CITY OF COLLEGE STATION

Mayor
Ron Silvia
Mayor Pro Tempore
Ben White
City Manager
Glenn Brown

Council Members
John Happ
Ron Gay
Lynn McIlhaney
Chris Scotti
David Ruesink

Agenda
College Station City Council
Workshop Meeting
Thursday, January 11, 2007 3:00 p.m.
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 a conceptual design for the proposed senior center project (Project Number GG0601).

3. Presentation, possible action, and discussion regarding the opportunity to partner with the City of Bryan, Brazos County, Texas A&M University (TAMU) and Washington County in applying for a Public Safety Interoperable Communications Grant for a single interoperable radio system.

4. Presentation, possible action and discussion of a resolution awarding a contract to Kimley Horn and Associates, Inc. in the amount of $80,000 to conduct a transportation study and make recommendations for improvements.

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. Presentation, possible action, and discussion regarding upcoming events and/or meetings of the College Station City Council.

7. Discussion, review and possible action regarding the following meetings: Brazos County Health Dept., Brazos Valley Council of Governments, Cemetery Committee, City Center, CSISD/City Joint Meeting, Design Review Board, Fraternal Partnership, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee and School District, Joint Relief Funding Review Committee, Library Committee, Making Cities Livable Conference, Metropolitan Planning Organization, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister

City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, 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. Cause No. 06-000703-CV-85, Patricia Moore, et al. v. Ross Stores, Inc., City of College Station, et al.
k. Possible settlement water CCN with Wellborn
l. Possible settlement of sewer CCN issue
m. Legal aspects of Lease Agreements for No. 4 Water Well and possible purchase of or lease of another water site from City of Bryan
n. C.C.N. Issue for Sewer & Water regarding possible overlaps by City of College Station and City of Bryan
o. Great Oak Estates

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.

1. Marketing and Strategy Plans for College Station Electric Utilities

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:

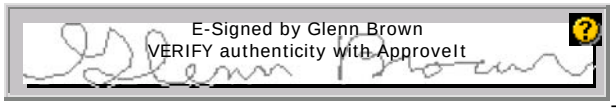
1. Proposed city convention center and associated privately developed hotel.
2. Game Day Development

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. Possible purchase of property on Spruce Street

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 January 11, 2007 at 3:00 p.m. at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda
Posted this 8th day of January, at 3:00 p.m.

E-Signed by Connie Hooks
VERIFY authenticity with ApproveIt

_____ _____
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 January 8, 2007 at 3:00 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 _____, 2007.
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, January 11, 2007 at 7:00 p.m.
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

11. Pledge of Allegiance, Invocation, Consider absence requests

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

Consent Agenda

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

Vision Statement I - Core Services
Professionals providing world-class customer focused services at a competitive cost through innovation and planning.

12.1 Presentation, possible action, and discussion regarding the purchase of a 250kW diesel electric generator from Waukesha-Pierce Industries, in an amount not to exceed $60,682.

12.2 Presentation, possible action, and discussion of an interlocal agreement between the City of College Station and the Brazos Valley Council of Governments and a funding agreement between the City of College Station and Keep Brazos Beautiful for a Texas Commission on Environmental Quality Regional Solid Waste Grant in the amount of $25,000 to assist in funding a litter abatement education outreach program for the Brazos Valley Solid Waste Management Agency in partnership with Keep Brazos Beautiful.

12.3 Presentation, discussion and possible action on a resolution approving the construction contract with Riverside Landscape Inc. in Caldwell, Texas in the amount of $255,304.92 for the Crescent Pointe Landscaping Construction Project No. GG-0105. This is for Bid no. 07-21, Contract 07-057.

12.4 Presentation, possible action and discussion regarding renewal of an annual price agreement with Vulcan Materials Company in an amount not to exceed $211,416 for cover stone, trap rock for the maintenance of streets.

12.5 Presentation, possible action, and discussion to approve a resolution authorizing payment of the Texas Commission on Environmental Quality Wastewater Treatment Facility Consolidated Water Quality Fees for FY 2007.

12.6 Presentation, possible action, and discussion regarding approval of a contract for purchasing the Nantucket Wastewater treatment package plant and wastewater collection system from Hunters Bismuth for $115,000.

12.7 Presentation, possible action, and discussion to approve a Needs Resolution authorizing the purchase or condemnation of property, water rights, right-of-way and easement interest in certain properties for the Groundwater Wells 8, 9, and 10 Project.

12.8 Presentation, possible action and discussion regarding renewal of an annual price agreement with Superior Crushed Stone, LC in an amount not to exceed $424,560 for crushed stone to be used by BVSWMA, Public Works and College Station Utilities.

12.9 Presentation, possible action, and discussion regarding a resolution approving a construction contract with Young Contractors, Inc., in the amount of $3,019,477.00 for the Dartmouth Extension Phase II Project.

12.10 Presentation, possible action and discussion regarding renewal of an annual price agreement with Cleveland Asphalt Products in an amount not to exceed $212,800 to provide emulsified asphalt for the maintenance of streets.

12.11 Presentation, possible action and discussion of a resolution awarding a contract to Hidell Associates Architects in the amount of $87,290.00 to provide architectural services for the finish out of the second floor of the Municipal Court Building. (Project # GG0701) and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

12.12 Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, “Traffic Code,” Section 4E(3)(a) of the Code of Ordinances of the City of College Station to restrict parking on both sides of

Ravenstone Loop adjacent to the properties with the address numbers 2061, 2063, 2065, 2067, and 2069.

12.13 Presentation, possible action, and discussion on consideration of an ordinance modifying Chapter 10, “Traffic Code,” Section 2.D of the Code of Ordinances of the City of College Station by updating the Traffic Control Device Inventory – Schedule III to add STOP signs at various intersections.

12.14 Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, “Traffic Code,” Section 4E(3)(a) of the Code of Ordinances of the City of College Station to restrict parking on both sides of Central Park Lane between Krenek Tap Road and Southwest Parkway.

12.15 Presentation, possible action, and discussion regarding a revised Interlocal Agreement between the City of College Station and The Local Government Purchasing Cooperative (BuyBoard) for the purpose of fulfilling the respective public and governmental purposes, needs, objectives and programs in the purchasing of supplies, equipment, and services.

12.16 Presentation, possible action, and discussion to approve a Wireline Crossing Agreement with Union Pacific Railroad for the Dowling Road Pump Station Chemical Feed Project. This agreement is required in order to get a permit at a cost of $1,500 to install overhead fiber optic cable across the railroad tracks to provide connectivity with the City’s fiber optic network.

12.17 Presentation, possible action, and discussion on an Interlocal Agreement for cooperative purchasing activities between the City of College Station and City of Grand Prairie, Texas.

12.18 Presentation, discussion and possible action on the renewal agreement with Sims Plastics of Waco for the annual purchase of concrete meter boxes to be maintained in inventory, Bid No. 04-93, for an annual expenditure of $82,210.22.

12.19 Presentation, possible action, and discussion regarding the approval of a construction contract (Contract #07-025) with Siemens Building Technologies Inc. in the amount of $144,307.88 for the installation of access and security equipment at the College Station Municipal Court Building.

12.20 Presentation, possible action, and discussion to approve a resolution providing an exception to Policy to allow Mr. Charles Cox to construct sewer infrastructure necessary to connect his home to the City sewer system.

12.21 Presentation, possible action, and discussion regarding approval of Change Order 1 to Bid 06-39 with Schweitzer Engineering Laboratories for modifications to a substation control building purchased for the College Station /Brazos

Transmission Tie project. The combined change order totals $50,979.00 and elevates the purchase cost from $729,100 to $780,079.

12.22 Presentation, possible action, and discussion on the third and final reading of an ordinance granting a non-exclusive medical waste hauling franchise agreement to Tejas Medical Waste.

12.23 Presentation, possible action, and discussion regarding a resolution approving a construction contract for Electric System Construction & Maintenance Annual Labor Contract to H&B Construction in the amount of $1,019,898.71.

12.24 Presentation, possible action, and discussion on approval of a resolution awarding Bid#07-02 for the construction of roadway improvements to prepare for signal installation, in the amount of $101,115.00, to Brazos Valley Services.

12.25 Presentation, discussion, and possible action regarding a resolution approving a construction contract with Texas Power Construction, Ltd., in the amount of $2,021,000.00 for the construction of the Switch Station to Post Oak to Southwood Transmission Line Reconductor Project.

12.26 Presentation, possible action and discussion of a resolution awarding a contract to Kimley Horn and Associates, Inc in the amount of $80,000.00 to conduct a transportation study and make recommendations for improvements.

12.27 Presentation, possible action and discussion on approval of minutes for the November 20, 2006 Council Workshop and Regular Meeting and the December 14, 2006 Council Workshop and Regular Meeting.

Vision Statement II – Parks and Leisure Services
Professionals providing a wide range of leisure, recreational, educational, and cultural opportunities

12.28 Presentation, possible action, and discussion regarding approval of Change Order #2 for Contract # 04-xxq, Parks and Recreation Department (PARD) Automation (Project CO 0402), with RecWare, Active Network, Inc. for an increase in the amount of $20,687.17.

12.29 Presentation, possible action, and discussion regarding an Interlocal Agreement between the City of College Station and the College Station Independent School District (CSISD) for the construction of drainage improvements to Pebble Creek Park, an equal, cost-sharing project, with the City of College Station's portion not to exceed the amount of $50,000.

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
Professionals who plan and develop a sustainable community balancing neighborhood and community interests.

13.1 Public hearing, presentation, possible action, and discussion on an ordinance rezoning 1.998 acres at 951 William D. Fitch Parkway, generally located at the northwest corner of State Highway 6 South and William D. Fitch Parkway, from A-O (Agricultural Open) to C-1 (General Commercial).

13.2 Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Plan from Floodplain & Streams to Residential Attached for 3.27 acres at 500 Earl Rudder Freeway South, generally located just behind Home Depot.

13.3 Public hearing, presentation, discussion, and possible action on an ordinance expanding an existing Conditional Use Permit for the Roasted Bean Coffee Shop located at 2551 Texas Avenue South, Suite D, in the Homestead Place Shopping Center.

Vision Statement I - Core Services
Professionals providing world-class customer focused services at a competitive cost through innovation and planning.

13.4 Public Hearing, presentation, possible action, and discussion regarding an ordinance vacating and abandoning a 2800 square foot portion of a twenty (20) foot wide utility easement located within Lots 10 and 11, Block 13 of the Redmond Terrace First Installment Subdivision.

13.5 Public Hearing, presentation, possible action, and discussion an ordinance amending City of College Station Code of Ordinances Chapter 13: Flood Hazard Protection, enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines.

13.6 Public Hearing, presentation, possible action, and discussion on an ordinance amending City of College Station Code of Ordinances Chapter 3: Building Regulations, enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines.

13.7 Presentation, possible action, and discussion regarding the appointment of an Audit Committee.

14. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for January 11, 2007.

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:

E-Signed by Glenn Brown
VERIFY authenticity with ApproveIt

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, January 11, 2007 at 7:00 p.m. 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 8th day of January, 2007 at 3:00 p.m.

E-Signed by Connie Hooks
VERIFY authenticity with ApproveIt

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 January 8, 2007 at 3:00 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 _____, 2007.
By_____

Subscribed and sworn to before me on this the _____day of _____, 2007.

_____
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.

January 11, 2007
Workshop Item No. 2
Senior Center Conceptual Design Presentation

To: Glenn Brown, City Manager

From: Steve Beachy, Director of Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion regarding a conceptual design for the proposed senior center project **(Project Number GG0601).**

Recommendation(s): Accept the presentation and report and provide direction regarding the potential implementation. The Senior Advisory Committee reviewed the design at their regular meeting on December 18, 2006 and approved the concept by unanimous vote.

Summary: Architects from Brown, Watford and Reynolds (BRW) will present a conceptual design for the proposed senior citizens center. Council authorized this design project on July 27, 2006 to provide a clear definition of the characteristics and scope for this future project. The architects will also provide a recommended site location along with an estimated construction cost for the project.

The design process included four public meetings that were conducted on August 30, August 31, September 13 and September 27. A total of 121 citizens attended these four public meetings. In addition, the Senior Advisory Committee met several times to review and revise the conceptual plan during the design process.

The presentation and report is limited to a conceptual design only. This report will provide a basic site location plan, building floor plan, elevation drawings and a projected cost estimate for construction. Actual construction plans and specifications will be required prior to moving forward with the building project.

Budget & Financial Summary: $75,500 was approved for this design project at the July 27, 2006 council meeting. Additional funds will be required to complete the design process and build the facility. It is anticipated that this major municipal project will be included in a future capital improvement program.

Attachment:

1. Senior Center Project Milestones

Senior Center Project Milestones
Project Number GG0601

1998 – Senior Services Coordinator hired in response to City Council strategic issue

2000 - The Senior Advisory Committee established**.**

2001 – A&M Eisenhower Leadership Program conducts survey of 500 senior residents regarding program and facility needs.

July 28, 2005 - City Council authorized the Senior Advisory Committee to seek public advice and support for a proposed College Station Senior Center.

September - November 2005 - Public Meetings Held

September 8, 2005	Public Meeting Held	42 attended
September 15, 2005	Public Meeting Held	38 attended
October 10, 2005	Meeting held @ Lulac Oakhill	23 attended
October 13, 2005	Meeting held @ Lincoln Center	11 attended
October 19, 2005	Meeting @Villas of Rock Prairie	14 attended
October 25, 2005	Meeting with Active Advantage Club	60 attended
November 1, 2005	Regional Advisory Comm on Aging	27 attended
November 2, 2005	Meeting with Walden Brook Estates	20 attended
	TOTAL	**235**

December 15, 2005 Staff and Senior Advisory Committee reported the results from the public meetings. The City Council gave their full support and directed staff move forward with a fiscal impact analysis for the design of such a facility.

July 27, 2006 Staff and Senior Advisory Committee presented the City Council with update on Senior Center Project. The City Council approved a contract with Brown Reynolds Watford Architects of College Station in the amount of $75,500 for the conceptual design of a proposed Senior Center facility

August - September, 2006 Public Meetings conducted by the design team

August 30, 2006	Meeting Held @ Conference Center	53 attended
August 31, 2006	Meeting Held @ Washington Chapel	0 attended
September 13, 2006	Meeting Held @ CS Middle School	27 attended
September 27, 2006	Public Meeting Held @ Lincoln Center	41 attended
	TOTAL	**121**

January 11, 2007 – Presentation to City Council of conceptual design and preliminary cost estimates for Senior Citizen Center.

January 11, 2007
Workshop Agenda Item No. 3
Public Safety Interoperable Communications Grants Opportunity

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion regarding the opportunity to partner with the City of Bryan, Brazos County, Texas A&M University (TAMU) and Washington County in applying for a Public Safety Interoperable Communications Grant for a single interoperable radio system.

Recommendation(s): Staff recommends consideration of joining the above listed entities in applying for a federal grant to implement a single interoperable radio system covering the above listed parties.

Summary: A presentation will be provided by the Intergovernmental Committee Sub-Committee Member James Massey on the opportunity to make an application for a federal grant, the Public Safety Interoperable Communications Grant, to build a single interoperable radio system covering Brazos and Washington Counties. The Council will be asked to endorse the recommendation of the Intergovernmental Committee to hire a consultant to aid the parties in the creation of a plan with associated estimated costs.

Additionally Council will be asked to provide staff direction to participate in the development of an interlocal agreement (ILA) with the partners (City of College Station, City of Bryan, TAMU, Brazos County, Washington County). It is anticipated that the ILA will describe the operational, management and other technological aspects of the relationship. It is intended that all partners will have an equal voice in the management of the Interoperable Communication (radio) system. A representative management board could be established to oversee the operation and maintenance of the Interoperable Communication (radio) system. This would include the joint determination of such operational aspects as which entity will administer the maintenance of the infrastructure, how funding for future replacement of the system will be handled and how the payment of the 20% matching funds will be allocated to the partners. Infrastructure includes towers, land line connections, radio base stations, antennae and other components required to send and receive signals as well as the engineering of the system.

One billion dollars has been allocated by the federal government through the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security. This money must be awarded no later than September 30, 2007. It is anticipated that there will be a twenty percent (20%) matching funds requirement.

The first step in this process is to hire a consultant to produce a plan worthy of consideration in the grant application process. Time is of the essence since the grants must be awarded in less than nine months.

Budget & Financial Summary: Financial support will be shared by all (5) entities. The cost for the consultant is estimated to be $75,000 or $15,000 per entity. Annual costs for maintaining the system once built should not exceed the costs of maintaining separate systems. It is not possible to be certain of this until there is an infrastructure plan with associated costs.

Motorola supplied a budgetary estimate of $11,900,000 for the infrastructure only in Brazos County only and which does not include the radio units. College Station estimates that the currently budgeted project for radio system replacement will cover this City's share of the 20% matching funds.

Attachments:

SEC 4 Public Safety Interoperable Communications Grants

SEC. 4. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.

Pursuant to section 3006 of Public Law 109-171 (47 U.S.C. 309 note), the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security, shall award no less than $1,000,000,000 for public safety interoperable communications grants no later than September 30, 2007 subject to the receipt of qualified applications as determined by the Assistant Secretary.

January 11, 2007
Workshop Agenda Item No. 4
East College Station Transportation Study

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion of a resolution awarding a contract to Kimley Horn and Associates, Inc. in the amount of $80,000 to conduct a transportation study and make recommendations for improvements.

Recommendation(s): Staff recommends approval of the resolution awarding the contract to Kimley-Horn in the amount of $80,000.00 for a transportation study of east College Station.

Summary: On September 28, 2006, Council directed staff to solicit proposals for a transportation study of the east side of College Station and for a transportation study of the entire City of College Station. Three firms submitted responses to a Request for Proposals. Those firms are; Kimley-Horn, Klotz Associates and Lockwood Andrews and Newnam. A committee that included City staff as well as Brian Bochner from the Texas Transportation Institute reviewed the proposal and determined that Kimley-Horn was the most qualified to provide the services we requested.

Kimley-Horn submitted proposals for a city-wide study as well as one of the east side area discussed by Council in September. The city-wide study would cost $236,000.00 and would take 267 days to complete. The east side study would cost $80,000.00 and would take 90 days to complete. Staff recommends the narrower scoped east side study due to time and cost considerations. The timing of this study will make the recommendations of this study available to be used by our comprehensive planning consultant.

The desire for an advisory committee for the purpose of ensuring that the consultant addresses all of the pertinent issues was expressed by the Council and is supported by the Council Transportation Committee (CTC). The make-up of that committee is proposed to be the CTC with the addition of some other neighborhood representatives. Staff is working on developing a list of candidates for that committee as well as a charter to describe the duties of that committee. A recommendation for that committee membership as well as a committee charter will be considered by the CTC later this month. The CTC's recommendations will be brought to Council for a vote at the following meeting.

Budget & Financial Summary: The study will be funded from the General Fund ($50,000) and the Streets Capital Project Fund ($30,000). A budget amendment will be needed to appropriate the General Fund portion of the funds for this project from salary savings in the Planning and Development Services Department that were realized last fiscal year. This budget amendment will be coming forward in the near future.

Attachments:
1. Project Scope

Kimley-Horn
and Associates, Inc.

Exhibit A
Scope of Services
Eastside Mobility Study for
The City of College Station, Texas

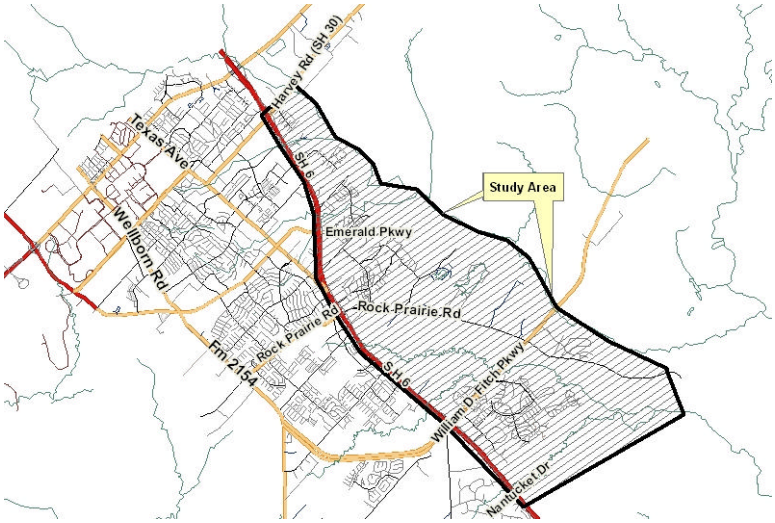
Overview

Kimley-Horn and Associates, Inc. (KHA) understands the goal of this project is to evaluate the existing College Station thoroughfare plan based on the implementation of the existing land use plan. The thoroughfare plan will provide the basis to preserve sufficient right of way to meet ultimate needs east of SH 6. The evaluation is also to provide an approximate quantification of the needs (*approximate* ADTs). Ultimately, the study should identify deficiencies in the existing thoroughfare plan and make specific recommendations related to the thoroughfare plan that will ensure for the future mobility needs of east College Station. In providing the below scope of service under this Contract, KHA will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to KHA and by mutual agreement between the parties, KHA will without additional compensation correct those services not meeting such a standard.

Study Area

The study area (referred to as the East Side Mobility Study) will be used to define the scope of services for this project.

Eastside Study area (shown on the map adjacent) will be bounded by:
SH 6 on the west, except the study are to include all legs of the SH 6 interchanges Carter Creek on the east SH 30 (Harvey Road) on the north. The Alum Creek (including SH 6 / Nantucket Interchange) on the south side.



1. Data Collection

The City of College Station will provide the KHA with following information items within 15 days of an executed contract: (except item O). Delays in receiving this information may affect the overall schedule.

a. Comprehensive Plan (including thoroughfare plan and update documentation)
b. Zoning Map
c. Existing/recent traffic volumes, ADT's
d. Design Guidelines
e. Unified Development Ordinance
f. Subdivision Regulations
g. Available traffic impact studies for sites in and adjacent to study area
h. ArcMap base map (including aerial, property ownership, floodplains, neighborhoods)
i. List of other proposed or anticipated development to be considered
j. TxDOT current improvement program and long range plans
k. City of Bryan thoroughfare plan

l. MPO Transportation Plan
m. MPO Travel Demand Model
n. Population and employment by TAZ for entire City
o. Field Data Collection – Document existing roadway conditions, such as cross section, speed, restricted turning movements at grade rail crossings in the study area

2. Initial Advisory Committee Meeting

The City will be responsible for establishing an Advisory Committee (including locations of all meeting), which will oversee and provide guidance to the KHA. The KHA will meet with City and Advisory Committee members to discuss needs, issues, opportunities, and assumptions to be used and other information of use to the KHA in completing this plan evaluate. The KHA will provide meeting materials and staff to facilitate the discussion. The meeting locations will be established by the City.

3. Initial Public Meeting

A general public meeting will be conducted by the KHA to discuss needs, issues, opportunities, and assumptions to be used for the Study. The City will be responsible for meeting locations and advertisement of the meeting. The KHA will provide staff and materials for the meeting.

4. Develop Existing (2006) and Build Out Demographic Assumptions

Using traffic survey zone data from the BCSMPO, KHA will refine the demographic data (population and employment) as necessary to more closely match the City's currently adopted future land use plan. It is anticipated that the zone structure contained within the BCSMPO model will not be of sufficient detail within the study area to accurately model the arterial and collector facilities. Therefore, the datasets for existing (2006) and future demographics will be split by KHA to match the revised zone structure. No land use scenarios will be modeled. As described in Task 1, the City is responsible for supplying the KHA with the TAZ population and employment data.

5. Develop and Calibrate Existing Model

KHA will revise the BCSMPO model to reflect the network configurations and demographic datasets required to model the existing transportation system within the study area. Using the demographic dataset generated in Task 4, this model will be calibrated using the existing traffic counts collected during Task 1. Once calibrated, this existing conditions model (or "base year" model) will be used to develop a baseline condition.

6. Develop Build-Out Network Using Four Scenarios

It is anticipated that the BCSMPO model will not include sufficient detail within the study area to accurately model the local thoroughfare system. KHA will meet with the City to verify and reach consensus regarding the required network configurations needed to model the projected build-out for the City. The Build-Out network is assumed to be the currently adopted MTP. KHA will develop the Build-Out network in BCSMPO Model consistent with the currently adopted MTP. KHA will run the BCSMPO model using the Build Out

demographic data developed in Task 4, combined with the future demographic information included in the BCSMPO model for neighboring areas. This run will be considered the Base Scenario.

KHA will conduct model runs to test up to three (3) various roadway scenarios for the study area. These three roadway scenarios will be developed in a workshop with the stakeholders. Link level of service analysis will be evaluated according to the segment daily volumes within the model. Each alternative will be compared against each other to determine a preferred option. A final BCSMPO model run will be completed and evaluated. A recommended Master Thoroughfare Plan will be presented and mapped.

7. Evaluate Master Thoroughfare Plan

The primary objective of this modeling effort is to determine the impacts of the projected Build-Out demographics on the proposed street system. KHA will also evaluate the existing thoroughfare cross-sections to determine any recommended changes or modifications to lane widths, median widths, or parkways in the study area. These recommendations will be coordinated with the City functional classification system; these may be variations on criteria contained in the College Station Unified Development Ordinance:

a. Classification criteria
b. Accessibility
c. Spacing
d. Continuity
e. Connectivity
f. Capacity (and range in numbers of lanes)
g. Level of access management
h. Avoidance of undue residential neighborhood cut-through traffic

8. Implementation Strategy

KHA will delineate the existing thoroughfare plan with desired changes for the study area including freeways through minor collectors:

a. General alignments
b. Thoroughfare classifications
c. Major intersections needing additional turn lanes, etc.
d. Interchange and grade separation locations
e. Bridges (larger than culverts)

KHA will identify and prioritize key implementation steps that should be taken in the short term, especially those that should be taken prior to the adoption of the updated comprehensive plan.

9. Final Advisory Committee Meeting

Review findings and proposed changes to the existing thoroughfare plan with City staff and designated stakeholders and refine as needed. The responsibilities defined with Task 2 also apply to this Task.

10. Final Public Meeting

A final public meeting will be facilitated to get public input and consensus within the study area. The responsibilities defined with Task 3 also apply to this Task.

11. Draft Report

KHA will document work and recommendations in technical memorandum (making liberal use of tables, lists, graphics rather than extensive text), including assumed development, other assumed conditions, thoroughfare plan principles, recommended plan and justification, estimated traffic volumes, estimation methodology, critical components of plan, implementation steps that should occur prior to the adoption of the 2008 comprehensive plan, and other key information. Transmit to City staff for review. Revisions are limited to three requests.

12. Policy Meeting(s)

KHA will Prepare PowerPoint presentation covering conclusions from evaluation of the existing thoroughfare plan and recommended changes and important supporting information. This presentation will be made to the City Council and may be used by the City to discuss the plan with others. Transmit draft presentation to City staff for review. Revisions are limited to three requests.

Meet with City Council and the Planning and Zoning Commission to present and discuss findings and recommendations. These meetings will be preceded the same day by a meeting with the City staff.

13. Final Report

KHA will provide the final documentation, PowerPoint presentation, and requested work files to City staff. All deliverables are to be provided in electronic form in Microsoft Office or Adobe Acrobat pdf formats. The City will produce any hard copies needed for distribution.

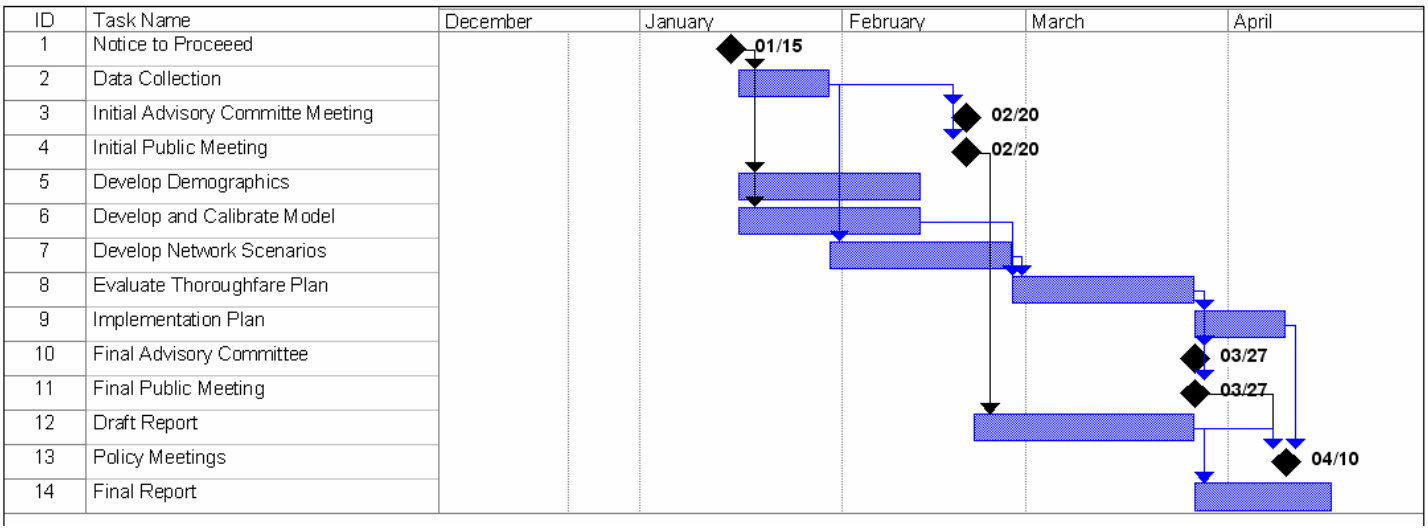
Additional Services

The following are work items that are specifically excluded from the scope of work and, if needed, will requested at additional cost at contracted hourly rates: additional meetings with City Council, staff, or the public; a formal final report beyond what is described above; revisions to the plan or supporting information following Task 13.

Kimley-Horn
and Associates, Inc.

Exhibit A-Continued
Schedule

The following schedule represents the KHA's work plan with associated key milestones. It should be noted that adherence to this schedule is heavily reliant on timely delivery of critical information from the City as described in the scope of services. The final report will be completed by April 16th unless the City extends the end date. Revisions to final report by the City will require additional time and therefore extend the end date.



This schedule shall be equitably adjusted as the project progresses, allowing for changes in scope, character or size of the project requested by City, or for delays or other causes beyond KHA's reasonable control.

Exhibit B
Fee Estimate

Task		Cost
1	Data Collection	$5,302
2	Initial Advisory Committee Meeting	$4,554
3	Initial Public Meeting	$4,554
4	Develop Demographics	$8,209
5	Develop and Calibrate Model	$11,518
6	Develop Network Scenarios	$9,841
7	Evaluate Thoroughfare Plan	$5,971
8	Implementation Plan	$6,367
9	Final Advisory Committee	$2,714
10	Final Public Meeting	$3,061
11	Draft Report	$7,144
12	Policy Meetings	$3,398
13	Final Report	$3,347
	Total Labor Fee	**$75,978**
	Expenses	**$4,000**
	Total fee	$79,978
	Total Rounded Fee	**$80,000**

January 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	*2*	*3*	*4*	*5*	*6*
7	*8* *Council Special Meeting 6:00 p.m.*	*9*	*10*	*11* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*12*	*13*
14	*15* *City Offices Closed*	*16*	*17*	*18*	*19*	*20*
21	*22*	*23* *Int'l Speakers Program-James Baker III 5:30 p.m.—Annenberg Presidential Conf. Ctr*	*24* *2007 Economic Outlook Conference 7:45—1:30—CS Hilton*	*25* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*26*	*27*
28	*29*	*30*	*31*			

February 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	*2*	*3*
4	*5*	*6*	*7*	*8* *Workshop and Regu-lar Meeting 3:00 p.m. and 7:00 p.m.*	*9* *AMCC* *TML Elected Officials Conf—Austin*	*10* *AMCC* *TML Elected Officials Conf—Austin*
11 *AMCC* *TML Elected Officials Conf—Austin*	*12* *Filing Period for Place on Ballot for City Election* *TML Elected Officials*	*13* *Filing Period for Place on Ballot* *Chamber Legislative Trip*	*14* *Filing Period for Place on Ballot for City Election*	*15* *Filing Period for Place on Ballot for City Election*	*16* *Filing Period for Place on Ballot for City Election*	*17* *Filing Period for Place on Ballot for City Election*
18 *Filing Period for Place on Ballot for City Election*	*19* *Filing Period for Place on Ballot for City Election*	*20* *Filing Period for Place on Ballot for City Election*	*21* *Filing Period for Place on Ballot for City Election*	*22* *Workshop & Regular Meeting 3:00 p.m. & 7:00 p.m.* *Filing Period for*	*23* *Filing Period for Place on Ballot for City Election*	*24* *Filing Period for Place on Ballot* *Economic Outlook-CS Hilton*
25 *Filing Period for Place on Ballot for City Election*	*26* *Filing Period for Place on Ballot for City Election*	*27* *Filing Period for Place on Ballot for City Election*	*28* *Filing Period for Place on Ballot for City Election*			

March 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 *Filing Period for Place on Ballot for City Election*	*2* *Filing Period for Place on Ballot Veterans Park Phase II Dedication 4 pm*	*3* *Filing Period for Place on Ballot for City Election*
4 *Filing Period for Place on Ballot for City Election*	*5* *Filing Period for Place on Ballot for City Election*	*6* *Filing Period for Place on Ballot for City Election*	*7* *Filing Period for Place on Ballot for City Election*	*8* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.* *Filing Period for*	*9* *Filing Period for Place on Ballot for City Election*	*10* *Filing Period for Place on Ballot for City Election*
11 *Filing Period for Place on Ballot for City Election*	*12* *Filing Period for Place on Ballot for City Election*	*13*	*14*	*15*	*16*	*17*
18	*19*	*20*	*21*	*22* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*23*	*24*
25	*26*	*27*	*28*	*29*	*30*	*31*

April 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	*2*	*3*	*4*	*5*	*6*	*7*
8	*9*	*10*	*11*	*12* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*13*	*14*
15	*16*	*17*	*18*	*19*	*20*	*21*
22	*23*	*24*	*25*	*26* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*27*	*28*
29	*30*					

May 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	*2*	*3*	*4*	*5*
6	*7*	*8*	*9*	*10* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*11*	*12* *City Election*
13	*14*	*15*	*16*	*17*	*18*	*19*
20	*21*	*22*	*23*	*24* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*25*	*26*
27	*28*	*29*	*30*	*31*		

June 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	*2*
3	*4*	*5*	*6*	*7*	*8*	*9*
10 *Making Cities Live-able—Portland, Or*	*11* *Making Cities Live-able—Portland, Or*	*12* *Making Cities Live-able—Portland, Or*	*13* *Making Cities Live-able—Portland, Or*	*14* *Workshop and Regu-lar Meeting 3:00 p.m. and 7:00 p.m.* *Making Cities Live-*	*15*	*16*
17	*18*	*19*	*20*	*21*	*22*	*23*
24	*25*	*26*	*27*	*28* *Workshop and Regu-lar Meeting 3:00 p.m. and 7:00 p.m.*	*29*	*30*

July 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	*2*	*3*	*4* *Holiday* *Office Closed*	*5*	*6*	*7*
8	*9*	*10*	*11*	*12* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*13* *TML-Newly Elected Officials—Lake Jackson*	*14* *TML-Newly Elected Officials—Lake Jackson*
15	*16*	*17*	*18*	*19*	*20*	*21*
22	*23*	*24*	*25*	*26* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*27*	*28*
29	*30*	*31*				

August 2007 (Transportation Summit Dates TBA)

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	*2*	*3*	*4*
5	*6*	*7*	*8*	*9* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*10* *TML-Newly Elected Officials—Dallas*	*11* *TML-Newly Elected Officials—Dallas*
12	*13*	*14*	*15*	*16*	*17*	*18*
19	*20*	*21*	*22*	*23* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*24*	*25*
26	*27*	*28*	*29*	*30*	*31*	

September 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	*3* *Holiday* *Office Closed*	*4*	*5*	*6*	*7*	*8*
9	*10*	*11*	*12*	*13* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*14*	*15*
16	*17*	*18*	*19*	*20*	*21*	*22*
23	*24*	*25*	*26*	*27* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*28*	*29*
30						

October 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	*2*	*3*	*4*	*5*	*6*
7	*8*	*9*	*10*	*11* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*12*	*13*
14	*15*	*16*	*17*	*18*	*19*	*20*
21	*22*	*23*	*24*	*25* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*26*	*27*
28	*29*	*30*	*31*			

November 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	*2*	*3*
4	*5* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*6*	*7* *TML—Dallas*	*8* *TML—Dallas*	*9* *TML—Dallas*	*10*
11	*12*	*13* *NLC—New Orleans*	*14* *NLC—New Orleans*	*15* *NLC—New Orleans*	*16* *NLC—New Orleans*	*17* *NLC—New Orleans*
18	*19*	*20*	*21*	*22* *Holiday* *Office Closed*	*23* *Holiday* *Office Closed*	*24*
25	*26*	*27*	*28*	*29*	*30*	

December 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	*3*	*4*	*5*	*6*	*7*	*8*
9	*10*	*11*	*12*	*13* *Workshop and Regular Meeting 3:00 p.m. and 7:00 p.m.*	*14*	*15*
16	*17*	*18*	*19*	*20*	*21*	*22*
23	*24* *Holiday* *Office Closed*	*25* *Holiday* *Office Closed*	*26*	*27*	*28*	*29*
30	*31*					

January 11, 2007
Consent Agenda Item No. 12.1
Purchase of 250kW Diesel Engine Generator

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding the purchase of a 250kW diesel electric generator from Waukesha-Pierce Industries, in an amount not to exceed $60,682.

Recommendation(s): Staff recommends purchase of the generator from Waukesha-Pierce Industries through our Interlocal Agreement with the Houston Galveston Area Council (HGAC) Purchasing Cooperative.

Summary: After the last power outage it was decided a generator was needed to provide emergency power to the center and south sections of City Hall. The proposed generator would provide power to the City Hall phone system, computer servers, and the Channel 19 studio as well as the Council, Manager, Legal and Human Resource offices.

The Emergency Operations Center has a generator. By adding a City Hall generator essential city operations can continue during a power outage.

Budget & Financial Summary: Funds are available for the purchase of the generator in the General Government Facilities and Technology Capital Improvement Projects Fund as part of the New City Hall project (GG0408). It is anticipated that an additional $32,000 will be needed for the installation of the generator. These additional funds are available in the General Fund contingency account and the appropriation of these funds will be included on a future budget amendment.

Attachments:

1. HGAC contract pricing worksheet.

CONTRACT PRICING WORKSHEET
For Standard Equipment Purchases

Contract No.:	GE02-06	Date Prepared:	12/20/200(

This Form must be prepared by Contractor, and provided to End User to attach to Purchase Order, with copy to H-GAC.
The H-GAC administrative fee shall be calculated and shown as a separate line item. Please type or print legibly.

Buying Agency:	City of College Station -City Hall	Contractor:	Waukesha-Pearce Industries
Contact Person:	Rusty Smith	Prepared By:	Bud Welsh
Phone:	979-764-3501	Phone:	713-551-0597
Fax:		Fax:	713-551-0799
Email:	rsmith@cstx.gov	Email:	welshb@wpi.com

Product Code:	AC02	Description:	Generac Model SD010 10 kW Diesel Engine Generator

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 1186

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
AC02-P, SD250 250 kW Diesel Engine Generator	30351		
John Deere Engine EPA Certified			
DW24-4, 24 hours @ full load diesel fuel tank	4528		
SAE-12, Generator Sound Attenuated Enclosure	6726		
ATS-1000-3, 1000 Amp Automatic Transfer Switch	11143		
all 120/208 volt 3 phase			
		Subtotal From Additional Sheet(s):	
		Subtotal B:	5274

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		Subtotal From Additional Sheet(s):	
		Subtotal C:	(

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). **For this transaction the percentage is:** 0%

D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)

Description	Cost	Description	Cost
		Subtotal D:	0

E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D) 64609

Quantity Ordered: 1 X **Subtotal of A + B + C + D:** 64609 = **Subtotal E:** 64609

F. H-GAC Fee Calculation (From Current Fee Tables) **Subtotal F:** 969.14

G. Trade-Ins / Other Allowances / Special Discounts

Description	Cost	Description	Cost
additional discount, subject to change 60	-4896.14	Delivery & start up included, off loading	
days fro quotation date		fuel and installation by others	
		Subtotal G:	-4896.14

Delivery Date: 16-17 weeks ARO **H. Total Purchase Price (E+F+G):** 60682

January 11, 2007
Consent Agenda Item No. 12.2
Litter Abatement Grant Interlocal Agreement and Funding Agreement

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion of an interlocal agreement between the City of College Station and the Brazos Valley Council of Governments and a funding agreement between the City of College Station and Keep Brazos Beautiful for a Texas Commission on Environmental Quality Regional Solid Waste Grant in the amount of $25,000 to assist in funding a litter abatement education outreach program for the Brazos Valley Solid Waste Management Agency in partnership with Keep Brazos Beautiful.

Recommendation(s): Staff recommends approval of the interlocal agreement between the City of College Station and the Brazos Valley Council of Governments and the funding agreement between the City of College Station and Keep Brazos Beautiful for a Texas Commission on Environmental Quality Regional Solid Waste Grant in the amount of $25,000, for a Litter Abatement Education Program as presented to the Inter-Governmental Committee.

Summary: The Texas Commission on Environmental Quality has an annual regional solid waste grant program administered through the Brazos Valley Council of Governments for environmental education and outreach programs. In May 2006, the Executive Director of Keep Brazos Beautiful made a presentation to the Inter-Governmental Committee concerning litter problems in the Brazos Valley. Due to the interest by the Committee in efforts to abate the litter problems, Keep Brazos Beautiful has applied for a grant from the COG in the amount of $25,000 for a litter abatement education outreach program. However, Keep Brazos Beautiful requires a municipal partner to qualify for grant funding as the COG will only distribute grants to cities and other public entities. The funding agreement will allow Keep Brazos Beautiful to administer the litter abatement education outreach program, requiring reporting to the City in order to receive reimbursement of grant funds. BVSWMA is currently using $12,000 annually in litter abatement advertising, and will use these funds to promote the litter abatement education outreach program.

In June 2006, the City Council approved a resolution authorizing the application for the grant, and in July 2006 the Brazos Valley Council of Governments Solid Waste Advisory Committee awarded the grant for the full amount of $25,000.

Budget & Financial Summary: No additional funds will be used for the grant. BVSWMA has $12,000 in currently budgeted litter abatement advertising funds that will be used to support the litter abatement education outreach program.

Attachments:
1. Interlocal Agreement
2. Funding Agreement

BRAZOS VALLEY COUNCIL OF GOVERNMENTS
SOLID WASTE INTERLOCAL AGREEMENT

The Texas Commission on Environmental Quality (TCEQ) has certified that it has the authority to contract with Brazos Valley Council of Governments by authority granted in the Current Appropriations Act; Texas Water Code, section 5.229 and Texas Health and Safety Code, Chapter 371. Funds for this subcontract are provided from the Solid Waste Disposal Fund.

The BV*COG* has certified, and the SUBCONTRACTOR certifies that it has authority to perform the services contracted for by authority granted in "The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

This Interlocal Agreement is entered into by and between the parties named below. Neither TCEQ nor the State of Texas is a party to this Contract.

I. **CONTRACTING PARTIES:**

The Council of Government: Brazos Valley Council of Governments (COG)

The Subcontractor: City of College Station

II. **SERVICES TO BE PERFORMED:**

See "Attachment B - Work Program of SUBCONTRACTOR"
See "Attachment C – Schedule of Deliverables."

III. **BUDGET AND PAYMENT PROCEDURES:**

See "Attachment D - Budget and Payment Procedures"

IV. **ADDITIONAL CONTRACT PROVISIONS:**

See "Attachment A - Special Contract Provisions,
Attachment E - General Contract Provisions,
Attachment F – Implementation Project Standards
Attachment G – Progress Report Forms
Attachment H – Reimbursement/ Financial Report Form"

COUNCIL OF GOVERNMENT	**SUBCONTRACTOR**
Brazos Valley COG	City of College Station
_____	_____
Date: _____	Date: _____
Tom Wilkinson, Jr.	Ron Silvia
Executive Director	Mayor

Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
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F. Implementation Project Standards
G. Progress Report Forms
H. Reimbursement/Financial Report Form

Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
Special Contract Provisions
Attachment A

Article 1 Period of Performance

The period of performance of this agreement begins on **October 1, 2006** and ends on **July 31, 2007**.

Article 2 Scope of Services

All parties agree that the SUBCONTRACTOR, in consideration of compensation hereinafter described, shall provide the services with the BV*COG* as specifically described in the Special and General Provisions of this Solid Waste Interlocal Agreement.

The SUBCONTRACTOR agrees to implement the Project according to the agreed upon budget shown in Attachment D of this agreement.

Article 3 BV*COG* Obligations

(a). Measure of Liability

In consideration of full and satisfactory performance hereunder, BV*COG* will be liable to SUBCONTRACTOR in an amount equal to the actual costs incurred by SUBCONTRACTOR in rendering such performance, subject to the following limitations:

1. BV*COG* is not liable for expenditures made in violation of "General Provisions for Texas Commission on Environmental Quality List of Prohibited Activities", Article 9, which outlines prohibited activities as defined by the Texas Commission on Environmental Quality (TCEQ).

2. BV*COG* is not liable for any costs incurred by SUBCONTRACTOR in the performance of this agreement, which have not been billed to BV*COG* within thirty (30) days following termination of this agreement.

3. BV*COG* is not liable to SUBCONTRACTOR for costs incurred or performance rendered by SUBCONTRACTOR for costs incurred by SUBCONTRACTOR before commencement of this agreement or after termination of this agreement.

4. Except as specifically authorized by BV*COG* in writing, BV*COG* is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in Federal OMB Circular A-87.

5. BVCOG shall be liable for reimbursement of only those amounts as shown on Attachment D.

6. Funding for this contract is made available to BVCOG through the State of Texas. BVCOG's obligation to reimburse SUBCONTRACTOR is dependent and subject to receipt of funds by BVCOG from the State of Texas for the purpose of funding this contract.

