04. Special Conditions
- 2.01.05. Technical specifications
- 2.01.06. Drawings
- 2.01.07. Instructions to Bidders and any other notices to Bidders or Contractor
- 2.01.08. Performance bond, Payment bonds, Bid bonds and Special bonds
- 2.01.09. Contractor's Proposal

2.02. Where applicable, the Contractor will be furnished three (3) sets of plans, drawings, specifications, and related Contract Documents for its use during construction. Plans and specifications provided for use during construction shall be furnished directly to the Contractor only.

2.03. The Contractor shall distribute copies of the plans and specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the plans and specifications accessible at the work site with the latest revisions noted thereon. For proper

execution of the work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

2.04. All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the plans and specifications and "as built" drawings, are to be returned to the City on request at the completion of the work. All Contract Documents, models, mockups, or other representations are the property of the City. In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions of this Clause 2.04, however, shall not relieve the Contractor of any of the obligations set forth in Paragraphs 8.01. and 8.02.

3. AWARD OF CONTRACT

3.01. Upon the award of the contract by the City Council, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02. **Time is of the essence of this Agreement.** Accordingly, the Contractor shall be prepared to perform the work in the most expedient and efficient possible manner in order to complete the work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the notice to proceed. The notice to proceed may be given by oral notification or set by City's Representative at the post-contract award conference. **The notice to proceed may not be given, nor may any work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Paragraphs 27 and 28 (Insurance & Bonds).**

4. CITY'S REPRESENTATIVE

4.01. The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02. The City's Representative may periodically review and inspect the work of the Contractor.

4.03. The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the work performed under this Agreement and ensure that said work is performed in accordance with the plans and specifications.

4.04. The Contractor shall regard and obey the directions and instructions of City's Representative, any subordinate supervisors or inspectors appointed by the City provided such directions and instructions are consistent with the obligations of this Agreement.

4.05. Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

5. INDEPENDENT CONTRACTOR

5.01. In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02. The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the work and fulfillment of this Agreement. The subcontracting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project during the progress of the work a competent Project Manager and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.03. Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the work by the Contractor. It shall be the responsibility of the Contractor to furnish a completed work product that meets the requirements of the City. Any additional work, material, or equipment needed to meet the intent of this specification shall be supplied by the Contractor *without* claim for additional payment, even though not specifically mentioned herein.

5.04. Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

6. DISORDERLY EMPLOYEES

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the work are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the work and shall not again be re-employed on the site or the Project without City's Representative's written permission.

7. HOURS OF WORK

The Contractor may work Monday through Friday from 7:00 a.m. to 6:00 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

8. NATURE OF THE WORK

8.01. It is understood and agreed that the Contractor has, by careful examination, studied and compared the various Drawings and other Contract Documents, satisfied itself as to the nature and location of the work, the conditions of the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any work on the Project that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03. If the Contractor fails to perform the obligations of Paragraphs 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

9. POST-AGREEMENT AWARD MEETINGS

9.01. Prior to the commencement of the work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

- (a) Schedules of work contemplated, including the starting and ending date, as well as an indication of the completion of stages of work hereunder.
- (b) The names and addresses of all proposed subcontractors in writing.
- (c) Schedules of the starting and ending dates of subcontractors and the scope of work contemplated for subcontractors.

- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02. The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

10. PROGRESS OF WORK

10.01. Unless otherwise specifically provided, the Contractor shall prosecute its work at such time and sessions, in such order of precedence, and in such manner as shall be most conducive to the economy of the Project; provided, however, that the order and time of prosecution shall be such that the Project shall be Substantially Completed in accordance with this Agreement, the plans and specifications, and within the time of completion designated in the schedules agreed upon by the parties.

10.02. Further, the parties shall be subject to the following:

- (a) The Contractor shall submit a progress schedule and payment schedule of the work contemplated by this Agreement at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's schedule submitted herein. The Contractor shall promptly resubmit a revised schedule to City's Representative.
- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the work with dates at which the Contractor will start the several parts of the work and the estimated dates of completion of the several parts.
- (e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.
- (f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the work is not in accordance with the approved progress and payment schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03. The process of approving Contractor's schedules and updates to Contractor's schedules shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Contractor's schedules. Approval of a contractor's schedules does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a Claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedules and shall promptly advise the City of any delays or potential delays. In the event any schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04. **Work Stoppage.** If in the judgment of either the City or City's Representative any of the work or materials furnished is not in strict accordance with this Agreement or any portion of the work is being performed so as to create a hazardous condition, they may, in their sole discretion, order the work of the Contractor or any sub contractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

11. SITE CONDITIONS AND MANAGEMENT

11.01. Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02. The Contractor shall be responsible for all power, light, and water required to perform the work.

11.03. Throughout the progress of the work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04. **Layout of Work.** Except as specifically provided herein, the Contractor shall lay out all work in a manner acceptable to City's Representative in accordance with applicable City

of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all work in accordance with the plans and specifications.

11.05. Lines and Grades. All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06. Contractor's Structures. The building or locating of structures for housing men or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.07. The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.08. City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. Although Contractor should anticipate some delays and interference to its sequence of Work because of work by other contractors and utilities, and will not be entitled to either an extension of time or additional compensation because of them, in the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.

11.09. When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work at the Project site be made by any

separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) to the extent arising directly out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

12. MATERIALS

12.01. Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02. All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03. Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City

in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04. **Materials and supplies shall be new and of good quality.** Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05. Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

13. ENTRY, OBSERVATION, TESTING & POSSESSION

13.01. The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02. The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the work will be ready for observation.

13.03. The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the plans, specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if the work is in accordance with the plans, specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04. City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such

portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement. Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

14. REJECTED WORK

14.01. All work deemed not in conformity with this Agreement as determined by the City in its sole discretion and within the applicable warranty period, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02. If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

(a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

(b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

15. SUBCONTRACTING & SUBCONTRACTORS

15.01. The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02. Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

16. PAYMENT

16.01. The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Contract. The Contractor shall issue exemption certificates to its suppliers and Subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02. **Progress Payment Applications.** The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require. This schedule, unless objected to by the City, shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or modification, a statement showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the work.

16.03. **Progress Payments.** On or before the **30th** calendar day following the City's receipt of a progress payment application made in conformity with Paragraph 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

16.04. **Retainage.** From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than \$400,000.00, and five percent (5%), where the full contract amount is \$400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

16.05. If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06. Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any

re-stocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07. The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08. The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09. Unless otherwise provided in the Contract Documents:

- (a) allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances;
- (c) whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 16.9(b).

16.10. **Suspension of Payments.** The City, at any time, may suspend monthly progress payments on the work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.11. **Withhold Funds.** Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Paragraph 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

- (a) Defective work.
- (b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.

- (g) City's determination of an amount of liquidated damages.
- (h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

17. EXTRA WORK CHARGES

17.01. No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid for except upon the written order from authorized personnel of the City.

17.02. "Extra Work", as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original contract price may not be increased by more than **twenty-five percent (25%)**. Written change orders that do not exceed **twenty-five percent (25%)** of the original contract amount may be made or approved by the City Manager or his delegate if the change order is less than **Twenty-five Thousand Dollars (\$25,000.00)**. Changes in excess of **Twenty-five Thousand Dollars (\$25,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

17.03. The Contractor shall complete all work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the work shall not excuse the Contractor from performing all the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the work and the Contractor shall assume and pay the costs of the performance of the work as contracted.

(a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.

(b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.

(c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its

performance, then the Contractor shall proceed with the work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.

(d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost of the work.

(e) **Method A - Unit Prices.** The Contractor agrees to perform Extra Work for the unit prices in the Contractor's Proposal. The Contractor also agrees and warrants that when it is necessary to construct units not shown in the Contract Documents, it shall construct such units for a price arrived at as follows:

(1) The cost of materials shall be determined by the invoices;

(2) The cost of labor shall be the reasonable cost thereof, as determined by the City, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio. Provided, however, that the ratio shall be calculated for only those units that are similar to the new unit for which a price is to be determined.

(f) **Method B - Lump Sum.** The lump sum shall be reasonably close to the amount for similar work previously done or combinations of similar units. Invoices for materials used shall be provided in support of the agreed lump sum.

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, worker's compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All damages must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned manloading to actual manloading, or any other analysis that is used to show damages indirectly.
- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

18. TIME OF COMPLETION

18.01. The date of beginning, the time for Substantial Completion and Final Completion of work as specified in this Agreement are of the essence of this Agreement.

18.02. The work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed may be given orally or set by the City's Representative at the post-award conference.

18.03. The work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor bid **120** calendar days for the time within which it shall reach Substantial Completion of the Project.

18.04. The work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

19. SUBSTANTIAL COMPLETION

19.01. The Contractor shall notify City's Representative when, in the Contractor's opinion, the contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the work has been Substantially Completed, City's Representative shall inspect the work for the preparation of a final punch list.

(a) If City's Representative and the City find that the work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the work. City's Representative shall not be required to provide a list of unfinished work.

(b) If the City Representative and City find that the work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

19.02. The Substantial Completion of the work shall not excuse the Contractor from performing all of the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents.

20. FINAL COMPLETION

20.01. Contractor shall notify the City's Representative when it believes that the work has reached Final Completion as defined in Paragraph 1.08. If the City's Representative and the City accept and deem such work Finally Complete, then Contractor shall be so notified and certificates of completion and acceptance, as provided herein, shall be issued. A complete itemized statement of this Agreement account, certified by the City's Representative as correct, shall then be prepared and delivered to Contractor. Contractor or City, as the case may be, shall pay the balance due as reflected by said statement within thirty (30) calendar days.

20.02. The Contractor shall procure all required certificates of acceptance or completions issued by state, municipal, or other authorities and submit the same to the City. The City may withhold any payments due under this Agreement until the necessary certificates are procured and delivered.

20.03. Neither the final payment nor any acceptance nor certificate nor any provision of this Agreement shall relieve the Contractor of any responsibility for faulty workmanship or materials. At the option of the City, the Contractor shall remedy any defects and pay for any damage to other work which may appear after final acceptance of the work.

21. DELAYS

21.01. The Contractor, in undertaking to complete the work within the times herein fixed, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material or workmen or delays arising from inclement weather or otherwise.

21.02. The City may, in its sole discretion, delay the work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event and upon a written request from the Contractor, the City may grant an extension of time pursuant to Paragraph 22 to offset for such stoppage of the work.

21.03. In the event of delays resulting from changes ordered in the work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

22. EXTENSIONS OF TIME

The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the work has been delayed by one or more of the following:

- (1) an act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;
- (2) by changes ordered in the work, or reductions thereto approved in writing;
- (3) by "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the Texas A&M University weather service; or
- (4) by other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's proposal or decision to bid.

If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

23. LIQUIDATED DAMAGES

23.01. The time for the Substantial and Final Completion of the work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02. As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of **ONE HUNDRED and no/100 DOLLARS (\$100.00)** for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion; provided, however, in no event shall any such liquidated damages exceed twenty percent (20%) of the original lump sum price.

24. **CHARGES FOR INJURY OR REPAIR**

24.01. The Contractor shall be liable for any damages incurred or repairs made necessary by reason of its work and/or caused by it. Repairs of any kind required by the City will be made and charged to the Contractor by the City.

24.02. The Contractor shall take the necessary precautions to protect any areas adjacent to its work.

24.03. The work specified consists of all work, materials, and labor required by the City to repair any damage to the property of the City, including but not limited to structures, roadways, curbs, parking areas, and sidewalks.

25. **WARRANTY**

25.01. The Contractor warrants for a period of one (1) year after the work performed under this contract is Substantially Completed as follows:

The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative and that all work will be of good quality, free from faults and defects, and in conformance with this Agreement, the other Contract Documents, and recognized industry standards.

25.02. All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

25.03. This warranty is in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor.

25.04. Where more than a one (1) year warranty is specified for individual products, work, or materials, the longer warranty shall govern.

25.05. This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Agreement.

25.06. **Defective Work Discovered During Warranty Period.** If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this Agreement within the applicable warranty period the Contractor shall promptly correct the defective work at no cost to the City.

25.07. After receipt of written notice from the City to begin corrective work, the Contractor shall promptly begin the corrective work. The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

25.08. If within ten (10) calendar days after the City has notified the Contractor of a defect, failure, or abnormality in the work, the Contractor has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the Contractor or its surety.

25.09. The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the Contractor or by the surety.

25.10. The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of this Project, whether or not a warranty is specified in the individual section of the Contract Documents that prescribe that particular aspect of the work.

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

26.01. **Wage Rates.** Pursuant to Section 2258.023(a) of the Texas Government Code, wage rates paid by the Contractor and any subcontractor on this Project shall be not less than the general prevailing rate of per diem wages for work of a similar character in this locality as specified in the schedule of general prevailing rates of per diem wages attached hereto as Exhibit A.

26.02. **Statutory Penalty.** Pursuant to Section 2258.023(b) of the Texas Government Code, if the Contractor or any subcontractor violates the requirements of Paragraph 26.01, the Contractor or subcontractor as the case may be shall pay the City **Sixty Dollars (\$60.00)** for each worker employed for each calendar day or part of the day that the worker is paid less than the stipulated wage rates.

26.03. The Contractor and each subcontractors shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.

26.04. No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.

26.05. **Payment of Subcontractors.** The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

26.06. **Affidavit of Bills Paid.** Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

27. INSURANCE

27.01. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, coverages, limits and endorsements required are as set forth on Exhibit B.

28. BOND PROVISIONS

28.01. Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$25,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such bonds shall be executed in accordance with all requirements of Article 7.19-1 of the Texas Insurance Code, all other applicable law, and the following:

- (a) The Contractor shall execute performance and payment bonds for the full Contract Amount.
- (b) The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.
- (c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit C, together with valid original powers of attorney, **at the time of execution of this Agreement and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit C**.
- (d) The performance and payment bonds shall remain in effect for a period of one (1) year after Final Completion of the work and shall be extended for any warranty work to cover the warranty period.
- (e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

28.02. The Contractor may make such changes and alterations as the City may require in the work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the work as originally planned, in accordance with the provisions of Article 17.

29. SURETY

29.01. If the Contractor has abandoned the Project or the City has terminated the contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the work in compliance with this Agreement, then the City at its option may provide for completion of the work in either of the following manners:

29.01.01. The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

29.01.02. The City may, after notice published as required by law, accept sealed bids and let this Agreement for the completion of the work under substantially the same terms and conditions that are provided in this Agreement. In case of any increase in cost to the City under the new agreement as compared to what would have been the cost under this Agreement, such increase together with all of the City's damages due to Contractor's abandonment and/or default, including liquidated damages, as provided pursuant to Paragraph 38, entitled "TERMINATION FOR CAUSE" shall be charged to the Contractor and the surety shall be and remain bound therefor. However, should the cost to complete such new agreement prove to be less than that which would have been the cost to complete the work under this Agreement, the Contractor shall be credited therewith after all deductions are made in accordance with this Agreement.

29.02. Should the cost to complete the work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

29.03. In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor.

30. COMPLIANCE WITH LAW

30.01. The Contractor's work and materials shall comply with all state and federal laws, municipal ordinances, regulations, codes, and directions of inspectors appointed by proper authorities having jurisdiction.

30.02. The Contractor shall perform and require all subcontractors to perform the work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

30.03. The Contractor shall follow all applicable state and federal laws, municipal ordinances, and guidelines concerning soil erosion and sediment control throughout the Project and warranty term.

31. SAFETY PRECAUTIONS

31.01. All safety measures, policies and precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the College Station Fire Department marked "Attn.: Assistant Chief".

31.02. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

31.03. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

31.04. Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Paragraph 31.07, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Paragraph 31.07). **In the event Contractor engages in any of the activities prohibited in this Paragraph 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this Paragraph 31.04.**

31.05. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its**

officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.

31.06. City and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

31.07. For purposes of this Agreement, the term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which are defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Contractor's responsibility to comply with this Paragraph 31.07 based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

32. TRENCH SAFETY

The Contractor must comply with Texas law regarding trench excavation exceeding five feet in depth and in accordance with the following items:

32.01 The Contractor must comply with the requirements of Tex. Health & Safety Code Ann. §756.022-023 (Vernon 1992), as amended, and the requirements of 29 C.F.R., Sections 1926.650 through 1926.653 inclusive, "Excavation, Trenching and Shoring," of the Occupational Safety and Health Administration Standards, as amended.

32.02 The Contractor must include a separate pay item for trench safety complying with trench safety requirements, stating a unit price per linear foot of trench safety systems, as measured along the centerline of trench including manholes and other line structures.

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty, responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

32.04 The Contractor must provide the City the name of the "competent person" required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations,

and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

33. INDEMNITY

33.01. CONTRACTOR SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY FROM ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY OR CAUSES OF ACTION FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY, TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE WORK DONE BY ANY PERSON UNDER THIS CONTRACT. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION SHALL EXTEND TO, AND INCLUDE, ANY AND ALL CLAIMS, CAUSES OF ACTION OR LIABILITY CAUSED BY THE CONCURRENT, JOINT AND/OR CONTRIBUTORY NEGLIGENCE OF THE CITY, AN ALLEGED BREACH OF AN EXPRESS OR IMPLIED WARRANTY BY THE CITY OR WHICH ARISES OUT OF ANY THEORY OF STRICT OR PRODUCTS LIABILITY.

33.02. The indemnifications contained in paragraphs 33.01 shall include but not be limited to the following specific instances:

- (a) In the event the City is damaged due to the act, omission, mistake, fault or default of the Contractor, then the Contractor shall indemnify and hold harmless and defend the City for such damage to the extent arising directly from the negligence of Contractor.**
- (b) The Contractor shall indemnify and hold harmless and defend the City from any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors of Contractor.**
- (c) The Contractor shall indemnify and hold harmless and defend the City from any and all injuries to or claims of adjacent property owners to the extent caused directly by the Contractor, its agents, employees, and representatives.**
- (d) The Contractor shall be responsible for any damage to the floor, walls, etc., to the extent caused directly by the Contractor's personnel or equipment during installation**
- (e) The Contractor shall also be responsible for the removal of all related debris to the extent resulting from the work of the Contractor.**
- (f) The Contractor shall also be responsible for subcontractors hired by it.**
- (g) The Contractor shall indemnify, hold harmless, and defend the City from any liability to the extent caused directly by the Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and**

the safe use and operation of machinery and equipment in that working environment.

33.03. The indemnification obligations of the Contractor under this section shall not extend to include the liability of any professional engineer, the architect, their consultants, and agents or employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the professional engineer, the architect, their consultants, and agents and employees of any of them, provided such giving or failure to give is the primary cause of the injury or damage.

33.04. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 33.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

34. **RELEASE**

The Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder.

35. **PERMITS AND LICENSES**

The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

36. **ROYALTIES AND LICENSING FEES**

The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the Project. It shall defend all suits or claims for infringement of any patent rights. Further, if the Contractor has reason to believe that the design, service, process, or product specified is an infringement of a patent, it shall promptly give such information to City's Representative.

37. BREACH OF CONTRACT & DAMAGES

37.01. The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate, or terminate the Contractor's obligations under this Agreement.

37.02. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (a) If the Contractor shall fail to remedy any default after written notice thereof from City's Representative, as City's Representative shall direct; or
- (b) If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or
- (c) If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

38. TERMINATION FOR CAUSE

Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to terminate this Agreement in its entirety at any time for any of the following:

38.01. If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or

38.02. If a receiver, trustee, or liquidator of any of the property or income of the Contractor shall be appointed; or

38.03. If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

38.04. If the Contractor shall fail to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or

38.05. If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or

38.06. If the Contractor abandons the Work.

38.07. If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

39. TERMINATION FOR CONVENIENCE

39.01. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by

delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

39.02 In the event of termination for convenience, the Contractor shall only be paid the reasonable value of the Work performed prior to the effective date of the termination notice and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law. In the event of termination for convenience, Contractor Waives and Releases any claim for lost profit, other than profit on Work performed prior to the effective date of such termination.

40. RIGHT TO COMPLETE

If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

41. CLOSE OUT

41.01. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City's Representative, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City's Representative, do the following:

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;
- (d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;

(f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred; and/or

42. TERMINATION CONVERSION

Upon determination of Court of competent jurisdiction that termination of the Contractor pursuant to Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 39 and Contractor's remedy for such termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Paragraph 39.

43. HIRING

During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

44. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of the City.

45. EFFECTIVE DATE

The effective date of this contract shall be the date of award of the contract.

46. OTHER TERMS

46.01. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

46.02. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

46.03. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation

with any officer, agent or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

46.04. **Amendment.** No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.05. **Mediation.** After receipt of a Notice of Claim, the Owner may elect to refer the matter to the Architect, Owner's Representative or another party for review. Contractor will attend meetings called to review and discuss the Claims and mitigation of the problem, and shall furnish any reasonable factual backup for the Claim requested. The Owner may also elect to defer consideration of the Claim until the Work is completed, in which case the same review options shall be available to the Owner at the completion of the Work. At any stage, the Owner, at its sole discretion, is entitled to refer a Claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a Claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under Owner's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.06. **Arbitration.** In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.07. **Choice of Law and Place of Performance.** This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.08. **Authority to do business.** The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this contract.

46.09 **Authority to Contract.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.

46.10. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

46.11. **Headings, Gender, Number.** The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement 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.

46.12. **Agreement Read.** The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

46.13. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

46.14. **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

47. **DAMAGES.**

47.01 Anything herein notwithstanding, in no event shall either the City or CONTRACTOR be liable to the other party for special, indirect, incidental or consequential damages, including commercial loss, loss of use, or lost profits, even if either party has been advised of the possibility of such damages.

SIEMENS BUILDING TECHNOLOGIES, INC.

CITY OF COLLEGE STATION

By: [Signature]
Printed Name: GEORGE T. BURCK, JR.
Title: Vice President, Sales
Date: 2/20/06

By: _____
Ron Silvia, Mayor
Date: _____

NAME: [Signature]
TITLE: Contractor
DATE: 2/20/06

ATTEST:

Connie Hooks, City Secretary
Date: _____

APPROVED BY LEGAL
[Signature]
STEPHANIE Y. HENDERSON

APPROVED:

Glenn Brown, Interim City Manager
Date: _____
[Signature]
City Attorney
Date: _____

Jeff Kersten, Finance & Strategic Planning
Director
Date: _____

STATE OF TEXAS)
)
COUNTY OF BRAZOS)

ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2005
by _____ in his/her capacity as _____ of
_____, a corporation, on behalf of said corporation.

Notary Public in and for
the State of Texas

STATE OF TEXAS)
)
COUNTY OF BRAZOS)

ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____,
2005, by _____, in the 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

Exhibit A
City of College Station Prevailing Wage Schedule

Part A: Building Construction Trades
Fiscal Year: 2005 - 2006

Building construction wage rates shall be paid to all workers except those workers engaged in site work and construction beyond five feet of buildings.

Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.

The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 and 1/2) times the base hourly rate.

The rates are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the workers and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew. The lowest allowable rate shall be the rate for laborers, no exceptions.

Welders shall receive the rate prescribed for the craft performing the operation to which the welding is incidental.

Description	Wage Rate (\$)
Asbestos Workers, Insulators	14.25
Bricklayers: Stone Masons	17.21
Carpenters	13.73
Carpet Layers/Floor Installers	12.10
Concrete Finishers	12.86
Drywall Installers/Ceiling	12.60
Electricians	17.75
Elevator Mechanics	19.75
Light Equipment Operators	10.50
Heavy Equipment Operators	13.34
Glaziers	12.60
Ironworkers	14.60
Laborers	8.00
Lathers	15.25
Millwork	14.26
Painters: Wall Covering	12.60
Pipefitters	18.80
Plasterers	15.25
Plumbers	19.85
Reinforcing Steel Setter	12.07
Roofers	11.53
Sheet Metal Workers	18.55
Sprinkler Fitters	17.75
Terrazzo Workers	15.50
Tile Setters	12.75
Waterproofers/Caulkers	12.82

Exhibit A

City of College Station Prevailing Wage Schedule

Part B: Civil/Heavy Construction Trades

Fiscal Year: 2005 - 2006

Description	Wage Rate (\$)
Air Tool Man	7.50
Asphalt Raker	7.75
Batching Plant Scaleman	7.50
Concrete Finisher (Paving)	8.00
Concrete Finisher (Structures)	8.25
Form Builder (Structures)	9.50
Form Setter (Paving and Curbs)	9.00
Mechanic	8.80
Oiler	7.50
Serviceman	8.25
Pipelayer	7.75
Welder	13.92
Power Equipment Operators	
Asphalt Paving Machine	9.00
Broom or Sweeper Operator	7.50
Bulldozer, 150 H.P. or less	8.50
Crane, Clamshell, Shovel Operator	9.50
Crusher and Screening Plant Operator	7.50
Foundation Drill Operator (truck)	8.50
Front End Loader (2-1/2 c.y.)	8.38
Motor Grader Operator	11.00
Roller, Steel Wheel (Plant-mix Pavements)	8.00
Roller, Steel Wheel (Other Flat Wheel or Tamping)	8.00
Roller, Pneumatic (Self Propelled)	8.00
Scraper Operator	8.25
Tractor (Crawler Type), over 150 h.p.	8.00
Tractor (Pneumatic), 80 h.p. and less	8.00
Traveling Mixer	8.00
Wagon Drill, Boring Machine or Post Hole Driller	8.00
Truck Driver	8.58
Cable Splicer	9.00
Lineman	10.75
Groundman	7.50

Exhibit B
INSURANCE REQUIREMENTS

**CITY OF COLLEGE STATION CONTRACTS
INSURANCE COVERAGE & LIMIT REQUIREMENTS**

EFFECTIVE 10-1-02

X Commercial General Liability, (a.k.a.) Public Liability

Coverage limit should be **\$2 million** aggregate with **\$1 million** per occurrence.

This coverage should provide liability coverage for the following:

Fire Damage Liability, **\$100,000 minimum**

Medical Expense, **\$5,000 minimum**

Personal & Advertising Injury

Products & Completed Operations with Separate Aggregate

Contractual Liability

Host Liquor Liability

Explosion, Collapse, Underground

X Business Auto Liability

Coverage limit **\$1 million combined single limit**

This coverage should provide liability for the following:

Any Auto

All Owned Autos

Scheduled Autos

Hired Autos

Non Owned Autos, (includes rented & leased vehicles)

X Workers Compensation

Coverage Limit **Texas Statutory**

X Employers Liability

Coverage Limit **\$1,000,000/ \$1,000,000/ \$1,000,000**

This coverage should provide liability for the following:

E.L. Each Accident **\$1,000,000**

E.L. Disease- Each Employee **\$1,000,000**

E.L. Disease- Policy Limit **\$1,000,000**

Professional Liability

Coverage Limit **\$2 million** Aggregate with **\$1 million** per occurrence*

Claims made policies are *acceptable on this line of coverage**

Must have an *Extended Reporting Period Endorsement**

Pollution Liability

Coverage Limit minimum \$1 million or \$5 million depending upon DOT/TNRCC Classification of materials being transported. (Can be endorsed onto Business Auto Liability on form MCS-90 Endorsement- Motor Carrier Policies for insurance for Public Liability)

Umbrella / Excess Liability

Coverage Limit **minimum** should be equal to or Greater than **\$5million** per occurrence/aggregate when combined with the lowest primary liability coverage. This coverage **MUST** follow form.

(Coverage Limit Requirement as Determined by the City's Risk Manager)

X **Builders' Risk**

(Coverage Limit Requirement as Determined by the City's Risk Manager)

X **Performance Bonds & Payment Bonds**

Required on construction projects at \$100,000.00 and above. However, City has the option to have a performance bond on projects below \$100,000.00 dollars. Payment bonds are also required on projects at \$25,000.00 and above.

Commercial Crime/Fidelity Bond

(Coverage Limit Requirement as Determined by the City's Risk Manager)

Liquor Legal Liability (if alcohol is sold on premise)

(Coverage Limit Requirement as Determined by the City's Risk Manager)

Tenant's Contents and Betterments

Required for Tenant's renting/leasing City of College Station Building / Office Space

(Coverage Limit Requirement as Determined by the City's Risk Manager)

Leasehold Interest Insurance

Required when renting or leasing City of College Station buildings or offices.

(Coverage Limit Requirement as Determined by the City's Risk Manager)

Exhibit B

INSURANCE REQUIREMENTS

During the term of this Agreement all of Contractor's insurance shall meet the following requirements:

1. **Standard Insurance Policies Required:**
 - (a) Commercial General Liability Policy
 - (b) Business Automobile Liability Policy
 - (c) Workers' Compensation Policy

2. **General Requirements Applicable to All Policies:**
 - (a) Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
 - (b) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - (c) "Claims Made" policies will not be accepted.
 - (d) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
 - (e) The City of College Station, its officials, employees and volunteers, are to be added as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

3. **Commercial General Liability**
 - (a) General Liability insurance shall be written by a carrier with a B+: VII or better rating in accordance with the current Best Key Rating Guide.
 - (b) Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
 - (c) Coverage shall be at least as broad as ISO form GC 00 01.
 - (d) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
 - (e) The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and, "Explosion, Collapse, and Underground" coverage.

4. **Business Automobile Liability**
 - (a) Business Automobile Liability insurance shall be written by a carrier with a B+: VII or better rating in accordance with the current Best Key Rating Guide.
 - (b) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
 - (c) Coverage shall be at least as broad as Insurance Service's Office Number CA 00 01.
 - (d) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.

(e) The coverage shall include owned, leased or rented autos, non-owned autos, any autos and hired autos.

(f) Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00.

5. Those policies set forth in Paragraphs 3, 4 and 5 shall contain an endorsement providing that the City is an additional insured and further providing that those policies shall be primary to any insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to all of the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City *before* work commences.

6. Workers' Compensation Insurance

(a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, *all* employees of the Contractor, *all* employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved TWCC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors *must* use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

(b) The worker's compensation insurance shall include the following terms:

(i) Employer's Liability limits of \$1,000,000.00 for each accident are required.

(ii) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

(iii) Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

(c) Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

Certificate of coverage ("certificate") - *A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.*

Duration of the project - *includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.*

Persons providing services on the project ("subcontractor" in § 406.096 [of the Texas Labor Code]) - *includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees.*

This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity **prior** to being awarded the contract.

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (4) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) A certificate of coverage, prior to the other person beginning work on the project; and
 - (b) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured,

with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

7. **Certificates of Insurance** shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

- (a) The company is licensed and admitted to do business in the State of Texas.
- (b) The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
- (c) All endorsements and insurance coverage's according to requirements and instructions contained herein.
- (d) The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
- (e) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

Exhibit C

PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

THAT WE, _____, as Principal, hereinafter called "Contractor" and the other subscriber hereto _____, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of _____ (\$_____) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for _____ all of such work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered it's Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and save harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered with actually received or, if earlier, on the third day following deposit in a United State Postal Service pos office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

ATTEST, SEAL: (if a corporation)

WITNESS: (if not a corporation)

(Name of Contractor)

By: _____

Name:

Title:

By: _____

Name:

Title:

Date:

ATTEST/WITNESS (SEAL)

(Full Name of Surety)

By: _____

Name:

Title:

Date:

(Address of Surety for Notice)

By: _____

Name:

Title:

Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED
ON BEHALF OF
THE CITY OF COLLEGE STATION, TEXAS:

City Attorney's Office

Project No. _____

PAYMENT BOND

TEXAS STATUTORY PAYMENT BOND

THE STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

THAT WE, _____, as Principal, hereinafter called "Principal" and the other subscriber hereto _____, a corporation organized and existing under the laws of the State of _____, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of _____ (\$_____) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the _____ day of _____, 200__, for _____

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, the condition of this obligation is such that if Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Code to the same extent as if it were copied at length herein.

IN WITNESS THEREOF, the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

ATTEST, SEAL: (if a corporation)
WITNESS: (if not a corporation)

(Name of Contractor)

By: _____
Name:
Title:

By: _____
Name:
Title:
Date:

ATTEST/WITNESS (SEAL)

(Full Name of Surety)

By: _____
Name:
Title:
Date:

(Address of Surety for Notice)

By: _____
Name:
Title:
Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED
ON BEHALF OF
THE CITY OF COLLEGE STATION, TEXAS:

City Attorney's Office

Exhibit D

CERTIFICATES OF INSURANCE AND ENDORSEMENTS

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
09/19/05

PRODUCER
MARSH USA INC
44 WHIPPANY ROAD
P.O. BOX 1966
MORRISTOWN, NJ 07962-1966

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

100129-SS- 576

INSURED
SIEMENS BUILDING TECHNOLOGIES, INC.
1000 DEERFIELD PARKWAY
BUFFALO GROVE, IL 60069-4513

COMPANIES AFFORDING COVERAGE	
COMPANY A	INSURANCE CORPORATION OF HANNOVER <i>A, XV</i>
COMPANY B	LIBERTY MUTUAL FIRE INSURANCE COMPANY <i>A, XV</i>
COMPANY C	LIBERTY MUTUAL INSURANCE COMPANY <i>A, XV</i>
COMPANY D	

COVERAGES This certificate supersedes and replaces any previously issued certificate.
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

CO. LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	ICH GL 132-05	10/01/05	10/01/06	GENERAL AGGREGATE \$ 10,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT				PRODUCTS - COMP/CP AGG \$ INCL. PERSONAL & ADV INJURY \$ 1,000,000 EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 1,000,000 MED EXP (Any one person) \$ 100,000
B	AUTOMOBILE LIABILITY	AS2-631-004334-035	10/01/05	10/01/06	COMBINED SINGLE LIMIT \$ 2,000,000
	<input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$ N/A BODILY INJURY (Per accident) \$ N/A PROPERTY DAMAGE \$ N/A
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY \$ EACH ACCIDENT \$ AGGREGATE \$
	EXCESS LIABILITY				EACH OCCURRENCE \$ AGGREGATE \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WA7-63D-004334-015 (AOS) WCT-631-004334-025	10/01/05 10/01/05	10/01/06 10/01/06	<input checked="" type="checkbox"/> NO STATUTORY LIMITS <input type="checkbox"/> OTHER EACH ACCIDENT \$ 1,000,000 DISEASE - POLICY LIMIT \$ 1,000,000 DISEASE - EACH EMPLOYEE \$ 1,000,000
	THE PROPRIETOR/PARTNER/EXECUTIVE OFFICER'S ARE <input checked="" type="checkbox"/> INCL <input type="checkbox"/> EXCL	(AK, ID, MT, OR, & WI)			
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
RE: 676-P-2168
SEE ATTACHED

CERTIFICATE HOLDER
NYC 002378592-01

CITY OF COLLEGE STATION
OFFICE OF TECHNOLOGY AND INFORMATION SERVICES
310 KRENEK TAP ROAD
COLLEGE STATION, TX 77840

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURANCE COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
ATTORNEY'S SERVICES PROVIDED
Rich O'Connor *Rich O'Connor*

ADDITIONAL INFORMATION

NYC-002378592-01 DATE (MM/DD/YY) 09/19/05

PRODUCER

MARSH USA INC
 44 WHIPPANY ROAD
 P.O. BOX 1866
 MORRISTOWN, NJ 07962-1866

COMPANIES AFFORDING COVERAGE

COMPANY
 E

COMPANY
 F

COMPANY
 G

COMPANY
 H

100129-85-

676

INSURED

SIEMENS BUILDING TECHNOLOGIES, INC.
 1000 DEERFIELD PARKWAY
 BUFFALO GROVE, IL 60089-4513

TEXT

RE: 676-P-2169

CITY OF COLLEGE STATION IS INCLUDED AS ADDITIONAL INSURED UNDER THE ABOVE REFERENCED GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE POLICIES AND THE COVERAGE AFFORDED THE ADDITIONAL INSURED UNDER THESE POLICIES SHALL BE PRIMARY AND NON-CONTRIBUTORY INSURANCE TO THE EXTENT THAT A CLAIM ARISES FROM THE NEGLIGENCE OF SIEMENS BUILDING TECHNOLOGIES INC. OR ITS SUBCONTRACTORS WITH RESPECT TO ALL OPERATIONS OF THE INSURED BUT ONLY WITH RESPECT TO ALL WORK PERFORMED BY AND ON BEHALF OF THE NAMED INSURED, SIEMENS BUILDING TECHNOLOGIES, INC. FOR CERTIFICATE HOLDER UNDER CONTRACT.

THE OWNER AND CONTRACTOR WAIVE ALL RIGHTS AGAINST EACH OTHER AND ANY OTHER CONTRACTOR, SUBCONTRACTORS, SUB-SUBCONTRACTORS, AGENTS, AND EMPLOYEES, FOR DAMAGES OR INJURIES CAUSED BY PERILS TO THE EXTENT COVERED BY INSURANCE, EXCEPT SUCH RIGHTS AS THEY MAY HAVE TO PROCEEDS OF SUCH INSURANCE HELD BY THE OWNER AS A FIDUCIARY.

CERTIFICATE HOLDER

CITY OF COLLEGE STATION
 OFFICE OF TECHNOLOGY AND INFORMATION SERVICES
 310 KRENEK TAP ROAD
 COLLEGE STATION, TX 77840

MARSH USA INC. BY
 Rich O'Connor



Exhibit E

TECHNICAL SPECIFICATIONS AND PLANS

SIEMENS

May 6, 2005

City of College Station
Department of Public Works
2613 Texas Avenue
College Station, Texas 77842

ATTENTION: Mr. Rusty Smith

REFERENCE: DDC Controls Replacement for the City Hall and Public Works Buildings
Siemens Proposal No. 05-086-REVISED

Dear Rusty,

Siemens is pleased to provide this proposal to furnish and install a new Siemens DDC (Direct Digital Control) temperature control system at the City Hall and Public Works Buildings, as described herein, for the total amounts shown:

City Hall:	\$14,993.00
Public Works:	\$32,863.00
<u>Server/Workstation:</u>	<u>\$17,127.00</u>
TOTAL:	\$64,983.00

City Hall and Public Works buildings are similar in their existing mechanical systems; they vary only in the type of heat (electric vs. hot water) and the number of Air Handling Units and zones. City Hall has one AHU with electric heat, and 7 zones. Public Works has 3 AHUs and a total of 23 zones. Public Works also has two single-zone split systems, and a heating water boiler.

At each of these two buildings, Siemens will provide and install a new DDC control panel in the central mechanical room, and install and commission new controls for the subject VAV Air Handling Units (4 total). The existing Parker/Carrier systems shall be disabled and removed. A new discharge temperature sensor shall be installed, and the DDC shall control the discharge air temperature setpoint of the AHU by staging the condensing unit and electric heat (or modulating the hot water valve) as required. Changeover from cooling to heating mode shall be operator adjustable, or automatically based upon outside air and/or inside air temperature. A new duct pressure sensor and bypass damper actuator shall be installed on each AHU, and the damper shall be modulated to maintain duct static pressure at setpoint. The DDC system shall control start/stop of each unit, and provide run-proof utilizing a current sensing relay.

A new DDC controller, zone damper actuator, and room temperature sensor shall be installed for each zone (30 thus), and networked back to the DDC panel. The existing zone thermostats shall be removed and the new temperature sensor shall be installed in the same location. Due to the smaller size of the Siemens sensor, some painting or patching of the wall may be necessary; this painting and patching is not included in this proposal.

As requested, the new sensors shall have a blank cover with no external controls. All setpoints shall be adjusted thru the DDC system. However, whenever desired, any or all blank sensors can be replaced (no rewiring required) with a sensor having a local temperature readout and built-in temperature setpoint dial, which can allow any user to control their own temperature, for maximum comfort. If desired, the range of the setpoint dial can be limited to a few degrees of adjustment, or can be disabled completely by the

Siemens Building Technologies, Inc.
Building Automation
8850 Fallbrook
Houston, TX 77064
College Station City Hall and Public works DDC proposal-REVISED.doc

Tel: (281) 949-3065
Fax: (281) 949-3100

building operator, as needed for each zone. This can help control energy consumption. All setpoints and time-based schedules are completely adjustable by the system operator.

Each room temperature sensor shall also have an override button, which, if enabled, will allow tenants to activate after-hours air conditioning for only their area. The duration of override (2 hours by default) can be changed (or disabled) by the building operator, as needed for each zone. It can also be tracked by the system software, to provide information on after-hours building use, if desired.

Similar to the zone dampers, Siemens will also install a DDC controller on each of the two split systems at the Public Works building, along with an associated room temperature sensor to be installed in place of the local thermostat. The DDC controller will operate the split system in the same manner as did the local thermostat, but will be networked into the main DDC network, so that it can be controlled centrally. The Public Works Building also has a boiler, which will be enabled and disabled by the DDC system. An outside air temperature and humidity sensor shall be installed at the Public Works building to provide a global weather reference for all building sequences, and for convenience display on the workstation.

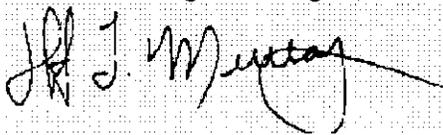
Finally, each building's DDC panel shall be connected to the City of College Station's enterprise system e-net via a common TCP/IP network drop, to a Siemens Apogee Server/Workstation and printer located in the Maintenance Shop (PC hardware and printer NOT included).

From this PC, system operators will be able to monitor all subject equipment and sensors, adjust all temperature and pressure setpoints, set up and maintain equipment run schedules, and receive equipment alarms. All of these values can also be historically trended, and both text-based tabular and color graph-based history reports can be used for establishing efficient operating guidelines and system troubleshooting. Additionally, the City's existing laptop computer can be used to call into the system to make changes remotely, or to plug in locally to each building's DDC panel.

Siemens will work with you to recommend or develop exactly the program sequences you desire, such as interlocking of equipment, boiler enable based upon outside air temperature, freeze protection sequences, etc. We will also provide basic system operator training to assure that you have the skills to utilize the system for all day-to-day operations. Additional training is available to make you an expert on your system, empowering you to perform all system supervisory functions, such as graphics creation and modification, system configuration changes, and point and program sequence additions and modifications. A full one year on-site parts and labor warranty is included in this proposal.

We appreciate the opportunity to serve you, and we look forward to a mutually successful partnership relationship with the City of College Station that will last the life of your buildings.

Sincerely,
Siemens Building Technologies, Inc.

A handwritten signature in black ink, appearing to read "Jeff Murray", is written over a light gray grid background.

Jeff Murray
Senior Account Executive

City of College Station
DDC Controls Replacement for City Hall, Public Works Building, and Server/Workstation

Proposal No. 05-086 - REVISED

PART NO.	DESCRIPTION	*LIST PRICE	**MULT.	NET UNIT COST	Q
544 342	D/AV TEMP SENSOR,RTD,-40/240F	224.00	0.365	81.76	
RHT-3-I-R-6	Dual Sensor, Temp and RH, 3%	1240.00	0.365	452.60	
2641R05WB11T1C	Air Static DP Transmitter	340.00	0.365	124.10	
GMA121.1P	DAMPER ACT, 2 POS SR	320.00	0.365	116.80	
999 999	Installation/wiring materials	1200.00	1.32	1584.00	
549 213	DGT PT EXP 4DI/DO HOA	1406.00	0.365	513.19	
540660A	ROOM TEMPERATURE SENSOR	86.52	0.365	31.58	
RIB24P	Relay/Enclosure	75.80	0.365	27.67	
H904	CURRENT MONITOR SWITCH	187.40	0.365	68.40	
571 011 351 USB	Apogee Advanced Serv-2 Software	29056.00	0.365	10605.44	
538 859	Service Modem	564.00	0.365	205.86	
192 506	@ T'STAT ACC,STD EL BX PLT 5/PK	23.38	0.5	11.69	
192 507	T'STAT ACC,EL BOX ADPTBASE 5PK	30.16	0.365	11.01	
535 494	D/AV RTD 20/120F 48"PROBE,PLAT	340.00	0.365	124.10	
540 110	TEC, UNIT COND CTRLR ELEC OUT	527.00	0.365	192.36	
540 680FA	TEC RM SNSR-W/STPT,IND,OVRD,BG	172.00	0.365	62.78	
540 155	TEC ENCL CTRLR ONLY	64.50	0.365	23.54	
538 910	@Apogee Ethernet Microserver, 115v	950.00	0.5	475.00	
549-621	MEC 1210 F	9372.00	0.365	3420.78	
549-506	MEC Service Box, 115V to 24 Vac	490.00	0.365	178.85	
GDE131.1P	3PT,NSR,24V,ACTUATOR,MED.PLNM.	129.78	0.365	47.37	

Material Subtotal:

*List Price per Siemens Price List - October, 2004

2% Material Destination:

Material Total:

City of College Station

30-Aug-05

DDC Controls Replacement for City Hall, Public Works Building, and Server/Workstation

Proposal No. 05-086 - REVISED

SIEMENS

Engineering / Technician Labor:

1 lot	Engineering/Technician labor	16,800.00
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Electrician/Fitter Labor:**

1 lot	Electrician Labor	12926.00
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	TOTAL LABOR	<u>\$29,726.00</u>
--	-------------	--------------------

	TOTAL MATERIAL AND LABOR	\$64,983.47
--	--------------------------	-------------

	QUOTED PRICE:	\$64,983.00
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March 23, 2006
Consent Agenda
Equipment Replacement at Carters Creek Wastewater Treatment Plant

To: Glenn Brown, City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action, and discussion regarding a resolution approving the bid and awarding a construction contract 06-131 for equipment replacement at Carters Creek Wastewater Treatment Plant to Bryan Construction Company in the amount of \$88,000.00.

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

Summary: This item will allow the scheduled replacement of Plant 2 aeration diffusers and 2A clarifier drive because this equipment has exceeded its service life. This is the second of four aeration basins to have diffusers replaced and the second of five clarifier drives to be replaced. Plant 2 represents approximately one fourth of the wastewater treatment capacity of Carter's Creek Wastewater Treatment Plant.

Budget & Financial Summary: Invitation to Bid 06-61 resulted in one bid from Bryan Construction Company in the amount of \$88,000.00. Electronic notification of the solicitation was sent to 263 potential vendors, and 19 of these downloaded the bid package. Even though only one bid was received, staff feels that this price is fair and reasonable. Capital Improvement Project Funds are budgeted and available.

Attachments:

1. Resolution
2. Bid Tab

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE PLANT 2 DIFFUSER AND CLARIFIER DRIVE REPLACEMENT PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Plant 2 diffusers and clarifier drive replacement Project; and

WHEREAS, the selection of Bryan Construction Company is being recommended as the lowest responsible bidder for the construction services related to Plant 2 diffusers and clarifier drive replacement ; 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 Bryan Construction Company is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Bryan Construction Company for \$88,000.00 for the labor, materials and equipment required for the improvements related the Plant 2 diffusers and clarifier drive replacement Project.

PART 3: That the funding for this Project shall be as budgeted from the Wastewater Capital Projects Fund, in the amount of \$88,000.00

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

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

ATTEST:

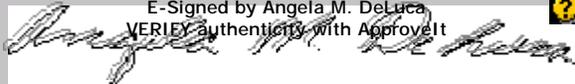
APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:

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



City Attorney

**March 23, 2006
Consent Agenda
Spring Creek and Brazos Transmission Line Materials**

To: Glenn Brown, City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action, and discussion regarding rejection of Item #D-3, Bid #06-50 in the amount of \$55,660.00 from Techline Inc. and award bid item to Hughes Supply in the amount of \$100,280.00 for the purchase of transmission materials for the Spring Creek and Brazos Transmission line construction.

Recommendation(s): Staff recommends awarding Item #D-3 to the next lowest bidder meeting specifications, Hughes Supply in the amount of \$100,280.00.

Summary: On February 9, 2006 Council approved awarding Bid #06-50 for transmission poles and materials to construct new transmission lines to various vendors. Purchase orders were sent to all vendors. Techline, Inc. contacted the City stating that they had made a mistake on the bid amount of one item for \$55,660.00 and withdrew their bid on that item. Techline Inc. purchase order was reduced accordingly.

To prevent costly delay and meet ERCOT (Energy Resource Cooperation of Texas) construction deadlines for this project staff went to the next low bidder Hughes Supply and issued a purchase order so the item could be placed on order, delivery is expected in mid April, no money has been spent.

Budget & Financial Summary: Eight (8) sealed, competitive bids were received and opened on January 24, 2006. Funds are budgeted for electric capital system improvements in College Station Utilities Capital Improvement Funds, Electric Division.