(b). Method and Schedule of Payment

1. Financial reporting. SUBCONTRACTOR may be reimbursed at any time during the project period if funding from TCEQ is available. To receive reimbursement, SUBCONTRACTOR must submit to BV*COG* a financial report/reimbursement request detailing allowable expenditures incurred during the report period. Allowable expenditures are set forth in Article 9 of Attachment A and Attachment F of this agreement. Invoices, receipts, canceled checks and other forms of documentation will be required for reimbursements.

2. Payments. Upon review and approval of each such financial report, BV*COG* will make payment to SUBCONTRACTOR subject to the limitations set out herein.

3. The subcontractor shall account for expenses incurred and request reimbursement of outlays under either a cash or an accrual basis, as defined and authorized under the UGCMA. To be eligible for reimbursement under this agreement, a cost must have been incurred and either paid by the SUBCONTRACTOR prior to claiming reimbursement from the BVCOG or incurred by the last day of the time period indicated on a request for reimbursement form and liquidated no later than forty-five (45) days after the end of that time period.

4. The SUBCONTRACTOR shall use a standard reimbursement request form provided by the BVCOG. The BVCOG shall require the SUBCONTRACTOR to submit expense documentation records as deemed necessary by the BVCOG, in accordance with the BVCOG's financial monitoring plan and program, to ensure that the outlays by the SUBCONTRACTOR are authorized and appropriate.

5. The SUBCONTRACTOR shall submit with each reimbursement request an itemization of expenditures by budget category.

6. If it is determined, by either the BVCOG or the SUBCONTRACTOR that an expenditure that was reimbursed is not an authorized expense, the BVCOG shall request return and reimbursement of those funds from the SUBCONTRACTOR or, where appropriate, the application of those funds to other authorized expenses, and shall not provide any additional reimbursements to the SUBCONTRACTOR until the funds are returned or are applied to other authorized expenses.

7. The SUBCONTRACTOR shall maintain records and documentation materials consistent with the records listed in Article 11 of Attachment A. The SUBCONTRACTOR shall also follow up on any problems identified through its financial monitoring program.

Funds provided by the BVCOG pursuant to this Agreement that are paid to the SUBCONTRACTOR shall be used by the SUBCONTRACTOR solely to satisfy the purposes of the Agreement.

Article 4 Reporting Requirements

(a). The SUBCONTRACTOR shall prepare and submit to the BV*COG*, quarterly written progress reports and results reports concerning performance under this Contract documenting accomplishments and units of work performed under Attachment B of this agreement. All progress reports and results reports shall be submitted within 15 days after the end of each period shown below.

Reporting Period	**Report Due**
Oct., Nov. 2006	January 8, 2007
Dec. 2006, Jan., Feb. 2007	March 9, 2007
Mar., April, May 2007	June 8, 2007
FINAL REPORT	August 10, 2007
RESULTS REPORT	August 10, 2007
FOLLOW-UP RESULTS REPORT	August 9, 2008

A final progress report and results report shall be provided prior to the final request for payment under this Contract, but, in no case later than 15 days after the end of the Contract period. Payments (reimbursements) required under this contract may be withheld by the BV*COG* until such time as any past due progress reports and results reports are received.

(b). The SUBCONTRACTOR quarterly progress reports required under Part A of this Section shall contain descriptions of activities to allow compliance monitoring. In particular, any legal research and related legal activities shall be clearly detailed in the quarterly progress reports and results reports in order to assure that the activities are not prohibited under Article 9 of this contract (relating to Prohibited Activities). The SUBCONTRACTOR shall comply with any reasonable request by the BV*COG* for additional information on activities conducted in order for the BV*COG* to adequately monitor the SUBCONTRACTOR'S progress in completing the requirements of and adhering to the provisions of this Contract.

(c). The SUBCONTRACTOR must certify in writing to the BVCOG through a final progress report, the satisfactory completion of all activities and deliverables required under this agreement.

(d). The SUBCONTRACTOR shall document the results of the project and provide those results to the BVCOG for use in evaluating program effectiveness and for providing regional results information to the TCEQ. The SUBCONTRACTOR agrees to document the results of the project for the life of the project and to provide follow-up results reports sufficient to allow the BVCOG to provide the TCEQ a report in October 2007 on the continued results of funded projects. This report will be due August 10, 2007.

(e). The SUBCONTRACTOR'S failure to comply with the requirements of this Article shall constitute a breach of this Contract.

Article 5 Monitoring Requirements

The BVCOG shall be responsible for the management and fiscal monitoring of all SUBCONTRACTORS. The BVCOG shall monitor its SUBCONTRACTORS as necessary to ensure that the SUBCONTRACTORS are operating consistently with applicable laws and regulations, applicable contracting policies, and this Agreement. The BVCOG shall ensure that all SUBCONTRACTORS comply with all record keeping and access requirements set forth in this Agreement. The TCEQ reserves the right to perform an independent audit of all SUBCONTRACTORS.

(a). BV*COG* may periodically monitor SUBCONTRACTOR for:

1. The degree of compliance with the terms of this Contract, including compliance with applicable rules, regulations, and promulgations referenced herein; and

2. The administrative and operational effectiveness of the project.

Article 6 Title to and Management of Real Property/Facilities and Equipment

(a). Subject to the obligations and conditions set forth in this Agreement, title to all equipment and/or real property/facilities (hereafter, "property") acquired under this Agreement by the SUBCONTRACTOR will vest upon acquisition or construction in the SUBCONTRACTING grant recipient.

(b). Subject to the provisions of this Agreement and as otherwise provided by state statutes, property acquired or replaced under this Agreement shall be used for the duration of its normally expected useful life to support the purposes of this Agreement whether or not the original projects or programs continue to be supported by state funds.

(c). The SUBCONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the SUBCONTRACTOR under this Agreement.

(d). The use of property acquired under this Agreement, both during the term of this Agreement and for the useful life of the property or until compensation is provided to the BVCOG for the applicable percentage share of the fair market value of the property, shall be in accordance with Section 361.014 (b) of the Texas Health and Safety Code, which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(c). The SUBCONTRACTOR may develop and use their own property management systems, which must conform with all applicable federal, state, and local laws, rules and regulations. The SUBCONTRACTOR shall conduct physical property inventories, to maintain property records and necessary control procedures, and to provide adequate maintenance with respect to all property acquired under this agreement for which the SUBCONTRACTOR retains title, as further set forth in Subsections (1) through (5) below.

1. If an adequate system for accounting for property owned by the SUBCONTRACTOR is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system.
2. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
3. A physical inventory of all equipment acquired or replaced under this Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the SUBCONTRACTOR shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The SUBCONTRACTOR shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.
4. Real property must be maintained on an Inventory and is subject to the requirements of UGMS, Part III, SubpartC,_.31. Subject to the obligations and conditions set forth in this Agreement, title to real property acquired under this Agreement by the SUBCONTRACTOR will vest upon acquisition or construction in the sub-grant recipient.
5. Certain types of equipment are classified as "controlled assets" and are subject to annual revision. In accordance with the UGMS, the SUBCONTRACTOR should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's State Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the SUBCONTRACTOR's inventory system irrespective of cost, and the following equipment with costs between $500 and $1000 shall be maintained on the inventory system: (a) stereo systems, (b) still and video cameras, (c) facsimile machines, (d) VCRs and VCR/TV combinations and (e) cellular and portable telephones.

(d). When, during the useful life of property acquired with grant funds under this Agreement by the SUBCONTRACTOR and with a current per-unit fair market value of $1,000 or more, the property is no longer needed for the originally authorized purpose, the SUBCONTRACTOR agrees to request disposition instructions from

BVCOG or, if the BVCOG is no longer administering a Regional Solid Waste Grants Program, the TCEQ. Disposition instructions shall solicit, at a minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.),and the proposed use of proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that the disposition plan will comply with the private industry provisions of 361.014 (b) of the Texas Health and Safety Code. In cases where the SUBCONTRACTOR fails to take appropriate disposition actions, the BVCOG may direct the SUBCONTRACTOR to take excess and disposition actions. The disposition instructions may provide for one of the alternatives as set forth in this Section.

1. Retain title, sell, or otherwise disposed of with obligation to compensate the BVCOG.
2. Retain title after compensating the BVCOG. If the SUBCONTRACTOR is compensated by a subgrant recipient for property acquired using funds provided under this Agreement, the SUBCONTRACTOR will in turn compensate the BVCOG or, upon authorization by BVCOG, use those funds for other projects or activities that support this or similar future programs conducted by the BVCOG. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.
3. Sell the property and compensate the BVCOG.
4. If the SUBCONTRACTOR is compensated by a subgrant recipient for property acquired using funds provided under this Agreement, the SUBCONTRACTOR will in turn compensate the BVCOG or, upon authorization by the BVCOG, use those funds for other projects or activities that support the goals of this or similar future programs conducted by the BVCOG. The amount due will be calculated by applying the BVCOG's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When the SUBCONTRACTOR or subgrant recipient is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
5. Transfer title to the BVCOG or, in the case of a subgrant recipient, the SUBCONTRACTOR , or to a third-party designated/approved by the BVCOG. If the SUBCONTRACTOR or subgrant recipient participated financially in the original purchase of the property, the SUBCONTRACTOR or the subgrant recipient may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market value of the property.

(e). Items of property with a current per-unit fair market value of less than $1,000 may be retained, sold or otherwise disposed of by the SUBCONTRACTOR or the sub grant recipient with no further obligation to the BVCOG provided the other

requirements set forth in this Article are met, including the requirements of Section (b) of this Article. Methods used to determine per-unit fair market value must be documented, kept on file and made available to the BVCOG upon request.

(f) If, prior to the termination date of this agreement, the SUBCONTRACTOR determines that any property acquired with funds provided as a result of this agreement is no longer needed for the original intended project, the BVCOG may require the SUBCONTRACTOR to transfer titles and possession of such property to a third party named by the BVCOG.

(g) The SUBCONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement materials, equipment, or facilities purchased or constructed with funds made available under this agreement.

(h) The SUBCONTRACTOR agrees that, in the event any funds provided under this contract are in turn awarded to any subgrantee for the purchase or acquisition of any equipment or constructed facilities, by such other party, the SUBCONTRACTOR'S contract with that subgrantee shall include the requirements set forth in Sections (a) through (c) of this Article.

Article 7 Compliance with Applicable Laws

The SUBCONTRACTOR shall give all notices and comply with all laws, ordinances, rules, regulations and order of any public authority bearing on the performance of this contract, including, but not limited to, the laws referred to in this Contract. If the SUBCONTRACTOR or BV*COG* observes that this Contract is at variance therewith in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate Contract modification. On request, the SUBCONTRACTOR shall furnish BV*COG* modification.

If the SUBCONTRACTOR performs any work knowing or having reason to know that it is contrary to Laws or Regulations, the SUBCONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.

The provisions of Uniform Grant and Contract Management Act, TEXAS GOVERNMENT CODE, Chapter 783 applies to this Agreement, all amendments thereto, and all subcontracts. Compliance with the conditions and requirements contained therein is necessary for the satisfactory performance of the services and work required under this Agreement.

SUBCONTRACTORS must comply with all applicable Laws and Regulations, including but not limited, to those relating to hazardous substances, waste disposal and manifests.

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion and acceptance of the work and termination or completion of the Agreement.

Article 8 Funding Subject to Funds in the MSWDTRF

It is the understanding of the parties that the source of the funds provided by the BVCOG is the Municipal Solid Waste Disposal and Transportation Revenue Fee (MSWDTRF).
Due to demands upon that source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the MSWDTRF will be depleted prior to completion of this Agreement. The parties agree that all funding arranged under this Agreement is subject to sufficient funds in the MSWDTRF.

Article 9 Supplemental Funding Standards

Unless authorization is specifically provided in accordance with the provisions of this Attachment or in accordance with Attachment D of this Contract, the SUBCONTRACTOR shall ensure that funds provided under this contract are not used for the following activities, programs, or projects:

(a). Duplication of Effort. Activities, projects, programs, studies, etc. That overlap or provide duplicate funding for projects under other State funding programs are not authorized. If the BV*COG* believes that other program grant awards are inadequate to meet the needs of the region, the BV*COG* may request that the *FUNDING AGENCY* consider authorizing the project in accordance with the provisions of Attachment A of this Contract.

(b). Land Acquisition Costs. Funds may not be used to acquire land or an interest in land.

(c). The provisions of the Uniform Grant Management Standards (UGMS) issued by the Office of the Governor apply to the use of these funds, as well as the supplement financial administration guidance established by the TCEQ to be applied under all contracts, *TCEQ Allowable Expense Guidelines.*

(d). Funds may not be provided through a pass-through grant or subcontract to any public or private entity that is barred from participating in state contracts by the Texas General Services Commission, under the provision of 2155.077, Government Code, and 1TAC 113.02, GSC Regulations.

(e). Legislative and Lobbying Expenses. In accordance with state laws and regulations, funds provided under this agreement may not be used for expenses to support political activity, either directly or indirectly. As required under §33, Article IX of H.G. 1, the standards set forth in §5, Article IX of H.B. 1, shall apply to the use of funds provided under this agreement. Any expenses (including legal expenses, staff time, travel, phone calls, telefaxes, etc.) that are related in any way to drafting legislation, lobbying for legislation, or other political activities are not authorized.

(f). Food/Entertainment Expenses. Funds may not be used for food or entertainment expenses, including refreshments at meetings and other functions. This provision does not apply to authorized per diem expenses for food cost incurred while on travel status.

(g). Activities related to the disposal of municipal solid waste. Funds provided under this agreement may not be used for activities related to the collection or disposal of municipal solid waste. This restriction includes: solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste which is to be disposed of; any landfill and landfill-l related facilities, equipment, or activities, including the closure and post-closure care of a permitted landfill unit; or other activities and facilities associated with the ultimate disposal of municipal solid waste. However, this provision does not apply to activities specifically included under an authorized project category, to include citizens' collection stations, and small registered transfer stations. In addition, activities that would otherwise be eligible for funding, such as recycling, but that are located at a disposal facility may be funded.

(h). Municipal Solid Waste Expenses Only. Funds may be used only for programs and activities related to the management of municipal sold waste.

(i). Landfilling Expenses. Funds may not be used for expenses directly relating to landfilling of solid waste, to include the purchase of landfill-related equipment or landfill operational costs.

(j). Projects Requiring a TCEQ Permit. Except as may be specifically authorized, funds may not be used for projects or facilities that require a permit from the TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, or other facilities. This restriction may be waived by the TCEQ, at its discretion, for recycling and other eligible activities that will take place within the boundaries of a permitted facility. The applicant and/or the BVCOG must request a preliminary determination from the TCEQ as to the eligibility of the project prior to the project being considered for funding by the BVCOG.

(k). Projects Requiring TCEQ Registration. Projects or facilities requiring a registration from the TCEQ, and which are otherwise eligible for funding, must have received the registration before the project funding is awarded.

(l). Projects that Create a Competitive Advantage over Private Industry. In accordance with Section 361.014(b) of the Texas Health and Safety Code, a project or service funded under this Agreement must promote cooperation between public and private entities, and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry includes non-profit and not-for-profit non-governmental entities.

(m). Payment of Fees. Public and private entities subject to payment of state solid waste disposal fees and whose payments are in arrears may not receive funds under this agreement through either a pass-through grant or subcontract.

(n). Programs Solely Related to Collection of Certain Special Wastes. Funds provided under this Agreement may not be used for programs and activities solely related to the management of scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other special wastes excluded from disposal in MSW landfills. However, collection of these materials may be included as part of a comprehensive household hazardous waste

collection and management programs, so long as that is not the sole intent of the program.

(o). Supplanting existing funds. Funds may not be used to supplant salaries of an existing staff position, where the functions assigned to that position will not change. Staff positions where the assigned functions will remain the same and that were active at the time of the grant application, and were funded from a source other than a previous solid waste grant, are ineligible for grant funding.

(p). Acquisition of goods and Services. Recipients of funds under this Agreement, including the BVCOG, pass-through grant recipients, and subcontractors shall comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services and competitive purchasing requirements. In recognition of the requirement that projects not create a competitive advantage over a private industry, it is a goal of this program that competitive processes be used to the extent possible for all purchases using grant funds. In addition, grant recipients are encouraged to participate in the State Cooperative Purchasing Program.

(q). All equipment and facilities purchased or constructed with funds provided under this Agreement shall be used for the purposes intended in the funding agreement.

(r). A project or service funded under this Agreement must be consistent with the BVCOG's approved regional solid waste management plan, and must be intended to implement the goals, objectives, and priorities established in the regional plan.

(s). Use of Alcoholic Beverages. As required under §33, Article IX of H.B. 1, the standards set forth in §11, Article IX of H.B. 1, shall apply to the use of funds under this Agreement. In accordance with those standards, no funds provided under this Agreement shall be used for the payment of salaries to any employee who uses alcoholic beverages on active duty. None of these funds shall be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.

(t). Funds may not be used to assist an entity or individual to comply with an existing or pending federal, state, or local judgement or enforcement action. This restriction includes assistance to an entity to comply with an order to clean up and/or remediate problems at an illegal dump site. However, the TCEQ may waive this restriction, at its discretion and on a limited case-by-case basis, to address immediate threats to human health or the environment, and where it is demonstrated that the responsible party does not have the resources to comply with the order.

(u). Funds may not be used to pay penalties imposed on an entity for violation of federal, state, or local laws and regulations. This restriction includes expenses for conducting a supplemental environmental project (SEP) under a federal or state order or penalty. Funds may be used in conjunction with SEP funds to support the same project.

Article 10 Guidelines Concerning Additional Documentation and Financial Monitoring Requirements

(a). In general, expenditure documentation to be maintained by the SUBCONTRACTOR should be whatever is necessary to show that the work was performed and that the expense was, in fact, incurred. In addition, the documentation should also support the fact that the expenditure was reasonable and necessary to this agreement.

(b). Documents that should be maintained, as appropriate for the expense, include by category, the records listed below.

1. Salary/Wages	Time sheets that have been signed and approved
2. Travel	Documentation which, at a minimum, is consistent with State Travel Regulations. The purpose of the travel should be documented and supported with actual receipts for hotel accommodations, public transportation receipts, airline receipts, food and beverage receipts, etc.
3. Equipment	Receipts, purchase orders, invoices, and canceled checks
4. Supplies	Receipts, purchase orders (if issued), invoices, and canceled checks
5. Contractual	All of the above plus documentation that the costs were reasonable and necessary. The same standards should be applicable to subcontractors
6. Implementation Contracts	All of the above, including documentation of sub-grant recipients' expenses, except as such documentation is required to be maintained by the sub-grant recipient, but not submitted to the BVCOG, under the BVCOG's fiscal monitoring program. Where such documentation is not required to be submitted by sub-grant recipients and maintained by the BVCOG, copies of all risk assessment documents, monitoring plans, and monitoring desk reviews and site visit reports prepared under the BVCOG's fiscal monitoring program, to document oversight and review of the sub-grant recipient's expenses.
7. Other	All of the above apply

(c). If requested by the BVCOG, the SUBCONTRACTOR agrees to provide to the BVCOG the additional expense records and documentation materials, as listed in Section (b) of this Article and appropriate for the expense, for the time period requested by the BVCOG, except that the SUBCONTRACTOR will not be asked to submit records that have already been provided to the BVCOG with a Financial Status Report. The BVCOG will provide reasonable time for the SUBCONTRACTOR to comply with a request for additional records. If the BVCOG requests to review additional records to be provided by the SUBCONTRACTOR under the COG's financial monitoring program, the BVCOG will review those records and provide the SUBCONTRACTOR a written summary of the findings of that review. The BVCOG will also allow the SUBCONTRACTOR reasonable time to respond to any findings of noncompliance or other problems identified by the records review.

Article 11 Contractual Costs Concerning Subcontractors, Suppliers, and Others

All contractual expenditures using funds provided under this Agreement shall meet all procurement laws and regulations applicable to the BVCOG and SUBCONTRACTOR and the Uniform Grant and Contract Management Act and the Uniform Grant Management Standards. Note that competitive bidding will generally be required.

SUBCONTRACTORS contractual costs must comply with allowable cost requirements. SUBCONTRACTORS must engage in contractor selection on a competitive basis in accordance with their established policies. If the SUBCONTRACTOR has no competitive procurement policy or is a private entity, contractors must be selected by evaluation and comparison of price, quality of goods or services and past performance. All subgrants awarded by the BVCOG under this Agreement shall be in accordance with Subpart C, Sec.__.37, Subsection (b) of the State Uniform Administrative Requirements for Grants and Cooperative Agreements as set forth in Part III of the ***Uniform Grant Management Standards*** adopted by the Governor's Office of Budget and Planning.

Article 12 Authorized Representatives

(a). The BVCOG hereby designates the person in Exhibit A-1, Project Representative, as the individual authorized to give direction to the SUBCONTRACTOR for the purposes of this Contract. The BVCOG Project Representative shall not be deemed to have authority to bind the BVCOG in contract unless the EXECUTIVE DIRECTOR of the BVCOG has delegated such authority.

(b). Immediately upon receiving the Purchase Order or Notice of Award, the SUBCONTRACTOR shall identify, as its Project Representative, the person authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf on the SUBCONTRACTOR. The SUBCONTRACTOR'S Project Representative shall be deemed to have authority to bind the SUBCONTRACTOR in contract unless the SUBCONTRACTOR, in writing, specifically limits or denies such authority to the SUBCONTRACTOR'S Project Representative.

(c). Either party may change its Project Representative. In addition, the Project Representative of either party may further delegate his or her authority as necessary, including any delegation of authority to a new Project Representative. The party making

the change in Project Representative shall provide written notice of the change to the other party.

(d). The SUBCONTRACTOR shall ensure that its Project Representative, or his or her delegate, is available at all times for consultation with the BVCOG.

Exhibit A-1

The BVCOG hereby designates the individual below as the person to give direction to the SUBCONTRACTOR as Project Representative of BVCOG:

Candilyn McLean, Manager, Solid Waste Planning
Brazos Valley Council of Governments
P O Drawer 4128
3991 East 29th Street
Bryan, Texas 77805

TEL (979) 595-2800 FAX (979) 595-2810

The SUBCONTRACTOR hereby designates the individual named below as the person authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf of the SUBCONTRACTOR as a Project Representative:

_____
_____
_____
_____
_____

TEL ***FAX***

The SUBCONTRACTOR designates the following location for record access and review pursuant to Attachment A & Attachment E of this Contract or any other applicable provision:

_____
_____
_____
_____

ATTACHMENT B

B. Work Program of SUBCONTRACTOR

Project Approach

The media and print campaign will be designed by professional consultants, who will help create/ design the 4 parts of the campaign,

1. To create a series of local 15 and 30 second Radio Public Service Announcements to run on Candy 95 and stations who cater to our Gen. L demographic.
2. To create a series of local 15 and 30 second Television Public Service Announcement ads to work in concert with the radio ads to create a high level of public awareness of the proper disposal and to avoid illegal dumping and increase a better litter behavior among our community.
3. To create 3 new educational brochures. 50,000 of each. That will be distributed by a wide variety of City, and County agencies, such as law and code enforcement, Brazos County Health Dept. BVSWMA, the Rock Prairie Landfill, College Station Utilities, etc.
4. To create a portable demonstration display educating about litter issue to be used at various special events, presentations and festivals.

Project Implementation

The project's need is consistent with the funding category: **Educational and Training Projects**. This project will include an active public education program targeting "Generation L" high school through College ages to create a high level of public awareness of the proper disposal of waste. Through advertising and education, the serious environmental, safety, and health threats of litter and illegal dumping will be brought to the attention of the community so that such future impacts might be reduced. Part of the education program will address the Texas Litter Abatement Act, Texas Health and Safety Code, Chapter 365, which was amended to increase the penalties for illegal dumping. House Bill 631 was passed by the 77th Texas Legislature, which added state jail felony charges for illegally dumping anything over 1000 lbs, or anything for a commercial purpose over 200 lbs. The intent with this amendment is to help reduce illegal dumping by making it more costly to dump illegally rather than by taking the waste to an authorized disposal site.

The project also follows the recommended regional strategies, goals and objectives and priorities that are outlined in the BVCOG Regional Solid Waste Management Plan. This project also addresses **Goal 1:** *Ensure the availability of disposal in the BVCOG region to manage municipal solid waste (MSW) after source reduction, recycling, and composting has occurred* and **Objective 1 B:** *Support local efforts to identify areas with litter and illegal disposal problems and encourage implementation of future and current enforcement programs to address those problems.* **Goal 3:**-*Reduce the amount of municipal solid waste (MSW) generated and disposed of by maximizing source reduction and recycling, to the extent feasible through, voluntary approaches* and **Objective 3:** *Encourage public education and outreach programs that achieve public awareness and knowledge of solid waste management options and solutions*

Form 6c. Level of Commitment of the Applicant (*add additional pages as necessary*)

Provide information related to the Applicant's level of commitment to preferred solid waste management practices. If the proposed project is an ongoing service, demonstrate the ability to sustain the program beyond the term of the grant. Explain the extent to which the appropriate governing bodies support the proposed project.

The City of College Station, Brazos valley Solid Waste Management Agency and Keep Brazos Beautiful are very committed to keeping our County lands and waterways, clean, safe and litter free. Each entity has had representatives who have served on the BVCOG Solid Waste Committee. Keep Brazos Beautiful and BVSWMA have both implemented successful litter prevention media education programs.

List any previously demonstrated commitment to preferred solid waste management practice, such as implementing other solid waste management projects, involvement in a local or subregional solid waste management plan or study, or membership in the TCEQ's Clean Texas Program.

Keep Brazos Beautiful has organized and participated in the *Don't Mess with Texas Trash-Off Brazos County Trash Bash* and *Great American Cleanup* each of the last 6 years, which have included conducting cleanups at illegal dumps in Brazos County each of these years. Additionally they have been an organizer and sponsor of each of the Regional Illegal Dumping Prevention Workshop put on by the Brazos Valley COG. Keep Brazos Beautiful also completes a survey of litter in Brazos County each December called the Litter Index to ascertain trend in litter and to work on strategies to combat it. KBB has completed several other waterway cleanups in Bryan, College Station & Brazos County and have helped organize the BVCOG Texas Recycles Day Events over the last 4 years. The Keep Brazos Beautiful Executive Director is a participating member of the BVCOG Solid Waste Advisory Committee and serves on its Education committee.

BVSWMA is in charge of the local Rock Prairie Landfill and the sole organizer of the twice yearly Household Hazardous Waste and Computer Collection event that is open to any Brazos Valley household. Additionally, they do ongoing waste reduction education with their Master Composter Classes and certification program. BVSWMA has also paid for litter prevention PSA's on local radio for several years and is committed partner in reducing litter and illegal dumping in our region.

If the proposed project has received previous grant funding under this program, explain to what extent the proposal involves expansion of current services or operations; present quantifiable documentation of the success of the project in order to warrant further funding. Demonstrate a good record of past grant contractual performance.

Keep Brazos Beautiful has received grant funding to do similar media Education on radio and television, the additional goal of this project is to create an expanded and professionally created marketing plan for a sustainable, easily remembered and effective media campaign that can be used on into the future. Additionally, we would like to share the resulting products with any agency interested in litter prevention including other Brazos Valley communities in their own litter prevention campaigns if they so wish.

We have a proven record of using our previous grant funding in creating effective radio and TV ads as well as 2 years of targeted litter and illegal dumpsite cleanups.

ATTACHMENT C

C. Schedule of Deliverables from SUBCONTRACTOR

Program Objectives:

Deliverables:

FORM 6: Project Summary

Please provide a complete project summary. Reference the goals, objectives, and/or recommendations from the regional solid waste management plan that apply to the project, and how the project will assist in implementing the plan. Refer to the application instructions when completing these forms. If necessary, attach additional pages for each form.

Form 6a. Project Description (*add additional pages as necessary*)

Project Goal

The project is to promote an ongoing litter abatement educational outreach multi-media campaign targeting illegal dumping and litter prevention especially targeting the demographic that are considered major litters. The Texas Department of Transportation identified these as the **Gen L –or Generation Litterer****

- The typical litterer in Texas:
  - is between the ages of 16 and 24,
  - smokes,
  - goes to parties/bars more than twice a week,
  - is single
  - frequents fast food restaurants.

Additionally, since they have determined that 70% of littering occurs while driving, either by being thrown out or more often blown out we plan to especially target education of individuals with uncovered loads. The local Rock Prairie Landfill already fines vehicles by the ton for uncovered loads but will also begin providing tarps to vehicles and keeping records so that fines may be enhanced if the individual repeats the behavior after they have received the tarp.

Project Objective

The projects objective is to create a new and memorable media campaign targeting Generation L, especially high school and college students to increase awareness of the issue of littering and to use current social marketing strategies to encourage a change in their littering behavior and thereby:

- Promoting an effective public education campaign that will create a high level of public awareness of negative consequences of littering and illegal dumping. Through advertising, education, and distribution of a variety of useful brochures and presentations the serious environmental, safety, and health threats of litter and illegal dumping will be brought to the attention of the community so that such future impacts might be reduced; and .
- To improve the attractiveness of the Brazos County waterway banks for the use and enjoyment of the local community, to improve the neighboring property value, and to improve the opportunity for future commercial and residential development, all of which may ultimately eradicate future littering and illegal dumping problems; and
- To ultimately reduce the amount of litter & debris along streets, highways, railroad tracks, creeks, parks, school yards, and neighborhoods in Bryan & College Station.
- To create a sustainable education program that The Brazos Valley Solid Waste Management Agency (BVSWMA) will continue to champion even after these grant funds are used. They have made a $12,000 annual commitment toward this program from their advertising budget.

Form 6d. Scope of Work *(See application instructions. Add additional pages as necessary)*

Provide a work program with a schedule of deliverables for the proposed project or program. The work program with the schedule of deliverables will be considered the Scope of Work to be performed under the contract agreement, if funded. Once the details of the work program have been negotiated with the Applicant and approved by the BVCOG, the work program will be entered into the grant contract.

As concisely as possible, for each task of the proposed project, describe the major steps or activities involved, identify the responsible entities and establish a specific timeframe to accomplish each task. The scope of work for the project or program must include:

- Detailed purpose and goal of the project (should be consistent with implementing the goals, objectives, and recommendations from the regional solid waste management plan, as stated in the project description on Form 6a).
- Specific task statements with responsible entity identified
- List of deliverables/products/activities under each task
- Schedule of deliverables

Keep Brazos Beautiful will handle all the following beginning when the grant funding is available and ads to be created as soon as possible after that with run time spaced until the end of the grant cycle.

1. Get bids form design firms for media campaign-
2. Contract with firm to create radio, TV and do the graphic design for the brochures
3. Get bids for Brochures
4. Get radio and TV ad bids and run schedules
5. Produce radio & TV ads
6. Get bids purchase Presentation board and purchase
7. Create information on Litter and Illegal Dumping Prevention for board.
8. Distribute brochures

Form 6b. Project Cost Evaluation (*add additional pages as necessary*)

Provide an evaluation of the costs associated with the proposed project. Explain how the total related costs of the proposed project were adequately considered; compare project costs to established averages or to normal costs for similar projects. Present the costs in unit terms, such as cost per ton, cost per customer, or cost per capita, as applicable. Describe any measurable costs savings, or reasonably justified costs of the project.

This project is asking for at total of $25,000
This will be used in the following manner.

1. Hire a professional designer to create marketing strategy and graphic design of the brochures.
Estimated cost $1,750

2. Printing of 3 full color tri-fold brochures. 50,000 of each or .cents each
Estimated cost of $7,500

- ✓ Keep it Uncover- Securing your loads
- ✓ How to have a Clean & Green Business
- ✓ Doing your Part to Prevent Litter
- ✓

3. Contract with several local radio stations to produce and run Litter Public Service Announcements with a in-kind donation of air-time that can be used to prolong the campaign.
Estimated cost $3,500 (plus $12,000 from a match from BVSWMA)

4. Contract with KBTX-TV 3 to produce and run Litter Public Service Announcements with an in-kind donation of air-time that can be used to prolong the campaign.

Estimated cost $11,900

5. Purchase of a zip up presentation display to use at speaking engagements, booths and festivals to educate on litter and illegal dumping issue with photos and relevant facts.
Estimated cost to purchase & shipping and handling $300

ATTACHMENT D

D. SUBCONTRACTOR Budget and Authorizations

BUDGET CATEGORY	BUDGET
Personnel/Salary	.00
Fringe Benefits	.00
Travel	.00
Supplies	.00
Equipment	.00
Contractual	.00
Construction	.00
Other	.00
TOTAL DIRECT COSTS	.00
Indirect Costs	.00
TOTAL PROJECT COSTS	.00

FORM 7. GRANT BUDGET SUMMARY

Please provide the following breakdown of the total amount of grant funding being requested:

Budget Category	Funding Amount
1. Personnel/Salaries	$
2. Fringe Benefits	$
3. Travel	$
4. Supplies	$ 300
5. Equipment	$
6. Construction	$
7. Contractual	$ 1,750
8. Other	$ 22,950
9. **Total Direct Charges** *(sum of 1-8)*	$
10. Indirect Charges*	$
11. **Total** *(sum of 9 - 10)*	$ 25,000

12. Fringe Benefit Rate:	%	
13. Indirect Cost Rate:	%	

Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied:

*In accordance with the UGMS, indirect charges may be authorized if the Applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the Applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

Please complete any of the following detailed budget forms that are applicable.

FORM 7a: Detailed Matching Funds/In-Kind Services

This budget form should be completed if the Applicant is providing any level of matching funds or in-kind services directly related to the proposed project.

Matching Funds: $12,000

In the space below, please explain in detail the application of any matching funds to be provided by the Applicant, as directly related to the proposed project:

In-Kind Services: Value unknown at this time (monetary equivalent)

In the space below, please explain in detail the application of any in-kind services to be provided by the Applicant, as directly related to the proposed project:

What is the TOTAL COST of the proposed project, considering the total grant funding requested, any matching funds being provided by the Applicant, and the monetary equivalent of any in-kind services being provided by the Applicant: $ 37,000

FORM 7d: Detailed Supply Expenses

This budget form provides a more detailed breakdown of the total expenses for supplies indicated on Line 4 of the Overall Budget Summary.

Please list the general types of supplies you expect to purchase with grant funding.

General Types of Supplies	Estimated Cost
General office/desk supplies	$
Other supplies *(explain below)*: Zip Up Portable Velcro compatible Presentation Board 29"x49"	$ 300.00
TOTAL *(Must equal Line 4 of the Overall Budget Summary)*	**$ 300.00**

FORM 7g: Detailed Contractual Expenses

All contractual expenses must be pre-approved by the BVCOG. If the specific details of the contractual costs are not known at this time, list the general details on this form. The more specific details of the contractual costs will then need to be provided to and approved by the BVCOG before the costs are incurred. The request for approval will need to include evidence that the contract price is reasonable and necessary (see instructions). In addition, the subcontract scope of work must be approved by the BVCOG before work begins.

Purpose	Contractor(s)	Contract Amount
Create & Design Litter Marketing media and graphics for brochures	Twinz Co	$ 1,7500
		$
		$
		$
TOTAL *(Must equal Line 7 of the Overall Budget Summary)*		$

FORM 7h: Detailed Other Expenses

This budget form provides a more detailed breakdown of the total other expenses indicated on Line 8 of the Overall Budget Summary. *Please note that the final totals are at the bottom of the next page.*

Basic Other Expenses

Please identify the basic "Other" category expenses you expect to incur appropriate to the project.

Basic Other Expenses	Estimated Cost
Books and reference materials	$
Postage, telephone, FAX, utilities	$
Printing/reproduction 3 brochures 50,000 each at 5 cents each	$ 7,500
Advertising/public notices Radio PSA's $3,500& (BVSWMA match of $12,000) $ TV PSA's KBTX TV $11,950	$ 15,450
Registration fees for training (if approved)	$
Repair and maintenance	$
Basic office furnishings	$
Space and equipment rentals	$
Signage	$

Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
General Contract Provisions
Attachment E

Article 1 Legal Authority

The SUBCONTRACTOR warrants and assures BV*COG* that it possesses adequate legal authority to enter into this Agreement. The SUBCONTRACTOR'S governing body where applicable has authorized the signatory official(s) to enter into this Agreement and bind the SUBCONTRACTOR to the terms of this Agreement and any subsequent amendments hereto. The SUBCONTRACTOR agrees to adhere to the provisions of section 330.569 of the TCEQ Municipal Solid Waste Regulations, the Uniform Grant & Contract Management Standards (UGCMS) and the contract between the TCEQ & BVCOG.

Article 2 Scope of Services

The services to be performed by the SUBCONTRACTOR are herewith outlined in the General Provisions and Change Orders which are hereby incorporated into and made a part of this Agreement as if set out word-for-word herein.

Article 3 Purpose

(a). The purpose of this Contract (Agreement) is to accomplish the goals of House Bill 3072, 74th Texas Legislature (1995), as they relate to distributing solid waste fee revenue funds to support local and regional solid waste projects consistent with the regional solid waste management plans approved by the TCEQ and to update and maintain those plans.

(b). Under the overall goals of the funding program established under House Bill 3072, the more specific purposes of this Agreement are:

1. To enable the BV*COG* to carry out or conduct various municipal solid waste management-related services and support activities within the BV*COG's* regional jurisdiction; and

2. To administer an efficient and effective, region-wide, pass-through (subgrantee) assistance grants program and/or, where authorized by the BV*COG* in accordance with Article 4 of this Attachment, to conduct various *COG* - managed projects.

Article 4 Types of Solid Waste Implementation Projects & Applicants

(a). Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from the BV*COG* as a pass-through grant:

1. Cities;
2. Counties;
3. Public schools and school districts (does not include Universities or post secondary educational institutions);
4. Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities; and
5. Councils of governments.

(b). Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the FUNDING AGENCY, are not eligible to receive pass-through grant funding from the *BVCOG*. The FUNDING AGENCY shall provide, on a quarterly basis, the BV*COG* a list of entities for which fee payments are in arrears. The BV*COG* shall allow a potential pass-through grant applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed the state. If the potential applicant provides the BV*COG* with documentation of payment of the fees, such as a canceled check or receipt from the state, the BV*COG* may consider that applicant to be eligible to receive pass-through grant funding under this agreement. The BV*COG* shall notify the FUNDING AGENCY of any applicants for which a determination of eligibility was made under this subsection.

Article 5 Accounting Systems

The SUBCONTRACTOR shall have an accounting system, which accounts for costs in accordance with generally accepted accounting standards or principles and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The SUBCONTRACTOR must account for costs in a manner consistent with such standards or principles.

Article 6 Examination of Records

(a). SUBCONTRACTOR shall maintain during the course of the work, complete and accurate records of all SUBCONTRACTOR'S costs and documentation of items which are chargeable to BV*COG* under this Agreement. BV*COG* shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by it. Failure to provide access to records may be cause for termination of the contract. The records to be thus maintained and retained by SUBCONTRACTOR shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of SUBCONTRACTOR'S employees working full or part time on the work, as well as canceled payroll checks or signed receipts for payroll payments in cash; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for SUBCONTRACTOR'S stocks

or capital items; and (3) paid invoices and canceled checks for materials purchased and for subcontractee's and any other third parties' charges.

The SUBCONTRACTOR further agrees to include in all its subcontracts a provision the effect that the subcontractee agrees that BV*COG* and its duly authorized representatives, shall, until the expiration of three (3) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices and records to such subcontractor involving transactions relating to the subcontract.

Article 7 Overpayments

SUBCONTRACTOR understands and agrees that it shall be liable to repay and shall repay upon demand to BV*COG* any amounts determined by *BVCOG*, its independent auditors, or any agency of state or federal governments to have been paid in violation of the terms of this Agreement.

Article 8 Audit/Access to Records

(a). The SUBCONTRACTOR shall maintain and make available for review, inspection and/or audit books, records, documents, and other evidence reasonably pertinent to performance on all work under this agreement, including negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the SUBCONTRACTOR 's Texas office. The SUBCONTRACTOR shall also maintain and make available at its Texas office the financial information and data used by the SUBCONTRACTOR or its designee (including independent financial auditors) in the preparation or support of any cost submission or cost (direct and indirect), price or profit analysis for this Agreement or any negotiated subagreement or change order and a copy of the cost summary submitted to BVCOG. The BVCOG, Texas State Auditor's Office or any of BVCOG's duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, inspection and/or audit. During the conduct of any such review, audit or inspection, SUBCONTRACTOR'S books, records, and other pertinent documents may, upon prior conference with the SUBCONTRACTOR, be copied by the BVCOG or any of its duly authorized representatives. All such information shall be handled by the parties in accordance with good business ethics. The SUBCONTRACTOR shall provide proper facilities within the State of Texas for such access and inspection.

(b). Audits conducted pursuant to this provision shall be in accordance with State law, regulations and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(c). The SUBCONTRACTOR agrees to the disclosure of all information and reports resulting from access to records pursuant to Section (a) above to BVCOG. Where the audit concerns the SUBCONTRACTOR, the auditing agency will afford the SUBCONTRACTOR an opportunity for an audit exit conference and an opportunity to comment on the pertinent portion of the draft audit report.

(d). Records under Sections (a) above shall be maintained and made available during the entire period of performance of this Agreement and until three (3) years from date of final BVCOG payment for the project. In addition, those records which relate to any dispute, litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has bee taken shall be maintained and made available until completion of such action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

(e). Access to records is not limited to the required retention periods. The authorized representatives designated in Section (a) of the Article shall have access to records at any reasonable time for as long as the records are maintained.

(f). This audit/access to records Article applies to financial records pertaining to all subagreements and all subagreement change orders and amendments. In addition, this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments: to the extent the records reasonably pertain to subagreement performance; if there is any indication that fraud, gross abuse or corrupt practices may be involved; or if the subagreement is terminated for default or for convenience.

(g). The BVCOG reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records kept by the SUBCONTRACTOR on work performed under this Agreement.

(h). The SUBCONTRACTOR agrees to include Sections (a) through (g) of this Article in all subagreements and all change orders directly related to project performance.

Article 9 Independent Financial Audit

The SUBCONTRACTOR shall adhere to the Single Audit requirements of the UGCMA. The SUBCONTRACTOR shall deliver to the BVCOG each audit report within thirty (30) days of completion of the audit report. The SUBCONTRACTOR is responsible for including the Single Audit requirements in all subagreements and shall be responsible for insuring adherence to those requirements by all subgrantees and subcontractors.

Provisions of the Single Audit Circular in Part IV of the UGMS shall apply to all non-state entities expending the funds of this grant, whether they are recipients, receiving the funds directly from the TCEQ, or are subrecipients, receiving the funds from a pass-through entity. The SUBCONTRACTOR shall require the independent auditor to supply all audit work papers substantiating the work performed, at the request of the BVCOG or its designee.

Article 10 Amendments to Contract

Any alterations, additions, or deletions to the terms of this contract, which are required by changes in Federal Law or Regulations are automatically incorporated into this

Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation, provided if the SUBCONTRACTOR may not legally comply with such change, SUBCONTRACTOR may terminate its participation herein as authorized by Article 11.

Such changes that are mutually agreed upon by and between BV*COG* and the SUBCONTRACTOR in writing shall be incorporated into this Agreement.

Article 11 Termination of Contract

Failure on the part of the SUBCONTRACTOR to comply with the conditions set forth in this agreement shall be the basis for termination of this agreement and/or the revocation of any unexpended or inappropriately expended funds. The SUBCONTRACTOR acknowledges that this Agreement may be terminated under the following circumstances:

(a). Convenience

BVCOG may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the contractor whenever for any reason BV*COG* determines that such termination is in the best interest of *COG*. Upon receipt of notice of termination, all services hereunder of the SUBCONTRACTOR and its employees and subcontractees shall cease to the extent specified in the notice of termination. In the event of termination in whole, the SUBCONTRACTOR shall prepare a final invoice within 30 days of such termination reflecting the services actually performed pursuant to the Agreement and to the satisfaction of the Executive Director or his designee which has not appeared on any prior invoice. BV*COG* agrees to pay the SUBCONTRACTOR, in accordance with the terms of the Agreement, for services actually performed and accruing to the benefit of BV*COG* compensation previously paid.

The SUBCONTRACTOR may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to BV*COG*. The SUBCONTRACTOR may not give notice of cancellation after it has received notice of default from BV*COG*. In the event of such termination prior to completion of the contract provided for herein, BV*COG*, agrees to pay for services herein specified on a prorated bases for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

(b). Default

BVCOG may, by written notice of default to the SUBCONTRACTOR, terminate the whole or any part of the Agreement in any one of the following circumstances:

1. If the SUBCONTRACTOR fails to perform the services herein specified within the time specified herein or any extension thereof; or

2. If the SUBCONTRACTOR fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or so

violates the Agreement in a manner which significantly endangers substantial performance of the Agreement or completion of the services herein specified within a reasonable time, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer periods of time as may be authorized by BV*COG* in writing) after receiving written notice by certified mail of default from BV*COG*. In the event of such termination, all services of the SUBCONTRACTOR and its employees and subconsultants shall cease and the SUBCONTRACTOR shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement and to the satisfaction of the Executive Director of BV*COG* or his designee which has not appeared on a prior invoice. BV*COG* agrees to pay the SUBCONTRACTOR, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of BV*COG* as reflected on said invoices, less payment of any compensation previously paid and less any costs or damages incurred by BV*COG* as a result of such default, including an amount agreed to in writing by BV*COG* and the SUBCONTRACTOR to be necessary to complete the services herein specified, in addition to that which would have been required had the SUBCONTRACTOR completed the services herein specified as required herein.

Article 12 Conflict of Interest

The SUBCONTRACTOR shall notify the BVCOG immediately upon discovery of any potential or actual conflict of interest. The notification shall include both organizational conflicts of interests and personal conflicts of interest. Any individual with a personal conflict of interest shall be disqualified from taking part in any way in the performance of any work that created the conflict of interest. The SUBCONTRACTOR agrees that the BVCOG has sole discretion to determine whether a conflict exists and that the BVCOG may terminate the Agreement at any time, on the grounds of actual or apparent conflict of interest.

Article 13 Severability

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

Article 14 Dispute Resolution

Any and all disputes concerning questions of fact or of law arising under this Agreement, which are not disposed of by Agreement shall be decided by the Executive Director of BV*COG* or his designee, who shall reduce his decision to writing and provide notice thereof to the SUBCONTRACTOR. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the SUBCONTRACTOR requests a rehearing from the Executive Director of BV*COG*. In connection with any rehearing under this Article, the SUBCONTRACTOR shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing

shall be final and conclusive.
Pending final decision of a dispute hereunder, the SUBCONTRACTOR shall proceed diligently with the performance of the Agreement and in accordance with BV*COG*'s final decision.

Article 15 Oral and Written Agreements

All oral or written agreements between the parties hereto relating to the subject matter of this Contract which were developed and executed prior to the execution of this Contract have been reduced to writing and are contained herein.

Article 16 Employment, ADA Requirements and Statutes Relating to Nondiscrimination

The SUBCONTRACTOR agrees that in the performance of this Agreement, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with the Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The SUBCONTRACTOR assures that no person will, on the grounds of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded in whole or part under this Agreement.

The SUBCONTRACTOR shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101- 12213 (Pamph 1995).

The SUBCONTRACTOR shall comply with all applicable state and federal statutes relating to nondiscrimination which include, but are not limited to, those listed in the Uniform Grant Management Standards.

Article 17 Force Majeure

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with the BV*COG*.

Article 18 Entire Contract

This Agreement represents the entire Contract between the contracting parties and supersedes any and all prior contracts between the parties, whether written or oral.

Article 19 Utilization of Small, Minority, and Women's Business Enterprises

The SUBCONTRACTOR agrees that qualified Historically Underutilized Businesses (HUBs) shall have the maximum practicable opportunity to participate in the performance of this Agreement.

Article 20 Energy Efficiency Standards

The SUBCONTRACTOR is encouraged to follow standards and policies on energy efficiency, which are contained in the Texas State Energy conservation Plan issued in compliance with the Energy Policy and Conservation Act (P. L. 94-163).

Article 21 Safety and Protection

Where applicable, the BVCOG shall be responsible for requiring SUBCONTRACTORS and SUBGRANTEES to maintain and supervise all necessary safety precautions and programs in connection with the work. The SUBCONTRACTOR shall take all the necessary safety precautions.

Article 22 Data and Publicity

All data and other information developed under this Agreement shall be furnished to the BVCOG and shall be public data and information except to the extent that it is exempted from public access by the Texas Open Records/Public Information Act, Vernon's Texas Government Code Sect. 552. Upon termination of this Agreement, all data and information shall become the joint property of the BVCOG and the SUBCONTRACTOR.

Article 23 Acknowledgment of Financial Support

The SUBCONTRACTOR shall acknowledge the financial support of the BVCOG and TCEQ whenever work funded, in whole or part, by this Agreement is publicized or reported in news media or publications. All reports, oral presentations, advertisements, signage and other written documents completed as a part of this Agreement, other than documents prepared exclusively for internal use within the BVCOG, shall carry the following notation on the front cover or title page:

PREPARED IN COOPERATION WITH THE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AND THE
BRAZOS VALLEY COUNCIL OF GOVERNMENTS

Article 24 Intellectual Property Requirements

(a) For the purpose of this Article, "intellectual property" refers to 1) any discovery or invention for, which patent rights may be acquired, and 2) any photographs, graphic designs, plans, drawings, specifications, computer programs, technical reports, operating manuals, or other copyrightable materials, and 3) any other materials in which intellectual property rights may be obtained.

(b) Royalties and Patent Fees. SUBCONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use or possession in the performance of the work or the incorporation in the work of any Intellectual Property.

(c) Disclosure of Intellectual Property Produced during the work. SUBCONTRACTOR shall promptly notify BVCOG of all Intellectual Property, which the SUBCONTRACTOR, or SUBCONTRACTOR's employees may produce, either solely or jointly with others, during the course of work. In addition, the SUBCONTRACTOR shall promptly notify the BVCOG of all Intellectual Property to which the SUBCONTRACTOR may acquire rights in connection with the performance of the work. Any notification under this paragraph shall contain sufficient technical detail to convey a clear understanding of the Intellectual Property, and shall identify any publication, sale, public use, or impending publication. Promptly upon request, SUBCONTRACTOR shall supply such additional information as BVCOG may request.

(d) Grant of License. With respect to such Intellectual Property as is (i) incorporated in the work (other than Intellectual Property for which BVCOG already possesses equal or greater Intellectual Property Rights by virtue of this Agreement or otherwise), (ii) produced by SUBCONTRACTOR or SUBCONTRACTOR's employees, during the course of performing the work, or (iii) specifically identified in the Supplemental Conditions as Intellectual Property to which Intellectual Property Rights are granted pursuant to this paragraph, SUBCONTRACTOR hereby grants to BVCOG (i) a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, or otherwise use such Intellectual Property and associated use documentation, and (ii) a nonexclusive, perpetual irrevocable, enterprise-wide license to authorize others to reproduce, publish, or otherwise use such Intellectual Property for BVCOG's purposes.

(e) Modification; Derivative Works. TCEQ shall have the right, in its own discretion, to independently modify any Intellectual Property to which license is granted herein for the TCEQ's own purposes and use, through the services of its own employees or independent contractors. TCEQ shall own all Intellectual Property Rights to such modifications. SUBCONTRACTOR shall not incorporate any such modifications into it's Intellectual Property for distribution to third parties unless it first obtains a license from TCEQ.

(f) If the SUBCONTRACTOR first conceives of, actually puts into practice, discovers, invents, or produces any intellectual property during the course of its work under this Agreement, it shall report that fact to the BVCOG.

(g) The SUBCONTRACTOR may obtain governmental protection for rights in the intellectual property. However, the BVCOG hereby reserves a nonexclusive, royalty-free and irrevocable license to use, publish, or reproduce the intellectual property for sale or otherwise, and to authorize others to do so. The BVCOG also reserves a royalty-free nonexclusive, and irrevocable license to use, publish, or reproduce, for sale or otherwise (to the extent consistent with the right of third parties) any intellectual property for which the SUBCONTRACTOR obtains rights with funds received under this Agreement.

(h) In performing work under this Agreement, the SUBCONTRACTOR shall comply with all laws, rules, and regulations relating to intellectual property, and shall not infringe on any third-party's intellectual property rights. SUBCONTRACTOR further

represents and warrants to TCEQ that in the course of performing the work it will not use or possess any Intellectual Property owned by a third party without paying any required royalty or patent fees. SUBCONTRACTOR warrants that it has full title in and ownership of the Intellectual Property and any enhancements, updates or other modifications, or that it has full power and authority to grant all licenses granted herein, and such license use by the BVCOG will in no way constitute an infringement or other violation of any Intellectual Property right of any third party. The SUBCONTRACTOR warrants that it shall have, throughout any applicable license term hereunder, free and clear title to, or the right to possess, use sell, transfer, assign, license, or sublicense, products that are licensed or provided hereunder to the BVCOG by SUBCONTRACTOR. Except as permitted in the Agreement, SUBCONTRACTOR shall not create or permit the creation of any lien, encumbrance, or security interest in the work or any part thereof, or any product licensed or provided hereunder to BVCOG for which title has not yet passed to BVCOG, without the prior written consent of BVCOG. SUBCONTRACTOR represents and warrants to BVCOG that neither it nor any other company or individual performing the work is under any obligation to assign or give to any third party any Intellectual Property rights granted or assigned to BVCOG, or reserved by BVCOG, pursuant to the Agreement. It shall hold the BVCOG harmless for, and to the extent permitted by the law and Constitution of the State of Texas, defend and indemnify the BVCOG against, any claims for infringement related to its work under this Agreement.

(1). SUBCONTRACTOR expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements under section 2157.005 of the Government Code, relating to accessibility by persons with visual impairments. Accordingly, the SUBCONTRACTOR represents and warrants to BVCOG that the technology provided to the BVCOG of purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of (a) providing equivalent access for effective use by both visual and nonvisual means; (b) presenting information, including prompts used for interactive communications, in formats intended for nonvisual use; and (c) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodation under the Americans with Disabilities act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

(2). SUBCONTRACTOR will include in all subcontracts a provision similar in effect to the following year 2000 Warranty as set forth in this Subsection.

(a). SUBCONTRACTOR also warrants that, with respect to work performed under this Agreement, that all work is Year 2000 Compliant

when used in accordance with the applicable documentation, provided that all products used in combination with it (but not themselves included in or with or incorporated into the work) properly exchange date data with the work. SUBCONTRACTOR warrants that the work meets all applicable standards of the Texas Department of Information Resources relating to the Year 2000 Compliance. In the event any work performed under this Agreement is not Year 2000 Compliant and the SUBCONTRACTOR is provided written notice thereof, SUBCONTRACTOR shall at is sole expense immediately cause such work to become Year 2000 Compliant in a manner that will minimize interruption to ongoing business processes, time being of the essence.

(i) The SUBCONTRACTOR shall include provisions adequate to effectuate the purposes of this Article in all subagreements and subcontracts under this Agreement in the course of which intellectual property may be produced or acquired.

Article 25 Cost Requiring Advance Authorization

(a). The SUBCONTRACTOR must receive prior notification and approval by the BVCOG of any changes in personnel whose salaries will be funded under the pass-through grant.

(b). The SUBCONTRACTOR must receive prior authorization from the BVCOG for all expenditures under the "equipment," "construction," or "contractual," budget categories.

(c). Reimbursement of travel expenses for out-of-state travel, except where such travel is specifically authorized in writing by the BVCOG, is prohibited.

Article 26 Permits

Unless otherwise provided in the Agreement, the SUBCONTRACTOR shall obtain and pay for all construction permits and licenses. The SUBCONTRACTOR shall pay all charges of utility owners for connections to the work, and the SUBCONTRACTOR shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Article 27 Indirect Costs

The BVCOG may authorize indirect costs at the request of the SUBCONTRACTOR. If the SUBCONTRACTOR does not have a current indirect cost rate approved in accordance with the UGCMA, the BVCOG may negotiate lump sum indirect cost charges that do not exceed the charges as established using the "Indirect Cost Computation Table" provided in the Uniform Grant and Contract Management Standards under the UGCMA.

Article 28 Uniform Grant and Contract Management Act

The provisions of Uniform Grant and Contract Management Act, TEXAS GOVERNMENT CODE, Chapter 783 applies to this Agreement, all amendments thereto, and all subcontracts and subagreements. Compliance with the conditions and requirements contained therein is necessary for the satisfactory performance of the services and work required under this Agreement.

Article 29 Schedule of Remedies

In accordance with Chapter 2259, Texas Government Code, the following Schedule of Remedies applies to this contract in the event of substandard performance or other failure to confirm to the requirements of the contract or applicable law as set forth in this Section.
(a). Reject substandard performance and request corrections without charge to BVCOG.
(b). Issue notice of substandard performance or other non-conforming act or omission.
(c). Request and receive return of any over payments or inappropriate payments.
(d). Reject reimbursement request and suspend payment pending accepted revision of substandard performance or non-conformity.
(e). Suspend all or part of the work and/or payments pending accepted revision of substandard performance or non-conformity.
(f). Reject reimbursement requested and withhold all or partial payments. Funds may be retained by the BVCOG for recovery or administrative costs or returned to funding source as authorized by agreements with the funding source and by state or federal law.
(g). Terminate the contract, demand and receive: return of all equipment purchased of contract funds, return of all unexpended funds, and repayment of expended funds.

If the BVCOG evaluation finds the SUBCONTRACTOR's performance to be substandard, the BVCOG may provide its written evaluation report to other governmental entities at any time. The BVCOG may also provide its written evaluation report to the public as authorized by law.

The BVCOG may avail itself of any remedy or sanction provided in this Agreement or in law to recover any losses rising from or caused by the SUBCONTRACTOR's substandard performance or nay non-conformity with the Agreement or the law. The remedies and sanctions available to the BVCOG in this Agreement shall not limit the remedies available to the BVCOG under law.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the Schedule of Remedies, obligations imposed upon the SUBCONTRACTOR by these General Conditions, and all other rights and remedies available to the BVCOG thereunder, are in addition to, and are not to be in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available, by Laws or Regulations, by special warranty or guarantee or by other provisions of the Agreement, and the provisions of the paragraph will be as

effective as if repeated specifically in the Agreement in connection with each particular duty, obligation, right and remedy to which they apply.

ATTACHMENT F

F. Implementation Project Standards

ELIGIBLE RECIPIENTS

Only those local and regional political subdivisions located within the State of Texas as set forth in this Section are eligible to receive funding from the BVCOG for an implementation project. The following public entities are eligible for grant funding under this program (non-profit organizations and private companies are not directly eligible, but may be subcontracted by eligible public entities):

- Cities
- Counties
- Public schools and school districts (excluding universities and other post-secondary educational institutions)
- General and special law districts created in accordance with State law with the authority and responsibility for water quality protection or municipal solid waste management (e.g., river authorities and municipal utility districts)
- Councils of governments

Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the TCEQ, are not eligible to receive grant funding under this program from the BVCOG. If the potential applicant provides the BVCOG with documentation of payment of the fees, such as a canceled check or receipt from the state, the BVCOG may consider that applicant to be eligible to receive grant funding under this program.

Local and regional political subdivisions that are barred from participating in state contracts by the Texas General Services Commission (GSC), under the provisions of Government Code 2155.077, and 1 TAC 113.02, GSC Regulations, are not eligible to receive these funds from the BVCOG.

GOVERNING STANDARDS

The conduct of projects provided funding under this program shall be in accordance with all applicable state and local statutes, rules, regulations, and guidelines. The main governing standards include, but may not be limited to, the following:

- Chapter 363.014, Texas Health & Safety Code (as amended by H.B. 3072, 74th Texas Legislature);
- Section 330.569 of the TCEQ Municipal Solid Waste Regulations (30 TAC Chapter 330), following adoption by TCEQ in Fall of 1995;
- The main grant agreement (contract) with TCEQ; and,

- Except as modified by the grant agreement with TCEQ, the Uniform Grant and Contract Management Standards (UGCMS) developed under directive of the Uniform Grant and Contract Management Act of 1981, Chapter 783, Texas Government Code. The UGCMS has been developed and published by the Governor's Office of Budget and Planning to provide uniform grant administrative procedures. The UGCMS adopts, with state annotations, the provisions of five federal circulars promulgated by the Office of Management and Budget; those are:

    - Circular N0. A-87: Cost Principles for State and Local Governments;
    - Circular No. A-110: Grants and Agreements with Institutions of Higher Education, Hospitals, and other Private Nonprofit Corporations: Uniform Administrative Requirements. Attachment A (Cash Depositories), Attachment F (Standards for Financial Management Systems), and Attachment O (procurement Standards);
    - Common Rule for Circular A-102: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Sections 20 (Standards for financial Management Systems) and 36 (Procurement);
    - Circular No. A-128: Audits of State and Local Governments; and
    - Circular No. A-133: Audits of Institutions of Higher Education and Other Private Nonprofit Corporations.

TYPES OF PROJECTS

The following project categories are eligible for funding. Under each category heading is a brief description of the purpose of that category, as well as special requirements pertaining to that project category.

1. **Local Enforcement**

Funds may be used for projects, which contribute to the prevention of illegal dumping of municipal solid waste, including liquid wastes. Funding recipients may investigate illegal dumping problems; enforce laws and regulations pertaining to the illegal dumping of municipal solid waste, including liquid waste; establish a program to monitor the collection and transport of municipal liquid wastes, through administration of a manifesting system; and educate the public on illegal dumping laws and regulations

Local Enforcement Restrictions

a. Funds may not be provided to any law enforcement agency regulated by Chapter 415, Texas Government Code, unless: (a) the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Standards and Education pursuant to Chapter 415, Texas Government Code; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

b. When funding is to be provided for salaries of local enforcement officers, the funds recipient must certify that at least one of the officers has attended or will attend within the term of the funding the TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.

c Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided under this Agreement may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.

d Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.

e. Entities receiving funds to conduct a local enforcement program must cooperate with the TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with the TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.

f. Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

2. **Litter,Illegal Dumping Cleanup and Community Collection Events**

Funds may be used for ongoing and periodic activities to clean up litter and illegal dumping of municipal solid waste. Projects may include support for Lake and River Cleanup events, conducted in conjunction with the TCEQ's and Keep Texas Beautiful's Lake and River Cleanup Program. Funded activities may include: waste removal; disposal or recycling of removed materials; fencing and barriers; and signage. Placement of trash collection receptacles in public areas with chronic littering problems may also be funded. Reuse or recycling options should be considered for managing the materials cleaned up under this program, to the extent feasible.

Litter, Illegal Dumping Cleanup and Community Collection Events Restrictions

a. Lake and River Cleanup events must be coordinated with the TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by the TCEQ to administer the Lake and River Cleanup program.

b. Projects funded to clean up litter or illegal dumping on private property must be conducted through a local government sponsor or the BVCOG. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor or the BVCOG must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.

c. The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment.

d. The costs for cleanup of Class 1 nonhazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 nonhazardous industrial waste that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.

e. All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including 30 TAC Chapter 330, TCEQ's MSW Regulations, and 30 TAC Chapter 350, TCEQ's Risk Reduction Regulations, must be complied with as part of any activities funded under this Agreement.

f. All materials cleaned up using grant funds must be properly disposed of or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, the BVCOG should consider withholding at least ten (10) percent of the reimbursements under a pass-through grant or subcontract, until documentation is provided that the cleanup work has been completed and the materials properly managed.

g. Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily-available collection alternative, may be funded. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events may be held no more frequently than four times per year, and must only be intended to provide residents an

opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped by residents.

3. **Source Reduction and Recycling**

Funds may be used for projects, which provide a direct and measurable effect on reducing the amount of municipal solid waste going into landfills, by diverting various materials from the municipal solid waste stream for reuse or recycling, or by reducing waste generation at the source. Funded activities may include: diversion from the waste stream and/or collection, processing for transport, and transportation of materials for reuse and/or recycling; implementation of efficiency improvements in order to increase source reduction and recycling, to include full-cost accounting systems and cost-based rate structures, establishment of a solid waste services enterprise fund, and mechanisms to track and assess the level of recycling activity in the community on a regular basis; and educational and promotional activities to increase source reduction and recycling.

Source Reduction and Recycling Restrictions

Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

4. **Local Solid Waste Management Plans**

Funds may be used for projects to develop and have adopted by the TCEQ a local solid waste management plan, in accordance with Subchapter D, Chapter 363, Texas Health and Safety Code, and 30 TAC Chapter 330, Subchapter O., TCEQ Regulations, or to amend an existing local solid waste management plan that has been adopted by the TCEQ. However, funds may not be used for a local planning project until completion and approval of an amendment to the BVCOG's regional solid waste management plan.

Local Solid Waste Management Plans Restrictions

a. All local solid waste management plans funded under this Agreement must be consistent with the BVCOG's regional solid waste management plan, and prepared in accordance with 30 TAC Subchapter O, Chapter 330, TCEQ Regulations, and the Content and Format Guidelines provided by the TCEQ.

b. In selecting a local solid waste management plan project for funding, the BVCOG shall ensure that at least one year is available for the completion and adoption of the local plan.

c. Local solid waste management plans may not be considered for funding by

the BVCOG until the BVCOG's regional solid waste management plan has been amended.

5. **Citizens' Collection Stations and "Small" Registered Transfer Stations**

Funds may be used for projects to construct and equip citizens' collection stations, as these facilities are defined under 30 TAC §330.2, TCEQ Regulations. Municipal Solid Waste Transfer Stations that qualify for registration under §330.4(d)(1) - (3) or §330.4(r) of the TCEQ Regulations may also be funded. Projects funded for these types of facilities shall include consideration of an integrated approach to solid waste management, to include providing recycling services at the site, if appropriate to the management system in place.

Citizens' Collection Stations and "Small" Registered Transfer Stations

a. The design and construction of citizens' collection stations, as those facilities are defined under 30 TAC Chapter 330, TCEQ Regulations, may be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded.

b. The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.4(d) or §330.4(r), TCEQ Regulations, may be funded. Other permitted or registered transfer stations may not be funded. A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a county with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded.

6. **Household Hazardous Waste Management**

Funds may be used for projects, which provide a means for the collection, recycling or reuse, and/or proper disposal of household hazardous waste, including household chemicals and other materials. Funded activities may include: collection events; consolidation and transportation costs associated with collection activities; recycling or reuse of materials; proper disposal of materials; permanent collection facilities, and education and public awareness programs. Funds may also be used to support Texas County Cleanup events, conducted in conjunction with the TCEQ.

Household Hazardous Waste Management Restrictions

a. All household hazardous waste collection, recycling, and/or disposal activities must be coordinated with the TCEQ's HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

b. All Texas Country Cleanup events must be coordinated with the TCEQ's Texas Country Cleanup program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

7. **Technical Studies**

Funds may be used for projects, which include the collection of pertinent data, analysis of issues and needs, evaluation of alternative solutions, public input, and recommended actions, to assist in making solid waste management decisions at the local level. Projects may also include research and investigations to determine the location, boundaries, and contents of closed municipal solid waste landfills and sites, and to assess possible risks to human health or the environment associated with those landfills and sites.

Technical Studies Restrictions

All technical studies funded must be consistent with the BVCOG's regional solid waste management plan, and prepared in accordance with Guidelines provided by the TCEQ.

8. **Educational and Training Projects**

Educational components are encouraged under the other categories in order to better ensure public participation in projects; those educational components should be funded as part of those projects and not separately under this category. Funds may also be used for "stand-alone" educational projects dealing with a variety of solid waste management topics. Projects may include funding for information-exchange activities, subject to the other limitations on travel expenses.

Educational and Training Projects Restrictions

Educational and training programs and projects funded under this Agreement must be primarily related to the management of municipal solid waste, and funds applied to a broader education program may only be used for those portions of the program pertaining to municipal solid waste.

9. **Other Projects**

Other types of projects, not specifically prohibited form funding under the more detailed funding standards and restrictions, may be considered by TCEQ on a case-by-case basis. In particular, BVCOG may request authorization to provide funding for cleanup or remediation of problems at an old or abandoned MSW landfill.

FUNDING AGREEMENT

This Agreement is by and between the CITY OF COLLEGE STATION, a Home Rule Municipal Corporation incorporated under the laws of the State of Texas (hereinafter referred to as the "City") and Keep Brazos Beautiful, Incorporated, a Texas Non – Profit Corporation (hereinafter referred to as "Agency").

WHEREAS, the City has the objective of improving the environment of the community via litter abatement and

WHEREAS, Agency through its purpose shares this common goal with the City; and

WHEREAS, the City desires to assist Agency in providing litter abatement efforts; and

WHEREAS, the Brazos Valley Council of Governments is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the Council of Governments' adopted regional solid waste management plan; and

WHEREAS, the City of College Station in the State of Texas is qualified to apply for grant funds under the Request for Applications; and

WHEREAS, the City of College Station in the State of Texas has applied for and been awarded said grant in the amount of $25,000; and

WHEREAS, the intergovernmental committee, a group of officials from the local school districts, city councils, university and commissioners court, has recognized that litter in the Brazos Valley is a critical problem that must be addressed ; and

WHEREAS, the Brazos Valley Solid Waste Management Agency (BVSWMA) was created under an interlocal agreement between the Cities of Bryan and College Station, Texas, to provide environmentally sound solid waste disposal services to the Brazos Valley Region; and

WHEREAS, BVSWMA has an established annual budget of $12,000 for litter abatement educational programs; and

WHEREAS, BVSWMA, in partnership with Keep Brazos Beautiful, Inc. will develop an enhanced educational outreach program using possible grant funds and the established litter abatement educational program annual budget of $12,000; and

WHEREAS, the overall goal of developing the educational outreach program jointly with Keep Brazos Beautiful, Inc. is to promote public education that will help to create a high level of public awareness of proper solid waste disposal to avoid the consequences of illegal dumping. Through advertising, education and distribution of promotional items, the consequences of illegal dumping will be brought to the attention of the community; now, therefore,

NOW, THEREFORE, IN CONSIDERATION of the performance of the mutual covenants and promises contained herein, City and Agency agree and contract as follows:

ARTICLE I
DEFINITIONS

1.1 The term "Agency" shall mean Keep Brazos Beautiful, Incorporated, a Texas Non-profit Corporation.

1.2 The term "City" shall mean the City of College Station, in the County of Brazos, and the State of Texas.

1.3 The term "COG" shall mean Brazos Valley Council of Governments

1.4 The term "Beautification Project" shall mean a project that improves the environment, reduces litter, and provides beautification or public education in College Station, Texas.

1.5 The term "Contract Quarter" shall refer to any quarter of the contract year in which this Agreement is in force. Contract Quarters will end on December 31st, March 31st, June 30th, and September 30th, of each contract year.

ARTICLE II
STATEMENT OF WORK

2.1 Agency shall promote and facilitate litter abatement programs in the City of College Station. Agency agrees that no more than TWENTY FIVE THOUSAND AND NO/100 DOLLARS ($25,000.00) shall be spent for general operations of Agency to conduct such programs.

2.2 Agency understands and agrees to comply with those terms and conditions to which the City is obligated under the Brazos Valley Council of Governments Solid Waste Interlocal Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes (the "Interlocal Agreement"). Funds may only be used for the implementation of this grant as provided in the Interlocal Agreement. The parties agree that if the City determines that the Agency has failed to perform as required under the Interlocal Agreement, the City may terminate this Agreement as provided in Article VI herein.

ARTICLE III
PAYMENT

3.1 For and in consideration of the activities to be satisfactorily performed by Agency under this Agreement, City shall provide funding in the amount of **TWENTY FIVE THOUSAND AND NO/100 DOLLARS ($25,000.00)** to be paid as follows:

3.2 Payment shall be made in accordance with Article 3(b) of the Interlocal Agreement.

ARTICLE IV
RECORDS AND REPORTS

4.1 Agency shall maintain financial records and supporting documents in the form of receipts, canceled checks, payroll records, employee time sheets and other documentation to verify all expenditures of funds under the terms of this Agreement. Said documentation shall conform to the City's accounting practices.

4.2 Agency shall maintain written records and supporting documents as required under this Agreement for all applicable, generally accepted, and required administrative and operating policies. Agency shall maintain such records, accounts, reports, files or other documents for a minimum of three (3) years after the expiration of this Agreement. City's right to access Agency's files shall continue during this 3-year period and for as long as the records are retained by Agency.

4.3 Agency shall provide the City reasonable access during regular business hours to books, accounts, records, reports, files or other papers related to this Agreement belonging to or in use by Agency. Agency understands and accepts that all such financial records and any other records relating to this Agreement shall be subject to the Public Information Act, TEX. GOV'T CODE, ch. 552, as hereafter amended.

4.4 Agency shall provide reporting in accordance with Article IV of the Interlocal Agreement.

4.5 A copy of the Agency financial audit shall be made available to City no later than thirty (30) days following Agency's receipt of same.

4.6 If requested, Agency shall make an annual report and presentation to the City Council.

4.7 The City shall conduct a monitoring review of the Agency as deemed necessary by the City so as to evaluate Agency's compliance with the provisions of this Agreement. Said monitoring may consist of on-site monitoring reviews.

ARTICLE V
AGENCY BOARD OF DIRECTORS

5.1 The City shall have the option to recommend one appointee for any one vacancy that occurs on the Board of Directors of the Agency during the program year. This provision shall not apply if the City is otherwise authorized to appoint members to the Board under the Agency's Bylaws.

5.2 Agency shall provide the City with an agenda of all regular and non-regular Board meetings five (5) days prior to the meeting with information as to the date, time and place of meeting. If a non-regular meeting is scheduled, Agency shall immediately notify the City of non-regular meeting. Said notification should be in writing via facsimile or e-mail; or orally by telephone, depending on Agency's own notification of the Board meeting.

5.3 Agency shall submit minutes of each Board of Directors meeting and Executive Committee meeting to the City within ten (10) days after approval of the minutes.

ARTICLE VI
TERM AND TERMINATION

6.1 **Term.** This Agreement shall be effective on the date the Agreement is full executed through the period of performance as set out in the Interlocal Agreement, provided, however, that Agency will comply with the reporting requirements as outlined in the Interlocal Agreement.

6.2 **Termination Without Cause.** This Agreement may be terminated by either party, with or without cause, by giving the other party thirty (30) days advance written notice, to include termination of the Interlocal Agreement under Article 11 of Attachment E to the Interlocal Agreement.

6.3 **Right to Immediate Termination Upon Litigation.** Notwithstanding any other provision of this Agreement, to mitigate damages and to preserve evidence and issues for judicial determination, either party shall have the right to terminate this Agreement upon immediate notice to the other party in the event that any person has instituted litigation concerning the activities of the non-terminating party, and the terminating party reasonably believes that such activities are required or prohibited under this Agreement.

ARTICLE VII
INDEMNIFICATION AND RELEASE

7.1 Agency agrees to indemnify and hold harmless the City, its officers, agents, and employees from and against any and all loss, costs, or damage of any kind, nature, or description that may arise out of or in connection with this Agreement whether or not the claim or cause of action results from any negligence of the City or any of its officers, agents, or employees.

7.2 Agency assumes full responsibility for the work to be performed and services to be provided hereunder, and hereby releases, relinquishes and discharges the City, its officers, agents, and employees from any and all claims, demands, causes of action of every kind and character, including the cost of defense thereof, for any injury to, including death of, any person (whether employees or agents of either of the parties hereto or third persons) and any loss of or damage to property (whether the property is that of either of the parties hereto or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Agency's work or services provided hereunder whether or not said claims, demands, or causes of actions are covered in whole or part by insurance.

ARTICLE VIII
GENERAL PROVISIONS

8.1 Nothing in this Agreement shall prohibit, nor be construed to prohibit, the agreement by Agency with another private entity, person, or organization for the performance of those services described in Article II above. In the event that Agency enters into any arrangement, contractual or otherwise, with such other entity, person or organization, Agency shall cause such other entity, person, or organization to adhere to, conform to, and be subject to all provisions, terms, and conditions of this Agreement, including reporting requirements, separate funds maintenance, and limitations and prohibitions pertaining to expenditure of the agreed payments.

8.2 This Agreement and each provision hereof, and each and every right, duty, obligation, and liability set forth herein shall be binding upon and inure to the benefit and obligation of City and Agency and their respective successors and assigns.

8.3 The City and 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 the terms of this Agreement, has any personal interest, direct or indirect, in this Agreement.

8.4 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. 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. Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination requirement.

8.5 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.

8.6 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.

8.7 The parties to this Agreement agree and understand that Agency is an independent contractor and not an agent or representative of the City and that the obligation to compensate its employees and personnel furnished or used by Agency to provide the services specified in Article II shall be the responsibility of Agency and shall not be deemed employees of the City for any purpose.

8.8 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.

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

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

8.11 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.

8.12 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.

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

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

8.15 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.

8.16 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.

8.17 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 any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

8.18 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.

City: City of College Station
Attn: Finance and Strategic Planning
1101 Texas Avenue
College Station, Texas 77840

Agency: Keep Brazos Beautiful, Incorporated
1737 Briarcrest Drive, Ste. 12
Bryan, Texas 77802

Executed this the 27 day of December, 2006.

KEEP BRAZOS BEAUTIFUL, INCORPORATED

By: Laura Tankersley Glenn
Printed Name: LAURA TANKERSLEY GLENN
Title: Executive Director
Date: 12/27/06

CITY OF COLLEGE STATION

By: _____
Ron Silvia, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____ _____
Glenn Brown, City Manager Date

Carla A Robinson
City Attorney Date

_____ _____
Jeff Kersten, Chief Financial Officer Date

Contract No. 07-106
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12/27/06

STATE OF TEXAS)
) ACKNOWLEDGMENT
COUNTY OF BRAZOS)

This instrument was acknowledged before me on the 27 day of December, 2006, by Laura Tankersley Glenn in his/her capacity as Executive Director of Keep Brazos Beautiful, Incorporated.

REBEKAH CHARANZA
Notary Public, State of Texas
My Commission Expires
November 23, 2008

Rebekah Charanza
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 _____, 2006, by Ron Silvia, in his capacity as Mayor of the City of College Station, a Texas home-rule municipality, on behalf of said municipality.

_____
Notary Public in and for
the State of Texas

EXHIBIT "A"

The Brazos County Council of Governments
Solid Waste Interlocal Agreement

BRAZOS VALLEY COUNCIL OF GOVERNMENTS
SOLID WASTE INTERLOCAL AGREEMENT

The Texas Commission on Environmental Quality (TCEQ) has certified that it has the authority to contract with Brazos Valley Council of Governments by authority granted in the Current Appropriations Act; Texas Water Code, section 5.229 and Texas Health and Safety Code, Chapter 371. Funds for this subcontract are provided from the Solid Waste Disposal Fund.

The BV*COG* has certified, and the SUBCONTRACTOR certifies that it has authority to perform the services contracted for by authority granted in "The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

This Interlocal Agreement is entered into by and between the parties named below. Neither TCEQ nor the State of Texas is a party to this Contract.

I. **CONTRACTING PARTIES:**

The Council of Government: Brazos Valley Council of Governments (COG)

The Subcontractor: City of College Station

II. **SERVICES TO BE PERFORMED:**

See "Attachment B - Work Program of SUBCONTRACTOR"
See "Attachment C – Schedule of Deliverables."

III. **BUDGET AND PAYMENT PROCEDURES:**

See "Attachment D - Budget and Payment Procedures"

IV. **ADDITIONAL CONTRACT PROVISIONS:**

See "Attachment A - Special Contract Provisions,
Attachment E - General Contract Provisions,
Attachment F – Implementation Project Standards
Attachment G – Progress Report Forms
Attachment H – Reimbursement/ Financial Report Form"

COUNCIL OF GOVERNMENT	**SUBCONTRACTOR**
Brazos Valley COG	City of College Station
_____	_____
Date: _____	Date: _____
Tom Wilkinson, Jr.	Ron Silvia
Executive Director	Mayor

Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
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Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
Special Contract Provisions
Attachment A

Article 1 Period of Performance

The period of performance of this agreement begins on **October 1, 2006** and ends on **July 31, 2007**.

Article 2 Scope of Services

All parties agree that the SUBCONTRACTOR, in consideration of compensation hereinafter described, shall provide the services with the BV*COG* as specifically described in the Special and General Provisions of this Solid Waste Interlocal Agreement.

The SUBCONTRACTOR agrees to implement the Project according to the agreed upon budget shown in Attachment D of this agreement.

Article 3 BV*COG* Obligations

(a). Measure of Liability

In consideration of full and satisfactory performance hereunder, BV*COG* will be liable to SUBCONTRACTOR in an amount equal to the actual costs incurred by SUBCONTRACTOR in rendering such performance, subject to the following limitations:

1. BV*COG* is not liable for expenditures made in violation of "General Provisions for Texas Commission on Environmental Quality List of Prohibited Activities", Article 9, which outlines prohibited activities as defined by the Texas Commission on Environmental Quality (TCEQ).

2. BV*COG* is not liable for any costs incurred by SUBCONTRACTOR in the performance of this agreement, which have not been billed to BV*COG* within thirty (30) days following termination of this agreement.

3. BV*COG* is not liable to SUBCONTRACTOR for costs incurred or performance rendered by SUBCONTRACTOR for costs incurred by SUBCONTRACTOR before commencement of this agreement or after termination of this agreement.

4. Except as specifically authorized by BV*COG* in writing, BV*COG* is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in Federal OMB Circular A-87.

5. BVCOG shall be liable for reimbursement of only those amounts as shown on Attachment D.

6. Funding for this contract is made available to BVCOG through the State of Texas. BVCOG's obligation to reimburse SUBCONTRACTOR is dependent and subject to receipt of funds by BVCOG from the State of Texas for the purpose of funding this contract.

(b). Method and Schedule of Payment

1. Financial reporting. SUBCONTRACTOR may be reimbursed at any time during the project period if funding from TCEQ is available. To receive reimbursement, SUBCONTRACTOR must submit to BV*COG* a financial report/reimbursement request detailing allowable expenditures incurred during the report period. Allowable expenditures are set forth in Article 9 of Attachment A and Attachment F of this agreement. Invoices, receipts, canceled checks and other forms of documentation will be required for reimbursements.

2. Payments. Upon review and approval of each such financial report, BV*COG* will make payment to SUBCONTRACTOR subject to the limitations set out herein.

3. The subcontractor shall account for expenses incurred and request reimbursement of outlays under either a cash or an accrual basis, as defined and authorized under the UGCMA. To be eligible for reimbursement under this agreement, a cost must have been incurred and either paid by the SUBCONTRACTOR prior to claiming reimbursement from the BVCOG or incurred by the last day of the time period indicated on a request for reimbursement form and liquidated no later than forty-five (45) days after the end of that time period.

4. The SUBCONTRACTOR shall use a standard reimbursement request form provided by the BVCOG. The BVCOG shall require the SUBCONTRACTOR to submit expense documentation records as deemed necessary by the BVCOG, in accordance with the BVCOG's financial monitoring plan and program, to ensure that the outlays by the SUBCONTRACTOR are authorized and appropriate.

5. The SUBCONTRACTOR shall submit with each reimbursement request an itemization of expenditures by budget category.

6. If it is determined, by either the BVCOG or the SUBCONTRACTOR that an expenditure that was reimbursed is not an authorized expense, the BVCOG shall request return and reimbursement of those funds from the SUBCONTRACTOR or, where appropriate, the application of those funds to other authorized expenses, and shall not provide any additional reimbursements to the SUBCONTRACTOR until the funds are returned or are applied to other authorized expenses.

7. The SUBCONTRACTOR shall maintain records and documentation materials consistent with the records listed in Article 11 of Attachment A. The SUBCONTRACTOR shall also follow up on any problems identified through its financial monitoring program.

Funds provided by the BVCOG pursuant to this Agreement that are paid to the SUBCONTRACTOR shall be used by the SUBCONTRACTOR solely to satisfy the purposes of the Agreement.

Article 4 Reporting Requirements

(a). The SUBCONTRACTOR shall prepare and submit to the BV*COG*, quarterly written progress reports and results reports concerning performance under this Contract documenting accomplishments and units of work performed under Attachment B of this agreement. All progress reports and results reports shall be submitted within 15 days after the end of each period shown below.

Reporting Period	**Report Due**
Oct., Nov. 2006	January 8, 2007
Dec. 2006, Jan., Feb. 2007	March 9, 2007
Mar., April, May 2007	June 8, 2007
FINAL REPORT	August 10, 2007
RESULTS REPORT	August 10, 2007
FOLLOW-UP RESULTS REPORT	August 9, 2008

A final progress report and results report shall be provided prior to the final request for payment under this Contract, but, in no case later than 15 days after the end of the Contract period. Payments (reimbursements) required under this contract may be withheld by the BV*COG* until such time as any past due progress reports and results reports are received.

(b). The SUBCONTRACTOR quarterly progress reports required under Part A of this Section shall contain descriptions of activities to allow compliance monitoring. In particular, any legal research and related legal activities shall be clearly detailed in the quarterly progress reports and results reports in order to assure that the activities are not prohibited under Article 9 of this contract (relating to Prohibited Activities). The SUBCONTRACTOR shall comply with any reasonable request by the BV*COG* for additional information on activities conducted in order for the BV*COG* to adequately monitor the SUBCONTRACTOR'S progress in completing the requirements of and adhering to the provisions of this Contract.

(c). The SUBCONTRACTOR must certify in writing to the BVCOG through a final progress report, the satisfactory completion of all activities and deliverables required under this agreement.

(d). The SUBCONTRACTOR shall document the results of the project and provide those results to the BVCOG for use in evaluating program effectiveness and for providing regional results information to the TCEQ. The SUBCONTRACTOR agrees to document the results of the project for the life of the project and to provide follow-up results reports sufficient to allow the BVCOG to provide the TCEQ a report in October 2007 on the continued results of funded projects. This report will be due August 10, 2007.

(e). The SUBCONTRACTOR'S failure to comply with the requirements of this Article shall constitute a breach of this Contract.

Article 5 Monitoring Requirements

The BVCOG shall be responsible for the management and fiscal monitoring of all SUBCONTRACTORS. The BVCOG shall monitor its SUBCONTRACTORS as necessary to ensure that the SUBCONTRACTORS are operating consistently with applicable laws and regulations, applicable contracting policies, and this Agreement. The BVCOG shall ensure that all SUBCONTRACTORS comply with all record keeping and access requirements set forth in this Agreement. The TCEQ reserves the right to perform an independent audit of all SUBCONTRACTORS.

(a). BV*COG* may periodically monitor SUBCONTRACTOR for:

1. The degree of compliance with the terms of this Contract, including compliance with applicable rules, regulations, and promulgations referenced herein; and

2. The administrative and operational effectiveness of the project.

Article 6 Title to and Management of Real Property/Facilities and Equipment

(a). Subject to the obligations and conditions set forth in this Agreement, title to all equipment and/or real property/facilities (hereafter, "property") acquired under this Agreement by the SUBCONTRACTOR will vest upon acquisition or construction in the SUBCONTRACTING grant recipient.

(b). Subject to the provisions of this Agreement and as otherwise provided by state statutes, property acquired or replaced under this Agreement shall be used for the duration of its normally expected useful life to support the purposes of this Agreement whether or not the original projects or programs continue to be supported by state funds.

(c). The SUBCONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the SUBCONTRACTOR under this Agreement.

(d). The use of property acquired under this Agreement, both during the term of this Agreement and for the useful life of the property or until compensation is provided to the BVCOG for the applicable percentage share of the fair market value of the property, shall be in accordance with Section 361.014 (b) of the Texas Health and Safety Code, which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(c). The SUBCONTRACTOR may develop and use their own property management systems, which must conform with all applicable federal, state, and local laws, rules and regulations. The SUBCONTRACTOR shall conduct physical property inventories, to maintain property records and necessary control procedures, and to provide adequate maintenance with respect to all property acquired under this agreement for which the SUBCONTRACTOR retains title, as further set forth in Subsections (1) through (5) below.

1. If an adequate system for accounting for property owned by the SUBCONTRACTOR is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system.
2. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
3. A physical inventory of all equipment acquired or replaced under this Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the SUBCONTRACTOR shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The SUBCONTRACTOR shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.
4. Real property must be maintained on an Inventory and is subject to the requirements of UGMS, Part III, SubpartC,_.31. Subject to the obligations and conditions set forth in this Agreement, title to real property acquired under this Agreement by the SUBCONTRACTOR will vest upon acquisition or construction in the sub-grant recipient.
5. Certain types of equipment are classified as "controlled assets" and are subject to annual revision. In accordance with the UGMS, the SUBCONTRACTOR should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's State Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the SUBCONTRACTOR's inventory system irrespective of cost, and the following equipment with costs between $500 and $1000 shall be maintained on the inventory system: (a) stereo systems, (b) still and video cameras, (c) facsimile machines, (d) VCRs and VCR/TV combinations and (e) cellular and portable telephones.

(d). When, during the useful life of property acquired with grant funds under this Agreement by the SUBCONTRACTOR and with a current per-unit fair market value of $1,000 or more, the property is no longer needed for the originally authorized purpose, the SUBCONTRACTOR agrees to request disposition instructions from

BVCOG or, if the BVCOG is no longer administering a Regional Solid Waste Grants Program, the TCEQ. Disposition instructions shall solicit, at a minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.),and the proposed use of proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that the disposition plan will comply with the private industry provisions of 361.014 (b) of the Texas Health and Safety Code. In cases where the SUBCONTRACTOR fails to take appropriate disposition actions, the BVCOG may direct the SUBCONTRACTOR to take excess and disposition actions. The disposition instructions may provide for one of the alternatives as set forth in this Section.

1. Retain title, sell, or otherwise disposed of with obligation to compensate the BVCOG.
2. Retain title after compensating the BVCOG. If the SUBCONTRACTOR is compensated by a subgrant recipient for property acquired using funds provided under this Agreement, the SUBCONTRACTOR will in turn compensate the BVCOG or, upon authorization by BVCOG, use those funds for other projects or activities that support this or similar future programs conducted by the BVCOG. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.
3. Sell the property and compensate the BVCOG.
4. If the SUBCONTRACTOR is compensated by a subgrant recipient for property acquired using funds provided under this Agreement, the SUBCONTRACTOR will in turn compensate the BVCOG or, upon authorization by the BVCOG, use those funds for other projects or activities that support the goals of this or similar future programs conducted by the BVCOG. The amount due will be calculated by applying the BVCOG's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When the SUBCONTRACTOR or subgrant recipient is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
5. Transfer title to the BVCOG or, in the case of a subgrant recipient, the SUBCONTRACTOR , or to a third-party designated/approved by the BVCOG. If the SUBCONTRACTOR or subgrant recipient participated financially in the original purchase of the property, the SUBCONTRACTOR or the subgrant recipient may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market value of the property.

(e). Items of property with a current per-unit fair market value of less than $1,000 may be retained, sold or otherwise disposed of by the SUBCONTRACTOR or the sub grant recipient with no further obligation to the BVCOG provided the other

requirements set forth in this Article are met, including the requirements of Section (b) of this Article. Methods used to determine per-unit fair market value must be documented, kept on file and made available to the BVCOG upon request.

(f) If, prior to the termination date of this agreement, the SUBCONTRACTOR determines that any property acquired with funds provided as a result of this agreement is no longer needed for the original intended project, the BVCOG may require the SUBCONTRACTOR to transfer titles and possession of such property to a third party named by the BVCOG.

(g) The SUBCONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement materials, equipment, or facilities purchased or constructed with funds made available under this agreement.

(h) The SUBCONTRACTOR agrees that, in the event any funds provided under this contract are in turn awarded to any subgrantee for the purchase or acquisition of any equipment or constructed facilities, by such other party, the SUBCONTRACTOR'S contract with that subgrantee shall include the requirements set forth in Sections (a) through (c) of this Article.

Article 7 Compliance with Applicable Laws

The SUBCONTRACTOR shall give all notices and comply with all laws, ordinances, rules, regulations and order of any public authority bearing on the performance of this contract, including, but not limited to, the laws referred to in this Contract. If the SUBCONTRACTOR or BV*COG* observes that this Contract is at variance therewith in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate Contract modification. On request, the SUBCONTRACTOR shall furnish BV*COG* modification.

If the SUBCONTRACTOR performs any work knowing or having reason to know that it is contrary to Laws or Regulations, the SUBCONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.