Attachments:

1. Bid Tab

Tabulation for Bid #06-50
Transmission Lines Materials

Item No.	Item Description	Quantity	TransAmerican Power Products			Priester, Mell and Nicholson			Texas Power and Construction			Hughes Supply		
			Unit Price	Total	Delivery	Unit Price	Total	Delivery	Unit Price	Total	Delivery	Unit Price	Total	Delivery
A-1	Concrete Pole, prestressed 85'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-2	Concrete Pole, prestressed 85'	11	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-3	Concrete Pole, prestressed 85'	2	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-4	Concrete Pole, prestressed 85'	6	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-5	Concrete pole, prestressed 90'	2	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-6	Concrete pole, prestressed 90'	3	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-7	Concrete pole, prestressed 95'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-8	Concrete pole, prestressed 95'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A-9	Concrete pole, prestressed 100'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A10	Concrete pole, prestressed 105'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A11	Concrete pole, prestressed 115'	2	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A12	Concrete pole, prestressed 125'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
A13	Concrete pole, prestressed 130'	1	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
B-1	Steel pole, Seventy three feet.	1	\$12,925.60	\$12,925.60	8-12 weeks	\$21,126.00	\$21,126.00	4/10/2006	\$16,650.00	\$16,650.00	5/14/2006	\$16,420.00	\$16,420.00	5/14/2006
B-2	Steel pole, seventy six feet.	1	\$22,015.90	\$22,015.90	8-12 weeks	\$34,481.00	\$34,481.00	4/10/2006	\$26,000.00	\$26,000.00	5/14/2006	\$25,801.00	\$25,801.00	5/14/2006
B-3	Steel Pole, seventy nine feet.	1	\$23,272.00	\$23,272.00	8-12 weeks	\$36,463.00	\$36,463.00	4/10/2006	\$27,000.00	\$27,000.00	5/14/2006	\$26,830.00	\$26,830.00	5/14/2006
B-4	Steel pole, eighty two feet.	1	\$14,652.70	\$14,652.70	8-12 weeks	\$24,794.00	\$24,794.00	4/10/2006	\$18,150.00	\$18,150.00	5/14/2006	\$18,130.00	\$18,130.00	5/14/2006
B-5	Steel pole, eighty six feet.	1	\$15,644.40	\$15,644.40	8-12 weeks	\$25,865.00	\$25,865.00	4/10/2006	\$18,900.00	\$18,900.00	5/14/2006	\$18,774.00	\$18,774.00	5/14/2006
C-1	Wire, #1033 ACSS	45000	\$0.00	\$0.00		\$2.14	\$96,300.00	6 Weeks	\$2.85	\$128,250.00	6 weeks	\$2.96	\$133,200.00	9-10 Wks
C-2	Wire, #1431 ACSS	115000	\$0.00	\$0.00		\$2.89	\$332,350.00	6 Weeks	\$3.60	\$414,000.00	6 weeks	\$3.74	\$430,100.00	9-10 Wks
C-3	Ground Wire	7800	\$0.00	\$0.00		\$0.00	\$0.00		\$0.38	\$2,964.00	2 weeks	\$0.32	\$2,496.00	2 Weeks
C-4	Guy Wire, 3/8" HSS	32500	\$0.00	\$0.00		\$0.00	\$0.00		\$0.26	\$8,450.00	2 weeks	\$0.25	\$8,125.00	2 Weeks
D-1	Insulator, suspension, 138 kv	170	\$0.00	\$0.00		\$0.00	\$0.00		\$120.25	\$20,442.50	5 weeks	\$81.40	\$13,838.00	4-5 Weeks
D-2	Insulator, suspension, line post hor.	12	\$0.00	\$0.00		\$0.00	\$0.00		\$125.00	\$1,500.00	6 weeks	\$110.21	\$1,322.52	4-5 Weeks
D-3	Insulator and stud, post type, horz.	230	\$0.00	\$0.00		\$0.00	\$0.00		\$538.00	\$123,740.00	6 weeks	\$436.00	\$100,280.00	4-5 Weeks
E-1	Eye nut, for 7/8" bolt	25	\$0.00	\$0.00		\$0.00	\$0.00		\$17.35	\$433.75	14 weeks	\$14.61	\$365.25	14 Weeks
E-2	Pole band connecting link	24	\$0.00	\$0.00		\$0.00	\$0.00		\$9.25	\$222.00	8 weeks	\$7.94	\$190.56	8-9 Weeks
E-3	Clip, Ground wire, 7/8	250	\$0.00	\$0.00		\$0.00	\$0.00		\$1.10	\$275.00	8 weeks	\$1.12	\$280.00	14 Weeks
E-4	Clamp, suspension per specification	155	\$0.00	\$0.00		\$259.00	\$40,145.00	4/10/2006	\$317.00	\$49,135.00	14 weeks	\$174.00	\$26,970.00	8-10 Wks
E-5	Clamp, suspension per specification	175	\$0.00	\$0.00		\$297.00	\$51,975.00	4/10/2006	\$356.00	\$62,300.00	14 weeks	\$181.00	\$31,675.00	8-10 Wks
E-6	Clamp, suspension, ductile iron	55	\$0.00	\$0.00		\$0.00	\$0.00		\$26.70	\$1,468.50	11 weeks	\$21.04	\$1,157.20	10-11 Wks
E-7	Crossarm per specifications	5	\$0.00	\$0.00		\$185.00	\$925.00	2-3 Week	\$206.00	\$1,030.00	5 weeks	\$0.00	\$0.00	
E-8	Crossarm per specifications	44	\$0.00	\$0.00		\$111.00	\$4,884.00	2-3 Week	\$145.00	\$6,380.00	5 weeks	\$0.00	\$0.00	
E-9	Dead-end Compression	30	\$0.00	\$0.00		\$465.00	\$13,950.00	2-3 Week	\$570.00	\$17,100.00	14 weeks	\$91.04	\$2,731.20	8-10 Wks
E10	Dead-end Compression	100	\$0.00	\$0.00		\$515.00	\$51,500.00	2-3 Week	\$629.00	\$62,900.00	14 weeks	\$297.24	\$29,724.00	8-10 Wks
E11	Grip, cushioned suspension	33	\$0.00	\$0.00		\$59.00	\$1,947.00	2-3 Week	\$71.50	\$2,359.50	14 weeks	\$136.12	\$4,491.96	8-10 Wks
E12	Guy attachment per specifications	38	\$0.00	\$0.00		\$0.00	\$0.00		\$22.70	\$862.60	14 weeks	\$20.64	\$784.32	14 Weeks
E13	Guy attachment per specifications	4	\$0.00	\$0.00		\$0.00	\$0.00		\$171.15	\$684.60	14 weeks	\$146.00	\$584.00	14 Weeks
E14	Guy attachment per specifications	4	\$0.00	\$0.00		\$0.00	\$0.00		\$172.25	\$689.00	14 weeks	\$146.00	\$584.00	14 Weeks
E15	Guy attachment per specifications	4	\$0.00	\$0.00		\$0.00	\$0.00		\$173.90	\$695.60	14 weeks	\$146.00	\$584.00	14 Weeks
E16	Guy Plate per specifications	44	\$0.00	\$0.00		\$0.00	\$0.00		\$26.25	\$1,155.00	14 weeks	\$21.94	\$965.36	14 Weeks
E17	Oxide Compound for #1033 ACSS	10	\$0.00	\$0.00		\$0.00	\$0.00		\$16.00	\$160.00	4 weeks	\$16.80	\$168.00	2 Weeks
E18	Oxide Compound for #1431 ACSS	10	\$0.00	\$0.00		\$0.00	\$0.00		\$16.00	\$160.00	4 weeks	\$16.80	\$168.00	2 Weeks
E19	Splice for #1033 ACSS, two piece.	36	\$0.00	\$0.00		\$0.00	\$0.00		\$111.20	\$4,003.20	7 weeks	\$98.20	\$3,535.20	6-7 Weeks
E20	Splice, #1431 ACSS, two piece.	70	\$0.00	\$0.00		\$0.00	\$0.00		\$145.00	\$10,150.00	10 weeks	\$132.12	\$9,248.40	7-11 Wks
F-1	Davit Arm 7.5 ft.	2	\$0.00	\$0.00		\$0.00	\$0.00		\$325.50	\$651.00	12 weeks	\$286.00	\$572.00	8 Weeks
F-2	Davit Arm 8.5 ft.	24 / 1	\$0.00	\$0.00		\$269.00	\$269.00	4/10/2006	\$384.20	\$9,220.80	12 weeks	\$174.00	\$6.00	8-10 Wks
F-3	Dead-end Compression	12	\$0.00	\$0.00		\$0.00	\$0.00		\$179.00	\$2,148.00	9 weeks	\$141.20	\$1,694.40	9 Weeks
F-4	Dead-end Compression	24	\$0.00	\$0.00		\$0.00	\$0.00		\$247.00	\$5,928.00	9 weeks	\$194.37	\$4,664.88	9 Weeks
Vendor Award Total				\$88,510.60			\$1,947.00			\$0.00		\$101,516.97		
Hughes PO														

F2 Line item deleted due to wrong item # specified

Tabulation for Bid #06-50
Transmission Lines Materials

Item No.	Item Description	Quantity	Techline			Newmark International			Dis-Tran			KBS Electrical		
			Unit Price	Total	Delivery	Unit Price	Total	Delivery	Unit Price	Total	Delivery	Unit Price	Total	Delivery
A-1	Concrete Pole, prestressed 85'	1	\$0.00	\$0.00		\$4,621.00	\$4,621.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-2	Concrete Pole, prestressed 85'	11	\$0.00	\$0.00		\$4,210.00	\$46,310.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-3	Concrete Pole, prestressed 85'	2	\$0.00	\$0.00		\$6,060.00	\$12,120.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-4	Concrete Pole, prestressed 85'	6	\$0.00	\$0.00		\$5,616.00	\$33,696.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-5	Concrete pole, prestressed 90'	2	\$0.00	\$0.00		\$5,258.00	\$10,516.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-6	Concrete pole, prestressed 90'	3	\$0.00	\$0.00		\$5,467.00	\$16,401.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-7	Concrete pole, prestressed 95'	1	\$0.00	\$0.00		\$5,404.00	\$5,404.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-8	Concrete pole, prestressed 95'	1	\$0.00	\$0.00		\$5,750.00	\$5,750.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A-9	Concrete pole, prestressed 100'	1	\$0.00	\$0.00		\$6,503.00	\$6,503.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A10	Concrete pole, prestressed 105'	1	\$0.00	\$0.00		\$5,990.00	\$5,990.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A11	Concrete pole, prestressed 115'	2	\$0.00	\$0.00		\$6,631.00	\$13,262.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A12	Concrete pole, prestressed 125'	1	\$0.00	\$0.00		\$7,682.00	\$7,682.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
A13	Concrete pole, prestressed 130'	1	\$0.00	\$0.00		\$14,674.00	\$14,674.00	12-13 Wks	\$0.00	\$0.00		\$0.00	\$0.00	
B-1	Steel pole, Seventy three feet.	1	\$13,406.00	\$13,406.00	12-14 Wks	\$15,853.00	\$15,853.00	5/14/2006	\$27,338.00	\$27,338.00	18-19 Wks	\$16,865.00	\$16,865.00	5/14/2006
B-2	Steel pole, seventy six feet.	1	\$26,513.00	\$26,513.00	12-14 Wks	\$24,697.00	\$24,697.00	5/14/2006	\$46,213.81	\$46,213.81	18-19 Wks	\$25,996.00	\$25,996.00	5/14/2006
B-3	Steel Pole, seventy nine feet.	1	\$27,436.00	\$27,436.00	12-14 Wks	\$25,669.00	\$25,669.00	5/14/2006	\$49,440.14	\$49,440.14	18-19 Wks	\$27,020.00	\$27,020.00	5/14/2006
B-4	Steel pole, eighty two feet.	1	\$14,680.00	\$14,680.00	12-14 Wks	\$17,269.00	\$17,269.00	5/14/2006	\$30,943.49	\$30,943.49	18-19 Wks	\$18,371.00	\$18,371.00	5/14/2006
B-5	Steel pole, eighty six feet.	1	\$15,221.00	\$15,221.00	12-14 Wks	\$17,916.00	\$17,916.00	5/14/2006	\$31,469.07	\$31,469.07	18-19 Wks	\$19,059.00	\$19,059.00	5/14/2006
C-1	Wire, #1033 ACSS	45000	\$2.04	\$91,800.00	9 Weeks	\$0.00	\$0.00		\$2.78	\$125,100.00	10 Weeks	\$0.00	\$0.00	
C-2	Wire, #1431 ACSS	115000	\$2.84	\$326,600.00	9 Weeks	\$0.00	\$0.00		\$3.66	\$420,900.00	10 Weeks	\$0.00	\$0.00	
C-3	Ground Wire	7800	\$0.29	\$2,262.00	2 Weeks	\$0.00	\$0.00		\$0.42	\$3,276.00		\$0.26	\$2,028.00	3-4 Weeks
C-4	Guy Wire, 3/8" HSS	32500	\$0.20	\$6,500.00	2 Weeks	\$0.00	\$0.00		\$0.30	\$9,750.00		\$0.29	\$9,425.00	3-4 Weeks
D-1	Insulator, suspension, 138 kv	170	\$80.16	\$13,627.20	4-5 Weeks	\$0.00	\$0.00		\$145.53	\$24,740.10	4-5 Weeks	\$116.30	\$19,771.00	3-4 Weeks
D-2	Insulator, suspension, line post hor.	12	\$105.00	\$1,260.00	4-5 Weeks	\$0.00	\$0.00		\$121.73	\$1,460.76	4-5 Weeks	\$289.00	\$3,468.00	12-14 Wks
D-3	Insulator and stud, post type, horz.	230	\$242.00	\$55,660.00	4-5 Weeks	\$0.00	\$0.00		\$482.27	\$110,922.10	4-5 Weeks	\$0.00	\$0.00	
E-1	Eye nut, for 7/8" bolt	25	\$15.37	\$384.25	12 Weeks	\$0.00	\$0.00		\$23.65	\$591.25	14 Weeks	\$15.37	\$384.25	14 Weeks
E-2	Pole band connecting link	24	\$8.21	\$197.04	4-5 Weeks	\$0.00	\$0.00		\$8.59	\$206.16	8-9 Weeks	\$0.00	\$0.00	
E-3	Clip, Ground wire, 7/8	250	\$1.07	\$267.50	12 Weeks	\$0.00	\$0.00		\$2.77	\$692.50	14 Weeks	\$1.07	\$267.50	14 Weeks
E-4	Clamp, suspension per specification	155	\$264.00	\$40,920.00	6-8 Wks	\$0.00	\$0.00		\$324.65	\$50,320.75		\$267.30	\$0.00	4-6 Weeks
E-5	Clamp, suspension per specification	175	\$303.00	\$53,025.00	6-8 Wks	\$0.00	\$0.00		\$372.48	\$65,184.00		\$306.30	\$0.00	4-6 Weeks
E-6	Clamp, suspension, ductile iron	55	\$20.33	\$1,118.15	10-11 Wks	\$0.00	\$0.00		\$22.34	\$1,228.70	10-11 Wks	\$0.00	\$0.00	
E-7	Crossarm per specifications	5	\$157.00	\$785.00	5 Weeks	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
E-8	Crossarm per specifications	44	\$110.00	\$4,840.00	5 Weeks	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00	
E-9	Dead-end Compression	30	\$475.00	\$14,250.00	6-8 Weeks	\$0.00	\$0.00		\$583.72	\$17,511.60		\$493.00	\$14,790.00	4-6 Weeks
E10	Dead-end Compression	100	\$526.10	\$52,610.00	6-8 Weeks	\$0.00	\$0.00		\$645.73	\$64,573.00		\$531.00	\$53,100.00	4-6 Weeks
E11	Grip, cushioned suspension	33	\$60.22	\$1,987.26	6-8 Weeks	\$0.00	\$0.00		\$73.91	\$2,439.03		\$64.28	\$2,121.24	4-6 Weeks
E12	Guy attachment per specifications	38	\$20.88	\$793.44	12 Weeks	\$0.00	\$0.00		\$30.23	\$1,148.74	14 Weeks	\$21.11	\$802.18	14 Weeks
E13	Guy attachment per specifications	4	\$151.11	\$604.44	12 Weeks	\$0.00	\$0.00		\$206.72	\$826.88	14 Weeks	\$152.00	\$608.00	14 Weeks
E14	Guy attachment per specifications	4	\$152.22	\$608.88	12 Weeks	\$0.00	\$0.00		\$209.30	\$837.20	14 Weeks	\$152.00	\$608.00	14 Weeks
E15	Guy attachment per specifications	4	\$153.33	\$613.32	12 Weeks	\$0.00	\$0.00		\$211.88	\$847.52	14 Weeks	\$152.00	\$608.00	14 Weeks
E16	Guy Plate per specifications	44	\$23.22	\$1,021.68	12 Weeks	\$0.00	\$0.00		\$32.33	\$1,422.52	14 Weeks	\$22.65	\$996.60	14 Weeks
E17	Oxide Compound for #1033 ACSS	10	\$13.48	\$134.80	2 Weeks	\$0.00	\$0.00		\$27.81	\$278.10	2-4 Weeks	\$222.28	\$2,222.80	2-3 Weeks
E18	Oxide Compound for #1431 ACSS	10	\$13.48	\$134.80	2 Weeks	\$0.00	\$0.00		\$27.81	\$278.10	2-4 Weeks	\$222.28	\$2,222.80	2-3 Weeks
E19	Splice for #1033 ACSS, two piece.	36	\$90.01	\$3,240.36	6-7 Wks	\$0.00	\$0.00		\$104.40	\$3,758.40	6-7 Weeks	\$0.00	\$0.00	
E20	Splice, #1431 ACSS, two piece.	70	\$124.10	\$8,687.00	6-7 Wks	\$0.00	\$0.00		\$143.95	\$10,076.50	9-11 Wks	\$0.00	\$0.00	
F-1	Davit Arm 7.5 ft.	2	\$279.00	\$558.00	12 Weeks	\$0.00	\$0.00		\$403.09	\$806.18	14 Wks	\$296.00	\$592.00	14 Weeks
F-2	Davit Arm 8.5 ft.	24 / 1	\$311.00	\$7,464.00	12 Weeks	\$0.00	\$0.00		\$773.00	\$18,552.00	14 Wks	\$267.30	\$6,415.80	4-6 Weeks
F-3	Dead-end Compression	12	\$144.96	\$1,739.52	8-9 Wks	\$0.00	\$0.00		\$156.77	\$1,881.24	9 Wks	\$0.00	\$0.00	
F-4	Dead-end Compression	24	\$200.00	\$4,800.00	8-9 Wks	\$0.00	\$0.00		\$218.17	\$5,236.08	9 Wks	\$0.00	\$0.00	
Vendor Award Total			\$515,212.81			\$182,929.00			\$0.00			\$2,028.00		
TOTAL AWARD - \$892,144.38														

Would like to keep all steel pole w/ one vendor

F2 Line item deleted due to wrong item # specified

**March 23, 2006
Consent Agenda
Nomination for Region G Water Planning Group Vacancy**

To: Glenn Brown, City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action, and discussion regarding approval of a resolution to support the nomination of David Coleman, College Station Utilities' Water/Wastewater Division Manager, to fill a vacant municipal representative position as a voting member on the Region G Water Planning Group.

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

Summary: The Brazos G Group is one of 16 regional water planning groups covering the state which are charged by Texas law with developing regional water plans. The Region G Group has been working since 1998 to develop a comprehensive regional water plan for its 37 County planning area, which extends generally along the Brazos river from Kent, Stonewall and Knox Counties in the northwest to Washington and Lee Counties in the southeast. For planning purposes, the Region is divided into three sub-regions: Upper Sub-Region, Central Sub-Region, and the Lower Sub-Region (which includes College Station and Bryan).

The regional water plans provide for the orderly development, management, and conservation of water resources, and include drought preparation and response. The goal of the planning process is to assure that sufficient water will be available at a reasonable cost to ensure public safety and welfare, further economic development and protect agricultural and natural resources. In cases where future demands are greater than existing supply sources, strategies are evaluated and recommended to meet the identified needs.

The Region G Board is comprised of representatives from a variety of interest groups, including municipalities, agriculture, small businesses, counties, water districts, environmental, groundwater conservation districts, industries, the public, river authorities, electric generating utilities, and water utilities. There are four positions for municipal representatives, and as announced in attachment (1), one of them is vacant. Whoever fills this vacancy will fill a term that expires at the end of calendar year 2007, and is eligible to serve a maximum of two additional 5-year terms. Of the remaining three municipal members, one is from the Upper Sub-Region, and two are from the Central Sub-Region.

Staff recommends approval of this resolution, to support Mr. Coleman's nomination package, so that the cities in the Lower Sub-Region will have a municipal representative, and the unique and vital water needs of our area will have adequate representation. The cities of Bryan and Navasota are also supporting this nomination.

Budget & Financial Summary: No budget impacts.

Attachments:

1. Region G Vacancy announcement
2. Resolution



FOR IMMEDIATE RELEASE – January 27, 2006

For additional information, call Teresa Clark, Brazos River Authority, Administrative Agent, at (254) 761-3177 or via e-mail at <info@brazosgwater.org>

**REGION G REGIONAL WATER PLANNING GROUP
SEEKS NOMINATIONS
FOR A VOTING MEMBER VACANCY REPRESENTING MUNICIPALITIES**

The Brazos G Regional Water Planning Group (RWPG) is soliciting nominations for one (1) voting member representing **Municipalities** in the Brazos G Regional Water Planning Area. Nominations will be accepted until **5:00 pm, Friday, March 24, 2006**. In selecting a voting member for the vacancy, the Group will consider a number of factors, including the nominee's qualifications to represent the interest category, willingness to devote the time necessary to participate in the Regional Water Planning Process, and willingness to abide by the bylaws. The RWPG voting members will strive to achieve geographic, ethnic, and gender diversity.

The vacancy is defined as follows:

- One (1) voting member vacancy representing the interest of "Municipalities" defined by the Texas Water Code, §16.053 (c) "*as governments of cities created or organized under the general, home-rule, or special laws of the state*".
- Brazos G members are not compensated for their services by the State of Texas. If eligible, travel expenses for voting members may be reimbursed in accordance with rules adopted by the Texas Water Development Board as funds are available.
- The new voting member shall be filling a term that expires at the end of calendar year 2007; and thereafter, shall be eligible to serve a maximum of two (2) additional consecutive five-year terms.
- In order to provide a smooth transition into the Group, the new voting member will be required to attend new member orientation sessions. Nominees are invited to visit the Brazos G website at www.brazosgwater.org for additional information including the bylaws.

Nomination packets shall include the following:

- Brief cover letter from the nominee explaining how the nominee's qualifications represent the interest category sought.
- Resume
- Support Letters – maximum of six (6) recommended

FOR IMMEDIATE RELEASE – January 27, 2006

Brazos G RWPG seeks nominations

Nomination packets should be mailed to the following address and will be accepted until **5:00 pm, Friday, March 24, 2006.**

Brazos G RWPG Executive Committee
c/o Teresa Clark
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555

Brazos G RWPG history:

The Brazos G Group is one of the 16 regional water planning groups covering the State which are charged with developing regional water plans under Senate Bill 1, passed by the Legislature in 1997. The Group has been working since 1998 to develop a comprehensive regional water plan for its 37-County planning area, which extends generally along the Brazos River from Kent, Stonewall and Knox Counties in the Northwest to Washington and Lee Counties in the Southeast.

The regional water plans provide for the orderly development, management, and conservation of water resources, and include drought preparation and response. The goal of the planning process is to assure that sufficient water will be available at a reasonable cost to ensure public health, safety and welfare, further economic development and protect agricultural and natural resources.

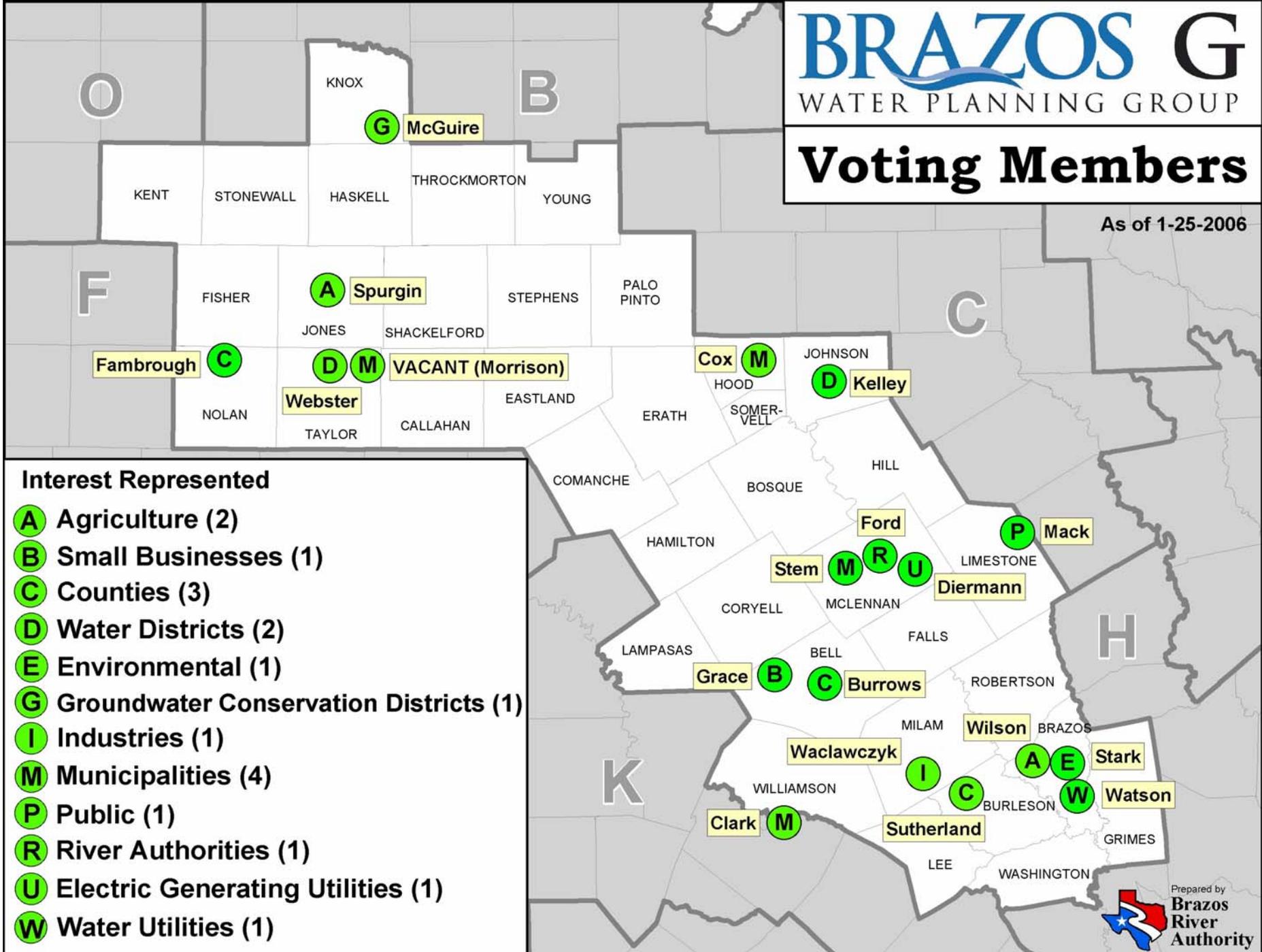
The first regional water plans were submitted to the State in January 2001 and were compiled to form the State Water Plan in January 2002. The water plans identify current water supplies and future estimates of water demands. In cases where future demands are greater than existing supply sources, strategies are evaluated and recommended to meet the identified needs. State law requires that the regional water plans be updated every 5 years. The Brazos G Regional Water Planning Group just completed the development of its 2006 Brazos G Regional Water Plan. The 2006 Plan will build upon the 2001 Plan to reflect new or changed conditions.

The Brazos G Regional Water Planning Area includes 37 counties:

Bell, Bosque, Brazos, Burleson, Callahan, Comanche, Coryell, Eastland, Erath, Falls, Fisher, Grimes, Hamilton, Haskell, Hill, Hood, Johnson, Jones, Kent, Knox, Lampasas, Lee, Limestone, McLennan, Milam, Nolan, Palo Pinto, Robertson, Shackelford, Somervell, Stephens, Stonewall, Taylor, Throckmorton, Washington, Williamson (except the City of Austin water utilities service portion), Young (except the City of Olney portion as follows: a rectangular area with the Northern boundary being the Archer-Young County line; the Southern boundary being a line 4 miles South from and parallel to the Archer-Young County line; the Eastern boundary being 4 miles East of the Eastern Olney city limits; and the Western boundary being 4 miles West of the Western Olney city limits).

Voting Members

As of 1-25-2006



Interest Represented

- A** Agriculture (2)
- B** Small Businesses (1)
- C** Counties (3)
- D** Water Districts (2)
- E** Environmental (1)
- G** Groundwater Conservation Districts (1)
- I** Industries (1)
- M** Municipalities (4)
- P** Public (1)
- R** River Authorities (1)
- U** Electric Generating Utilities (1)
- W** Water Utilities (1)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DESIGNATING DAVID M. COLEMAN, THE COLLEGE STATION WATER/WASTEWATER DIVISION MANAGER, AS THE CITY'S NOMINEE TO THE BRAZOS G REGIONAL WATER PLANNING GROUP.

WHEREAS, The City Council of the City of College Station strives through its *Vision Statements* to provide high quality customer focused basic city services at a reasonable cost, including effective water services;

WHEREAS, The City Council of the City of College Station adopted, as part of the Comprehensive Plan, Utility *Goal #1* that states "College Station should continue to provide the quantity and quality of utilities needed to assure public health, safety, and accommodation of growth";

WHEREAS, The Brazos G Regional Water Planning Group issued a press release on January 27, 2006 seeking nominations for a voting member vacancy representing municipalities, to be submitted by March 24, 2006;

WHEREAS, The City of College Station is one of the major home-rule municipalities in Region G, and the City views the Water Planning Group's decisions, and the Brazos G Regional Water Plan, as vital elements in the future of all municipalities, which requires solid and trusted municipal representation; and

WHEREAS, The City Council is confident the City's Water and Wastewater Division Manager, David M. Coleman, will fairly and accurately represent the interests of all municipalities within Region G, and the City Council pledges that Mr. Coleman will be given adequate time and resources to fulfill every obligation and duty of Water Planning Group membership; now, therefore,

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

PART 1: That the City Council hereby agrees that membership on the Brazos G Regional Water Planning Group is essential in meeting the City's Utility Goals.

PART 2: That the City Council hereby designates David M. Coleman, the City's Water and Wastewater Division Manager as the City's nominee to fill the voting member vacancy representing municipalities with the Brazos G Regional Water Planning Group.

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:



City Attorney

March 23, 2006
Consent Agenda
Annual Prestressed Spun Cast Concrete Poles Bid Award

To: Glenn Brown, City Manager

From: Jeff Kersten, Director of Finance and Strategic Planning

Agenda Caption: Presentation, possible action, and discussion awarding Bid #06-64 to Stresscrete, Inc., and authorizing the estimated annual expenditures of \$199,557.00 for pre-stressed spun cast concrete poles.

Recommendation(s): Staff recommends award to the lowest, responsible bidder meeting specifications, Stresscrete, Inc. with annual estimated expenditures totaling \$199,557.00.

Summary: These purchases will be made as needed during the term of the agreement. The concrete poles are maintained in the electrical inventory and expensed as necessary. These poles are bought as needed and kept in stock for emergency purposes also. The term of agreement shall be for one year with up to two one-year renewal options.

Budget & Financial Summary: Only one (1) sealed, competitive bid was received and opened on February 21st, 2006. Funds are budgeted and available in the Electrical Fund. Various projects may be expensed as supplies are pulled from inventory and issued.

Attachments: Bid Tabulation #06-64

**March 23, 2006
Consent Agenda
Construction of Remaining Items when Highway 40 connects to the new Arrington
Road**

To: Glenn Brown, 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 street improvements at Highway 40 and the recently constructed Arrington Road. The estimated cost of the City's participation is \$81,940.

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

Summary: This AFA will construct street improvements and establish an intersection of Highway 40 and Arrington Road. When Highway 40 construction progresses to the project area of HWY 40 and Arrington Road the city will utilize TxDOT's contractor, Fuqua Construction, to complete the intersection at Arrington Road. Since Fuqua Construction will be on site the use of this contractor is a cost effective option.

Budget & Financial Summary: Funds for this AFA are available in the Streets Capital Projects Fund balance. Funds in the amount of \$80,000 were received from Brazos County as part of an agreement between the City and County for the completion of this project. These funds have been applied to the Streets Capital Projects Fund balance and are available to be used for this AFA. This item will be included on a future budget amendment to provide for the additional appropriation in the Streets Capital Project Fund.

Attachments:

1. Copy of 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 101588 authorizes the State to undertake and complete a highway improvement generally described as State Highway 40; 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 Greens Prairie Road Access to SH 40, 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.

At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs.

In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.

Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement.

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:
<u>Ron Silvia</u>	<u>Bryan Alan Wood, P.E.</u>
<u>Mayor, City of College Station</u>	<u>Texas Department of Transportation</u>
<u>1101 Texas Avenue</u>	<u>1300 North Texas Avenue</u>
<u>College Station, TX 77840</u>	<u>Bryan, TX 77803-2760</u>

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.

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

Project Budget and Description

The Local Government will pay for the cost of the construction of curb and gutter, sidewalk, removals and relocations, mill and overlay of asphalt pavement, driveways, culverts, SW3P, traffic control, grading, pavement markings, and illumination foundation on Greens Prairie Road, which connects to SH 40. The Local Government's participation is 100% of the cost of these improvements. The Local Government's estimated cost of this additional work is \$74,460.00, including construction items and contingencies. The State has estimated the project to be as follows:

Description	Total Estimate Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
CONSTRUCTION COSTS							
Construction of curb and gutter, sidewalk, asphalt pavement, etc.	\$74,460.00	0%	\$0.00	0%	\$0.00	100%	\$74,460.00
Subtotal	\$74,460.00		\$0.00		\$0.00		\$74,460.00
Direct State Costs (including plan review, inspection and oversight)	\$7,480	0%	N/A	0%	\$7,480	100%	\$7,480
Indirect State Costs (no local participation required except for service projects)	N/A	0%	N/A	0%	N/A	100%	N/A
TOTAL	\$81,940.00		\$0.00		\$0.00		\$81,940.00

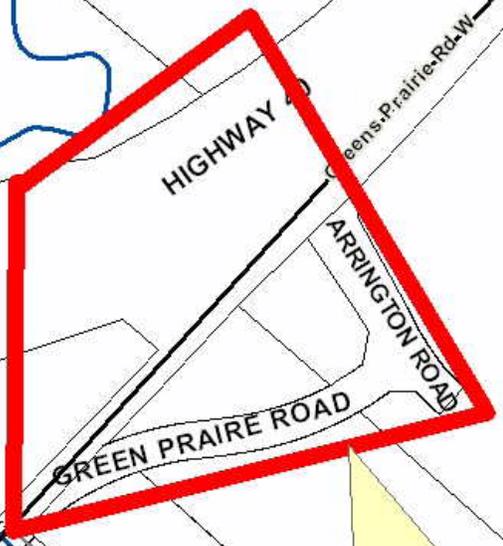
Direct State Cost will be based on actual charges.

Local Government's Participation (100%) = \$81,940.00

It is further understood that the State will include only those items for the improvements as requested and required by the Local Government. This is an estimate only. Final participation amounts will be based on actual charges to the project.



1 inch equals 400 feet



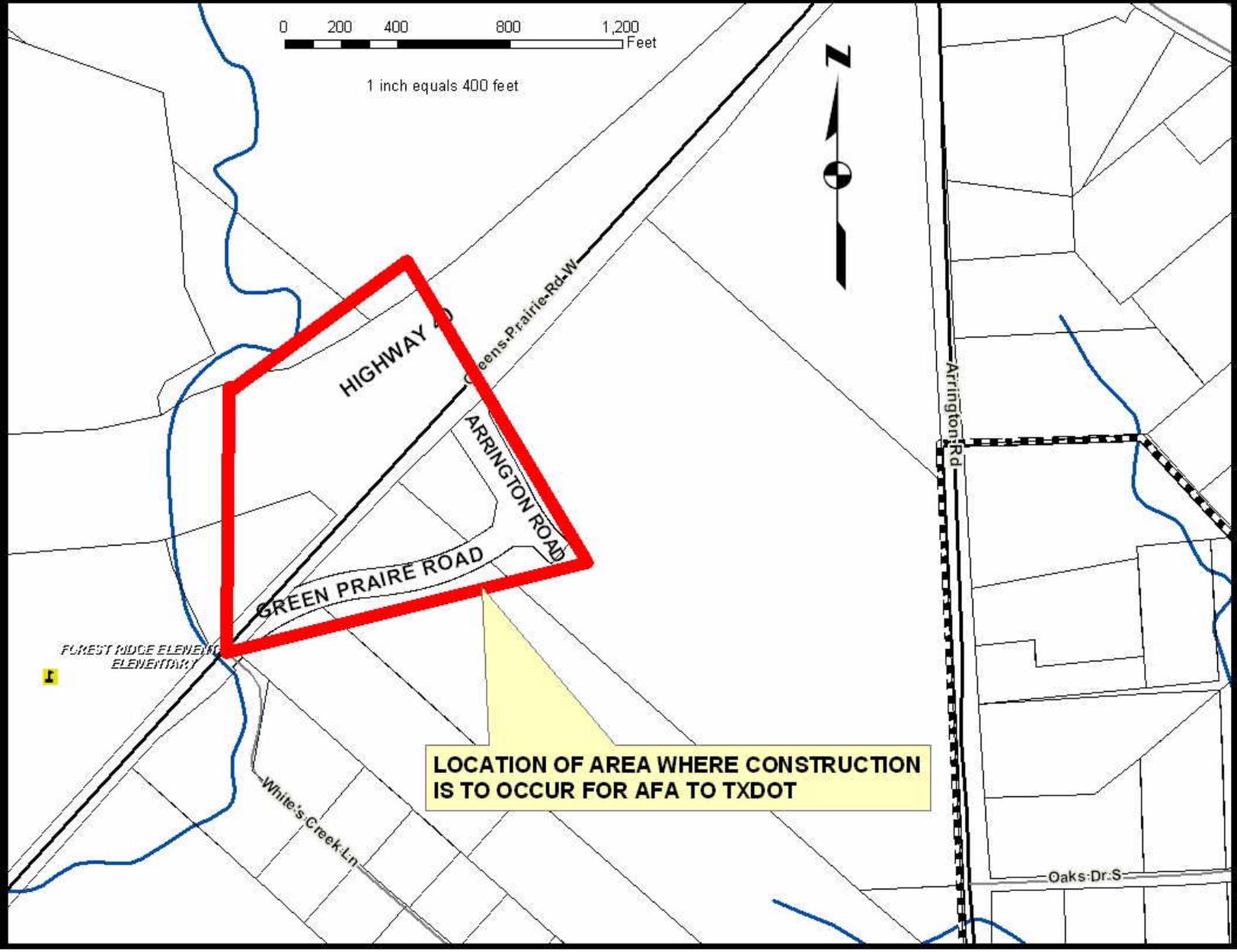
LOCATION OF AREA WHERE CONSTRUCTION IS TO OCCUR FOR AFA TO TXDOT

FOREST RIDGE ELEMENTARY
ELEMENTARY

White's Creek Ln

Arrington Rd

Oaks Dr S



**March 23, 2006
Consent Agenda
Assignment of BTU Easements to College Station**

To: Glenn Brown, City Manager

From: John Woody, Director of College Station Utilities

Agenda Caption: Presentation, possible action, and discussion authorizing the assignment of utility easements along FM 2818 from Bryan Texas Utilities to the City.

Recommendation(s): Staff recommends Council approve this authorization.

Summary: On July 8, 2004, City Council authorized the City Manager to assign certain City utility easements along FM 2818 to Bryan Texas Utilities (BTU) to allow BTU to complete an electric transmission loop to Texas A&M. As part of the agreement, BTU would replace those easements with similar easements in that area which would allow the City to complete the water transmission line in the future. The minutes from July 8, 2004 are provided as attachment (1).

BTU has now completed the acquisition of the replacement easements. These documents, attachment (2), have been reviewed by Staff and are deemed to be satisfactory replacement easements.

Budget & Financial Summary: No budget impacts.

Attachments:

1. Minutes from July 8, 2004 Council Meeting
2. Easement documents from BTU

July 8, 2004 Minutes

Regular Agenda Item No. 12.2 – Presentation, discussion and possible action on a partial assignment of College Station easement to Bryan Utilities (BTU) for properties located along FM 2818 in College Station.

City Manager Tom Brymer remarked that the City of College Station acquired easements along FM 2818 from Luther to Marion Pugh through purchase and condemnations. The easements were acquired over the last few years, and are for water transmission and distribution lines for both the current and future needs of the City. Bryan Texas Utilities needs an easement for construction of an electric transmission line to provide a transmission loop for Texas A&M University. The staff of both organizations has negotiated an arrangement that will provide an easement for Bryan Texas Utilities, while at the same time providing the necessary easements for College Station Utilities to expand the system as future growth dictates. In return for the City assigning a 10 foot wide easement, which is part a larger easement, Bryan Texas Utilities agrees to provide a replacement easement within 12 months of the execution of the document. If that is not accomplished, Bryan Texas Utilities obligated to reimburse the City for our cost associated with securing the replacement easement. Staff recommended approval.

Council Meeting 7/8/04

Page 8

Council member Happ moved to approve the parcel assignment of agreement with a modification to Section 6 by deleting the words in that section "exceed to a successor in interest to BTU". Mayor Pro Tem Maloney seconded the motion, which carried unanimously, 7-0. Council member Happ moved to approve the agreement with BTU regarding replacement easements. Mayor Pro Tem Maloney seconded the motion, which carried unanimously, 7-0.

FOR Silvia, Maloney, Massey, Happ, Wareing, Lancaster, Berry
AGAINST None

ASSIGNMENT OF EASEMENTS

Date:

Assignor: The City of Bryan, Texas, a Home Rule Municipality,
doing business as Bryan Texas Utilities (collectively "BTU")
P.O. Box 1000, Bryan, Texas 77805

Assignee: The City of College Station, Texas, a Home Rule Municipality ("CITY")
1101 Texas Avenue, College Station, Texas 77845

Easements Assigned (the "Public Utility Easements"):

Gorzycki Easement. Public Utility Easement dated July 5, 2005, recorded at Volume 6794, Page 124 of the Official Public Records of Brazos County, Texas, granted by Linda Sue Gorzycki, Elaine Gorzycki Harbour, now known as Diane Elaine Gorzycki, and Donna Lanelle Gorzycki Livingston, consisting of 0.242 acres of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, being a part of that 81.5 acre tract conveyed to Harry Gorzycki in Deed recorded in Volume 81, page 186, of the Deed Records of Brazos County, Texas, and being a five foot (5.0') wide easement as more fully described therein. Said Public Utility Easement is attached hereto as Exhibit "A" and made a part hereof by reference for all purposes.

Williams Easement. Public Utility Easement dated July 12, 2005, recorded at Volume 6786, Page 187 of the Official Public Records of Brazos County, Texas, granted by Ervin M. Williams, Sr. and wife, Mildred Williams, consisting of 0.168 acres of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, being a part of that 6.21 acre tract conveyed to Ervin M. Williams, Sr. and Mildred Williams by Deed recorded in Volume 433, page 39, of the Deed Records of Brazos County, Texas, said easement being fifteen feet (15') wide as more fully described therein. Said Public Utility Easement is attached hereto as Exhibit "B" and made a part hereof by reference for all purposes.

TLS Properties Easement. Public Utility Easement dated July 27, 2005, recorded at Volume 6849, Page 148 of the Official Public Records of Brazos County, Texas, granted by TLS Properties, Ltd., a Texas Limited Partnership, consisting of 0.713 acres of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, being a part of that 134.041 acre tract conveyed to TLS Properties, Ltd., in Deed recorded in Volume 3022, Page 187, of the Official Public Records of Brazos County, Texas, and being a fifteen foot (15') wide easement as more fully described therein. Said Public Utility Easement is attached hereto as Exhibit "C" and made a part hereof by reference for all purposes.

Preston-Shepard Easement. Public Utility Easement dated November 30, 2005, recorded as document number 00910757 of the Official Public Records of Brazos County, Texas, granted by Linda Preston-Shepard, consisting of 0.134 acres of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, and being a fifteen foot (15') wide public utility easement and being a part of that 4.23 acre tract conveyed to Jean A. Preston

and Linda Jean Preston in deed recorded in Volume 433, page 48, of the Deed Records of Brazos County, Texas as more fully described therein. Said Public Utility Easement is attached hereto as Exhibit "D" and made a part hereof by reference for all purposes.

The easement areas described in said Public Utility Easements are herein collectively referred to as the "easement areas" or the "property".

Consideration:

That certain Agreement effective July 13, 2004 by and between the City of College Station, Texas and the City of Bryan, Texas, doing business as Bryan Texas Utilities, pursuant to which the City of College Station granted a Partial Assignment of Easement for two of its public utility easements as described therein for the Bryan Texas Utilities to construct a three phase 138 KV transmission line within the College Station City limits to service Bryan Texas Utility's customers, in exchange for Bryan Texas Utilities assigning its interests in the public utility easements described in and assigned by this Assignment of Easements.

Assignment:

For the consideration, BTU hereby assigns to CITY, and CITY hereby assumes BTU's rights, obligations, benefits and covenants as provided in said Public Utility Easements, subject to the following terms and conditions:

1. Duration. The duration of this assignment is perpetual and irrevocable.
2. Further Assignment. CITY shall not have the right to further assign this easement without BTU's prior written consent.
3. No Waiver. CITY acknowledges and agrees that BTU does not waive its right to levy a franchise on CITY by entering into this Assignment.
4. DISCLAIMER. BY ACCEPTING THIS ASSIGNMENT, CITY ACKNOWLEDGES THAT BTU HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE PROPERTY, OR ANY OTHER MATTER AFFECTING OR RELATED TO THE PROPERTY. CITY EXPRESSLY AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PROPERTY IS CONVEYED "AS IS" AND "WITH ALL FAULTS", AND BTU EXPRESSLY DISCLAIMS, AND CITY ACKNOWLEDGES AND ACCEPTS THAT BTU HAS DISCLAIMED, ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) THE VALUE, CONDITION, MERCHANTABILITY, HABITABILITY, MARKETABILITY, PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OF THE PROPERTY; (ii) THE MANNER OR QUALITY OF THE CONSTRUCTION, OR THE MATERIALS, IF ANY, INCORPORATED INTO THE CONSTRUCTION, OF ANY IMPROVEMENTS

TO THE PROPERTY; AND (iii) THE MANNER OF REPAIR, QUALITY OF REPAIR, STATE OF REPAIR OR LACK OF REPAIR OF ANY SUCH IMPROVEMENTS. BY CITY'S ACCEPTANCE OF THIS ASSIGNMENT, CITY REPRESENTS THAT CITY HAS MADE: (i) ALL INSPECTIONS OF THE PROPERTY TO DETERMINE ITS VALUE AND CONDITION DEEMED NECESSARY OR APPROPRIATE BY CITY, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES, HAZARDOUS WASTE AND OTHER HAZARDOUS MATERIALS; AND (ii) INVESTIGATIONS TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY.

5. INDEMNITY AND RELEASE. CITY SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY BTU FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY OR CAUSES OF ACTION, INCLUDING REASONABLE ATTORNEY FEES, COSTS, EXPERT FEES, APPRAISAL FEES OR ANY RELATED EXPENSES, FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY (INCLUDING ANY ACTION UNDER CHAPTER 21 OF THE TEXAS PROPERTY CODE, ANY CLAIM OF INVERSE CONDEMNATION, TRESPASS, ANY ACTION IN EMINENT DOMAIN, OR TRESPASS TO TRY TITLE), TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR, IN ANY MANNER, CONNECTED WITH THE ASSIGNMENT OF ANY EASEMENT RIGHTS.

The indemnifications contained herein shall include but not be limited to the following specific instances:

- a) In the event BTU is damaged due to the act, omission, mistake, fault or default of CITY, then CITY shall indemnify and hold harmless and defend BTU for such damage.
- b) CITY shall indemnify and hold harmless and defend BTU from any claims for payment of goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors of CITY.
- c) CITY shall indemnify and hold harmless and defend BTU from any and all injuries to or claims of property owners caused by CITY, its agents, employees or representatives, including claims under Chapter 21 of the Texas Property Code, eminent domain, condemnation or inverse condemnation, trespass to try title or trespass.
- d) CITY shall be responsible for any damage to BTU's facilities caused by CITY's personnel or equipment during installation or maintenance of lines, equipment or such other things as are permitted under the Public Utility Easements.

- e) CITY shall be responsible for the removal of all related debris.
- f) CITY shall be responsible for the contractors it hires.
- g) CITY shall indemnify and hold harmless and defend BTU from any liability caused by CITY's failure to comply with applicable federal, state, or local regulations that touch upon or concern the maintenance of a safe working environment and the safe use and operation of electric facilities in the easement areas.

5. Limitations. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under this paragraph such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the maximum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

6. Release. CITY assumes full responsibility for the use of the Public Utility Easements and any work performed by CITY within the easement areas, and hereby releases, relinquishes, and discharges BTU, its officers, agents, and employees, from all claims, demands and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with CITY's use of the easement areas. This release shall apply regardless of whether said claims, demands and causes of action are covered in whole or in part by insurance; and in the event of injury, death, property damage or loss suffered by CITY, its officers, employees, or agents or any person or organization directly or indirectly employed by any of them to perform or furnish work in the easement areas for CITY.

7. Approvals and Compliance with Laws. CITY shall secure and pay for all necessary approvals, permits and licenses, fees and inspections necessary for the proper execution and completion of any work within the easement areas and shall comply with all federal, state and local laws and regulations applicable thereto.

8. Severability. Except as expressly provided to the contrary herein, each section, part, term or provision of this assignment shall be considered severable; and if, for any reason, any section, part, term or provision is determined to be invalid, or contrary to or in conflict with any existing or future law or regulation by any court or governmental agency having jurisdiction, such determination shall not impair the operation of or have any other effect on other sections, parts, terms or provisions of this assignment as may remain or otherwise be intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto and said invalid sections, parts, terms or provisions shall not be deemed to be a part of this assignment and the parties shall replace any unenforceable or invalid term or condition with a valid provision that, when substituted, contemplates the original intent of the parties upon entering into this assignment.

9. Governing Law and Venue. This Assignment shall be construed in accordance with the laws of the State of Texas and venue for the resolution of any dispute arising hereunder shall be in Brazos County, Texas.

10. Notice. All notices required hereunder shall be made in writing by regular or certified mail to the representatives designated below. Either party may change the name or address for purposes of giving notice by providing written notice to the other party as soon as reasonably practicable before such change or as soon as reasonably practicable after such change if advance notice of such change is not possible.

To the City of College Station:

City Manager
City of College Station
1101 Texas Avenue
College Station, Texas 77845

To the City of Bryan, Texas:

General Manager, BTU
P.O. Box 1000
Bryan, Texas 77805

11. Amendment. Any modifications to this Assignment shall be by mutual written agreement duly signed and authorized by the parties.