The provisions of Uniform Grant and Contract Management Act, TEXAS GOVERNMENT CODE, Chapter 783 applies to this Agreement, all amendments thereto, and all subcontracts. Compliance with the conditions and requirements contained therein is necessary for the satisfactory performance of the services and work required under this Agreement.

SUBCONTRACTORS must comply with all applicable Laws and Regulations, including but not limited, to those relating to hazardous substances, waste disposal and manifests.

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion and acceptance of the work and termination or completion of the Agreement.

Article 8 Funding Subject to Funds in the MSWDTRF

It is the understanding of the parties that the source of the funds provided by the BVCOG is the Municipal Solid Waste Disposal and Transportation Revenue Fee (MSWDTRF).
Due to demands upon that source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the MSWDTRF will be depleted prior to completion of this Agreement. The parties agree that all funding arranged under this Agreement is subject to sufficient funds in the MSWDTRF.

Article 9 Supplemental Funding Standards

Unless authorization is specifically provided in accordance with the provisions of this Attachment or in accordance with Attachment D of this Contract, the SUBCONTRACTOR shall ensure that funds provided under this contract are not used for the following activities, programs, or projects:

(a). Duplication of Effort. Activities, projects, programs, studies, etc. That overlap or provide duplicate funding for projects under other State funding programs are not authorized. If the BV*COG* believes that other program grant awards are inadequate to meet the needs of the region, the BV*COG* may request that the *FUNDING AGENCY* consider authorizing the project in accordance with the provisions of Attachment A of this Contract.

(b). Land Acquisition Costs. Funds may not be used to acquire land or an interest in land.

(c). The provisions of the Uniform Grant Management Standards (UGMS) issued by the Office of the Governor apply to the use of these funds, as well as the supplement financial administration guidance established by the TCEQ to be applied under all contracts, *TCEQ Allowable Expense Guidelines.*

(d). Funds may not be provided through a pass-through grant or subcontract to any public or private entity that is barred from participating in state contracts by the Texas General Services Commission, under the provision of 2155.077, Government Code, and 1TAC 113.02, GSC Regulations.

(e). Legislative and Lobbying Expenses. In accordance with state laws and regulations, funds provided under this agreement may not be used for expenses to support political activity, either directly or indirectly. As required under §33, Article IX of H.G. 1, the standards set forth in §5, Article IX of H.B. 1, shall apply to the use of funds provided under this agreement. Any expenses (including legal expenses, staff time, travel, phone calls, telefaxes, etc.) that are related in any way to drafting legislation, lobbying for legislation, or other political activities are not authorized.

(f). Food/Entertainment Expenses. Funds may not be used for food or entertainment expenses, including refreshments at meetings and other functions. This provision does not apply to authorized per diem expenses for food cost incurred while on travel status.

(g). Activities related to the disposal of municipal solid waste. Funds provided under this agreement may not be used for activities related to the collection or disposal of municipal solid waste. This restriction includes: solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste which is to be disposed of; any landfill and landfill-l related facilities, equipment, or activities, including the closure and post-closure care of a permitted landfill unit; or other activities and facilities associated with the ultimate disposal of municipal solid waste. However, this provision does not apply to activities specifically included under an authorized project category, to include citizens' collection stations, and small registered transfer stations. In addition, activities that would otherwise be eligible for funding, such as recycling, but that are located at a disposal facility may be funded.

(h). Municipal Solid Waste Expenses Only. Funds may be used only for programs and activities related to the management of municipal sold waste.

(i). Landfilling Expenses. Funds may not be used for expenses directly relating to landfilling of solid waste, to include the purchase of landfill-related equipment or landfill operational costs.

(j). Projects Requiring a TCEQ Permit. Except as may be specifically authorized, funds may not be used for projects or facilities that require a permit from the TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, or other facilities. This restriction may be waived by the TCEQ, at its discretion, for recycling and other eligible activities that will take place within the boundaries of a permitted facility. The applicant and/or the BVCOG must request a preliminary determination from the TCEQ as to the eligibility of the project prior to the project being considered for funding by the BVCOG.

(k). Projects Requiring TCEQ Registration. Projects or facilities requiring a registration from the TCEQ, and which are otherwise eligible for funding, must have received the registration before the project funding is awarded.

(l). Projects that Create a Competitive Advantage over Private Industry. In accordance with Section 361.014(b) of the Texas Health and Safety Code, a project or service funded under this Agreement must promote cooperation between public and private entities, and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry includes non-profit and not-for-profit non-governmental entities.

(m). Payment of Fees. Public and private entities subject to payment of state solid waste disposal fees and whose payments are in arrears may not receive funds under this agreement through either a pass-through grant or subcontract.

(n). Programs Solely Related to Collection of Certain Special Wastes. Funds provided under this Agreement may not be used for programs and activities solely related to the management of scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other special wastes excluded from disposal in MSW landfills. However, collection of these materials may be included as part of a comprehensive household hazardous waste

collection and management programs, so long as that is not the sole intent of the program.

(o). Supplanting existing funds. Funds may not be used to supplant salaries of an existing staff position, where the functions assigned to that position will not change. Staff positions where the assigned functions will remain the same and that were active at the time of the grant application, and were funded from a source other than a previous solid waste grant, are ineligible for grant funding.

(p). Acquisition of goods and Services. Recipients of funds under this Agreement, including the BVCOG, pass-through grant recipients, and subcontractors shall comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services and competitive purchasing requirements. In recognition of the requirement that projects not create a competitive advantage over a private industry, it is a goal of this program that competitive processes be used to the extent possible for all purchases using grant funds. In addition, grant recipients are encouraged to participate in the State Cooperative Purchasing Program.

(q). All equipment and facilities purchased or constructed with funds provided under this Agreement shall be used for the purposes intended in the funding agreement.

(r). A project or service funded under this Agreement must be consistent with the BVCOG's approved regional solid waste management plan, and must be intended to implement the goals, objectives, and priorities established in the regional plan.

(s). Use of Alcoholic Beverages. As required under §33, Article IX of H.B. 1, the standards set forth in §11, Article IX of H.B. 1, shall apply to the use of funds under this Agreement. In accordance with those standards, no funds provided under this Agreement shall be used for the payment of salaries to any employee who uses alcoholic beverages on active duty. None of these funds shall be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.

(t). Funds may not be used to assist an entity or individual to comply with an existing or pending federal, state, or local judgement or enforcement action. This restriction includes assistance to an entity to comply with an order to clean up and/or remediate problems at an illegal dump site. However, the TCEQ may waive this restriction, at its discretion and on a limited case-by-case basis, to address immediate threats to human health or the environment, and where it is demonstrated that the responsible party does not have the resources to comply with the order.

(u). Funds may not be used to pay penalties imposed on an entity for violation of federal, state, or local laws and regulations. This restriction includes expenses for conducting a supplemental environmental project (SEP) under a federal or state order or penalty. Funds may be used in conjunction with SEP funds to support the same project.

Article 10 Guidelines Concerning Additional Documentation and Financial Monitoring Requirements

(a). In general, expenditure documentation to be maintained by the SUBCONTRACTOR should be whatever is necessary to show that the work was performed and that the expense was, in fact, incurred. In addition, the documentation should also support the fact that the expenditure was reasonable and necessary to this agreement.

(b). Documents that should be maintained, as appropriate for the expense, include by category, the records listed below.

1. Salary/Wages	Time sheets that have been signed and approved
2. Travel	Documentation which, at a minimum, is consistent with State Travel Regulations. The purpose of the travel should be documented and supported with actual receipts for hotel accommodations, public transportation receipts, airline receipts, food and beverage receipts, etc.
3. Equipment	Receipts, purchase orders, invoices, and canceled checks
4. Supplies	Receipts, purchase orders (if issued), invoices, and canceled checks
5. Contractual	All of the above plus documentation that the costs were reasonable and necessary. The same standards should be applicable to subcontractors
6. Implementation Contracts	All of the above, including documentation of sub-grant recipients' expenses, except as such documentation is required to be maintained by the sub-grant recipient, but not submitted to the BVCOG, under the BVCOG's fiscal monitoring program. Where such documentation is not required to be submitted by sub-grant recipients and maintained by the BVCOG, copies of all risk assessment documents, monitoring plans, and monitoring desk reviews and site visit reports prepared under the BVCOG's fiscal monitoring program, to document oversight and review of the sub-grant recipient's expenses.
7. Other	All of the above apply

(c). If requested by the BVCOG, the SUBCONTRACTOR agrees to provide to the BVCOG the additional expense records and documentation materials, as listed in Section (b) of this Article and appropriate for the expense, for the time period requested by the BVCOG, except that the SUBCONTRACTOR will not be asked to submit records that have already been provided to the BVCOG with a Financial Status Report. The BVCOG will provide reasonable time for the SUBCONTRACTOR to comply with a request for additional records. If the BVCOG requests to review additional records to be provided by the SUBCONTRACTOR under the COG's financial monitoring program, the BVCOG will review those records and provide the SUBCONTRACTOR a written summary of the findings of that review. The BVCOG will also allow the SUBCONTRACTOR reasonable time to respond to any findings of noncompliance or other problems identified by the records review.

Article 11 Contractual Costs Concerning Subcontractors, Suppliers, and Others

All contractual expenditures using funds provided under this Agreement shall meet all procurement laws and regulations applicable to the BVCOG and SUBCONTRACTOR and the Uniform Grant and Contract Management Act and the Uniform Grant Management Standards. Note that competitive bidding will generally be required.

SUBCONTRACTORS contractual costs must comply with allowable cost requirements. SUBCONTRACTORS must engage in contractor selection on a competitive basis in accordance with their established policies. If the SUBCONTRACTOR has no competitive procurement policy or is a private entity, contractors must be selected by evaluation and comparison of price, quality of goods or services and past performance. All subgrants awarded by the BVCOG under this Agreement shall be in accordance with Subpart C, Sec.__.37, Subsection (b) of the State Uniform Administrative Requirements for Grants and Cooperative Agreements as set forth in Part III of the ***Uniform Grant Management Standards*** adopted by the Governor's Office of Budget and Planning.

Article 12 Authorized Representatives

(a). The BVCOG hereby designates the person in Exhibit A-1, Project Representative, as the individual authorized to give direction to the SUBCONTRACTOR for the purposes of this Contract. The BVCOG Project Representative shall not be deemed to have authority to bind the BVCOG in contract unless the EXECUTIVE DIRECTOR of the BVCOG has delegated such authority.

(b). Immediately upon receiving the Purchase Order or Notice of Award, the SUBCONTRACTOR shall identify, as its Project Representative, the person authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf on the SUBCONTRACTOR. The SUBCONTRACTOR'S Project Representative shall be deemed to have authority to bind the SUBCONTRACTOR in contract unless the SUBCONTRACTOR, in writing, specifically limits or denies such authority to the SUBCONTRACTOR'S Project Representative.

(c). Either party may change its Project Representative. In addition, the Project Representative of either party may further delegate his or her authority as necessary, including any delegation of authority to a new Project Representative. The party making

the change in Project Representative shall provide written notice of the change to the other party.

(d). The SUBCONTRACTOR shall ensure that its Project Representative, or his or her delegate, is available at all times for consultation with the BVCOG.

Exhibit A-1

The BVCOG hereby designates the individual below as the person to give direction to the SUBCONTRACTOR as Project Representative of BVCOG:

Candilyn McLean, Manager, Solid Waste Planning
Brazos Valley Council of Governments
P O Drawer 4128
3991 East 29th Street
Bryan, Texas 77805

TEL (979) 595-2800 FAX (979) 595-2810

The SUBCONTRACTOR hereby designates the individual named below as the person authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf of the SUBCONTRACTOR as a Project Representative:

_____
_____
_____
_____
_____

TEL ***FAX***

The SUBCONTRACTOR designates the following location for record access and review pursuant to Attachment A & Attachment E of this Contract or any other applicable provision:

_____
_____
_____
_____

ATTACHMENT B

B. Work Program of SUBCONTRACTOR

Project Approach

The media and print campaign will be designed by professional consultants, who will help create/ design the 4 parts of the campaign,

1. To create a series of local 15 and 30 second Radio Public Service Announcements to run on Candy 95 and stations who cater to our Gen. L demographic.
2. To create a series of local 15 and 30 second Television Public Service Announcement ads to work in concert with the radio ads to create a high level of public awareness of the proper disposal and to avoid illegal dumping and increase a better litter behavior among our community.
3. To create 3 new educational brochures. 50,000 of each. That will be distributed by a wide variety of City, and County agencies, such as law and code enforcement, Brazos County Health Dept. BVSWMA, the Rock Prairie Landfill, College Station Utilities, etc.
4. To create a portable demonstration display educating about litter issue to be used at various special events, presentations and festivals.

Project Implementation

The project's need is consistent with the funding category: **Educational and Training Projects**. This project will include an active public education program targeting "Generation L" high school through College ages to create a high level of public awareness of the proper disposal of waste. Through advertising and education, the serious environmental, safety, and health threats of litter and illegal dumping will be brought to the attention of the community so that such future impacts might be reduced. Part of the education program will address the Texas Litter Abatement Act, Texas Health and Safety Code, Chapter 365, which was amended to increase the penalties for illegal dumping. House Bill 631 was passed by the 77th Texas Legislature, which added state jail felony charges for illegally dumping anything over 1000 lbs, or anything for a commercial purpose over 200 lbs. The intent with this amendment is to help reduce illegal dumping by making it more costly to dump illegally rather than by taking the waste to an authorized disposal site.

The project also follows the recommended regional strategies, goals and objectives and priorities that are outlined in the BVCOG Regional Solid Waste Management Plan. This project also addresses **Goal 1:** *Ensure the availability of disposal in the BVCOG region to manage municipal solid waste (MSW) after source reduction, recycling, and composting has occurred* and **Objective 1 B:** *Support local efforts to identify areas with litter and illegal disposal problems and encourage implementation of future and current enforcement programs to address those problems.* **Goal 3:**-*Reduce the amount of municipal solid waste (MSW) generated and disposed of by maximizing source reduction and recycling, to the extent feasible through, voluntary approaches* and **Objective 3:** *Encourage public education and outreach programs that achieve public awareness and knowledge of solid waste management options and solutions*

Form 6c. Level of Commitment of the Applicant (*add additional pages as necessary*)

Provide information related to the Applicant's level of commitment to preferred solid waste management practices. If the proposed project is an ongoing service, demonstrate the ability to sustain the program beyond the term of the grant. Explain the extent to which the appropriate governing bodies support the proposed project.

The City of College Station, Brazos valley Solid Waste Management Agency and Keep Brazos Beautiful are very committed to keeping our County lands and waterways, clean, safe and litter free. Each entity has had representatives who have served on the BVCOG Solid Waste Committee. Keep Brazos Beautiful and BVSWMA have both implemented successful litter prevention media education programs.

List any previously demonstrated commitment to preferred solid waste management practice, such as implementing other solid waste management projects, involvement in a local or subregional solid waste management plan or study, or membership in the TCEQ's Clean Texas Program.

Keep Brazos Beautiful has organized and participated in the *Don't Mess with Texas Trash-Off Brazos County Trash Bash* and *Great American Cleanup* each of the last 6 years, which have included conducting cleanups at illegal dumps in Brazos County each of these years. Additionally they have been an organizer and sponsor of each of the Regional Illegal Dumping Prevention Workshop put on by the Brazos Valley COG. Keep Brazos Beautiful also completes a survey of litter in Brazos County each December called the Litter Index to ascertain trend in litter and to work on strategies to combat it. KBB has completed several other waterway cleanups in Bryan, College Station & Brazos County and have helped organize the BVCOG Texas Recycles Day Events over the last 4 years. The Keep Brazos Beautiful Executive Director is a participating member of the BVCOG Solid Waste Advisory Committee and serves on its Education committee.

BVSWMA is in charge of the local Rock Prairie Landfill and the sole organizer of the twice yearly Household Hazardous Waste and Computer Collection event that is open to any Brazos Valley household. Additionally, they do ongoing waste reduction education with their Master Composter Classes and certification program. BVSWMA has also paid for litter prevention PSA's on local radio for several years and is committed partner in reducing litter and illegal dumping in our region.

If the proposed project has received previous grant funding under this program, explain to what extent the proposal involves expansion of current services or operations; present quantifiable documentation of the success of the project in order to warrant further funding. Demonstrate a good record of past grant contractual performance.

Keep Brazos Beautiful has received grant funding to do similar media Education on radio and television, the additional goal of this project is to create an expanded and professionally created marketing plan for a sustainable, easily remembered and effective media campaign that can be used on into the future. Additionally, we would like to share the resulting products with any agency interested in litter prevention including other Brazos Valley communities in their own litter prevention campaigns if they so wish.

We have a proven record of using our previous grant funding in creating effective radio and TV ads as well as 2 years of targeted litter and illegal dumpsite cleanups.

ATTACHMENT C

C. Schedule of Deliverables from SUBCONTRACTOR

Program Objectives:

Deliverables:

FORM 6: Project Summary

Please provide a complete project summary. Reference the goals, objectives, and/or recommendations from the regional solid waste management plan that apply to the project, and how the project will assist in implementing the plan. Refer to the application instructions when completing these forms. If necessary, attach additional pages for each form.

Form 6a. Project Description (*add additional pages as necessary*)

Project Goal

The project is to promote an ongoing litter abatement educational outreach multi-media campaign targeting illegal dumping and litter prevention especially targeting the demographic that are considered major litters. The Texas Department of Transportation identified these as the **Gen L –or Generation Litterer****

- The typical litterer in Texas:
  - is between the ages of 16 and 24,
  - smokes,
  - goes to parties/bars more than twice a week,
  - is single
  - frequents fast food restaurants.

Additionally, since they have determined that 70% of littering occurs while driving, either by being thrown out or more often blown out we plan to especially target education of individuals with uncovered loads. The local Rock Prairie Landfill already fines vehicles by the ton for uncovered loads but will also begin providing tarps to vehicles and keeping records so that fines may be enhanced if the individual repeats the behavior after they have received the tarp.

Project Objective

The projects objective is to create a new and memorable media campaign targeting Generation L, especially high school and college students to increase awareness of the issue of littering and to use current social marketing strategies to encourage a change in their littering behavior and thereby:

- Promoting an effective public education campaign that will create a high level of public awareness of negative consequences of littering and illegal dumping. Through advertising, education, and distribution of a variety of useful brochures and presentations the serious environmental, safety, and health threats of litter and illegal dumping will be brought to the attention of the community so that such future impacts might be reduced; and .
- To improve the attractiveness of the Brazos County waterway banks for the use and enjoyment of the local community, to improve the neighboring property value, and to improve the opportunity for future commercial and residential development, all of which may ultimately eradicate future littering and illegal dumping problems; and
- To ultimately reduce the amount of litter & debris along streets, highways, railroad tracks, creeks, parks, school yards, and neighborhoods in Bryan & College Station.
- To create a sustainable education program that The Brazos Valley Solid Waste Management Agency (BVSWMA) will continue to champion even after these grant funds are used. They have made a $12,000 annual commitment toward this program from their advertising budget.

Form 6d. Scope of Work *(See application instructions. Add additional pages as necessary)*

Provide a work program with a schedule of deliverables for the proposed project or program. The work program with the schedule of deliverables will be considered the Scope of Work to be performed under the contract agreement, if funded. Once the details of the work program have been negotiated with the Applicant and approved by the BVCOG, the work program will be entered into the grant contract.

As concisely as possible, for each task of the proposed project, describe the major steps or activities involved, identify the responsible entities and establish a specific timeframe to accomplish each task. The scope of work for the project or program must include:

- Detailed purpose and goal of the project (should be consistent with implementing the goals, objectives, and recommendations from the regional solid waste management plan, as stated in the project description on Form 6a).
- Specific task statements with responsible entity identified
- List of deliverables/products/activities under each task
- Schedule of deliverables

Keep Brazos Beautiful will handle all the following beginning when the grant funding is available and ads to be created as soon as possible after that with run time spaced until the end of the grant cycle.

1. Get bids form design firms for media campaign-
2. Contract with firm to create radio, TV and do the graphic design for the brochures
3. Get bids for Brochures
4. Get radio and TV ad bids and run schedules
5. Produce radio & TV ads
6. Get bids purchase Presentation board and purchase
7. Create information on Litter and Illegal Dumping Prevention for board.
8. Distribute brochures

Form 6b. Project Cost Evaluation (*add additional pages as necessary*)

Provide an evaluation of the costs associated with the proposed project. Explain how the total related costs of the proposed project were adequately considered; compare project costs to established averages or to normal costs for similar projects. Present the costs in unit terms, such as cost per ton, cost per customer, or cost per capita, as applicable. Describe any measurable costs savings, or reasonably justified costs of the project.

This project is asking for at total of $25,000
This will be used in the following manner.

1. Hire a professional designer to create marketing strategy and graphic design of the brochures.
Estimated cost $1,750

2. Printing of 3 full color tri-fold brochures. 50,000 of each or .cents each
Estimated cost of $7,500

- ✓ Keep it Uncover- Securing your loads
- ✓ How to have a Clean & Green Business
- ✓ Doing your Part to Prevent Litter
- ✓

3. Contract with several local radio stations to produce and run Litter Public Service Announcements with a in-kind donation of air-time that can be used to prolong the campaign.
Estimated cost $3,500 (plus $12,000 from a match from BVSWMA)

4. Contract with KBTX-TV 3 to produce and run Litter Public Service Announcements with an in-kind donation of air-time that can be used to prolong the campaign.

Estimated cost $11,900

5. Purchase of a zip up presentation display to use at speaking engagements, booths and festivals to educate on litter and illegal dumping issue with photos and relevant facts.
Estimated cost to purchase & shipping and handling $300

ATTACHMENT D

D. SUBCONTRACTOR Budget and Authorizations

BUDGET CATEGORY	BUDGET
Personnel/Salary	.00
Fringe Benefits	.00
Travel	.00
Supplies	.00
Equipment	.00
Contractual	.00
Construction	.00
Other	.00
TOTAL DIRECT COSTS	.00
Indirect Costs	.00
TOTAL PROJECT COSTS	.00

FORM 7. GRANT BUDGET SUMMARY

Please provide the following breakdown of the total amount of grant funding being requested:

Budget Category	Funding Amount
1. Personnel/Salaries	$
2. Fringe Benefits	$
3. Travel	$
4. Supplies	$ 300
5. Equipment	$
6. Construction	$
7. Contractual	$ 1,750
8. Other	$ 22,950
9. **Total Direct Charges** *(sum of 1-8)*	$
10. Indirect Charges*	$
11. **Total** *(sum of 9 - 10)*	$ 25,000

12. Fringe Benefit Rate:	%	
13. Indirect Cost Rate:	%	

Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied:

*In accordance with the UGMS, indirect charges may be authorized if the Applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the Applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

Please complete any of the following detailed budget forms that are applicable.

FORM 7a: Detailed Matching Funds/In-Kind Services

This budget form should be completed if the Applicant is providing any level of matching funds or in-kind services directly related to the proposed project.

Matching Funds: $12,000

In the space below, please explain in detail the application of any matching funds to be provided by the Applicant, as directly related to the proposed project:

In-Kind Services: Value unknown at this time (monetary equivalent)

In the space below, please explain in detail the application of any in-kind services to be provided by the Applicant, as directly related to the proposed project:

What is the TOTAL COST of the proposed project, considering the total grant funding requested, any matching funds being provided by the Applicant, and the monetary equivalent of any in-kind services being provided by the Applicant: $ 37,000

FORM 7d: Detailed Supply Expenses

This budget form provides a more detailed breakdown of the total expenses for supplies indicated on Line 4 of the Overall Budget Summary.

Please list the general types of supplies you expect to purchase with grant funding.

General Types of Supplies	Estimated Cost
General office/desk supplies	$
Other supplies *(explain below)*: Zip Up Portable Velcro compatible Presentation Board 29"x49"	$ 300.00
TOTAL *(Must equal Line 4 of the Overall Budget Summary)*	**$ 300.00**

FORM 7g: Detailed Contractual Expenses

All contractual expenses must be pre-approved by the BVCOG. If the specific details of the contractual costs are not known at this time, list the general details on this form. The more specific details of the contractual costs will then need to be provided to and approved by the BVCOG before the costs are incurred. The request for approval will need to include evidence that the contract price is reasonable and necessary (see instructions). In addition, the subcontract scope of work must be approved by the BVCOG before work begins.

Purpose	Contractor(s)	Contract Amount
Create & Design Litter Marketing media and graphics for brochures	Twinz Co	$ 1,7500
		$
		$
		$
TOTAL *(Must equal Line 7 of the Overall Budget Summary)*		$

FORM 7h: Detailed Other Expenses

This budget form provides a more detailed breakdown of the total other expenses indicated on Line 8 of the Overall Budget Summary. *Please note that the final totals are at the bottom of the next page.*

Basic Other Expenses

Please identify the basic "Other" category expenses you expect to incur appropriate to the project.

Basic Other Expenses	Estimated Cost
Books and reference materials	$
Postage, telephone, FAX, utilities	$
Printing/reproduction 3 brochures 50,000 each at 5 cents each	$ 7,500
Advertising/public notices Radio PSA's $3,500& (BVSWMA match of $12,000) $ TV PSA's KBTX TV $11,950	$ 15,450
Registration fees for training (if approved)	$
Repair and maintenance	$
Basic office furnishings	$
Space and equipment rentals	$
Signage	$

Brazos Valley Council of Governments
Solid Waste Interlocal Agreement
General Contract Provisions
Attachment E

Article 1 Legal Authority

The SUBCONTRACTOR warrants and assures BV*COG* that it possesses adequate legal authority to enter into this Agreement. The SUBCONTRACTOR'S governing body where applicable has authorized the signatory official(s) to enter into this Agreement and bind the SUBCONTRACTOR to the terms of this Agreement and any subsequent amendments hereto. The SUBCONTRACTOR agrees to adhere to the provisions of section 330.569 of the TCEQ Municipal Solid Waste Regulations, the Uniform Grant & Contract Management Standards (UGCMS) and the contract between the TCEQ & BVCOG.

Article 2 Scope of Services

The services to be performed by the SUBCONTRACTOR are herewith outlined in the General Provisions and Change Orders which are hereby incorporated into and made a part of this Agreement as if set out word-for-word herein.

Article 3 Purpose

(a). The purpose of this Contract (Agreement) is to accomplish the goals of House Bill 3072, 74th Texas Legislature (1995), as they relate to distributing solid waste fee revenue funds to support local and regional solid waste projects consistent with the regional solid waste management plans approved by the TCEQ and to update and maintain those plans.

(b). Under the overall goals of the funding program established under House Bill 3072, the more specific purposes of this Agreement are:

1. To enable the BV*COG* to carry out or conduct various municipal solid waste management-related services and support activities within the BV*COG's* regional jurisdiction; and

2. To administer an efficient and effective, region-wide, pass-through (subgrantee) assistance grants program and/or, where authorized by the BV*COG* in accordance with Article 4 of this Attachment, to conduct various *COG* - managed projects.

Article 4 Types of Solid Waste Implementation Projects & Applicants

(a). Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from the BV*COG* as a pass-through grant:

1. Cities;
2. Counties;
3. Public schools and school districts (does not include Universities or post secondary educational institutions);
4. Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities; and
5. Councils of governments.

(b). Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the FUNDING AGENCY, are not eligible to receive pass-through grant funding from the *BVCOG*. The FUNDING AGENCY shall provide, on a quarterly basis, the BV*COG* a list of entities for which fee payments are in arrears. The BV*COG* shall allow a potential pass-through grant applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed the state. If the potential applicant provides the BV*COG* with documentation of payment of the fees, such as a canceled check or receipt from the state, the BV*COG* may consider that applicant to be eligible to receive pass-through grant funding under this agreement. The BV*COG* shall notify the FUNDING AGENCY of any applicants for which a determination of eligibility was made under this subsection.

Article 5 Accounting Systems

The SUBCONTRACTOR shall have an accounting system, which accounts for costs in accordance with generally accepted accounting standards or principles and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The SUBCONTRACTOR must account for costs in a manner consistent with such standards or principles.

Article 6 Examination of Records

(a). SUBCONTRACTOR shall maintain during the course of the work, complete and accurate records of all SUBCONTRACTOR'S costs and documentation of items which are chargeable to BV*COG* under this Agreement. BV*COG* shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by it. Failure to provide access to records may be cause for termination of the contract. The records to be thus maintained and retained by SUBCONTRACTOR shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of SUBCONTRACTOR'S employees working full or part time on the work, as well as canceled payroll checks or signed receipts for payroll payments in cash; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for SUBCONTRACTOR'S stocks

or capital items; and (3) paid invoices and canceled checks for materials purchased and for subcontractee's and any other third parties' charges.

The SUBCONTRACTOR further agrees to include in all its subcontracts a provision the effect that the subcontractee agrees that BV*COG* and its duly authorized representatives, shall, until the expiration of three (3) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices and records to such subcontractor involving transactions relating to the subcontract.

Article 7 Overpayments

SUBCONTRACTOR understands and agrees that it shall be liable to repay and shall repay upon demand to BV*COG* any amounts determined by *BVCOG*, its independent auditors, or any agency of state or federal governments to have been paid in violation of the terms of this Agreement.

Article 8 Audit/Access to Records

(a). The SUBCONTRACTOR shall maintain and make available for review, inspection and/or audit books, records, documents, and other evidence reasonably pertinent to performance on all work under this agreement, including negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the SUBCONTRACTOR 's Texas office. The SUBCONTRACTOR shall also maintain and make available at its Texas office the financial information and data used by the SUBCONTRACTOR or its designee (including independent financial auditors) in the preparation or support of any cost submission or cost (direct and indirect), price or profit analysis for this Agreement or any negotiated subagreement or change order and a copy of the cost summary submitted to BVCOG. The BVCOG, Texas State Auditor's Office or any of BVCOG's duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, inspection and/or audit. During the conduct of any such review, audit or inspection, SUBCONTRACTOR'S books, records, and other pertinent documents may, upon prior conference with the SUBCONTRACTOR, be copied by the BVCOG or any of its duly authorized representatives. All such information shall be handled by the parties in accordance with good business ethics. The SUBCONTRACTOR shall provide proper facilities within the State of Texas for such access and inspection.

(b). Audits conducted pursuant to this provision shall be in accordance with State law, regulations and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(c). The SUBCONTRACTOR agrees to the disclosure of all information and reports resulting from access to records pursuant to Section (a) above to BVCOG. Where the audit concerns the SUBCONTRACTOR, the auditing agency will afford the SUBCONTRACTOR an opportunity for an audit exit conference and an opportunity to comment on the pertinent portion of the draft audit report.

(d). Records under Sections (a) above shall be maintained and made available during the entire period of performance of this Agreement and until three (3) years from date of final BVCOG payment for the project. In addition, those records which relate to any dispute, litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has bee taken shall be maintained and made available until completion of such action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

(e). Access to records is not limited to the required retention periods. The authorized representatives designated in Section (a) of the Article shall have access to records at any reasonable time for as long as the records are maintained.

(f). This audit/access to records Article applies to financial records pertaining to all subagreements and all subagreement change orders and amendments. In addition, this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments: to the extent the records reasonably pertain to subagreement performance; if there is any indication that fraud, gross abuse or corrupt practices may be involved; or if the subagreement is terminated for default or for convenience.

(g). The BVCOG reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records kept by the SUBCONTRACTOR on work performed under this Agreement.

(h). The SUBCONTRACTOR agrees to include Sections (a) through (g) of this Article in all subagreements and all change orders directly related to project performance.

Article 9 Independent Financial Audit

The SUBCONTRACTOR shall adhere to the Single Audit requirements of the UGCMA. The SUBCONTRACTOR shall deliver to the BVCOG each audit report within thirty (30) days of completion of the audit report. The SUBCONTRACTOR is responsible for including the Single Audit requirements in all subagreements and shall be responsible for insuring adherence to those requirements by all subgrantees and subcontractors.

Provisions of the Single Audit Circular in Part IV of the UGMS shall apply to all non-state entities expending the funds of this grant, whether they are recipients, receiving the funds directly from the TCEQ, or are subrecipients, receiving the funds from a pass-through entity. The SUBCONTRACTOR shall require the independent auditor to supply all audit work papers substantiating the work performed, at the request of the BVCOG or its designee.

Article 10 Amendments to Contract

Any alterations, additions, or deletions to the terms of this contract, which are required by changes in Federal Law or Regulations are automatically incorporated into this

Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation, provided if the SUBCONTRACTOR may not legally comply with such change, SUBCONTRACTOR may terminate its participation herein as authorized by Article 11.

Such changes that are mutually agreed upon by and between BV*COG* and the SUBCONTRACTOR in writing shall be incorporated into this Agreement.

Article 11 Termination of Contract

Failure on the part of the SUBCONTRACTOR to comply with the conditions set forth in this agreement shall be the basis for termination of this agreement and/or the revocation of any unexpended or inappropriately expended funds. The SUBCONTRACTOR acknowledges that this Agreement may be terminated under the following circumstances:

(a). Convenience

BVCOG may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the contractor whenever for any reason BV*COG* determines that such termination is in the best interest of *COG*. Upon receipt of notice of termination, all services hereunder of the SUBCONTRACTOR and its employees and subcontractees shall cease to the extent specified in the notice of termination. In the event of termination in whole, the SUBCONTRACTOR shall prepare a final invoice within 30 days of such termination reflecting the services actually performed pursuant to the Agreement and to the satisfaction of the Executive Director or his designee which has not appeared on any prior invoice. BV*COG* agrees to pay the SUBCONTRACTOR, in accordance with the terms of the Agreement, for services actually performed and accruing to the benefit of BV*COG* compensation previously paid.

The SUBCONTRACTOR may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to BV*COG*. The SUBCONTRACTOR may not give notice of cancellation after it has received notice of default from BV*COG*. In the event of such termination prior to completion of the contract provided for herein, BV*COG*, agrees to pay for services herein specified on a prorated bases for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

(b). Default

BVCOG may, by written notice of default to the SUBCONTRACTOR, terminate the whole or any part of the Agreement in any one of the following circumstances:

1. If the SUBCONTRACTOR fails to perform the services herein specified within the time specified herein or any extension thereof; or

2. If the SUBCONTRACTOR fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or so

violates the Agreement in a manner which significantly endangers substantial performance of the Agreement or completion of the services herein specified within a reasonable time, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer periods of time as may be authorized by BV*COG* in writing) after receiving written notice by certified mail of default from BV*COG*. In the event of such termination, all services of the SUBCONTRACTOR and its employees and subconsultants shall cease and the SUBCONTRACTOR shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement and to the satisfaction of the Executive Director of BV*COG* or his designee which has not appeared on a prior invoice. BV*COG* agrees to pay the SUBCONTRACTOR, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of BV*COG* as reflected on said invoices, less payment of any compensation previously paid and less any costs or damages incurred by BV*COG* as a result of such default, including an amount agreed to in writing by BV*COG* and the SUBCONTRACTOR to be necessary to complete the services herein specified, in addition to that which would have been required had the SUBCONTRACTOR completed the services herein specified as required herein.

Article 12 Conflict of Interest

The SUBCONTRACTOR shall notify the BVCOG immediately upon discovery of any potential or actual conflict of interest. The notification shall include both organizational conflicts of interests and personal conflicts of interest. Any individual with a personal conflict of interest shall be disqualified from taking part in any way in the performance of any work that created the conflict of interest. The SUBCONTRACTOR agrees that the BVCOG has sole discretion to determine whether a conflict exists and that the BVCOG may terminate the Agreement at any time, on the grounds of actual or apparent conflict of interest.

Article 13 Severability

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

Article 14 Dispute Resolution

Any and all disputes concerning questions of fact or of law arising under this Agreement, which are not disposed of by Agreement shall be decided by the Executive Director of BV*COG* or his designee, who shall reduce his decision to writing and provide notice thereof to the SUBCONTRACTOR. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the SUBCONTRACTOR requests a rehearing from the Executive Director of BV*COG*. In connection with any rehearing under this Article, the SUBCONTRACTOR shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing

shall be final and conclusive.
Pending final decision of a dispute hereunder, the SUBCONTRACTOR shall proceed diligently with the performance of the Agreement and in accordance with BV*COG*'s final decision.

Article 15 Oral and Written Agreements

All oral or written agreements between the parties hereto relating to the subject matter of this Contract which were developed and executed prior to the execution of this Contract have been reduced to writing and are contained herein.

Article 16 Employment, ADA Requirements and Statutes Relating to Nondiscrimination

The SUBCONTRACTOR agrees that in the performance of this Agreement, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with the Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The SUBCONTRACTOR assures that no person will, on the grounds of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded in whole or part under this Agreement.

The SUBCONTRACTOR shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101- 12213 (Pamph 1995).

The SUBCONTRACTOR shall comply with all applicable state and federal statutes relating to nondiscrimination which include, but are not limited to, those listed in the Uniform Grant Management Standards.

Article 17 Force Majeure

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with the BV*COG*.

Article 18 Entire Contract

This Agreement represents the entire Contract between the contracting parties and supersedes any and all prior contracts between the parties, whether written or oral.

Article 19 Utilization of Small, Minority, and Women's Business Enterprises

The SUBCONTRACTOR agrees that qualified Historically Underutilized Businesses (HUBs) shall have the maximum practicable opportunity to participate in the performance of this Agreement.

Article 20 Energy Efficiency Standards

The SUBCONTRACTOR is encouraged to follow standards and policies on energy efficiency, which are contained in the Texas State Energy conservation Plan issued in compliance with the Energy Policy and Conservation Act (P. L. 94-163).

Article 21 Safety and Protection

Where applicable, the BVCOG shall be responsible for requiring SUBCONTRACTORS and SUBGRANTEES to maintain and supervise all necessary safety precautions and programs in connection with the work. The SUBCONTRACTOR shall take all the necessary safety precautions.

Article 22 Data and Publicity

All data and other information developed under this Agreement shall be furnished to the BVCOG and shall be public data and information except to the extent that it is exempted from public access by the Texas Open Records/Public Information Act, Vernon's Texas Government Code Sect. 552. Upon termination of this Agreement, all data and information shall become the joint property of the BVCOG and the SUBCONTRACTOR.

Article 23 Acknowledgment of Financial Support

The SUBCONTRACTOR shall acknowledge the financial support of the BVCOG and TCEQ whenever work funded, in whole or part, by this Agreement is publicized or reported in news media or publications. All reports, oral presentations, advertisements, signage and other written documents completed as a part of this Agreement, other than documents prepared exclusively for internal use within the BVCOG, shall carry the following notation on the front cover or title page:

PREPARED IN COOPERATION WITH THE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AND THE
BRAZOS VALLEY COUNCIL OF GOVERNMENTS

Article 24 Intellectual Property Requirements

(a) For the purpose of this Article, "intellectual property" refers to 1) any discovery or invention for, which patent rights may be acquired, and 2) any photographs, graphic designs, plans, drawings, specifications, computer programs, technical reports, operating manuals, or other copyrightable materials, and 3) any other materials in which intellectual property rights may be obtained.

(b) Royalties and Patent Fees. SUBCONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use or possession in the performance of the work or the incorporation in the work of any Intellectual Property.

(c) Disclosure of Intellectual Property Produced during the work. SUBCONTRACTOR shall promptly notify BVCOG of all Intellectual Property, which the SUBCONTRACTOR, or SUBCONTRACTOR's employees may produce, either solely or jointly with others, during the course of work. In addition, the SUBCONTRACTOR shall promptly notify the BVCOG of all Intellectual Property to which the SUBCONTRACTOR may acquire rights in connection with the performance of the work. Any notification under this paragraph shall contain sufficient technical detail to convey a clear understanding of the Intellectual Property, and shall identify any publication, sale, public use, or impending publication. Promptly upon request, SUBCONTRACTOR shall supply such additional information as BVCOG may request.

(d) Grant of License. With respect to such Intellectual Property as is (i) incorporated in the work (other than Intellectual Property for which BVCOG already possesses equal or greater Intellectual Property Rights by virtue of this Agreement or otherwise), (ii) produced by SUBCONTRACTOR or SUBCONTRACTOR's employees, during the course of performing the work, or (iii) specifically identified in the Supplemental Conditions as Intellectual Property to which Intellectual Property Rights are granted pursuant to this paragraph, SUBCONTRACTOR hereby grants to BVCOG (i) a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, or otherwise use such Intellectual Property and associated use documentation, and (ii) a nonexclusive, perpetual irrevocable, enterprise-wide license to authorize others to reproduce, publish, or otherwise use such Intellectual Property for BVCOG's purposes.

(e) Modification; Derivative Works. TCEQ shall have the right, in its own discretion, to independently modify any Intellectual Property to which license is granted herein for the TCEQ's own purposes and use, through the services of its own employees or independent contractors. TCEQ shall own all Intellectual Property Rights to such modifications. SUBCONTRACTOR shall not incorporate any such modifications into it's Intellectual Property for distribution to third parties unless it first obtains a license from TCEQ.

(f) If the SUBCONTRACTOR first conceives of, actually puts into practice, discovers, invents, or produces any intellectual property during the course of its work under this Agreement, it shall report that fact to the BVCOG.

(g) The SUBCONTRACTOR may obtain governmental protection for rights in the intellectual property. However, the BVCOG hereby reserves a nonexclusive, royalty-free and irrevocable license to use, publish, or reproduce the intellectual property for sale or otherwise, and to authorize others to do so. The BVCOG also reserves a royalty-free nonexclusive, and irrevocable license to use, publish, or reproduce, for sale or otherwise (to the extent consistent with the right of third parties) any intellectual property for which the SUBCONTRACTOR obtains rights with funds received under this Agreement.

(h) In performing work under this Agreement, the SUBCONTRACTOR shall comply with all laws, rules, and regulations relating to intellectual property, and shall not infringe on any third-party's intellectual property rights. SUBCONTRACTOR further

represents and warrants to TCEQ that in the course of performing the work it will not use or possess any Intellectual Property owned by a third party without paying any required royalty or patent fees. SUBCONTRACTOR warrants that it has full title in and ownership of the Intellectual Property and any enhancements, updates or other modifications, or that it has full power and authority to grant all licenses granted herein, and such license use by the BVCOG will in no way constitute an infringement or other violation of any Intellectual Property right of any third party. The SUBCONTRACTOR warrants that it shall have, throughout any applicable license term hereunder, free and clear title to, or the right to possess, use sell, transfer, assign, license, or sublicense, products that are licensed or provided hereunder to the BVCOG by SUBCONTRACTOR. Except as permitted in the Agreement, SUBCONTRACTOR shall not create or permit the creation of any lien, encumbrance, or security interest in the work or any part thereof, or any product licensed or provided hereunder to BVCOG for which title has not yet passed to BVCOG, without the prior written consent of BVCOG. SUBCONTRACTOR represents and warrants to BVCOG that neither it nor any other company or individual performing the work is under any obligation to assign or give to any third party any Intellectual Property rights granted or assigned to BVCOG, or reserved by BVCOG, pursuant to the Agreement. It shall hold the BVCOG harmless for, and to the extent permitted by the law and Constitution of the State of Texas, defend and indemnify the BVCOG against, any claims for infringement related to its work under this Agreement.

(1). SUBCONTRACTOR expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements under section 2157.005 of the Government Code, relating to accessibility by persons with visual impairments. Accordingly, the SUBCONTRACTOR represents and warrants to BVCOG that the technology provided to the BVCOG of purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of (a) providing equivalent access for effective use by both visual and nonvisual means; (b) presenting information, including prompts used for interactive communications, in formats intended for nonvisual use; and (c) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodation under the Americans with Disabilities act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

(2). SUBCONTRACTOR will include in all subcontracts a provision similar in effect to the following year 2000 Warranty as set forth in this Subsection.

(a). SUBCONTRACTOR also warrants that, with respect to work performed under this Agreement, that all work is Year 2000 Compliant

when used in accordance with the applicable documentation, provided that all products used in combination with it (but not themselves included in or with or incorporated into the work) properly exchange date data with the work. SUBCONTRACTOR warrants that the work meets all applicable standards of the Texas Department of Information Resources relating to the Year 2000 Compliance. In the event any work performed under this Agreement is not Year 2000 Compliant and the SUBCONTRACTOR is provided written notice thereof, SUBCONTRACTOR shall at is sole expense immediately cause such work to become Year 2000 Compliant in a manner that will minimize interruption to ongoing business processes, time being of the essence.

(i) The SUBCONTRACTOR shall include provisions adequate to effectuate the purposes of this Article in all subagreements and subcontracts under this Agreement in the course of which intellectual property may be produced or acquired.

Article 25 Cost Requiring Advance Authorization

(a). The SUBCONTRACTOR must receive prior notification and approval by the BVCOG of any changes in personnel whose salaries will be funded under the pass-through grant.

(b). The SUBCONTRACTOR must receive prior authorization from the BVCOG for all expenditures under the "equipment," "construction," or "contractual," budget categories.

(c). Reimbursement of travel expenses for out-of-state travel, except where such travel is specifically authorized in writing by the BVCOG, is prohibited.

Article 26 Permits

Unless otherwise provided in the Agreement, the SUBCONTRACTOR shall obtain and pay for all construction permits and licenses. The SUBCONTRACTOR shall pay all charges of utility owners for connections to the work, and the SUBCONTRACTOR shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Article 27 Indirect Costs

The BVCOG may authorize indirect costs at the request of the SUBCONTRACTOR. If the SUBCONTRACTOR does not have a current indirect cost rate approved in accordance with the UGCMA, the BVCOG may negotiate lump sum indirect cost charges that do not exceed the charges as established using the "Indirect Cost Computation Table" provided in the Uniform Grant and Contract Management Standards under the UGCMA.

Article 28 Uniform Grant and Contract Management Act

The provisions of Uniform Grant and Contract Management Act, TEXAS GOVERNMENT CODE, Chapter 783 applies to this Agreement, all amendments thereto, and all subcontracts and subagreements. Compliance with the conditions and requirements contained therein is necessary for the satisfactory performance of the services and work required under this Agreement.

Article 29 Schedule of Remedies

In accordance with Chapter 2259, Texas Government Code, the following Schedule of Remedies applies to this contract in the event of substandard performance or other failure to confirm to the requirements of the contract or applicable law as set forth in this Section.
(a). Reject substandard performance and request corrections without charge to BVCOG.
(b). Issue notice of substandard performance or other non-conforming act or omission.
(c). Request and receive return of any over payments or inappropriate payments.
(d). Reject reimbursement request and suspend payment pending accepted revision of substandard performance or non-conformity.
(e). Suspend all or part of the work and/or payments pending accepted revision of substandard performance or non-conformity.
(f). Reject reimbursement requested and withhold all or partial payments. Funds may be retained by the BVCOG for recovery or administrative costs or returned to funding source as authorized by agreements with the funding source and by state or federal law.
(g). Terminate the contract, demand and receive: return of all equipment purchased of contract funds, return of all unexpended funds, and repayment of expended funds.

If the BVCOG evaluation finds the SUBCONTRACTOR's performance to be substandard, the BVCOG may provide its written evaluation report to other governmental entities at any time. The BVCOG may also provide its written evaluation report to the public as authorized by law.

The BVCOG may avail itself of any remedy or sanction provided in this Agreement or in law to recover any losses rising from or caused by the SUBCONTRACTOR's substandard performance or nay non-conformity with the Agreement or the law. The remedies and sanctions available to the BVCOG in this Agreement shall not limit the remedies available to the BVCOG under law.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the Schedule of Remedies, obligations imposed upon the SUBCONTRACTOR by these General Conditions, and all other rights and remedies available to the BVCOG thereunder, are in addition to, and are not to be in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available, by Laws or Regulations, by special warranty or guarantee or by other provisions of the Agreement, and the provisions of the paragraph will be as

effective as if repeated specifically in the Agreement in connection with each particular duty, obligation, right and remedy to which they apply.

ATTACHMENT F

F. Implementation Project Standards

ELIGIBLE RECIPIENTS

Only those local and regional political subdivisions located within the State of Texas as set forth in this Section are eligible to receive funding from the BVCOG for an implementation project. The following public entities are eligible for grant funding under this program (non-profit organizations and private companies are not directly eligible, but may be subcontracted by eligible public entities):

- Cities
- Counties
- Public schools and school districts (excluding universities and other post-secondary educational institutions)
- General and special law districts created in accordance with State law with the authority and responsibility for water quality protection or municipal solid waste management (e.g., river authorities and municipal utility districts)
- Councils of governments

Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the TCEQ, are not eligible to receive grant funding under this program from the BVCOG. If the potential applicant provides the BVCOG with documentation of payment of the fees, such as a canceled check or receipt from the state, the BVCOG may consider that applicant to be eligible to receive grant funding under this program.

Local and regional political subdivisions that are barred from participating in state contracts by the Texas General Services Commission (GSC), under the provisions of Government Code 2155.077, and 1 TAC 113.02, GSC Regulations, are not eligible to receive these funds from the BVCOG.

GOVERNING STANDARDS

The conduct of projects provided funding under this program shall be in accordance with all applicable state and local statutes, rules, regulations, and guidelines. The main governing standards include, but may not be limited to, the following:

- Chapter 363.014, Texas Health & Safety Code (as amended by H.B. 3072, 74th Texas Legislature);
- Section 330.569 of the TCEQ Municipal Solid Waste Regulations (30 TAC Chapter 330), following adoption by TCEQ in Fall of 1995;
- The main grant agreement (contract) with TCEQ; and,

- Except as modified by the grant agreement with TCEQ, the Uniform Grant and Contract Management Standards (UGCMS) developed under directive of the Uniform Grant and Contract Management Act of 1981, Chapter 783, Texas Government Code. The UGCMS has been developed and published by the Governor's Office of Budget and Planning to provide uniform grant administrative procedures. The UGCMS adopts, with state annotations, the provisions of five federal circulars promulgated by the Office of Management and Budget; those are:

    - Circular N0. A-87: Cost Principles for State and Local Governments;
    - Circular No. A-110: Grants and Agreements with Institutions of Higher Education, Hospitals, and other Private Nonprofit Corporations: Uniform Administrative Requirements. Attachment A (Cash Depositories), Attachment F (Standards for Financial Management Systems), and Attachment O (procurement Standards);
    - Common Rule for Circular A-102: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Sections 20 (Standards for financial Management Systems) and 36 (Procurement);
    - Circular No. A-128: Audits of State and Local Governments; and
    - Circular No. A-133: Audits of Institutions of Higher Education and Other Private Nonprofit Corporations.

TYPES OF PROJECTS

The following project categories are eligible for funding. Under each category heading is a brief description of the purpose of that category, as well as special requirements pertaining to that project category.

1. **Local Enforcement**

Funds may be used for projects, which contribute to the prevention of illegal dumping of municipal solid waste, including liquid wastes. Funding recipients may investigate illegal dumping problems; enforce laws and regulations pertaining to the illegal dumping of municipal solid waste, including liquid waste; establish a program to monitor the collection and transport of municipal liquid wastes, through administration of a manifesting system; and educate the public on illegal dumping laws and regulations

Local Enforcement Restrictions

a. Funds may not be provided to any law enforcement agency regulated by Chapter 415, Texas Government Code, unless: (a) the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Standards and Education pursuant to Chapter 415, Texas Government Code; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

b. When funding is to be provided for salaries of local enforcement officers, the funds recipient must certify that at least one of the officers has attended or will attend within the term of the funding the TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.

c Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided under this Agreement may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.

d Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.

e. Entities receiving funds to conduct a local enforcement program must cooperate with the TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with the TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.

f. Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

2. **Litter,Illegal Dumping Cleanup and Community Collection Events**

Funds may be used for ongoing and periodic activities to clean up litter and illegal dumping of municipal solid waste. Projects may include support for Lake and River Cleanup events, conducted in conjunction with the TCEQ's and Keep Texas Beautiful's Lake and River Cleanup Program. Funded activities may include: waste removal; disposal or recycling of removed materials; fencing and barriers; and signage. Placement of trash collection receptacles in public areas with chronic littering problems may also be funded. Reuse or recycling options should be considered for managing the materials cleaned up under this program, to the extent feasible.

Litter, Illegal Dumping Cleanup and Community Collection Events Restrictions

a. Lake and River Cleanup events must be coordinated with the TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by the TCEQ to administer the Lake and River Cleanup program.

b. Projects funded to clean up litter or illegal dumping on private property must be conducted through a local government sponsor or the BVCOG. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor or the BVCOG must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.

c. The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment.

d. The costs for cleanup of Class 1 nonhazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 nonhazardous industrial waste that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.

e. All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including 30 TAC Chapter 330, TCEQ's MSW Regulations, and 30 TAC Chapter 350, TCEQ's Risk Reduction Regulations, must be complied with as part of any activities funded under this Agreement.

f. All materials cleaned up using grant funds must be properly disposed of or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, the BVCOG should consider withholding at least ten (10) percent of the reimbursements under a pass-through grant or subcontract, until documentation is provided that the cleanup work has been completed and the materials properly managed.

g. Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily-available collection alternative, may be funded. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events may be held no more frequently than four times per year, and must only be intended to provide residents an

opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped by residents.

3. **Source Reduction and Recycling**

Funds may be used for projects, which provide a direct and measurable effect on reducing the amount of municipal solid waste going into landfills, by diverting various materials from the municipal solid waste stream for reuse or recycling, or by reducing waste generation at the source. Funded activities may include: diversion from the waste stream and/or collection, processing for transport, and transportation of materials for reuse and/or recycling; implementation of efficiency improvements in order to increase source reduction and recycling, to include full-cost accounting systems and cost-based rate structures, establishment of a solid waste services enterprise fund, and mechanisms to track and assess the level of recycling activity in the community on a regular basis; and educational and promotional activities to increase source reduction and recycling.

Source Reduction and Recycling Restrictions

Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

4. **Local Solid Waste Management Plans**

Funds may be used for projects to develop and have adopted by the TCEQ a local solid waste management plan, in accordance with Subchapter D, Chapter 363, Texas Health and Safety Code, and 30 TAC Chapter 330, Subchapter O., TCEQ Regulations, or to amend an existing local solid waste management plan that has been adopted by the TCEQ. However, funds may not be used for a local planning project until completion and approval of an amendment to the BVCOG's regional solid waste management plan.

Local Solid Waste Management Plans Restrictions

a. All local solid waste management plans funded under this Agreement must be consistent with the BVCOG's regional solid waste management plan, and prepared in accordance with 30 TAC Subchapter O, Chapter 330, TCEQ Regulations, and the Content and Format Guidelines provided by the TCEQ.

b. In selecting a local solid waste management plan project for funding, the BVCOG shall ensure that at least one year is available for the completion and adoption of the local plan.

c. Local solid waste management plans may not be considered for funding by

the BVCOG until the BVCOG's regional solid waste management plan has been amended.

5. **Citizens' Collection Stations and "Small" Registered Transfer Stations**

Funds may be used for projects to construct and equip citizens' collection stations, as these facilities are defined under 30 TAC §330.2, TCEQ Regulations. Municipal Solid Waste Transfer Stations that qualify for registration under §330.4(d)(1) - (3) or §330.4(r) of the TCEQ Regulations may also be funded. Projects funded for these types of facilities shall include consideration of an integrated approach to solid waste management, to include providing recycling services at the site, if appropriate to the management system in place.

Citizens' Collection Stations and "Small" Registered Transfer Stations

a. The design and construction of citizens' collection stations, as those facilities are defined under 30 TAC Chapter 330, TCEQ Regulations, may be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded.

b. The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.4(d) or §330.4(r), TCEQ Regulations, may be funded. Other permitted or registered transfer stations may not be funded. A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a county with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded.

6. **Household Hazardous Waste Management**

Funds may be used for projects, which provide a means for the collection, recycling or reuse, and/or proper disposal of household hazardous waste, including household chemicals and other materials. Funded activities may include: collection events; consolidation and transportation costs associated with collection activities; recycling or reuse of materials; proper disposal of materials; permanent collection facilities, and education and public awareness programs. Funds may also be used to support Texas County Cleanup events, conducted in conjunction with the TCEQ.

Household Hazardous Waste Management Restrictions

a. All household hazardous waste collection, recycling, and/or disposal activities must be coordinated with the TCEQ's HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

b. All Texas Country Cleanup events must be coordinated with the TCEQ's Texas Country Cleanup program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

7. **Technical Studies**

Funds may be used for projects, which include the collection of pertinent data, analysis of issues and needs, evaluation of alternative solutions, public input, and recommended actions, to assist in making solid waste management decisions at the local level. Projects may also include research and investigations to determine the location, boundaries, and contents of closed municipal solid waste landfills and sites, and to assess possible risks to human health or the environment associated with those landfills and sites.

Technical Studies Restrictions

All technical studies funded must be consistent with the BVCOG's regional solid waste management plan, and prepared in accordance with Guidelines provided by the TCEQ.

8. **Educational and Training Projects**

Educational components are encouraged under the other categories in order to better ensure public participation in projects; those educational components should be funded as part of those projects and not separately under this category. Funds may also be used for "stand-alone" educational projects dealing with a variety of solid waste management topics. Projects may include funding for information-exchange activities, subject to the other limitations on travel expenses.

Educational and Training Projects Restrictions

Educational and training programs and projects funded under this Agreement must be primarily related to the management of municipal solid waste, and funds applied to a broader education program may only be used for those portions of the program pertaining to municipal solid waste.

9. **Other Projects**

Other types of projects, not specifically prohibited form funding under the more detailed funding standards and restrictions, may be considered by TCEQ on a case-by-case basis. In particular, BVCOG may request authorization to provide funding for cleanup or remediation of problems at an old or abandoned MSW landfill.

January 11, 2007
Consent Agenda Item No. 12.3
Crescent Pointe Landscape Construction Award

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, discussion and possible action on a resolution approving the construction contract with Riverside Landscape Inc. in Caldwell, Texas in the amount of $255,304.92 for the Crescent Pointe Landscaping Construction Project No. GG-0105 (Bid no. 07-21 & Contract 07-057).

Recommendation(s): Staff recommends approval of this resolution and award of the construction contract.

Summary: On November 29, 2006, four bid proposals were received in response to Bid No. 07-21 for the Pointe Landscaping Construction Project No. GG-0105. A copy of the bid tabulation is attached for reference. The contract requirements require that the landscape construction be completed 90 days after the Notice to Proceed.

The landscape improvements are part of the City's obligation under an economic development agreement between the City of College Station and Crescent Pointe Ltd. In an amendment to that agreement approve by Council on November 23, 2004, the City agreed to install utilities, some landscaping, lighting, and roadways. The utilities, lighting and roadway improvements are complete. This landscaping will complete the City's requirements under the agreement. The same agreement has Crescent Pointe Ltd. maintaining the landscaping for a period of 50 years after its installation.

Budget & Financial Summary: This landscaping is the final phase of the Highway 30/60 Infrastructure project (GG0105). The original budget for the project was $4,850,000 and $4,451,592.47 has been committed or expended to date, leaving a balance of $398,407.53. It is anticipated that the project will be completed within the amount remaining. These funds are budgeted in the Convention Center Capital Improvement Projects Fund.

Attachments:

1. Bid Tabulation
2. Resolution
3. Location Map

LANDSCAPE DEVELOPMENT FOR CRESCENT POINTE
BID: #07-21

December 07,2006

					Riverside Landscape, Inc. Caldwell, TX.		Brazos Valley Nursery Bryan, TX.		Madison Construction Co. Bryan, TX.		Junction Landscape Katy, TX.	
Item No.	Est. Quan.	Unit Meas.	Description	Size	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
			Trees									
1	51	ea	Basham's Pink Crape Myrtle	45 Gallon	$280.00	$14,280.00	$250.00	$12,750.00	$184.20	$9,394.20	$334.00	$17,034.00
2	32	ea	Burr Oak	30 Gallon	$150.00	$4,800.00	$190.00	$6,080.00	$174.90	$5,596.80	$217.00	$6,944.00
3	35	ea	Chinese Pistache	30 Gallon	$170.00	$5,950.00	$190.00	$6,650.00	$174.90	$6,121.50	$222.00	$7,770.00
4	51	ea	East Palatka Holly	45 Gallon	$389.00	$19,839.00	$250.00	$12,750.00	$361.10	$18,416.10	$334.00	$17,034.00
5	10	ea	Goldrain Tree	30 Gallon	$175.00	$1,750.00	$190.00	$1,900.00	$193.20	$1,932.00	$294.00	$2,940.00
6	35	ea	Live Oak	65 Gallon	$361.00	$12,635.00	$450.00	$15,750.00	$397.70	$13,919.50	$512.00	$17,920.00
7	39	ea	Montezuma Cypress	65 Gallon	$375.00	$14,625.00	$450.00	$17,550.00	$422.10	$16,461.90	$412.00	$16,068.00
8	31	ea	Montezuma Cypress	30 Gallon	$170.00	$5,270.00	$200.00	$6,200.00	$217.60	$6,745.60	$242.00	$7,502.00
9	27	ea	Oklahoma Redbud	30 Gallon	$170.00	$4,590.00	$210.00	$5,670.00	$193.20	$5,216.40	$257.00	$6,939.00
10	49	ea	Shumard Oak	30 Gallon	$150.00	$7,350.00	$185.00	$9,065.00	$174.90	$8,570.10	$217.00	$10,633.00
			Shrubs, Perennials, Annuals									
11	1,110	ea	Black-eyed Stella Daylily	1 Gallon	$4.351	$4,829.61	$7.00	$7,770.00	$7.70	$8,547.00	$6.00	$6,660.00
12	545	ea	Gertrude Condon Dalily	1 Gallon	$7.50	$4,087.50	$7.00	$3,815.00	$9.60	$5,232.00	$6.25	$3,406.25
13	705	ea	Mexican Feather Grass	1 Gallon	$7.20	$5,076.00	$6.50	$4,582.50	$9.70	$6,838.50	$6.20	$4,371.00
14	376	ea	Nearly Wild Rose	3 Gallon	$22.00	$8,272.00	$16.00	$6,016.00	$24.30	$9,136.80	$24.00	$9,024.00
15	42	ea	Purple Fountain Grass	5 Gallon	$18.00	$756.00	$26.00	$1,092.00	$26.10	$1,096.20	$16.00	$672.00
16	174	ea	Red Landscape Surpreme Dalily	1 Gallon	$7.20	$1,252.80	$7.00	$1,218.00	$7.50	$1,305.00	$6.10	$1,061.40
17	2,664	ea	Seasonal Color	4" Pot	$1.65	$4,395.60	$2.00	$5,328.00	$1.40	$3,729.60	$1.35	$3,596.40
18	15	ea	Wax Myrtle	7 Gallon	$50.00	$750.00	$60.00	$900.00	$49.00	$735.00	$55.00	$825.00
19	35	ea	Yakushima Maiden Grass	5 Gallon	$18.00	$630.00	$26.00	$910.00	$24.00	$840.00	$20.50	$717.50
20	329	ea	Yellow Landscape Supreme Daylily	1 Gallon	$7.20	$2,368.80	$6.00	$1,974.00	$7.60	$2,500.40	$5.55	$1,825.95

LANDSCAPE DEVELOPMENT FOR CRESCENT POINTE
BID: #07-21

December 07,2006

					Riverside Landscape, Inc. Caldwell, TX.		Brazos Valley Nursery Bryan, TX.		Madison Construction Co. Bryan, TX.		Junction Landscape Katy, TX.	
Item No.	**Est. Quan.**	**Unit Meas.**	**Description**	**Size**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**
			Groundcovers									
21	1,338	ea	Asian Jasmine	1 Gallon	$3.00	$4,014.00	$3.25	$4,348.50	$3.20	$4,281.60	$3.70	$4,950.60
22	312	ea	Gulf Coast Muhly Grass	1 Gallon	$4.951	$1,544.71	$7.00	$2,184.00	$6.10	$1,903.20	$6.95	$2,168.40
23	1,808	ea	Royal Purple Liriope	1 Gallon	$3.00	$5,424.00	$6.00	$10,848.00	$4.90	$8,859.20	$3.70	$6,689.60
			Grasses									
24	27,447	sy	Jamar Zoysia Grass	Solid Sod	$3.60	$98,809.20	$3.75	$102,926.25	$3.35	$91,947.45	$3.75	$102,926.25
			Micellaneous									
25	19,076	sf	Herbicide: Elanco Snapshot granular pre-emergent planting beds only		$0.04	$763.04	$0.05	$953.80	$0.04	$763.04	$0.08	$1,526.08
26	120	cy	Surface Mulch: Shredded Pine bark - quantity shown is for planting beds only; qty. for watering rings to be calculated by contractor and included in price of tree.		$29.00	$3,480.00	$32.00	$3,840.00	$40.90	$4,908.00	$41.00	$4,920.00
27	266,099	sf	Spray existing grass & weeds w/ herbicide		$0.0065	$1,729.64	$0.0050	$1,330.50	$0.02	$5,321.98	$0.01	$2,660.99
28	247,023	sf	Fine grade preparation for grass sod		$0.0225	$5,558.02	$0.02	$4,940.46	$0.03	$7,410.69		$5,500.00
29	525	cy	Topsoil		$10.00	$5,250.00	$20.00	$10,500.00	$28.70	$15,067.50	$15.00	$7,875.00
30	1	is	Bonds		$5,225.00	$5,225.00	$6,746.00	$6,746.00	$5,830.00	$5,830.00	$6,500.00	$6,500.00
			TOTAL			**$255,304.92**		**$276,588.01**		**$278,627.26**		**$288,660.42**

Bid Certification	Yes	Yes	No	Yes
Delivery Date	90 Days	120 Days	90 Days	40 Days
Bid Bond	Yes	Yes	Yes	Yes
Addendums Acknowledged	2	2	2	1

Apparent Low Bidder

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE CRESCENT POINTE LANDSCAPING CONSTRUCTION PROJECT, PROJECT NO. GG-0105 AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Crescent Pointe Landscaping Construction Project; and

WHEREAS, the selection of Riverside Landscape, Inc., is being recommended as the lowest responsible bidder for the construction services related to the Crescent Pointe Landscaping 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 Riverside Landscape, Inc. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Riverside Landscape, Inc for $255,304.92 for the labor, materials and equipment required for the improvements related to the Crescent Pointe Landscaping Construction Project.

PART 3: That the funding for this Contract shall be as budgeted from the Convention Center Capital Improvement Project, for the HWY 30/60 INFRASTRUCTURE, in the amount of $255,304.92.

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

ADOPTED this 11th day of January, A.D. 2007.

ATTEST: APPROVED:

_____ _____

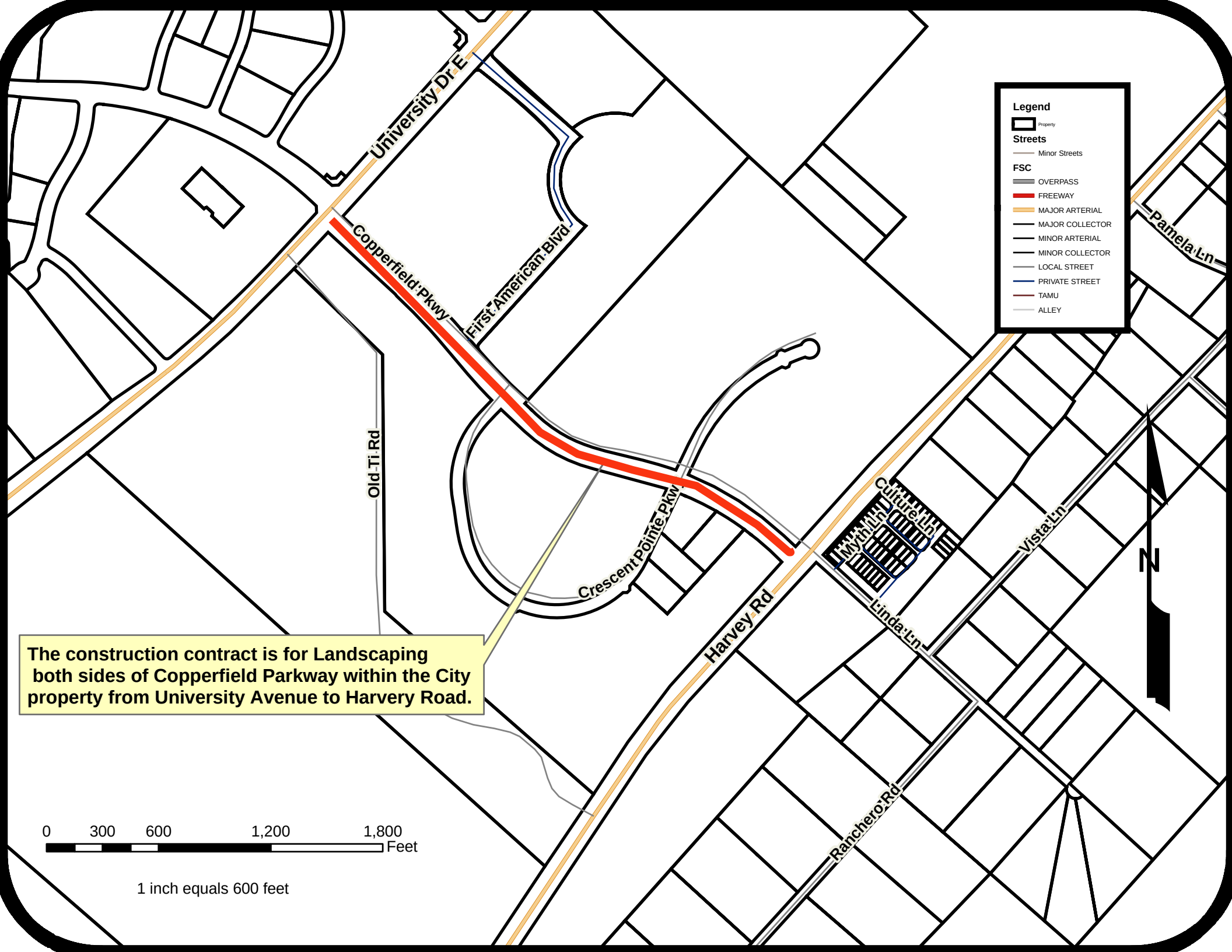
CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvelt

_____

City Attorney



The construction contract is for Landscaping both sides of Copperfield Parkway within the City property from University Avenue to Harvery Road.

January 11, 2007
Consent Agenda Item No. 12.4
Annual Price Agreement for the Purchase of Cover Stone, Trap Rock

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion regarding renewal of an annual price agreement with Vulcan Materials Company in an amount not to exceed $211,416 for cover stone, trap rock for the maintenance of streets.

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

Summary: Vulcan Materials Company was the successful bidder for the FY2006 annual contract. Trap rock is used for the seal coat process, pothole repair and maintenance of streets in the City. This FY2007 renewal is the first of two optional annual renewals of the FY2006 contract (P.O. 060346). The contract provides for up to a 5% increase for renewal. This renewal is an increase of 4.3% over the previous contract amount. Staff feels that the increase would be higher than 5% if this item were re-bid.

Budget & Financial Summary: Funding is available in the operating budget of the Street Maintenance Division.

Attachments:
1. Renewal Letter

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #06-41, for coverstone/trap rock, in accordance with all terms and conditions previously agreed to and accepted with a 4.3% increase as stipulated as a mutual agreement of both parties as a condition of Bid No 06-41. This is the first renewal of the contract.

I understand this renewal term will be for the period beginning January 12, 2007 through January 11, 2007.

VULCAN CONSTRUCTION MATERIALS, LP

Pat Wootton — 12-15-06

AUTHORIZED REPRESENTATIVE — DATE

PAT WOOTTON
SENIOR SALES REPRESENTATIVE

CITY OF COLLEGE STATION

Ron Silvia, Mayor — DATE

ATTEST:

Connie Hooks, City Secretary — DATE

APPROVED:

Glenn D. Brown, City Manager — DATE

Carla A Robinson
City Attorney — DATE

Chief Financial Officer — DATE

STATE OF TEXAS **CORPORATE ACKNOWLEDGMENT**

COUNTY OF Bexar

This instrument was acknowledged on the 18th day of December, 2006 by Pat Wootton in his/her capacity as Sr. Sales Rep of Vulcan Materials Co, a TEXAS Corporation, on behalf of said corporation.

GINGER TAYLOR
Notary Public, State of Texas
My Commission Expires
July 21, 2009

Ginger Taylor
Notary Public in and for the
State of Texas

STATE OF TEXAS **ACKNOWLEDGMENT**

COUNTY OF BRAZOS

This instrument was acknowledged on the _____ day of _____, 200 , 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

****

January 11, 2007
Consent Agenda Item No. 12.5
Texas Commission on Environmental Quality Wastewater Treatment Facility Fees

To: Glenn Brown, City Manager

From: John Woody, Director of Water Services Department

Agenda Caption: Presentation, possible action, and discussion to approve a resolution authorizing payment of the Texas Commission on Environmental Quality Wastewater Treatment Facility Consolidated Water Quality Fees for FY 2007.

Recommendation: Staff recommends approval of the resolution.

Summary: The Texas Commission on Environmental Quality assesses a fee to discharge wastewater from treatment plants. The fees for FY 2007 are:

Lick Creek Wastewater Treatment Plant	$10,150.00
Carters Creek Wastewater Treatment Plant	$40,720.00
Late fee assessed	$ 2,543.50

Total	$53,413.50

TCEQ has also assessed a late fee of $2,543.50 that must be included in our payment. TCEQ made administrative changes to the billing, and for the first time they combined the fees for the two treatment plants into one invoice. This made the total fee exceed the City Manager approval limit, and by the time Staff realized the change, we had missed the December Council meeting.

Total fee of $53,413.50 is mandatory for operation of our wastewater treatment plants.

Budget & Financial Summary: Funds are available and budgeted in the Wastewater Budget.

Attachments:
TCEQ Invoice
Resolution

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

INVOICE

COMPANY: COLLEGE STATION, CITY OF
ACCOUNT: 23001544

DETACH BOTTOM PORTION AND RETURN WITH PAYMENT - KEEP TOP PORTION FOR YOUR RECORDS -

ACCOUNT NO.	THIS INVOICE REFLECTS ALL PAYMENTS RECEIVED THROUGH:	LATE FEES	BALANCE DUE
23001544	DEC13,06	2,543.50	53,413.5

INVOICE DATE	INVOICE NO.	DESCRIPTION	AMOUNT	BALANCE
OCT31,06	CWQ0015888	PERMIT 010024-003 FY07 CWQ ASSESSMENT FE	10,150.00	10,150.0
OCT31,06	CWQ0015889	PERMIT 010024-006 FY07 CWQ ASSESSMENT FE	40,720.00	50,870.0
DEC11,06	SC2704-001	PERMIT 010024-006 LATE FEE FOR CWQ0015889	2,036.00	52,906.0
DEC11,06	SC2704-002	PERMIT 010024-003 LATE FEE FOR CWQ0015888	507.50	53,413.5

PLEASE RETURN COUPON WITH PAYMENT. FOR QUESTIONS CONCERNING CHARGES OR SITE LOCATION, PLEASE CALL 512-239-4671.

53,413.5

See REVERSE SIDE for Explanation of Charges and TCEQ Contact Telephone Numbers.

PLEASE PAY THIS AMOUNT
INCLUDE ACCOUNT NUMBER ON CHECK

TCEQ VIPP Form AR41A 02-16-06

DEC13,06

DETACH THIS PORTION AND RETURN WITH CHECK OR MONEY ORDER PAYABLE TO:

ACCOUNT NO.	BALANCE DUE
23001544	53,413.50

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

☐ CHECK HERE IF YOUR ADDRESS HAS CHANGED. PLEASE INDICATE ADDRESS CHANGE ON BACK

INVOICES NOT PAID WITHIN 30 DAYS OF INVOICE DATE WILL ACCRUE PENALTIES

COLLEGE STATION, CITY OF
ATTN: DALE SCHEPERS

PO BOX 9960
COLLEGE STATION TX 778420

0023001544 1533360 00053413500130072

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE EXPENDITURES FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY WASTEWATER TREATMENT FACILITY CONSOLIDATED WATER QUALITY FEES FOR FY 2007.

WHEREAS, the City Council of the City of College Station, Texas, operates two wastewater treatment plants; and

WHEREAS, the City of College Station, Texas, was assessed a Water Quality Fee from the Texas Commission on Environmental Quality for the FY 2007; now, therefore,

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

PART 1: That the City Council hereby approves the expenditures for the Texas Commission on Environmental Quality Wastewater Treatment Facility Consolidated Water Quality Fees for FY 2007 in the amount of $53,413.50.

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

ADOPTED this _____ day of _____, A.D. 2007.

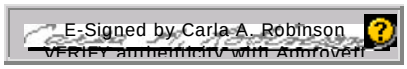
ATTEST:

_____
CONNIE HOOKS, City Secretary

APPROVED:

_____
RON SILVIA, Mayor

APPROVED:



_____
City Attorney

O/group/legal/resolutions/narcotics.doc
1/4/2007

January 11, 2007
Consent Agenda Item No. 12.6
Purchase of Nantucket Wastewater Treatment Package Plant

To: Glenn Brown, City Manager

From: John Woody, Director of Water Services Department

Agenda Caption: Presentation, possible action, and discussion regarding approval of a contract for purchasing the Nantucket Wastewater treatment package plant and wastewater collection system from Hunters Bismuth for $115,000.

Recommendation: Staff recommends Council approve this purchase contract.

Summary: In the 2002 Annexation Plan, the City annexed a small portion of the Nantucket Development, near highway 6, centered on Nantucket Drive. This area has sewer service provided by a small package treatment plant owned by Hunters Bismuth (formerly Municipal Design Group). Part of the Annexation Plan included the City's purchase of the wastewater treatment package plant, wastewater collection system, and the associated customers, easements, and Certificate of Public Convenience and Necessity (CCN).

Staff has negotiated a purchase contract in the amount of $115,000. The attached purchase contract stipulates that Hunters Bismuth will provide to the City everything required for complete operation of the wastewater treatment process, including all equipment, infrastructure, easements, customer information, and the CCN certificate. Staff is satisfied that all the required documentation has been provided, and that applications to change the CCN to the City have been properly made to TCEQ. If City Council approves, payment will be made to Hunters Bismuth, and then the residents of this area will become City sewer customers as soon as possible. The package plant is very close to existing City sewer mains, and once the plant is City property, the pipes will be diverted so that the sewage flows into the City system and the package plant will be taken out of service and sold.

Drinking water in this area of Nantucket is provided by Wellborn SUD, so these Nantucket residents will be charged the sewer fees for households that are outside the City water service area. Wellborn SUD has agreed to provide water meter information, so the sewer charges will be based on actual water usage.

Budget & Financial Summary: Funds were allocated in the FY-05 Wastewater Capital Improvements Plan, and are available.

Attachment:
Contract
Map

CONTRACT OF SALE

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

WHEREAS, BEAVER CONSULTING CORP., D/B/A MUNICIPAL DEVELOPMENT GROUP (hereafter referred to as "MDG") entered into a Compromise and Contract of Settlement with Nantucket, Ltd and Phyllis Hobson (collectively "Nantucket") on June 30, 2004 (the "Settlement"); and

WHEREAS, the Settlement asserts to convey from Nantucket to MDG: (1) fee simple title to a sewer plant and system located in Brazos County, Texas owned and operated by Nantucket ("Sewer Plant and System"); (2) all of Nantucket's right, title and interest in sewer and other utility easements necessary for operation and maintenance of the Sewer Plant and System; and (3) all of Nantucket's right, title and interest in sewer utility certificate of convenience and necessity number 20934 issued to Nantucket Limited (the "CCN"); and

WHEREAS, the effective date of the conveyance provided for by the Settlement was July 1, 2004; and

WHEREAS, on or about August 19, 2004 MDG filed with the Texas Commission on Environmental Quality ("TCEQ") an application to transfer Nantucket's wastewater treatment permit number WQ0013596001 (the "Permit") to MDG; and

WHEREAS, on or about September 1, 2005, Nantucket's Wastewater Treatment Permit No WQ0013596001 was transferred to MDG; and

WHEREAS, MDG has not filed an application requesting transfer of the CCN or of Nantucket's Sewer Plant and System from Nantucket to MDG; and

WHEREAS, MDG subsequently entered into a Contract for Sale with HUNTER'S Bismuth, LLC, a Texas Limited Liability Company ("HUNTER'S Bismuth"), on September 29, 2006, ("HB Contract for Sale"); and

WHEREAS, the HB Contract for Sale asserts to convey from MDG to HUNTER'S Bismuth: (1) fee simple title to a sewer plant and system located in Brazos County, Texas owned and operated by Nantucket ("Sewer Plant and System"); (2) all of MDG's right, title and interest in sewer and other utility easements necessary for operation and maintenance of the Sewer Plant and System; and (3) all of MDG's right, title and interest in the CCN;

WHEREAS, effective date of the conveyance provided for by the HB Contract for Sale was October 9, 2006;

WHEREAS, on or about December 12, 2006, Hunter's Bismuth filed with the Texas Commission on Environmental Quality ("TCEQ") an application to transfer MDG's wastewater treatment permit number WQ0013596001 (the "Permit") to Hunter's Bismuth as the owner with MDG identified as the operator; and

WHEREAS, Hunter's Bismuth and MDG have entered into an agreement under which MDG will continue to operate the Sewer Plant under the authority granted to it by the State of Texas; and

WHEREAS, Hunter's Bismuth has not filed an application requesting transfer of the CCN or of Nantucket's Sewer Plant and System from Nantucket to HUNTER'S Bismuth; and

WHEREAS, HUNTER'S BISMUTH desires to convey to the City of College Station ("City"), and the City desires to purchase from HUNTER'S BISMUTH the Sewer Plant and System, all associated real property including sewer and other utility system easements, the Wastewater Permit, and the CCN; and

NOW THEREFORE, subject to the conditions hereinafter stated, HUNTER'S BISMUTH hereby sells and agrees to convey to the City, and the City hereby buys and agrees to purchase from HUNTER'S BISMUTH, certain property on the terms and for the consideration hereinafter set out:

1. Property Conveyed. HUNTER'S BISMUTH agrees to sell and convey to the City the following property located in Brazos County, Texas:

a. All right, title and interest in and to the Sewer Plant and System, which shall include the sewer plant, the lift station, the sewer mains and piping, and all appurtenances necessary for the operation and maintenance of the Sewer Plant and System (Collectively the "Personal Property"). An inventory of the components of the Sewer Plant and System being conveyed, including as-built plans and a survey, is attached hereto and incorporated herein by reference as Exhibit 1. Conveyance of the Personal Property shall be by bill of sale acceptable to the City;

b. All right, title and interest in the sewer and other utility easements which are required or necessary for access to, or the operation and maintenance of, the Sewer Plant and System (Collectively, the "Real Property"). Such easements include, but are not limited to, those easements more particularly described in that Special Warranty Deed, dated June 30, 2004, a copy of which is attached hereto and incorporated herein by reference as Exhibit 2, and those Corrected Easements for Utilities which are described in that Special Warranty from MDG to Hunter's Bismuth, dated October 9, 2006, a copy of which is attached hereto and incorporated herein by reference as Exhibit 3. The conveyance of the sewer and utility easements shall be effectuated by the execution of a Special Warranty Deed in the same form as that which is attached hereto as Exhibit 4.

c. CCN number 20934 and Wastewater Permit number WQ0013596001 which authorize operation of the Sewer Plant and System;

d. All maintenance, operating and business records, contracts, invoices, agency correspondence and inspection reports, plans and specifications, and manuals relating to the Sewer Plant and System operating under authority of the CCN and the Wastewater Permit, which are in the possession or under the control of HUNTER'S BISMUTH. An inventory of all such records and documents is attached hereto and incorporated herein by reference as Exhibit 5;

e. All assignable warranties and guarantees (express or implied) in connection with the Sewer Plant and System. An inventory of the warranties and guarantees being conveyed is attached hereto and incorporated herein by reference as Exhibit 6. Such conveyance shall be by assignment acceptable to the City; and

f. Collectively, the property identified in sections 1(a) – (e) above is referred to herein as the Property.

2. Purchase Price. The purchase price for the Property is One Hundred Fifteen Thousand Dollars ($115,000.00), payable to HUNTER'S BISMUTH at the closing as provided by this Contract of Sale (the "Closing").

3. Payment. No later than ten (10) business days after the effective date of this Contract of Sale, the City shall deliver to Aggieland Title Company ("Escrow Agent"), in the form of a cashier's check made payable to Escrow Agent or a wire transfer, One Hundred Fifteen Thousand Dollars ($115,000.00) (the "Payment"). Escrow Agent shall retain possession of the Payment until delivery or return thereof is permitted or required under this Contract of Sale. The Payment shall be deposited in an interest bearing account by the Escrow Agent with the interest thereon to be disbursed with the Payment in accordance with the provisions hereof.

4. As – Is Sale. Subject to HUNTER'S BISMUTH's warranties contained herein, the City understands and agrees that HUNTER'S BISMUTH's sale of the Property and the City's purchase of the Property is on an As-Is basis. Accordingly, the City expressly acknowledges, understands and agrees that it is not relying upon any representation, statement or other assertion beyond the warranties contained herein as to the condition of any aspect of the Property, and is instead relying upon his, her, and/or its

own inspection and investigation of the property. The Purchaser is taking the property in reliance upon its inspection and examination to determine the condition of the property, the presence, nature and extent, of any problems which may exist. The City further understands and agrees that it is free to retain any consultant of its choosing for the purposes of conducting an inspection and examination of the Property at any time prior to closing. Notwithstanding anything herein which may be construed to the contrary, HUNTE'RS BISMUTH expressly understands and agrees that it will be obligated under the provisions of Paragraph 15 herein in the event of a casualty loss or other damage or deterioration occurring at any time subsequent to the effective date of this Contract of Sale and prior to the Closing.

5. Survey and Title Commitment.

a. The City may, at its election and expense, obtain a current on-the-ground survey ("the Survey") of the Real Property made by a surveyor acceptable to the City.

b. Within thirty (30) days after the date of this Contract of Sale, HUNTER'S BISMUTH shall, at HUNTER'S BISMUTH's expense, deliver or cause to be delivered to the City:

(1) A title commitment (the "Title Commitment") covering the Real Property and the improvements thereto binding Aggieland Title Company (the "Title Company") to issue a Texas Owner's Policy of Title Insurance on the standard form of policy prescribed by the Texas State Board of Insurance at the Closing in the full amount of the purchase price. The Title Commitment shall be marked and initialed by the Title Company to show the terms on which the owner's title policy ("the Title Policy") will be issued by the underwriter for the Title Company, subject only to the Permitted Exceptions as defined in section 6(b) herein;

(2) UCC-11 or equivalent searches acceptable to the City of the financing statement records of the Secretary of State of Texas and of the County Clerk of Brazos County in connection with the Personal Property; and

(3) True, correct, and legible copies of any and all instruments referred to in the Title Commitment or the UCC searches as constituting exceptions or restrictions upon the title of HUNTER'S BISMUTH, except that copies of any liens which are to be released at the Closing may be omitted.

c. HUNTER'S BISMUTH shall pay for: (i) all curative work required by the Title Company; and (ii) the Title Policy premium.

6. Review Period. No later than thirty (30) days after the receipt of the documents and materials referred to in section 5(b)(1) – (3) herein:

a. The City shall deliver in writing to HUNTER'S BISMUTH such objections as the City may have to anything contained in the documents and materials submitted by HUNTER'S BISMUTH or on the survey attached as Exhibit 1 or the Survey obtained pursuant to section 4(a);

b. Any item to which the City shall not object in the documents and materials referred to in section 4(b) (1) – (3) shall be deemed a "Permitted Exception." No liens or security interests other than those incurred by the City as part of the Closing of this Contract of Sale shall be Permitted Exceptions.

7. Satisfying Objections. If there are objections by the City as provided in Section 6 herein, HUNTER'S BISMUTH shall in good faith attempt to satisfy the objections no later than thirty (30) days after receiving notice as provided by section 6(a) herein. If HUNTER'S BISMUTH is unable to satisfy such objections, or if, for any reason, HUNTER'S BISMUTH is unable to convey the Property in accordance with this Contract of Sale, then HUNTER'S BISMUTH shall provide written notice of such event to the City no later than thirty (30) days after receiving notice as provided by section 6(a) herein. If HUNTER'S BISMUTH is unable to satisfy the City's objections or convey the Property in accordance with this Contract of Sale, then the City may either waive its objections and proceed with the Closing, or the City may terminate this Contract of Sale by providing notice to HUNTER'S BISMUTH, in which case the

Payment and all earnings thereon will be refunded to the City and the City will be under no obligation to purchase the Property.

8. Inspection Period. The City shall have the right, at its sole cost and expense and within a period of twenty-one (21) days (the Inspection Period) following the receipt of the documents described in section 5(b), to conduct or cause to be conducted any and all tests, inspections, reviews, assessments or evaluations of the Property, including without limitation engineering, hydrology, topographic, soils, zoning, wetlands and environmental inspections (including Phase I and/or Phase II environmental site assessments to be performed by an environmental consultant selected by the City), and economic feasibility and financial availability analyses (collectively, the "Inspections") as the City deems necessary, desirable or appropriate in order to determine whether the Property is suitable for purchase by the City. As used herein, the term "Phase I and/or Phase II environmental site assessments" includes the City's right to perform intrusive soil sampling/investigation to the land and improvements constituting the Property. Simultaneously with the execution of this Agreement, HUNTER'S BISMUTH shall provide to the City, all title, survey, engineering and environmental information and other such information about the Property which HUNTER'S BISMUTH may have in its possession and/or which is under its control. The City's inspections shall not relieve HUNTER'S BISMUTH of the obligation to disclose all matters regarding the Property of which HUNTER'S BISMUTH has actual knowledge.

HUNTER'S BISMUTH shall allow the City, and its authorized agents, representatives, consultants and engineers, unlimited access to the Property and to other information pertaining thereto in the possession or within the control of HUNTER'S BISMUTH for the purpose of the Inspections. HUNTER'S BISMUTH shall cooperate with the City in facilitating the Inspections and shall use its best reasonable efforts to obtain any consent that may be necessary in order for the City to perform the Investigations.

In the event such Inspections reveal any condition(s) which renders the Property unsuitable for purchase by the City, the City may, in its sole and absolute discretion, terminate this Agreement upon written notice to HUNTER'S BISMUTH, delivered within (5) days after the expiration of the Inspection Period. In the event the City terminates this Agreement pursuant to this Section 8, it shall restore the Property to its previous condition or as close thereto as is reasonably possible immediately prior to the Inspections (which obligation shall survive the termination of this Agreement) and upon such restoration of the Property, neither party shall have any further rights or obligations hereunder except as otherwise expressly provided herein. In the event this Agreement is terminated, the City will return to HUNTER'S BISMUTH any and all documents and analysis obtained during the Inspection Period and the City agrees that it will not utilize the results of such inspection period for any other purpose.