12. Authority to Contract. Each party has the full power and authority to enter into and perform under this assignment, and the person signing this Assignment on behalf of each party has been properly authorized and empowered to enter into this assignment.

ATTEST:

CITY OF BRYAN, D/B/A
BRYAN TEXAS UTILITIES

By: Hank McQuaide
Hank McQuaide, Secretary
Bryan Texas Utilities Board

By: Ronald E. Hale
Ronald E. Hale, Chairman
Bryan Texas Utilities Board

This Assignment is accepted by the assignee under the terms and conditions herein stated:

ATTEST:

CITY OF COLLEGE STATION

By: _____
Connie Hooks, City Secretary

By: _____
Ron Silvia, Mayor

APPROVED:

By: _____
Interim City Manager
Carla A. Robinson
City Attorney

Name: _____

By: _____

City Attorney

STATE OF TEXAS §

§

COUNTY OF BRAZOS §

This instrument was acknowledged before me on this _____ day of _____,
200____, by Ronald E. Hale, Chairman of the Board of Bryan Texas Utilities.

Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF BRAZOS §

This instrument was acknowledged before me on this _____ day of _____,
200____, by Ron Silvia, Mayor of the City of College Station.

Notary Public, State of Texas

PUBLIC UTILITY EASEMENT

DATE: July
January 5th, 2005

GRANTOR: LINDA SUE GORZYCKI, DIANE ELAINE GORZYCKI HARBOUR now known as DIANE ELAINE GORZYCKI, and DONNA LANELLE GORZYCKI LIVINGSTON

GRANTOR'S MAILING ADDRESS:
(including County)

LINDA SUE GORZYCKI
2310 Fuente Cove
Travis County
Austin, Texas 78745-6054

DIANE ELAINE GORZYCKI
7424 Whistletop Drive
Travis County
Austin, Texas 78749-3303

DONNA LANELLE GORZYCKI LIVINGSTON
1900 Oaks Way
Oklahoma County
Oklahoma City, Oklahoma 73131

GRANTEE: CITY OF BRYAN, TEXAS d/b/a BRYAN TEXAS UTILITIES

GRANTEE'S MAILING ADDRESS:

P. O. Box 1000
Brazos County
Bryan, Texas 77802

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

PROPERTY:

All that certain 0.242 of one acre tract or parcel of land lying and being situated in the Crawford Burnett League, Abstract No.7, Brazos County, Texas, being a part of that 81.5 acre tract conveyed to Harry Gorzycki in Deed recorded in Volume 81, Page 186, of the Deed Records of Brazos County, Texas, and being a five foot (5.0') wide easement and being more particularly described by metes and bounds in Exhibit "A" and by plat on Exhibit "B" attached hereto and made a part hereof for all 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;

Page 7-10

Exhibit A

Storm sewers and collection facilities;
Television, telephone, and communications lines;
Drainage ditches, drainage pipes and all other drainage
structures, surface and subsurface;

under, 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.

Grantee shall have the right to assign its interest in the Easement Area subject to the terms and conditions hereof.

RESERVATIONS AND RESTRICTIONS:

1. Oil, Gas and Sulphur Lease dated January 3, 1996, executed by Linda Sue Gorzycki, Diane Elaine Gorzycki and Donna Gorzycki Livingston and Patricia C. Gorzycki to Ogden Resources Corporation, recorded in Volume 2511, Page 227, Official Records of Brazos County, Texas, and as amended by Amendment to Oil, Gas and Sulphur Lease dated February 23, 1996, recorded in Volume 2545, Page 64, Official Records of Brazos County, Texas.
2. Public Utility Easement granted to the City of College Station by Linda Sue Gorzycki, Diane Elaine Gorzycki Harbour, now known as Diane Elaine Gorzycki and Donna Lanelle Gorzycki Livingston recorded in Volume 4540, Page 105, Official Records of Brazos County, Texas.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF BRYAN, TEXAS d/b/a BRYAN TEXAS UTILITIES, and its successors and assigns, forever, and Grantor does hereby bind himself, his heirs, executors, and administrators, to warrant and forever defend, all and singular, these rights and interests unto the CITY OF BRYAN, TEXAS d/b/a BRYAN TEXAS UTILITIES, and its administrators, successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

Linda Sue Gorzycki
LINDA SUE GORZYCKI

Diane Elaine Gorzycki
DIANE ELAINE GORZYCKI

Donna Lanelle Gorzycki Livingston
DONNA LANELLE GORZYCKI
LIVINGSTON

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 6th day of July, 2005, by LINDA SUE GORZYCKI.



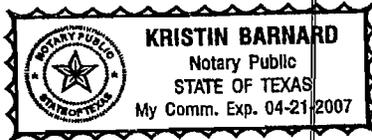
ACKNOWLEDGMENT

Melissa A. Patterson

NOTARY PUBLIC in and for the State of TEXAS

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 5 day of July, 2005, by DIANE ELAINE GORZYCKI.



ACKNOWLEDGMENT

Kristin Barnard

NOTARY PUBLIC in and for the State of TEXAS

THE STATE OF OKLAHOMA §
§
COUNTY OF OKLAHOMA §

This instrument was acknowledged before me on the 12 day of July, 2005, by DONNA LANELLE GORZYCKI LIVINGSTON.



ACKNOWLEDGMENT

Brittina Okokon

NOTARY PUBLIC in and for The State of OKLAHOMA

PREPARED BY:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

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RETURN ORIGINAL DOCUMENT TO:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

FIELD NOTES
PROPOSED 5' WIDE
PUBLIC UTILITY EASEMENT
0.242 OF ONE ACRE
OUT OF THE
HARRY GORZYCKI
CALLED 81.5 ACRE TRACT
VOLUME 81, PAGE 186
CRAWFORD BURNETT LEAGUE, A - 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS
JANUARY 5, 2005

All that certain lot, tract or parcel of land being 0.242 of one acre situated in the CRAWFORD BURNETT LEAGUE, Abstract No. 7, Brazos County, Texas, and being a part of that certain Called 81.5 acre tract as described in deed to Harry Gorzycki, of record in Volume 81, Page 186, Deed Records of Brazos County, Texas, said 0.242 of one acre easement being more particularly described by metes and bounds as follows:

BEGINNING at a point for the northwest corner, said corner being N 41 ° 50 ' 29 " E a distance of 47.53 feet from a 1/2" Iron Rod found for the northwest corner of the remainder of said Called 81.5 acre tract at the south right-of-way line of F. M. 2818;

THENCE along the south line of the City of College Station 40' wide Public Utility Easement as described in Volume 4540, Page 105, the following calls:

- S 80 ° 50 ' 37 " E, a distance of 485.99 feet to a point for angle point;
- N 81 ° 55 ' 48 " E, a distance of 265.68 feet to a point for angle point;
- N 83 ° 38 ' 42 " E, a distance of 132.36 feet to a point for angle point;
- S 76 ° 53 ' 26 " E, a distance of 105.89 feet to a point for angle point;
- N 83 ° 49 ' 10 " E, a distance of 114.50 feet to a point for angle point;
- N 62 ° 01 ' 05 " E, a distance of 160.91 feet to a point for angle point; and,
- N 83 ° 49 ' 10 " E, a distance of 844.82 feet to a point for the northeast corner, said corner being

located in the occupied southeast line of the remainder of said Called 81.5 acre tract, a 1/2" Iron Rod found for corner in the south right-of-way line of said F.M. 2818 bears N 41 ° 44 ' 04 " E a distance of 59.68 feet;

THENCE S 41 ° 44 ' 04 " W, along the southeast line of said Called 81.5 acre tract a distance of 7.46 feet to a point for the southeast corner;

THENCE 5 feet from and parallel to the south line of said 40' wide Public Utility Easement the following calls:

- S 83 ° 49 ' 10 " W, a distance of 838.32 feet to a point for angle point;
- S 62 ° 01 ' 05 " W, a distance of 160.91 feet to a point for angle point;
- S 83 ° 49 ' 10 " W, a distance of 116.31 feet to a point for angle point;
- N 76 ° 53 ' 26 " W, a distance of 105.88 feet to a point for angle point;
- S 83 ° 38 ' 42 " W, a distance of 131.42 feet to a point for angle point;
- S 81 ° 55 ' 48 " W, a distance of 266.37 feet to a point for angle point;
- N 80 ° 50 ' 37 " W, a distance of 489.96 feet to a point in the northwest line of said Called 81.5

acre tract for the southwest;

THENCE N 41 ° 50 ' 29 " E, along the northwest line of said 81.5 acre tract a distance of 5.94 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 10,548 square feet or 0.242 OF ONE ACRE OF LAND MORE OR LESS, according to a survey performed on the ground during May, 2004, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. For north orientation and other information, see accompanying plat.

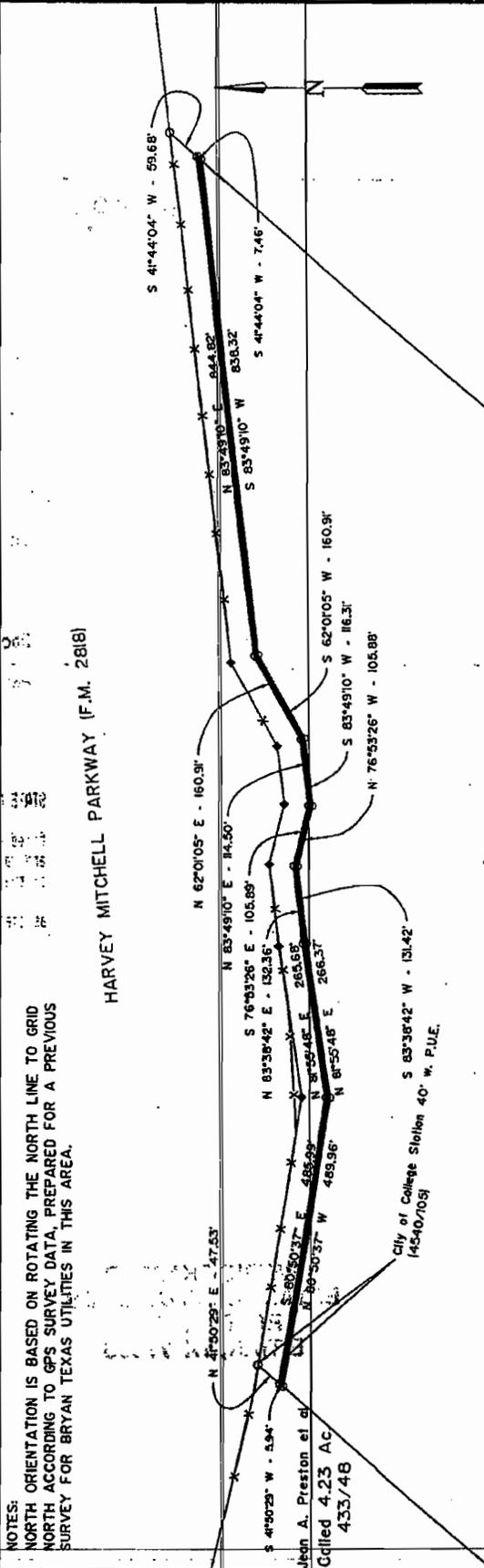
Page 7-14



Page 7-15

NOTES:
 ORIENTATION IS BASED ON ROTATING THE NORTH LINE TO GRID
 NORTH ACCORDING TO GPS SURVEY DATA, PREPARED FOR A PREVIOUS
 SURVEY FOR BRYAN TEXAS UTILITIES IN THIS AREA.

HARVEY MITCHELL PARKWAY (F.M. 2818)

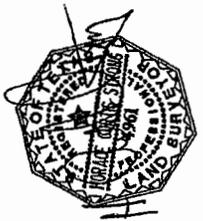


TLS PROPERTIES, L.T.D.
 Called 134.041 Ac.
 3022/187

EXHIBIT "B"

PROPOSED 5' WIDE
 PUBLIC UTILITY EASEMENT
 0.242 OF ONE ACRE
 OUT OF THE
 HARRY GORZYCKI
 VOLUME 81, PAGE 186
 CRAWFORD BURNETT LEAGUE, A-7
 COLLEGE STATION, BRAZOS COUNTY, TEXAS
 JANUARY 5, 2005
 SCALE 1" = 200'

I, H. CURTIS STRONG, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4961
 DO HEREBY CERTIFY THAT THIS PLAT REPRESENTS THE RESULTS OF AN
 ON THE GROUND SURVEY AND IS TRUE AND CORRECT TO THE BEST OF



H. CURTIS STRONG, RPLS NO. 4961

LEGEND
 ◆ Conc. Mon. Fnd.

STRONG SURVEYING
 1722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096
 email: cstrong@csybercam

PUBLIC UTILITY EASEMENT

DATE: ~~January~~ ^{July} 12, 2005

GRANTOR: ERVIN M. WILLIAMS, SR. and wife, MILDRED WILLIAMS

GRANTOR'S MAILING ADDRESS: 1625 East Avenue E
(including County) Bell County
Temple, Texas 76501-4706

GRANTEE: CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES

GRANTEE'S MAILING ADDRESS: P.O. Box 1000
(including County) Brazos County
Bryan, Texas 77802

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

PROPERTY:

All that certain 0.168 acre tract or parcel of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, being apart of that 6.21 acre tract conveyed to Ervin M. Williams, Sr. and Mildred Williams by Deed recorded in Volume 433, Page 39, of the Deed Records of Brazos County, Texas, said easement being fifteen feet (15') wide and being more particularly described by metes and bounds in Exhibit "A" and by plat on Exhibit "B" attached hereto and made a part hereof for all 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;

under, 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

Page 7-16

Exhibit B

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 reserves the right to use all or any part of the easement and right-of-way sought to be acquired herein for any other or further purpose that does not damage, destroy, injure and/or interfere with the use of the easement and right-of-way herein granted for the purposes for which the easement and right-of-way is being granted herein. Provided, however, Grantor shall not construct or permit to be constructed any house, structure, reservoir, or other obstruction or excavation on, over, or within said permanent right-of-way and easement and shall not change the grade over any pipeline and associated underground communication lines constructed by Grantee, except to layout, dedicate, construct, maintain and use across said land, such roads, streets, alleys, underground telephone cables and conduits and gas, water, and sewer pipelines as will not interfere with Grantee's use of the land for the purposes described provided that all such facilities shall be located at an angle of not less than 45 degrees to any of the Grantee's pipelines, associated underground communication cables and other fixtures, and shall be so constructed as to provide with respect to Grantee's pipelines, underground communication lines and other fixtures the minimum clearances provided by law and recognized as standard in the water industry. Grantor is also granted the right to erect fences across and upon said land, provided such fences shall have gates, openings, or removable sections at least 20 feet wide which will permit Grantee reasonable access to all parts of the easement tract and any fences installed may be across but not along and within the easement and right-of-way herein granted.

Notwithstanding the foregoing reservation, Grantee has the right to trim, cut or remove trees and shrubbery, or to remove or cause Grantor to remove possible hazards, and to remove or require Grantor to remove or to prevent the construction of all buildings, structures, and obstructions on or over said easement, which, in the sole judgment of the Grantee may endanger or interfere with the efficiency, safety or convenient operation of said water pipelines and associated underground communication lines. Grantee shall not be liable to Grantor for any improvements or landscaping removed and shall not be obligated to replace any such improvements or landscaping.

Grantor expressly subordinates all rights of surface use incident to the mineral estate to the above described uses of said surface by Grantee.

Grantee shall have the right to assign its interest in the Easement Area subject to the terms and conditions hereof.

RESERVATIONS AND RESTRICTIONS:

1. Blanket Easement dated April 3, 1947, from Sophrina Rush to Sinclair Refining Company, recorded in Volume 132, Page 18, Deed Records of Brazos County, Texas.
2. Blanket Easement dated August 7, 1950, from Alton Williams, et ux to City of Bryan, recorded in Volume 144, Page 114, Deed Records of Brazos County, Texas.

3. Easement dated January 3, 2001, from Ervin Maurice Williams to City of College Station, Texas, recorded in Volume 4047, Page 29, of the Official Records of Brazos County, Texas.
4. Mineral reservation in Deed dated June 10, 1950, from Sophrina Thomestone to Alton B. Williams, Sr. and wife, Mozelle Williams, recorded in Volume 144, Page 609, Official Records of Brazos County, Texas.
5. Oil and Gas Lease dated February 10, 1996, for a primary term of two (2) years, from Charles N. Carter to Ogden Resources Corporation, recorded in Volume 2541, Page 72, Official Records of Brazos County, Texas.
6. Oil and Gas Lease dated February 10, 1996, for a primary term of two (2) years, from Floyd Henry Carter to Ogden Resources Corporation, recorded in Volume 2541, Page 76, Official Records of Brazos County, Texas.
7. Oil and Gas Lease dated February 10, 1996, for a primary term of two (2) years, from Alvin Ruth Carter Flowers to Ogden Resources Corporation, recorded in Volume 2542, Page 220, Official Records of Brazos County, Texas.
8. Oil and Gas Lease dated October 9, 1996, for a primary term of two (2) years, from Ervin M. Williams, Sr. to Union Pacific Resources Company, recorded in Volume 2704, Page 283, Official Records of Brazos County, Texas.
9. Oil and Gas Lease dated October 9, 1996, for a primary term of two (2) years, from George Henry Montague to Union Pacific Resources Company, recorded in Volume 2734, Page 226, Official Records of Brazos County, Texas.
10. Public Utility Easement granted to the City of College Station by Ervin M. Williams, Sr. and wife, Mildred Williams, recorded in Volume 5363, Page 57, Official Records of Brazos County, Texas.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES, and its successors and assigns, forever, and Grantor does hereby bind himself, his heirs, executors, and administrators, to warrant and forever defend, all and singular, these rights and interests unto the CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES, and its administrators, successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

Ervin M. Williams Sr.
ERVIN M. WILLIAMS, SR.

Mildred Williams
MILDRED WILLIAMS

THE STATE OF TEXAS §
COUNTY OF Brazos § ACKNOWLEDGMENT
~~BELL~~ §

This instrument was acknowledged before me on the 12th day of July, 2005,
by ERVIN M. WILLIAMS, SR.



Sarah Sellers
NOTARY PUBLIC in and for the
State of TEXAS

THE STATE OF TEXAS §
COUNTY OF Brazos § ACKNOWLEDGMENT
~~BELL~~ §

This instrument was acknowledged before me on the 12th day of July, 2005,
by MILDRED WILLIAMS.



Sarah Sellers
NOTARY PUBLIC in and for the
State of TEXAS

PREPARED BY:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

RETURN ORIGINAL DOCUMENT TO:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

FIELD NOTES
PROPOSED 15' WIDE
PUBLIC UTILITY EASEMENT
0.168 OF ONE ACRE
OUT OF THE
ERVIN M. WILLIAMS, SR.
CALLED 6.21 ACRE TRACT
VOLUME 433, PAGE 39
CRAWFORD BURNETT LEAGUE, A - 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS
JANUARY 5, 2005

All that certain lot, tract or parcel of land being 0.168 of one acre situated in the CRAWFORD BURNETT LEAGUE, Abstract No. 7, Brazos County, Texas, and being a part of that certain Called 6.21 acre tract as described in deed to Ervin M. Williams, Sr. and wife, Mildred Williams of record in Volume 433, Page 39, Deed Records of Brazos County, Texas, said 0.168 of one acre easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the southeast line of said Called 6.21 acre tract for the most easterly corner, said corner being N 40 ° 46 ' 04 " E a distance of 33.84 feet from a ½" Iron Rod found in the south right-of-way line of F.M. 2818;
THENCE S 40 ° 46 ' 04 " W, along the east line of said 6.21 acre tract a distance of 16.92 feet to a point for the most southerly corner;
THENCE N 76 ° 46 ' 47 " W, a distance of 240.74 feet to a point for angle point;
THENCE N 57 ° 26 ' 08 " W, a distance of 120.62 feet to a point for angle point;
THENCE N 25 ° 24 ' 54 " W, a distance of 116.66 feet to a point for angle point;
THENCE N 47 ° 15 ' 01 " W, a distance of 11.30 feet to a point in the west line of said 6.21 acre tract for the most westerly corner;
THENCE N 42 ° 10 ' 26 " E, along the northwest line of said Called 6.21 acre tract a distance of 15.00 feet to a point in the southwest line of the City of College Station 30' wide Public Utility Easement for the most northerly corner, the south right-of-way line of F.M. Highway 2818 bears N 42 ° 10 ' 26 " E a distance of 30.00 feet;
THENCE along the southwest easement line of said 30' wide Public Utility Easement the following calls:
S 47 ° 15 ' 01 " E, a distance of 14.34 feet to a point for angle point;
S 25 ° 24 ' 54 " E, a distance of 115.25 feet to a point for angle point;
S 57 ° 26 ' 08 " E, a distance of 113.76 feet to a point for angle point; and,
S 76 ° 46 ' 47 " E, a distance of 246.00 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 7,340 square feet or 0.168 OF ONE ACRE OF LAND MORE OR LESS, according to a survey performed on the ground during November, 2003, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. For north orientation and other information, see accompanying plat.



Page 7-18

PUBLIC UTILITY EASEMENT

DATE: July 27, 2005

GRANTOR: TLS PROPERTIES, LTD., a Texas Limited Partnership

GRANTOR'S MAILING ADDRESS: Bruce Smith
P. O. Box 19572
Harris County
Houston, Texas 77224-9572

GRANTEE: CITY OF BRYAN, TEXAS doing business as BRYAN TEXAS UTILITIES

GRANTEE'S MAILING ADDRESS: P. O. Box 1000
Brazos County
Bryan, Texas 77802

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

PROPERTY:

All that certain 0.713 acre tract or parcel of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, being a part of that 134.041 acre tract conveyed to TLS Properties, Ltd., in Deed recorded in Volume 3022, Page 187, of the Official Public Records of Brazos County, Texas, and being a fifteen foot (15') wide easement and being more particularly described by metes and bounds in Exhibit "A" and by plat on Exhibit "B" attached hereto and made a part hereof for all 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," to construct, install, maintain, operate, inspect, manage, enlarge or reduce, and repair the following:

Water pipelines and associated underground communication lines as well as other fixtures usually and necessarily associated with such pipelines;

under, upon, over, and across the said Property as described and Grantee shall have the right to select the exact location or locations of said water pipelines, associated underground communication lines, and associated fixtures within said permanent easement and right-of-way, and to do whatever may be necessary for the use and enjoyment of the rights being herein acquired, including the right of ingress and egress over, along and across said permanent easement for the purpose of constructing, reconstructing, installing, replacing, protecting, renewing, operating, maintaining, inspecting, altering, repairing, removing and rebuilding such water pipelines, and associated underground communication lines and associated fixtures and appurtenances, with the right to trim, cut or remove trees and shrubbery, or to remove possible

Page 7-20

hazards, and to remove or prevent the construction of all buildings, structures, and obstructions on or over said easement, which, in the sole judgment of the Grantee may endanger or interfere with the efficiency, safety or convenient operation of said water pipelines and associated underground communication lines. 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.

Grantee shall have the right to assign its interest in the Easement Area subject to the terms and conditions hereof.

RESERVATIONS AND RESTRICTIONS:

Grantor may use or cross said pipelines or use the easement for any other purpose not inconsistent with Grantee's enjoyment of the easement and right-of-way and shall further have the right to lay out, dedicate, construct, maintain and use across said land, such roads, streets, alleys, underground telephone cables and conduits and gas, water and sewer pipelines as will not interfere with Grantee's use of the land for the purposes described provided that all such facilities shall be located at an angle of not less than 45 degrees to any of the Grantee's pipelines, associated underground communication cables and other fixtures, and shall be so constructed as to provide with respect to Grantee's pipelines, underground communication lines and other fixtures the minimum clearances provided by law and recognized as standard in the water industry, and Grantors are also granted the right to erect fences across and upon said land, provided such fences shall have gates, openings, or removable sections at least twenty feet wide which will permit Grantee reasonable access to all parts of the easement tract.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES, 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 BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES, and its administrators, successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

TLS PROPERTIES, LTD., a Texas limited partnership

By: TLS OPERATING COMPANY, LLC, a Texas limited liability company, its sole General Partner

By: Bruce A. Smith
Bruce A. Smith, President

THE STATE OF TEXAS §
COUNTY OF HARRIS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 27th day of July, 2005, by Bruce A. Smith, President of TLS OPERATING COMPANY, LLC, a Texas limited liability company, sole General Partner of TLS PROPERTIES, LTD., a Texas limited partnership, on behalf of said partnership.



Mary Margaret Campbell
NOTARY PUBLIC in and for
the State of TEXAS

PREPARED BY:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

RETURN ORIGINAL DOCUMENT TO:
BRUCHEZ, GOSS, THORNTON, MERONOFF & HAWTHORNE, P.C.
4343 Carter Creek Parkway, Suite 100
Bryan, Texas 77802

EXHIBIT "A"
FIELD NOTES
OF A PROPOSED
15' WIDE PUBLIC UTILITY EASEMENT
0.713 OF ONE ACRE
OUT OF THE TLS PROPERTIES, LTD.
CALLED 134.041 ACRE TRACT
VOLUME 3022, PAGE 187
C. BURNETT LEAGUE, A-7
BRAZOS COUNTY, TEXAS
JANUARY 5, 2005

All that certain lot, tract or parcel of land being 0.713 of one acre of land situated in the C. BURNETT LEAGUE, Abstract Number 7, Brazos County, Texas, and being a part of a Called 134.041 acre tract of land that is described in a deed from Diane Smith Simpson, Donald Glenn Simpson and John Douglas Smith to TLS Properties, LTD., of record in Volume 3022, Page 187, of the Official Deed Records of Brazos County, Texas, said 0.713 acre Proposed Easement being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod set, for the occupied Northwest corner of said Called 134.041 acre tract in the south right-of-way line of F.M. Highway 2818 and in the Southeast line of a Called 81 1/2 acre tract of land that is described in a deed to Harry Gorzycki, of record in Volume 81, Page 186, said Deed Records from which a 5 inch broken fence corner post at the occupied West corner of said Called 134.041 acre tract bears S 41° 44' 04" W, a distance of 2114.80' feet;

THENCE S 41° 44' 04" W along the occupied northwest line of said Called 134.041 acre tract a distance of 44.76 feet to a point for the northwest corner of this 0.713 acre easement and the Point of Beginning:

THENCE along the southerly line of the existing City of College Station 30' wide Public Utility Easement as described in volume 5470, Page 270, the following calls:

- N 83° 49' 10" E a distance of 335.44 feet to a point for corner;
- N 84° 57' 15" E a distance of 1000.33 feet to a point for corner;
- N 83° 48' 30" E a distance of 224.69 feet to a point for corner;
- S 88° 54' 38" E a distance of 217.76 feet to a point for corner; and,
- S 47° 13' 34" E a distance of 276.07 feet to a point in the west line of the OLD I & GN

RAILROAD Right-of-Way, the intersection of the West line of said I & GN Railroad Right-of-Way and the south line of F. M. Highway 2818 bears N 22° 03' 25" W a distance of 79.55 feet;

THENCE, S 22° 03' 25" E along the west line of said Old I & GN Railroad Right-of-Way a distance of 35.27 feet;

THENCE, 15 feet from and parallel to the south line of said City of College Station 30' wide Public Utility Easement the following calls:

- N 47° 13' 34" W a distance of 302.28 feet to a point for corner;
- N 88° 54' 38" W a distance of 211.10 feet to a point for corner;
- S 83° 48' 30" W a distance of 223.89 feet to a point for corner;
- S 84° 57' 15" W a distance of 1000.33 feet to a point for corner; and,
- S 83° 49' 10" W a distance of 351.90 feet to a point in the northwest line of said Called

134.041 acre tract for the southwest corner;

THENCE N 41° 44' 04" E along the occupied West line of said Called 134.041 acre tract and with the Southeast line of said Called 81 1/2 acre tract a distance of 22.38 feet to the PLACE OF BEGINNING and containing an area of 0.713 of one acre or 31,078 square feet more or less, according to a survey performed on November 21, 2003, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. For North orientation and other information, see accompanying plat.



Page 7-23

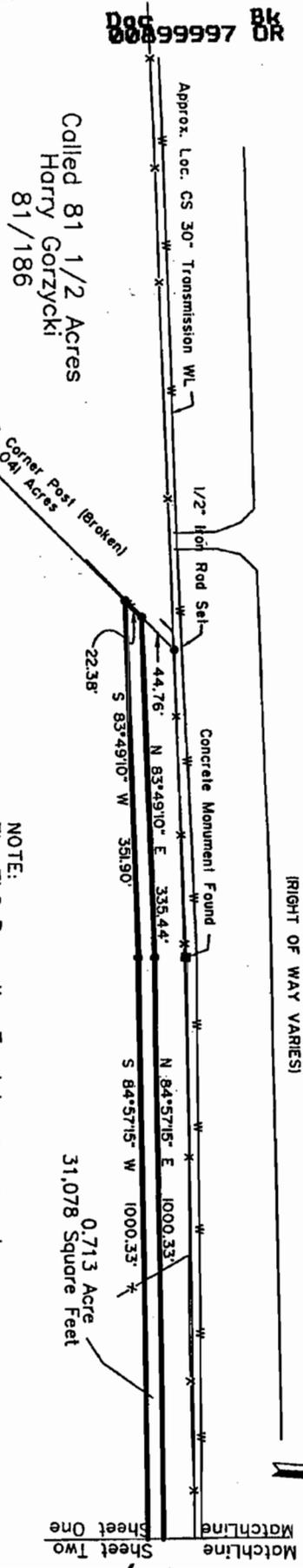
STRONG SURVEYING

7722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096
 email: cstrong@ccyber.com

EXHIBIT "B"
Sheet "1"

HARVEY MITCHELL PARKWAY (F. M. HIGHWAY 2818)

(RIGHT OF WAY VARIES)



NOTE:
The TLS Properties Tract has no accurate Boundary Description on Record.

TLS Properties, Ltd.
134.041 Ac.
3022/187

(Reference 123/564)

All Bearings and Distances are based on Grid North as determined by GPS Surveying Methods.

I, H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above Plat is true and correct and represents the results of a survey performed on the ground under my supervision on November 20, 2003.



**SURVEY OF A
15 FOOT WIDE
PUBLIC UTILITY EASEMENT
0.713 OF ONE ACRE**

OUT OF THE
TLS PROPERTIES, LTD.
CALLED 134.041 ACRE TRACT
VOLUME 3022, PAGE 187
CRAWFORD BURNETT LEAGUE, A-7
BRAZOS COUNTY, TEXAS
SCALE 1"=150'
JANUARY 5, 2005

Page 7-24

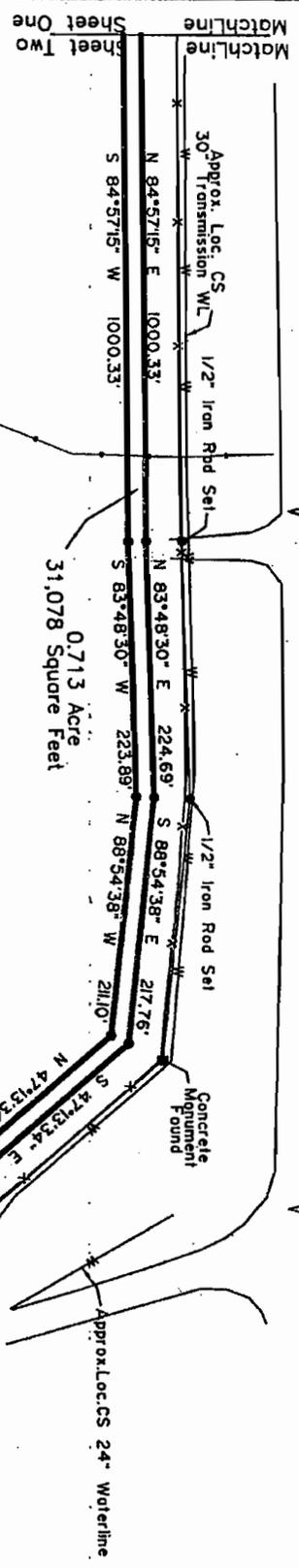
HARVEY MITCHELL
 PARKWAY
 (F. M. HIGHWAY 2818)
 (RIGHT OF WAY VARIES)

STRONG
 SURVEYING

7722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096
 email: cstrong@tcyber.com

EXHIBIT "B"
 Sheet "2"

JUL 00899997 DR BR VOL 153 PG

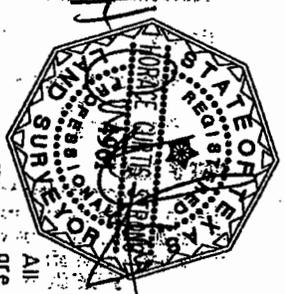


NOTE:
 The TLS Properties Tract has no accurate
 Boundary Description on Record

TLS Properties, Ltd.
 134.041 Ac.
 3022/187
 (Reference 123/564)

**SURVEY OF A
 15 FOOT WIDE
 PUBLIC UTILITY EASEMENT
 0.713 OF ONE ACRE**

OUT OF THE
 TLS PROPERTIES, LTD.
 CALLED 134.041 ACRE TRACT
 VOLUME 3022, PAGE 187
 CRAWFORD BURNETT LEAGUE, A-7
 BRAZOS COUNTY, TEXAS
 JANUARY 5, 2005



All bearings and Distances
 are based on Grid North
 as determined by GPS
 Surveying Methods.

I, H. Strong, Registered Professional Land
 Surveyor No. 4961, do hereby certify that the
 above Plot is true and correct and represents the
 results of a survey performed on the ground under
 my supervision
 November 20, 2003.

Page 7-25

PUBLIC UTILITY EASEMENT

DATE: November 30, 2005

GRANTOR: LINDA PRESTON-SHEPARD

GRANTOR'S MAILING ADDRESS: 3924 North Graham Road
(including County) Brazos County
College Station, TX 77845

GRANTEE: CITY OF BRYAN, TEXAS d/b/a BRYAN TEXAS UTILITIES

GRANTEE'S MAILING ADDRESS: P. O. Box 1000
Brazos County
Bryan, Texas 77802

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

PROPERTY:

All that certain 0.134 of one acre tract or parcel of land lying and being situated in the Crawford Burnett League, Abstract No. 7, Brazos County, Texas, and being a fifteen foot (15') wide public utility easement and being a part of that 4.23 acre tract conveyed to Jean A. Preston and Linda Jean Preston in deed recorded in Volume 433, Page 48 of the Deed Records of Brazos County, Texas, said 0.134 acre tract or parcel being more particularly described by metes and bounds in Exhibit "A" and by plat on Exhibit "B" attached hereto and made a part hereof for all 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," to construct, install, maintain, operate, inspect, manage, enlarge or reduce, and repair the following:

Water pipelines and associated underground communication lines as well as other fixtures usually and necessarily associated with such pipelines;

under, upon, over, and across the said Easement Area as described and Grantee shall have the right to select the exact location or locations of said water pipelines, associated underground communication lines, and associated fixtures within said permanent easement and right-of-way, and to do whatever may be necessary for the use and enjoyment of the rights being herein acquired, including the right of ingress and egress over, along and across said permanent easement for the purpose of constructing, reconstructing, installing, replacing, protecting, renewing, operating, maintaining, inspecting, altering, repairing, removing and rebuilding such water pipelines, and associated underground communication lines and associated fixtures and appurtenances, with the right to trim, cut or remove trees and shrubbery, or to remove possible hazards, and to remove or prevent the construction of all buildings, structures, and obstructions

Page 7-26

Exhibit D

on or over said easement, which, in the sole judgment of the Grantee may endanger or interfere with the efficiency, safety or convenient operation of said water pipelines and associated underground communication lines. It being understood and agreed that any and all equipment and facilities placed upon said property shall remain the property of Grantee. Grantee shall restore the surface area of the Easement Area as nearly as practicable to its contour and condition as existed prior to the exercise by Grantee of any rights hereunder but shall not be responsible for compensating, replacing or relocating any improvements placed within the Easement Area by Grantor.

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.

Grantee shall have the right to assign its interest in the Easement Area subject to the terms and conditions hereof.

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

- a. Right of Way granted to Sinclair Refining Company by Sophrinia Rush as set out in instrument dated April 3, 1941, recorded in Volume 132, page 18 of the Deed Records of Brazos County, Texas.
- b. Easement rendered in Judgment of Court in Brazos County, Texas, dated May 8, 2003 and recorded in Volume 5542, page 81 of the Official Records of Brazos County, Texas.
- c. Estate created by oil, gas and mineral lease granted to Chapparral Minerals by Jean A. Preston by instrument dated May 15, 1981 and recorded in Volume 40, page 54 of the Oil, Gas and Mineral Lease Records of Brazos County, Texas, and all terms, conditions and stipulations contained therein. Lease Amendment by and between Jean A. Preston and Chapparral Minerals, dated April 14, 1984 and recorded in Volume 674, page 254 of the Official Records of Brazos County, Texas.
- d. Estate created by oil, gas and mineral lease granted to Apache Corp by Jean A. Preston and Linda Jean Preston by instrument dated September 15, 1993 and recorded in Volume 2019, page 304 of the Official Records of Brazos County, Texas, and all terms, conditions and stipulations contained therein. Amendment dated April 3, 1994 and recorded in Volume 2115, page 267 of the Official Records of Brazos County, Texas.
- e. Estate created by oil, gas and mineral lease granted to Union Pacific Resources Company by Jean A. Preston by instrument dated October 9, 1996 and recorded in Volume 2704, page 299 of the Official Records of Brazos County, Texas, and all terms, conditions and stipulations contained therein.
- f. Mineral Reservation as set out in deed dated June 10, 1950 from Saphronia Thomeston to Alton B. Williams, Sr., recorded in Volume 144, page 609, Deed Records of Brazos County, Texas.

g. Forty foot (40') wide Utility Easement from Jean A. Preston to Bryan Texas Utilities recorded in Volume 5765, page 221, Official Records of Brazos County, Texas.

RESERVATIONS AND RESTRICTIONS:

Grantor may use or cross said pipelines or use the easement for any other purpose not inconsistent with Grantee's enjoyment of the easement and right-of-way and shall further have the right to lay out, dedicate, construct, maintain and use across said land, such roads, streets, alleys, underground telephone cables and conduits and gas, water and sewer pipelines as will not interfere with Grantee's use of the land for the purposes described provided that all such facilities shall be located at an angle of not less than 45 degrees to any of the Grantee's pipelines, associated underground communication cables and other fixtures, and shall be so constructed as to provide with respect to Grantee's pipelines, underground communication lines and other fixtures the minimum clearances provided by law and recognized as standard in the water industry, and Grantors are also granted the right to erect fences across and upon said land, provided such fences shall have gates, openings, or removable sections at least twenty feet wide which will permit Grantee reasonable access to all parts of the easement tract.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES and its successors and assigns, forever, and Grantor does hereby bind herself, her heirs and executors, to warrant and forever defend, all and singular, these rights and interests unto the CITY OF BRYAN, TEXAS d/b/A BRYAN TEXAS UTILITIES, and its administrators, successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

Linda Preston-Shepard
Linda Preston-Shepard

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 30th day of November, 2005, by Linda Preston-Shepard.

Nicole Menchaca
NOTARY PUBLIC in and for
the State of TEXAS

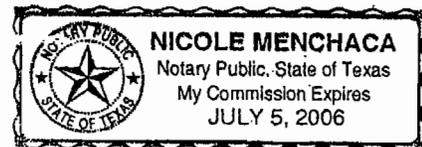


EXHIBIT "A"
FIELD NOTES
PROPOSED 15' WIDE
PUBLIC UTILITY EASEMENT
0.134 OF ONE ACRE
OUT OF THE LINDA JEAN PRESTON
CALLED 4.23 ACRE TRACT
VOLUME 433, PAGE 48
C. BURNETT SURVEY, A-7
BRAZOS COUNTY, TEXAS
JANUARY 5, 2005

All that certain lot, tract or parcel of land being 0.134 of one acre situated in the C. BURNETT SURVEY, Abstract Number 7, Brazos County, Texas, and being a part of a called 4.23 acre tract of land that is described in a deed from Ervin M. Williams, Mary L. Williams, Travis L. Williams, and Alton B. Williams to Linda Jean Preston and Jean A. Preston, of record in Volume 433, Page 48, Deed Records of Brazos County, Texas, said 0.134 of an acre Proposed Easement being more particularly described by metes and bounds as follows:

COMMENCING at a ½ inch iron rod set at the occupied Northeast corner of said called 4.23 acre tract in the south right-of-way line of F.M. 2818 and at in the Northwest line of a called 81 ½ acre tract of land that is described in a deed to Harry Gorzycki, of record in Volume 81, Page 186; THENCE, S 41° 50' 29" W, along the southeast line of said Called 4.23 acre tract and the northwest line of said Called 81 ½ acre tract a distance of 35.64 feet to a point for the northeast corner and the Point of Beginning of this easement:

THENCE, S 41° 50' 29" W, along the Southeast line of said called 4.23 acre tract and with the Northwest line of said called 81 ½ acre tract, a distance of 17.82 feet to a point for the Southeast corner, from which a petrified rock found at the most Southeast corner of said called 4.23 acre tract bears; S 41° 50' 29" W 575.91 feet;

THENCE, along and through said called 4.23-acre tract, the following two calls;

N 80° 50' 37" W, a distance of 23.24 feet to a point for angle point; and,

N 76° 46' 47" W, a distance of 364.57 feet to a point in the Northwest line of said called 4.23 acre tract and in the Southeast line of a called 6.21 acre tract of land that is described in a deed to Ervin M. Williams, Sr. and wife, Mildred Williams, of record in Volume 433, Page 39, for the Southwest corner, from which a ½ inch iron rod with a cap at the most Southwesterly corner of said called 4.23 acre tract bears; S 40° 46' 04" W, a distance of 390.26 feet;

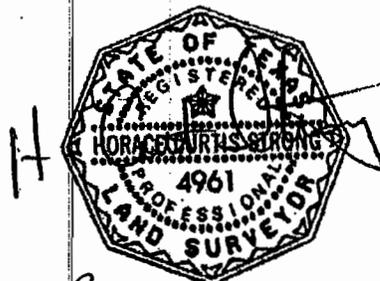
THENCE, N 40° 46' 04" E, along the Northwest line of said called 4.23 acre tract and with the Southeast line of said called 6.21 acre tract, a distance of 16.92 feet to a point for the Northwest corner, a ½" Iron Rod set for the occupied northwest corner of said Called 4.23 acre tract in the south right-of-way line of F.M. Highway 2818 bears

N 40° 46' 04" E a distance of 33.84 feet;

THENCE, along the south line of the City of College Station 30' wide Public Utility Easement the following two calls;

S 76° 46' 47" E, a distance of 355.86 feet to a point for an angle point; and,

S 80° 50' 37" E, a distance of 32.69 feet to the PLACE OF BEGINNING and containing an area of 0.134 of one acre or 5,818 square feet more or less, according to a survey performed on November 11, 2003, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. For North orientation and other information, see accompanying plat.

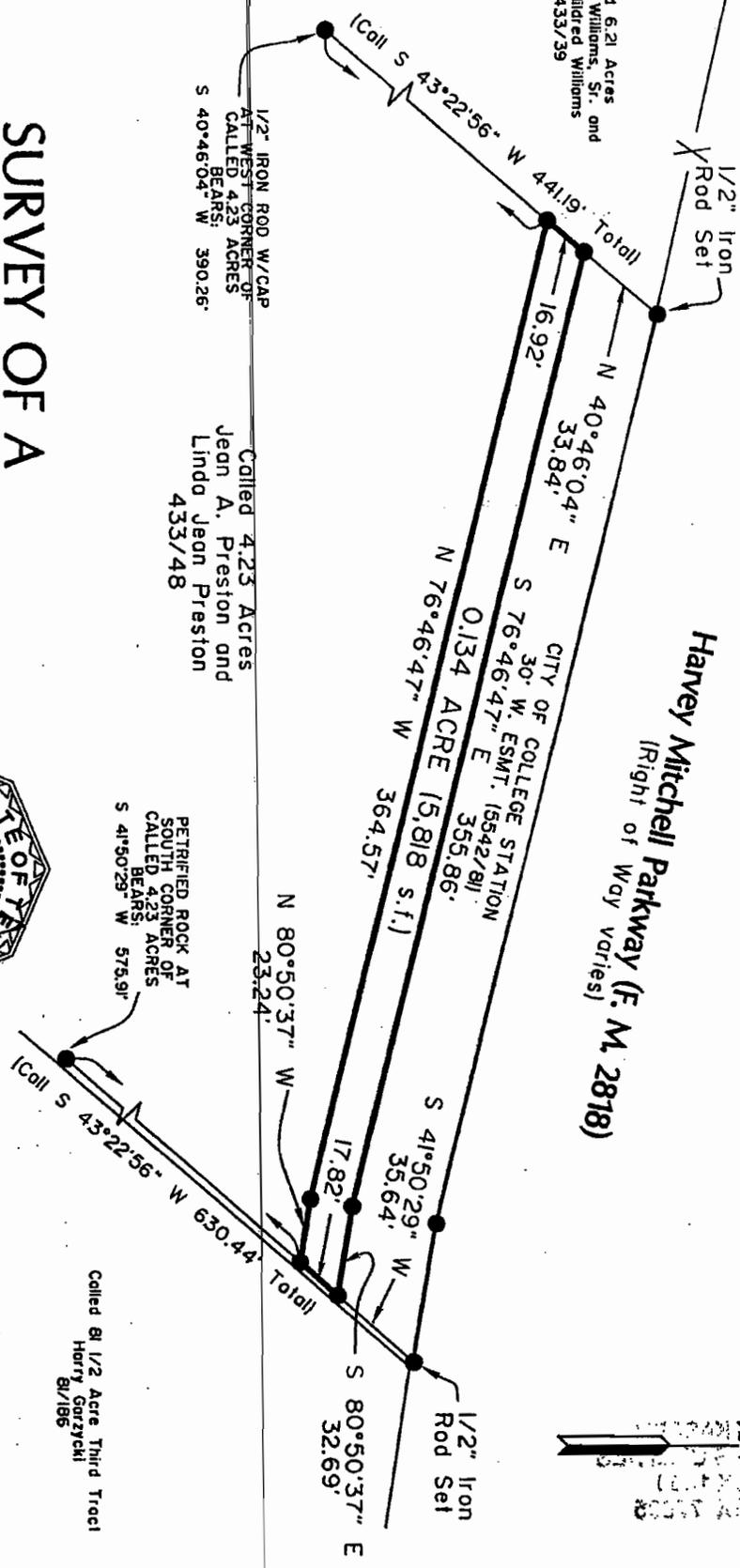


Page 7-29

STRONG SURVEYING
 7722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096
 email: cstrong@tccyber.com

EXHIBIT "B"

Harvey Mitchell Parkway (F. M. 2818)
 (Right of Way varies)



**SURVEY OF A
 15 FOOT WIDE
 PUBLIC UTILITY EASEMENT
 OUT OF A CALLED
 4.23 ACRE TRACT
 VOLUME 433, PAGE 48
 CURTIS BURNETT SURVEY, A-7
 LE-1st = 60° JANUARY 5, 2005**



I, H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat is true and correct and represents the survey performed on the ground under my supervision on January 5, 2005.

All Bearings and Distances are based on Grid North as determined by GPS Survey methods.

**Thursday, March 23, 2006
Consent Agenda
Council Travel Policy**

To: Glenn Brown, City Manager

From: Harvey Cargill, Jr. City Attorney
Connie Hooks, City Secretary

Agenda Caption: Presentation, possible action, and discussion regarding a resolution replacing the City Council travel policy adopted October 24, 2002 and declaring an effective date.

Recommendation(s):

Adopt as presented

Provide direction to staff of changes

Summary: The purpose of this internal control policy is to establish uniform procedures that shall apply to all related expenditures for professional development, legislative, and other necessary expenses incurred by members of the College Station City Council while performing their official duties.

The College Station City Council desires to review their travel and reimbursement policy on an annual basis to ensure that the policy meets the guidelines of the City of College Station Employee Handbook.

Budget & Financial Summary: N/A

Attachments:

Resolution

Attachment A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, REPLACING THE CITY COUNCIL TRAVEL POLICY ADOPTED OCTOBER 24, 2002, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the College Station City Council in fulfilling their duties for the citizens of College Station, may travel for professional development, legislative, any other performance of official duties, or economic development purposes; and,

WHEREAS, the College Station City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties; and,

WHEREAS, the College Station City Council desires to review their travel and reimbursement policy on an annual basis to ensure that the policy meets the guidelines of the City of College Station Employee Handbook; now, therefore,

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

PART 1: That this policy shall be consistent with City administrative travel related policies in the City of College Station Employee Handbook adopted September 2004.

PART 2: That the City Council approves the attached travel policy, "Attachment A".

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

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

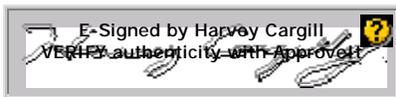
ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor

APPROVED:



City Attorney

"Attachment A"

CITY OF COLLEGE STATION
CITY COUNCIL TRAVEL POLICY

Purpose

The purpose of this internal control policy is to establish uniform procedures that shall apply to all related expenditures for professional development, legislative, and other necessary expenses incurred by members of the College Station City Council while performing their official duties.

This policy shall be consistent with the City policies defined in the City of College Station Employee Handbook adopted September 2004. In addition to these policies, the City Charter §Section 19 provides that members of the City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties.

General Procedures

The City Manager will allocate general fund monies annually during the budget process for professional development and City business-related travel and reimbursable expenses for the Mayor and Council members. If in a given year, Council members take more trips than projected, the City Manager's office is authorized to transfer adequate amounts from the General Fund Contingency to pay for the trips.