9. HUNTER'S BISMUTH's and/or MDG's Representations and Warranties. HUNTER'S BISMUTH and, where expressly stated below, MDG represents and warrants to the City that:

a. HUNTER'S BISMUTH and Beaver Consulting Corp. d/b/a Municipal Development Group ("MDG") have the full right, power, and authority to enter into and perform its obligations under this Agreement.

b. HUNTER'S BISMUTH owns, controls and is in possession of the Property.

c. HUNTER'S BISMUTH and MDG, will provide the City any cooperation and assistance required to prepare, submit and process applications and requests necessary for the transfer of the Sewer Plant and System, the CCN, the Wastewater Permit, and any other approvals or easements necessary to: (i) own and operate the Property; (ii) provide sewer service within the service area of the CCN; and (iii) discharge treated effluent from the Sewer Plant and System (collectively, the "Approvals"). HUNTER'S BISMUTH's and MDG cooperation and assistance shall include, but is not limited to, obtaining from Nantucket any signature, authorization, or document necessary to obtain the Approvals and complete the sale contemplated by this contract. One half of all costs the City may reasonably incur to obtain the Approvals shall be deducted from the purchase price paid to HUNTER'S BISMUTH at Closing as specified in section 14(b), herein. Such costs shall include, but not be limited to, application fees, notice fees, and reasonable and necessary attorney's fees.

d. MDG shall, at its own cost, operate the Sewer Plant and System in accordance with all TCEQ rules, regulations, permits, and requirements at all times up to and through the date of the Closing.

e. HUNTER'S BISMUTH shall, at its own cost, maintain the Sewer Plant and System in good working order capable of complying with all applicable TCEQ rules, regulations and permit requirements up to and through the date of the Closing.

f. HUNTER'S BISMUTH shall be responsible for all fees, costs, taxes and penalties related to the Property and for maintaining the Approvals necessary to own and operate the Sewer Plant and System until the Property and such Approvals are transferred to the City. HUNTER'S BISMUTH shall, at its own cost, pay to the appropriate entity its prorated share of any fee, charge, tax or penalty that is due or owed to such entity on or prior to the date of Closing. Taxes for the Property for the current year shall be prorated as of the closing date. This shall be adjusted in cash at the closing. 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.

g. HUNTER'S BISMUTH shall convey the Property to the City within thirty (30) days after the City has received all Approvals.

h. At the Closing HUNTER'S BISMUTH shall have and shall convey to the City the Property free and clear of any and all encumbrances except the Permitted Exceptions as provided in section 5(b) of this Contract of Sale.

i. HUNTER'S BISMUTH shall deliver that certain original and fully executed *Confirmation of Public Dedication*, executed by Nantucket, Ltd. on or about September 13, 2006.

j. The City shall be entitled to receive all revenue generated by and from the operation and maintenance of the Sewer Plant and System following the closing date.

k. Prior to and after the Closing, HUNTER'S BISMUTH and MDG agree that they will provide technical and/or historical advice and information that the City requires in order to operate and maintain the Sewer Plant and System provided that HUNTE'S BISMUTH and/or MDG is in possession of such information. Neither HUNTER'S BISMUTH or MDG shall be required to spend any funds to acquire such information.

l. **THE CITY EXPRESSLY ACKNOWLEDGES THAT THE PROPERTY IS BEING TAKEN UNDER THE EXPRESS UNDERSTANDING THAT NEITHER HUNTER'S BISMUTH NOR MDG MAKE ANY EXPRESS OR IMPLIED WARRANTIES, OTHER THAN THOSE CONTAINED HEREIN, INCLUDING THE IMPLIED WARRANTY OF HABITABILITY, THE IMPLIED WARRANTY OF GOOD AND WORKMANLIKE PERFORMANCE, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR THE IMPLIED WARRANTY OF MERCHANTIBILITY.**

10. Conditions Precedent to HUNTER'S BISMUTH's Obligation to Close. HUNTER'S BISMUTH shall be obligated to sell the Property to the City, and to perform the obligations required to be performed by HUNTER'S BISMUTH at the Closing only if the following conditions have been met:

a. The City shall have deposited the Payment with the Escrow Agent as provided in section 3 of this Contract of Sale.

b. The City shall not have terminated this Contract of Sale as provided herein.

11. The City's Representations and Warranties. The City represents and warrants to HUNTER'S BISMUTH and MDG that:

a. The City shall use reasonable efforts to obtain the Approvals in a timely manner.

b. Upon request, the City shall provide a summary to HUNTER'S BISMUTH and MDG regarding progress the City has made in obtaining the Approvals.

12. Conditions Precedent to the City's Obligation to Close. The City shall be obligated to purchase the Property from HUNTER'S BISMUTH, and to perform the obligations required to be performed by the City at the Closing only if the following conditions have been met:

a. The City has obtained all Approvals.

b. The City shall be satisfied that HUNTER'S BISMUTH and MDG's respective representations and warranties set forth in Section 9 are true and correct and HUNTER'S BISMUTH and MDG are in compliance with their respective representations and warranties on the day of the Closing.

c. The City shall not have terminated this Contract of Sale as provided herein.

13. Termination. If TCEQ has failed to issue the Approvals within one hundred thirty (130) days after applications to transfer the Sewer Plant and System, the CCN and the Permit to the City are filed, or if HUNTER'S BISMUTH and/or MDG fails to comply with its warranties or other obligations contained in this contract, the City may terminate this contract of sale by giving written notice to HUNTER'S BISMUTH and the City shall have no obligation to purchase the property. Upon termination under this provision, the payment and all earnings thereon shall be returned to the City. If the City terminates for reasons other than those specified in this contract, the Payment and all earnings thereon shall be returned to the City less $5,000 that HUNTER'S BISMUTH will retain as independent consideration for the buyer's right to terminate.

14. Liabilities Not Assumed. HUNTER'S BISMUTH agrees that the City is assuming no liabilities associated with HUNTER'S BISMUTH's, MDG's, or Nantucket's operation, use, or ownership of the Property. HUNTER'S BISMUTH agrees to defend, indemnify, and hold harmless, the City from and against all claims, causes of action, lawsuits, liabilities, fines, penalties, administrative awards, damages, attorney fees, costs, and expenses, which result from, arise out of, are related to, or are based upon HUNTER'S BISMUTH's, MDG's, or Nantucket's operation, use, or ownership of the Property through the Closing date including HUNTER'S BISMUTH's conveyance of the Sewer Plant and System to the City, save and except to the extent that such liabilities arise out of or are related to the City's actions. Without limitation, HUNTER'S BISMUTH agrees to conduct any remediation associated with its, MDG's, or Nantucket's operation, use, or ownership of the Property prior to the Closing date that is or becomes necessary to comply with any state, city, county or federal statute, ordinance, rule, or permit. This provision to indemnify will survive expiration or the termination of this Agreement. Notwithstanding the foregoing, the Parties understand and agree that Hunter's Bismuth's duty to indemnify extends only to such claims which are associated with acts or events occurring prior to the Closing Date.

15. Risk of Loss. All risk of loss to the Property shall remain upon HUNTER'S BISMUTH at any time subsequent to the effective date of this Contract of Sale and prior to the Closing. If, subsequent to the effective date of this Contract of Sale and prior to the Closing, the Property shall be damaged to a material extent or destroyed by fire or other casualty or by deterioration or degradation related to inadequate or improper maintenance, the City may either terminate this Contract of Sale by written notice to HUNTER'S BISMUTH and receive a refund of the Payment and all earnings thereon and be under no obligation to purchase the Property, or the City may close. If the City elects to close despite said material damage, destruction or deterioration, the purchase price shall be reduced by the amount necessary to repair or replace said damage, destruction or deterioration. Unless otherwise provided herein, the term "material" shall mean damage, destruction or deterioration, the cost of repairing which exceeds ten percent (10%) of the purchase price. In the event of less than material damage, destruction or deterioration to the Property prior to the Closing, HUNTER'S BISMUTH shall either repair the same prior to the Closing, at HUNTER'S BISMUTH's expense, or reimburse the City for the cost of repairing the same by allowing the City to deduct such cost from the Payment. If the extent of damage is not determinable prior to the Closing, or the repairs cannot be completed prior to Closing, the City, by written

notice to HUNTER'S BISMUTH, may postpone the date of the Closing to such date as shall be designated in such notice.

16. The Closing.

a. The "Closing" of this Contract of Sale shall be held on the date which is mutually agreeable to the parties, and which is on or before thirty (30) days after the City has obtained all of the Approvals. The Closing will be held at the offices of the Escrow Agent or at such other place as HUNTER'S BISMUTH and the City mutually agree. The closing officer for this transaction must have no business or financial relationship with either party. Either party has a right to object and to request that Aggieland Title Company appoint a substitute closing officer in the event that it is determined that the initial closing officer has a business or financial relationship with other party.

b. At the Closing, in return for HUNTER'S BISMUTH conveying to the City the Property as provided by this Contract of Sale and such documents and agreements as the Title Company may require in connection with the Closing and the issuance of the Title Policy, the City shall instruct the Escrow Agent to deliver to HUNTER'S BISMUTH the Payment and the interest thereon, less one half of the costs incurred by the City to obtain the Approvals and any other deductions authorized by this contract. The City shall submit to HUNTER'S BISMUTH and the Escrow Agent an itemized statement of the costs incurred by it to obtain the Approvals and any other authorized deductions five (5) business days prior to the Closing save and except to the extent otherwise specified herein.

c. HUNTER'S BISMUTH shall pay for: (i) the fees charged by the Escrow Agent; (ii) tax certificates; (iii) all other costs associated with the Closing, save and except to the extent otherwise specified herein.

17. Miscellaneous Provisions.

a. Effective Date of Contract of Sale. The term "effective date of this Contract of Sale" as used herein shall mean the later of the dates on which this Contract of Sale is signed by HUNTER'S BISMUTH and MDG or the City, as indicated by their signatures below, which later date shall be the date of final execution and agreement by the parties hereto.

b. Notices. Any notice or communication required or permitted hereunder shall be deemed to be delivered when deposited in the United States mail, postage fully prepaid, registered or certified mail, addressed to the intended recipient at the address on the signature page of this Contract of Sale. Any address for notice may be changed by providing written notice of such change to the other party.

c. Attorneys' Fees. If either party shall be required to employ an attorney to enforce or defend the rights of such party hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees.

d. Integration. This Contract of Sale contains the complete agreement between the parties and cannot be varied except by the written agreement of the parties. The parties agree that there are no oral agreements, understandings, representations or warranties that are not expressly set forth herein.

e. Survival. Any portion of this Contract of Sale not otherwise consummated at the Closing will survive the Closing of this transaction as a continuing agreement by and between the parties.

f. Binding Effect. This Contract of Sale shall inure to the benefit of and bind the parties hereto and their respective heirs, representatives, successors and assigns. However, neither party may assign its interest in this Contract of Sale without first obtaining the written authorization of the other party.

g. No Broker. HUNTER'S BISMUTH and the City each represent and warrant that this transaction has been entered into without the intervention of any broker, and each agrees to indemnify and hold the other harmless from any claims by any person(s) that a commission or other remuneration is payable to such person by reason of that person having been hired or retained or the Property having been listed for sale with such person by the indemnifying party.

h. Multiple Counterparts. This Contract of Sale may be executed in one document, signed by all parties, or in separate documents, each binding on the party or parties who execute the same, which shall be counterparts thereof. A facsimile copy of a counterpart executed by a party shall be considered an original counterpart executed by such party. All of such counterparts, when executed by one or more parties, shall constitute one and the same instrument, and said counterparts may be combined to form a single instrument for filing purposes. No counterpart shall be binding on any party who has signed it until all of the parties have signed a counterpart.

i. Mutual Warranties and Representations. HUNTER'S BISMUTH, MDG, and the City warrant and represent to each other that:

i They have not assigned, pledged, or in any other manner whatsoever sold or transferred any right, title, interest or claim that they have or may have had in the Property, other than as expressly stated herein;

ii. They have authorized the person identified on their behalf below to execute this Contract of Sale; and

iii. Neither they nor their attorneys have knowledge of the existence of any liens or claims which have been filed or recorded by any person or entity against the Property.

HUNTER'S BISMUTH, LLC:

DATE: 11 December 2006 A.D.

BY: Gregory K. Taggart

GREGORY TAGGART, PRESIDENT
C/O WAYNE T. RIFE
THE LAW OFFICES OF WAYNE T. RIFE, P.C.
3205 EARL RUDDER FREEWAY, SOUTH
COLLEGE STATION, TEXAS 77845

CITY OF COLLEGE STATION:

DATE: _____

BY: _____

RON SILVIA, MAYOR
C/O CARLA ROBINSON
First **ASSISTANT CITY ATTORNEY**
1101 TEXAS AVENUE
COLLEGE STATION, TEXAS 77840

BEAVER CONSULTING CORP. D/B/A
MUNICIPAL DEVELOPMENT GROUP

DATE: 11 December 2006

BY: _____

LENWOOD S. ADAMS, MANAGING PRINCIPAL
C/O WAYNE T. RIFE
THE LAW OFFICES OF WAYNE T. RIFE, P.C.
3205 EARL RUDDER FREEWAY, SOUTH
COLLEGE STATION, TEXAS 77845

APPROVED:

DATE: _____

BY: _____

GLENN BROWN, CITY MANAGER

DATE: _____

BY: _____

JEFF KERSTEN, CHIEF FINANCIAL OFFICER

By: Carla A Robinson
Carla Robinson, 1st Assistant City Attorney

COMPILATION OF PARTS
FOR
NANTUCKET 20,000 GPD EXTENDED AERATION SEWAGE TREATMENT PLANT

PART	#	MODEL	REFERENCE
BLOWER (MOTOR INCL.)	2	SUTORBILT, MODEL 3MVF	SHEET 7/7, P. 4
INTAKE FILTER	1	UNIVERSAL, MODEL CCS-2	SHEET 7/7
INTAKE SILENCER	1	UNIVERSAL, MODEL URB 1 ½	SHEET 7/7
DISCHARGE SILENCER	1	UNIVERSAL, MODEL URB 1 ½	SHEET 7/7
CONTROL PANEL	1	NEMA 3R	SHEET 7/7
CONTROL PANEL	1	MFG. DUPLEX CONTROL PANEL, NEMA 3-STEEL ENCLOSURE	SHEET 5/7
PUMP	2	WEIL C-250214	SHEET 5/7, P. 2
AIR LIFT PUMP	1	SUPERNATANT 3" ADJUSTABLE	SHEET 3/7, P. 4
PUMP		HYPOCHLORINATOR WITH CHEMI-TECH SERIES 100, MODEL 030, CHEMICAL FEED PUMP	SHEET 3/7, P. 4
SETTLING TANK GEAR MOTOR	1		SHEET 2/7
AIR DIFFUSER ASSEMBLY	10	1"	SHEET 27
HYPOCHLORITE SOLUTION CONTAINER	1	30 GALLON	SHEET 7/7
SCUM PUMP	1		SHEET 37
LIFT STATION PUMP AND PIPING	1		
LIFT STATION ALARMS	1		
LIFT STATION ALUMINUM HATCH	1		
AERATION TANK WITH AIR DIFFUSERS	1		
CLARIFIER WITH SKIMMER AND SCUM REMOVAL KIT	1		
DETENTION TANK	1		
STEEL BAR SCREEN	1		
UNDERFLOW BAFFLE	1		
V-NOTCH WEIR	1		
RECTANGULAR WEIR	1		
AEROBIC DIGESTER WITH AIR DIFFUSERS	1		
SLUDGE RETURN AIR LIFTS	1		

EXHIBIT
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1

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BRAZOS §

That **NANTUCKET, LTD.**, a Texas limited partnership, acting by and through its general partner Homefinder Realty, Inc., and Phyllis Hobson, Individually, ("Grantors") for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **THE BEAVER CONSULTING CORP. D/B/A MUNICIPAL DEVELOPMENT GROUP** of the County of Brazos, and State of Texas, all of Grantors' right title and interest in and to the following described Easements, to wit:

EASEMENT ONE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.203 acre tract or parcel of land, being a 15' wide utility easement, and lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in Volume 752, Page 119 of the Official Records of Brazos County, Texas, said 15' wide utility easement and the 0.203 acre tract being more particularly described and shown by that Conveyance of Easement recorded in Volume 1735, Page 317 of the Official Records of Brazos County, Texas, which is **Exhibit "A"** attached hereto and made a part hereof for all purposes.

EASEMENT TWO: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Three" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT THREE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly

EXHIBIT
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described as "Tract Four" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FOUR: any and all easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Five" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FIVE: All that certain 15' Utility Easement (Vol. 1735, Page 1320) as established on that certain Resubdivision Plat of Lot 1, Block Thirteen – Phase II, Snug Harbor - Phase I; and Lot 1R, Block Thirteen, Nantucket Phase Two, as recorded in the Official Records of Brazos County, Texas at Volume 2189, Page 251, and being more particularly described on **Exhibit "C"** attached hereto and made a part hereof for all purposes.

EASEMENT SIX: All that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas at Volume 1567, Page 299, and being more particularly described on **Exhibit "D"** attached hereto and made a part hereof for all purposes.

EASEMENT SEVEN: All that certain 15' and the 20' Utility Easements as established on that certain Resubdivision Plat of the Remainder of Lot 1, Block 13, Nantucket Phase II, as recorded in the Official Records of Brazos County, Texas at Volume 2370, Page 63, and being more particularly described on **Exhibit "E"** attached hereto and made a part hereof for all purposes.

EASEMENT EIGHT: All that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket–Phase One which adjacent to, across, and providing service to the .0533 Acre Tract, the 0475 acre Tract and the 0.278 acre tract which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas at Volume 646, Page 799 and Volume 872, Paqe 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dates April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket–Phase One is more particularly described in **Exhibit "F"** attached hereto and made a part hereof for all purposes. The Category 1A, Condition III Land Title Boundary Survey is more particularly described in **Exhibit "G"** attached hereto and made a part hereof for all purposes.

EASEMENT NINE: All that certain 10' Existing Utility Easement (Volume 978, Page 483), and that certain 5' Existing Utility Easement (Volume 978, Page 483), and that 10' Existing Utility Easement (Volume , Page) and that .16 Acre Existing Common

Area and Public Utility Easement, as established on that certain Final Plat of Fairhaven Cove Subdivision, as recorded in the Official Records of Brazos County, Texas, at Volume 6020, Page 78, and being more particularly described on **Exhibit "H"** attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

2. Nantucket Ltd reserves and saves and excepts all of the oil, gas and other minerals in on and under the herein described real property; however, Grantors waives the right to use the surface of the subject property to develop such oil, gas, and other minerals.

3. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantors' predecessors in title together with any leases pertaining to such interest. TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantors does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, 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 warranty, when the claim is by, through, or under Grantors but not otherwise.

EXECUTED this the 30th day of June, 2004.

NANTUCKET, LTD., a Texas limited partnership

By: Phyllis Hobson, Pres.
Phyllis Hobson, President of Home Finder Realty, Inc.
General Partner of Nantucket, Ltd.

By: Phyllis Hobson
Phyllis Hobson, Individually

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this 30th day of June, 2004, by Phyllis Hobson, president of Homefinder Realty, Inc., the sole general partner of Nantucket Ltd., on behalf of said Corporation and Limited Partnership.

JENNIFER L. HELMCAMP
Notary Public, State of Texas
My Commission Expires
MAY 5, 2007

Jennifer L. Helmcamp
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this 30th day of June, 2004, by Phyllis Hobson, in her Individual Capacity.

JENNIFER L. HELMCAMP
Notary Public, State of Texas
My Commission Expires
MAY 5, 2007

Jennifer L. Helmcamp
Notary Public, State of Texas

EXHIBIT "A"

Doc 00862286 Bk OR Vol 6170 Pg 187

JDW/sm NANTUCKET.EST

FILED 514617

93 MAR -5 PM 4:39

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Now comes Nantucket, Ltd., a Texas Limited Partnership, acting by and through its General Partner, Home Finder Realty, Inc., Phyllis Jeanne Hobson, a single person, Rudolph J. Freund, Margaret C. Freund, Francis Cherian and Rany Cherian, and do hereby grant, sell, dedicate and convey to Nantucket, Ltd. an easement over and across that certain fifteen (15') foot strip of land described on Exhibit "A" attached hereto for use as a sewer easement, including but not limited to the right to install sewer lines over, through and across such property; provided, however all lines shall be buried beneath the surface of the property described on Exhibit "A" attached hereto. This sewer easement may be transferred and/or assigned by Nantucket, Ltd. to the City of College Station, Texas or any other public entity providing sewer or other utility service. At such time such easement is signed, title to such easement shall vest in Nantucket, Ltd. or its assigns; provided, however, Nantucket, Ltd. shall have the right and authority to assign such easement to any public entity providing utility service to Nantucket Subdivision.

The herein described easement includes the right of ingress and egress along such easement for the installation, repair and maintanance of sewer lines.

This document shall be binding upon the heirs, successors and assigns of the parties hereto.

Witness our hands this 1 day of March, 1993.

NANTUCKET, LTD., a Texas limited partnership

By: Home Finder Realty, Inc., General Partner

By: Phyllis Jeanne Hobson
PHYLLIS JEANNE HOBSON, President

ATTEST:

Colleen M. Goodrich
Assistant Secretary

Phyllis Jeanne Hobson
PHYLLIS JEANNE HOBSON

RUDOLPH J. FREUND

MARGARET C. FREUND

1

VOL 1735 PAGE 317

DW/M4 NANTUCKET.EST

Francis Cherian MD
FRANCIS CHERIAN

Rany Cherian MD
RANY CHERIAN

STATE OF TEXAS $
$
COUNTY OF BRAZOS $

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd., a Texas Limited Partnership, on behalf of said partnership.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS $
$
COUNTY OF BRAZOS $

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF ~~TEXAS~~ Florida $
$
COUNTY OF ~~BRAZOS~~ Duval $

This instrument was acknowledged before me on this the 4th day of March, 1993 by RUDOLPH J. FREUND.

PRESENTED TO ME A TEXAS
DRIVER'S LICENSE #05444922
EXPIRES 3-03-94

Janice Schabley
Notary Public, State of Texas
My Commission Expires: _____

OFFICIAL NOTARY SEAL
JANICE SCHABLEY
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC233641
MY COMMISSION EXP. OCT 9 1996

JW/ml NANTUCKET.EST

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by MARGARET C. FREUND.

Notary Public, State of Texas
My Commission Expires: _____

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by FRANCIS CHERIAN.

Notary Public, State of Texas
My Commission Expires: _____

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by RANY CHERIAN.

Notary Public, State of Texas
My Commission Expires: _____

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

EXHIBIT "A"
(Page 1 of 2)

METES AND BOUNDS DESCRIPTION
OF A
0.203 ACRE TRACT
(A 15' WIDE UTILITY EASEMENT)
OUT OF
LOT 1, BLOCK THIRTEEN
NANTUCKET - PHASE TWO
BRAZOS COUNTY, TEXAS

Metes and bounds description of all that certain 0.203 acre tract or parcel or land, being a 15' wide utility easement and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in VOLUME 752, PAGE 119 of the Official Records of Brazos County, Texas, said 0.203 acre tract being more particularly described as follows:

COMMENCING at the west corner of said Lot 1, lying in the northeast right-of-way of Harper's Ferry Drive, and being the beginning of a curve to the left.

THENCE in a southeasterly direction 143.18 feet along the arc of said curve (Curve data: central angle = 09° 13' 04", radius = 890.00 feet, tangent = 71.75 feet, the chord bears N 69° 32' 41" W - 143.03 feet) to a point for end of said curve.

THENCE S 74° 09' 13" E - 28.30 feet to a point for the beginning of a curve to the left.

THENCE in a northeasterly direction 25.71 feet along the arc of said curve (Curve data: central angle = 29° 26' 43", radius = 50.00 feet, tangent = 13.14 feet, the chord bears N 41° 00' 24" E - 25.41 feet) to a point for end of said curve and being the beginning of a curve to the right.

THENCE in a northeasterly direction 15.63 feet along the arc of said curve (Curve data: central angle = 07° 02' 56", radius = 127.01 feet, tangent = 7.82 feet, the chord bears N 29° 48' 21' E - 15.62 feet) to a point for end of said curve and being the PLACE OF BEGINNING.

THENCE N 03° 45' 03" E - 22.53 feet to a point for corner and being the beginning of a curve to the right.

THENCE in a northeasterly direction 31.16 feet along the arc of said curve (Curve data: central angle = 12° 47' 57", radius 139.52 feet, tangent = 15.65 feet, the chord bears N 47° 48' 09" E - 31.10 feet) to a point for end of said curve.

THENCE N 54° 12' 07" E - 66.75 feet to a point for beginning of a curve to the right.

THENCE northeasterly 92.67 feet along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 136.07 feet, tangent = 48.21 feet, the chord bears N 73° 42' 43" E - 90.89 feet) to a point for end of said curve, and being the beginning of a curve to the right.

THENCE in a southeasterly direction 282.51 feet along the arc of said curve

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See Survey Vol 5 1

EXHIBIT "A"
(Page 2 of 2)

(Curve data: central angle = 44° 41' 49", radius = 336.50 feet, tangent = 138.34 feet, the chord bears S 64° 25' 47" E - 255.90 feet) to a point for end of said curve and corner.

THENCE N 46° 19' 42" E - 122.34 feet to a point for corner in the southwest line of a variable width drainage easement as depicted by said plat.

THENCE S 48° 46' 53" E - 15.06 feet with said easement line to a point for corner.

THENCE S 46° 19' 42" W - 139.48 feet across said Lot 1 to a point for corner and being the beginning of a curve to the left.

THENCE in a northwesterly direction 266.24 feet along the arc of said curve (Curve data: central angle = 47° 26' 54", radius 321.50 feet, tangent = 141.29 feet, the chord bears N 63° 03' 14" W - 258.70 feet) to a point for end of said curve and being the beginning of a curve to the left.

THENCE in a southwesterly direction 82.45 along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 121.07 feet, tangent = 42.90 feet, the chord bears S 73° 42' 42" W - 80.87 feet) to a point for end of said curve.

THENCE S 54° 12' 07" W - 65.75 feet to a point for beginning of a curve to the left.

THENCE in a southwesterly direction 49.90 feet along the arc of said curve (Curve data: central angle = 22° 57' 52", radius = 124.51 feet, tangent = 25.29 feet, the chord bears S 42° 43' 11" W - 49.57 feet) to a point for end of said curve and corner.

THENCE N 03° 48' 03" E - 5.23 feet to the PLACE OF BEGINNING, and containing 0.203 acres of land.

NANTUCKET.BST

FRANCIS CHERIAN

RANY CHERIAN

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the ____ day of March, 1993 by PHYLLIS JEANNE HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd., a Texas Limited Partnership, on behalf of said partnership.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31 1993

Notary Public, State of Texas
My Commission Expires: ____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the ____ day of March, 1993 by PHYLLIS JEANNE HOBSON.

Notary Public, State of Texas
My Commission Expires: ____

STATE OF ~~TEXAS~~ Florida §
§
COUNTY OF ~~BRAZOS~~ Duval §

This instrument was acknowledged before me on this the 4th day of March, 1993 by RUDOLPH J. FREUND.

PRESENTED TO ME A TEXAS
DRIVER'S LICENSE #054414922
EXPIRES 3-03-94

Notary Public, State of Texas
My Commission Expires: ____

OFFICIAL NOTARY SEAL
JANICE SCHAIBLEY
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC293641

NANTUCKET EST

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by MARGARET C. FREUND.

JAY CON WATSON
COMMISSION EXPIRES
MAY 21, 1993

Notary Public, State of Texas
My Commission Expires:

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by FRANCIS CHERIAN.

Notary Public, State of Texas
My Commission Expires:

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by RANY CHERIAN.

Notary Public, State of Texas
My Commission Expires:

EXHIBIT "A"
(Page 1 of 2)

Doc 00862286 Bk OR Vol 6170 Pg 194

METES AND BOUNDS DESCRIPTION
OF A
0.203 ACRE TRACT
(A 15' WIDE UTILITY EASEMENT)
OUT OF
LOT 1, BLOCK THIRTEEN
NANTUCKET - PHASE TWO
BRAZOS COUNTY, TEXAS

Metes and bounds description of all that certain 0.203 acre tract or parcel or land, being a 15' wide utility easement and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in VOLUME 752, PAGE 119 of the Official Records of Brazos County, Texas, said 0.203 acre tract being more particularly described as follows:

COMMENCING at the west corner of said Lot 1, lying in the northeast right-of-way of Harper's Ferry Drive, and being the beginning of a curve to the left.

THENCE in a southeasterly direction 143.18 feet along the arc of said curve (Curve data: central angle = 02° 13' 04", radius = 890.00 feet, tangent = 71.75 feet, the chord bears N 69° 32' 41" W - 143.03 feet) to a point for end of said curve.

THENCE S 74° 09' 13" E - 28.30 feet to a point for the beginning of a curve to the left.

THENCE in a northeasterly direction 25.71 feet along the arc of said curve (Curve data: central angle = 29° 26' 43", radius = 50.00 feet, tangent = 13.14 feet, the chord bears N 41° 00' 14" E - 25.41 feet) to a point for end of said curve and being the beginning of a curve to the right.

THENCE in a northeasterly direction 15.63 feet along the arc of said curve (Curve data: central angle = 07° 02' 56", radius = 127.01 feet, tangent = 7.82 feet, the chord bears N 29° 48' 21' E - 15.62 feet) to a point for end of said curve and being the PLACE OF BEGINNING.

THENCE N 03° 45' 03" E - 22.53 feet to a point for corner and being the beginning of a curve to the right.

THENCE in a northeasterly direction 31.16 feet along the arc of said curve (Curve data: central angle = 12° 47' 57", radius 139.51 feet, tangent = 15.65 feet, the chord bears N 47° 48' 09" E - 31.10 feet) to a point for end of said curve.

THENCE N 54° 12' 07" E - 66.75 feet to a point for beginning of a curve to the right.

THENCE northeasterly 92.67 feet along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 136.07 feet, tangent = 48.21 feet, the chord bears N 73° 42' 43" E - 90.89 feet) to a point for end of said curve, and being the beginning of a curve to the right.

THENCE in a southeasterly direction 262.51 feet along the arc of said curve

VO. 1735- .320

Doc 00862286 Bk OR Vol 6170 Pg 195

00756524

EXHIBIT "B"

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BRAZOS §

That NANTUCKET, LTD., a Texas limited partnership, of the County of Brazos, and State of Texas for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto NANTUCKET PRESERVATION ASSOCIATION, INC. of the County of Brazos, and State of Texas, all of the following described real property in Brazos County, Texas, to-wit:

TRACT ONE: All that certain 36.12 acre tract or parcel of land, lying and being situated partly in the Samuel W. Robertson League, Abstract No. 202, and partly in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 36.12 acre tract being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes.

TRACT TWO: All that certain 0.28 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.28 acre tract being more particularly described on Exhibit "B" attached hereto and made a part hereof for all purposes.

TRACT THREE: All that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described on Exhibit "C" attached hereto and made a part hereof for all purposes.

TRACT FOUR: All that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described on Exhibit "D" attached hereto and made a part hereof for all purposes.

TRACT FIVE: All that ceratin 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas,

00756524

EXHIBIT "B"

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BRAZOS §

That NANTUCKET, LTD., a Texas limited partnership, of the County of Brazos, and State of Texas for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto NANTUCKET PRESERVATION ASSOCIATION, INC. of the County of Brazos, and State of Texas, all of the following described real property in Brazos County, Texas, to-wit:

TRACT ONE: All that certain 36.12 acre tract or parcel of land, lying and being situated partly in the Samuel W. Robertson League, Abstract No. 202, and partly in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 36.12 acre tract being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes.

TRACT TWO: All that certain 0.28 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.28 acre tract being more particularly described on Exhibit "B" attached hereto and made a part hereof for all purposes.

TRACT THREE: All that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described on Exhibit "C" attached hereto and made a part hereof for all purposes.

TRACT FOUR: All that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described on Exhibit "D" attached hereto and made a part hereof for all purposes.

TRACT FIVE: All that ceratin 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas,

0 4 3 3 4

said 0.18 acre tract being more particularly described on Exhibit "E" attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All valid and subsisting easements, restrictions, rights of way, conditions, exceptions and reservations and covenants of whatsoever nature of record, if any, and also to the zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

0 0 3 4 0

2. Reserved and there is hereby reserved and excepted from this conveyance and easement or easements for the purposes of laying, maintaining, repairing and removing sewer lines, water lines over and across Tract Two and Tract Three more particularly described as a 0.28 acre tract and a 0.18 acre tract on Exhibit "B" and "C" attached hereto.

3. Reserved and there is hereby reserved and excepted from this conveyance, an easement, including the right of ingress and egress for the purpose of operating a waster water and sewer disposal plant and related equipment and sewer lines on Tract Four and more particularly described as a 0.55 acre tract on Exhibit "D" attached hereto and incorporated herein; provided, however, the easement shall terminate ninety (90) days after the equipment for the waste water and sewer plant is removed from the 0.55 acre tract. However, the easement shall continue as to any sewer lines that have not been abandoned.

4. Reserved and there is hereby reserved and excepted from this conveyance an easement or easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across Tract Five more particularly described as a 0.18 acre tract of land described on Exhibit "E" attached hereto.

5. Reserved and there is reserved an easement on the herein described property for the piling and encroachment of the deck of the building located on the 0.533 acre tract of land described in a deed from Joseph A. Falcone to R. Mark Sykes and Laurie E. Sykes such deed being recorded in volume 3439, Page 199, Official Records of Brazos County, Texas, with such easement including the right to allow the existing encroachment to remain in place and the right to repair or replace the existing improvements, provided such improvements do not enlarge the existing encroachment.

6. The herein described 36.12 acre tract is hereby restricted for use as a lake, dam, drainage facility, and recreation area and may not be used for any other purpose. This restriction may be enforced by the Grantor or any member of the Grantee.

7. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantor's predecessors in title together with any leases pertaining to such interest.

SAVE AND EXCEPT, and there is hereby reserved unto Grantor, its heirs and assigns, any and all of the oil, gas and other minerals in and under and that may be produced from the herein described real property, **PROVIDED HOWEVER,** as to the mineral interest owned by the Grantor except as may be provided in instruments currently of record, there shall be no right of ingress or egress to the surface of the premises at any time for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, or for the purposes of using such property for the storage or transportation of oil, gas and other minerals.

0433 4

Nothing herein shall prohibit the Grantor or Grantor's successors and assigns from pooling or permitting slant drilling under said premises to develop and produce the oil, gas and minerals owned by Grantor and Grantor's successors and assigns. Grantor makes no representation as to any oil, gas and minerals not owned by Grantor.

0034 1

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, 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 warranty, when the claim is by, through, or under Grantor but not otherwise.

EXECUTED this the 25th day of September, 2001.

Attest:

Name: Colleen M. Waller
Title: Secretary

NANTUCKET, LTD., a Texas limited partnership

By: HOME FINDER REALTY, INC., its general partner

By: PHYLLIS JEANNE HOBSON, President

APPROVED AND ACCEPTED:

NANTUCKET PRESERVATION ASSOCIATION, INC.

By:
Name: DAVID Wm. REED
President

By:
Name: Pamela Rosynek
Secretary

0433342

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 25th day of September, 2001, by PHYLLIS JEANNE HOBSON, president of HOME FINDER REALTY, INC., general partner of NANTUCKET, LTD., a Texas limited partnership on behalf of said partnership.

SANDRA S. WARD
Notary Public, State of Texas
My Commission Expires
SEPTEMBER 20, 2003

Sandra S. Ward
Notary Public, State of Texas
My commission expires: 9/20/03

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 28th day of September, 2001, by David Wm. Reed, president of NANTUCKET PRESERVATION ASSOCIATION, INC., a Texas corporation on behalf of said corporation.

Abby Lee Foreman
Notary Public
State of Texas
My Commission Expires
August 25, 2004

Abby Lee Foreman
Notary Public, State of Texas
My commission expires: 8-25-04

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 1st day of ~~September~~ October, 2001, by Pamela Rosynek, secretary of NANTUCKET PRESERVATION ASSOCIATION, INC., a Texas corporation on behalf of said corporation.

Abby Lee Foreman
Notary Public
State of Texas
My Commission Expires
August 25, 2004

Abby Lee Foreman
Notary Public, State of Texas
My commission expires: 8-25-04

Mailing Address of Grantee(s):
4103 S. Texas Avenue
Suite 207
Bryan, TX 77802

EXHIBIT "A"

Metes and bounds description of all that certain 36.12 acre tract or parcel of land, lying and being situated partly in the Samuel W. Robertson League, Abstract No. 202, and partly in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 36.12 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found marking the west corner of Snug Harbor - Phase I, as depicted by plat recorded in VOLUME 2189 PAGE 251 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Harpers Ferry Road and being the beginning of a curve to the right;

THENCE in a northwesterly direction 271.70 feet along the arc of said curve (Curve Data: central angle = 17° 29' 30", radius = 890.00 feet, tangent = 136.92 feet, the chord bears N 56° 11' 24" W – 270.65 feet) to a ½" iron rod found for end of said curve;

THENCE N 47° 26' 39" W – 125.00 feet with said right-of-way line to a ½" iron rod found for corner, being the extreme south corner of Pelican's Point Cove subdivision, as depicted by plat recorded in VOLUME 1075 PAGE 378 of said Official Records, and being the beginning of a curve to the right;

THENCE in a northwesterly direction 47.12 feet along the arc of said curve (Curve data: central angle = 90° 00' 00", radius = 30.00 feet, tangent = 30.00 feet, the chord bears N 02° 26' 39" W – 42.43 feet) to a ½" iron rod found for end of said curve;

THENCE N 42° 33' 21" E – 40.85 feet with the southeast right-of-way line of Pelican's Point Cove street to a ½" iron rod found for the beginning of a curve to the left;

THENCE in a northeasterly direction 198.84 feet along the arc of said curve (Curve data: central angle = 37° 18' 28", radius = 305.37 feet, tangent = 103.09 feet the chord bears N 23° 54' 07" E – 195.35 feet) to a ½" iron rod found for end of said curve and corner, and being the southwest corner of Lot 7, Pelican's Point Cove subdivision;

THENCE N 83° 59' 01" E – 90.97 feet with the southeast line of said Lot 7 to a ½' iron rod found for angle point;

THENCE N 86° 42' 06" E – 113.84 feet with said line to a ½" iron rod found for angle point;

THENCE N 87° 24' 56" E – 221.54 feet with said line to a ½" iron rod found for corner;

THENCE N 05° 18' 32" E – 413.09 feet with the east line of said Pelican's Point Cove subdivision to a ½" iron rod found for angle point;

THENCE N 23° 29' 14" W – 177.50 feet with said line to a ½" iron rod found for corner and being the southwest corner of Lot 34, Block One, Nantucket Phase One, as depicted by plat recorded in VOLUME 575 PAGE 291 of the Deed Records of Brazos County, Texas;

THENCE N 80° 39' 18" E – 280.39 feet with the southeast line of said Nantucket, Phase One, to a ½" iron rod found for angle point;

THENCE N 72° 35' 17" E – 277.29 feet with said line to a ½" iron rod found for corner, and being the southeast corner of Lot 6, Block Five, Nantucket Phase One;

THENCE S 23° 13' 18" E – 12.00 feet with the projected common line of said Lot 6 and Lot 4, Block Five, to a point for corner in the waters of Nantucket Lake;

THENCE through the waters of Nantucket Lake for the following calls:

N 57° 32' 33" E – 69.70 feet
N 54° 24' 49" E – 107.80 feet
N 46° 46' 33" E – 35.98 feet
N 31° 27' 37" E – 50.61 feet
N 16° 48' 07" E – 58.66 feet
N 05° 18' 44" E – 89.03 feet
N 18° 04' 36" W – 33.00 feet
N 51° 01' 23" W – 36.19 feet

Doc 00862286 Bk OR 6170 Vol 201 Pg 0434344

THENCE N 04° 05' 25" W – 8.31 feet through said lake to a point for corner in the southwest line of Lot 3;

THENCE S 66° 42' 26" E – 112.66 feet with said line to a ½" iron rod found for angle point;

THENCE S 09° 31' 07" E – 129.89 feet to a ½" iron rod found for corner;

THENCE S 83° 14' 31" E – 44.19 feet with said line to a ½" iron rod found for corner;

THENCE N 53° 38' 52" E – 103.13 feet with said line to a ½" iron rod found for corner;

THENCE N 19° 28' 21" E – 49.69 feet with said line to a ½" iron rod found for corner;

THENCE N 80° 06' 14" E – 170.65 feet to a ½" iron rod found for corner in the southwest line of Lot 1;

THENCE S 38° 35' 19" E – 83.47 feet with said line to a ½" iron rod found for corner;

THENCE N 70° 34' 30" E – 218.57 feet with said line to a ½" iron rod found for corner in the southwest right-of-way line of Texas State Highway No. 6, as monumented on the ground;

THENCE S 32° 52' 23" E – 49.35 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE S 38° 39' 14" E – 697.13 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE S 41° 24' 19" E – 13.38 feet with said right-of-way line to a ½" iron rod set for corner;

THENCE S 48° 35' 41" W – 198.61 feet across said remainder tract to a ½" iron rod found for corner and being the north corner of Lot 3, Block Thirteen, Nantucket, Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of said Official Records;

THENCE S 69° 08' 15" W – 150.75 feet with the northwest line of said Block Thirteen to a ½" iron rod found for angle point;

THENCE S 83° 07' 43" W – 110.00 feet with said line to a ½" iron rod found for angle point;

THENCE S 76° 09' 38" W – 129.49 feet with said line to a ½" iron rod found for angle point; and being the common north corner of Lot 3 and the remainder of Lot 2, Block Thirteen;

THENCE S 75° 37' 41" W – 30.00 feet with the north line of the remainder of said Lot 2 to a ½" iron rod found for corner, and being the northeast corner of Kensail Point subdivision, as depicted by plat recorded in VOLUME 1567 PAGE 299 of said Official Records;

THENCE along the north boundary of Lot 4 and Lot 3, Kensail Point, for the following calls:

S 75° 37' 41" W – 113.65 feet
N 81° 16' 47" W – 31.92 feet
N 22° 55' 09" W – 12.45 feet
N 26° 50' 42" E – 55.40 feet
N 68° 32' 26" E – 32.95 feet
N 25° 35' 20" E – 65.62 feet
N 48° 19' 10" W – 87.92 feet
S 64° 29' 38" W – 64.19 feet
S 10° 21' 51" W – 30.54 feet
S 11° 52' 03" E – 61.45 feet
S 14° 03' 50" W – 35.78 feet
S 15° 16' 45" W – 13.47 feet
S 26° 13' 38" W – 24.02 feet
S 64° 31' 03" W – 211.94 feet
N 65° 01' 33" W – 44.80 feet
S 89° 58' 14" W – 46.69 feet
S 68° 13' 29" W – 41.78 feet
S 30° 26' 46" W – 47.15 feet
S 04° 15' 59" W – 104.47 feet

THENCE S 14° 46' 30" W – 28.95 feet with said northwest line to a ½" iron rod found for corner, and being the north corner Lot 5, Block One, Snug Harbor Phase II, as depicted by plat recorded in VOLUME 2370 PAGE 63, of said Official Records;

THENCE S 73° 12' 04" W – 281.10 feet through said lake with said line to a point for angle point;

THENCE S 23° 35' 11" W – 191.44 feet with said line to the PLACE OF BEGINNING and containing 36.12 acres of land.

THENCE S 55° 41' 18" W – 109.36 feet with the north line of said Snug Harbor Phase II to a ½' iron rod found for angle point;

THENCE S 72° 17' 30" W – 90.36 feet with said line to a ½" iron rod found for angle point;

THENCE S 75° 54' 27" W – 176.16 feet with said line to a point for corner in the waters of a creek, and lying in the northeast line of said Snug Harbor, Phase One;

THENCE N 13° 21' 18" W – 20.00 feet with said line to a point found for corner in the waters of Nantucket Lake;

THENCE S 76° 36' 11" W – 276.23 feet through said waters with the northwest line of said Snug Harbor, Phase One line to a point for angle point;

000025-f.58-cd1(2910)

EXHIBIT "B"

Metes and bounds description of all that certain 0.28 acre tract or parcel of land, being a 20'wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.28 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Nantucket Drive;

THENCE N 48° 35' 41" E – 178.16 feet with southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 41° 24' 19" W – 13.86 feet across said tract to a point for angle point;

THENCE N 38° 39' 14" W – 195.64 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 20.00 feet across said tract to a point for corner in the southwest line of Texas State Highway No. 6;

THENCE S 38° 39' 14" E – 195.16 feet with said right-of-way line to a point for angle point;

THENCE S 41° 24' 19" E – 201.13 feet with said line to a point for angle point;

THENCE S 38° 35' 10" E – 188.37 feet with said line to a point for beginning of a curve to the right;

THENCE in a southwesterly direction 34.24 feet along the arc of said curve (Curve data: central angle = 78° 27' 17", radius = 25.00 feet, tangent = 20.41 feet, the chord bears S 00° 38' 44" W – 31.62 feet) to a point for end of said curve and corner;

THENCE N 38° 35' 10" W – 212.37 feet across said 595.83 acre tract to a point for angle point;

THENCE N 41° 24' 19" W – 187.26 feet across said tract to the PLACE OF BEGINNING and containing 0.28 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

STATE OF TEXAS REGISTERED A. W. KESSLER 1852 PROFESSIONAL LAND SURVEYOR

Prepared by: 7-30-2001
A. W. Kessler
R.P.L.S. No. 1852

000025-f.62-cd1(2910)

0 4 3 3 4 0 0 3 4 6

EXHIBIT "C"

Metes and bounds description of all that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas;

THENCE N 48° 35' 41" E – 65.00 feet with the southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 36° 49' 40" W – 387.95 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 20.01 feet across said tract to a point for corner;

THENCE S 36° 49' 40" E – 386.99 feet across said 595.83 acre tract to a point for corner;

THENCE S 48° 35' 41" W – 20.06 feet with said southeast line to the PLACE OF BEGINNING and containing 0.18 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: AW Kessler 7-27-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS
REGISTERED
A. W. KESSLER
1852
PROFESSIONAL
LAND SURVEYOR

000025-f.63-cd1(2910)

EXHIBIT "D"

Metes and bounds description of all that certain 0.55 acre tract or parcel of land, being a 140'x170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Nantucket Drive;

THENCE N 48° 35' 41" E – 198.16 feet across said 595.83 acre tract with the southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and lying in the southwest right-of-way line of Texas State Highway No.6, as monumented on the ground;

THENCE N 41° 24' 19" W – 13.38 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE N 38° 39' 14" W – 368.00 feet with said right-of-way line to a point for corner, and being the PLACE OF BEGINNING;

THENCE S 51° 20' 46" W – 140.00 feet across said proposed 36.12 acre tract to a point for corner;

THENCE N 38° 39' 14" W – 170.00 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 140.00 feet across said tract to a point for corner in said right-of-way line;

THENCE S 38° 39' 14" E – 170.00 feet with said right-of-way line to the PLACE OF BEGINNING and containing 0.55 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: A W Kessler 7-27-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS REGISTERED A. W. KESSLER 1852 PROFESSIONAL LAND SURVEYOR

000025-f.61-cd1(2910)

EXHIBIT "E"

Metes and bounds description of all that certain 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the south corner of Lot 1, Block Five, Nantucket Phase One, as depicted by plat recorded in VOLUME 575 PAGE 291 of the Deed Records of Brazos County, Texas;

THENCE N 70° 34' 30" E – 8.51 feet with the southeast line of the said lot to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 70° 34' 30" E – 22.06 feet with said line to a point for corner;

THENCE S 44° 23' 04" E – 395.99 feet across the proposed 36.12 acre Nantucket Lake Dedication tract to a point for corner;

THENCE S 45° 36' 56" W – 20.00 feet across said tract to a point for corner;

THENCE N 44° 23' 04" W – 405.30 feet across said tract to the PLACE OF BEGINNING and containing 0.18 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: AW Kessler 7-30-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS REGISTERED A. W. KESSLER 1852 PROFESSIONAL LAND SURVEYOR

Filed for Record in:
BRAZOS COUNTY
On: Oct 03,2001 at 03:41P
As a
Recordings
Document Number: 00756524
Amount 26.00
Receipt Number - 180990
By,
A development person

000025-f.64-cd1(2910)

STATE OF TEXAS COUNTY OF
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of:
BRAZOS COUNTY
as stamped hereon by me.