Travel Reimbursement Procedures

Lodging

The City will pay training class/seminar, conference, and meeting related out-of-town lodging costs at the single occupancy rate. The City will pay for the cost of the room and business telephone calls only. Councilmembers may, at their own expense, upgrade their lodging. Additionally, Councilmembers are responsible for payment of non-reimbursable expenses such as: in-room movies, personal phone calls, etc.

Transportation

The City will pay all reasonable and necessary transportation costs incurred for required travel relating to the performance of official duties or professional development.

Air Travel

If air travel is selected, payment will be made for the commercial coach fare rate only. Discount fares and/or airline specials are offered by airlines. If a discounted fare and/or airline special

require a Councilmember to leave or stay over an extra day, the City will pay for the lodging and meals for the extra day(s) provided the costs do not exceed the savings on the airfare.

Personal Vehicle

If a personal vehicle is used for travel, mileage reimbursement will be made at the current mileage rate set by the Internal Revenue Service (IRS). The reimbursed amount is expected to cover all of the personal vehicle related expenses for meetings outside Brazos County. The Mayor and Council members shall be reimbursed mileage at the IRS rate per mile for travel from City Hall to business-related meetings, luncheons, and ceremonial functions. Reimbursement shall not cover travel from home to business related meetings and city facilities.

Meals

Meals purchased within the City of College Station and the immediate surrounding area shall be paid for by the City if the purpose of the expense is clearly in the best interest of the city. Council members may use the City procurement card. If a personal credit card or cash is used instead, a Council member shall be reimbursed up to the amount indicated on the meal receipt. This includes, but is not limited to meetings with local, state or federal officials, dignitaries, business representatives, or for recognition functions at local organizations of which the City is a member. The business purpose must be noted on the receipt.

Reporting

Purchasing Card

Upon taking the elected official's oath of office and attendance at orientation, a newly elected official will be provided a City procurement card. All procurement cards are the property of the City of College Station and for authorized purposes only. All expenditures on procurement cards must be reported to the City Secretary's office within two (2) days business days after the purchase is made. It is at the discretion of the Council member to retain the card at all times or the City shall maintain in a safe and secure location until needed.

A lost, stolen, or misplaced card should be immediately reported to the credit card company as well as the City Secretary's office, 764-3541.

Approval Process

The Mayor or Mayor Pro Tem shall review and consider any transaction necessary for City related business activities by any Council member. These officials will be responsible for signing the necessary documentation that such expenditures were made in accordance with this policy.

Travel expenses for spouse or guest accompanying Council members to conferences or meetings shall be paid for by the Council member.

Miscellaneous

Council members shall notify the City Secretary's office as far in advance as possible to provide greatest flexibility in obtaining advantageous airfares and lodging rates. In the event, a Council member is unable to attend a scheduled trip, he should notify the City Secretary's office as soon as possible to ensure that notification can be made to airlines or hotels for reimbursement of deposits in a timely manner and additional costs are not incurred. A Council member may be responsible for costs incurred to the City if cancellation is not due to an emergency.

APPROVED this _____ day of _____.

APPROVED:

Mayor Ron Silvia

ATTEST:

City Secretary Connie Hooks

APPROVED:

City Attorney

O:\group\council travel policy2006.doc

March 23, 2006
Consent Agenda
Interlocal Agreement with the Texas Agricultural Experiment Station for
Navasota Ladies' Tresses Mitigation Services

To: Glenn Brown, City Manager

From: Charles McLemore, Acting Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding approval of a five year interlocal agreement with the Texas Agricultural Experiment Station, in a total amount not to exceed \$384,262.00.

Recommendation(s): Staff recommends approval of the interlocal agreement.

Summary: The services provided by this interlocal agreement are a component in a collaborative effort to meet federal agency mitigation requirements for Navasota Ladies' Tresses (an endangered wildflower) at the new landfill site on State Highway 30. The new landfill site will be constructed south of SH 30 and Alum Creek in Grimes County, Texas. Because this site contains existing and potential habitat for the federally endangered Navasota Ladies' Tresses (NLT), BVSWMA is required by the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service to obtain a Biological Opinion necessary for the approval of the project under a Clean Water Act, Section 404 Individual Permit. The Biological Opinion must show that the project will not place the species in jeopardy for a permit to be issued.

Staff has negotiated with the U.S. Fish and Wildlife Service in order to set the requirements that would allow the project to receive a favorable Biological Opinion. The requirements will have three components, of which implementing an adaptive management program to preserve extant plants, and offsetting the loss of plants impacted by the landfill project is one. The other two components are deed restricting wildflower habitat within the permit boundaries of the facility and the acquisition of suitable habitat to offset wildflower losses from within the landfill footprint.

Staff has determined that the most cost-effective and scientifically rigorous means of adequately providing details of NLT habitat conservation and restoration, pursuing adaptive management efforts to preserve extant plants, and offsetting the loss of plants impacted by the landfill project was to engage in a collaborative effort and contract the ecological expertise of the Texas Agricultural Experiment Station faculty and their students.

Budget & Financial Summary: Funding for this interlocal agreement has been budgeted in the FY 2006 BVSWMA Capital Improvements Project Fund. As BVSWMA is funded through an inter-local agreement, both the Cities of Bryan and College Station are sharing the cost of this project.

Attachments:

1. Interlocal Agreement

**INTERLOCAL AGREEMENT
THE TEXAS AGRICULTURAL EXPERIMENT STATION AND
THE CITY OF COLLEGE STATION, TEXAS
CONSERVATION STRATEGIES FOR THE PROTECTION AND PROPAGATION OF
THE FEDERALLY ENDANGERED ORCHID, NAVASOTA LADIES' TRESSES
PROJECT AT THE STATE HIGHWAY 30 LANDFILL**

This Agreement is made and entered into by and between, THE TEXAS AGRICULTURAL EXPERIMENT STATION, a component of the Texas A&M University System, an agency of the State of Texas (hereinafter referred to as "TAES"), and the CITY OF COLLEGE STATION, TEXAS, a Texas Home Rule Municipal Corporation (hereinafter referred to as "College Station").

WHEREAS, CHAPTER 791 OF THE TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes local governments and state agencies to contract with each other to provide a governmental function or service that each Party to the contract is authorized to perform individually and in which the contracting Parties are mutually interested, such as administrative functions, planning, parks and recreation and engineering;

WHEREAS, College Station is a Home-Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Agreement pursuant to ARTICLE II, SECTION 5 OF ITS CITY CHARTER;

WHEREAS, College Station and TAES represent that each is independently authorized to perform the functions contemplated by this Agreement;

WHEREAS, College Station owns property on State Highway 30, Grimes County, Texas, commonly known as State Highway 30 Landfill and more particularly described in Exhibit A, which consists of 610 acres, with 214 acres used for solid waste disposal;

WHEREAS, College Station is required by the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service to obtain a Biological Opinion necessary for the approval of the landfill project under a Clean Water Act, Section 404 Individual Permit;

WHEREAS, College Station must provide for the conservation and restoration of Navasota Ladies' Tresses (an endangered plant species) by protecting and managing portions of the landfill buffer area with known Navasota Ladies' Tresses occurrences and suitable potential habitat. The landfill buffer area is more particularly described in Exhibit B;

WHEREAS, College Station has determined that the most cost-effective and scientifically rigorous means of adequately providing details of Navasota Ladies' Tresses habitat conservation and restoration, pursuing adaptive management efforts to preserve extant plants, and offsetting the loss of plants impacted by the landfill project is to contract the ecological expertise of TAES faculty and their students;

WHEREAS, TAES has submitted a proposed scope of services for a project titled Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies' Tresses. The proposed scope of services is more particularly described in Exhibit C;

WHEREAS, TAES has submitted a proposed five-year budget for a project titled Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies' Tresses in the amount of \$384,262.00. The proposed five-year budget is more particularly described in Exhibit D;

WHEREAS, College Station has sufficient funds available from current revenues to fund the project titled Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies' Tresses;

WHEREAS, TAES and College Station do not intend, by entering into this Agreement, to create a joint enterprise whereby College Station shares dual control with TAES of the State Highway 30 Landfill, which is to remain solely owned and controlled by College Station, under the terms of this Agreement;

NOW THEREFORE, College Station and TAES herein enter into this Agreement pursuant to the above-named Act to authorize TAES to perform the work during a five-year period beginning on April 1, 2006 and ending on April 30, 2011 as described in the project titled Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies' Tresses for payment by College Station to TAES in an amount not to exceed \$384,262.00.

The following establishes the obligations of each Party:

1. **Location**

The project titled Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies' Tresses (hereinafter referred to as "the Project") will generally be conducted at TAES facilities and the property on State Highway 30, Grimes County, Texas, commonly known as State Highway 30 Landfill and more particularly described in Exhibit A, and field work shall be located in the undeveloped areas of the landfill footprint and the Navasota Ladies' Tresses deed restricted protection areas as illustrated in Exhibit B.

2. **Project Requirements**

TAES shall conduct the Project in a manner that does not conflict with site development projects and daily solid waste disposal operations. The project shall not cause the facility to be in violation of any Texas Commission on Environmental Quality regulations, or other regulations, including but not limited to 30 Texas Administrative Code Chapters 330 and 332. TAES agrees that the project will comply with all local, state and federal regulations.

College Station shall have the discretion on not authorizing any controlled burning operations, and no such burning operation shall take place without prior authorization from College Station. If burning operations are authorized, a College Station representative must be present, and local fire suppression authorities notified and allowed to supervise.

The Project shall be complete no later than April 30, 2011. No modifications to the scope of services as described in Exhibit C will be made without prior written consent from College Station.

3. **Insurance**

TAES shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with this Project and the work performed hereunder by TAES, its agents, representatives, volunteers, employees, contractors, or subcontractors. College Station acknowledges that TAES maintains a program of self insurance as further described in Exhibit E.

4. **Access**

Under the terms of this Agreement, TAES shall have access to use the property described in Exhibit A solely for the purpose of performing the work as described in the Project scope of services. As the site is required by permit to restrict access to the general public, TAES personnel shall ensure that all control points are secured upon entry and exit to the site. Upon termination of the Agreement, any equipment not provided by College Station will remain the property of TAES and will be removed by TAES at its own cost no later than thirty (30) days from the date of termination.

Neither Party shall have the right to direct or control the conduct of the other Party with respect to the duties and obligations of each party under the terms of this Agreement.

5. **Project Costs**

College Station will pay for all costs associated with the project in an amount not to exceed the annual cost projections described in Exhibit D.

Installment payments of \$19,213.10 shall be made quarterly with the first payment due upon final signature of this agreement. "Contract Quarter" shall refer to any quarter of the contract year in which this Agreement is in force. Contract Quarters will end on March 31st, June 30th, September 30th, and December 31st of each contract year.

Checks should be made payable to The Texas Agricultural Experiment Station and forwarded to the Director at the following address:

Agriculture Program Contracts and Grants
2147 TAMU
College Station, TX 77843-2147

Quarterly payments shall be made only after TAES submits an invoice to College Station through the Director of the Brazos Valley Solid Waste Management Agency, accompanied by a quarterly report containing a detailed summary of the activities of TAES including a summary of how funds from City have been utilized to accomplish TAES' work during the quarter. Release of quarterly payment will be contingent upon approval of the invoice and quarterly report. Quarterly reports are due no later than thirty (30) days after the end of each Contract Quarter (no later than April 30th, July 30th, October 30th, and January 31st of each contract year.)

College Station shall provide in-kind assistance by the provision of fencing materials, construction assistance for erecting exclosures, and brush management assistance. TAES shall notify College Station in advance of upcoming assistance expectations, and such assistance shall be scheduled so as not to interfere with daily landfill disposal operations.

6. **Control of Work**

TAES shall have the sole obligation to employ, direct, control, supervise, manage, discharge and compensate all of its employees and subcontractors, and College Station shall not have control of or supervision over the employees of TAES or any of TAES'contractors.

7. **Term**

The term of this Agreement shall be from April 30, 2011, subject to earlier termination under the provisions hereinbelow. Upon the expiration of the term, the Parties may renegotiate the terms of this Agreement.

8. **Termination**

This Agreement may be terminated at any time and for any reason without liability by either Party upon ninety (90) days written notice as provided herein. This Agreement will also terminate in the event that College Station determines to utilize the property for any other use. Further, this Agreement may be terminated by the sale of the real property by College Station. Upon termination of this Agreement either by the sale or change of use of the property, or for any other reason, College Station will not be required to reimburse TAES for any improvements.

9. **Hold Harmless**

College Station and TAES each individually agree, to the extent authorized by the Constitution and laws of the State of Texas, to hold the other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, for damage to any property, arising out of or in connection with the work done under this Agreement.

10. **Invalidity**

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the Parties.

11. **Written Notice**

Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

TAES
Diane Gilliland
The Texas Agricultural Experiment Station
Agriculture Program Contracts & Grants
2147 TAMU
College Station, TX 77843-2147

With copies to:

Dr. Fred Smeins
Dr. William E. Rogers
Texas A&M University
Department of Rangeland Ecology and Management
Room 319 Animal Industries Bldg.
2126 TAES
College Station, TX 77843-2126

City of College Station
Brazos Valley Solid Waste Management Agency
P. O. Box 9960
College Station, Texas 77842
Attn: Pete Caler, Director

12. **Entire Agreement**

It is understood that this Agreement contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements, or understandings between the Parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of College Station, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

13. **Amendment**

No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of each Party.

14. **Texas Law**

This Agreement has been made under and shall be governed by the laws of the State of Texas.

15. **Place of Performance**

Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

16. **Authority to Enter Contract**

Each Party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective organizations.

17. **Waiver**

Failure of either Party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of College Station thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the Party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

18. **Force Majeure**

Each party will be excused from any breach of this Agreement which is proximately caused by government regulation, war, strike, act of God, or other similar circumstance normally deemed outside the control of well-managed businesses.

19. **Agreement Read**

The Parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

20. **Assignment**

This Agreement and the rights and obligations contained herein may not be assigned by either Party without the prior written approval of the other Party.

21. **Multiple Originals**

It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

EXECUTED on this the _____ day of _____, 2006.

**THE TEXAS AGRICULTURAL
EXPERIMENT STATION**

CITY OF COLLEGE STATION

By: _____
Printed Name: _____
Title: _____

By: _____
Ron Silvia, Mayor

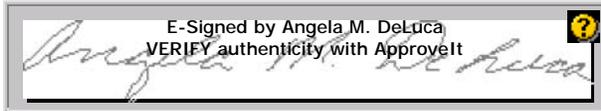
ATTEST:

Connie Hooks, City Secretary

APPROVED:

Glenn Brown, Interim City Manager

Date



City Attorney

Date

Jeff Kersten, Finance & Strategic
Planning Director

Date

STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the ____ day of _____, 2006,
by _____, in his capacity as _____ of The
Texas Agricultural Experiment Station, a political subdivision, on its behalf.

Notary Public in and for
the State of Texas

STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF BRAZOS §

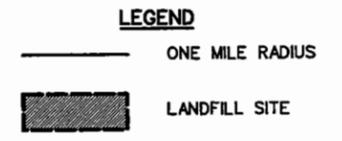
This instrument was acknowledged before me on the ____ day of _____,
2004, by **Ron Silvia**, in his capacity as **Mayor** of the **City of College Station**, a Texas home-
rule municipality, on behalf of said municipality.

Notary Public in and for
the State of Texas

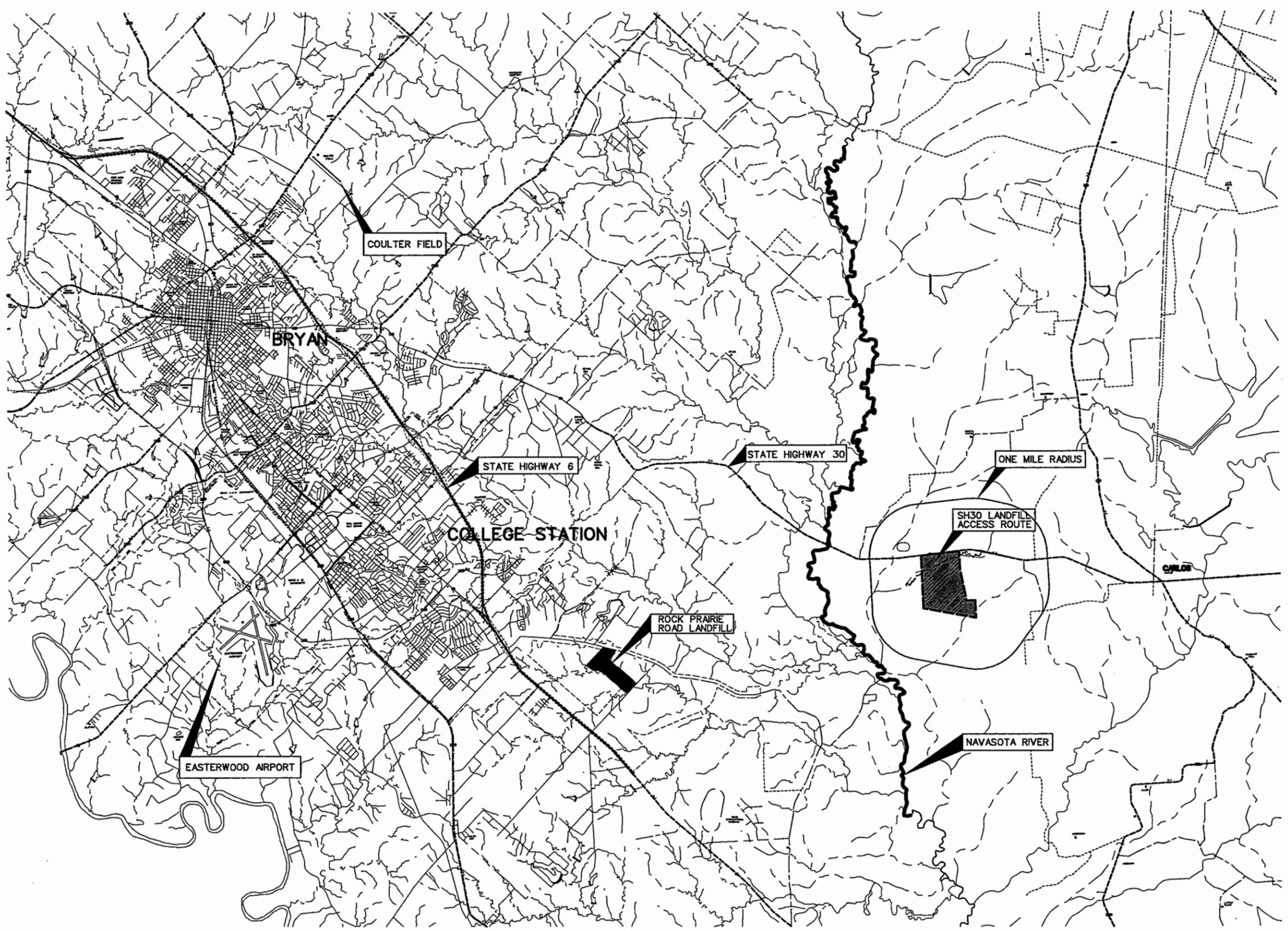
Exhibit A

PROPERTY LOCATION – STATE HIGHWAY 30 LANDFILL

DRAWING	
CHECKER	DATE
DESIGN	
CHECKER	DATE



- NOTES**
1. MAPPING IMAGES ARE COUNTY MAPS FROM 1999 TxDOT RAW DATA.
 2. THE PRIMARY ROUTE FOR COLLECTION VEHICLES TO ACCESS THE SITE WILL BE ALONG STATE HIGHWAY 30.



HDR Engineering, Inc.
17111 Preston Road
Suite 200
Dallas, Texas 75248

Revision No.	Description	Date	Drwn.	Chkd.	Resp. Engr.	Proj. Mgr.

Project Manager M. ODEN	
Architect	I&C/Process
Civil	Mechanical
Electrical	Structural
Designed	Drawn By B. GREEN



SH30 LANDFILL LOCATION MAP

Date JULY 2005	Project No. 23292	Figure No. 1	Issue
Scale AS SHOWN			

DATE PLOTTED: 07/21/05 10:51 AM

Exhibit B

LANDFILL FOOTPRINT AND BUFFER AREA – STATE HIGHWAY 30 LANDFILL

Exhibit C

PROJECT SCOPE OF SERVICES

Conservation Strategies for the Protection and Propagation of the Federally Endangered Orchid, Navasota Ladies Tresses (*Spiranthes parksii*)

Principal Investigators:

Dr. Fred Smeins & Dr. William E. Rogers
Department of Rangeland Ecology and Management,
Texas A&M University, College Station, Texas 77843

Submitted to: Brazos Valley Solid Waste Management Agency and HDR, Inc.

Project Duration: 5 years spanning April 2006 - April 2011

Requested Amount: \$384,262.00

Summary: The State Highway 30 Landfill project proposed by the Brazos Valley Solid Waste Management Agency (BVSWMA) will be constructed south of SH 30 and Alum Creek in west Grimes County, Texas. Because this site contains existing and potential habitat for the federally endangered Navasota ladies' tresses (*Spiranthes parksii*) (NLT), BVSWMA is required by the U.S. Army Corps of Engineers (USACE) and U.S. Fish and Wildlife Service (USFWS) to obtain a Biological Opinion (BO) necessary for the approval of the project under a Clean Water Act, Section 404 Individual Permit. The 610-acre regional solid waste management facility will include administration offices, an entrance and scale house area, a maintenance facility for heavy equipment, composting operations, an environmental education center, storm water control appurtenances, conservation buffer areas, and a state-of-the-art disposal facility. The proposed landfill layout was designed to avoid impacts to several ephemeral and intermittent stream watersheds containing NLT habitat. The landfill footprint (area available for waste disposal) consists of approximately 213 acres. The landfill construction is scheduled to begin in 2007 and is expected to provide approximately 35 years of disposal operations. The landfill footprint has been divided into six cells of various sizes, which represent construction sequence. Portions of the buffer area with known NLT occurrences and suitable potential habitat will be protected and managed as part of the Habitat Conservation and Adaptive Management Plan.¹

Project Background: Together, BVSWMA and HDR, Inc. determined that the most cost-effective and scientifically rigorous means of adequately providing details of NLT habitat conservation and restoration, pursuing adaptive management efforts to preserve extant plants, and offsetting the loss of plants impacted by the landfill project was to contract the ecological expertise of Texas A&M faculty and their students. Herein, we describe multiple potential conservation projects that will be conducted by our research team of faculty, graduate students and undergraduate students in the Department of Rangeland Ecology and Management at Texas A&M University. Our goals for these studies are to offset the loss of NLT plants impacted by landfill activities and develop scientifically sound principles for conserving existing populations of endangered NLT plants. We believe that the proposed studies will also allow us to potentially increase the total number of plants directly through recruitment methodologies devised in our studies and indirectly as a result of the increased knowledge gained from studies of the plant's population dynamics that will allow us to utilize and propagate other known NLT populations in Grimes and eastern Brazos Counties.

Proposed Experimental Designs and Conservation Strategies:

I. Effects of herbivores and plant competition on successful *Spiranthes parksii* recruitment

Objectives: (1) Assess the effects of herbivore grazing on NLT establishment, (2) Assess the effects of plant competition and soil disturbance on NLT establishment, (3) Determine the optimal environmental factors responsible for promoting and inhibiting successful NLT seed maturation, dispersal and establishment in order to more effectively direct future NLT conservation efforts.

Predictions:(1) If large to medium-sized herbivores play a significant role in removing NLT flower stalks prior to successful seed maturation and dispersal, erecting fenced exclosures will increase plant size, survival and reproductive output. (2) If abiotic conditions are limiting the ability of existing NLT to establish and reach maturation via seed dispersal, the removal of plant competition through brush removal will increase the density of NLT plants. (3) If “safe-sites” for effective NLT seed germination are lacking, disruption of the soil surface will increase opportunities for seeds of this plant that is often found in eroded sites along drainages.

Methods: Twenty paired 12 m x12 m herbivore exclosures with adjacent 12 m x 12 m unfenced control plots. Nested within each 12 m² plot will be four 6 m² subplots containing full-factorial combinations of brush management treatments and soil scarification treatments. These plots will be established in areas of known high NLT concentrations. Within each plot, we will measure NLT demographic characteristics (leaf number, leaf area and longevity, flower stalk height and longevity, number of flowers/seeds, herbivore damage etc.), NLT population dynamics (plant density), and grassland community structure (plant species density and diversity).

Analyses: We will use split-plot ANOVAs to determine whether the presence of both NLT basal rosettes and flowering stalks are increased by the exclusion of herbivores, removal of light inhibiting brush, and soil perturbations. The well replicated, full-factorial nature of our design will allow us to assess whether any of these factors influence NLT as a main effect or in interaction. We will use repeated measures ANOVA to investigate how the effects of our treatments vary with time. We will use appropriate data transformations if necessary to conform with the assumptions of ANOVA. We will employ survival analyses to test whether the survival (measured as effective seed maturation) of each NLT depends on treatments.

II. Rhizome transplant study

Objectives: (1) To establish an effective means of transplanting NLT rhizomes to new sites, (2) To determine the conditions and habitats most conducive to successful transplantation and establishment, (3) To safely relocate the known 379 NLT plants in the landfill impact zone to a BWSWMA permanent easement site.

Predictions: (1) NLT rhizomes can be successfully excavated and relocated, (2) A combination of moderate brush management, herbaceous plant thinning and precipitation augmentation will be the treatments most effective at promoting successful transplantation of NLT rhizomes.

Methods: We will select 3 sites to conduct this transplantation experiment. Each site will be in BWSWMA permanent easement areas known to be conducive to the growth and persistence of NLT. Each site will be divided into 120 1m² plots and assigned a full-factorial treatment of (i.) woody brush management (60% reduction) or control, (ii.) herbaceous plant thinning (80% removal) or control, and (iii.) precipitation augmentation via bi-weekly watering of 3 gal/plot or control. Each full combination of treatments will be replicated 15 times resulting in a 3 site x 2 brush management x 2 herbaceous x 2 water x 15 replicates = 360 seedling transplants. We will transplant the rhizomes shortly before they are scheduled to be impacted by landfill activities (~ 2007-2008) and continue to collect data on them *in situ* prior to that time (see study **VI.** below). Additional NLT plants that are discovered within the landfill

impact zone will also be transplanted prior to 2008. Within each plot, we will measure NLT demographic characteristics (leaf number, leaf area and longevity, flower stalk height and longevity, number of flowers/seeds, herbivore damage etc.), NLT population dynamics (presence, plant density), and grassland community structure (plant species density and diversity). These treatments will be administered and plots will be monitored for a minimum of 3 years. Additional federal funding (*e.g.*, NSF LTREB) may be sought to sustain the project beyond this time period.

Analyses: We will use split-plot ANOVAs to determine whether transplant success (denoted by the presence of both NLT basal rosettes and flowering stalks) is increased by site choice, reduction of woody brush cover, reduction of herbaceous plant competition, and supplemental water additions. The well replicated, full-factorial nature of our design will allow us to assess whether any of these factors influence NLT transplants as a main effect or in interaction. We will use repeated measures ANOVA to investigate how the effects of our treatments vary with time. Appropriate data transformations will be performed if necessary to conform with the assumptions of ANOVA. We will employ survival analyses to test whether the survival (measured as effective seed maturation) of each NLT depends on treatments.

III. Laboratory seed germination study

Objectives: (1) Assess the optimal abiotic conditions necessary for NLT seed germination, (2) Determine if biological conditions such as seed dormancy can be experimentally manipulated, (3) Experimentally germinate large numbers of NLT seeds that can successfully survive future transplantation into field conditions (see experiment **IV.** below).

Predictions: (1) An optimal combination of abiotic conditions will be discovered that maximizes NLT seed germination, (2) Conditions that most closely approximate those experienced by NLT in field conditions will result in the greatest number of germinations, (3) Oscillations in light and temperature (as occur in field settings) are likely to be important triggers for breaking NLT seed dormancy, (4) the presence of smoke will not strongly influence germination.

Methods: We will collect as many seeds as possible from the BVSWMA site as well as other locales known to possess NLT plants. We will keep track of the location and parent plant data for each seed collected. Seeds will be stored in dark, dry conditions until it is determined that the flowering period for NLT has concluded for the season. At this time the seeds will be divided into eighteen full-factorial treatments and as many replications as can be achieved with our collection. The study will be performed in a controlled indoor environment with the seeds placed on agar plates. The experimental treatments will consist of a 3 light manipulations (constant high, constant low, oscillating) using commercial grow lamps, 3 temperature manipulations (constant high, constant low, oscillating) using horticulture seed germination mats, and a smoke treatment (present/absent) achieved by igniting a small amount of grass material and exposing the seeds to the smoke. The smoke treatment will be a single event occurring in the third week of the study while the light and temperature treatments will be initiated at the outset of the experiment and continued daily until it is determined that no further germination is likely to occur. All ungerminated seeds will be sacrificed using a tetrazolium viability test to assess their status. Successfully germinating seeds will be removed from agar and transplanted to a growing media in a growth chamber. Transplanted seedlings will be transferred to a different space for use in additional experiments.

Analyses: We will use ANOVA to assess the effects of the various treatments on seed germination. Collection site and parental data will be used as covariates if necessary in order to control for possible maternal effects. We will use appropriate data transformations if necessary to conform with the assumptions of ANOVA.

IV. Seedling field propagation study

Objectives: (1) To establish an effective means of transplanting newly germinated NLT seedlings to

new sites, (2) To determine the conditions and habitats most conducive to successful transplantation and establishment, (3) To complement and supplement the 379 NLT transplant relocation efforts from the landfill impact zone to a BVSWMA permanent easement site.

Predictions: (1) NLT seedlings can be successfully germinated, transplanted and established in field conditions, (2) A combination of moderate brush management, herbaceous plant thinning and precipitation augmentation will be the treatments most effective at promoting successful transplantation of NLT seedlings.

Methods: NLT seeds will be germinated on agar petri plates according to the methods developed by Kathie Parker and those determined to be most successful from the studies outlined above. New sprouts will be established in orchid growing media and grown in controlled greenhouse conditions for several weeks. Following the accumulation of adequate sample sizes, seedlings will gradually be exposed to outdoor conditions to promote “hardening off.” At this time we will proceed to transplant the seedlings in a series of experimental plots in the BVSWMA deed restricted areas. At a least three different sites within the deed restricted easement areas, we will establish a minimum of 64 1m² plots each receiving a NLT seedling transplant. Each plot containing a seedling transplant will be subjected to a full-factorial combination of (i.) brush management reduction by 60%, (ii.) herbaceous vegetation reduction by 80%, and/or (iii.) supplemental water addition via bi-weekly watering of 3 gal/plot or control. These treatments will be conducted throughout the growing season and the plots will be monitored for a minimum of 3 years. Each full combination of treatments will be replicated eight times resulting in 3 sites x 2 brush management x 2 herbaceous x 2 water x 8 replicates = 192 seedling transplants.

Analyses: We will use ANOVAs to determine whether the presence of both NLT basal rosettes and flowering stalks are increased by any of the experimental treatments. The well replicated, full-factorial nature of our design will allow us to assess whether any of these factors influence NLT as a main effect or in interaction. We will use repeated measures ANOVA to investigate how the effects of our treatments vary with time across the various deed restricted and we will use appropriate data transformations if necessary to conform with the assumptions of ANOVA.

. We will employ survival analyses to test whether the survival (measured as effective seed dispersal) of each NLT depends on treatments.

V. Controlled burn study

Objectives: (1) To assess whether the occurrence of burning as a range management technique inhibits or promotes successful NLT establishment and abundance. (2) To determine whether seasonality of fire treatment influences NLT establishment and abundance.

Predictions: (1) Fire will have both positive and negative effects on NLT establishment and abundance. Controlled burning will decrease woody encroachment and herbaceous plant competition thereby, increasing light levels and nutrient availability in ways that promote NLT establishment and abundance. However, burning will indiscriminately damage NLT basal rosettes and flowering stalks during certain periods of the growing season. As a result, (2) controlled burns will only encourage NLT establishment and abundance when conducted during times that fall between the senescence of basal rosettes and precede initiation of flowering. Consequently, these early summer time periods also coincide with times that burning will have the greatest negative impact on warm-season grasses and woody plant growth, the plant categories that have the greatest competitive suppression of NLT growth.

Methods: Six areas within the BVSWMA landfill impact area and deed restricted easement areas that are known to contain adequate densities of NLT plants will be selected (1 acre minimum) and three of these areas will be assigned controlled early summer burn management treatments. Early summer is perceived to be the optimal time to burn for NLT conservation because (i.) the majority of basal rosette senescence will have occurred, (ii.) reproductive flowering stalks likely will not have emerged, and (iii.)

negative effects on warm-season grasses and woody plants will be greatest. Within each plot a 200m² plot will be established and surveyed for NLT basal rosettes and flowering stalks throughout the growing season. Within each plot, we will measure NLT demographic characteristics (leaf number, leaf area and longevity, flower stalk height and longevity, number of flowers/seeds, herbivore damage etc.), NLT population dynamics (plant density and distribution), and grassland community structure (plant species density and diversity). These treatments will be administered and plots will be monitored for a minimum of 3 years. Cessation of all controlled burn studies will occur well before the initiation of active waste transfer to the landfill impact zone.

Analyses: We will use two-way ANOVA to determine whether the presence of both NLT basal rosettes and flowering stalks are increased and whether any demographic, population or community characteristics are influenced by control burning treatments. Data will be transformed if necessary to conform with the assumptions of ANOVA.

VI. Continued field monitoring and observational data collection

Objectives: (1) gain additional insights into the population demography, density and distribution of NLT across multiple spatial and temporal scales, (2) promote conservation of the federally endangered NLT through a better understanding of the plant's natural history, (3) collect seeds for studies described in experiments **I. - V.** above.

Predictions: (1) Biotic characteristics associated with NLT density and distribution will be elucidated, (2) Abiotic conditions conducive to NLT presence will also be discovered.

Methods: We will use frequent field surveys to establish the prevalence of rosette/flower stalk correlations and attempt to correlate abiotic conditions with presence of NLT. We will measure a suite of demographic characteristics (leaf number, leaf area and longevity, flower stalk height and longevity, number of flowers/seeds, herbivore damage etc.), population dynamics (plant density), and community structure (plant species density and diversity) for long-term monitoring.

Analyses: We will use ordination, regression and spatial statistical techniques to determine whether particular biotic and abiotic variables can be utilized to increase predictability of NLT density, distribution, growth and reproductive output.

¹ Background information obtained from BVSWMA NLT Adaptive Management Plan submitted to the USFWS by James Thomas of HDR, Inc.

Exhibit D

PROJECT PROPOSED BUDGET

BUDGET JUSTIFICATION - TEXAS A&M UNIVERSITY

Senior personnel:

Dr. Fred Smeins is an internationally recognized researcher in Texas grassland ecology who has considerable expertise with the natural history of the federally endangered Navasota Ladies Tresses (NLT), *Spiranthes parksii*. He will spend time in the field assisting and advising graduate students and he will also be involved in the data analysis, paper writing and other means of data dissemination. However, he is not requesting any salary in order to keep the budget as modest as possible.

Dr. William Rogers is a new faculty member with a strong publication record and research background in plant ecology. He will be responsible for participating and directing a significant portion of the on-going field data collections in addition to conceptualizing, establishing and initiating the proposed experiments. He will also be advising graduate and undergraduate students and will be heavily involved in the management and analysis of the data, paper writing and other means of data dissemination. As a new faculty member on a 9-month academic appointment, he is requesting the equivalent of one month of summer salary during the first two years of the project when the demands for initiation and oversight of the studies are greatest. His involvement in the project will be dispersed throughout the calendar year and will likely exceed the single month of compensation he is requesting.

Other Personnel:

Graduate students: Graduate assistants are critical to the success of this project. We are requesting annual support for two graduate students. This work will be labor intensive and will require these students to be heavily committed to the field studies proposed in this project during the summer months, as well as, throughout the academic year. Note that we are not requesting any support for post-docs or technicians. This is partly because graduate students involved in their own research are an economical and rich source of additional ideas.

Undergraduate students: Running these experiments will be labor intensive. We are requesting support for a two undergraduate students to assist the graduate students during the growing season. All salaries are increased by 3% per year.

Fringe benefits:

calculated per Texas A&M University requirements

Travel:

We have included funds for approximately 12 trips a year to the field site (20 miles * \$0.485 / mile * 62 trips). Travel costs are not increased on a yearly basis.

Materials and supplies:

We have included \$2000 in the first year for miscellaneous equipment expenses (meter tapes, marking flags, shovels, GPS units, paper bags, computer batteries, meter sticks, stakes, microclimate data recorders, etc.). In the second thru and fifth years, we have reduced this amount to \$1000 per year.

Publication costs:

We have included \$500 in the fourth and fifth years of the project for page charges in peer-reviewed scientific journals.

Indirect costs:

Current Texas A&M University on-campus IDC rate is 45.5%, but the Director of Contracts and

Grants Office at the Texas Agricultural Experiment Station has agreed to cap the IDC rate at 17.5%, thereby significantly reducing the projected costs of these studies.

In Kind Assistance Expectations:

- Fence materials and construction assistance for erecting exclosures
- Controlled burning assistance (mowing fire breaks, equipment loans, field assistance)
- Brush management (field assistance, equipment loans [eg, mowers, backhoe])

Budget Projections for fiscal years 2006-2010: (using 17.5% IDC)

Dr. Rogers							
item	duration	yr1	yr2	yr3	yr4	yr5	total
PI	1 mo	7500	7725	x	x	x	15225
grad	12 mo	20000	20600	21218	21855	22511	106184
ugrads	3 mo	4000	4120	4244	4371	4502	21237
fringe		5853	5948	4370	4434	4500	25105
travel		300	300	300	300	300	1500
materials		1000	500	500	500	500	3000
publication					500	500	1000
DIRECT		\$38,653	\$39,193	\$30,632	\$31,960	\$32,813	\$173,251
IDC (17.5%)		\$6,764	\$6,859	\$5,361	\$5,593	\$5,742	\$30,319
SUM		\$45,417	\$46,052	\$35,993	\$37,553	\$38,555	\$203,570
Dr. Smeins							
item	time	yr1	yr2	yr3	yr4	yr5	total
PI		x	x	x	x	x	x
grad	12 mo	20000	20600	21218	21855	22511	106184
ugrads	3 mo	4000	4120	4244	4371	4502	21237
fringe		4248	4308	4370	4434	4500	21860
travel		300	300	300	300	300	1500
materials		1000	500	500	500	500	3000
DIRECT		\$29,548	\$29,828	\$30,632	\$31,460	\$32,313	\$153,781
IDC (17.5%)		\$5,171	\$5,220	\$5,361	\$5,505	\$5,655	\$26,912
SUM		\$34,719	\$35,048	\$35,993	\$36,965	\$37,967	\$180,692
		2006	2007	2008	2009	2010	Total
combined direct		\$68,201	\$69,021	\$61,264	\$63,420	\$65,125	\$327,031
combined indirect		\$11,935	\$12,079	\$10,721	\$11,098	\$11,397	\$57,230
combined total		\$80,136	\$81,100	\$71,985	\$74,518	\$76,522	\$384,262

Exhibit E

INSURANCE



The Texas A&M University System

Office of the Treasurer

Environmental Health and Safety • Risk Management • Treasury Services
A&M System Building, Suite 1120 • 200 Technology Way • College Station, TX 77845-3424
PH: 979-458-6330 • Fax 979-458-6247 • <http://tamusystem.tamu.edu>

October 23, 2003

To Whom It May Concern:

We have been requested by Texas Agricultural Experiment Station to provide you with information regarding insurance provisions of The Texas A&M University System:

The Texas A&M University System is self-insured for Workers' Compensation Insurance provided by Chapter 502 of the Texas Labor Code. Benefits are provided in accordance with the provisions of that law.

The Texas A&M University System is insured under an automobile liability policy with a bodily injury limit of \$250,000 for each person, \$500,000 for each accident and a property damage limit of \$100,000 each accident for all owned vehicles.

The liability of The Texas A&M University System for personal injury and property damage is controlled by the Texas Tort Claims Act, V.T.C.A. Civil Practice and Remedies Code, Chapter 101, Section 101.021. The limits of liability are \$250,000 for each person, \$500,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property. Following this limited exposure, the System as a state agency, is protected by the doctrine of sovereign immunity, and as such, is self-insured up to the aforementioned limits.

We trust the above information will provide the necessary insurance information needed by your organization. If we can be of any further assistance, please let me know.

Very truly yours,

Kathy R. Miller
Audit and Central Support Manager

xc: Mark Andrews, TAES

Universities

Prairie View A&M University • Tarleton State University • Texas A&M International University • Texas A&M University • Texas A&M University at Galveston • Texas A&M University-Commerce
Texas A&M University-Corpus Christi • Texas A&M University-Kingsville • Texas A&M University-Texarkana • West Texas A&M University

Agencies

Texas Agricultural Experiment Station • Texas Cooperative Extension • Texas Engineering Experiment Station • Texas Engineering Extension Service • Texas Forest Service
Texas Transportation Institute • Texas Veterinary Medical Diagnostic Laboratory • Texas Wildlife Damage Management Service

**March 23, 2006
Regular Agenda
Platting Process for Section 12 of The Glade Subdivision**

To: Glenn Brown, City Manager

From: Joey Dunn, Director of Planning & Development Services

Agenda Caption: Presentation, possible action, and discussion regarding a briefing on the platting process for single family homes currently under construction in Section 12 of the Glade Subdivision, located on Southwest Parkway near Southwood Drive.

Recommendation(s): N/A

Summary: Staff will provide an update to the Council regarding a recently approved residential subdivision plat for Section 12 of The Glade Subdivision, located on a formerly vacant in-fill property along Southwest Parkway, near Southwood Drive (refer to attached maps).

Already zoned for single family homes (R-1), development of new homes on this property has raised concerns in the surrounding neighborhood regarding its potential for student-oriented housing, relative to the original developer's statements made during a public hearing held before the Planning Zoning Commission on March 3, 2005. The preliminary plat was approved at that meeting, then the final plat was later approved on August 4, 2005.

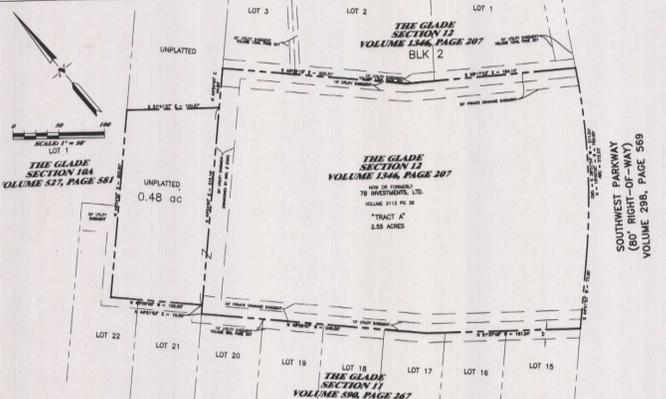
Staff will also provide an overview of the city's ministerial authority under state law to regulate subdivision plats, and discuss possible ways in the future to address standards applicable to single family home construction.

Budget & Financial Summary: N/A

Attachments:

1. Aerial Land Use Plan
2. Filed Subdivision Plat
3. Background Information
4. Sections 212.009 and 212.010 of the Texas Local Government Code





- SECTION NOTES**
1. BEARS OF BEARINGS AS PER PLAT OF THE GLADE SECTION 12 AS DEPICTED IN VOLUME 1346, PAGE 207 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS.
 2. ALL LOT CORNERS ARE MONUMENTED WITH CAPPED 1/2" IRON RODS SET UNLESS OTHERWISE NOTED.
 3. THIS TRACT DOES NOT LIE WITHIN THE 100-YEAR FLOOD PLAIN AS COMPREHENSIVELY DEPICTED BY FEMA FIRM COUNTY PANEL NO. 88404H0146, DATED 03-1998.
 4. DETENTION BASIN TO BE MAINTAINED BY PROPERTY OWNERS ASSOCIATION.
 5. ALL DISTANCES ALONG CURVES ARE ARC LENGTHS.
 6. THE SOUTHWEST LINE OF THE RIGHT-OF-WAY DESIGNATION TRACT IS NOT MONUMENTED.
 7. BEARINGS & DISTANCES ARE RECORD UNLESS NOTED OTHERWISE.

REC. BK. 993 PA. 0071182 DE 7050 275

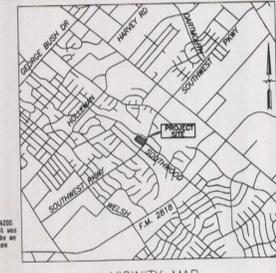
Filed for Record at
BRAZOS COUNTY
On Dec 05/2005 at 03:27P

Doc. No. 0091182

Account 58.00

Rec'd. No. 280070

City Clerk



APPROVAL OF PLANNING AND ZONING COMMISSION

City Secretary: *[Signature]*

CERTIFICATE OF THE COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, **DAVID C. PERRY**, County Clerk, do hereby certify that this instrument was filed in the public records of this county on the 5th day of August 2005 at 3:27 PM. The instrument is a plat of a subdivision of land in the City of College Station, Texas, in Volume 1346, Page 207.

Witness my hand and the seal of the County Clerk's Office at College Station, Texas, this 5th day of August 2005.

By: *[Signature]*
County Clerk

CURVE TABLE

CURVE	RADIUS	DELTA	TANGENT LENGTH	CHORD BEING T.C.
1	100.00'	113.10°	143.50'	157.08'
2	100.00'	113.10°	143.50'	157.08'
3	100.00'	113.10°	143.50'	157.08'
4	100.00'	113.10°	143.50'	157.08'
5	100.00'	113.10°	143.50'	157.08'

STATE OF TEXAS
COUNTY OF BRAZOS

FILED FOR RECORD
ON AUGUST 05, 2005 AT 3:27 PM
BY *[Signature]*
COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, **DAVID C. PERRY**, County Clerk, do hereby certify that this instrument was filed in the public records of this county on the 5th day of August 2005 at 3:27 PM. The instrument is a plat of a subdivision of land in the City of College Station, Texas, in Volume 1346, Page 207.

Witness my hand and the seal of the County Clerk's Office at College Station, Texas, this 5th day of August 2005.

By: *[Signature]*
County Clerk

CERTIFICATE OF OWNERSHIP AND DESIGNATION

STATE OF TEXAS
COUNTY OF BRAZOS

I, **David C. Perry**, County Clerk, do hereby certify that the undersigned authority, on this day personally appeared **David C. Perry**, County Clerk, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Witness my hand and seal on this 5th day of August 2005.

By: *[Signature]*
County Clerk

CERTIFICATE OF SURVEY

STATE OF TEXAS
COUNTY OF BRAZOS

I, **David C. Perry**, Registered Professional Land Surveyor No. 5678, do hereby certify that I have surveyed the above described land and that the same is as shown on the plat of a subdivision of land in the City of College Station, Texas, in Volume 1346, Page 207.

Witness my hand and seal on this 5th day of August 2005.

By: *[Signature]*
County Clerk

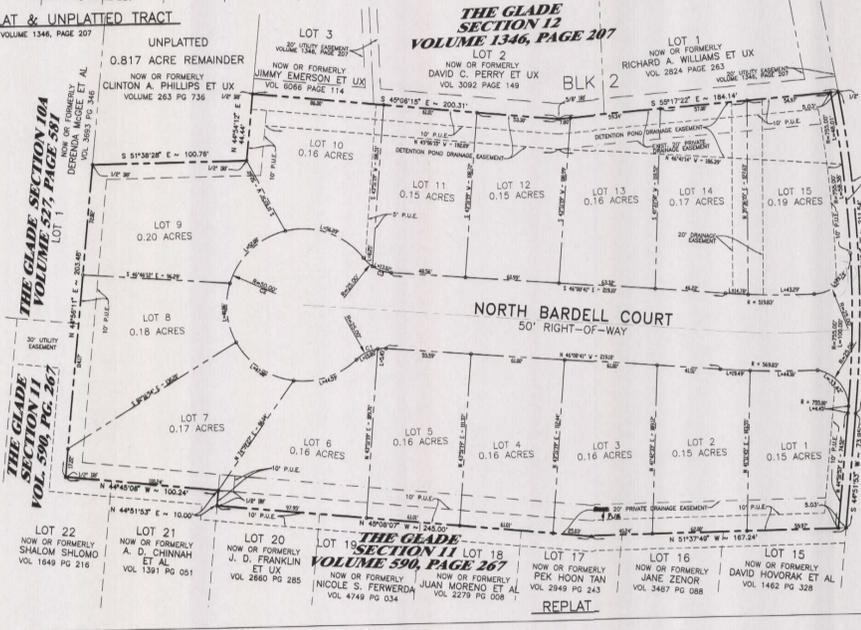
CERTIFICATE OF CITY ENGINEER

STATE OF TEXAS
COUNTY OF BRAZOS

I, **David C. Perry**, City Engineer of the City of College Station, Texas, hereby certify that the above described land is as shown on the plat of a subdivision of land in the City of College Station, Texas, in Volume 1346, Page 207.

Witness my hand and seal on this 5th day of August 2005.

By: *[Signature]*
City Engineer



SOUTHWEST PARKWAY
(VOLUME 298, PAGE 569)
(80' RIGHT-OF-WAY)
PLUS 5' DEDICATED BY THIS PLAT

STATE OF TEXAS
COUNTY OF BRAZOS

FILED FOR RECORD
ON AUGUST 05, 2005 AT 3:27 PM
BY *[Signature]*
COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, **DAVID C. PERRY**, County Clerk, do hereby certify that this instrument was filed in the public records of this county on the 5th day of August 2005 at 3:27 PM. The instrument is a plat of a subdivision of land in the City of College Station, Texas, in Volume 1346, Page 207.

Witness my hand and the seal of the County Clerk's Office at College Station, Texas, this 5th day of August 2005.

By: *[Signature]*
County Clerk

REPORT OF

TRACT A, THE GLADE SECTION TWELVE
TO CREATE
0.817 ACRE TRACT

TRACT A-R, THE GLADE SECTION TWELVE
TO CREATE
13.03 ACRES

MUNICIPAL DEVELOPMENT GROUP
FILE NUMBER
000005-3799
SHEET 1 OF 1

The Glade Section 12

A final plat was approved on August 4, 2005 that included a replat of The Glade Section 12. Because the plat included a replat of residential property, all property owners within 200 feet were notified and a public hearing was held. While there was an opportunity for public comment, it is still a plat and essentially the P&Z was obligated to approve it because it met the Subdivision Regulations.

The plat is in compliance with the approved Preliminary Plat and the Subdivision Regulations and staff recommended approval at the meeting. The new plat consists of 15 lots on 3.03 acres. The property is shown on the Land Use Plan as Single Family Medium Density (3-6 dwelling units / acre) and the plat is in compliance with the plan (4.9 dwelling units / acre). The property has always been zoned for single family development. A preliminary plat, which proposed 17 lots in a similar configuration, was denied for this property in early 2004. A Preliminary Plat showing the same configuration proposed with this Final Plat was approved earlier in 2005.

Prior to the public hearing staff received many phone calls in opposition. The concerns related to the current traffic congestion on Southwest Parkway, the potential for student housing, and aesthetics of the potential development.

Fred Bayliss was the applicant (property owner) for this project. During the public hearing, Mr. Bayliss represented that Keith Ellis would be the homebuilder for this project and that the homes would have garages. Two realtors with Century 21 (Linda Stribbling & Clay Lee) also spoke at the public hearing and indicated that the homes would be upscale and clearly targeted toward families. Staff understands that a representative for the property owner visited with some of the surrounding neighbors and showed them building plans and elevations of proposed homes for this subdivision. This may have served to put some residents' minds at ease prior to the public hearing.

Blake Cathey met with staff on January 5, 2006, at his request, to give us a "heads-up" on his plans for The Glade. He stated that he and Keith Ellis originally intended to develop the homes in the subdivision together, but because of the large detention area (shown on the plat), 2 of the 15 lots would not be suitable for the size homes that were intended. Mr. Cathey stated that Mr. Ellis had decided not to pursue the project and that he intended to construct student housing and/or starter homes that would include shared driveways, rear parking, and no garages. Staff suggested several alternatives to his proposal, including ways to reduce setbacks, etc. so that the homes that were originally planned could be built. The first building plans for the homes now under construction were submitted the next day. As of February 23, 2006, the City has issued six building permits for the project. Everything under construction complies with all applicable ordinances, but may not be consistent with what was represented by the property owner and others at the public hearing.

In a follow-up phone conversation with Mr. Cathey on 23 February 2006, Mr. Cathy stated that he had an interest in making sure the properties were maintained after construction and occupancy and intended to retain ownership of 50% or more of the properties and establish a Home Owner's Association. Mr. Cathy reiterated that he had originally planned to construct homes as described at the public hearing and stated that he had invested over \$8,000.00 in architectural fees toward that effort.

P&DS staff also consulted with the City's Legal Department to see if anything could be done to address the construction inconsistency issue. However, since the homes under construction comply with applicable codes and ordinances, Legal advised P&DS staff that nothing could be done to address the differences between actual construction and what was represented at the public hearing.

**Platting Authority
Texas Local Government Code
Sections 212.009, 212.010**

§ 212.009. APPROVAL PROCEDURE.

- (a) The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that period.
- (b) If an ordinance requires that a plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall act on the plat within 30 days after the date the plat is approved by the planning commission or is considered approved by the inaction of the commission. A plat is considered approved by the governing body unless it is disapproved within that period.
- (c) If a plat is approved, the municipal authority giving the approval shall endorse the plat with a certificate indicating the approval. The certificate must be signed by:
 - (1) the authority's presiding officer and attested by the authority's secretary; or
 - (2) a majority of the members of the authority.
- (d) If the municipal authority responsible for approving plats fails to act on a plat within the prescribed period, the authority on request shall issue a certificate stating the date the plat was filed and that the authority failed to act on the plat within the period. The certificate is effective in place of the endorsement required by Subsection (c).
- (e) The municipal authority responsible for approving plats shall maintain a record of each application made to the authority and the authority's action taken on it. On request of an owner of an affected tract, the authority shall certify the reasons for the action taken on an application.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 212.010. STANDARDS FOR APPROVAL.

- (a) The municipal authority responsible for approving plats shall approve a plat if:
 - (1) it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (2) it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;
 - (3) a bond required under Section 212.0106, if applicable, is filed with the municipality; and
 - (4) it conforms to any rules adopted under Section 212.002.
- (b) However, the municipal authority responsible for approving plats may not approve a plat unless the plat and other documents have been prepared as required by Section 212.0105, if applicable.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, § 3.01, eff. Sept. 1, 1989.

**March 23, 2006
Regular Agenda
Northgate Ordinance**

To: Glenn Brown, City Manager

From: Joey Dunn, Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on consideration of an ordinance amending Chapter 12, "Unified Development Ordinance" (UDO) of the Code of Ordinances of the City of College Station, consisting of regulations applicable to Northgate Zoning Districts, including NG-1 Core Northgate, NG-2 Transitional Northgate, and NG-3 Residential Northgate.

Recommendation(s): On March 2, 2006, the Planning and Zoning Commission recommended approval by a vote of 3-2 (refer to detailed draft minutes, attached). The Commission's approval was conditioned upon one verbiage change in Article 9.3.A, to increase maximum allowable building enlargements and alterations from twenty five percent (25%) to fifty percent (50%), before whole building plots must come into compliance with the requirements of the UDO for Northgate Districts. Staff also recommends approval of this ordinance, with the condition above as recommended by the Planning & Zoning Commission.

Summary: In 2003, the City Council adopted the Northgate Redevelopment Implementation Plan, which envisions a unique, pedestrian-friendly, dense urban environment. The sections of the UDO that regulate aspects of the Northgate zoning districts are being updated to help encourage development and redevelopment, moving the area closer to traditional neighborhood development, as envisioned in the adopted Plan (entire Plan can be viewed at www.cstx.gov/docs/real_estate5b.pdf).

This ordinance would establish new standards for the Northgate area, at a vital time ahead of what we anticipate to be significant large scale high density development and redevelopment projects. This ordinance is similar to a zoning overlay district, in that it addresses aesthetics, building materials and orientation, site design, parking, landscaping, street trees, sidewalks, signage, and other standards to promote a unique urban pedestrian-oriented environment.

This proposed ordinance is the result of staff preparation and public input gathered since 2004. Staff prepared a general list of ordinance concepts in coordination with the Design Review Board (DRB) that were presented at three public forums held in Northgate with merchants and property owners in January 2005. Staff also presented these concepts to the Parks Board, Planning & Zoning Commission, and City Council. Then in August 2005, a first draft of the ordinance was released to the public for review, followed by another public meeting on August 31, 2005. A consultant, TIP Strategies, Inc., was hired in September to review the ordinance as well. The Planning & Zoning Commission reviewed the ordinance on January 5, January 19, and February 16, then recommended to approve it on March 2, 2006.

Budget & Financial Summary: N/A

Attachments:

1. Northgate Ordinance List of Proposed Changes
2. Northgate Map
3. Northgate Ordinance Process Timeline 2004-present
4. Report from TIP Strategies, Inc.
5. Draft P&Z Minutes from March 2, 2006 Regular Meeting
6. Proposed Ordinance

CHANGES PROPOSED TO THE NORTHGATE ORDINANCE

Article 2 Development Review Bodies

- § Adds the ability of the Planning and Zoning Commission to hear appeals from the Administrator's denial to amend the color palette for Northgate roof colors.
- § Separates out the Design Review Board and Administrator's review processes for the Wolf Pen Creek design district review processes and those proposed for Northgate, and adds those processes to the table summarizing review authority.

Article 3 Development Review Procedures

- § Clarifies that the development processes for design districts will only apply to Wolf Pen Creek.

Article 4 Zoning Districts

- § Renames NG-2 Commercial Northgate "NG-2 Transitional Northgate" to reflect its "suburban-to-urban" purpose.

Article 5 District Purpose Statements and Supplemental Standards

- § Adds use standards that will encourage pedestrian-friendly uses along the main corridors.
- § Adds use standards that will encourage buildings with multiple tenants and/or mix of uses.
- § Grandfathers existing drive-thru windows in NG-2 Transitional Northgate.
- § Identifies the properties listed as medium or high priority in the Northgate Historic Resources Survey and includes specific standards for the rehabilitation of these properties.
- § Adds design standards that mirror the Non-Residential Architectural Standards that apply elsewhere in town, but makes the standards more sensitive to the pedestrian scale and allows for more flexibility in building materials and colors.
- § Sets standards for off-street parking that are less stringent than those for other zoning districts.
- § Clarifies sidewalk and landscape/streetscape requirements.
- § Includes screening requirements for dumpsters, mechanical equipment, and detention ponds.
- § Allows for more creative signage through the use of hanging signs and projection signs.
- § Allows for low profile signage in NG-2.
- § Changes the requirements for outdoor storage and display to allow for sales/displays on sidewalks but prohibits outdoor storage.
- § Provides a specific list of standards to which the Design Review Board may consider waivers, and provides guidance for those decisions.

- § Removes the requirement for a maximum setback from a right-of-way and creates a maximum setback from the back of curb, and adds a minimum 2-story height and minimum floor to area ratio for all Northgate districts.

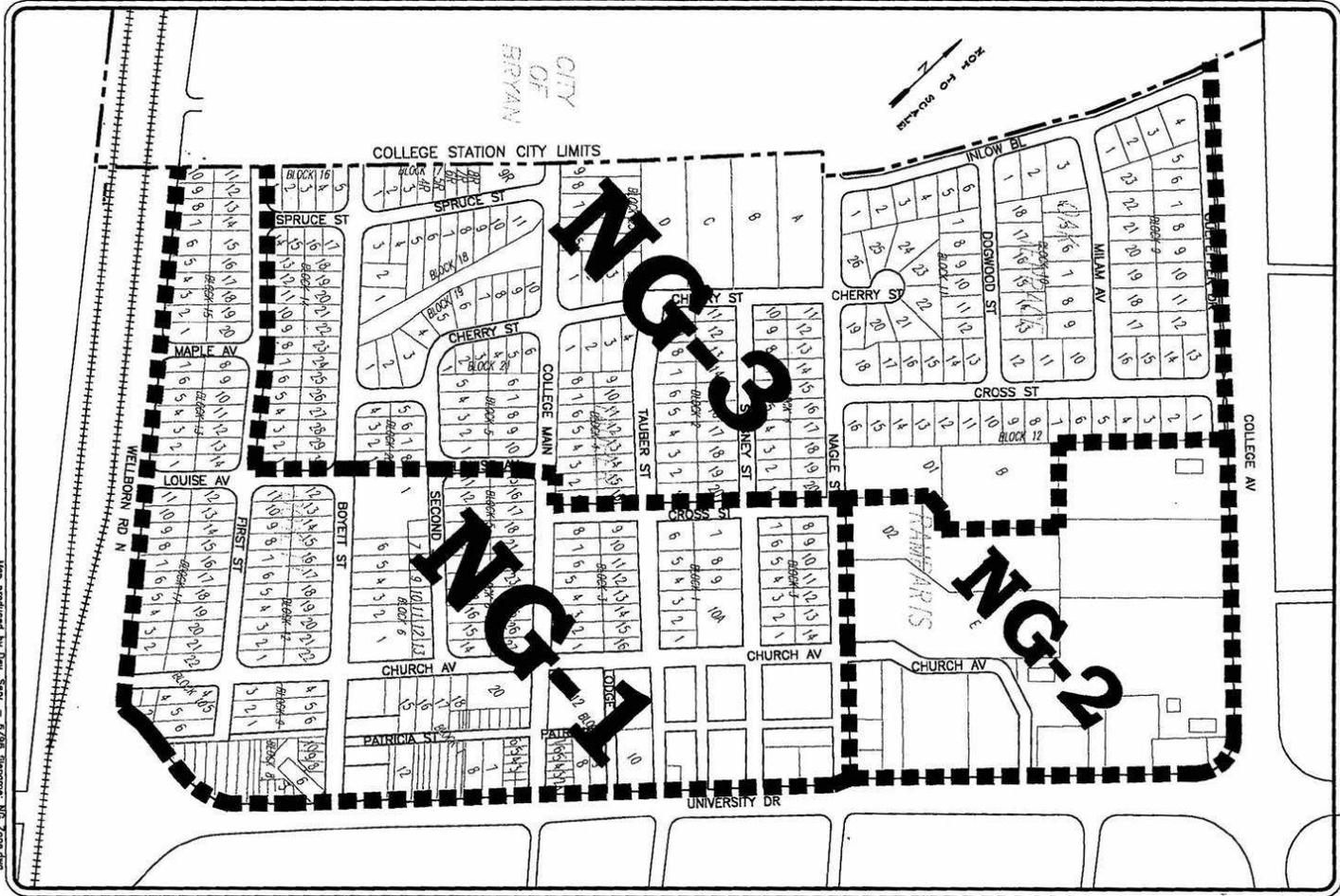
Article 6 Zoning Districts

- § Allows drive-in/thru windows in NG-2 with specific use standards.
- § Removes fuel sales as a permitted use with specific use standards in NG-2.
- § Allows outdoor health clubs/sports facilities with specific use standards in NG-1.
- § Changes parking as a primary use from a conditional use permit in NG-2 to a use permitted with specific use standards.
- § Allows radio/TV station/studios in NG-2 with specific use standards.
- § Removes theaters as conditional uses in NG-3 and allows them by right.

Article 6 Nonconforming Structures

- § Clarifies the point (50 percent, as proposed by the P&Z) when changes to an existing building or buildings will require the whole building plot to come into compliance with the ordinance.

NORTHGATE ZONING DISTRICTS



Map produced by Dev. Serv. - 6/28/98 filename: NS_Zoning

Northgate Process Timeline 2004-Present

2004	
October - December	Discussions with DRB (10/18/04, 11/12/04, and 12/10/04)
2005	
January	Public meetings over ordinance concepts (1/12/05, 1/14/05, and 1/18/05)
	Discussion with DRB (1/28/05)
February	Joint DRB/Parks Board meeting (2/11/05)
February - August	Staff meetings to draft ordinance (2/05 – 8/05)
August	Process discussed with City Council (8/8/05)
	Draft ordinance released to public (8/17/05)
	Public meeting over draft ordinance (8/31/05)
September	Staff meetings to make draft changes
September - October	Consultant review of draft
October	Northgate ordinance consolidated into UDO Annual Review
November	UDO draft ordinance released to public (11/4/05)
December	P&Z and City Council Joint Workshop over the UDO Annual Review (12/14/05)
2006	
January	P&Z UDO Annual Review public hearing (tabled) (1/5/06)
	Northgate ordinance consideration separated from other UDO issues (1/19/06)
February	P&Z Workshop (2/16/06)
March	P&Z Regular Meeting – P&Z recommended ordinance (3/2/06)
	City Council Regular Meeting – consider Ordinance (3/23/06)



INTRODUCTION

TIP Strategies Inc. has been engaged by the City of College Station to review and assess the Northgate Redevelopment Ordinance, in the context of implementing the Northgate Redevelopment Plan, and to review for implementation issues that may or may not have been considered.

In general, the Plan and Ordinance are very good. TIP offers a few points that should deserve more attention. A summary of TIP's comments is provided below.

Overview

Many cities and universities across the country have embraced a denser, pedestrian-oriented, live/work/play plan for areas surrounding universities. The Northgate Redevelopment Plan lays out a clear and bold vision for a similar area immediately north of and adjacent to the Texas A&M campus. If successfully implemented, this district can yield a thriving area in College Station that will have many benefits to the community and university including a higher tax base and increased sales tax.

Indirect impacts of this type of a redevelopment strategy can yield a greater result. Studies have shown that creating a true live/work/play environment around a university results in a thriving place for young professionals, which often leads to increased entrepreneurship and a higher rate of retention of young professionals upon graduation from the university. Providing more informal spaces, such as coffee shops, will encourage more networking among entrepreneurs and can result in a healthy entrepreneurial climate. Students are also more interested in remaining in the community where they attended college when it is a thriving environment to live, work and play.

Assessment of Article 5.6-B – Northgate Districts

The Northgate Redevelopment District is a good idea for College Station. The Northgate Redevelopment Ordinance is clear and concise, and should stimulate redevelopment in the district. The three districts within Northgate (NG-1, NG-2 and NG-3) are distinct and clearly represent different purposes for Northgate. The Ordinance also illustrates the pedestrian, bicycle and mixed-use intent of the Redevelopment Plan. In our opinion, the points below are the only areas that deserve additional consideration:

- Graphics – It is noted that the City intends on adding graphics throughout the ordinance, but TIP cannot stress enough the importance of graphics so that users/developers may better understand the intent of certain provisions of the ordinance. The Urban Land Institute and the American Planning Association offer several resources through their product catalog that should be useful. Larger planning firms such as Fregonese & Calthorpe have an extensive library of graphics and pictures that could also be purchased. It may also be helpful to engage a local engineering firm to develop graphics that are specific to the ordinance. Using a local firm will give the City more feedback on how aspects of the ordinance could be implemented. Specific areas for graphic/illustration/image insertions include throughout the following sections: Building Design Standards, Off-Street Parking Standards, Sidewalk Standards, Landscape and Streetscape Standards, Sign Standards, and Outside Storage and Display Standards. You can never use too many graphics to illustrate a point.



City of College Station - Northgate Redevelopment Ordinance

- Shower stalls – The installation of shower stalls in non-residential areas will serve as a stimulus to employees who may wish to bike to work. The City could add a provision in the ordinance that grants additional density for the installation of shower stalls for employee use.
- Sidewalk benches - It may be more appropriate and in the long-term more advantageous from an aesthetic perspective, to have the City or Management District develop and maintain all sidewalks, including the installation of landscaping, benches, street lighting, and bicycle racks. This would take the burden off the landowner/developer of installing some of this and allow for a more uniform look throughout the district.
- Detention Ponds – While it is understandable that the City would require on-site detention, this requirement will slow the process of infill development. If possible, waive the detention requirements and instead assess a fee-in-lieu of to be used to upgrade the drainage system. Our understanding is that the City is currently considering the feasibility of waiving detention requirements for projects less than 2 acres. This would certainly address this issue for infill development.
- Outdoor café-style seating – In certain areas of Northgate, it may be advantageous to allow and/or encourage outdoor seating. Additionally, it may be worth considering the allowance of garage-style windows (which can be lifted up during hours of operation) that face the ROW to create an “open-air” feeling in restaurants.

Implementation Issues Related to Northgate District

The Northgate Redevelopment Implementation Plan is thorough in its approach to implementing the vision for this area of College Station. It is important to continually ask the question “If not for the Northgate District Redevelopment Ordinance and the Implementation Plan, what type of infill development would occur?”

Many cities prefer a carrot approach to stimulate redevelopment by offering density bonuses, decreased setbacks, and similar incentives. College Station’s approach to stimulate redevelopment is somewhat different. The redevelopment ordinance may not be enough to stimulate the infill development. With this in mind, the following points should be considered:

- Public spaces - The quotes from Robert Gibbs are on target and should be considered during implementation. Specifically, public space for outdoor concerts, public art, and public parking lots should all be a part of the Northgate District.
- Management – TIP understands that some of the landowners within the Northgate area are interested in a Management District, but that at this time it has not been formed. The City should understand that if a separate Management District is not created, the City should be prepared from a resource perspective to maintain all public places and rights-of-way, and to implement several of the improvement projects mentioned in the Implementation Plan. TIP understands that millions of dollars have been allocated for specific improvements including sidewalks and infrastructure, yet maintenance and uniform design is very important to the success of the Plan.



City of College Station - Northgate Redevelopment Ordinance

- Parking – TIP understands that several parking garages are under construction or consideration. It may be worth considering another parking garage in other areas of the district, based upon projected parking demand. However, on-street parking, where appropriate, should be mandated for the simple reason that most people like to park in sight of their destination. On-street parking also creates another buffer from the pedestrian and vehicular traffic. On-street parking should be parallel – not at-angle or perpendicular. These latter types of on-street parking types create traffic nuisances.
- Professional Services – It would be worthwhile for the City to incentivize and recruit professional service firms to locate in this District. These employees will frequent other businesses during office hours and lunch hours, and will ultimately help these other businesses to succeed. The indirect effect is that additional pedestrian traffic from professionals will give the appearance of a thriving area.
- Incentives – The Chapter 380 grants that the City is willing to use for land cost buy-downs will prove to be very useful in implementation. The other types of incentives such as fee waivers can also be helpful. The City may want to consider fee-simple purchases of certain areas so that the City can then (through a competitive bidding process) offer the land to private developers with specific terms set forth by the City. Infrastructure improvements (see on-site drainage requirements below) will also stimulate investment.
- Gentrification – Although property values remain relatively low in this area (\$15-20 per square foot), results of redevelopment efforts across the country illustrate that as a community experiences success with redevelopment, property values increase substantially and housing for low to middle income households becomes out of reach. It would be worthwhile for the City to research different programs that can sustain a certain amount of affordable housing. One such method would be to incentivize affordable housing development if in a mixed use development 25% of the new units are guaranteed for households making less than 80% of the median household income (or below). There are several programs throughout Texas and the U.S. that could be useful for College Station including housing land trusts, non-profit affordable housing associations, and incentive programs for private developers to provide some amount of affordable housing. This may not seem like an issue to immediately address, but being proactive will ensure that individuals starting their career and fresh out of college can continue to live and work in College Station.





MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, March 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 Dennis Christiansen, Bill Davis, John Nichols, and Ken Reynolds.

COMMISSIONERS ABSENT: Marsha Sanford and Harold Strong.

CITY COUNCIL MEMBERS PRESENT: None.

PLANNING & DEVELOPMENT SERVICES STAFF PRESENT: Staff Planners Lindsay Boyer, Crissy Hartl, and Jennifer Reeves, Senior Planners Jennifer Prochazka and Trey Fletcher, Senior Assistant City Engineer Alan Gibbs, Graduate Civil Engineer Carol Cotter, Transportation Planner Ken Fogle, Director Joey Dunn, Assistant Director Lance Simms, Development Coordinator Bridgette George and Staff Assistants Jessica Kramer and Deborah Grace.

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 7:02 p.m.

9. Public hearing, presentation, possible action, and discussion on an ordinance amendment to the Unified Development Ordinance regarding Northgate zoning districts. (JD)

Joey Dunn, Director, gave a presentation on this item. Mr. Dunn summarized the zoning boundaries of Northgate. He stated that NG1 was the historic Northgate, NG2 was the commercial Northgate or the transitional Northgate, and NG3 is the higher density residential portion of Northgate. Mr. Dunn spoke in reference to the public input process. He stated that in the first part of 2005, there were a series of public hearings held in Northgate at Traditions Dorm. The Design Review Board also met at that time to look at a list of standards. In February 2005 it was reviewed by the Parks Board and in August 2005, it was reviewed with the City Council. In November 2005 it was merged

into the UDO annual update in order to try and adopt it by January 1, 2006. This did not occur, that is why we have the schedule that we now have before us. Mr. Dunn stated that the draft that the Commissioners had in their packets was unveiled and available for public access seven months ago.

Mr. Dunn reviewed the proposed changes for the Ordinance Amendment for Northgate. Some of these changes included information from the TIP Strategies, Inc., report. Other changes reviewed are as follows:

- ✓ Site plan approval process
- ✓ Additional use standards
- ✓ Standards for historic properties
- ✓ Building design standards
- ✓ Parking standards
- ✓ Larger sidewalks
- ✓ Urban streetscape
- ✓ More signage options
- ✓ Regulate outside storage and display
- ✓ Waiver process

Larry Haskins, 1700 George Bush Drive, College Station, Texas. Mr. Haskins presentation is to represent a client, Culpepper Family Limited Partnership. Mr. Haskins stated that prior to the proceedings to this body there had only been one public meeting after the presentation of the Northgate draft. He stated that in Molly Hitchcock's presentation to the Commission about four weeks ago, there was a statement made that there had been an absence of development in the area. Mr. Haskins stated that was not correct and that the area is fully developed but there has been an absence of redevelopment in the area, with the exception of the property known as the Mud Lot, half of it has yet to be developed and the City is considering that as the placement for their conference center. Mr. Haskins stated that redevelopment is a very difficult task and that it is much more complicated than development. He also stated that the City has made extraordinary investments within Northgate. Mr. Haskins stated that all of those investments to date have been confined to the NG-1 sub-district; none have been made in the NG-2 sub-district. He stated that NG-1 and NG-2 are distinct districts that serve different purposes, they have different backgrounds, and the lot sizes are very different. He also stated that most people like to part in site of their destination. He stated that the ordinance does offer an objective approach to regulation that is much more preferable to a subjective approach. Mr. Haskins stated that the problem is that when the City states that they have the pressure relief valve as being the Design Review Board, there is also another actual pressure relief valve in theory

and that is that something can be rezoned as a redevelopment district. The problem with both of those concepts is that the project has to be totally be designed, both horizontally and vertically to make a presentation before the board. Mr. Haskins stated that if you are talking about a large development, that you are talking about large dollars that someone is being asked to risk, and if the board makes a suggestive finding against you then it is all for none. Mr. Haskins stated that is not an easy decision to make, but that he would much prefer if there were things that could be done to make the Ordinance a little better. Mr. Haskins spoke in reference to changes that he would recommend for the Northgate Ordinance Amendment. His recommendations are as follows:

- ✓ Do not impose more stringent redevelopment standards on Northgate than those applicable to the rest of the City. *Delete the changes to Section 9.3 (Page 9-1) from the proposed Amendment.*
- ✓ Do not exclude potentially desirable occupancies within NG-2 by limiting the allowable ground floor area of a single retail establishment to less than 25, 000 square feet. *In Section 5.6.B.2.e2 (Page 5-2), increase the maximum allowable gross floor area on the ground floor to 45,000 square feet.*
- ✓ Do not exclude potentially desirable occupancies within NG-2 by prohibiting single-tenant buildings. *Delete Section 5.6B.2.e3 (Page 5-2) from the Amendment.*
- ✓ Under the Amendment, building transparency required clear glass; glass block and other semi-transparent materials do not fulfill the requirement. Do not discourage bank, theater, drug store or night club uses by imposing an excessive transparency requirement. Do not discourage bank, theater, drug store or night club uses by imposing an excessive transparency requirement. *Modify Section 5.6.B.4.b.1 (Page 5-4) by reducing the primary entrance façade percentage of transparency requirement from 50% to 35% and the other façade percentage of transparency requirement from 30% to 20%.*
- ✓ Do not hamper efficient land use by prohibiting parking within 200 feet of Church Avenue and University Drive. *Allow parking rows perpendicular to Church Avenue and University Drive by modifying Section 5.6.B.6.a (Page 5-7) to allow individual parking expanses of not more than seventy-five feet (including driveway) in length parallel to Church Avenue or University Drive.*
- ✓ Do not attempt to force economically unfeasible development by requiring a minimum of two building stories for all new construction within Northgate. *In place of the minimum 20 story requirement in Section 5.1 (5.7?) (Page 5-16), require a minimum wall height of twenty feet.*
- ✓ Until there is a reason to expect some need for South College pedestrian orientation, do not impede redevelopment flexibility by requiring a

maximum building set back from South College. *Delete the maximum building set-back requirement applicable to South College from Section 5.1 (5.7?) (Page 5-16).*

- ✓ Do not curtail the use of drive-through windows with NG-2. *Specify drive-in/thru window as a permitted, as opposed to a subject to Specific Use Standards, use in Section 6.2 (Page 6-1) Use Table. Alternatively, delete the “wholly underneath a habitable structure” requirement from Section 6.3.E (Page 6-3).*
- ✓ Clearly specify when buildings have “Frontage” on a particular street. Applicable to Section 5.6.B.2.e.1 (prohibited ground floor usage), 5.6.B.4.a (building orientation), and Section 6.2 (set backs). *Specify that a building has frontage on a street if the building is located within 150 feet of the street, and there is not presently, or being developed in conjunction with the subject building another building between the subject building and the respective street.*

Jay Don Watson, 609 Bob White, Bryan, Texas. Mr. Watson stated that he represented Citibank Texas. He stated that his client owned the property at 711 University Drive, College Station, Texas. Mr. Watson stated that he agreed with most of the things that Mr. Haskins stated previously. He stated that Citibank is concerned about the following items.

- ✓ Single tenant buildings are a concern of Citibank Texas. If there are alterations made to the building where the 25% is exceeded, then Citibank will have to find a tenant to share the building that is totally occupied now.
- ✓ The transparency issue is a concern, the glass and the security concerns that would arise from this.
- ✓ The property of Citibank fronts both on Church and University Streets; therefore there will probably not be enough room for any parking.
- ✓ Drive-through facilities are also a concern. Mr. Watson stated that his client feels that if the drive-in facilities are taken away then a convenience will be taken away from the citizens and that this will create an issue on the parking. He stated that the drive-in facility would help the parking issue.
- ✓ The 25% improvement/changes to a building site; he stated that he felt that this would restrain anyone from making any major additions to the buildings and as a result the buildings would not be repaired. Mr. Watson stated that he would like to see that raised to 50%.
- ✓ Mr. Watson stated that the only other item he was concerned about was a housekeeping item. He stated that it was where it talked about when a building had frontage on University Drive and South College Avenue, the primary facade shall be oriented to one of the right-of-ways at the

developers discretion. He stated that he thinks that this is in section 5.1 and they would like to add Church Street to this portion.

Mr. Dunn stated that this was in section 5.4. "If a building has frontage on University Drive and South College Avenue"; this is what currently is in the Ordinance. Mr. Dunn stated that Mr. Watson wanted to add Church Avenue to this section.

Commissioner Nichols asked that staff respond to the concerns brought before the Commission by Mr. Haskins and Mr. Watson. Mr. Dunn stated that in his presentation, Mr. Haskins mentioned that the project had to be totally designed both horizontally and vertically before approval is given. Mr. Dunn stated that staff felt that if standards are met that would make the process a little easier. He stated that staff felt that there is flexibility in terms of timing. He stated that ultimately this would call for elevations as is the case throughout the City with regards to non-residential architectural standards. Mr. Dunn stated that he would be glad to take a look at the square footage issue of 25,000 vs. 45,000 in terms of minimum square footage. The recommendation regarding the prohibition of single-tenant buildings; this came directly from input at the August 2005 public meeting and staff agreed. He stated that staff did feel that it is an issue about mixed use and what is actually encouraged and how to encourage mixed use in the district.

Commissioner Shafer asked what the grandfather possibility on that issue. He stated that the issue brought up by Citibank is the problem that will be created as far as security. Commissioner Shafer asked if this was a problem as long as Citibank was the owners and operators of that building. Mr. Dunn replied that this was not a problem, but the issue would be the percentage of redevelopment and tear down/rebuild is 25%. Mr. Dunn stated that is about the same thing between 25% and 45%, but the City would like to encourage meeting the standards. He stated that he did not believe that general maintenance was affected. Mr. Dunn stated that the other comment regarding drive-through capabilities. He stated that there are several drive-throughs, approximately four or five that exist, just in the NG-2 area. He stated that grandfathering would allow for them to remain and to be maintained, but the question to be is what would trigger them not having the drive-throughs anymore.

Commissioner Davis asked how many single-tenants are in NG-1 and NG-2. Mr. Dunn stated that he did not know but staff could find that information and get back to the Commission.

Mr. Dunn responded to the recommendation regarding the two story requirement. He stated that staff is going back to the intent to get greater bulk and that the Design Review Board can waive the two story requirement. He stated that staff is looking for greater density in the area. Mr. Dunn then commented regarding recommendation number seven. He stated the set back

is 100 feet, it is the greatest set back allowed in the Northgate area. He stated that going greater than 100 feet may allow for redevelopment for some existing structures that may be 200 or 300 feet from the roadway, it does not prohibit that from remaining that way and then there is a possibility of ending up with suburban type parking. He stated that staff felt that this would allow one row of 100 feet parking. Mr. Dunn commented on the recommendations regarding drive-throughs. He stated that staff did go from prohibiting it all together from allowing it under a building and again, the existing drive-throughs would be grandfathered.

Mr. Dunn asked if the Commission wanted staff to respond to Mr. Haskins report then that would be done and brought back to Commission. Commissioner Shafer asked if this was slated for the end of March to go to City Council. Mr. Dunn stated that was correct, that it was a quick turn around process.

Commissioner Nichols asked how the 25% was calculated from the existing building. Mr. Dunn stated that the total square footage of the building could be two floors, not just occupied space. He stated that the heated square footage is used. Commissioner Nichols stated that he would like to see that relaxed a little bit and depend on the Design Review Board to deal with some of these issues that may occasionally come up. He stated that the 45,000 vs. the 25,000; he feels that the intent is that it is already bigger than it is in NG-3, that is a 250 by 100 square foot floor. Mr. Nichols stated that it isn't as though there are not good properties in the City of College Station that would be attractive for a Whole Foods or somebody that wanted a bigger dimension and an easily accessible area where lots and citizens could get in and out of. He stated that he understood that would be prohibited in the NG-1, NG-2, and NG-3; but that it does not prohibit it from being in the City of College Station. He also stated that if the City was attractive enough to a potential business that they would be able to find other places that would be maybe more feasible for them to locate them to anyway. Mr. Nichols that if you would go back to the vision of the council which is what is driving this, he feels that the amendments are very much true to that and that he would rather leave that as it going into this. Mr. Nichols stated that maybe we should relax the 25% to 50% maybe that would help.

Commissioner Shafer spoke in reference to the issue of transparency. He stated that it seems like that there were options that could maintain pedestrian interest without being completely transparent into the building. He asked if the transparency meant looking completely into the interior of the building. Lance Simms, Assistant Director, stated that could be addressed by show windows of sort and there were ways around it without it being totally transparent to the building.

Commissioner Christiansen stated that his thoughts were that the City does have a Unified Development Ordinance in place that is functioning and he does not see the urgent need to try and rush something through the processes that doesn't have to get rushed through the process. He stated that it seemed like the time should be taken to put these things together. Commissioner Christiansen stated that he thought Mr. Haskins had suggested that there should be some kind of a group that would consist of staff, P&Z Commissioners, Council, and property owners to go over these things and come up with a cleaned up document and recommendations then come back with something that the P&Z Commission could act upon. He stated that he did not see how we could move forward with this now.

Commissioner Nichols asked if in Northgate, if the non-residential architectural standards do not exist, so there is not a Unified Development Ordinance in that area because they were exempt with the idea that the Northgate Ordinance Amendments would be coming forward. Mr. Dunn stated that Commissioner Nichols was correct.

Commissioner Reynolds stated that this area has received quite a bit of attention and there has been a great deal of work that has gone into the Northgate Ordinance Amendments as part of it. Mr. Reynolds stated that comments were heard that express sentiment that there may be obstacles that will be established by doing this that could impede the development that is wanted in that area. He stated that he is not for establishing another body to review this but that he did feel that it was prudent that one last look be taken at this and examine all the angles to make sure that problems are not being created by doing this. Commissioner Reynolds stated that he did agree the majority of things probably are minor, but that there are a few that may be a little more critical when more time is spent looking at them.

Commissioner Nichols motioned to recommend to the City Council the adoption of the amendment of the Unified Development Ordinance regarding Northgate zoning districts with one change to Section 9.3.a.2. This refers to the percentage of the building that changes would trigger the whole building to coming into compliance. He stated that the redevelopment issue should be changed from 25% to 50%. Commissioner Davis seconded the motion, motion passed (3-2). Commissioners Nichols, Davis and Shafer were in favor; Commissioners Christiansen and Reynolds were opposed.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, AS SET OUT BELOW; 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 Chapter 12, "Unified Development Ordinance," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibits "A" through "N", attached hereto 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 March, 2006.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



City Attorney

Exhibit "A"

That Chapter 12, "Unified Development Ordinance," Section 2.2 "Planning and Zoning Commission," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending paragraph D.3 to read as follows:

"2.2 Planning and Zoning Commission**D. Powers and Duties****3. Final Action**

The Planning and Zoning commission shall hear and take final action on the following:

- a. Applicable appeals of decisions of the Design Review Board;
- b. Master plans;
- c. Preliminary and final plats, replats, development plats, and minor plats not approved by staff under Section 3.3.H Minor Subdivision Plat Review herein;
- d. Waivers of the standards in Article 8, Subdivision Design and Improvements;
- e. Appeal of the Administrator's denial of a final minor or amending plat;
- f. Appeal of the Administrator's denial to amend the color palette for Northgate roof colors;
- g. Appeal of the Administrator's denial of an alternative parking plan; and
- h. Appeal of the Administrator's interpretation of the provisions of Chapter 9, Subdivision Regulations, of the City of College Station Code of Ordinances."

EXHIBIT "B"

That Chapter 12, "Unified Development Ordinance," Section 2.4 "Design Review Board," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending paragraph D to read as follows:

"2.4 Design Review Board**D. Powers and Duties**

The Design Review Board has the following powers and duties:

- 1. Site and Concept Plans**
The Design Review Board shall hear and take final action on design district site plans and concept plans for Planned Development Districts (PDD) and Planned Mixed-Use Districts (P-MUD).
- 2. Wolf Pen Creek District and Overlay District Review**
The Design Review Board shall approve or deny any sign materials and colors in the Wolf Pen Creek District (WPC), and shall approve or deny all alternate building or fence materials and fence height in the Krenek Overlay District, as specified within this UDO.
- 3. Wolf Pen Creek Parking Waivers**
The Design Review Board shall hear and decide requests to vary from the amount of required parking in the Wolf Pen Creek District (WPC).
- 4. Northgate District Standards Waivers**
The Design Review Board shall hear and decide requests to vary from the standards to Section 5.6.B. Northgate Districts as listed in Section 5.6.B.14 Waivers.
- 5. Driveway Appeals**
The Design Review Board shall hear appeals to decisions of the Development Engineer regarding driveway appeals.
- 6. Appeal of Requirement Based on Site Plan Review Criteria**
The Design Review Board shall hear and decide appeals of the Administrator's application of site plan requirements to assure compliance with Section 3.5.E, Site Plan Review Criteria.
- 7. Buffer Appeals**
The Design Review Board shall hear appeals of buffer requirements listed in Section 7.6, Buffer Requirements.
- 8. Non-Residential Architectural Standards Appeals**
The Design Review Board shall hear and decide alternate building materials, colors, required screening, architectural relief elements, and parking lot concepts for non-residential structures, as specified in Section 7.9, Non-Residential Architectural Standards."

EXHIBIT "C"

That Chapter 12, "Unified Development Ordinance," Section 2.5 "Administrator," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending paragraph B.4 to read as follows:

"2.5 Administrator

B. Powers and Duties

4. Final Action

The Administrator shall review and take final action on the following:

- a. Sign permits;
- b. Site plans (not Wolf Pen Creek District site plans);
- c. Administrative adjustments;
- d. Minor and amending plats;
- e. Determination of building plot (Section 7.1, General Provisions);
- f. Minor Wolf Pen Creek District projects;
- g. Amendments to the color palette for Northgate roof colors; and
- h. Alternative parking plans (Section 7.2, Off-Street Parking)."

EXHIBIT "D"

That Chapter 12, "Unified Development Ordinance," Section 2.8 "Summary of Review Authority," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending the table to read as follows:

"

PROCEDURE	City Council	P & Z Comm.	Zoning Bd of Adj.	Design Rev. Bd.	Administrator	Building Official	Dev. Eng.
CITY COUNCIL							
Oversize Participation	D						R
Development Agreement	D				RR		R
Conditional Use permit	D	R			RR		
Zoning Map Amendment	D	R			RR		
Text Amendment	D	R			RR		
Comp. Plan Amendment	D	R			RR		
Impact Fee/CIP Priorities	D	R					
PLANNING & ZONING COMMISSION							
Master Plans		D			RR		R
Preliminary Plat		D			RR		R
Final Plat		D			RR		R
Development Plat		D			RR		R
Waiver of Subdivision Standard		D			RR		R
Alternative Arch. Material		D			R		
ZONING BOARD OF ADJUSTMENT							
Variance			D		RR	RR	RR
Administrative Appeal			D		R		
Zoning Map Interpretation			D		R		
DESIGN REVIEW BOARD							
Wolf Pen Creek District Site Plan		A		D	R		
PDD/P-MUD Concept Plan		A		D	R		
Wolf Pen Creek District Building/Sign Review		A		D	R		
WPC Parking Waivers		A		D	R		
NG Waivers				D	R		
Non-Residential Architectural Standards Waiver				D	RR		
ADMINISTRATOR							
Interpretation		A**	A		D		
Sign Permit			A		D		
Site Plan		A		A*	D		
Administrative Adjustment			A		D		
Wolf Pen Creek District Building or Sign, Minor			A		D		
Minor or Amending Plat		A			D		R

PD Concept Plan Minor Amend.		A			D		
NG Roof Color Palette Amendment		A			D		
Alternative Parking Plans		A			D		R
BUILDING OFFICIAL							
Building Permit						D	
Certificate of Occupancy					R	D	
Certificate of Completion					R	D	R
DEVELOPMENT ENGINEER							
Development Permit							D
Driveway Application				A			D
Alternative Const. Material				A			D
*Section 3.5.E Site Plan Review Criteria and 3.6.E Wolf Pen Creek Design District General Site Plan Review Criteria only.							
**Subdivision Regulations only. KEY: D=Final Action/Decision A=Appeal R=Recommend RR=Review/Report							

EXHIBIT "E"

That Chapter 12, "Unified Development Ordinance," Section 3.6 "Design District Site Plan Review," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by renaming the section and by amending paragraphs A.1, B, C and D.2 to read as follows:

"3.6 Wolf Pen Creek Design District Site Plan Review**A. Applicability****1. Design Districts**

Prior to any development in the Wolf Pen Creek district (WPC) excluding minor additions such as storage buildings, fencing and the like, an applicant must obtain design district site plan approval under this Section.

In reviewing a project, the Design Review Board may require traffic and parking impact studies, a review of existing occupancy, and other reasonable data to determine the impact of the project."

B. Application Requirements

A complete application for site plan approval shall be submitted to the Administrator as set forth in Section 3.1.C Application Forms and Fees. The application shall include a landscaping plan illustrative compliance with the requirements of Section 7.5 Landscaping and Tree Protection."

C. Wolf Pen Creek Design District Site Plan Approval Process

Wolf Pen Creek district site plan review applications shall be processed in accordance with the following requirements:

1. Preapplication Conference

Prior to the submission of an application for design district site plan approval, all potential applicants shall request a preapplication conference with the Administrator as required in Section 3.1.B, Preapplication Conference.

2. Review and Report by the Administrator

If the proposed design district site plan is determined to be consistent with all applicable provisions of this UDO, the City's Comprehensive Plan, and the Wolf Pen Creek Master Plan, or if the plan is recommended for denial or conditional approval, the Administrator shall report such consistency, inconsistency, or proposed conditions to the Design Review Board.

- 3. Review by the Design Review Board**
The Design Review Board shall review the design district site plan in a public meeting and may approve, approve with conditions or deny the application. Notice shall be provided by publication of the agenda of the meeting.
- 4. Final Action by the Design Review Board**
If the proposed site plan is determined to be consistent with all applicable provisions of this UDO, including the applicable district provisions of Section 5.6.A Wolf Pen Creek, and the review criteria below, the Design Review Board shall approve the design district site plan. A determination that all such requirements and provisions have not been satisfied shall result in disapproval of the site plan.”

D. Design District Minor Additions Approval Process

- 2. Final Action by the Administrator**
If the proposed site plan is determined to be consistent with all applicable provisions of this UDO, the City’s Comprehensive Plan, and the Wolf Pen Creek Master Plan, including the applicable district provisions of Section 5.6.A Wolf Pen Creek, Use Standards, and the review criteria below, the Administrator shall approve the design district site plan. A determination that all such requirements and provisions have not been satisfied shall result in disapproval of the site plan.”

EXHIBIT "F"

That Chapter 12, "Unified Development Ordinance," Section 3.6 "Wolf Pen Creek Design District Site Plan Review," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by deleting paragraph G "Additional Review Criteria for Northgate Districts" in its entirety.

EXHIBIT "G"

That Chapter 12, "Unified Development Ordinance," Section 3.7 "Design District Building and Sign Review," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by renaming the section and by amending paragraphs A.1, C.2, and D to read as follows:

"3.7 Wolf Pen Creek Design District Building and Sign Review"**A. Applicability**

1. In the Wolf Pen Creek district (WPC), all substantial maintenance (including but not limited to rehabilitation, façade work, and, change or exterior materials or other construction, including the replacement or alteration of signs) shall be subject to the WPC district building and sign review process."

C. Final Action by Design Review Board**2. Design Review**

The Board shall apply the standards for the applicable district as set forth in Section 5.6.A Wolf Pen Creek. In considering such matters, the Design Review Board may rely on special area plans or studies adopted by the City Council."

D. Expiration and Lapse of Approval

An approved Wolf Pen Creek district building or sign plan, including those approved prior to the effective date of this UDO, shall expire twelve (12) months from the date of approval unless the proposed development is pursued as set forth below:

1. A building permit has been issued and remains valid.
2. In a phased development where more than one building is to be built, the applicant may submit a series of building permit applications. The first application must be submitted within 12 months from the date the site plan is approved. Each subsequent application must be submitted within 12 months from the date of issuance of a Certificate of Occupancy for the previous building. The lapse of more than 12 months shall cause the expiration of site plan approval. A final, one-time extension of 180 days may be granted by the Administrator upon demonstration of substantial progress and the lack of changed or changing conditions in the area."

EXHIBIT "H"

That Chapter 12, "Unified Development Ordinance," Section 3.12 "Sign Permit" of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending paragraph D to read as follows:

"3.12 Sign Permit

D. Maintenance and Repair

Cleaning, painting, repainting, and other normal maintenance and repair of a sign shall not require a permit unless a structural or size change is made. Maintenance includes replacement of a sign face. Repainting or replacement of materials in the Wolf Pen Creek district must receive approval of either the Administrator or the Design Review Board as provided in Section 3.7 Wolf Pen Creek District Building and Sign Review.

Repair of conforming signs, damaged as a result of accidents or acts of God, shall be exempt from permit fees when they are being restored to their original condition."

EXHIBIT "I"

That Chapter 12, "Unified Development Ordinance," Section 4.1 "Establishment of Districts" of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending the table to read as follows:

"

Residential Zoning Districts		
A-O	Agricultural-Open	
A-OR	Rural Residential Subdivision	
R-1	Single-Family Residential	
R-1B	Single-Family Residential	
R-2	Duplex Residential	
R-3	Townhouse	
R-4	Multi-Family	
R-6	High Density Multi-Family	
R-7	Manufactured Home Park	
Non-Residential Zoning Districts		
A-P	Administrative/Professional	
C-1	General Commercial	
C-2	Commercial-Industrial	
C-3	Light Commercial	
M-1	Light Industrial	
M-2	Heavy Industrial	
C-U	College and University	
R & D	Research & Development	
Planned Districts		
P-MUD	Planned Mixed-Use District	
PDD	Planned Development District	
Design Districts		
WPC	Wolf Pen Creek Development Corridor	
Northgate	NG-1	Core Northgate
	NG-2	Transitional Northgate
	NG-3	Residential Northgate
Overlay Districts		
OV	Corridor Overlay	
RDD	Redevelopment District	
KO	Krenek Tap Overlay	

"

EXHIBIT "J"

That Chapter 12, "Unified Development Ordinance," Section 5.6 "Design Districts," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Section 5.6B "Northgate Districts (NG) to read as follows:

"5.6 Design Districts**B. Northgate Districts (NG)**

Adjacent to Texas A&M University's north side, the Northgate area encompasses one of the oldest urban areas in College Station and, therefore, Northgate plays a prominent role in development and service of both the City of College Station and Texas A&M University. It is characterized as a unique "campus neighborhood" containing local businesses, churches, and off-campus housing in close proximity to the University.

Concepts related to Traditional Neighborhood Development (TND), which promotes a mixture of nonresidential and residential uses in a pedestrian-oriented setting, have been incorporated within the standards for the Northgate District. Other TND concepts incorporated into the Northgate District include increased density, compatible high quality building design, and specialized signage. The end result is intended to be a unique, pedestrian-friendly, dense urban environment that allows citizens of College Station and students of Texas A&M to eat, work, live, and recreate in an area within close proximity to the University.

1. Districts

The Northgate area consists of three districts: (1) NG-1 Core Northgate, (2) NG-2 Transitional Northgate, and (3) NG-3 Residential Northgate. Any reference and/or requirement made in this Section shall apply to all Northgate districts unless otherwise specified. These zoning districts incorporate regulations in accordance with the Northgate Redevelopment Implementation Plan.

a. NG-1 Core Northgate

This mixed-use district applies to areas containing a diversity of pedestrian-oriented retail, dining/restaurant, housing, and entertainment businesses that are in close proximity to on- and off-campus dormitories. Regulations are designed to aid structural rehabilitation and redevelopment while promoting new high density, mixed use, pedestrian-oriented infill development with an urban character.

b. NG-2 Transitional Northgate

This district is intended for areas in Northgate containing larger retail commercial uses and undeveloped land. This district also serves to transition from suburban-style commercial development to high density, mixed-use redevelopment. This zoning district shall incorporate regulations designed to aid mixed-use development, pedestrian circulation, and redevelopment with an urban character. Any development in NG-2 may develop under the standards herein of NG-1.

c. NG-3 Residential Northgate

This district is intended for areas in Northgate containing a variety of residential uses and structures. This district applies to areas determined to be suitable for higher density residential developments due to its close proximity to Texas A&M University. NG-3 incorporates regulations designed to aid pedestrian-oriented redevelopment for high density residential and limited commercial uses.