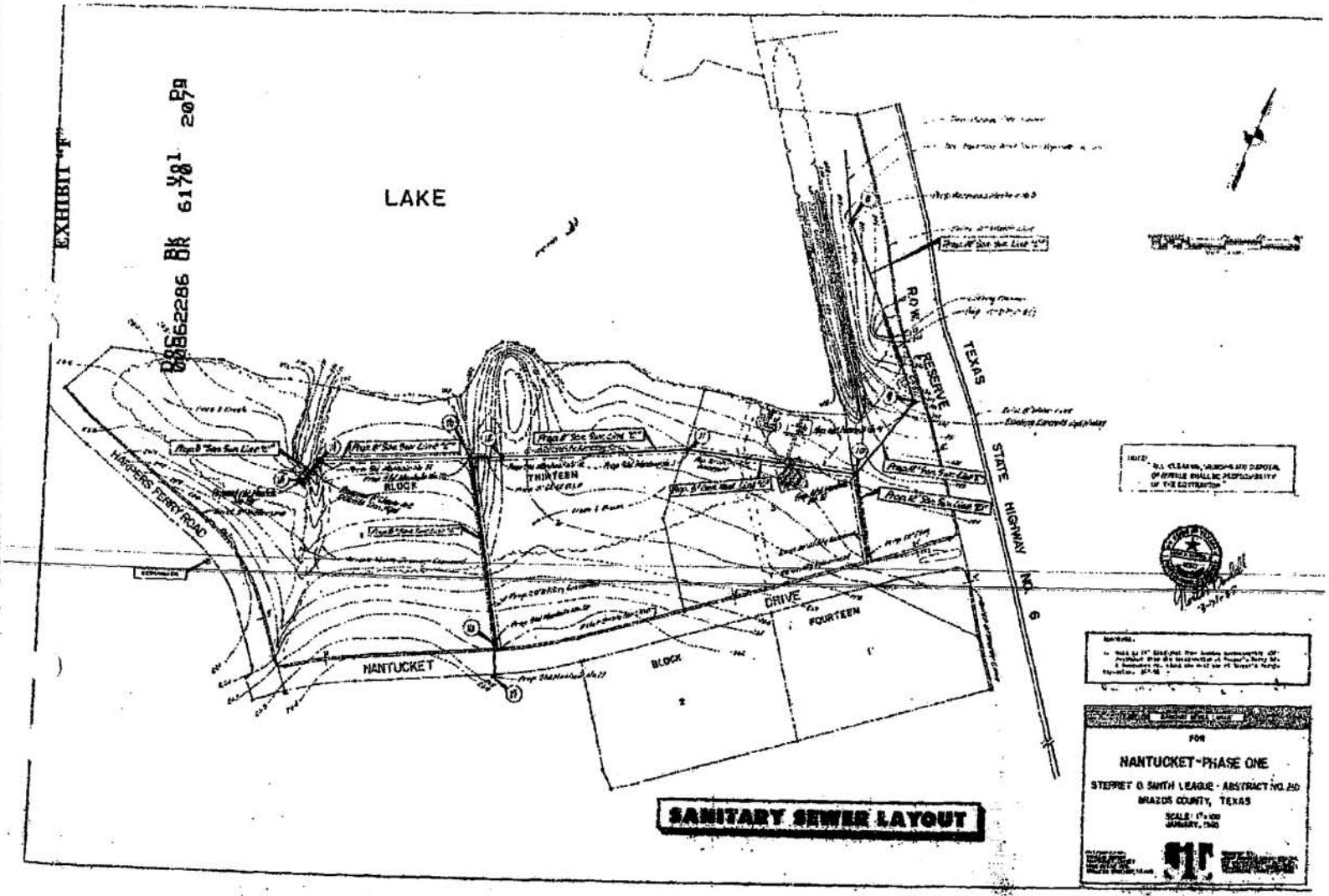
Oct 03,2001

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

EXHIBIT "F"

BK 6181 PG 207

00862286



SANITARY SEWER LAYOUT

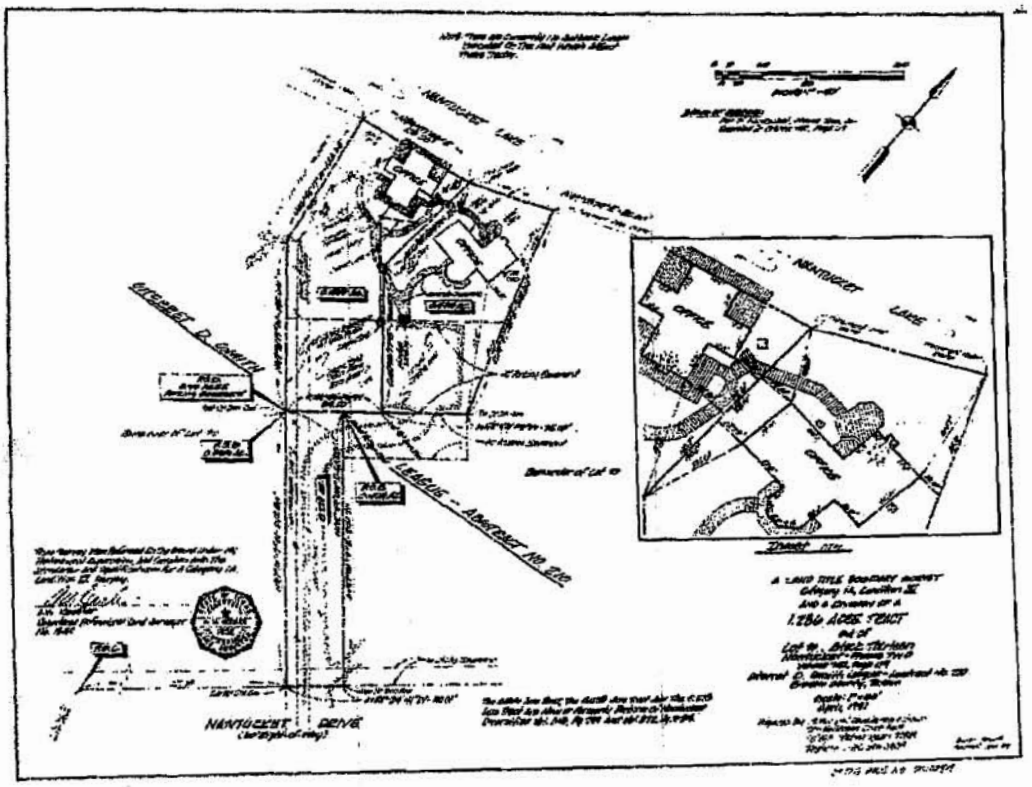

NANTUCKET LANE
NANTUCKET DRIVE
(variable width)
LEAGUE - ABSTRACT NO. 220
A LAND TITLE SURVEY MADE
1.286 ACRE TRACT

EXHIBIT "C"

Doc 62286 BK 61781 Page

NOTE: BASIS OF BEARING FINAL PLAT NANTUCKET PHASE I AS RECORDED IN VOLUME 573, PAGE 291.

NOTE: NO BOUNDARY SURVEY IS MADE.

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTIONS IN VOLUME 672, PAGE 299 AND ALSO RECORDED IN VOLUME 1282, PAGE 68.
MINIMUM FINISH FLOOR = 256.50.

NANTUCKET LAKE

LOT 1R
7.405 ACRE
REMAINDER

LOT 1
0.83AC.

LOT 2
1.59 AC.

LOT 3
1.74 AC.

LOT 4
2.00AC.

BLOCK ONE

ROBERTSON LEAGUE A-210

SMITH LEAGUE

SAMUEL W. STERNET D

HARPERS FERRY ROAD
(60' R.O.W.)

NANTUCKET DRIVE
(60' R.O.W.)

RESUBDIVISION

ORIGINAL PLAT

Volume 752, PAGE 119

BLOCK THIRTEEN

NANTUCKET HARBOR

HARPERS FERRY ROAD

LOT 1R

REMAINDER OF LOT 1 BLOCK THIRTEEN NANTUCKET PHASE II

NOW OR FORMERLY NANTUCKET, LTD. VOL.551, PG.198

7.405 ACRE REMAINDER

IMPORTANT:
NOTE: THE CALLS FOR BEARING, DISTANCE AND MONUMENT OF LOT 1R ARE IDENTICAL TO THOSE OF LOT 1 OF THE ORIGINAL PLAT FROM MATCH POINT "A" CLOCKWISE TO MATCH POINT "B". THE ONLY CHANGE IS FROM MATCH POINT "B" NORTHWESTERLY TO MATCH POINT "A" ALONG THE COMMON LINE WITH SNUG HARBOR, PHASE I, AS DEPICTED.

FILED

562032

SUBDIVISION LOCATION

VICINITY MAP

Calls along Bulkhead

S 22° 30' 11" W - 24.15	1
N 84° 05' 14" E - 5.45	2
S 05° 19' 14" E - 22.72	3
S 71° 32' 18" E - 36.44	4
S 86° 32' 18" E - 30.07	5
S 86° 32' 18" E - 28.03	6
S 86° 32' 18" E - 3.61	7
S 86° 32' 18" W - 18.16	8
S 86° 32' 18" E - 13.24	9
S 86° 32' 18" E - 13.22	10
S 86° 32' 18" E - 24.37	11
S 86° 32' 18" E - 24.28	12
S 86° 32' 18" E - 24.28	13
S 86° 32' 18" E - 28.26	14
S 86° 32' 18" E - 28.06	15
S 86° 32' 18" E - 18.98	16
S 86° 32' 18" E - 13.79	17
S 86° 32' 18" E - 17.47	18
S 86° 32' 18" E - 19.38	19
S 86° 32' 18" E - 37.94	20
S 86° 32' 18" E - 14.44	21
S 86° 32' 18" E - 42.21	22
S 86° 32' 18" E - 43.23	23
S 86° 32' 18" E - 14.47	24
S 86° 32' 18" E - 3.13	25
S 86° 32' 18" E - 50.82	26
S 12° 32' 18" E - 46.11	27
S 12° 32' 18" W - 13.48	28
S 12° 32' 18" W - 11.91	29
S 77° 32' 18" E - 16.38	30
S 12° 32' 18" E - 17.92	31

CERTIFICATE OF SURVEYOR

STATE OF TEXAS
COUNTY OF BRAZOS

A.W. FRESKER
REGISTERED PROFESSIONAL LAND SURVEYOR
1952

LOT 1, BLOCK THIRTEEN - PHASE II
VOLUME 752, PAGE 119
"SNUG HARBOR" PHASE I
8.102 ACRES
7.405 ACRES
LOT 1R, BLOCK THIRTEEN, NANTUCKET PHASE TWO
STERNET D. SMITH LEAGUE, A-210
SAMUEL W. ROBERTSON LEAGUE, A-210
BRAZOS COUNTY, TEXAS

VOL. 2189 page 251

00862286 OR 6178 210

EXHIBIT "D"

PMF (PROBABLE MAXIMUM FLOOD) ESTABLISHED BY DAM & FLOODPLAIN SAFETY SECTION, TEXAS WATER COMMISSION, JULY 1993, ELEVATION = 255.96

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTION IN VOLUME 571, PAGE 639 AND ALSO RECORDED IN VOLUME 1262, PAGE 59. MINIMUM FINISH FLOOR = 258.50

ALL ELEVATIONS ARE MEAN SEA LEVEL REFERRED TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (USGS).

SCALE IN FEET

LAKE

BLOCK THIRTEEN

LOT 1

LOT 2

LOT 3

NANTUCKET DRIVE

ORIGINAL PLAT SCALE: 1"=100'

VOLUME 752, PAGE 119

LOT 1 BLOCK THIRTEEN

LOT 2 1.02 ACRES

LOT 3 2.65 ACRES

LOT 4 1.64 ACRES

LOT 5 1.04 ACRES

LOT 6 1.03 ACRES

LOT 1 1.00 ACRES

BALLYLOUGH LANE

NOW OR FORMERLY NANTUCKET, LTD. VOLUME 331, PAGE 390

LOT 3 BLOCK THIRTEEN

NANTUCKET PHASE TWO

LOT 2 BLOCK FOURTEEN

NANTUCKET PHASE TWO

NANTUCKET DRIVE EXISTING 60' R.O.W.

FUTURE STREET 70' R.O.W.

REPLAT SCALE: 1"=50'

FILED

92 AUG -7 (AM) 8:23

497490

A FINAL PLAT OF

KENSAIL POINT

9.13 ACRES

BEING A RESUBDIVISION OF A PORTION OF LOT 2, BLOCK THIRTEEN, NANTUCKET PHASE II

VOLUME 752, PAGE 119

AND A

0.35 ACRE PORTION OF A 595.85 ACRE TRACT

VOLUME 331, PAGE 390

STERRETT B. ZIMITH LEAGUE, ABSTRACT NO. 210

BRAZOS COUNTY, TEXAS

DECEMBER 1991

SCALE: 1"=50'

PREPARED FOR: GLEN CARTER P O BOX 10313 COLLEGE STATION, TEXAS 77840 693-6800

PREPARED BY: MUNICIPAL DEVELOPMENT GROUP 303 HOLLEMAN DRIVE EAST COLLEGE STATION, TEXAS 77840 693-9338

CERTIFICATE OF APPROVAL:

"This subdivision plat was duly approved by the Commissioners Court of Brazos County, Texas, on the First Tuesday each resolution on the 4th day of July, 1992."

Signed this the 4th day of August 1992.

County Judge Brazos County, Texas

Vol. 1547 Pg. 299

EXHIBIT "E"

BK 6178 PG 211

NOTE: IN ADDITION TO OTHER EASEMENTS WHICH MAY BE SHOWN OR SPECIFIED THE FOLLOWING EASEMENTS ARE ALSO GRANTED:
1.) A TEN (10) FOOT WIDE UTILITY EASEMENT ON EACH SIDE OF ANY AND ALL LOT LINES SHOWN ON THE PLAT AND ON EACH SIDE OF ANY AND ALL LOT LINES WHICH MAY BE ESTABLISHED IN THE FUTURE.

2.) A FIVE (5) FOOT WIDE ANCHOR AND GUY EASEMENT EXTENDING TWENTY (20) FEET BEYOND ANY SPECIFIED UTILITY EASEMENTS WHERE AND WHEN NECESSARY FOR GUYS AND ANCHORS REQUIRED IN SUPPORTING OVERHEAD UTILITY LINES.

3.) ALL LOTS ALONG THE ROAD FRONTAGE HAVE A SIXTEEN (16) FOOT UTILITY EASEMENT.

4.) ALL DISTANCES SHOWN ON CURVES ARE CHORD DISTANCES.

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTIONS IN VOLUME 572, PAGE 638 AND ALSO RECORDED IN VOL. 1382, PG. 50
MINIMUM FINISH FLOOR = 256.50.

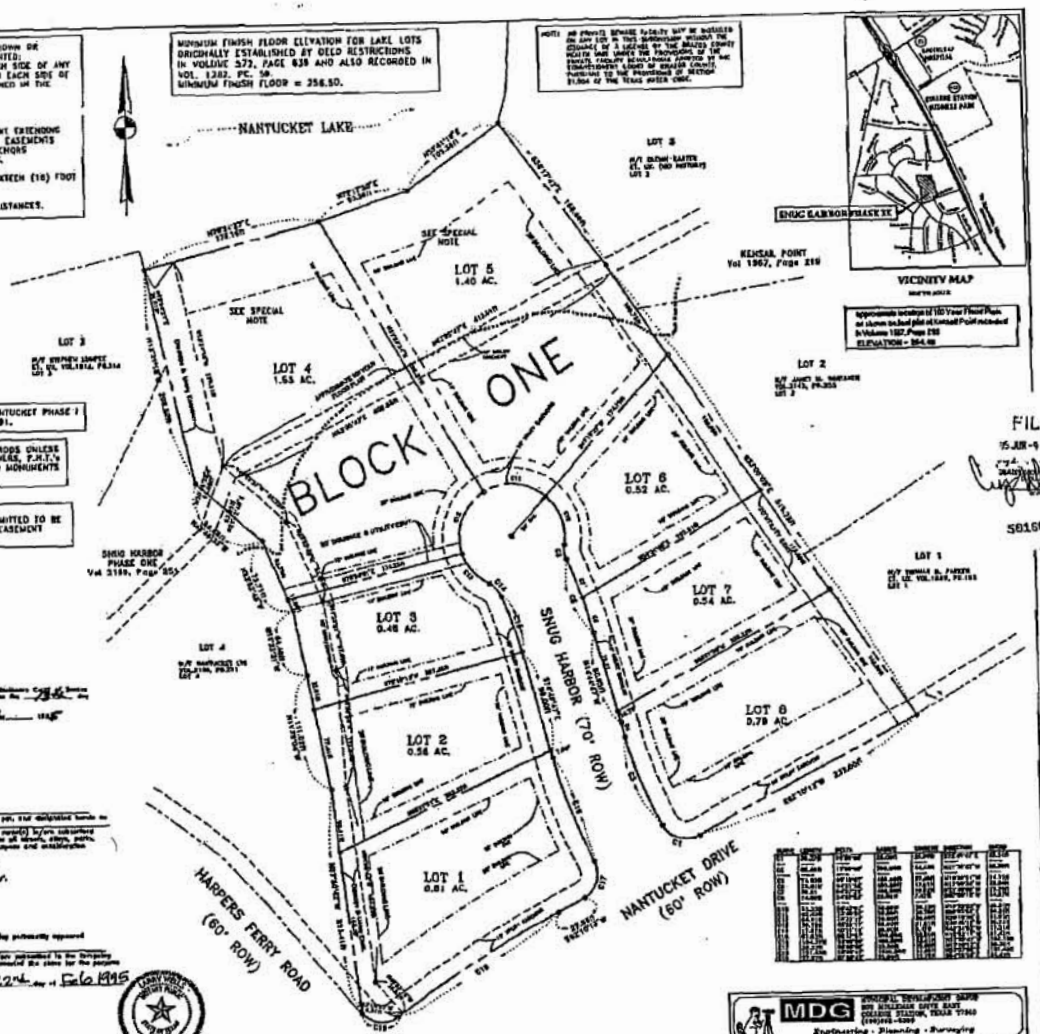
NOTE: BASIS OF BEARING FOR THIS PLAT NANTUCKET PHASE I AS RECORDED IN VOL. 578, PG. 391.

NOTE: ALL MONUMENTS ARE 1/2" IRON RODS UNLESS OTHERWISE NOTED. ALL LOT CORNERS, T.P.I.'s & P.U.E.'s ARE MONUMENTED. NO MONUMENTS SET IN WATER.

SPECIAL NOTE:
NO DWELLING OF ANY TYPE SHALL BE PERMITTED TO BE CONSTRUCTED NORTH OF THE 12' UTILITY EASEMENT DEPICTED CROSSING LOTS 4 AND 5.

ORIGINAL PLAT

SCALE: 1" = 100' VOL. 2189 PG. 251



RESUBDIVISION

SCALE: 1" = 50'

Rev.	Date	By	Comment

MDG
Engineering · Planning · Surveying

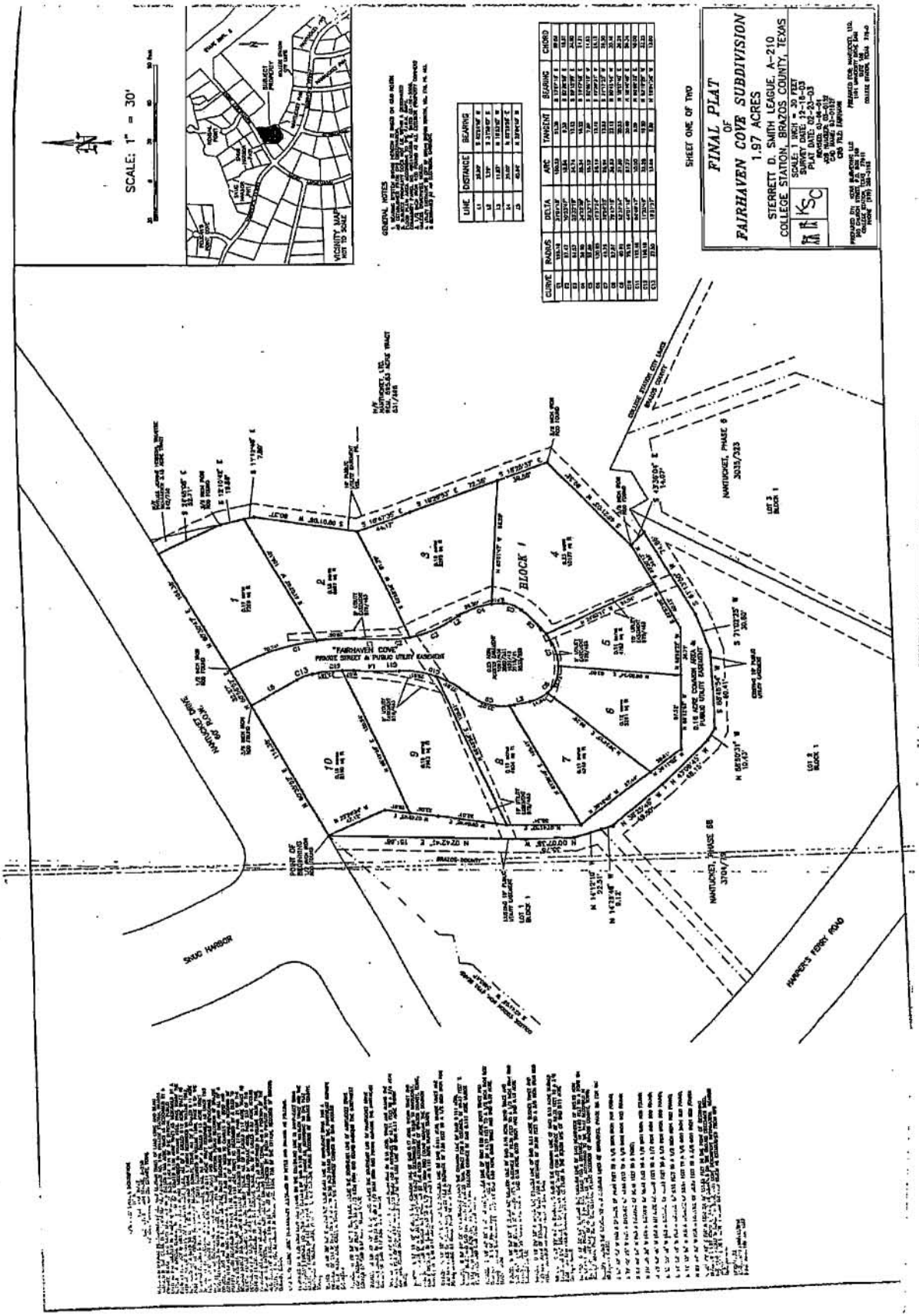
SNUG HARBOR – PHASE II
A RESUBDIVISION OF
REMAINDER OF LOT 1, BLOCK 13
NANTUCKET PHASE II
VOL. 2189, PAGE 251
STERRET D. SMITH LEAGUE, A-210
COLLEGE STATION, BRAZOS COUNTY, TEXAS

M.D.G. No.

FILED:
95 JUN -9 PM 4:19
501604

Vol. 2370 Pg. 63

EXHIBIT "H"


SCALE: 1" = 30'
VICINITY MAP
NOT TO SCALE
GENERAL NOTES
LINE DISTANCE BEARING
CURVE RADIUS DELTA ARC TANGENT BEARING CHORD
SHEET ONE OF TWO
FINAL PLAT
OF
FAIRHAVEN COVE SUBDIVISION
1.97 ACRES
STERRETT D. SMITH LEAGUE, A-210
COLLEGE STATION, BRAZOS COUNTY, TEXAS
SCALE: 1" = 30'
SURVEY DATE: 12-11-03
PLAT DATE: 02-23-03
REVISED: 01-06-04
REVISED: 02-23-04
FDB: PAGE: 83-01/07
CRD FILE: FAIRHAVEN
PREPARED FOR: NORTHCREST, LTD.
1000 WOODCREST DRIVE, SUITE 100
COLLEGE STATION, TEXAS 77845
PHONE: (979) 693-1000
PREPARED BY: KOCH & SCHOCHT, LLC
1000 WOODCREST DRIVE, SUITE 100
COLLEGE STATION, TEXAS 77845
PHONE: (979) 693-1000
BLOCK 1
"FAIRHAVEN COVE"
PRIVATE STREET & PUBLIC UTILITY EASEMENT
NANTUCKET DRIVE
SAND HARBOR
HARPER'S FERRY ROAD
NANTUCKET, PHASE 6
NANTUCKET, PHASE 8B
BRAZOS COUNTY
COLLEGE STATION CITY LIMITS
POINT OF BEGINNING

Doc 00086 Bk 06 Vol 6170 OR Pg 213

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) JOYCE THORN owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

Joyce Thorn

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared JOYCE THORN known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 21st day of March, 2004.

Carol Hess
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) [illegible] owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

[illegible]
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 17th day of March, 2004.

Cynthia Ann Stead
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) OLIN PADEN owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

Olin Paden
Olin Paden

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared OLIN PADEN known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 17th day of March, 2004.

[illegible]
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) [illegible] owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

[illegible]
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 29th day of March, 2004.

Carol A. Cooley
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) CHARLES H. SILENCE owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

Charles H. Silence
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 17th day of March, 2004.

[illegible]
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) [illegible] owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

[illegible]
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 17th day of April, 2004.

[illegible]
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) David Goodwin owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

David Goodwin
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 17th day of March, 2004.

Cynthia Ann Stead
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Pat Williams owner(s) and developer(s) of the land shown on this plat, and designated herein as lot 5, block 1, Fairhaven Cove, in the City of College Station, Texas, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements, and public place thereon shown for the purpose and consideration therein expressed.

[illegible]
[illegible]

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared [illegible] known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the purpose and consideration therein expressed.

Given under my hand and seal on this 21st day of April, 2004.

[illegible]
Notary Public, Brazos County, Texas

Doc 00054129 Bk OR Vol 6425 Pg 78

Filed for Record in
BRAZOS COUNTY

On May 05,2004 At 01:32P

By
Field

Personal Bonders 00031/29
Record 26.00
Electrical Recorder - 21.00
By
File Number

STATE OF TEXAS
COUNTY OF BRAZOS

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of:
BRAZOS COUNTY
as stamped hereon by me.

May 05, 2004

[illegible]
[illegible]

CERTIFICATE OF CITY ENGINEER

I, [illegible] City Engineer of the City of College Station, Texas, hereby certify that the subdivision plat contained in the application of the Day of [illegible] 2004 is in conformance with the ordinances of the City of College Station.

[illegible]
City Engineer

CERTIFICATE OF PLANNING AND ZONING COMMISSION

I, Scott Snodgrass, Chairman of the Planning and Zoning Commission of the City of College Station, hereby certify that this plat was approved by the Commission on the 15th day of April, 2004.

[illegible]

CERTIFICATE OF THE COUNTY CLERK

STATE OF TEXAS

I, Karen Hoffman, County Clerk, do hereby certify that this plat was filed for record in my office on the 5th day of May, 2004 at [illegible] o'clock [illegible] and duly recorded in Volume [illegible] of the Official Records of Brazos County, Texas.

[illegible]
Brazos County, Texas By [illegible]
Deputy

CERTIFICATE OF [illegible]

I, [illegible] do hereby certify that this plat was prepared from an actual survey of the property made on the ground by me or under my supervision and that all boundary corners are correctly shown thereon.

[illegible]
REGISTERED PROFESSIONAL ENGINEER NO. 1242

SHEET TWO OF TWO

FINAL PLAT
OF
FAIRHAVEN COVE SUBDIVISION
1.97 ACRES
STERRETT D. SMITH LEAGUE, A-210
COLLEGE STATION, BRAZOS COUNTY, TEXAS

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 12-18-03
PLAT DATE: 02-23-03
REVISED: 03-08-04
JOB NUMBER: 03-0182
CAD NAME: 03-0182F
CRD FILE: FAIRHAVEN

PREPARED BY: KSC SURVEYING LLC
504 CHURCH STREET, P.O. BOX 394
COLLEGE STATION, TEXAS 77841
PHONE (979) 846-3168

PREPARED FOR: HAUTCHETT, LTD.
1101 UNIVERSITY DRIVE EAST
SUITE 100
COLLEGE STATION, TEXAS 77840

Doc 00862286 Bk OR 6170 Vol 1 214 Pg

Filed for Record in:
BRAZOS COUNTY

On: Jul 14, 2004 at 01:13P

As a
Recordings

Document Number: 00862286

Amount 71.00

Receipt Number - 246730
By,
Susie Cohen

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of:
BRAZOS COUNTY
as stamped hereon by me.

Jul 14, 2004

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

Filed for Record in:
BRAZOS COUNTY
On: Oct 12,2006 at 10:38A
As a
Recording
Document Number: 00943273
275.00
Job Number - 301412
By

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BRAZOS §

That **THE BEAVER CONSULTING CORPORATION D/B/A MUNICIPAL DEVELOPMENT GROUP**, a Texas corporation, ("Grantors") for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **HUNTER'S BISMUTH, LLC**, a Texas limited liability company, all right title and interest in and to the following described Easements which are appurtenant to the Nantucket Sewer Plant & System located in Brazos County, Texas, expressly subject to and as expressly corrected by those certain subsequently described Correction Easements for Utilities all of which are hereby conveyed, to wit:

EASEMENT ONE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.203 acre tract or parcel of land, being a 15' wide utility easement, and lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in Volume 752, Page 119 of the Official Records of Brazos County, Texas, said 15' wide utility easement and the 0.203 acre tract being more particularly described and shown by that Conveyance of Easement recorded in Volume 1735, Page 317 of the Official Records of Brazos County, Texas, which is **Exhibit "A"** attached hereto and made a part hereof for all purposes.

EASEMENT TWO: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Three" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT THREE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the

EXHIBIT
3

Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described as "Tract Four" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FOUR: any and all easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Five" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FIVE: All that certain 15' Utility Easement (Vol. 1735, Page 1320) as established on that certain Resubdivision Plat of Lot 1, Block Thirteen – Phase II, Snug Harbor - Phase I; and Lot 1R, Block Thirteen, Nantucket Phase Two, as recorded in the Official Records of Brazos County, Texas at Volume 2189, Page 251, and being more particularly described on **Exhibit "C"** attached hereto and made a part hereof for all purposes.

EASEMENT SIX: All that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas at Volume 1567, Page 299, and being more particularly described on **Exhibit "D"** attached hereto and made a part hereof for all purposes.

EASEMENT SEVEN: All that certain 15' and the 20' Utility Easements as established on that certain Resubdivision Plat of the Remainder of Lot 1, Block 13, Nantucket Phase II, as recorded in the Official Records of Brazos County, Texas at Volume 2370, Page 63, and being more particularly described on **Exhibit "E"** attached hereto and made a part hereof for all purposes.

EASEMENT EIGHT: All that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket–Phase One which adjacent to, across, and providing service to the 0.533 Acre Tract, the 0.475 acre Tract and the 0.278 acre tract which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas at Volume 646, Page 799 and Volume 872, Paqe 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dates April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket–Phase One is more particularly described in **Exhibit "F"** attached hereto and made a part hereof for all purposes. The Category 1A, Condition III Land Title Boundary Survey is more particularly described in **Exhibit "G"** attached hereto and made a part hereof for all purposes.

EASEMENT NINE: All that certain 10' Existing Utility Easement (Volume 978, Page 483), and that certain 5' Existing Utility Easement (Volume 978, Page 483), and that

10' Existing Utility Easement (Volume , Page) and that .16 Acre Existing Common Area and Public Utility Easement, as established on that certain Final Plat of Fairhaven Cove Subdivision, as recorded in the Official Records of Brazos County, Texas, at Volume 6020, Page 78, and being more particularly described on **Exhibit "H"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES ONE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.13 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated May 20, 2006, with Thomas B. Bragg and Karen A. Bragg as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 188, and being more particularly described on **Exhibit "I"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES TWO: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 6, 2006, with Glen H. Carter and Kathleen Carter Revocable Living Trust as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 180, and being more particularly described on **Exhibit "J"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES THREE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.04 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 1, 2006 with R. Marks Sykes as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 172, and being more particularly described on **Exhibit "K"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES FOUR: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.05 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 1, 2006, with Gregory Shibe Phelps as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 164, and being more particularly described on **Exhibit "L"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES FIVE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.04 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated May 22, 2006, with Clarence H. Prihoda and Marian J. Prihoda, as Grantor, and Beaver Consulting Corp. d/b/a

Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 196, and being more particularly described on **Exhibit "M"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES SIX: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 14, 2006, with Nantucket, Ltd., as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 153, and being more particularly described on **Exhibit "N"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES SEVEN: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "C" to that certain Correction Easement for Utilities, dated September 13, 2006, with Nantucket, Ltd. as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume _____, Page _____, and being more particularly described on **Exhibit "O"** attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

2. All prior reservations and exceptions as set out and contained in that certain Special Warranty Deed conveying the heretofore described easements, dated June 30, 2004, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "P"**.

2. Nantucket Ltd's. prior reservation of all of the oil, gas and other minerals in on and under the herein described real property; however, Grantors waives the right to use the surface of the subject property to develop such oil, gas, and other minerals, as reflected in that certain Special Warranty Deed dated June 30, 2004, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "P"**.

3. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantors' predecessors in title together with any leases pertaining to such interest. TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantors does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee,

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 warranty, when the claim is by, through, or under Grantors but not otherwise.

EXECUTED this the 09 day of October, 2006.

Beaver Consulting Corp. d/b/a Municipal Development Group

By: _____
Lenwood Adams, Vice-President

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this 9th day of October, 2006, by Lenwood Adams, Vice-President of Beaver Consulting Corp. d/b/a Municipal Development Group, on behalf of said Corporation.

_____
Notary Public, State of Texas
My Commission Expires: 2-15-09

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

PLEASE RETURN TO:

Wayne T. Rife
The Law Offices of Wayne T. Rife, P.C.
3205 Earl Rudder Freeway South
College Station, Texas 77845

EXHIBIT "A"

JDW/ml NANTUCKET.EST

FILED 514617

93 MAR -5 PM 4:39

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Now comes Nantucket, Ltd., a Texas Limited Partnership, acting by and through its General Partner, Home Finder Realty, Inc., Phyllis Jeanne Hobson, a single person, Rudolph J. Freund, Margaret C. Freund, Francis Cherian and Rany Cherian, and do hereby grant, sell, dedicate and convey to Nantucket, Ltd. an easement over and across that certain fifteen (15') foot strip of land described on Exhibit "A" attached hereto for use as a sewer easement, including but not limited to the right to install sewer lines over, through and across such property; provided, however all lines shall be buried beneath the surface of the property described on Exhibit "A" attached hereto. This sewer easement may be transferred and/or assigned by Nantucket, Ltd. to the City of College Station, Texas or any other public entity providing sewer or other utility service. At such time such easement is signed, title to such easement shall vest in Nantucket, Ltd. or its assigns; provided, however, Nantucket, Ltd. shall have the right and authority to assign such easement to any public entity providing utility service to Nantucket Subdivision.

The herein described easement includes the right of ingress and egress along such easement for the installation, repair and maintenance of sewer lines.

This document shall be binding upon the heirs, successors and assigns of the parties hereto.

Witness our hands this 3 day of March, 1993.

NANTUCKET, LTD., a Texas limited partnership

By: Home Finder Realty, Inc., General Partner

By: Phyllis Jeanne Hobson
PHYLLIS JEANNE HOBSON, President

ATTEST:

Colleen M. Goodrich
Colleen M. Goodrich
Assistant Secretary

Phyllis Jeanne Hobson
PHYLLIS JEANNE HOBSON

RUDOLPH J. FREUND

MARGARET C. FREUND

VOL. 1735 PAGE 317

EXHIBIT
A

SW/M NANTUCKET.BST

FRANCIS CHERIAN

RANY CHERIAN

STATE OF TEXAS $
$
COUNTY OF BRAZOS $

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd., a Texas Limited Partnership, on behalf of said partnership.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS $
$
COUNTY OF BRAZOS $

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF ~~TEXAS~~ Florida $
$
COUNTY OF ~~BRAZOS~~ Duval $

This instrument was acknowledged before me on this the 4th day of March, 1993 by RUDOLPH J. FREUND.

PRESENTED TO ME A TEXAS
DRIVER'S LICENSE #05414922
EXPIRES 3-03-94

Notary Public, State of Texas
My Commission Expires: _____

OFFICIAL NOTARY SEAL
JANICE SCHAIBLEY
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC230641
MY COMMISSION EXP. OCT 8 1996

JW/sd NANTUCKET.BST

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by MARGARET C. FREUND.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by FRANCIS CHERIAN.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by RANY CHERIAN.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"
(Page 1 of 2)

METES AND BOUNDS DESCRIPTION
OF A
0.203 ACRE TRACT
(A 15' WIDE UTILITY EASEMENT)
OUT OF
LOT 1, BLOCK THIRTEEN
NANTUCKET - PHASE TWO
BRAZOS COUNTY, TEXAS

Metes and bounds description of all that certain 0.203 acre tract or parcel or land, being a 15' wide utility easement and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in VOLUME 752, PAGE 119 of the Official Records of Brazos County, Texas, said 0.203 acre tract being more particularly described as follows:

COMMENCING at the west corner of said Lot 1, lying in the northeast right-of-way of Harper's Ferry Drive, and being the beginning of a curve to the left.

THENCE in a southeasterly direction 143.18 feet along the arc of said curve (Curve data: central angle = 09° 13' 04", radius = 890.00 feet, tangent = 71.75 feet, the chord bears N 69° 32' 41" W - 143.03 feet) to a point for end of said curve.

THENCE S 74° 09' 15" E - 22.30 feet to a point for the beginning of a curve to the left.

THENCE in a northeasterly direction 25.71 feet along the arc of said curve (Curve data: central angle = 29° 28' 43", radius = 50.00 feet, tangent = 13.14 feet, the chord bears N 41° 00' 14" E - 25.41 feet) to a point for end of said curve and being the beginning of a curve to the right.

THENCE in a northeasterly direction 15.63 feet along the arc of said curve (Curve data: central angle = 07° 02' 56", radius = 127.01 feet, tangent = 7.82 feet, the chord bears N 29° 48' 21" E - 15.62 feet) to a point for end of said curve and being the PLACE OF BEGINNING.

THENCE N 03° 45' 03" E - 22.53 feet to a point for corner and being the beginning of a curve to the right.

THENCE in a northeasterly direction 31.16 feet along the arc of said curve (Curve data: central angle = 12° 47' 57", radius 139.52 feet, tangent = 15.65 feet, the chord bears N 47° 48' 09" E - 31.10 feet) to a point for end of said curve.

THENCE N 54° 12' 07" E - 66.75 feet to a point for beginning of a curve to the right.

THENCE northeasterly 82.67 feet along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 136.07 feet, tangent = 42.21 feet, the chord bears N 73° 42' 43" E - 80.89 feet) to a point for end of said curve, and being the beginning of a curve to the right.

THENCE in a southeasterly direction 262.51 feet along the arc of said curve

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See Survey Harbor 1

(Curve data: central angle = 44° 41' 49", radius = 336.50 feet, tangent = 138.34 feet, the chord bears S 64° 25' 47" E - 255.90 feet) to a point for end of said curve and corner.

THENCE N 46° 19' 42" E - 122.34 feet to a point for corner in the southwest line of a variable width drainage easement as depicted by said plat.

THENCE S 45° 46' 23" E - 15.06 feet with said easement line to a point for corner.

THENCE S 46° 19' 42" W - 139.48 feet across said Lot 1 to a point for corner and being the beginning of a curve to the left.

THENCE in a northwesterly direction 266.24 feet along the arc of said curve (Curve data: central angle = 47° 28' 54", radius 321.50 feet, tangent = 141.29 feet, the chord bears N 53° 03' 14" W - 258.70 feet) to a point for end of said curve and being the beginning of a curve to the left.

THENCE in a southwesterly direction 82.45 along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 121.07 feet, tangent = 42.90 feet, the chord bears S 73° 42' 42" W - 80.87 feet) to a point for end of said curve.

THENCE S 54° 12' 07" W - 66.75 feet to a point for beginning of a curve to the left.

THENCE in a southwesterly direction 49.90 feet along the arc of said curve (Curve data: central angle = 22° 57' 52", radius = 124.51 feet, tangent = 25.29 feet, the chord bears S 42° 43' 12" W - 49.57 feet) to a point for end of said curve and corner.

THENCE N 03° 48' 03" E - 5.23 feet to the PLACE OF BEGINNING, and containing 0.203 acres of land.

NANTUCKET.BRT

FRANCIS CHERIAN

RANY CHERIAN

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd., a Texas Limited Partnership, on behalf of said partnership.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the _____ day of March, 1993 by PHYLLIS JEANNE HOBSON.

Notary Public, State of Texas
My Commission Expires: _____

STATE OF ~~TEXAS~~ Florida §
§
COUNTY OF ~~BRAZOS~~ Duval §

This instrument was acknowledged before me on this the 4th day of March, 1993 by RUDOLPH J. FREUND.

PRESENTED TO ME A TEXAS
DRIVER'S LICENSE #054 4722
EXPIRES 3-03-94

Notary Public, State of Texas
My Commission Expires: _____

OFFICIAL NOTARY SEAL
JANICE SCHAIBLEY
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC293641

NANTUCKET.EST

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by MARGARET C. FREUND.

JAY DON WATSON
COMMISSION EXPIRES
MAY 31, 1993

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by FRANCIS CHERIAN.

Notary Public, State of Texas
My Commission Expires: _____

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 3rd day of March, 1993 by RANY CHERIAN.

Notary Public, State of Texas
My Commission Expires: _____

VOL. 1735 PAGE 319

EXHIBIT "A"
(Page 1 of 2)

METES AND BOUNDS DESCRIPTION
OF A
0.203 ACRE TRACT
(A 15' WIDE UTILITY EASEMENT)
OUT OF
LOT 1, BLOCK THIRTEEN
NANTUCKET - PHASE TWO
BRAZOS COUNTY, TEXAS

Metes and bounds description of all that certain 0.203 acre tract or parcel or land, being a 15' wide utility easement and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in VOLUME 752, PAGE 119 of the Official Records of Brazos County, Texas, said 0.203 acre tract being more particularly described as follows:

COMMENCING at the west corner of said Lot 1, lying in the northeast right-of-way of Harper's Ferry Drive, and being the beginning of a curve to the left.

THENCE in a southeasterly direction 143.18 feet along the arc of said curve (Curve data: central angle = 09° 13' 04", radius = 890.00 feet, tangent = 71.75 feet, the chord bears N 69° 32' 41" W - 143.03 feet) to a point for end of said curve.

THENCE S 74° 09' 13" E - 28.30 feet to a point for the beginning of a curve to the left.

THENCE in a northeasterly direction 25.71 feet along the arc of said curve (Curve data: central angle = 29° 26' 43", radius = 50.00 feet, tangent = 13.14 feet, the chord bears N 41° 00' 14" E - 25.41 feet) to a point for end of said curve and being the beginning of a curve to the right.

THENCE in a northeasterly direction 15.63 feet along the arc of said curve (Curve data: central angle = 07° 02' 56", radius = 127.01 feet, tangent = 7.82 feet, the chord bears N 29° 48' 21' E - 15.62 feet) to a point for end of said curve and being the PLACE OF BEGINNING.

THENCE N 03° 45' 03" E - 22.53 feet to a point for corner and being the beginning of a curve to the right.

THENCE in a northeasterly direction 31.16 feet along the arc of said curve (Curve data: central angle = 12° 47' 57", radius 139.51 feet, tangent = 15.65 feet, the chord bears N 47° 48' 09" E - 31.10 feet) to a point for end of said curve.

THENCE N 54° 12' 07" E - 66.75 feet to a point for beginning of a curve to the right.

THENCE northeasterly 92.67 feet along the arc of said curve (Curve data: central angle = 39° 01' 12", radius = 136.07 feet, tangent = 48.21 feet, the chord bears N 73° 42' 43" E - 90.89 feet) to a point for end of said curve, and being the beginning of a curve to the right.

THENCE in a southeasterly direction 262.51 feet along the arc of said curve

00756524

EXHIBIT "B"

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BRAZOS §

That NANTUCKET, LTD., a Texas limited partnership, of the County of Brazos, and State of Texas for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto NANTUCKET PRESERVATION ASSOCIATION, INC. of the County of Brazos, and State of Texas, all of the following described real property in Brazos County, Texas, to-wit:

TRACT ONE: All that certain 36.12 acre tract or parcel of land, lying and being situated partly in the Samuel W. Robertson League, Abstract No. 202, and partly in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 36.12 acre tract being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes.

TRACT TWO: All that certain 0.28 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.28 acre tract being more particularly described on Exhibit "B" attached hereto and made a part hereof for all purposes.

TRACT THREE: All that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described on Exhibit "C" attached hereto and made a part hereof for all purposes.

TRACT FOUR: All that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described on Exhibit "D" attached hereto and made a part hereof for all purposes.

TRACT FIVE: All that ceratin 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas,

EXHIBIT B

said 0.18 acre tract being more particularly described on Exhibit "E" attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All valid and subsisting easements, restrictions, rights of way, conditions, exceptions and reservations and covenants of whatsoever nature of record, if any, and also to the zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

2. Reserved and there is hereby reserved and excepted from this conveyance and easement or easements for the purposes of laying, maintaining, repairing and removing sewer lines, water lines over and across Tract Two and Tract Three more particularly described as a 0.28 acre tract and a 0.18 acre tract on Exhibit "B" and "C" attached hereto.