2. Additional Use Standards

The permitted and conditional uses outlined in Section 6.2 Types of Uses shall meet the following additional requirements related to the district in which the proposed project is located.

a. NG-1 Core Northgate

- 1) Buildings with frontage on Church Avenue, University Drive, College Main, Boyett Street from University Drive to Church Avenue, and Nagle Street from University Drive to Church Avenue shall not have parking, fraternal lodge, or residential use on the ground floor. These uses shall be allowed on the ground floor if they are completely located behind a commercial use that meets all other requirements of this ordinance.
- 2) Parking lots that are an ancillary use must be abutting the primary use.
- 3) Residential uses are only allowed in buildings that also contain commercial uses.
- 4) The maximum allowable gross floor area on the ground floor per single retail establishment is 10,000 square feet.
- 5) Freestanding, single-tenant buildings are prohibited except for the following uses: casual and fine dining restaurants (not "fast food"), hotels, and theaters.

b. NG-2 Transitional Northgate

- 1) Buildings with frontage on Church Avenue, University Drive, South College Avenue, and Nagle Street from University Drive to Church Avenue shall not have

parking, fraternal lodge, or residential use on the ground floor. These uses shall be allowed on the ground floor if they are completely located behind a commercial use that meets all other requirements of this ordinance.

- 2) The maximum allowable gross floor area on the ground floor per single retail establishment is 25,000 square feet.
- 3) Freestanding, single-tenant buildings are prohibited except for the following uses: casual and fine dining restaurants (not "fast food"), hotels, and theaters.

c. NG-3 Residential Northgate

Nonresidential uses permitted within NG-3 shall meet each of the following requirements:

- 1) Nonresidential uses may occupy no more than fifty percent (50%) of the total square footage of any building(s) or group of buildings developed in a building plot.
- 2) Any building containing a nonresidential use shall have a minimum of one (1) floor wherein one hundred percent (100%) of the floor area is occupied by a residential use. Offices and studios maintained within a residence for home occupations may be included within the residential use calculation.
- 3) The maximum allowable gross floor area per single retail establishment is 5,000 square feet.

3. Building Design Considerations for Historic Properties

a. Applicability

The following structures are reflected as medium or high priority in the Northgate Historic Resources Survey. Possible address discrepancies may be resolved by referencing the Northgate Historic Resources Survey.

NG-1

101 Church	417 University	106 College Main
113 College Main	501 University	108 College Main
217 University	505 University	109 College Main
303 University	303 Boyett	110 College Main
335 University	400 Boyett	111 College Main
401-405 University	105-107 College Main	318 First Street

NG-3

416-418 College Main 500 College Main 415 Tauber

b. Standards

Rehabilitation of these structures shall follow the following standards:

- 1) The historic character of a property will be retained and preserved. Distinctive materials or features and spatial relationships that characterize a property shall not be removed or altered.
- 2) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 3) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.

c. Process

All proposals affecting the materials, construction, or colors of a historic structure must be approved by the Administrator. The Administrator shall first consider the proposal in light of the standards listed above, then according to the standards set forth below in Section 5.B.5 Building Design Standards.

4. Building Design Standards

The following standards shall apply to all structures in the Northgate districts, including residential.

a. Building Orientation and Access

- 1) All buildings that have right-of-way frontage on Church Avenue shall orient their primary entrance façades toward Church Avenue.
- 2) All buildings that have right-of-way frontage on University Drive shall orient their primary entrance façades toward University Drive.
- 3) The primary entrance façades of all buildings not on Church Avenue or University Drive shall front a public right-of-way.
- 4) If a building has frontage on University Drive and South College Avenue, the primary entrance façade shall be oriented to one of the rights-of-way at the developer's discretion. A public entrance façade shall be oriented toward the other right-of-way(s).
- 5) In the event a building has frontage on more than one right-of-way (not including Church Avenue, University Drive, or South

College Avenue), the Administrator shall determine to which right-of-way the primary entrance façade shall be oriented. A public entrance façade shall be oriented toward the other right-of-way(s).

- 6) In the event that more than two façades require a public entrance, the Administrator may determine which two façades require entrances. The Administrator may also forward the question to the Design Review Board for any reason.
- 7) All residential dwelling units in a building with less than 12 residential dwelling units shall have access from the primary entrance façade. This access may not be through an area with a fence or wall taller than four feet (4'), garage, or parking area.

b. Building Transparency

Exemption: Sanctuaries in places of worship are exempted from this requirement.

- 1) For maximum pedestrian visibility of the nonresidential use(s), nonresidential structures and the commercial portions of mixed-use structures shall be at least fifty percent (50%) transparent between zero and eight feet (0-8') above ground level of the primary entrance façade and at least thirty percent (30%) transparent between zero and eight feet on the façade fronting other rights-of-way. In the event that more than two façades require transparency, the Administrator may determine which two facades require minimum transparency. The Administrator may also forward the question to the Design Review Board for any reason.
- 2) Glass shall be clear or tinted, not reflective. Glass block and other materials that are semi-transparent shall not be used to meet this requirement.
- 3) Roll-up doors must be at least seventy-five percent (75%) transparent between zero and eight feet (0-8') above ground level for all façades facing a right-of-way.

c. Architectural Relief

- 1) For all façades facing a right-of-way, the first two stories or first twenty-eight feet (28') above ground level shall use architectural detail to provide visual interest by incorporating a minimum of two (2) design elements every twenty-five feet (25') from the following options: canopies, permanent decorative awnings, hood/drip molding over windows, cornices, corbelling, quoining, stringcourses, pilasters, columns, pillars, arcades, bay/oriel windows, balconies that extend from the building, recessed entries, stoops, and porches.
- 2) Along all other façades not facing a right-of-way and not screened by another building located within fifteen feet (15') of

the façade, there shall be at least two (2) design elements as listed above for every forty feet (40'). These façades shall be similar and complementary to the primary entrance façade.

- 3) In lieu of the above requirements, buildings with less than 12 residential units shall provide individual architectural relief such as a front porch, balcony, or bay window for each unit on each façade. Architectural relief is not required on façades that are within fifteen feet (15') or another building that screens the façade.
- 4) Alternative architectural features may be considered for approval by the Design Review Board.

d. Roof Type

- 1) Shed, mansard, and gambrel roofs are prohibited.
- 2) Hip and gable roofs may only be used when the vertical plane(s) of any roof facing a right-of-way is interrupted by an architectural detail.

e. Exterior Building Materials

All structures within a building plot shall have materials that are similar and complement each other. When determining area herein, windows and doors are included.

- 1) The following applies only to the first two (2) stories or first twenty-eight feet (28') above ground level of all structures, excluding parking garages.

All façades, except those within fifteen feet (15') of another building that screens the façade, shall consist of a minimum of twenty-five percent (25%) of one or more of the following building materials. Parking garages are excluded from this requirement. All other materials except as authorized herein or by the Design Review Board, are prohibited.

- a) fired brick;
- b) natural stone;
- c) marble;
- d) granite
- e) tile; and/or
- f) any concrete product so long as it has an integrated color and is textured or patterned (not aggregate material or split-face CMU) to look like brick, stone, marble, granite or tile; or is covered with brick, stone, marble, granite, or tile or a material fabricated to simulate brick, stone, marble, granite, or tile.

- 2) In addition, all façades may utilize the following materials subject to the stated limitations. Parking garages are excluded from these limitations. All other materials are prohibited.
 - a) Stucco, hard board, split-face CMU with integrated color, or any material equivalent in appearance and quality as determined by the Design Review Board shall not cover more than seventy-five percent (75%) of each façade.
 - b) Wood or cedar siding, stainless steel, chrome, standing seam metal, and premium grade architectural metal may be used as architectural accents and shall not cover greater than twenty percent (20%) of any façade.
 - c) Glass block and other materials that are semi-transparent shall not cover more than fifteen percent (15%) of any façade. Places of worship are exempted from this limitation.
 - d) Continuous ribbon window systems and glazed curtain walls are prohibited.
 - e) Smooth face, tinted concrete blocks shall only be used as an accent and shall not cover more than five percent (5%) of any façade.
 - f) Galvanized steel and painted steel are allowed on doors, including roll-up doors.
 - g) Steel, standing seam metal, and/or architectural metal, may be used as a roof and/or canopy/awning with no limitation of percentage.
- 3) The facades of parking garages may utilize any material, but may only use steel, standing seam metal, and/or architectural metal as an architectural accent (limited to 20% of any façade) and as a roof and/or canopy/awning (with no limitation).

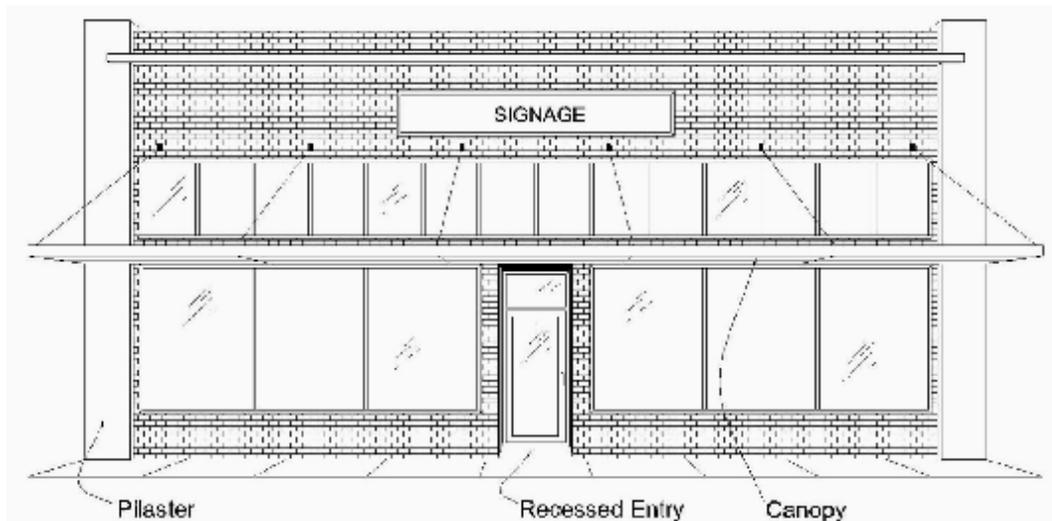
f. Exterior Building Colors

- 1) Building and roof color requirements apply to all new buildings, redeveloped buildings, and façade work.
- 2) All building facades shall consist of only colors from the color palette maintained in the Office of the Administrator. All other colors shall be considered accent colors and may be used on no more than ten percent (10%) of each façade. No more than two (2) accent colors may be used on each façade.
- 3) Except for flat roofs, all roofs shall consist of only colors from the color palette for Northgate roof color approved by the City Council and as amended and maintained in the Office of the Administrator. No more than one color may be used on a roof when visible. Color shall not be regulated when the roof is flat.

- 4) Existing buildings may continue to utilize colors that are not from the approved color palette provided that repainting is done for maintenance purposes only and the existing color is continued. Any color change on existing buildings shall be brought into compliance with this ordinance and color samples shall be submitted as provided herein.
- 5) Metallic (except copper and silver metallic-colored roofs) and fluorescent colors are prohibited on any façade or roof.
- 6) When applying brick, colors normally found in manufactured fired brick are permitted. All colors of natural stone are permitted.
- 7) Color samples shall be submitted for approval to the Office of the Administrator.

g. Canopies/Awnings

- 1) Canopies/awnings shall not completely obstruct any window. Transom windows may be located under canopies/awnings.
- 2) Canopies/awnings are considered part of the building façade and are subject to the color requirements as specified above. A maximum of one (1) color shall be used for all canopies/awnings on a single building façade (excluding business logo).



Graphic represents an example of requirements for architectural features, transparency, and signage.

- 3) Canopies/awnings shall consist of cloth, canvas, steel, standing seam metal, architectural metal, and/or perforated metal (not corrugated) and shall be maintained in good repair. Canopies/awnings that are used to meet the required building

setback shall not be cloth or canvas, but shall be a permanent structure integrated into the building's architecture, consisting of materials similar to that of the rest of the building.

- 4) Canopies/awnings located over the public right-of-way shall require a Private Improvement in the Public Right-of-Way agreement (PIP) in addition to the necessary Building Permit.

5. On-Street Parking Standards

- a. Existing head-in parking that requires backing maneuvers into a right-of-way shall be removed with all proposed development, redevelopment, rehabilitation, and façade projects within any Northgate district.
- b. All proposed development, redevelopment, rehabilitation, and façade projects with frontage on a right-of-way(s) designated for on-street parking in the Northgate On-Street Parking Plan, shall install such parking in accordance with the plan. For residential uses, non-metered, parallel spaces may be counted toward off-street parking space requirements.

6. Off-Street Parking Standards

All off-street parking shall meet the requirements specified in Section 7.2 except as specifically provided herein:

- a. Lots with frontage on Church Avenue or University Drive shall not have surface parking that is closer than 200 feet to the right(s)-of-way or is not completely located behind a habitable structure. Lots with frontage on University Drive and Church Street shall not have surface parking that is closer than 200 feet to Church Avenue or is not completely located behind a habitable structure.
- b. There shall be no minimum number of parking spaces required for nonresidential uses.
- c. Off-street parking facilities for residential uses shall meet 75% of the number of specified parking space requirements of Section 7.2.H Number of Off-Street Parking Spaces Required.
- d. No interior islands are required.
- e. Where off-street surface parking is to be installed adjacent to a right-of-way, there shall be a six-foot (6') setback from the required sidewalk to the parking pavement. The parking area shall be screened along 100 percent of the street frontage (minus driveways and visibility triangles) with shrubs or a brick, stone, tinted CMU, or concrete product textured or patterned to look like brick or stone wall a minimum of three feet (3') in height, and within three feet (3') of the sidewalk. Walls shall be complementary to the primary building and shall be constructed as sitwalls.
- f. No off-street surface parking or circulation aisle shall be located between the primary entrance façade of a building and a right-of-way.

Parking shall be located to the rear or side of a building. Two exceptions are:

- 1) Sites on the South College Avenue right-of-way may have up to one circulation aisle against the right-of-way with parking on each side of the aisle.
 - 2) Hotel and residential uses may have porte cocheres and temporary, loading/unloading parking, not to exceed ten (10) spaces, against the right-of-way.
- g. Ramps shall not be built on the exterior of parking garages.
- h. Steel guard cables on garage façades are prohibited.
- i. In order to break up the parking lot area, minimize the visual impact on pedestrians, and encourage pedestrian movement through the districts, one or a combination of the following parking concepts is required for parking that provides more than sixty (60) parking spaces with more than one parking row:
- 1) Parking is located in a garage.
 - 2) The parking structure is located on the interior of the block, screened from public view by habitable structures, and is not located adjacent to a right-of-way.
 - 3) For every sixty (60) parking spaces, there shall be a separate and distinct parking area connected by driving lanes but separated by a landscaping strip a minimum of ten feet (10') wide the full length of the parking row. At a minimum, landscaping shall be one canopy tree (1.5-inch caliper or greater) for every twenty-five (25) linear feet of the landscaping strip.

In addition, at least seventy-five percent (75%) of all end islands in the parking lot must be irrigated and landscaped with a minimum 1.5-inch caliper canopy tree, 1.25-inch caliper noncanopy tree, or enough shrubs three feet (3') in height at time of planting to cover 75% of the island. Islands not landscaped shall be treated with brick pavers, groundcover, and/or perennial grass.

7. Bicycle Parking Standards

Specific bicycle racks utilized shall be as identified in the City of College Station Design Standards: Northgate.

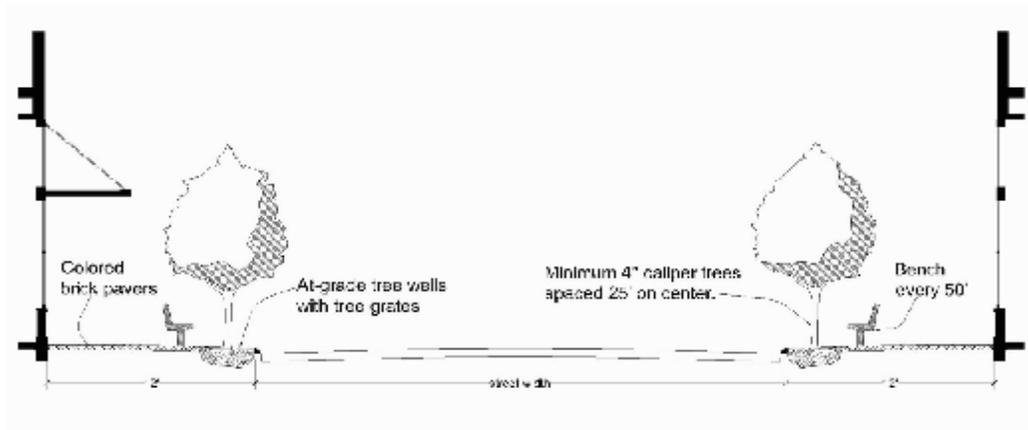
- a. For nonresidential uses, a minimum of four (4) bicycle parking spaces plus one (1) additional space for each one thousand (1,000) square feet of floor area above 2,000 square feet shall be required.
- b. For residential uses, a minimum of one (1) bicycle space per dwelling unit shall be required.
- c. In no case shall more than 20 bicycle parking spaces per business or residential building be required.

- d. Facilities shall be separated from motor vehicle parking to protect both bicycles and vehicles from accidental damage and shall be separated at least three feet (3') from building or other walls, landscaping, or other features to allow for ease and encouragement of use. Bicycle parking facilities may be permitted on sidewalks or other paved surfaces with a PIP (when necessary) and provided that the bicycles do not block or interfere with pedestrian or vehicular traffic.
- e. Required bicycle parking may be consolidated with the bicycle parking of adjacent properties and provided off-site if the bicycle rack location is within 100 feet of the main entry façade of the building and with written agreement from the property owners.

8. Sidewalk Standards

Sidewalks shall be incorporated into all proposed development, redevelopment, rehabilitation, and façade projects within any Northgate district. In the event that a sidewalk exists on a site prior to development or redevelopment and does not meet all sidewalk and streetscape standards outlined herein, the sidewalk must be upgraded to meet current standards (including American National Standards and Texas Accessibility Standards).

- a. Sidewalks shall be required along both sides of all rights-of-way.
- b. Sidewalks widths shall be as follows:
 - 1) Sidewalks shall be a minimum of twelve feet (12') in width on University Drive and South College Avenue.
 - 2) Sidewalks shall be a minimum of ten feet (10') in width on Church Street and College Main.
 - 3) Sidewalks shall be a minimum of eight feet (8') in width on all other streets in Northgate.
- c. Sidewalks shall be located directly adjacent to the back of curb. The Administrator may approve alternate locations to eliminate encroachments of streetscaping materials that would reduce the clear space of the sidewalk to less than six feet (6').
- d. Sidewalks or parts of sidewalks that lie outside, but are located next to, the right-of-way shall be covered by a dedicated public access easement initiated by the property owner so that they will be dedicated for public use and maintenance.
- e. Sidewalks shall be constructed of colored brick pavers on the exterior (visible) layer as specified in the City of College Station Design Standards: Northgate.



Graphic represents sidewalks and street tree requirements for University Drive or South College

9. Landscape and Streetscape Standards

For NG-1 and NG-3, the standards set forth herein are in lieu of Section 7.5.C Landscaping Requirements and Section 7.5.D Streetscape Requirements of the UDO.

For NG-2, the standards set forth herein are in addition to the requirements of Section 7.5.C Landscaping Requirements and Section 7.5.D Streetscape Requirements.

Any landscape/streetscape improvements may be located within the public right-of-way pursuant to a Private Improvement in the Public Right-of-Way agreement (PIP).

Specific landscaping elements and streetscape hardware (benches, street lights, etc.) utilized shall be as identified in the City of College Station Site Design Standards.

a. Street Trees

- 1) On University Drive, Church Avenue, Wellborn Road, South College Avenue, First Street, Boyett Street, College Main Avenue, and Nagle Street, installation of minimum four-inch (4") caliper street trees shall be located in at-grade tree wells with tree grates (or raised tree wells or planters on University Drive and College Main Avenue only) and shall be spaced at a maximum of twenty five feet (25') on center and located adjacent to the back of curb. On all other streets not listed above, installation of minimum three-inch (3") caliper street trees shall be located in at-grade tree wells with tree grates [raised tree wells or planters may be used when eight feet (8') of clear space can be maintained on the sidewalk] and spaced at a maximum of 25 feet (25') on center and located adjacent to the back of curb.

Alignment of such street trees shall commence twenty feet (20') from the face of curb of street intersections. Spacing may be varied upon approval by the Administrator for the purpose of

minimizing conflicts with other streetscape elements and utilities. In areas of concentrated retail activity, street trees may be placed at different intervals upon approval by the Administrator for the purpose of minimizing the obstruction of views of nonresidential uses.

- 2) In locations where a healthy and mature canopy tree equal to four inches (4") in caliper or greater currently exists, the requirements for a new tree may be waived or modified by the Administrator. Such trees must be maintained, barricaded, and otherwise fully protected during the project's construction phase and shall be replaced with trees meeting the specifications herein if they are damaged or die.
- 3) All in-ground vegetated areas, trees, and above ground planters shall include an automated irrigation system. Irrigation will not be required for existing trees that are properly barricaded (see Section 7.5.C.2.c) during construction.

b. Landscaping

Any area between the inside or interior of the sidewalk edge and the building façade and/or parking area not utilized as outdoor cafe seating is required to be one hundred percent (100%) landscaped/streetscaped and irrigated. Eligible landscape/streetscape improvements shall include raised masonry planter boxes or planter pots, at-grade planting beds, seating benches, light features, decorative railings, masonry walls not exceeding three feet (3') in height, decorative wrought iron fencing, additional pedestrian areas finished with brick pavers, or other elements featured in the College Station Streetscape Plan. Live plant material must be included where feasible in each proposal.

c. Sidewalk Benches

A minimum of one (1) sidewalk bench shall be provided for every fifty linear feet (50') of building frontage along a right-of-way. In no case shall more than four (4) sidewalk benches per building façade be required.

d. Building and Site Lighting

- 1) Building illumination and architectural lighting shall be indirect (no light source visible). Exposed neon tube may be used.
- 2) Light standards for parking lots shall reflect the style of the building plot's architecture or be complementary to that style. Standards shall not be greater than twenty feet (20') in height.

e. Street Lights

- 1) Street light location and type shall be as determined by College Station Utilities Electric and the Administrator.
- 2) The installation and cost of lighting shall be performed by the developer or his authorized construction representative subject

to compliance with the utility street light installation standards of the College Station Utilities Department.

- 3) Once satisfactorily installed, approved, and accepted by College Station Utilities, the maintenance of the street lights and the furnishing of electric energy to the street lights shall be provided by the City.

f. Trash Receptacles

If installed, trash receptacle locations shall be shown on the landscape plan. One trash receptacle may be located within an intersection's sight distance triangle described in Section 7.1.C Visibility at Intersections in All Districts.

g. Newspaper Racks

If installed, newspaper racks shall be placed so that a four-foot (4') minimum clear space is maintained on the sidewalk.

10. Dumpster and Mechanical Equipment Standards

The following standards are in addition to the requirements of Section 7.7 Solid Waste.

- a. Any dumpster and other waste storage area or container other than streetscape trash receptacles shall be located to the rear of the building served by the dumpster, area, and/or container. The Administrator may adjust this standard where a required entrance façade is located at the rear of the building or when parking is provided on the side of a building.
- b. Where feasible, consolidation of dumpsters may be required by the City.
- c. Solid waste storage areas, mechanical equipment, air conditioning, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, shall be screened from view from rights-of-way. Exterior screening materials shall be opaque and the same as predominantly used on the exterior of the principal building. Such screening shall be coordinated with the building architecture, colors, and scale to maintain a unified appearance. Acceptable methods of screening various equipment include encasements, parapet walls, partition screens, or brick walls.
- d. Mechanical equipment shall be located to minimize noise intrusion off site.

11. Detention Pond Screening Standard

Detention ponds shall be screened from view along one hundred percent (100%) of rights-of-way using berms, shrubs, walls, or a combination of these to achieve a three foot (3') high screen measured from the ground level. Walls shall be coordinated with the building architecture, colors, and scale to maintain a unified appearance.

12. Sign Standards

- a. Signage shall not obscure other building elements such as windows, cornices, or architectural details.
- b. Illuminated plastic signs are prohibited.
- c. The following types of signage may be used. All others are prohibited.
 - 1) **Attached signs**
 - a) Refer to Section 7.4 Signs.
 - b) Exposed neon may be used in attached signage.
 - 2) **Window signs**
 - a) Window signs shall allow for the majority of the display area to be open for pedestrian window shopping and shall not cover more than thirty-three percent (33%) of the window area.
 - b) Exposed neon may be used in window signage.
 - 3) **Hanging signs**
 - a) Hanging signs shall be suspended from canopies/awnings and located in front of building entrances, perpendicular to the façade.
 - b) A maximum of one sign per building entrance is allowed.
 - c) The sign shall not exceed four square feet (4 sq.ft.) in size and shall have a minimum of eight feet (8') of clearance from the walkway grade, four inches (4") of clearance from the building face, and eight inches (8") of clearance from the edge of the canopy/awning.
 - d) Hanging signs located in/over the public right-of-way shall require a Private Improvement in the Public Right-of-Way agreement (PIP) in addition to the necessary Building Permit.
 - 4) **Projection signs**
 - a) Projection signs are allowed in NG-1 and NG-2 only.
 - b) Projection signs shall be mounted perpendicular to buildings. They shall have a minimum of eight feet (8') of clearance from the walkway grade and four inches (4") of clearance from the building face (barber poles are exempted from these clearance requirements). All extremities of projection signs, including supports, frames, and the like, shall not project more than three feet (3') from the building face.
 - c) A maximum of one sign per building is allowed.
 - d) Buildings with one story may have a sign that shall not exceed six square feet (6 sq.ft.) in size. For each additional building story, an additional four square feet (4 sq.ft.) of signage is allowed, up to a maximum of eighteen square feet (18 sq.ft.).

- e) Projection signs located in/over the public right-of-way shall require a Private Improvement in the Public Right-of-Way agreement (PIP) in addition to the necessary Building Permit.
 - f) Exposed neon may be used in projection signage.
- 5) **Low profile signs**
- a) In NG-2 only, one low profile sign per 150 linear feet of a building plot along South College Avenue may be permitted.
 - b) Refer to Section 7.4.F. Sign Standards.
 - c) Exposed neon may be used in low profile signage.
- d. If more than twenty-five percent (25%) of the square footage of a building is demolished, any nonconforming signage associated with the building must also be demolished. The signage will not be considered "grandfathered", and no other permits will be issued for the site by the City of College Station until the signage has been removed.

13. **Outside Storage and Display Standards**

The following standards are in lieu of Section 7.11 Outdoor Storage and Display.

- a. Outdoor storage of materials or commodities is prohibited.
- b. Temporary or portable buildings of any kind are prohibited except during construction of site-planned facilities.
- c. Outside sales/outside display areas shall be located within five feet (5') of a required entrance façade and shall only be located in front of the property/business that is selling the item(s). A four-foot (4') minimum clear space on sidewalks shall be maintained.
- d. All merchandise and/or seasonal items used for outside sales or display shall be moved indoors at the end of business each day.

14. **Waivers**

The Design Review Board (DRB) shall review requests for deviations from the standards of Section 5.6.B Northgate Districts as listed below. The DRB shall approve waivers found to meet the intent of the standards of Section 5.6.B Northgate Districts and the Northgate Redevelopment Implementation Plan. Financial hardship may not be considered in the review or determination of a waiver proposal.

DRB review and waiver approval shall be limited to the following items:

- a. Relief from the building design standards for historic properties if the proposed building improvements or additions generally conform to 5.3.B.3 Standards and they preserve the historical appearance and architectural character of the building.
- b. Relief from specific requirements related to building orientation and access for the improvement of existing buildings if it can be proven by the applicant shows that inherent site characteristics constrain the

proposed project from meeting the requirement(s) herein. Relief shall not be considered for building expansions or additions.

- c. Alternatives to the requirements related to building orientation and access when physical characteristics limit the site or provide for unique orientation and access opportunities.
- d. A reduction in the percentage of required building transparency for the rehabilitation of existing buildings if it can be proven by the applicant that inherent site characteristics constrain the proposed project from meeting the requirements herein.
- e. Alternatives to the requirements related to building transparency for new construction if the alternatives substantially provide the same visual interest for the pedestrian.
- f. Alternate architectural features to meet the requirements related to architectural relief when the proposed architectural details substantially provide a level of uniqueness to the building at the pedestrian scale.
- g. Along non-primary entrance facades that do not abut a right-of-way and that require design elements, murals may be considered by the Design Review Board to meet the two-design element requirement. Mural topics may include architecture and/or Texas A&M University. Murals may not contain copy or logo advertising any business.
- h. Substitutions of building materials for buildings if the applicant shows that:
 - 1) The building material is a new or innovative material manufactured that has not been previously available to the market or the material is not listed as an allowed or prohibited material herein and the material is similar and comparable in quality and appearance to the materials allowed in Section 5.6.B.5.d Exterior Building Materials or
 - 2) The material is an integral part of a themed building (example 50's diner in chrome).
 - 3) No variance shall be granted to minimum building material requirements specified for buildings ten thousand square feet (10,000 sq.ft.) or greater in area or for building plots with a cumulative structure square footage of ten thousand square feet (10,000 sq.ft.) or greater.
- i. Alternative materials on façade work that does not involve an expansion of an existing building as defined in Section 9 of the UDO or constitute redevelopment if the applicant shows that:
 - 1) The materials allowed in Section 5.6.B.5.d Exterior Building Materials cannot be utilized without a structural alteration(s) to the existing building and

- 2) A licensed professional engineer or architect verifies in writing that a structural alteration is required to apply the permitted façade materials to the building.
- j. An increase in the percentage of accent colors that may be used on a façade, not to exceed a total of twenty percent (20%) of the façade.
- k. An increase in the number of accent colors used on a façade when the additional colors are analogous to the two original accent colors (adjacent to the original accent colors on the color wheel).
- l. Alternatives to the requirements related to surface area parking lots. Alternatives must separate the parking areas so that no more than sixty (60) parking spaces are located in the same vicinity without substantial visual separation from additional parking spaces.
- m. A decrease in parking requirements for residential uses provided that the applicant submits a parking study that supports the decrease based on reasonable assumptions of parking availability. Unless shared or off-site parking is provided as allowed in Section 7.2.I Alternative Parking Plans, in no case shall the DRB permit a reduction in the number of required spaces:
 - 1) To less than the number recommended within the parking study, or
 - 2) To more than a fifty percent (50%) reduction in the amount of parking required for residential uses by Section 7.2.H Number of Off-Street Parking Spaces Required
- n. An increase in the distance requirement for shared and/or off-site parking when the shared or off-site parking is provided in a parking garage.
- o. Relief from the sidewalk width standard when bringing an existing sidewalk up to current standard where existing physical conditions prohibit the sidewalk expansion.
- p. Alternatives to the Landscape & Streetscape Standards for projects utilizing an existing structure(s) if it can be proven by the applicant that inherent site characteristics constrain the proposed project from meeting the requirements herein.
- q. Relief from the two-story requirement for casual and fine dining restaurants (not "fast food") and theaters in NG-2 if all facades are a minimum of twenty-five feet (25') in height and all façades give the appearance of a two-story structure as determined by the Design Review Board.
- r. Relief from the minimum height requirement in NG-1 and NG-2 for an existing structure undergoing only façade rehabilitation if the applicant shows that inherent site characteristics constrain the proposed project from meeting the requirement(s) herein. Relief shall not be considered for building expansions or additions."

EXHIBIT "K"

That Chapter 12, "Unified Development Ordinance," Section 5.7 "Design District Dimensional Standards," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by deleting the section and replacing it to read as follows:

"5.7 Design District Dimensional Standards

The following table establishes dimensional standards that shall be applied within the Design Districts, unless otherwise identified in this UDO:

	NG-1	NG-2	NG-3	WPC
Minimum Lot Area	None	None	None	2,400 SF
Minimum Lot Width	None	None	None	24'
Minimum Lot Depth	None	None	None	100'
Minimum Front Setback	None	None	None	25'
Minimum Side Setback	None	None	None	None (A)
Minimum Side Street Setback	None	None	None	15'
Minimum Rear Setback	None	None	None	15'
Minimum Setback from Back of Curb (B)	10'	10'	10'	None
Maximum Setback from Back of Curb (B)	20' (C)(D)(E)	25' (C)(D)(E)	20' (C)(D)(E)	None
Maximum Height	None	None	None	None
Minimum Number of Stories	2 Stories	2 Stories	2 Stories	None
Minimum Floor to Area Ratio (FAR)	1 : 1 (F)	0.75 : 1 (F)	1 : 1 (F)	None

Notes:

- (A) Lot line construction on interior lots is allowed where access to the rear of the building is provided on the site or by dedicated right-of-way or easement.
- (B) Minimum/maximum setback from the back of any curb, including lots with single frontage, lots with double frontage, and corner lots with multiple frontages.
- (C) If the width of any public easement or right-of-way is in excess of the maximum setback, the maximum setback will be measured from the edge of the public easement or right-of-way.
- (D) Maximum setback from back of curb for University Drive is 25 feet, Wellborn is 35 feet and 100 feet for South College.
- (E) When café seating is between the café's building and a right-of-way, the building may be setback a maximum of 35 feet.
- (F) This area calculation shall not include any lot area encumbered by required easements, setbacks, sidewalks, detention, or area dedicated to civic features. The area of a porch or arcade fronting a public street is included in the calculation of lot coverage."

EXHIBIT "L"

That Chapter 12, "Unified Development Ordinance," Section 6.2.C "Use Table," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending the table to read as follows:

(See Use Table on next three pages)

USE TABLE	Residential Districts										Non-Residential Districts											
	A-O	A-OR	R-1	R-1B	R-2*	R-3*	R-4*	R-6*	R-7*	P-MUD*	A-P	C-1	C-2	C-3*	R & D*	M-1	M-2	C-U	WPC*	NG-1*	NG-2*	NG-3*
KEY: P = Permitted by Right ; P* = Permitted Subject to Specific Use Standards; C = Conditional Use																						
RESIDENTIAL																						
Boarding & Rooming House								P	P	P												P
Extended Care Facility / Convalescent/Nursing Home								P	P	P		P	P						P			
Dormitory								P	P	P										P	P	P
Duplex					P			P	P	P												
Fraternity/Sorority								P	P											P	P	P
Manufactured Home	P*	P*								P*												
Multi-Family								P	P	P									C ¹	P	P	P
Multi-Family built prior to January 2002								P	P										P	P	P	P
Single-Family Detached	P	P	P	P	P	P				P												
Townhouse						P	P	P	P	P												P
PUBLIC, CIVIC AND INSTITUTIONAL																						
Educational Facility, College & University																		P				
Educational Facility, Indoor Instruction										P	P	P	P	P					P	P	P	P
Educational Facility, Outdoor Instruction	P	C								P		P	P									
Educational Facility, Primary & Secondary			P	P	P	P	P	P		P	P	P	P	P								
Educational Facility, Tutoring										P	P	P	P						P	P	P	P
Educational Facility, Vocational/Trade										P	P	P	P			P	P					
Governmental Facilities	P*	P*	P*	P*	P*	P*	P*	P*	P*	P	P	P	P	P	P	P	P	P	P	P	P	P*
Health Care, Hospitals												P	P									
Health Care, Medical Clinics											P	P	P	P						P	P	
Parks	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P
Places of Worship	P*	P*	P*	P*	P*	P*	P*	P*	P*	P	P	P	P	P	P	P	P	P	P	P	P	P
COMMERCIAL, OFFICE AND RETAIL																						
Agricultural Use, Barn or Stable for Private Stock	P	P																				
Agricultural Use, Farm or Pasturage	P	P																				
Agricultural Use, Farm Product Processing	P																					

¹ Multi-family residential uses located in stories or floors above retail commercial uses are permitted by right.

** District with Supplemental Standards (Refer to Article 5).

USE TABLE	Residential Districts										Non-Residential Districts											
	A-O	A-OR	R-1	R-1B	R-2*	R-3**	R-4**	R-6**	R-7**	P-MUD**	A-P	C-1	C-2	C-3*	R-&D*	M-1	M-2	C-U	WPC**	NG-1**	NG-2**	NG-3**
KEY: P = Permitted by Right ; P* = Permitted Subject to Specific Use Standards; C = Conditional Use																						
COMMERCIAL, OFFICE AND RETAIL (continued)																						
Animal Care Facility, Indoor										P	P	P	P	P					P	P	P	
Animal Care Facility, Outdoor	P*												P									
Art Studio/Gallery										P	P	P		P					P	P	P	P
Car Wash												P*										
Commercial Garden/Greenhouse/Landscape Maintenance	P*											P*	P*				P*					
Commercial Amusements										P		P*	P*						P	P	P	
Conference/Convention Center										P		P	P						P	P	P	
Country Club	P	P	P	P						P		P	P									
Day Care, Commercial							C	C	C	P	P	P		P						P	P	P
Drive-in/thru window												P							C		P*	
Dry Cleaners & Laundry										P*	P*	P	P	P*					P*	P*	P*	P*
Fraternal Lodge										P		P	P							P	P	P
Fuel Sales										P*		P*		P*			P					
Funeral Homes												P	P				P					
Golf Course or Driving Range	P*									P*		P*	P*									
Health Club/Sports Facility, Indoor										P		P		P					P	P	P	P
Health Club/Sports Facility, Outdoor										P		P							P	P*	P	
Hotels										P		P							P	P	P	
Night Club, Bar or Tavern										C		C							P	P	P	
Offices										P	P	P	P	P	P	P	P		P	P	P	P
Parking as a Primary Use										P	C	P	P						P		P*	
Personal Service Shop										P	P	P		P					P	P	P	P
Printing/Copy Shop										P	P	P	P	P					P	P	P	
Radio / TV station/studios										P	P	P	P	P		P	P				P*	
Restaurants										P		P		P*					P	P	P	P*

¹ Multi-family residential uses located in stories or floors above retail commercial uses are permitted by right.
 **District with Supplemental Standards (Refer to Article 5).

USE TABLE	Residential Districts										Non-Residential Districts											
	A-O	A-OR	R-1	R-1B	R-2**	R-3**	R-4**	R-6**	R-7**	P-MUD**	A-P	C-1	C-2	C-3**	R-&D**	M-1	M-2	C-U	WPC**	NG-1**	NG-2**	NG-3**
KEY: P = Permitted by Right ; P* = Permitted Subject to Specific Use Standards; C = Conditional Use																						
COMMERCIAL, OFFICE AND RETAIL (continued)																						
Retail Sales - Single Tenant over 50,000 SF																						P
Retail Sales and Service										P		P*	P*	P					P	P	P	P
Sexually Oriented Business (SOB)	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Shooting Range, Indoor										P		P	P						P			
Theater										P		P							P	P	P	P
Retail Sales, Manufactured Homes																	P*					
Storage, Self Service												P	P	P*			P					
Vehicular Sales, Rental, Repair and Service												P*	P*				P*					
Wholesales/Services												P*	P*			P	P					
INDUSTRIAL AND MANUFACTURING																						
Bulk Storage Tanks / Cold Storage Plant													P				P					
Industrial, Light													P		P	P	P					
Industrial, Heavy																	P					
Recycling Facility – Large													P*				P					
Salvage Yard																	P*					
Scientific Testing/Research Laboratory													P		P	P						
Storage, Outdoor - Equipment or Materials													P			P	P					
Truck Stop/Freight or Trucking Terminal																	P					
Utility	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Warehousing/Distribution													P			P	P					
Waste Services																	P					
Wireless Telecommunication Facilities – Intermediate	P*									P*	P*	P*	P*	P*	P*	P*	P*		P*	P*	P*	P*
Wireless Telecommunication Facilities – Major	C										C	C	C	C	C	C	P*					
Wireless Telecommunication Facilities – Unregulated	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P

¹ Multi-family residential uses located in stories or floors above retail commercial uses are permitted by right.
 **District with Supplemental Standards (Refer to Article 5).

EXHIBIT "M"

That Chapter 12, "Unified Development Ordinance," Section 6.3 "Specific Use Standards" of the Code of Ordinances of the City of College Station, Texas, is hereby amended by adding the following definitions to be incorporated alphabetically with the existing definitions in this section and then all the definitions renumbered with letters "A" through "T":

"6.3 Specific Use Standards**Drive-in/Thru Window**

All site designs and elevations for drive-in/thru windows shall be reviewed by the Design Review Board as part of the site plan review process. All outside activities and appurtenances related to drive-in/thru service shall be located wholly underneath a habitable structure, screened from view from the University Drive right-of-way, and designed to be sensitive to the pedestrian environment.

Health Club/Sports Facility, Outdoor

Outdoor health clubs/sports facilities shall only be allowed on roof tops.

Parking as a Primary Use

Parking as a primary use shall be permitted when all of the parking is located within a multi-level garage.

Radio/TV Station/Studios

Outdoor transmission facilities shall be completely screened from view from any right-of-way."

EXHIBIT "N"

That Chapter 12, "Unified Development Ordinance," Section 9.3 "Nonconforming Structures" of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending paragraph A to read as follows:

"9.3 Nonconforming Structures

A. Enlargement, Alteration

1. A structure (including parking lots, parking structures, and parking areas), which is nonconforming by physical design may be enlarged or structurally altered as long as such enlargement or alteration otherwise complies with the terms of this UDO.
2. In NG-1, NG-2, and NG-3, the whole building plot must come into compliance with the requirements of this UDO when more than fifty percent (50%) of a building(s) on the site is enlarged or altered."

**March 23, 2006
Regular Agenda
Haney-Highway 6 Rezoning**

To: Glenn Brown, City Manager

From: Joey Dunn, Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning Lot 1, Block A of the Haney-Highway 6 Subdivision, 1.2 acres, from C-3 Light Commercial to C-1 General Commercial, located at 3129 Texas Avenue South at the intersection of Texas Avenue, Deacon Drive and the Highway 6 frontage road.

Recommendation(s): The Planning & Zoning Commission recommended denial of this request by a vote of 5-0 at their March 2, 2006 Regular Meeting. Staff also recommends denial of this request.

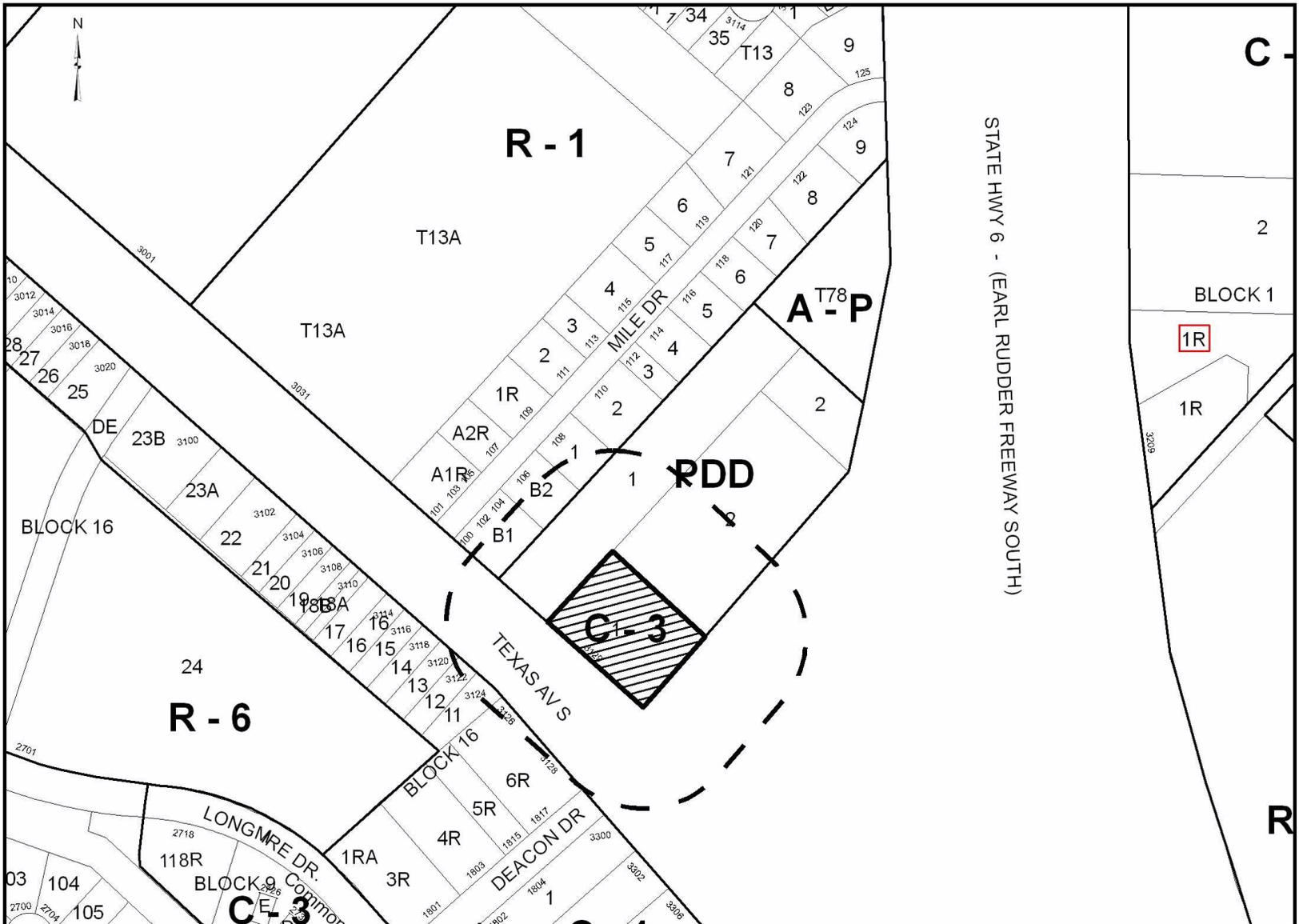
Item Summary: The applicant has requested rezoning the subject property from C-3 Light Commercial to C-1 General Commercial to redevelop a former gas station site at the northeast corner of Texas Avenue and Deacon/ SH6 Frontage Road. The applicant has indicated in the rezoning application that he wishes to redevelop this site as a retail shopping center, which is already a permitted use in the current C-3 Light Commercial district. C-1 General Commercial allows many uses that may not be appropriate in this location, which has limited access and is in close proximity to an established single-family neighborhood, Bernadine Estates, also known as the Mile Drive neighborhood.

The Land Use Plan designates this property as Regional Retail. Both C-1 General Commercial and C-3 Light Commercial can be acceptable zoning districts for the Regional Retail land use classification, depending on site specific circumstances. However, in this case C-1 General Commercial has received significant opposition from the adjacent Mile Drive neighborhood in a number of previous requests since 1976 (refer to Item Background, attached).

Budget & Financial Summary: N/A

Attachments:

1. Small Area Map
2. Aerial Map
3. Item Background
4. C-1 & C-3 Zoning District Comparison
5. Planning & Zoning Commission Meeting Minutes - March 2, 2006
6. Ordinance



DEVELOPMENT REVIEW

3129 TEXAS AVE S.

Case:
06-500021

REZONING



DEVELOPMENT REVIEW

3129 TEXAS AVE S.

Case:
06-500021

REZONING

Item Background

The property was annexed into the City limits in 1969 and was zoned 'District No. 1, First Dwelling House,' for single family development, at that time.

The property was platted as Haney-Highway 6 Subdivision in 1985, the plat was amended in 1988 to relocate access easements and add a 'greenbelt' to help buffer the Mile Drive neighborhood from commercial uses on the adjacent property, in compliance with an agreement reached by the commercial property owners and representatives of the adjacent Mile Drive neighborhood.

The Unified Development Ordinance states that the C-3 Light Commercial zoning district is "designed to provide locations for commercial sites that are too small for many permitted uses in the C-1 General Commercial District. These are moderately low traffic generators that have little impact on adjacent areas or on adjacent thoroughfares." The C-1 General Commercial zoning district is "designed to provide locations for general commercial purposes, that is, retail sales and service uses that function to serve the entire community and its visitors." Attached is a list of uses that are permitted in C-1 General Commercial, but not in the current C-3 Light Commercial zoning district.

The Comprehensive Plan policy guide states that general commercial uses should be separated from lower intensity residential uses by transition buffer areas. While an office-commercial development such as the adjacent mini-storage can provide an appropriate separation, the policy states that transitional buffers such as these be a minimum of 200 feet to separate incompatible land uses. The adjacent mini-storage property does not provide the minimum 200 foot separation. The Small Area Map attached to this report shows a distance of 200 feet from the subject property (the notification area). The Comprehensive Plan development policies suggest that this property is better suited for C-3 Light Commercial, rather than C-1 General Commercial.

There have been numerous rezoning requests for this and surrounding properties in the Haney-Highway 6 Subdivision:

1976 - C-1 request denied

1978 - C-1 request denied

1979 - C-1 and A-P request approved with the A-P as a buffer between the commercial property and the neighborhood

1982 - Planning and Zoning Commission initiated a rezoning to A-P for the whole tract after a petition by the Mile Drive residents requested that no commercial development be allowed on the Haney-Highway 6 tract

1984 - C-1 request denied

1985 - C-1 request denied

1985 - C-3 request approved on subject property.

1988 - C-3 was approved on adjacent properties with the support of the neighborhood and the addition of a greenbelt between the commercial property and the neighborhood.

1988 - The property was replatted to reflect the greenbelt that was a condition of the C-3 rezoning.

2004 - Lots 1 & 2, Block B, and Lot 2, Block A were rezoned PDD Planned Development District after negotiation between the residents of Mile Drive and the property owners of the lots. The list of approved uses was compiled using the original agreement between property owners and Mile

Drive residents (1987) and the opinions of the current residents. The following uses were approved with that PDD:

- § Animal Care Facilities - Indoor
- § Art Studio/Gallery
- § Educational Facility, Indoor Instruction
- § Mini-Storage Warehouse (with accessory living quarters)
- § Offices
- § Clinic & Medical Office
- § Personal Service Shop
- § Printing/Copy Shop
- § Radio/TV Station/Studios (no towers)
- § Retail Sales and Service

Demolition for redevelopment of this site has begun.

Staff has received one phone call in opposition to the request. This gentleman is a current resident in the Mile Drive neighborhood and has been involved in rezoning requests on this property in the past. He has concerns with the types of uses that C-1 General Commercial zoning allows, including drive-thru restaurants.

Uses allowed in C-1 General Commercial that are not allowed in C-3 Light Commercial include the following:

Permitted by right in C-1, but not C-3:

- Extended Care Facility / Convalescent / Nursing Home
- Educational Facility, Outdoor Instruction
- Educational Facility, Tutoring
- Educational Facility, Vocational / Trade
- Health Care, Hospital
- Conference / Convention Center
- Country Club
- Drive-in / thru Window
- Dry Cleaners and Laundry (permitted in C-1 , has specific use standards in C-3)
- Fraternal Lodge
- Funeral Homes
- Health Club / Sports Facility, Outdoor
- Hotels
- Restaurants (permitted in C-1 , has specific use standards in C-3)
- Retail Sales -Single Tenant over 50,000 SF
- Shooting Range, Indoor
- Theater
- Storage, Self Service (permitted in C-1 , has specific use standards in C-3)

Permitted with Specific Use Standards in C-1, but not C-3:

- Fuel Sales (Limited to 4 fuel pumps in C-3, C-1 may have any number of fuel pumps)
- Golf Course or Driving Range
- Car Wash
- Commercial Garden/Greenhouse/Landscape Maintenance
- Commercial Amusements
- Vehicular Sales, Rental, Repair and Service
- Wholesales / Services

Permitted with a Conditional Use Permit in C-1, but not C-3:

- Night Club, Bar or Tavern



MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, March 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 Dennis Christiansen, Bill Davis, John Nichols, and Ken Reynolds.

COMMISSIONERS ABSENT: Marsha Sanford and Harold Strong.

CITY COUNCIL MEMBERS PRESENT: None.

PLANNING & DEVELOPMENT SERVICES STAFF PRESENT: Staff Planners Lindsay Boyer, Crissy Hartl, and Jennifer Reeves, Senior Planners Jennifer Prochazka and Trey Fletcher, Senior Assistant City Engineer Alan Gibbs, Graduate Civil Engineer Carol Cotter, Transportation Planner Ken Fogle, Director Joey Dunn, Assistant Director Lance Simms, Development Coordinator Bridgette George and Staff Assistants Jessica Kramer and Deborah Grace.

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 7:02 p.m.

7. Public hearing, presentation, possible action, and discussion on a rezoning for Lot 1, Block A of the Haney-Highway 6 Subdivision, 1.2 acres, from C-3 Light Commercial to C-1 General Commercial located at 3129 Texas Avenue South in the general vicinity of the intersection of Texas Avenue, Deacon Drive and the Highway 6 frontage road. **Case #06-500021 (JP)**

Jennifer Prochazka, Senior Planner, presented the rezoning, with a recommendation of denial. Staff felt that the current C-3 zoning on the property is more appropriate for the specific property. Ms. Prochazka reviewed the differences between C-1 and C-3 zoning uses. She stated that staff felt that the C-1, General Commercial District allows several uses that may not be appropriate in this location because the size of the property, traffic issues and the adjacency to Mile Drive.

Matt Willis, 104 Mile Drive, College Station, Texas. Mr. Willis spoke in opposition to any of the uses in C-1, General Commercial that are allowed there. Mr. Willis spoke specifically to the rental of vehicles which have been addresses with the property owners in the middle.

Charles Taylor, 1602 Panther Lane, College Station, Texas. Mr. Taylor spoke in favor of C-1, General Commercial zoning for the property.

Commissioner Nichols motioned to deny the rezoning request. Commissioner Davis seconded the motion, motion passed (5-0).

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," 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 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", 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 23rd day of March, 2006.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



Nancy Cangel
City Attorney

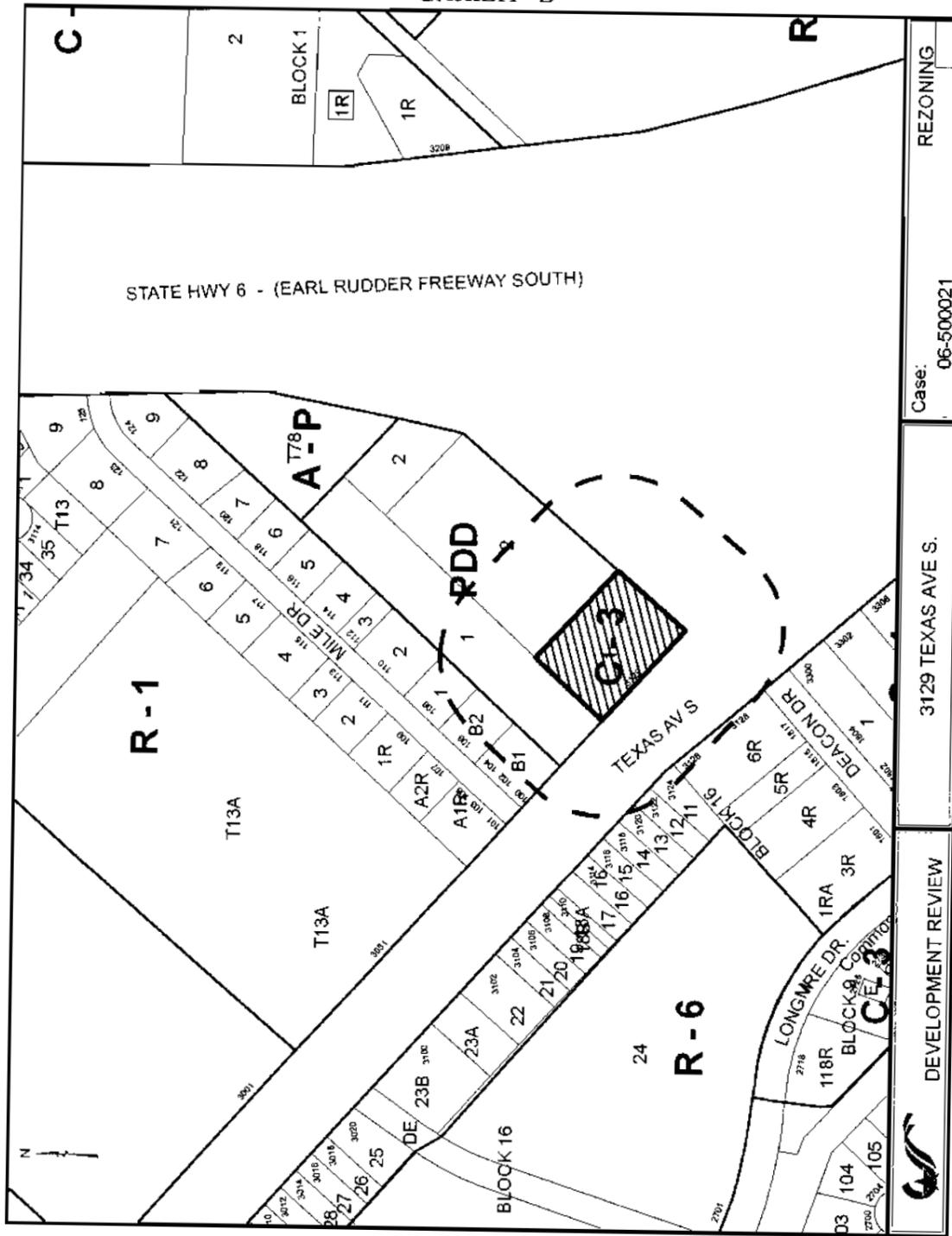
EXHIBIT "A"

PAGE 2 of 3

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from C-3 Light Commercial to C-1 General Commercial:
Lot 1, Block A of the Haney Highway 6 Subdivision, as shown graphically in Exhibit "B."

EXHIBIT "B"



**March 23, 2006
Regular Agenda
Statewide Transportation Enhancement Program Resolution**

To: Glenn Brown, City Manager

From: Joey Dunn, Director of Planning and Development Services

Agenda Caption: Presentation, possible action, and discussion regarding a resolution supporting the Bee Creek Crossing Bike/Pedestrian Improvement Project, for inclusion in the Statewide Transportation Enhancement Program (STEP).

Recommendation(s): The Council Transportation Committee, the Planning and Zoning Commission, and city staff recommend that the City Council adopt the attached resolution supporting the Bee Creek Crossing Bike and Pedestrian Improvement Project.

Summary: This item is a resolution for submittal of a local project for funding from the Texas Department of Transportation (TxDOT). The TxDOT funding program is referred to as the Statewide Transportation Enhancement Program (STEP). The recommended local project is referred to as the Bee Creek Crossing Bike and Pedestrian Improvement Project. This project would provide a bicycle/pedestrian connection between the Longmire Drive Corridor and the College Station Bike Loop (refer to attached location map). The three primary sections of the project would include:

1. Making bicycle/pedestrian improvements at the FM 2818 / Longmire Drive intersection by constructing curbing along the intersection approaches, constructing sidewalks between the frontage roads, providing medians for pedestrian refuge, and providing landscaping within the right-of-way to aesthetically enhance the area.
2. Constructing a bike and pedestrian bridge across Bee Creek to provide the critical linkage between south College Station and the College Station Bike Loop. By making this improvement, the travel distance along this corridor will be reduced by 1/3 of a mile.
3. Striping bike lanes along Longmire Drive between Airline Drive and Valley View Drive connecting the Longmire Drive bike lane corridor to the College Station Bike Loop across the Bee Creek Bridge.

The Bee Creek Bridge project was selected as a high priority project by the Bike and Hike Task Force in 2005. The City Council has also approved the prioritization of this project, given that bicycle/pedestrian improvements must be made at the FM 2818 / Longmire Drive intersection in conjunction with the bridge project.

Budget & Financial Summary: The 2003 Capital Improvement Program included \$1 million for the development of hike and bike trails. If this project is selected by TxDOT, the City of College Station is required to provide matching funds of at least twenty percent (20%) of the overall project cost. This STEP application would include a request of approximately \$600,000 from TxDOT, with a twenty-five percent (25%) local match up to \$200,000 for a total of \$800,000 for the project.

Attachments:

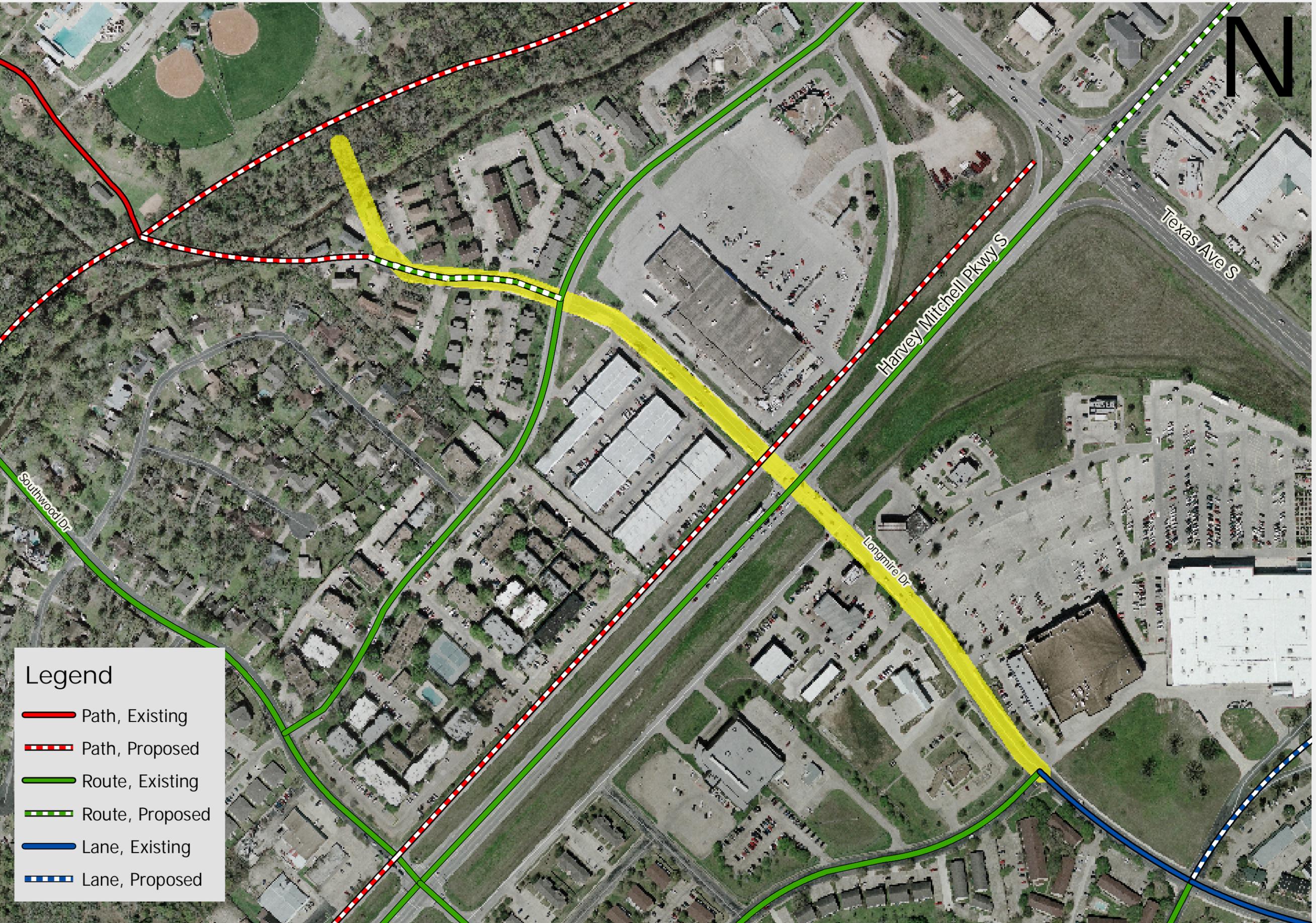
1. Location Map
2. STEP Resolution
3. STEP Program Background
4. STEP Guidelines

Bee Creek Crossing

Bike and Pedestrian Improvement Project



CITY OF COLLEGE STATION



Legend

- Path, Existing (Red solid line)
- Path, Proposed (Red and white dashed line)
- Route, Existing (Green solid line)
- Route, Proposed (Green and white dashed line)
- Lane, Existing (Blue solid line)
- Lane, Proposed (Blue and white dashed line)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE BEE CREEK CROSSING BIKE AND PEDESTRIAN IMPROVEMENTS PROJECT AS THE CITY OF COLLEGE STATION CANDIDATE PROJECT FOR THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM.

WHEREAS, on August 10, 2005, President George W. Bush signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); and,

WHEREAS, on November 1, 2005, the Texas Department of Transportation (TxDOT) issued a Call for Projects for funding through the Statewide Transportation Enhancement Program (STEP) with a submission deadline of April 28, 2006; and,

WHEREAS, all STEP projects nominated in our region must be submitted to the Bryan-College Station Metropolitan Planning Organization (BCSMPO) by April 12, 2006; and,

WHEREAS, all STEP projects nominated by the City of College Station must be endorsed by the City Council with a commitment to fund 20 percent of the project total cost as the required local match if the project is selected; and,

WHEREAS, the required 20 percent local match can be provided from funds made available from the 2003 bond authorization for Hike and Bike Trails in the Streets Capital Project Fund; and,

WHEREAS, the Bee Creek Crossing Bike and Pedestrian Improvements project was designated a high priority project by the College Station Bike and Hike Task Force; and,

WHEREAS, on February 21, 2006, the Bee Creek Crossing Bike and Pedestrian Improvements project was presented to and endorsed by the College Station Council Transportation Committee; and,

WHEREAS, on March 16, 2006, the Bee Creek Crossing Bike and Pedestrian Improvements project was presented to and endorsed by the College Station Planning and Zoning Commission; now, therefore,

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

PART 1. That the City Council finds that the Bee Creek Crossing Bike and Pedestrian Improvements project meets the eligibility requirements for funding through the Statewide Transportation Enhancement Program.

PART 2. That the City Council hereby authorizes and designates the City Manager to sign the Texas Department of Transportation Statewide Transportation

Enhancement Program Nomination Form on behalf of the City of College Station.

- PART 3:** That the City Council hereby acknowledges its requirement to enter into an agreement with the Texas Department of Transportation upon acceptance of the Bee Creek Crossing Bike and Pedestrian Improvements project for implementation of this project.
- PART 4:** That the City Council hereby acknowledges its requirement to provide a local funding match not to exceed \$200,000, to be financially responsible for all non-federal participating funding items including 100 percent of all overruns.
- PART 5:** That the funding for this Project shall be as budgeted from the Streets Capital Project Fund, not to exceed \$200,000.
- PART 6:** That this resolution shall take effect immediately from and after its passage.

ADOPTED this twenty-third day of March A.D. 2006.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

RON SILVIA, Mayor



City Attorney

TxDOT STEP Program Background

On November 1, 2005, the Texas Department of Transportation (TxDOT) issued a Call for Projects for funding through the Statewide Transportation Enhancement Program (STEP). This program, which was established with the passage of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), provides for opportunities to contribute to the livelihood of communities, the quality of our environment, and the aesthetics of our roadways. Projects that are selected will receive a cost reimbursement of up to eighty percent (80%) through this program. The projects must qualify under one of eight categories to be eligible, including:

- Provision of facilities for pedestrians and bicyclists
- Landscaping and other scenic beautification



Statewide Transportation Enhancement Program Guide



Administered by the Texas Department of Transportation
November 1, 2005
(Revised December 9, 2005)
www.dot.state.tx.us/TE

Guide Notices

NOTICE OF REVISION 2005 – 1

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SECTION A PROGRAM GUIDE BASICS

Definitions and Abbreviations

AASHTO — American Association of State Highway and Transportation Officials

ADA — Americans with Disabilities Act

ALLOWABLE COSTS — necessary project expenditures incurred after federal and state authorization to proceed and otherwise eligible for reimbursement under applicable statutes and regulations. In appropriate projects, allowable costs may include costs of plans, specifications and estimates, environmental mitigation, acquisition of land or other real property, construction, construction management, administrative expenses, and interpretation or other activities to enhance the appreciation of scenic, historic, natural, or cultural resources. Expenditures for routine operation and maintenance are not allowable costs.

APPROPRIATE LOCAL OFFICIALS - principal elected officials of general purpose local governments.

CANDIDATE PROJECT - a project submitted to TxDOT by a nominating entity that is requesting the Commission to consider it for funding under the STEP.

CFR — Code of Federal Regulations

COE – Corp of (Army) Engineers

COUNCIL OF GOVERNMENTS (COG) — an association of local governments established under Chapter 391, Local Government Code, to make studies and plans to guide far-reaching development of a region, to eliminate duplication and to promote the economy of an area.

DEPARTMENT - Texas Department of Transportation

DISTRICT OFFICE - a headquarters office for one of the department's twenty-five geographical districts into which the state is divided.

EPA — Environmental Protection Agency

EXECUTIVE DIRECTOR —the executive director of the Texas Department of Transportation or his or her designee not below the level of assistant executive director.

FEDERAL FUNDS — financial assistance provided by the Federal Highway Administration for project development.

FHWA — Federal Highway Administration

FPA — Federal Project Authorization and Agreement

FUNCTION — the candidate project serves a purpose relating to the existing transportation system.

IMPACT - substantiates the relation to the surface transportation system in that the candidate project creates a beneficial effect on the existing transportation system.

IN-KIND CONTRIBUTIONS - that portion of allowable costs of a project contributed by other governmental entities or private parties consisting of donations of real property, materials, or contribution of services (for PS&E only), up to 20% of the project's cost.

JURISDICTION - for a city, the area within the incorporated city limits, including a city's extraterritorial jurisdiction. For a county, any area within the boundaries of the county, excluding incorporated areas. For a state agency, any area within the prescribed authority of the state agency.

LOCAL AGREEMENT - an agreement between the nominating entity and the department which includes a commitment for the required local funding, describes the total scope and course of project activities, and outlines the responsibilities and duties of the participants. Also known as, the advanced funding agreement or AFA.

LOCAL FUNDING MATCH - monies or authorized in-kind contributions provided by the nominating entity to participate in costs associated with project development.

LOCAL TRANSIT OPERATOR - a public entity providing public transportation within a given region.

MAINTENANCE – general upkeep of a facility to keep it in use and stable, such as repair or replacement of worn-out, obsolete or broken parts, painting, resurfacing trails, clean-up, mowing, watering, grounds keeping, etc.

METROPOLITAN AREA - that area included within the boundaries determined pursuant to Title 23, United States Code, §134(c), and/or §8(c) of the Federal Transit Act (49 USC App. §1608(c)).

METROPOLITAN TRANSPORTATION PLAN - the plan required by Title 23, United States Code, §134(g), and/or §8(g) of the Federal Transit Act (49 USC App. §1608(g)).

METROPOLITAN PLANNING ORGANIZATION (MPO) - that entity designated by the governor in accordance with 1 TAC §§5.51-5.57 concerning Metropolitan Planning Organizations as responsible, together with the state, for carrying out the provisions of Title 23, United States Code, §134, and/or §8 of the Federal Transit Act (49 USC App. §1608). MPOs are generally composed of local elected officials, the administrators of the

area's major transportation systems, state officials, transit officials, and other interested parties.

NOMINATING ENTITY — Nominating entity or nominator — The state agency, agency of the state, MPO, councils of governments, city, county, or local transit operator which nominates a particular candidate project for consideration by the department, exercises jurisdiction over the geographic area in which that project is located, and commits to the project's development, implementation, construction, maintenance, management, and financing.

NRHS — NATIONAL REGISTER OF HISTORIC SITES — this register lists properties that have historic significance and is maintained by the Secretary of the Interior. Current listings are made available through the Texas Historical Commission.

NEPA — National Environmental Policy Act

OPERATIONAL INCOME - net income received by the owner of a facility constructed or enhanced using funds received through the Program after deducting the costs incident to the generation of that income. The term includes, but is not limited to income from fees for services performed, use or rental of real or personal property, or sale of commodities. Taxes, license fees, fines, royalties, and other such revenues received by the facility owner or paid within the facility are not considered income.

OPERATIONS – providing for the operational use of a historic transportation facility for which the building was designed; such as a railroad depot.

PE — Preliminary Engineering — activities required to begin the development of a project from design, surveys, testing, evaluations, planning, specifications, estimates, drawings, and plans.

PS&E – plans, specifications, and estimates

PUBLIC AUTHORITY – a state agency, city, or county.

REIMBURSABLE COSTS — allowable costs that have been incurred by the department or the nominating entity which are eligible for federal participation and which have been approved by the Commission.

SAFETEA-LU — federal legislation providing the Safe, Accountable, Flexible and Efficient Transportation Equity Act – a Legacy for Users (2005)

SHPO — State Historic Preservation Office, is administered under the Texas Historical Commission that is responsible for issuing certifications determining whether historic properties are listed in or eligible for listing in the National Register.

SPONSOR — One or more individuals, partnerships, associations, private corporations, or public authorities recommending a particular project and committed to its development, and implementation.

STATE — the State of Texas or any of its political subdivisions.

STATE HIGHWAY SYSTEM - as defined in the Texas Transportation Code §221.001, that system of highways in the state included in a comprehensive plan prepared by the department's executive director under the direction and with the approval of the TTC.

STB – Surface Transportation Board

STEP – Statewide Transportation Enhancement Program

STIP — Statewide Transportation Improvement Program is the formal program document required by Title 23, United States Code, §135(f), which is necessary to receive federal reimbursement for projects.

STP — Surface Transportation Program, a federal transportation program authorized under 23 United States Code, Section 133 for moving people and goods using various combinations of transportation modes.

SURFACE TRANSPORTATION SYSTEM - an interconnected transportation network, exclusive of airways.

TAS – Texas Accessibility Standards

TCEQ – Texas Commission on Environmental Quality

TE — Transportation Enhancement

TEPEC —Transportation Enhancement Project Evaluation Committee comprised of the executive directors or designees of these six state agencies, the Texas Department of Transportation, Texas Historical Commission, Texas Parks and Wildlife Department, Governor's Office - Economic Development and Tourism Division, Texas Commission of Environmental Quality, and the General Land Office.

THC — Texas Historical Commission

TIP — Transportation Improvement Program is the transportation program required by Title 23, United States Code, §134 (h), and/or §8 (h) of the Federal Transit Act (49 USC App. §1608 (h)), cooperatively developed with metropolitan planning organizations which include improvement projects proposed for federal funding in accordance with the criteria set forth in federal law and federal regulations.

TRANSPORTATION ENHANCEMENT ACTIVITIES - Those activities so defined in §101(a) of Title 23, United States Code.

TTC — Texas Transportation Commission - Commission

TxDOT — Texas Department of Transportation

USDOT — the United States Department of Transportation

SECTION B PROGRAM CALL

Introduction

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, acknowledged the relationship between transportation decisions and preserving and enhancing significant natural and cultural resources. The Transportation Equity Act for the 21st Century (TEA-21) of 1998 expanded the ideas established under ISTEA to include new activities to improve our ecology and enrich our lives. Transportation enhancement provisions provided by the Safe, Accountable, Flexible and Efficient –Transportation Equity Act: A Legacy for Users (SAFETEA – LU) of 2005 includes options that can contribute to the livelihood of communities, the quality of our environment and the aesthetics of our roadways.

The Statewide Transportation Enhancement Program operates under the rules adopted and revised by the Texas Transportation Commission (TTC) on February 25, 1999, and may be found in 43 Texas Administrative Code (TAC) §11.200 – §11.205.

Transportation enhancements are funded through the Surface Transportation Program (STP), administered by the Texas Department of Transportation (TxDOT) for the Federal Highway Administration (FHWA) of the U.S. Department of Transportation (USDOT). Ten percent of STP funds are set aside for enhancement activities. New funds were authorized under SAFETEA - LU of 2005 to provide funding for an additional five year period. The TTC is issuing a call for nominations under the new funding authorization.

The funds provided by this program are on a cost reimbursement basis. The transportation enhancement program is **not a grant**. Projects undertaken with enhancement funds are eligible for **reimbursement of up to 80 percent of allowable costs**, which may include plans, specifications, estimates, environmental documentation, acquisition of real property, construction, construction management, administrative expenses, or other activities associated with the development of the project that are determined eligible. The nominating entity is responsible for the remaining cost share. **One hundred percent of all cost overruns must be paid for by the nominating entity.** Costs incurred before TxDOT's authorization to proceed are not reimbursable. Other ineligible expenses include the cost of preparing a project nomination, routine operations, and maintenance of a project.

Projects entered into the Statewide Transportation Enhancement Program should integrate transportation facilities into the surrounding environment in a sensitive and creative manner that goes beyond standard or routine operations. Transportation enhancement funding dedicates revenue for non-traditional transportation-related activities. TxDOT encourages all Texans to actively participate in developing the state's transportation goals.

Call for Project Nominations

TxDOT, in cooperation with FHWA, is pleased to announce a call for project nominations to the Statewide Transportation Enhancement Program from **November 1, 2005 – April 28, 2006**. This guide summarizes the program and outlines the project nomination process. TxDOT strongly encourages project nominators to be familiar with all materials in the nomination package and to contact the local TxDOT district office for assistance in completing a nomination form.

Up to 80 percent of eligible project costs can be reimbursed with federal funds by FHWA through TxDOT. At least 20 percent of the project's allowable costs must be provided by a public authority, as the local funding match. **By submitting a project for the program, the nominator agrees to enter into an agreement with TxDOT and be financially responsible for the non-federal participating funding and for implementation of a project.**

The transportation enhancement program is a statewide competitive process. Nominators must provide complete nomination forms with all documentation in order for nominations to be accepted. All projects must demonstrate a relationship to the surface transportation system as detailed in the nomination guide to be considered. All complete nominations that meet the program requirements will undergo eligibility reviews by TxDOT and FHWA. Eligible projects will be evaluated by TxDOT staff and the Transportation Enhancement Project Evaluation Committee (TEPEC). TxDOT staff evaluations and TEPEC's evaluations and recommendations are provided to the Commission. The Commission selects projects from all eligible nominations. All selections are made at the sole discretion of the Commission. Project selection is anticipated in the winter of 2006.

Project nominations must be submitted to the TxDOT District office responsible for the area where the project is located. **TxDOT will not accept nomination packages after the final due date.**

Final nomination packages must be submitted to the local TxDOT District office by:

FINAL DUE DATE
Friday
5:00 p.m., April 28, 2006:

Nomination package must include:

- Original signed nomination form (with all attachment documents)
- 12 copies of the entire nomination package
- CD containing completed form only (in an electronic Excel format)

Program Eligibility

The transportation enhancement program is unique. What differentiates it from other transportation programs is its orientation toward non-traditional transportation projects. Determining eligibility refers to the requirements that a project must meet in order to be considered for funding. Project nomination packages that are submitted to the program must also be complete. Eligibility criteria are separate from selection criteria.

In order to be eligible for the transportation enhancement program, projects must demonstrate a relationship to the surface transportation system; fit one of the 12 enhancement categories; and go above and beyond standard transportation activities. In addition to these, a project must have a nominator that complies with the program guidelines; meet standards established under the Americans with Disabilities Act (ADA) and National Environmental Policy Act (NEPA); complies with all other applicable state and federal regulations; and provides all required information.

TxDOT in consultation with FHWA will determine the eligibility of all nominated projects. Project nominations should include only eligible activities and costs. Consequently, in reviewing nominations FHWA and TxDOT may determine some candidate projects are only partially eligible and that ineligible activities or costs cannot be funded. A minimum of 50 percent of the project activities and a minimum of 50 percent of the estimated project costs must be eligible under the program rules for the project to continue in the selection process. Only eligible items will be considered for funding or for credit as an in-kind donation. Project nominators will be given the opportunity to continue in the process by appeal, if the majority of their project is eligible and a revised budget is submitted without the ineligible items.

In accordance with federal guidance, projects that solely include aviation activities are not considered surface transportation related and therefore are not eligible for funding participation. To be considered eligible for funding, projects that include aviation activities must incorporate various other surface transportation modes, such as automobiles, trains, and/or ships into the project.

Transportation Relationship

Transportation enhancement projects must establish a relationship to the surface transportation system by either **function** or **impact**. Once a relationship to the surface transportation system is established, transportation enhancement activities can be implemented in a variety of ways. They can be developed as parts of larger transportation projects, as parts of larger joint development projects or as stand-alone projects. A project must demonstrate one of the following relationships to the surface transportation system:

Function

A candidate project can establish a relationship by function if it serves a purpose relating to the existing surface transportation system. Facilities originally designed as part of the system, including historic bridges and railroad depots, or facilities that compliment the system, such as facilities for bicyclists and pedestrians, serve the surface transportation system through function. Operation of visitors centers or transportation-related museums are other examples of projects that relate to the surface transportation system by function.

Impact

A candidate project can establish a relationship by impact if it creates a beneficial effect on the existing surface transportation system. Activities such as aesthetically improving a roadway median through a landscaping activity or creating wetlands by filtering pollution from highway water runoff will serve the surface transportation system through impact.

Go Above and Beyond

Projects must go above and beyond standard roadway activities regularly performed by TxDOT. Standard activities that comprise a minor or incidental part of a project's budget may be considered for funding, if that activity is required to accomplish the overall scope of work. Example: putting in a new curb and gutter with the addition of a sidewalk improvement project. It is advisable to consult with the TxDOT district office in your area for assistance in making this determination.

Adding left hand turn lanes, medians in roadways, curbs and gutters, roadway lighting, as well as resurfacing roadways, utility readjustments or lane widening are examples of standard roadway improvements. Activities required to meet ADA compliance must be included when providing TE improvements. However, TE projects should not be used to singularly meet federal compliance of mandated activities.

It is recommended that incidental cost be kept to a minimum. For example: in order to implement a TE bicycle and pedestrian project, it may be necessary to relocate a water line, replace a street light and resurface a crosswalk during construction - as incidental activities. All incidental activities should equal no more than 30 percent of the project's construction cost.

Qualifying Categories

Projects must qualify under one of the 12 allowable categories:

1. Provision of facilities for pedestrians and bicycles — Activities in this category should relate to the existing surface transportation system by enhancing or providing bicycle and pedestrian modes of travel. Projects must be principally for transportation rather than purely recreational purposes and have logical endpoints. Trails (including shared use paths) and walkways should provide alternate pathways for pedestrians and nonmotorized vehicle uses. Constructing or reconstructing walking and biking trails that join communities, shops, schools, businesses, activities and recreation sites enhance the

system. Other activities in this category may enhance the surface transportation system through more aesthetic routing, or design. Consider improving other existing facilities to make them safer and more user-friendly for pedestrians and bicyclist, such as adding bicycle parking or lockers at a rail station. Amenities that make these facilities more popular or attractive, such as landscaping or street furnishings for pedestrians, including pedestrian lighting, are also eligible activities.

Bicycle and pedestrian projects must be independent of new roadway construction and rehabilitation. Construction or reconstruction of a bike lane or pedestrian bridge may be eligible. Bicycle lanes that consist of a portion of an existing roadway that is designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists are also eligible.

When creating crosswalks, it is recommended that concrete pavers be used instead of bricks to delineate and enhance the designated walking area. Placing bricks on the US/STATE highway system is not allowed.

Stand alone parking lot projects for future bicycle/pedestrian facilities or general parking for an area is not eligible.

Activities that are conducted as an incidental and routine part of new transportation projects to accommodate routine use by pedestrians and bicyclists are not eligible. Facilities incorporated in current transportation projects may not qualify for TE project funding. Paved shoulders, wide curb lanes, sidewalks, and curb cuts are not eligible if incidental and routine to road construction or reconstruction.

Facilities for bicycles and pedestrians may allow equestrian use, but facilities exclusively for equestrian activities are not eligible for enhancement funding. Federally funded facilities under the TE program, also do not allow for the use of trams, ATV's, motorcycles or other motorized vehicles. Exceptions include the use of motorized wheelchairs and electric motor-assisted bicycles (under 100 lbs with a top speed of less than 20 MPH and that comply with local ordinances).

All **bicycle facility projects** must be designed and constructed to meet the criteria outlined in *The Guide for Development of Bicycle Facilities*, published by the American Association of State Highway and Transportation Officials (AASHTO). All **pedestrian facility projects** must comply with AASHTO's guide, *A Policy on Geometric Design of Highways and Streets*, and *The Secretary of the Interior's Standards for Historic Preservation*, where applicable. All TE projects must be ADA compliant.

When proposing reconstruction or rehabilitation of sidewalks and streetscape type work; consider that the project's activities may be affected by their proximity to historic properties and the type of work to be performed within the proposed area. If the sidewalks themselves or adjacent buildings in the project area are more than 50 years of age, please consult with THC as to types of activities that would be recommended to enhance the project area.

Do:

- ▶ Construct new sidewalks, separate walking trails/paths, and bike paths.
- ▶ Construct or improve marked bike lanes on existing roadways.
- ▶ Add or improve road shoulders to accommodate a marked bike lane for cyclist.
- ▶ Construct pathways to connect downtown or residential neighborhoods to a park and ride lot, schools, business centers, parks, transit centers and shopping.
- ▶ Include landscaping, trash receptacles, lighting and other street furnishing as well as crosswalks for pedestrians.

Don't:

- ▶ Install streetlights intended to light the roadway and consider them pedestrian lighting.
- ▶ Create a velodrome, running/jogging track or loop, mountain bike or similar recreational trail.
- ▶ Perform sidewalk repair/maintenance or ramps for ADA compliance, unless incidental to construction of new sidewalks.

2. Provision of safety and education activities for pedestrians and bicyclists —

Activities in this category include all types of training programs to educate the public on safety features and information available for cyclists and pedestrians. Eligible activities for this category may include, but are not limited to, producing brochures and other promotional material; and training and development. Instruction in schools, institutions and groups to promote bicycle and pedestrian safety is also eligible. Programs must be consistent with local ordinances on bicycle and pedestrian travel.

Do:

- ▶ Print brochures and other promotional material for visitations to schools and other institutions and groups to promote or teach bicycle and pedestrian safety.
- ▶ Create a training program for children to learn rules of the road for cyclist and pedestrians.
- ▶ Conduct workshops for adults to learn commuter routes and educate them on safety features available for cyclist.

Don't:

- ▶ Duplicate a safety and education program that is currently available in your area.
- ▶ Create promotional material to give away, without any accompanying educational activity.

3. Acquisition of scenic easements and scenic or historic sites — Activities in this category may be used to purchase or donate real property that possesses significant aesthetic, historic, natural, visual or open space value. Acquisition of the real property should enhance the transportation user's experience of the surface transportation system and contribute to the system. Planning, transaction fees for surveys, appraisals, and relocation costs, legal costs or purchase costs are also reimbursable. Funds can cover the acquisition of real property listed in or eligible for listing in the *National Register of Historic Places*. A current certification by the State Historic Preservation Office of the Texas Historical Commission must accompany the nomination in order for historic properties to be considered for the transportation enhancement program.

Scenic properties must have a determination by a governmental body that acknowledges that the property being nominated to the program possesses qualities that are either aesthetically appealing or have visual or open space value and are beneficial to the surface transportation system.

Real property that is purchased for its scenic or historic characteristics must be maintained accordingly. A maintenance plan to ensure preservation of those qualities for which the real property is acquired must be provided in the nomination form.

The acquisition of real property for purely recreational use is not allowable.

Do:

▶ Verify that the land is available for purchase or donation and supply supporting documentation for the project nomination; include a property description and its fair market value.

Don't:

▶ Acquire land already planned or permitted for development.

4. Scenic or historic highway programs (including providing tourist and welcome center facilities) — Activities in this category include projects that protect and enhance the scenic, historic, cultural, natural and archaeological aspects of scenic or historic highways. Projects do not have to be included in a federal scenic or historic highway program, but must relate to recognized or established scenic or historic sites. Facilities may consist of new construction or rehabilitation in adaptive reuse. Projects that incorporate tourist and welcome centers should be operational during the periods that visitors would normally utilize those facilities. The hours of operation must be included on the nomination form.

Do:

- ▶ Construct tourist and welcome centers related to scenic or historical sites.
- ▶ Have tourist and welcome centers open during the hours most people travel and that provide 24-hour access, to an ADA restroom, water, and shelter.
- ▶ Convert a historic building into a tourist and welcome center.
- ▶ Develop and distribute information relating to recognized scenic or historic highway programs.

Don't:

▶ Create a highway rest area or welcome center that does not relate to any historic or scenic sites.

5. Landscaping and other scenic beautification — Activities in this category should aesthetically or environmentally enhance, improve or protect the **natural** attractiveness of areas "within the view shed" of a highway or other surface transportation facility. Eligible activities include landscape planning, design, and construction activities that enhance aesthetic or ecological resources along highways, other transportation corridors and points of access. Landscaping activities may also be included as a part of other projects.

Landscape design may include elements for specialized paving surfaces and walls or retaining walls for erosion control. Landscaping may also include street furnishings such as benches, tables, trash receptacles and pedestrian lighting. When landscaping activities are performed they should respect the natural heritage and regional character of an area with appropriate design and plant selection. Activities such as planting vegetation and vegetation management (including the removal of invasive plants and revegetation with native plants) are encouraged. The development of decorative and functional green spaces can include irrigation systems, site grading and planting design.

Undertakings such as statues, murals, gateway signs, flags, and monuments will not be considered for funding participation due to their transitory and interpretive nature. However, when artistic undertakings such as these are desired, TxDOT will consider funding the foundations for such elements, if the nomination provides detail of the items description and cost when submitted for review and provided for in the project's budget.

Do:

- ▶ Landscape a city entrance way with native species of grasses and plants.
- ▶ Construct a streetscape project that will have an aesthetic impact on the community and highway system, by including vegetative landscaping and attractive hardscape.
- ▶ Plan an irrigation system to water the native plants.
- ▶ Consult with THC before nominating any project within or adjacent to any structures that are 50 years of age or older (see Section D of the guide).

Don't:

- ▶ Construct noise barriers or drainage improvements
- ▶ Include post-construction finish work such as replanting or reseeding.
- ▶ Plan on reimbursement for routine, incidental, or maintenance activities such as cutting grass, tree pruning or removal, or erosion mitigation.

6. Historic preservation — Activities in this category include all aspects of historic preservation, such as identification, evaluation, documentation, acquisition, protection, management, rehabilitation, restoration, and stabilization of historic properties. Historic properties are sites, structures, objects, landscapes, or districts included in or eligible for inclusion in, the *National Register of Historic Places*. All work to be performed on historic properties must be done in compliance with the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* or the *Secretary of the Interior's Standards for Historic Preservation Projects*, and state historic building codes. Only those work items that conform to these standards will be considered eligible work items for transportation enhancement funding. Because historic rehabilitation can involve specialized and labor-intensive work, applicants are strongly encouraged to consult with preservation architects or contractors experienced in this type of work before developing their project's scope of work and budget. However, any costs associated with these activities prior to selection and approval by the Commission, are not eligible for reimbursement. All work must be performed and managed by personnel who are qualified professionals educated and experienced in historic-preservation activities.

In order to be eligible for transportation enhancement funding, historic properties must be listed in or determined eligible for listing in the *National Register of Historic Places* and have a relationship to the surface transportation system. A current certification by the State Historical Preservation Officer of the Texas Historical Commission must accompany the nomination in order to be considered for the program.

Acquisition of historic artifact collections and exhibits are not eligible under the transportation enhancement program. Activities required to eliminate or mitigate the effect of a transportation project on any historic real property are not eligible. This transportation enhancement program category does not include reconstruction, i.e., building replicas of historic structures or buildings.

A preservation project arising from the deferment of maintenance that should have been performed as a condition of a previous preservation agreement will not be eligible.

Tenant improvements are not eligible.

In order for the total cost of exterior restoration to be considered eligible, the entire interior must have a current or historic relationship to the surface transportation system. Projects proposing restoration of historic buildings must include current and proposed floor plans showing the function of each room on each floor. The function of the rooms must serve in a manner that relates to the surface transportation system to be eligible. Funding of exterior restoration will be based on the percentage of the interior space being utilized for transportation related activities. For example, if 55 percent of the interior of a building will be used as a transportation museum, then funding for the exterior restoration will be limited to 55 percent.

Historic preservation projects must enable a transportation-related use of the historic property and be open to the general public.

Do:

- ▶ Restore a historic building to be used as a multi-modal center, transit office, or visitors center.
- ▶ Restore a historic building to be used as a bicycle and pedestrian facility.

Don't:

- ▶ Place a tourist brochure rack or kiosk and call it a visitors center.
- ▶ Plan on preservation of any historic structure that has no relationship to the surface transportation system through either function or impact.

7. Rehabilitation and operation of historic transportation buildings, structures, or facilities, including historic railroad facilities and canals — Activities in this category include historic transportation buildings and other structures and facilities related to the operation, use, construction or maintenance of any mode of surface transportation (exclusive of solely aviation).

Rehabilitation means the process of returning the real property to a state that makes possible a contemporary use while preserving the significant historic features of that real

property. Subsequent conversion costs for non-transportation related activities or tenant improvements are not eligible.

Eligible activities may include interior and exterior restoration to the original state and adaptive reuse for transportation purposes. Interior restorations of historic transportation structures serve a function of interpreting transportation history. Adaptive reuse is allowable provided the real property will benefit the general user of the surface transportation system and not simply individuals having a specific business in the facility.

The types of historic structures and facilities eligible under this category include, but are not restricted to, tunnels, bridges, trestles, canals, viaducts, stations, rails, non-operational vehicles, and other transportation features related to the operation, passenger and freight use, construction, preservation or maintenance of any mode of surface transportation (exclusive of aviation).

All work to be performed on historic properties must be done in compliance with the *Secretary of the Interior's Standards for Historic Preservation Projects* or the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, and state historic building codes. Only those work items that conform to these standards will be considered eligible work items for enhancement funding. Because historic rehabilitation can involve specialized and labor-intensive work, applicants are strongly encouraged to consult with preservation architects or contractors experienced in this type of work before developing their project's scope of work and budget. Any cost associated with these activities prior to selection and approval by the Commission are not eligible for reimbursement. All work must be performed and managed by qualified professionals, educated and experienced in historic-preservation activities.

In order to be eligible for enhancement funding, historic properties must be listed in or determined eligible for listing in the *National Register of Historic Places*. A current certification by the State Historic Preservation Office of the Texas Historical Commission must accompany the nomination in order to be considered for the program.

Projects seeking to restore historic brick streets must first have an engineering study done prior to replacement to determine if the bricks possess an acceptable glazing/skid factor. The engineering study must be performed by TxDOT and will be eligible for cost reimbursement as long as it is performed after the project receives federal authorization to proceed and the cost was included in the original budget. The majority of bricks in a project must already be in place and cannot be reinstalled or have asphalt removed, if they have been surfaced over. Bricks may not be replaced on the US/State Highway system.

Projects nominated in this category must enable transportation-related use of the historic property consistent with the historic character of the property and be open to the general public.

Do:

- ▶ Restore railway depots as multi-modal centers.
- ▶ Restore a historic bridge to be used as an alternate-crossing route for bicycle and pedestrians.

Don't

- ▶ Relocate a historic structure without contacting the Texas Historical Commission to determine if it will still qualify for listing in the National Register of Historic Places.
- ▶ Restore a historic structure to be used as a retail store, leased office space or for other commercial operations that is not transportation related.

8. Preservation of abandoned railway corridors, including conversion and use for pedestrian and bicycle trails — Activities in this category include the acquisition, rehabilitation and development of corridors for bicycle or pedestrian use. Trails must be designed and constructed in accordance with AASHTO's *Guide for the Development of Bicycle Facilities*, a *Policy Guide for Geometric Design of Highways and Streets* and ADA requirements. Eligible railway corridors include only those that have been authorized for abandonment; have abandonment proceedings pending before the Surface Transportation Board (STB); or are purchased or donated from the legal owner of the property. Preservation of an abandoned rail corridor must lead to the development of a pedestrian and/or bicycle facility and/or greenbelt and is not intended to solely preserve the rail corridor for future use.

It is advisable to have an environmental analysis of the property done prior to considering a project of this nature for nomination. Any cost associated with the environmental analysis performed prior to selection and approval is not eligible for reimbursement. Rail corridor environmental mitigation costs can be significant and are not allowable reimbursement costs under the program.

Describe in the nomination how the corridor to be used in the project was or will be acquired.

Note: Property that has been determined approved for or has applied for rail-banking status will not be considered for funding through this program.

Do:

- ▶ Create bicycle and pedestrian facilities connecting neighborhoods, schools, and shopping centers.
- ▶ Acquire rail property that has been abandoned or sold to act as a greenbelt buffer.

Don't:

- ▶ Purchase a corridor solely to preserve it for future use.
- ▶ Use a rail-banked corridor for proposing a trail project.

9. Control and removal of outdoor advertising — Activities in this category include the control and removal of abandoned or nonconforming signs, billboards, displays and devices. This is in addition to exercising effective control of outdoor advertising through the removal of illegal signs. This category may include compilation of an inventory of nonconforming outdoor advertising displays. Removal of billboards that conform to local, state, and federal requirements and controls are not eligible.

Non-conforming signs may be acquired for removal with federal funds. Effective controls must be in place to prohibit new signs from being erected where those removed with federal-aid were located.

Do:

- ▶ Provide documentation that the billboards are nonconforming.
- ▶ Provide documentation that the owner has been advised to remove them.

Don't:

- ▶ Propose taking down legal conforming billboards or buying out billboard owners.
- ▶ Propose removal of billboards along *locally classified* roads.
- ▶ Propose to remove nonconforming billboards in TxDOT's right of way. (TxDOT can accomplish this without Enhancement Program funding.)

10. Archaeological planning and research — Activities in this category include archaeological planning and research on sites related to transportation. It also includes experimental projects for archaeological site preservation and interpretation, and improvement of methods of identification, evaluation and treatment of archaeological sites. Eligible activities include problem-oriented analysis and synthesis using data derived from (though not limited to) transportation-related archaeological projects, and the development of national and regional research designs to guide future surveys, data recovery and synthetic research. Nominations must have the approval of the State Historic Preservation Officer. All work must be done in compliance with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*, or *Secretary of the Interior's Standards for Historic Preservation Projects*, or the *National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites* and must be managed under the direction of qualified professionals who are educated and experienced in archaeology. Project sites must be associated with transportation facilities. The project must produce a useable product (such as a report, data base or site identification system).

Do:

- ▶ Stand-alone archaeological planning and research projects related to transportation.
- ▶ Archaeological site research relating to transportation, including interpretation and display of the information discovered.

Don't:

- ▶ Create area wide archeological inventories or studies unrelated to the surface transportation system.
- ▶ Conduct field inventory or reconnaissance where archaeological resources are known or likely to occur.
- ▶ Propose archeological planning, research and data recovery associated with a planned Local, State or Federal highway improvement project.

11. Environmental mitigation —**a) Environmental mitigation to address water pollution due to highway runoff —**

Activities in this category include programs designed to minimize pollution associated with storm-water runoff from transportation facilities. Eligible mitigation projects include those that incorporate aesthetic and ecological considerations and promote recharge. Normal

storm sewer construction and maintenance is not eligible unless it is integral to a larger, eligible enhancement project.

Activities that have been identified as requirements of storm water permits are not eligible for enhancement funding.

Acquisition of real property is not considered an eligible mitigation of water pollution unless the acquisition fulfills the mitigation objective.

Activities must go beyond what is normally required for mitigation of transportation projects, and beyond routine or required maintenance of existing transportation facilities.

Do:

- ▶ Create traps, basins, sedimentation ponds and other structures to capture highway runoff.
- ▶ Plant native species or aquatic vegetation to create a filtration system, beautify the highway, prevent soil erosion, and water pollution due to highway water runoff.

Don't:

- ▶ Plan activities, which have been identified as requirements of storm water permits.
- ▶ Include a mitigation project as part of a new highway expansion.
- ▶ Create a water mitigation project to filter water runoff from a private parking area.

b) Environmental mitigation to reduce vehicle-caused wildlife mortality while maintaining habitat connectivity — Activities in this category should help preserve wildlife by using methods that have either been established or are being researched to establish protection of wildlife relating to vehicle incidents on roadways, without disconnecting habitat of the wildlife. Mitigation can consist of, but is not limited to, constructing fences, purchase or lease of real property, constructing wildlife tunnels or bridges, and planting native vegetation as sight buffers or grazing deterrents.

It is strongly recommended that the nominating entity contact the local TxDOT District Environmental Coordinator to discuss the development of the project's scope within this category.

Do:

- ▶ Build wildlife bridges and fences, constructing them in a known wildlife crossing area to encourage wildlife crossings over or under the highway system.
- ▶ Install or modify culverts to accommodate wildlife passage beneath highways.
- ▶ Replace existing roadside vegetation with appropriate low-growing species to improve visibility to and from roadside areas, or with appropriate species less attractive to wildlife.
- ▶ Monitor and collect data on habitat fragmentation and vehicle-related wildlife mortality

Don't:

- ▶ Submit a project that will use property as a nature preserve.
- ▶ Propose creating stock tanks and feeding programs to help support hunting programs.

12. Establishment of transportation museums — Activities in this category may include new construction or rehabilitation and reuse of historic or non-historic structures, to house transportation exhibits such as trains, ships or automobiles that were instrumental in the development of the surface transportation system. Museums may incorporate an aviation element provided that other surface transportation modes are included. Acquisition of historic artifact collections and exhibits are not eligible under the transportation enhancement program.

Projects must produce a useable facility that is open to the public, meet ADA accessibility requirements, and return all profits derived from the facility back into the operation and maintenance of the facility. Items allowable for reimbursement are those that provide for the building/structure itself and not the furnishings. All reimbursable items must be determined to be fixed assets of the building.

Do:

- ▶ Restore a historic structure to be used as a transportation museum.
- ▶ Construct a new building to be used as a transportation museum.
- ▶ Showcase different transportation modes and technology relative to surface transportation.

Don't:

- ▶ Include the cost to acquire artifact collections or exhibits.
- ▶ Establish a museum for aviation activities only.
- ▶ Include office furniture, computers, movie projectors and other removable equipment as part of the facilities reimbursable costs.

Complete Nomination Packages

TxDOT Districts will perform initial technical reviews of the nominations and help to determine that all information has been provided. Nominators are strongly encouraged to submit their nomination early, prior to the deadline. In working with the Districts on the review of the nomination package it may be necessary for the nominator to provide additional or replacement information. Districts must perform a technical review and confirm that the package is complete. The earlier the submission the smoother the process will be, to assure that all required information is provided. **Incomplete or insufficient nominations will not be accepted.**

Other Eligibility Considerations Regarding...

Federal and State laws and regulations

Transportation enhancement projects must comply with all applicable state and federal laws and regulations, including environmental requirements.

All projects must comply with the ADA mandate of accessibility. Projects to retrofit existing facilities solely for conformance to accessibility standards do not qualify for enhancement funding. Standards for ADA may be found in the *Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities*.

Various environmental actions required by NEPA and storm sewer maintenance are not eligible unless they are an integral part of a larger qualifying project. TxDOT must determine that these activities are vital to the success of the project as a whole before they can be determined eligible.

Some mitigation costs may be eligible for reimbursement for certain activities as long as those activities are necessary to complete an eligible project. Removal, containment, and disposal of materials that at one time met acceptable building standards, such as the use of lead paint and asbestos may be allowable mitigation costs, if they are included in the requested itemized budget. However, mitigation cost to cover the removal of underground storage tanks, hazardous material spills or other environmental pollution is not eligible under the program.

Project costs incurred prior to project selection by the Commission and TxDOT approval to proceed are not eligible for reimbursement.

Property

Improvements to real property owned by private, non-profit organizations may be considered eligible. A statement from the current property owner, stating their willingness to dedicate the use of the project property to the public, for a period of not less than 10 years, must be included in the nomination. If selected for funding, an agreement between the owners of the real property and the nominator is required. The local agreement between the nominator and property owner must be executed prior to the execution of the project agreement between the nominator and TxDOT. The agreement must establish that the project will be dedicated for public use as approved by the TTC, for a period not less than 10 years and define the responsibilities of the parties as to the use, operation, and maintenance of the project. The 10 year period is a minimum recommendation. (Please refer to the Real Property Acquisition of Section C in this guide for comparative cost and time limits.) Ultimately, the nominator will be responsible for the operation and maintenance of the project in the agreement between TxDOT and the nominator.

Public land may be used as the local funding match, as long as the land is donated from one public entity to another. An agency may not donate land to itself. The land must be or have been acquired in accordance with all state and federal regulations, including the Uniform Relocation Act. Acquired land must be located within the project's area.

Activities

Master plans, feasibility studies, general planning not leading directly to a specific, tangible transportation enhancement project, and salaries for the staff to perform such planning, are not eligible items for funding. Planning may be appropriate in some categories if the activity leads directly to a specified enhancement activity whether or not actual construction is involved. Planning for some archaeological activities may also be eligible.

Upon completion, a facility must be open to the public for a period of not less than 10-years. A nominal fee to cover operation and maintenance expenses of the facility may be charged. The nominating entity is the party responsible for the operation and maintenance of the facility and will be the contracting party with TxDOT. The facility may not be used for commercial or for-profit activities during the time specified in the agreement with TxDOT for the use period of the facility.

When proposing projects that are adjacent to or include areas that contain buildings or other structures that are 50 years of age or older, even streetscape or landscape type projects may be affected by their proximity to the activities that may be performed. Please consult early with THC when historic properties are present, to help determine the appropriate improvements. Be aware that project activities may be affected by their proximity to historic properties and the type of work to be performed within the proposed project area.

Local Funding Share

Cost Considerations

The funding provided by this program is on a cost reimbursement basis. Projects undertaken with enhancement funds are eligible for reimbursement of up to 80 percent of allowable costs. The funds approved by the Commission and programmed into the State Transportation Improvement Program (STIP) are a fixed amount. All non-federal participating costs, including cost overruns, must be furnished through the nominating entity. Costs incurred before TxDOT authorization to proceed are not reimbursable. Other ineligible expenses include the costs of preparing a project nomination, and for routine operations and maintenance of a project. Should the nominating entity not be in compliance with federal and state regulations or not complete the project, TxDOT will seek reimbursement of expended federal funds.

A minimum match of 20 percent local funding to a maximum 80 percent federal funding is required in each project phase when federal reimbursement is requested. Nominating entities may exceed the minimum match requirement. Non-eligible activities should not be included in the enhancement project nomination form. TxDOT authorizes expenditures in project phases (preliminary engineering, real property acquisition, and construction).

To be eligible for reimbursement, all project costs must be included in the itemized budget section of the nomination form and approved by the Commission. Costs may be shifted between eligible work categories upon receiving TxDOT approval. Reimbursable environmental evaluation and mitigation costs, which may arise in the course of the project, must be included in the itemized budget section of the nomination form in order to be eligible for reimbursement.

Obtaining realistic cost estimates for the services to be performed are extremely important to insure that adequate funding is secured. Only those approved items of work and cost estimates established in the nomination form will be eligible for federal funding participation. Administrative costs which are incurred by TxDOT and the nominating entity are allowable costs. It is recommended that the services of a professional engineer, architect, landscape architect or contractor be obtained to assist in development of the required project services and cost estimates. Costs for professional services associated with preparation of the nomination form are not eligible for reimbursement.

In-kind Contributions

Donations of real property, materials and services required for the development of the project may be eligible to count towards the local funding share of a project as in-kind contributions. Donations may be made by other governmental or non-governmental organizations. Nominators may **not** donate items to themselves to count as in-kind contributions. The value of the items being donated to the nominating entity for the project will be based on the fair market value of the materials at the time of donation. In-kind

service contributions are limited to the preparation of the plans, specifications and estimates. TxDOT will allow in-kind service contributions of up to 20 percent of the project's estimated cost. Local match (up to 20 percent) may be made up of cash and/or contributions of donated real property, services, and/or materials. Any local match offered over the required 20 percent, must be in cash. In-kind donation credit will not be given for lease or easements of property. The nominator may also provide other services to reduce the overall cost of a project, but it will not be considered as an eligible in-kind contribution

Donations of real property must be for project purposes only. The value of the donated real property will be based on the appraised fair market value at the time of the donation. Real property that has been acquired by the nominator for the project prior to selection does not qualify for donation credit.

All donations must be documented. The nominator must supply a letter from the donor, stating their intent to donate, who will be receiving the donation, the item(s) to be donated, and the fair market value of the item(s). The letter(s) must be included as an attachment to the nomination form. All donations must be made in the name of the nominating entity in order for them to count toward the project's match.

Nomination Process

Transportation enhancement projects result from the ideas and inspirations of individuals interested in creating improvements to the surface transportation system. Projects must be submitted by a public authority that will act as the nominating entity. The nominating entity must exercise jurisdiction over the geographic area in which the project is located and be willing to commit to the recommendation, implementation, development, construction, maintenance and financing of the project. Individuals, associations, public or private corporations, non-profit groups or other public authorities not shown in the Designated Nominating Entity's Chart (in this section) that have ideas for projects are encouraged to find an eligible nominator to represent them in a project nomination. All projects must have an eligible nominator.

Projects that are within a single metropolitan area must be submitted to the Metropolitan Planning Organization (MPO) for approval prior to the submission to TxDOT. Please provide a letter of support from the MPO/COG in the nomination package. If the MPO/COG chooses to rank the projects within their area, include their assigned ranking of the project along with their letter of support. Early coordination with the MPO for additional guidance and assistance may help with the preparation of the nomination. The MPO/COG must provide official documentation that the project, if approved for funding, will be included in the local Transportation Improvement Plan (TIP).

Additional time may be required to acquire the approvals and paperwork from other agencies and organizations. Many have a minimum review period of 30-days prior to submission. Leave sufficient time for the nomination to be reviewed by all that are applicable:

- an MPO or COG
- TCEQ
- THC
- TxDOT
- Railroads

Guidebooks, nomination forms, and instructions are available at this web site:

<http://www.dot.state.tx.us/te>

Contact the TxDOT District Office in the area where the project is to be located as soon as it is determined that the nominating entity intends to submit a project. The determination that the nomination package is ready for submission is made by the District that will sign the nomination form. Originals and copies of the final nomination and the CD should be made by the nominator and provided to the District. The nominator is encouraged to turn in the nomination package early. **No nomination will be accepted after the final submission due date.**

An early technical review, prior to the deadline, can be performed by the TxDOT District in which the candidate project is located. An early review is beneficial to the nominator so that they have an opportunity to discuss the project concept and technical feasibility

with TxDOT staff prior to final submission of the nomination package. With an early review, the nominator is able to make adjustments for items that might be overlooked or underestimated or do not meet current standards and requirements. Basic design standards as well as ADA compliance must be considered in the development of the nomination as these important details can affect the overall budget of the project. Budgets approved by the commission are a fixed funding amount. If the budget is underestimated, the nominator will be responsible for all additional cost. Early review with the District does not guarantee eligibility or selection, but it does give the nominator a better chance at having a well thought out and complete nomination package.

It is important that the District review the supplemental information, attachments, and certifications in the nomination package. If any required information is missing or insufficient, early submission gives the nominator an opportunity to complete the information that is needed. Nominations must be submitted to the District in which the candidate project is located. Incomplete packages will be considered ineligible.

A nominating entity may prioritize enhancement projects nominated from within its jurisdiction.

Letters or other evidence of support of the project must be included with the project nomination only. Limit attachments to no more than 10 pieces for each item requesting supplemental information.

A discussion of the opportunity for public participation must be included in the nomination form. TxDOT strongly encourages nominating entities to obtain early community support. Support should be established prior to submitting the project nomination. It is through community support and involvement that projects are successful.

Evidence of support for the candidate project must be in the form of a resolution or other official document from all governing bodies in the project area and submitted with the nomination form. Nominating entities that are proposing candidate projects calling for work in multiple metropolitan areas, cities or counties must provide copies of the nomination package to the presiding officials of the governmental bodies within the project area.

All candidate nomination packages become the property of TxDOT and are subject to the Open Records Act.

TxDOT strongly encourages the nominating entity to contact the local TxDOT District Enhancement Coordinator early for assistance in completing the nomination form. A list of TxDOT districts and coordinators is provided in Section D of this guide.

TxDOT will receive and consider for funding project nominations from specific nominating entities, depending on the location of the project, as outlined below.

DESIGNATED NOMINATING ENTITY CHART

Nomination Process	
If the Candidate Project is:	Then the Eligible Nominating Entity is:
Located within a single city or within a single metropolitan area,	The governing body of the city or MPO.
Located in a rural area in a single county and not within a metropolitan area,	The governing body of the county.
Located on public lands managed by a state agency and located in a rural area in a single county and not within a metropolitan area,	The state agency managing those public lands.
Located in multiple jurisdictions consisting of any combination of metropolitan areas, cities not within a metropolitan area, or rural areas in one or more counties,	Either: <ul style="list-style-type: none"> · A state agency, · An agency of the state, · A local transit operator, · Any one MPO, the governing body of any one city or county, or any one council of governments.

Evaluation and Selection

Technical Review

As nominations are processed at the TxDOT Division level, additional technical reviews will be performed. TxDOT will consult with appropriate TxDOT Divisions, and state and federal agencies to assess the project's conformity with technical standards established by applicable laws, regulations and accepted professional practice. The reviews will also consider the preliminary feasibility and appropriateness of the scope of work, including review of the project's itemized cost estimate.

Screening for Eligibility

TxDOT staff will review each nomination for completeness and eligibility with FHWA. If the nomination fails to meet the criteria for eligibility or supply sufficient supporting documentation, a notice will be sent to the nominating entity explaining why the nomination is ineligible. For a nomination to continue to be considered, a minimum of 50 percent of a project's activities and a minimum of 50 percent of the estimated project's cost must be deemed eligible under the program rules.

The nominating entity may request reconsideration of the determination of ineligibility in a written appeal addressed to TxDOT's Executive Director within 15 days after receipt of notice. The appeal must cite the elements of the project the nominator believes are eligible under the program rules. If any items are still determined ineligible, the nominating entity will be given the opportunity to remove the ineligible items from the project description and budget and resubmit the eligible items to allow the project to remain in competition. The determination by the Executive Director, in response to the appeal is final.

Evaluation and Recommendations

TxDOT Districts and Divisions review and evaluate projects. Additionally, TxDOT staff reviews projects with TEPEC, an advisory committee, to consider and discuss the eligible candidate project's relationship and potential benefit to the surface transportation system. TxDOT staff and the committee will evaluate the function and impact of each project based on the quality of the project, the geographic scope of the project's benefits and the project's transportation enhancement value. TxDOT will prepare staff and TEPEC recommendations as to which projects are suitable for funding and provide these recommendations to the Commission.

Selection

The Commission will select projects for funding from the list of all eligible candidate projects, considering TxDOT staff and TEPEC evaluations and recommendations. In evaluating the projects the Commission will consider, but is not bound by TEPEC's recommendations and evaluations. Consideration will also be given to other relevant information and comments including:

- the amount of funding match provided;
- evidence of support or opposition;
- the nominator's and/or MPO/COG's priority ranking (if provided);
- the project's potential benefit to the state;
- the department's policy matters;
- evidence that sufficient consideration was given to meet acceptable established standards, practices, and requirements;
- that the project contributes to the safe, effective and efficient movement of people and goods; and
- other project specific information as appropriate

The funds awarded by the Commission are a fixed amount. Any budget overrun will be one hundred percent the responsibility of the nominating entity. Eligible candidate projects that are not selected may also be resubmitted during subsequent program calls (if applicable) as long as current supporting documentation is provided. Ineligible candidate projects may not be resubmitted for subsequent program calls without revisions. Projects previously selected by the Commission may compete for additional funds to complete or expand their project. The decision of the Commission is final and not subject to appeal.

SECTION C PROJECT IMPLEMENTATION

Project Administration

Projects may be administered by TxDOT or the nominator. The nominator may act as lead in administering the project provided that the:

- **local TxDOT District policy allows for local administration and letting;**
- **nominator's procedures are in accordance with State and Federal rules and regulations, and**
- **nominator receives special approval from the TxDOT Administration**

If the nominator requests to locally administer the design and/or construction of the project, the nominator must supply additional information to TxDOT after selection, providing evidence that their procedures are in accordance with requirements. Even though all or portions of a project may be administered locally, there will be cost incurred by TxDOT for administration fees to cover district and division review of plans, programming, environmental clearance, coordination with other agencies, real property acquisition, and oversight costs. Accordingly, additional cost may also be incurred for items such as engineering, architectural, and environmental studies on particular projects. Entities receiving federal funds for transportation enhancement activities must comply with all federal and state procedures and requirements applicable to development of federal-aid transportation projects. Funds from other federal programs may be used only when specifically authorized by federal regulation or statute and cited by the nominator.

The nominator must receive approval and authorization from TxDOT, prior to incurring any cost for which they will request reimbursement. The nominating entity will submit all requests to TxDOT for reimbursement of allowable cost using the specified forms and procedures. For locally administered projects, the nominating entity must pay the consultants and contractors, then seek federal reimbursement from TxDOT. For TxDOT administered projects, the nominating entity must provide the non-federal funding match and TxDOT will then seek reimbursement from FHWA for the federal participating share.

All selected projects must be developed to current standards and specifications established and recognized by FHWA and TxDOT. TxDOT will implement or arrange for implementation of each selected project in accordance with statutory requisites and contracting procedures applicable to the type and character of the project. **Any changes to the project's scope of work or changes in the design plans, as submitted to and approved by the Commission, must have advance approval from TxDOT.** TxDOT is responsible for inspection and final acceptance of all selected projects, and for certification of project completion.

Project Development

TxDOT strongly encourages the nominating entity to aggressively pursue project implementation and development upon receiving notification of project selection from TxDOT. Development of a transportation enhancement project is a phased process. Approval must be obtained from TxDOT before any work in any phase can begin. Enhancement projects may incorporate the following phases:

- 1) project agreement,
- 2) preliminary engineering,
- 3) real property acquisition, and
- 4) construction

A nominating entity may proceed to incur reimbursable costs for a given phase only after they receive written notification from TxDOT. Notification occurs after:

- 1) approval of the project in the STIP (performed by TxDOT)
- 2) execution of the project agreement, and
- 3) receipt of a Federal Project Authorization and Agreement (FPAA) approving costs for a specific phase of development.

Phase I — STIP Inclusion

After the Commission selects projects for funding, the project is included in the STIP. Projects in single metropolitan areas must be coordinated with the Metropolitan Planning Organizations (MPO) for inclusion in the TIP and STIP. TxDOT adds projects from non-urban areas that are not located in a single metropolitan area, to the STIP. The inclusion of the project in the STIP requires the approval of the Commission, FHWA and the Federal Transit Authority (FTA).

Phase II — Project Agreement

Prior to any reimbursement of costs, a project agreement must be executed by TxDOT and the nominating entity. The agreement incorporates all contractual aspects of the project including but not limited to: responsibilities of the parties, funding requirements, and applicable state and federal regulations.

Staff from TxDOT's district office and the nominating entity will meet to discuss the provisions in the project agreement. The project agreement is prepared by TxDOT and forwarded to the nominating entity for review and execution. TxDOT performs final execution of the project agreement.

TxDOT expects nominating entities to execute the project agreement and begin preliminary engineering during the fiscal year they are programmed into the STIP. TxDOT may withdraw a project's funding in the event the project agreement is not executed within one year after the project is selected by the Commission.

Phase III — Preliminary Engineering

After execution of the project agreement, TxDOT requests approval from FHWA for obligation of federal funds for costs of preliminary engineering, including associated cost such as plans, specifications and estimates (P.S. & E.). Preliminary work for property acquisition and the development of environmental documentation may also be reimbursed from the preliminary engineering phase funding.

The nominating entity, with TxDOT's approval, may use its own workforce to do preliminary engineering work. TxDOT may also perform all or portions of the preliminary engineering. When seeking federal cost reimbursement, the nominating entity may also obtain consultant services after satisfying state and federal requirements for selecting consultants. Agreements between the nominating entity and consultants must be approved in advance by TxDOT.

Consultant selection must conform to federal and state requirements, including participation by disadvantaged business enterprises (DBEs). Consultant contracts for design-related services must result from negotiations that utilize qualifications-based selection procedures. Qualification-based procedures do not allow for price to be used as a factor in the selection process. In accordance with applicable federal regulations, consultant fees shall not be based on a percentage of construction costs. Consultant selection may occur only after receipt of approval for preliminary engineering and after TxDOT has approved the consultant selection process and the consultant agreement.

Nominating entities may desire to secure the services of design consultants, without seeking federal reimbursement for their services. This process can reduce cost and time required in meeting state and federal requirements for procurement of consultant services.

Proposed projects must obtain federal environmental clearance under NEPA and other federal and state regulations. This process can be costly and take extended periods of time. If the proposed project includes railroad activities, historic properties, archaeological sites, parklands, endangered species, wetlands, or if a public controversy is involved, additional time could be involved in the process. **Coordination with TxDOT is extremely important to ensure environmental clearance.**

All projects are subject to Section 106 of the National Historic Preservation Act of 1966, which requires environmental clearance of federal-aid projects and may take one of three forms:

- Categorical Exclusion,
- Environmental Assessment, or
- Environmental Impact Statement.

Environmental clearance is required on all projects.

Environmental documentation is part of the preliminary engineering process and must be completed prior to construction. To the fullest extent possible, all environmental investigations, reviews, and consultations will be coordinated as a single process. Compliance with all applicable environmental requirements will be reflected in the environmental document along with the conditions of the document approval.

All projects involving construction activities require established design standards. For example, the construction of bicycle facilities must be designed in accordance with AASHTO's *Guide for the Development of Bicycle Facilities*. Pedestrian facility projects must comply with AASHTO'S - *A Policy on Geometric Design of Highways and Streets*, and the *Secretary of the Interior's Standards for Historic Preservation*, where applicable. When projects involve historic properties the *Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitating Historic Buildings* must be met; and the nominating entity will need to coordinate project plans with the Texas Historical Commission to ensure that all work conforms to appropriate standards and guidelines. Additionally, contract documents must be in conformance with TxDOT's *Standard Specifications for the Construction of Highways, Streets and Bridges*.

All plans associated with historical preservation or archaeological activities must have the State Historic Preservation Office of the Texas Historical Commission's approval prior to TxDOT's authorization to proceed with construction.

All projects must conform to applicable design specifications consistent with the ADA. While safety is of paramount concern, design solutions that respect the integrity and value of historic preservation, communities, rivers, streams, lakes, coastal areas, wetlands, and other environmental, scenic and aesthetic resources are encouraged.

Phase IV — Real Property Acquisition

Acquisition of real property for project purposes may be eligible for funding participation, if prior authorization is obtained. Property may be acquired through purchase or donation. Transfers of Title shall be in the name of the public authority that is nominating the project. Cost of property as well as cost associated with the acquisition of property may be eligible. All acquisition activities must be performed in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act), as amended and in conformance with TxDOT's acquisition procedures for federal-aid projects. Relocation assistance costs can be eligible for reimbursement. Applicable environmental reviews and clearances must be completed and approved by TxDOT prior to property acquisition. All exceptions to title and encroachments including, but not limited to, liens and encumbrances, utility facilities requiring relocation, railroad crossing agreements, access issues, and hazardous materials, must be resolved in a manner that does not impact the project.

The use of eminent domain to acquire real property for project purposes is not allowed under this program. However, if an entity already owns property that was acquired through eminent domain prior to 1991 and in accordance with applicable state and federal laws, it is possible that it may be used for a project.

Environmental analysis and public involvement requirements must be completed before starting most real property acquisition activities. Acquisition projects often require special environmental studies, even when no development will occur on the site. Examples include archaeological or historic resources, endangered species studies, and hydraulic analysis.

An appraisal is required to acquire property for reimbursement or credit. For the purchase of property in which reimbursement is sought, an appraisal must be made determining the fair market value of the property by a state certified appraiser listed with TxDOT. For property that is acquired through in-kind donation, an appraisal will also be required to establish the fair market value of the property for credit. However, the value of donated property may be determined by an appraiser who is currently certified and licensed in the state of Texas as a real estate appraiser, acceptable by the nominator's acquisition practices, and is in adherence with state and federal laws. **Reimbursement** of real property acquisition will be **based on** the current appraised **fair market value** of the real property. Cost above the current appraised fair market value or replacement value is not eligible for federal funding or credit.

Obtaining an appraisal at an early stage, for the purpose of estimating the capital cost of a project, will not bar FHWA participation in project costs. Such an appraisal generally serves the same function as the project estimate TxDOT prepares, providing cost projections used in planning, applying for funding, etc. However, FHWA will not participate in the cost of an appraisal prepared prior to environmental clearance, project approval and federal authorization.

An offer to acquire real property must be in writing and may be made only after appraisals are approved by TxDOT and funding is authorized. **Commencement of negotiations with real property owners prior to federal approval may jeopardize reimbursement eligibility.**

In preparation of a project nomination, obtaining an option to purchase real property is not considered to be an offer to purchase. Therefore, the requirement that no offer be made until after receiving environmental clearance and project approval, will not be violated by obtaining an option.

Agreements between public authorities and acquisition consultants, private negotiators, and private relocation assistance service firms must be approved by TxDOT. Federal funds may be used only for costs incurred after TxDOT approves the agreement(s) and gives the authorization to proceed.

Projects may require the securing of leases or easements as opposed to purchasing the real property in fee. In such cases, a long-term lease or easement to secure the property rights is required between the property owner and the nominator. A copy of the lease or easement agreement must be provided to TxDOT prior to execution of the contract between the nominator and TxDOT for project development. **Property leases or easements will not be eligible for in-kind donation credit or reimbursement.**

In order to justify the use of public funds for the purchase or improvement of properties, the amount of public funds expended should reflect the length of time the property is dedicated to public use for the activities being proposed. Recommended limits are as follows.

COST/TIME Dedication:

- Projects valued up to \$200,000 should include = a minimum of 10 years dedication of property use
- Projects valued from \$200,000 to \$1 million dollars should include = a minimum of 20 years dedication of property use
- Project valued from \$ 1 – 3 million dollars should include = a minimum of 30 years or more dedication of property use
- Projects valued \$ 3 million dollars or more should include = a dedication in perpetuity of property use

Once a project is selected for funding, the nominating entity must enter into an agreement with TxDOT; stating that the facility will continue to be used for the purpose for which it was approved by the Commission, for the specified time proposed, and agrees to its maintenance and operations by the nominator during that time.

Phase V — Construction

Prior to construction, TxDOT requests approval from FHWA for obligation of federal funds for construction cost including associated costs such as project advertising, bid opening, awarding the contract, labor compliance, contract change order and project management. **In order to ensure federal funding eligibility, projects must be authorized by TxDOT prior to advertising for construction.** Approval for construction will be issued after environmental clearance is obtained, TxDOT approves construction plans, and all issues related to real property acquisition are resolved. Additionally, TxDOT must issue a State Letter of Authority (LOA) in order for a project to be authorized and let to construction.

Projects may be constructed and administered by TxDOT. If requested and approved by TxDOT, the nominating entity may assume responsibility for construction and administration activities; however, TxDOT will retain oversight responsibility. Compliance with applicable federal and state laws and regulations is required. Additionally, if more than \$50,000 of the project's work activities are pedestrian related or includes buildings, the Texas Department of Licensing and Registration must review the plans of the project to verify that they comply with the ADA. TxDOT assumes final approval and oversight of construction.

The construction contractor will be chosen through a competitive bidding process approved by TxDOT. The selected bid must be approved by TxDOT's authorized representative prior to the award of the construction contract. When bids are accepted by the Commission, the award of the contract must go to the lowest responsive bidder. In the event competitive bidding is determined not to be a cost-effective method, the nominating entity may request

using its own work forces (if qualified). Before force account work may commence, a review and approval of the request by TxDOT's Administration and FHWA are required, along with the submission of a '*public interest*' statement from the nominator.

If the cost of the project exceeds the amount approved by the Commission, the nominating entity has at least one of the following options:

- Fund the additional cost with available local resources;
- Modify the scope of the project to fit within the funding programmed (subject to approval by TxDOT);
- Re-advertise the project for new contractor bids;
- Withdraw the project from the program as no longer cost effective and refund all expended federal dollars to TxDOT.

TxDOT recommends preliminary engineering be completed and construction begin within two years from the time the project is selected by the Commission.

Any federal funds remaining after a project's completion will be returned to the program funds for either future project selection or department programming.

Elimination of a Project

Projects may be eliminated from the program by one of the following actions:

- The nominating entity fails to satisfy any requirements provided for in the program rules.
- The implementation of the project would involve significant deviation from the activities as proposed in the nomination form.
- The nominating entity withdraws from participation in the project.
- The project is not implemented within a reasonable time, as determined by the department in consultation with the nominating entity. (In absence of information suggesting that a shorter or longer period is appropriate, three years or less from the date of inclusion in the STIP will be presumed to be a reasonable time.)
- A local agreement is not executed within one year after the project is selected for funding by the Commission.
- Upon a determination that federal funding may be lost due to the project not being implemented and completed.
- If at anytime prior to the execution of the local project agreement, any municipality or county in which project activities are proposed notifies TxDOT of its opposition to the project. Notification of opposition must be in the form of a resolution or other official document from the authorized governing body of the entity opposing the project.

SECTION D

ADDITIONAL PROGRAM INFORMATION

Historic Properties

Instructions for Requesting Certification from the Texas Historical Commission for Projects Involving Historic Properties, (Depots, Buildings, Bridges, etc.)

Projects proposing the preservation, restoration, rehabilitation or adaptive reuse of historic buildings or historic transportation structures (potentially under categories 3, 4, 6, 7, or 12) must obtain certification from Texas Historical Commission (THC). The THC is the state agency that serves in Texas as the State Historic Preservation Office (SHPO), and is the authority recognized by state and federal transportation officials for judging the historic importance of a property. The project applicants should request certification in the form of a determination of eligibility (or confirmation of listing in the National Register) from the History Programs Division of the THC, prior to submitting a candidate project of this nature to the Statewide Transportation Enhancement Program.

The SHPO must review any properties at least 50 years of age that are proposed as part of a project applying for Enhancement Program funding, within the dates of the current application call (please be advised documents from previous calls are not acceptable).

- The THC is the state agency that serves in Texas as the State Historic Preservation Office (SHPO), and is the authority recognized by state and federal transportation officials for judging the historic importance of a property.
- The application package submitted to TxDOT for the Statewide Transportation Enhancement Program **must include** this written certification of eligibility/listing from THC dated for the current application call.

The THC has indicated that project applicants should request the above certification as soon as they have decided to propose a project involving any known or suspected historic property. The THC will respond within 30 days of receipt of such requests. THC can accept no requests within 30 days of the Enhancement Program application deadline.

Project nominators should contact the THC as soon as possible for several reasons:

- While a property may not be eligible for the National Register in its current condition, a project could restore a property's historic appearance and change its National Register eligibility. The THC can assist nominators in incorporating these measures into the project proposal.

- The work proposed may be inappropriate for the subject property. In such cases, THC can suggest ways to modify the proposal so that the proposed work is in keeping with the property's historic character.
- The THC may request additional information in order to make a determination of the property's National Register eligibility.
- For eligible properties not yet listed in the National Register, applicants should incorporate appropriate expenses into their proposal for research and completion of forms for nomination to the National Register.

When requesting certification of National Register eligibility from THC, please provide the following information by mail or office delivery to THC at least 30 days in advance of the Enhancement project application deadline:

1. Common or historic name(s) of any building or structure in the proposed project.
2. City map (or county map for rural properties) showing the exact location of the proposed project, including address.
3. Clear photographs of all sides of each building in the proposed project and of the overall project area with adjacent surroundings.
4. Brief history of the property, including date of construction, architect, or builder and date and description of any alterations or relocations, *with particular emphasis on any transportation history related to the property.*
5. Brief description of the scope of the proposed project and its effects on the property

This information should be sent in hard copy to THC. Do not fax or Email this information to THC. Original and clear photographs are essential for the required SHPO evaluation.

Your official certification from THC will be a letter describing a "determination of eligibility" for listing in the National Register of Historic Places. The THC may, upon your request, fax this letter to you with completion of the SHPO evaluation. **You must include this letter from THC in your application package**, if you are applying for STEP funds under categories 3, 4, 6, 7 or 12, and more-than-50-year-old properties are present.

If you know that your building(s) or structure(s) is already listed in the National Register of Historic Places, THC still must review current photos of the property. The presence of any Official State Historical Marker does not mean that the property is listed or eligible for the National Register of Historic Places. Other historical designations - Recorded Texas Historic Landmark (RTHL), State Archaeological Landmark, local landmark status, etc., are not a substitute for National Register listing or eligibility.

Once projects have been submitted to the STEP, TxDOT and the THC will review all project proposals for appropriateness and technical sufficiency. Those projects that are in keeping with accepted preservation guidelines, including the Secretary of the Interior's Standards for the Treatment of Historic Properties, will have the best chance for selection.

Send certification requests and required evaluation materials to:

**Mr. F. Lawrence Oaks,
c/o History Programs Division,
Texas Historical Commission,
P. O. Box 12276
Austin, TX 78711-2276
(512) 463-6100**

Please feel free to call THC for any additional information.
Example Certification Form



**TEXAS
HISTORICAL
COMMISSION**

Rick Perry • Governor
John L. Nau, III • Chairman
F. Lawrence Oaks • Executive Director
The State Agency for Historic Preservation

**DETERMINATION OF ELIGIBILITY FOR THE NATIONAL REGISTER OF HISTORIC PLACES
for the Purpose of the SAFTEA-LU Enhancement Funds Application**

The SHPO staff has completed its review of the following historic resources:
Texas and Pacific Depot, Mineola, Wood County, Texas

- The resource is **ELIGIBLE** for listing in the National Register of Historic Places under the following criterion/criteria:
 - A: The resource is associated with events that have made a significant contribution to the broad patterns of our history. See additional comments below.
 - B: The resources is associated with the lives of persons significant in our past. See additional comments below.
 - C: The resource embodies distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or appears to be a contributing member of a potential historic district. See additional comments below.
 - D: The resource has yielded or may be likely to yield information important in prehistory or history. See additional comments below.
 - The following stipulations also apply:
 1. Project work should be coordinated with the Texas Historical Commission and follow the *Secretary of the Interior's Standards for Rehabilitation*.
- The property is **NOT ELIGIBLE** for listing in the National Register of Historic Places. See additional comments below.

Additional comments:

The Mineola T&P Depot is eligible for listing in the National Register of Historic Places in the area of transportation, for its historic associations with the rail line in Mineola, and in the area of architecture, as a good example of a postwar modern transformation of an existing railroad depot. Although the building was altered in 1951, the alterations are distinctive and historically significant in their own right, featuring faux stone siding, a flat roof and shallow metal awning.

F. Lawrence Oaks, SHPO

Date

For More Information

For more information about the Statewide Transportation Enhancement Program or to obtain a copy of this program guide, project nomination form and instructions, please visit our STEP program web site at the below web address or contact a local TxDOT district office near you. See the following pages for a list of TxDOT District Offices and Contacts from across the state. A map showing TxDOT districts is found in this section.

Web address of the *Statewide Transportation Enhancement Program Guide*, form, form instructions, and other program information is available at: <http://www.dot.state.tx.us/te>

Associated Agencies and Publications

For a copy of the *Statewide Transportation Enhancement Program Rules* as published by the Office of the Texas Secretary of State in 43 Texas Administrative Code (TAC), Part 1, Chapter 11, Subchapter E, Section 11.200 - 11.205, you may go online at:

<http://www.sos.state.tx.us/tac/index.shtml>

For general information on the federal transportation enhancement program, please contact:

Federal Highway Administration
826 Federal Office Building
300 E. 8th Street
Austin, Texas 78701
512/916-5913

<http://www.fhwa.dot.gov/environment/te/guidance.htm>

For a copy of the guide for the *Development of Bicycle Facilities* or *A Policy on Geometric Design of Highways and Streets*, according to the American Association of State Highway and Transportation Officials, you may contact AASHTO at:

AASHTO
444 North Capitol Street, NW, Suite 225
Washington, D.C. 20001
800/231-3475 or 202/624-5800

<http://www.transportation.org./aashto/home.nsf/FrontPage>

For a copy of the Secretary of the interior's Standards for Historic Preservation Projects, and for guidance concerning rehabilitation, streetscape and archeology projects, please contact the Texas Historical Commission (State Historic Preservation Office) at:

Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276
512/463-6100

www.thc.state.tx.us

For a copy of the Texas Department of Licensing and Regulations Guidelines, please contact:

Texas Department of Licensing and Regulations
Architecture Barriers Program Department
920 Colorado Street, 4th floor
Austin, Texas 78701
Mailing address:
P.O. 12157
Austin, Texas 78711
512/463-3211
www.license.state.tx.us

For a copy of the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, or the *Secretary of the Interior's Standards for Historic Preservation Projects*, please write to:

U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Road
Springfield, Virginia 22161
703/487-4600 - 8 a.m. to 8 p.m. EST
Fax: 703/321-8547

For a copy of the *Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities*, please contact:

U.S. Architectural & Transportation Barriers
Compliance Board
1331 F Street, N.W., Suite 1000
Washington, D.C. 20004-1111
202/272-5434 (Voice)
202/272-5449 (TTY)
Fax: 202/272-5447

District Workshop Schedules

TxDOT Districts may conduct a Transportation Enhancement Workshop for the public within their district to discuss program information and give assistance in completing the project nomination form.

Please contact the TxDOT District Enhancement Coordinator nearest you to inquire about workshops to be held in your area. STEP enhancement workshop dates will be published on the TxDOT web site, once dates have been confirmed with the Districts.

We encourage anyone interested in submitting a project nomination to attend a workshop. Obtain a copy of the current guide and nomination form prior to attending the workshop, if possible so that you can be familiar with the program material. Bring your ideas and questions to the workshop, that we may assist you in developing your ideas for projects and submitting a nomination to the program.

TxDOT District Enhancement Coordinator/Contacts

Abilene District Office

William W. Leach
4250 North Clack
Abilene, TX 79604-0150
(325) 676-6822, Fax (325)676-6902

Amarillo District Office

Cheryl Luther
5715 Canyon Drive
Amarillo, TX 79110-7368
(806)356-3249, Fax (806)356-3263

Atlanta District Office

Lori Huett
701 East Main
Atlanta, TX 75551
(903)799-1301, Fax (903)799-1313

Austin District Office

Joe Holland
7901 North IH 35
Austin, TX 78761-5426
(512)832-7309, Fax (512)832-7080

Beaumont District Office

Anthony Cochran
8350 Eastex Freeway
Beaumont, TX 77708
(409)896-0270, Fax (409)896-0265

Brownwood District Office

Andrew Chisholm
2495 US 183 North
Brownwood, TX 76802
(325)643-0442, Fax (325)643-0306

Bryan District Office

Darla Walton
1300 North Texas Avenue
Bryan, TX 77803-2760
(979)778-9668, Fax (979)778-9702

Childress District Office

Dwayne Culpepper
7599 US 287
Childress, TX 79201-9705
(940)937-7157, Fax (940)937-7154

Corpus Christi District Office

Sonya Lopez-Sosa
1701 South Padre Island Drive
Corpus Christi, TX 78416
(361)808-2276, Fax (361)808-2407

Dallas District Office

Richard Mason
4777 East Highway 80
Mesquite, TX 75150
214-320-6686, Fax (214)320-4470

El Paso District Office

Mary Brown
13301 Gateway Boulevard West
El Paso, TX 79928
(915) 790-4221, Fax (915)774-4371

Fort Worth District Office

Joel Mallard
2501 SW Loop 820
Fort Worth, TX 76133
(817)370-6591, Fax (817)370-6759

Houston District Office

Teri Kaplan
7721 Washington Avenue
Houston, TX 77251-1386
(713)802-5810, Fax (713)802-5894

Laredo District Office

Melisa Montemayor
1817 Bob Bullock Loop
Laredo, TX 78043
(956)712-7456, Fax (956)712-7402

Lubbock District Office

Steve Warren
135 Slaton Road
Lubbock, TX 79404-5201
(806)748-4490, Fax (806)748-4380

Lufkin District Office

Mike Offield
1805 North Timberland
Lufkin, TX 75901
(936)633-4303, Fax (936)633-4378

Odessa District Office

Richard (Rick) Hopkins
3901 East US Hwy. 80
Odessa, TX 79761
(915)498-4759, Fax (915)498-4760

Paris District Office

Rick Mackey
1365 North Main Street
Paris, TX 75460-2697
(903)737-9375, Fax (903)737-9289

Pharr District Office

Melba R. Ramos
600 West Expressway 83
Pharr, TX 78577-1717
(956)702-6143, Fax (956)702-6172

San Angelo District Office

Tommy Robinson
4502 Knickerbocker Road
San Angelo, TX 76904
(325)947-9264, Fax (325)947-9244

San Antonio District Office

Kenneth Zigrang
4615 N.W. Loop 410
San Antonio, TX 78229-0928
(210)615-5923, Fax (210)615-6295

Tyler District Office

Dale Spitz
2709 West Front Street
Tyler, TX 75702
(903)510-9119, Fax (903)510-9138

Waco District Office

Jim Reed
100 South Loop Drive
Waco, TX 76704-2858
(254)867-2733, Fax (254)867-2738

Wichita Falls District Office

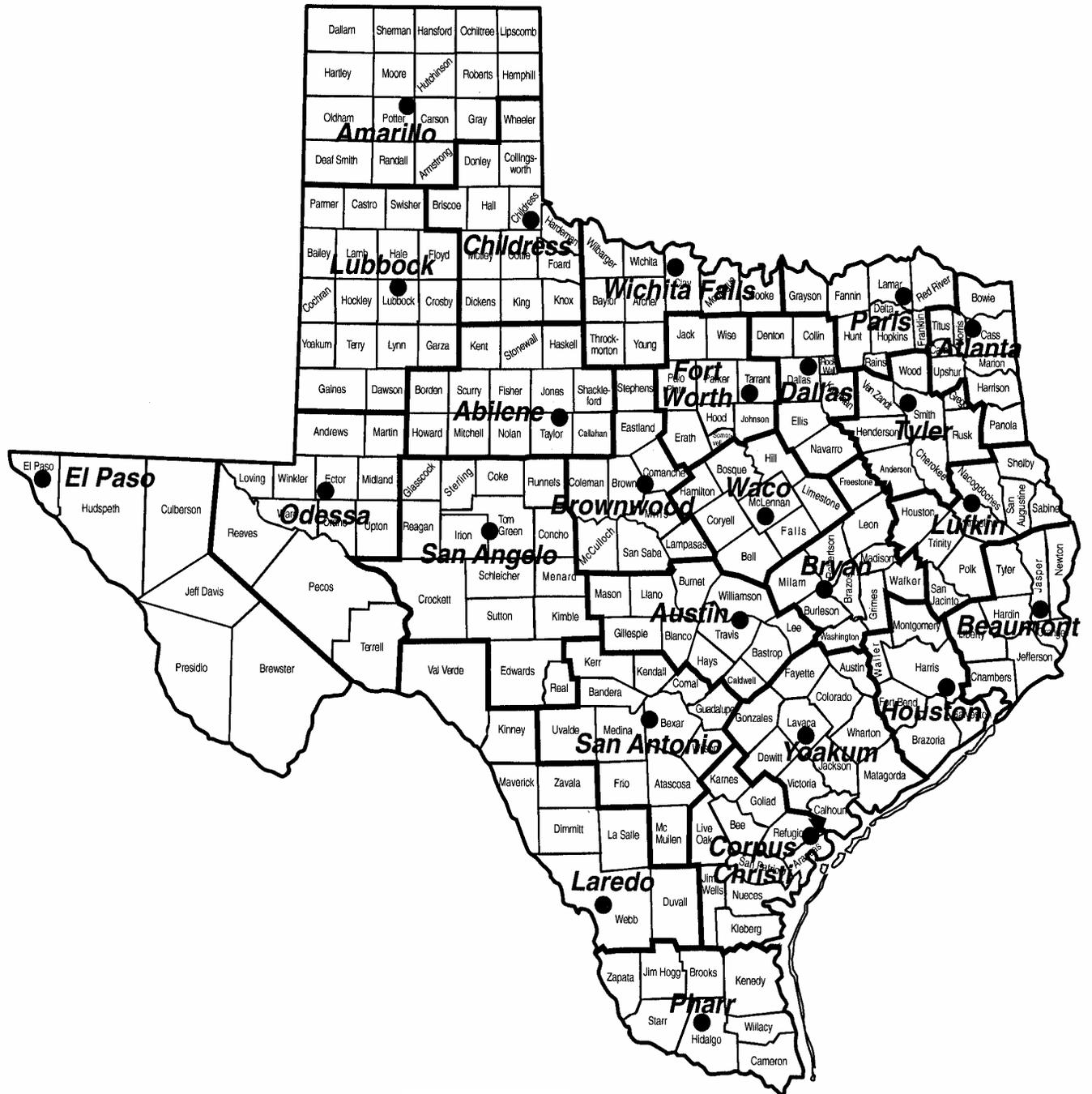
Carolyn Askins
1601 Southwest Parkway
Wichita Falls, TX 76302-4906
(940)720-7712, Fax (940)720-7876

Yoakum District Office

Billy Goodrich
403 Huck Street
Yoakum, TX 77995-2973
(361)293-4381, Fax (361)293-4372

Revised 10/26/2005

Map of TxDOT Districts



**March 23, 2006
Regular Agenda
Outside Agency Funding Review Committee Appointment**

To: Glenn Brown, City Manager

From: Jeff Kersten, Director of Finance & Strategic Planning

Agenda Caption: Presentation, possible action and discussion on appointment of members to the Outside Agency Funding Review Committee.

Recommendation(s): Staff recommends the Council appoint members to the Outside Agency Funding Review Committee, or provide additional direction to staff regarding the process Council wishes to use to appoint members to this committee including interviewing candidates.

Summary: At the February 23 City Council Meeting a resolution creating the Outside Agency Review Committee was approved by the City Council. The 7 member Outside Agency Review Committee will be responsible for reviewing requests for funding from organizations as part of the annual budget process. This committee will review requests for funding other than requests for Community Development Block Grant funds which are reviewed by the Joint Relief Funding Review Committee, funding requests for Hotel Tax funds or funding requests from agencies with City Council appointed board members.

The City Council also approved a timeline for the establishment of the committee and the review process for Outside Agency funding requests. This timeline calls for the committee to begin reviewing funding applications in June, so it will be necessary to have the committee in place by the end of April. If the Council wishes to interview the candidates for this committee, it is recommended that this be done at a special Council Meeting before the end of April. Attached to the coversheet is a memo that outlines the agencies funded this year that would be reviewed by the Outside Agency Review Committee.

The applicants received through the City Secretary's Office are being provided to the Council under separate cover.

Budget & Financial Summary: N/A

Attachments:

1. Timeline
2. Memo
3. Applications (Provided under separate cover)

Outside Agency Review Committee
FY07 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



MEMORANDUM

To: Glenn Brown, City Manager
Jeff Kersten, Finance and Strategic Planning Director

From: Susan Manna, Budget & Management Analyst

Date: March 15, 2006

Subject: Agency Review Status

Per the resolution adopted by Council on February 23, 2006, the following is the breakout of which currently funded agencies would be reviewed by the Outside Agency Funding Review Committee and which agencies would be reviewed directly by City Council. The resolution states that the Outside Agency Funding Review Committee (OAFRC) will review all requests for funding other than CDBG requests, funding requests from agencies with Council appointed board members or funding requests for Hotel Tax funds from agencies eligible to receive Hotel Tax funds.

Agencies that would be reviewed by the OAFRC (not requesting Hotel Tax funds and no Council appointed board members)

Retired Senior Volunteer Program (RSVP)
Alzheimer's Association
Barbara Bush Parent Center
Dispute Resolution Center
CARPOOL
MHMR
Texas Cooperative Wildlife Collection
Twin City Mission
Veterans Park Memorial
Arts Council Operation and Maintenance
Children's Museum
Sister Cities Association
Keep Brazos Beautiful
Noon Lions Club 4th of July
Unity Plaza Public Art

Agencies with Council appointed Board Members (Council would review)

Convention and Visitors Bureau
Research Valley Partnership

Agencies currently receiving Hotel Tax funds (if requests do not change in nature and these agencies are still deemed eligible to receive Hotel Tax funds, these agencies would be reviewed by Council in FY07)

Arts Council Affiliate Grants
Bush Presidential Library
African American National Heritage Society
Brazos Valley Museum of Natural History

Note, an agency may be eligible to receive Hotel Tax funds in FY07 and may choose to request General Funds rather than Hotel Tax funds. In this case they would be reviewed by the OAFRC. Likewise, a request determined to fit the Hotel Tax criteria in FY06 may not fit the two-part test in FY07. In this case the request would be submitted for General Fund consideration rather than Hotel Tax funding and would be reviewed by the OAFRC.