3. Reserved and there is hereby reserved and excepted from this conveyance, an easement, including the right of ingress and egress for the purpose of operating a waster water and sewer disposal plant and related equipment and sewer lines on Tract Four and more particularly described as a 0.55 acre tract on Exhibit "D" attached hereto and incorporated herein; provided, however, the easement shall terminate ninety (90) days after the equipment for the waste water and sewer plant is removed from the 0.55 acre tract. However, the easement shall continue as to any sewer lines that have not been abandoned.

4. Reserved and there is hereby reserved and excepted from this conveyance an easement or easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across Tract Five more particularly described as a 0.18 acre tract of land described on Exhibit "E" attached hereto.

5. Reserved and there is reserved an easement on the herein described property for the piling and encroachment of the deck of the building located on the 0.533 acre tract of land described in a deed from Joseph A. Falcone to R. Mark Sykes and Laurie E. Sykes such deed being recorded in volume 3439, Page 199, Official Records of Brazos County, Texas, with such easement including the right to allow the existing encroachment to remain in place and the right to repair or replace the existing improvements, provided such improvements do not enlarge the existing encroachment.

6. The herein described 36.12 acre tract is hereby restricted for use as a lake, dam, drainage facility, and recreation area and may not be used for any other purpose. This restriction may be enforced by the Grantor or any member of the Grantee.

7. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantor's predecessors in title together with any leases pertaining to such interest.

SAVE AND EXCEPT, and there is hereby reserved unto Grantor, its heirs and assigns, any and all of the oil, gas and other minerals in and under and that may be produced from the herein described real property, **PROVIDED HOWEVER,** as to the mineral interest owned by the Grantor except as may be provided in instruments currently of record, there shall be no right of ingress or egress to the surface of the premises at any time for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals and removing the same therefrom, or for the purposes of using such property for the storage or transportation of oil, gas and other minerals.

Nothing herein shall prohibit the Grantor or Grantor's successors and assigns from pooling or permitting slant drilling under said premises to develop and produce the oil, gas and minerals owned by Grantor and Grantor's successors and assigns. Grantor makes no representation as to any oil, gas and minerals not owned by Grantor.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, 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 warranty, when the claim is by, through, or under Grantor but not otherwise.

EXECUTED this the 25th day of September, 2001.

Attest:

Name: Colleen M. Waller
Title: Secretary

NANTUCKET, LTD., a Texas limited partnership

By: HOME FINDER REALTY, INC., its general partner

By: PHYLLIS JEANNE HOBSON, President

APPROVED AND ACCEPTED:

NANTUCKET PRESERVATION ASSOCIATION, INC.

By:
Name: DAVID Wm. REED
President

By:
Name: Pamela Rosynek
Secretary

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STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 25th day of September, 2001, by PHYLLIS JEANNE HOBSON, president of HOME FINDER REALTY, INC., general partner of NANTUCKET, LTD., a Texas limited partnership on behalf of said partnership.

SANDRA S. WARD
Notary Public, State of Texas
My Commission Expires
SEPTEMBER 20, 2003

Sandra S. Ward
Notary Public, State of Texas
My commission expires: 9/20/03

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 28th day of September, 2001, by David Wm. Reed, president of NANTUCKET PRESERVATION ASSOCIATION, INC., a Texas corporation on behalf of said corporation.

Abby Lee Foreman
Notary Public
State of Texas
My Commission Expires
August 25, 2004

Abby Lee Foreman
Notary Public, State of Texas
My commission expires: 8-25-04

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 1st day of ~~September~~ October, 2001, by Pamela Rosynek, secretary of NANTUCKET PRESERVATION ASSOCIATION, INC., a Texas corporation on behalf of said corporation.

Abby Lee Foreman
Notary Public
State of Texas
My Commission Expires
August 25, 2004

Abby Lee Foreman
Notary Public, State of Texas
My commission expires: 8-25-04

Mailing Address of Grantee(s):
4103 S. Texas Avenue
Suite 207
Bryan, TX 77802

0034

EXHIBIT "A"

Metes and bounds description of all that certain 36.12 acre tract or parcel of land, lying and being situated partly in the Samuel W. Robertson League, Abstract No. 202, and partly in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 36.12 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found marking the west corner of Snug Harbor - Phase I, as depicted by plat recorded in VOLUME 2189 PAGE 251 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Harpers Ferry Road and being the beginning of a curve to the right;

THENCE in a northwesterly direction 271.70 feet along the arc of said curve (Curve Data: central angle = 17° 29' 30", radius = 890.00 feet, tangent = 136.92 feet, the chord bears N 56° 11' 24" W – 270.65 feet) to a ½" iron rod found for end of said curve;

THENCE N 47° 26' 39" W – 125.00 feet with said right-of-way line to a ½" iron rod found for corner, being the extreme south corner of Pelican's Point Cove subdivision, as depicted by plat recorded in VOLUME 1075 PAGE 378 of said Official Records, and being the beginning of a curve to the right;

THENCE in a northwesterly direction 47.12 feet along the arc of said curve (Curve data: central angle = 90° 00' 00", radius = 30.00 feet, tangent = 30.00 feet, the chord bears N 02° 26' 39" W – 42.43 feet) to a ½" iron rod found for end of said curve;

THENCE N 42° 33' 21" E – 40.85 feet with the southeast right-of-way line of Pelican's Point Cove street to a ½" iron rod found for the beginning of a curve to the left;

THENCE in a northeasterly direction 198.84 feet along the arc of said curve (Curve data: central angle = 37° 18' 28", radius = 305.37 feet, tangent = 103.09 feet the chord bears N 23° 54' 07" E – 195.35 feet) to a ½" iron rod found for end of said curve and corner, and being the southwest corner of Lot 7, Pelican's Point Cove subdivision;

THENCE N 83° 59' 01" E – 90.97 feet with the southeast line of said Lot 7 to a ½' iron rod found for angle point;

THENCE N 86° 42' 06" E – 113.84 feet with said line to a ½" iron rod found for angle point;

THENCE N 87° 24' 56" E – 221.54 feet with said line to a ½" iron rod found for corner;

THENCE N 05° 18' 32" E – 413.09 feet with the east line of said Pelican's Point Cove subdivision to a ½" iron rod found for angle point;

THENCE N 23° 29' 14" W – 177.50 feet with said line to a ½" iron rod found for corner and being the southwest corner of Lot 34, Block One, Nantucket Phase One, as depicted by plat recorded in VOLUME 575 PAGE 291 of the Deed Records of Brazos County, Texas;

THENCE N 80° 39' 18" E – 280.39 feet with the southeast line of said Nantucket, Phase One, to a ½" iron rod found for angle point;

THENCE N 72° 35' 17" E – 277.29 feet with said line to a ½" iron rod found for corner, and being the southeast corner of Lot 6, Block Five, Nantucket Phase One;

THENCE S 23° 13' 18" E – 12.00 feet with the projected common line of said Lot 6 and Lot 4, Block Five, to a point for corner in the waters of Nantucket Lake;

THENCE through the waters of Nantucket Lake for the following calls:

N 57° 32' 33" E – 69.70 feet
N 54° 24' 49" E – 107.80 feet
N 46° 46' 33" E – 35.98 feet
N 31° 27' 37" E – 50.61 feet
N 16° 48' 07" E – 58.66 feet
N 05° 18' 44" E – 89.03 feet
N 18° 04' 36" W – 33.00 feet
N 51° 01' 23" W – 36.19 feet

THENCE N 04° 05' 25" W – 8.31 feet through said lake to a point for corner in the southwest line of Lot 3;

THENCE S 66° 42' 26" E – 112.66 feet with said line to a ½" iron rod found for angle point;

THENCE S 09° 31' 07" E – 129.89 feet to a ½" iron rod found for corner;

THENCE S 83° 14' 31" E – 44.19 feet with said line to a ½" iron rod found for corner;

THENCE N 53° 38' 52" E – 103.13 feet with said line to a ½" iron rod found for corner;

THENCE N 19° 28' 21" E – 49.69 feet with said line to a ½" iron rod found for corner;

THENCE N 80° 06' 14" E – 170.65 feet to a ½" iron rod found for corner in the southwest line of Lot 1;

THENCE S 38° 35' 19" E – 83.47 feet with said line to a ½" iron rod found for corner;

THENCE N 70° 34' 30" E – 218.57 feet with said line to a ½" iron rod found for corner in the southwest right-of-way line of Texas State Highway No. 6, as monumented on the ground;

THENCE S 32° 52' 23" E – 49.35 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE S 38° 39' 14" E – 697.13 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE S 41° 24' 19" E – 13.38 feet with said right-of-way line to a ½" iron rod set for corner;

THENCE S 48° 35' 41" W – 198.61 feet across said remainder tract to a ½" iron rod found for corner and being the north corner of Lot 3, Block Thirteen, Nantucket, Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of said Official Records;

THENCE S 69° 08' 15" W – 150.75 feet with the northwest line of said Block Thirteen to a ½" iron rod found for angle point;

THENCE S 83° 07' 43" W – 110.00 feet with said line to a ½" iron rod found for angle point;

THENCE S 76° 09' 38" W – 129.49 feet with said line to a ½" iron rod found for angle point; and being the common north corner of Lot 3 and the remainder of Lot 2, Block Thirteen;

THENCE S 75° 37' 41" W – 30.00 feet with the north line of the remainder of said Lot 2 to a ½" iron rod found for corner, and being the northeast corner of Kensail Point subdivision, as depicted by plat recorded in VOLUME 1567 PAGE 299 of said Official Records;

THENCE along the north boundary of Lot 4 and Lot 3, Kensail Point, for the following calls:

S 75° 37' 41" W – 113.65 feet
N 81° 16' 47" W – 31.92 feet
N 22° 55' 09" W – 12.45 feet
N 26° 50' 42" E – 55.40 feet
N 68° 32' 26" E – 32.95 feet
N 25° 35' 20" E – 65.62 feet
N 48° 19' 10" W – 87.92 feet
S 64° 29' 38" W – 64.19 feet
S 10° 21' 51" W – 30.54 feet
S 11° 52' 03" E – 61.45 feet
S 14° 03' 50" W – 35.78 feet
S 15° 16' 45" W – 13.47 feet
S 26° 13' 38" W – 24.02 feet
S 64° 31' 03" W – 211.94 feet
N 65° 01' 33" W – 44.80 feet
S 89° 58' 14" W – 46.69 feet
S 68° 13' 29" W – 41.78 feet
S 30° 26' 46" W – 47.15 feet
S 04° 15' 59" W – 104.47 feet

THENCE S 14° 46' 30" W – 28.95 feet with said northwest line to a ½" iron rod found for corner, and being the north corner Lot 5, Block One, Snug Harbor Phase II, as depicted by plat recorded in VOLUME 2370 PAGE 63, of said Official Records;

THENCE S 73° 12' 04" W – 281.10 feet through said lake with said line to a point for angle point;

THENCE S 23° 35' 11" W – 191.44 feet with said line to the PLACE OF BEGINNING and containing 36.12 acres of land.

THENCE S 55° 41' 18" W – 109.36 feet with the north line of said Snug Harbor Phase II to a ½' iron rod found for angle point;

THENCE S 72° 17' 30" W – 90.36 feet with said line to a ½" iron rod found for angle point;

THENCE S 75° 54' 27" W – 176.16 feet with said line to a point for corner in the waters of a creek, and. lying in the northeast line of said Snug Harbor, Phase One;

THENCE N 13° 21' 18" W – 20.00 feet with said line to a point found for corner in the waters of Nantucket Lake;

THENCE S 76° 36' 11" W – 276.23 feet through said waters with the northwest line of said Snug Harbor, Phase One line to a point for angle point;

000025-f.58-cd1(2910)

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EXHIBIT "B"

Metes and bounds description of all that certain 0.28 acre tract or parcel of land, being a 20'wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.28 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Nantucket Drive;

THENCE N 48° 35' 41" E – 178.16 feet with southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 41° 24' 19" W – 13.86 feet across said tract to a point for angle point;

THENCE N 38° 39' 14" W – 195.64 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 20.00 feet across said tract to a point for corner in the southwest line of Texas State Highway No. 6;

THENCE S 38° 39' 14" E – 195.16 feet with said right-of-way line to a point for angle point;

THENCE S 41° 24' 19" E – 201.13 feet with said line to a point for angle point;

THENCE S 38° 35' 10" E – 188.37 feet with said line to a point for beginning of a curve to the right;

THENCE in a southwesterly direction 34.24 feet along the arc of said curve (Curve data: central angle = 78° 27' 17", radius = 25.00 feet, tangent = 20.41 feet, the chord bears S 00° 38' 44" W – 31.62 feet) to a point for end of said curve and corner;

THENCE N 38° 35' 10" W – 212.37 feet across said 595.83 acre tract to a point for angle point;

THENCE N 41° 24' 19" W – 187.26 feet across said tract to the PLACE OF BEGINNING and containing 0.28 acres of land.

July 2001

Municipal Development Group
College Station, Texas

STATE OF TEXAS REGISTERED A. W. KESSLER 1852 PROFESSIONAL LAND SURVEYOR

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: A W Kessler 7-30-2001
A. W. Kessler
R.P.L.S. No. 1852

000025-f.62-cd1(2910)

EXHIBIT "C"

Metes and bounds description of all that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas;

THENCE N 48° 35' 41" E – 65.00 feet with the southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 36° 49' 40" W – 387.95 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 20.01 feet across said tract to a point for corner;

THENCE S 36° 49' 40" E – 386.99 feet across said 595.83 acre tract to a point for corner;

THENCE S 48° 35' 41" W – 20.06 feet with said southeast line to the PLACE OF BEGINNING and containing 0.18 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: AW Kessler 7-27-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS
REGISTERED
A. W. KESSLER
1852
PROFESSIONAL
LAND SURVEYOR

000025-f.63-cd1(2910)

00756524

EXHIBIT "D"

04334

00348

Metes and bounds description of all that certain 0.55 acre tract or parcel of land, being a 140'x170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the north corner of Lot 3, Block Thirteen, Nantucket Phase Two, as depicted by plat recorded in VOLUME 752 PAGE 119 of the Official Records of Brazos County, Texas, and lying in the northeast right-of-way line of Nantucket Drive;

THENCE N 48° 35' 41" E – 198.16 feet across said 595.83 acre tract with the southeast line of the proposed 36.12 acre Nantucket Lake Dedication Tract to a point for corner, and lying in the southwest right-of-way line of Texas State Highway No.6, as monumented on the ground;

THENCE N 41° 24' 19" W – 13.38 feet with said right-of-way line to a TxDOT standard concrete right-of-way monument found for angle point;

THENCE N 38° 39' 14" W – 368.00 feet with said right-of-way line to a point for corner, and being the PLACE OF BEGINNING;

THENCE S 51° 20' 46" W – 140.00 feet across said proposed 36.12 acre tract to a point for corner;

THENCE N 38° 39' 14" W – 170.00 feet across said tract to a point for corner;

THENCE N 51° 20' 46" E – 140.00 feet across said tract to a point for corner in said right-of-way line;

THENCE S 38° 39' 14" E – 170.00 feet with said right-of-way line to the PLACE OF BEGINNING and containing 0.55 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: A.W. Kessler 7-27-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS REGISTERED A. W. KESSLER 1852 PROFESSIONAL LAND SURVEYOR

000025-f.61-cd1(2910)

00756524

0433349

0034 9

EXHIBIT "E"

Metes and bounds description of all that certain 0.18 acre tract or parcel of land, being a 20'wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in VOLUME 531 PAGE 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as follows:

COMMENCING at a ½" iron rod found marking the south corner of Lot 1, Block Five, Nantucket Phase One, as depicted by plat recorded in VOLUME 575 PAGE 291 of the Deed Records of Brazos County, Texas;

THENCE N 70° 34' 30" E – 8.51 feet with the southeast line of the said lot to a point for corner, and being the PLACE OF BEGINNING;

THENCE N 70° 34' 30" E – 22.06 feet with said line to a point for corner;

THENCE S 44° 23' 04" E – 395.99 feet across the proposed 36.12 acre Nantucket Lake Dedication tract to a point for corner;

THENCE S 45° 36' 56" W – 20.00 feet across said tract to a point for corner;

THENCE N 44° 23' 04" W – 405.30 feet across said tract to the PLACE OF BEGINNING and containing 0.18 acres of land.

July 2001

Municipal Development Group
College Station, Texas

Note: This description is based on record data and field surveys conducted June 1982 to February 1998.

Prepared by: AW Kessler 7-30-2001
A. W. Kessler
R.P.L.S. No. 1852

STATE OF TEXAS
REGISTERED
A. W. KESSLER
1852
PROFESSIONAL
LAND SURVEYOR

Filed for Record in:
BRAZOS COUNTY

On: Oct 03,2001 at 03:41P

As a
Recordings

Document Number: 00756524

Amount 26.00

Receipt Number - 180990
By,
A development person

000025-f.64-cd1(2910)

STATE OF TEXAS COUNTY OF
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of:
BRAZOS COUNTY
as stamped hereon by me.

Oct 03,2001

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

EXHIBIT "C"

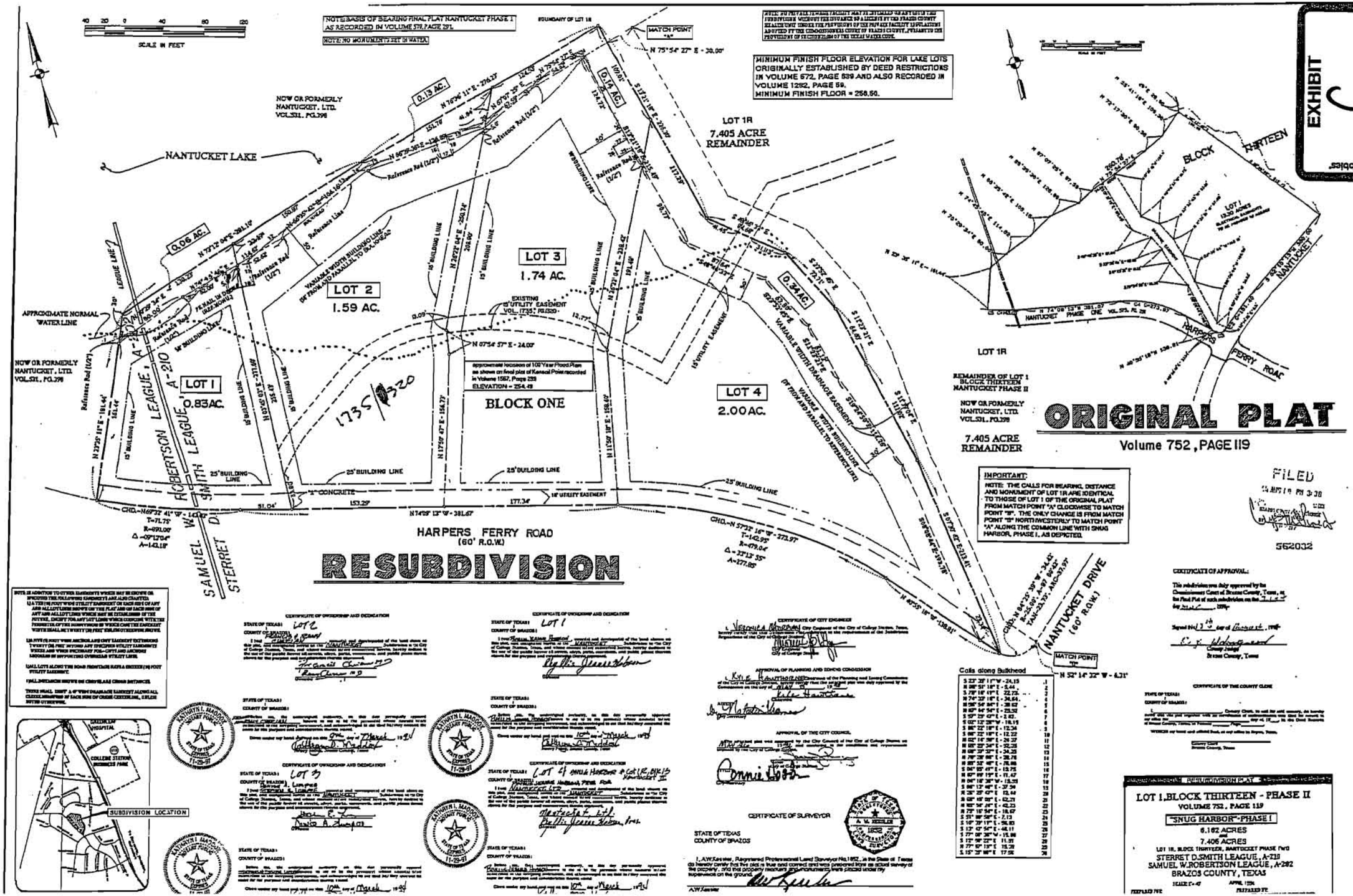
EXHIBIT C

NOTE: BASIS OF BEARING FINAL PLAT NANTUCKET PHASE I AS RECORDED IN VOLUME 579, PAGE 291.

NOTE: NO MONUMENTS SET IN WATER.

NOTE: NO PRIVATE FLOOD FACILITY MAY BE BUILDED NEAR LAKE THE INDIVIDUAL WITHOUT THE ISSUANCE OF A LICENSE BY THE BRAZOS COUNTY REALTORS UNDER THE PROVISION OF THE FLOOD FACILITY LICENSING ADOPTED BY THE COMMISSIONERS COURT OF BRAZOS COUNTY, PURSUANT TO THE PROVISION OF SECTION 16.315 OF THE TEXAS WATER CODE.

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTIONS IN VOLUME 672, PAGE 639 AND ALSO RECORDED IN VOLUME 1282, PAGE 59.
MINIMUM FINISH FLOOR = 258.50.



IMPORTANT:
NOTE: THE CALLS FOR BEARING, DISTANCE AND MONUMENT OF LOT 1R ARE IDENTICAL TO THOSE OF LOT 1 OF THE ORIGINAL PLAT FROM MATCH POINT "A" CLOCKWISE TO MATCH POINT "B". THE ONLY CHANGE IS FROM MATCH POINT "B" NORTHWESTERLY TO MATCH POINT "A" ALONG THE COMMON LINE WITH SNUG HARBOR, PHASE I, AS DEPICTED.

CERTIFICATE OF SURVEYOR
STATE OF TEXAS
COUNTY OF BRAZOS
I, A.W. Kessler, Registered Professional Land Surveyor No. 1892, in the State of Texas do hereby certify that the plat is true and correct and was prepared from an actual survey of the property, and that property monuments and monuments were placed under my supervision on the ground.
A.W. Kessler

Calls along Bulkhead

S 23° 39' 11" W - 24.13	1
N 88° 51' 18" E - 5.44	2
S 79° 18' 17" E - 22.72	3
N 74° 32' 18" E - 34.64	4
N 06° 54' 44" E - 38.62	5
N 83° 44' 54" E - 23.52	6
S 52° 23' 47" E - 2.82	7
S 02° 12' 28" W - 18.19	8
S 86° 22' 18" E - 12.34	9
S 88° 22' 18" E - 12.22	10
N 02° 16' 58" E - 24.32	11
N 05° 23' 34" E - 32.26	12
N 08° 39' 32" E - 34.26	13
N 79° 28' 46" E - 28.76	14
N 85° 52' 48" E - 28.88	15
S 06° 55' 43" E - 18.75	16
N 07° 00' 19" E - 17.47	17
S 04° 18' 26" W - 15.53	18
S 88° 13' 48" E - 37.34	19
N 25° 25' 47" E - 13.44	20
S 08° 05' 00" E - 62.21	21
N 80° 54' 26" E - 42.23	22
N 72° 15' 54" E - 18.67	23
S 31° 00' 58" E - 7.13	24
S 16° 39' 17" E - 56.10	25
S 13° 07' 54" E - 46.11	26
S 77° 00' 36" W - 15.88	27
S 12° 58' 22" E - 11.31	28
N 77° 50' 13" E - 15.28	29
S 15° 23' 00" E - 17.56	30

CERTIFICATE OF APPROVAL:
This subdivision was duly approved by the Commissioners Court of Brazos County, Texas, as the Final Plat of such subdivision on the 4th day of August, 1994.
Signed this 4th day of August, 1994
County Judge
Brazos County, Texas

CERTIFICATE OF THE COUNTY CLERK
STATE OF TEXAS
COUNTY OF BRAZOS
I, _____, County Clerk, in and for said county, do hereby certify that this plat together with the dedication of easements, was filed for record in my office the _____ day of _____, 19__, in the Deed Records of Brazos County, Texas, in Volume _____, Page _____.
WITNESS my hand and official seal, at my office in Bryan, Texas.
County Clerk
Brazos County, Texas

EXHIBIT "D"

EXHIBIT D

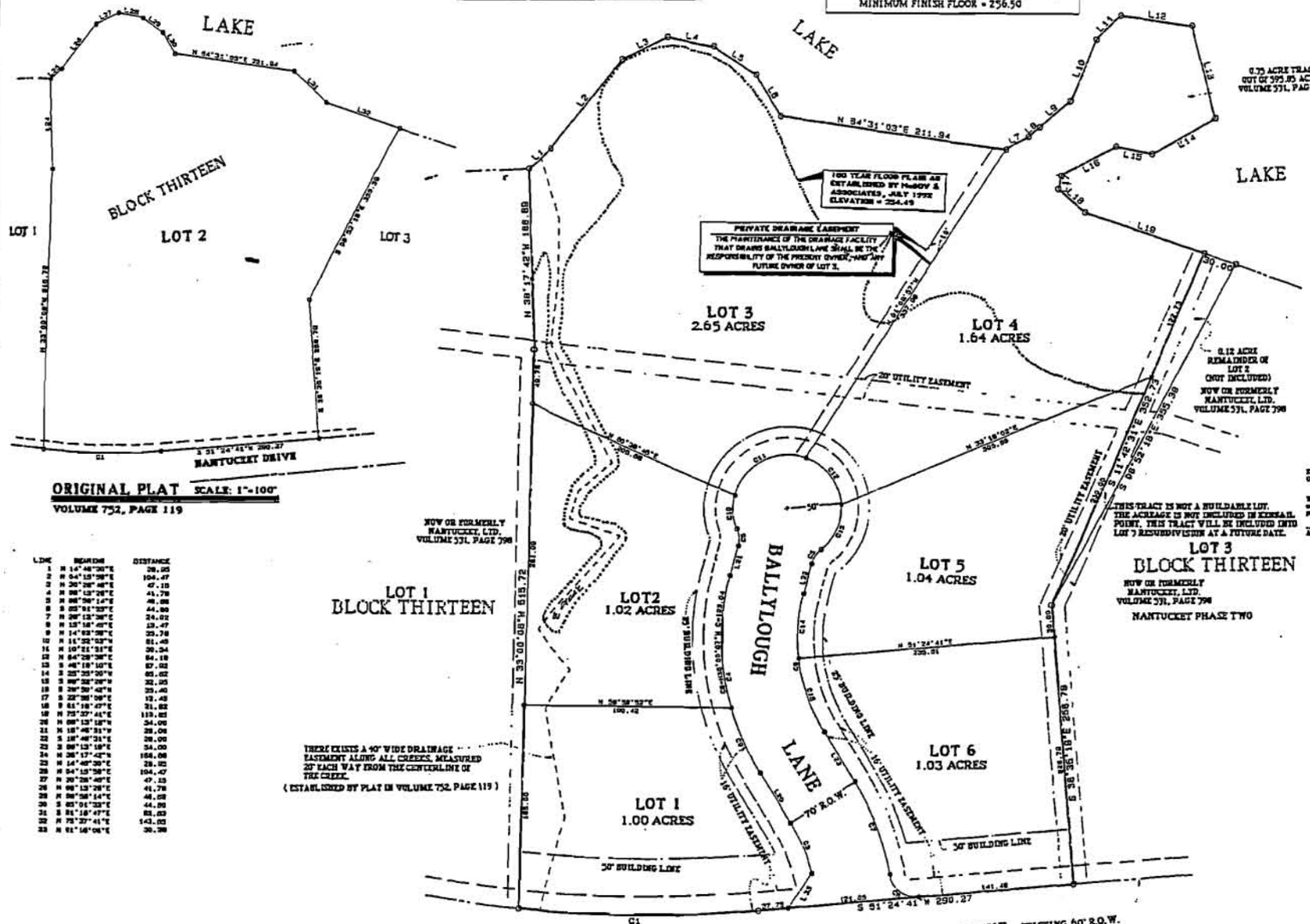
PMF (PROBABLE MAXIMUM FLOOD)
ESTABLISHED BY DAM & FLOODPLAIN SAFETY SECTION, TEXAS WATER COMMISSION, JULY 1991.
ELEVATION = 255.96

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTION IN VOLUME 572, PAGE 639 AND ALSO RECORDED IN VOLUME 1262, PAGE 59.
MINIMUM FINISH FLOOR = 256.50

ALL ELEVATIONS ARE MEAN SEA LEVEL REFERRED TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (USGS).

100 50 0 100 200 300
SCALE IN FEET

50 0 50 100 150
SCALE IN FEET



ORIGINAL PLAT SCALE: 1"=100'
VOLUME 752, PAGE 119

LINE	BEARING	DISTANCE
1	N 14°48'38"E	28.05
2	N 64°15'38"E	104.47
3	N 26°28'48"E	47.15
4	N 88°12'28"E	41.78
5	N 88°38'14"E	46.28
6	S 85°51'33"E	44.80
7	N 29°12'38"E	24.02
8	N 12°18'45"E	13.47
9	N 14°42'38"E	25.78
10	N 11°22'52"E	81.48
11	N 10°21'21"E	30.54
12	N 84°29'38"E	64.18
13	S 46°18'10"E	57.02
14	S 25°25'20"W	85.62
15	S 88°32'28"W	32.05
16	S 29°38'42"W	23.46
17	S 22°38'08"E	12.42
18	S 81°18'47"E	31.82
19	N 75°27'41"E	133.85
20	N 88°12'18"E	34.00
21	N 18°46'31"W	28.00
22	S 18°46'31"E	28.00
23	S 88°12'18"E	34.00
24	N 26°17'42"E	156.08
25	N 14°48'38"E	28.05
26	N 64°15'38"E	104.47
27	N 26°28'48"E	47.15
28	N 88°12'28"E	41.78
29	N 88°38'14"E	46.28
30	S 85°51'33"E	44.80
31	S 81°18'47"E	81.83
32	N 75°27'41"E	143.00
33	N 81°18'04"E	30.38

CURVE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BRG
1	10°45'31"	1175.00	219.88	110.17	219.37	
2	100°17'12"	25.00	43.78	29.05	38.38	N 01°18'03"E
3	17°28'48"	105.00	48.98	25.17	48.76	N 37°32'39"W
4	48°23'48"	225.00	190.20	100.71	185.14	N 43°01'23"W
5	38°52'12"	25.00	16.96	8.83	16.81	
6	86°23'48"	105.00	153.81	95.71	139.98	S 43°01'23"E
7	22°06'38"	225.00	86.71	43.83	86.15	S 28°08'31"E
8	54°29'38"	25.00	23.88	12.79	23.01	S 88°20'31"E
9	18°02'38"	225.00	85.08	43.12	85.38	N 38°12'03"W
10	26°28'12"	50.00	22.18	18.87	21.98	N 26°18'37"W
11	86°27'48"	50.00	23.31	14.31	21.16	N 27°54'23"E
12	86°44'02"	50.00	58.24	32.93	55.00	S 79°08'44"E
13	54°46'22"	50.00	47.71	25.85	45.92	S 10°17'31"E
14	21°02'38"	105.00	38.61	19.53	38.37	S 28°28'38"E
15	25°28'38"	105.00	73.08	37.11	71.41	S 53°32'38"E

REPLAT SCALE: 1"=50'

FILED
92 AUG -7 AM 10:23
BRAZOS COUNTY GOVERNMENT RETURN TO:
497490

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I/We Muller Hobson
owner(s) and proprietor(s) of the land shown on this plat, and designated herein as the KENSAIL POINT subdivision to the City of College Station, Texas, and whose mortgagee(s) have subordinated their interest, hereby dedicate to the use of the public forever all streets, alleys, parks, easements and public places thereon shown for the purpose and consideration therein expressed.

Nantucket Ltd.
Name Sidney Rudy, GP
General Partner
By Mrs. James C. Hobson, Trustee

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared Muller Jessie Hobson, Pres.
known to me to be the person(s) whose name(s) before subscribed to the foregoing instrument, and acknowledged to me that he/they executed the same for the purpose and consideration therein stated.

Given under my hand and seal on this the 16th day of May 1992

Sam Wells
Notary Public, Brazos County, Texas
My commission expires 12-4-93

LARRY WELLS
MY COMMISSION EXPIRES
December 4, 1993

CERTIFICATE OF SURVEYOR

STATE OF TEXAS
COUNTY OF BRAZOS

I, A. W. Kessler, Registered Professional Land Surveyor No. 1652, in the State of Texas, do hereby certify that this plat is true and correct, and was prepared from an actual survey of the property, and that property markers and monuments were placed under my supervision on the ground.

A. W. Kessler

STATE OF TEXAS
REGISTERED
A. W. KESSLER
1652
PROFESSIONAL
LAND SURVEYOR

CERTIFICATE OF APPROVAL:

"This subdivision plat was duly approved by the Commissioners Court of Brazos County, Texas, as the Final Plat of such subdivision on the 6th day of July 1992"

Signed this the 6th day of August 1992.

R. J. Holmgreen
County Judge
Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I/We Glen Carter & Kathleen Carter
owner(s) and proprietor(s) of the land shown on this plat, and designated herein as the KENSAIL POINT subdivision to the City of College Station, Texas, and whose mortgagee(s) have subordinated their interest, hereby dedicate to the use of the public forever all streets, alleys, parks, easements and public places thereon shown for the purpose and consideration therein expressed.

Glen Carter
Kathleen Carter
Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared Glen Carter & Kathleen Carter
known to me to be the person(s) whose name(s) before subscribed to the foregoing instrument, and acknowledged to me that he/they executed the same for the purpose and consideration therein stated.

Given under my hand and seal on this the 16th day of May 1992

Sam Wells
Notary Public, Brazos County, Texas
My commission expires 12-4-93

LARRY WELLS
MY COMMISSION EXPIRES
December 4, 1993

APPROVAL OF PLANNING AND ZONING COMMISSION

Kyle Hamilton III, Chairman of the Planning and Zoning Commission of the City of College Station, Brazos County, Texas, hereby certify that this plat was approved by the Commission on the 7th day of July 1992.

Kyle Hamilton III
Chairman
Attest: Natalie Hanna
Secretary

APPROVAL OF CITY COUNCIL

I, Larry Singer, Mayor of the City of College Station, Texas, hereby certify that this plat was approved by the City Council on the 27th day of July 1992.

Larry Singer
Mayor
Attest: Connie Hoard
Secretary

CERTIFICATE OF CITY ENGINEER

I, David L. Pelton, P.E., City Engineer of the City of College Station, Texas, hereby certify that this subdivision plat conforms to the requirements of the Subdivision Ordinance of the City of College Station.

David L. Pelton, P.E.
City Engineer
City of College Station, Texas

CERTIFICATE BY THE COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, BARBARA VARS, County Clerk, in and for the said county, do certify that this plat, together with its certificates of acknowledgment, was filed for record in my office the _____ day of _____, _____ in the Official Records of Brazos County, VOLUME _____ PAGE _____

County Clerk
Brazos County, Texas

A FINAL PLAT
OF
KENSAIL POINT
9.13 ACRES
BEING A RESUBDIVISION
OF A PORTION OF
LOT 2, BLOCK THIRTEEN, NANTUCKET PHASE II
VOLUME 752, PAGE 119
AND A
0.35 ACRE PORTION OF A 595.85 ACRE TRACT
VOLUME 531, PAGE 398
STERRETT D. SMITH LEAGUE, ABSTRACT NO. 210
BRAZOS COUNTY, TEXAS

DECEMBER 1991
SCALE 1"=50'

PREPARED FOR:
GLEN CARTER
P O BOX 10525
COLLEGE STATION, TEXAS 77842
361-6208

PREPARED BY
SURGICAL DEVELOPMENT GROUP
203 ROLLINGWOOD DRIVE EAST
COLLEGE STATION, TEXAS 77845
693-5359

Vol 1517 Pg. 299

EXHIBIT "E"

NOTE: IN ADDITION TO OTHER EASEMENTS WHICH MAY BE SHOWN OR SPECIFIED THE FOLLOWING EASEMENTS ARE ALSO GRANTED:
1.) A TEN (10) FOOT WIDE UTILITY EASEMENT ON EACH SIDE OF ANY AND ALL LOT LINES SHOWN ON THE PLAT AND ON EACH SIDE OF ANY AND ALL LOT LINES WHICH MAY BE ESTABLISHED IN THE FUTURE.

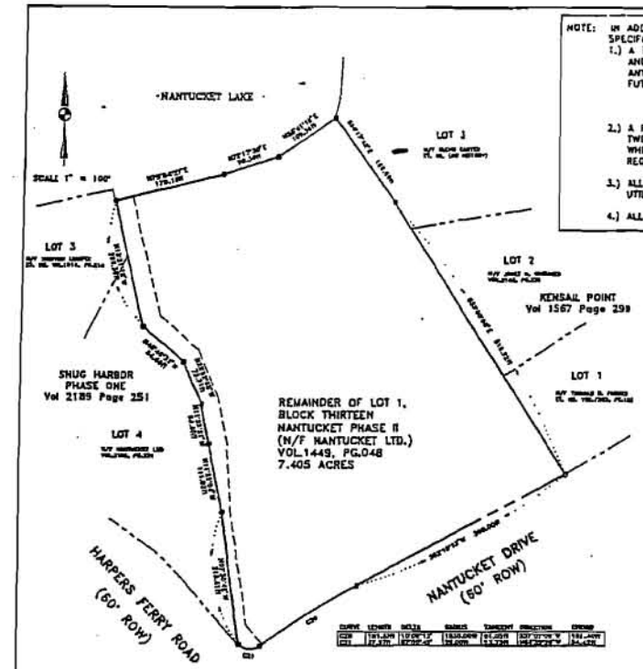
2.) A FIVE (5) FOOT WIDE ANCHOR AND GUY EASEMENT EXTENDING TWENTY (20) FEET BEYOND ANY SPECIFIED UTILITY EASEMENTS WHERE AND WHEN NECESSARY FOR GUYS AND ANCHORS REQUIRED IN SUPPORTING OVERHEAD UTILITY LINES.

3.) ALL LOTS ALONG THE ROAD FRONTAGE HAVE A SIXTEEN (16) FOOT UTILITY EASEMENT.

4.) ALL DISTANCES SHOWN ON CURVES ARE CHORD DISTANCES.

MINIMUM FINISH FLOOR ELEVATION FOR LAKE LOTS ORIGINALLY ESTABLISHED BY DEED RESTRICTIONS IN VOLUME 572, PAGE 639 AND ALSO RECORDED IN VOL. 1282, PG. 59.
MINIMUM FINISH FLOOR = 256.50.

NOTE: NO PRIVATE SEWAGE FACILITY MAY BE INSTALLED ON ANY LOT IN THIS SUBDIVISION WITHOUT THE ISSUANCE OF A LICENSE BY THE BRAZOS COUNTY HEALTH UNIT UNDER THE PROVISIONS OF THE PRIVATE FACILITY REGULATIONS ADOPTED BY THE COMMISSIONERS COURT OF BRAZOS COUNTY, PURSUANT TO THE PROVISIONS OF SECTION 21.054 OF THE TEXAS WATER CODE.



ORIGINAL PLAT

SCALE: 1" = 100' VOL. 2189 PG. 251

NOTE: BASIS OF BEARING FINAL PLAT NANTUCKET PHASE I AS RECORDED IN VOL. 379, PG. 291.

NOTE: ALL MONUMENTS ARE 1/2" IRON RODS UNLESS OTHERWISE NOTED. ALL LOT CORNERS, P.H.T.'s & P.H.C.'s ARE MONUMENTED. NO MONUMENTS SET IN WATER.

SPECIAL NOTE:
NO DWELLING OF ANY TYPE SHALL BE PERMITTED TO BE CONSTRUCTED NORTH OF THE 15' UTILITY EASEMENT DEPICTED CROSSING LOTS 4 AND 5.

CERTIFICATE OF APPROVAL

This subdivision plat was duly approved by the Commissioners Court of Brazos County, Texas, at the Final Plat of said subdivision on the 2nd day of June 1995

Signed this the 2nd day of June 1995

County Judge, Brazos County, Texas

CERTIFICATE OF SURVEYOR

STATE OF TEXAS
COUNTY OF BRAZOS

I, A.W. Kemmer, Registered Professional Land Surveyor No. 1852, in the State of Texas, do hereby certify that this plat is true and correct and was prepared from an actual survey of the property and that property markers and monuments were placed under my supervision on the ground.

A.W. Kemmer

CERTIFICATE OF CITY ENGINEER

I, Kent Lacy, City Engineer of the City of College Station, Texas hereby certify that this subdivision plat conforms to the requirements of the Subdivision Regulations of the City of College Station.

City Engineer
City of College Station

APPROVAL OF CITY COUNCIL

I, Larry Ringer, Mayor of the City of College Station, Texas, hereby certify that this plat was duly approved by the City Council on the 12th day of Feb 1995

Mayor

ATTEST: City Secretary

APPROVAL OF PLANNING AND ZONING COMMISSION

I, Lee Hawthorne, Chairman of the Planning and Zoning Commission of the City of College Station, hereby certify that the attached plat was duly approved by the Commission on the 16th day of March, 19 94

Chairman

City Engineer

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Nantucket Ltd. owner(s) and developer(s) of the land shown on this plat, and designated herein as the Subdivision to the City of College Station, and whose name(s) is/are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements and public places thereon shown for the purpose and consideration therein expressed.

Kemp Finlay Realty, Inc., G.P.
Owner(s)
Phyllis Jeanne Holman, Pres.

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared Phyllis Jeanne Holman known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/they executed the same for the purposes and consideration therein stated.

Given under my hand and seal on this the 22nd day of Feb 1995

Notary Public, Brazos County, Texas
My commission expires 12/14/97

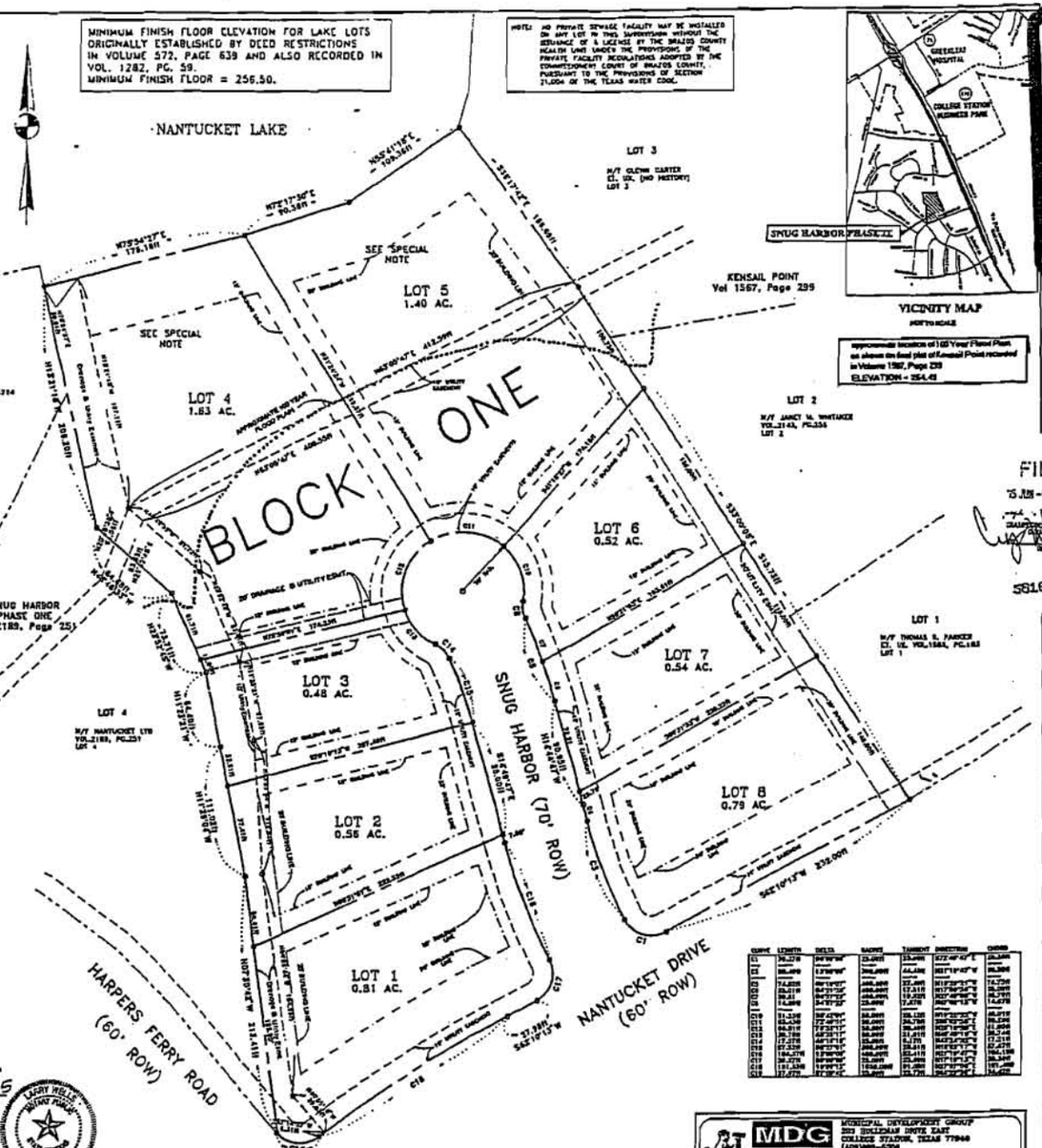
LARRY WELLS
NOTARY PUBLIC
STATE OF TEXAS
COMM. EXP. 12-04-97

CERTIFICATE BY THE COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, MARY ANN WARD, County Clerk, in and for the said county, do certify that this plat, together with its certificates of authentication, was filed for record in my office the _____ day of _____, _____ in the Official Records of Brazos County, TEXAS _____ PAGE _____

County Clerk
Brazos County, Texas



VICINITY MAP
NOT TO SCALE

approximate location of 100 Year Flood Plain as shown on final plat of Kensail Point recorded in Volume 1567, Page 299
ELEVATION = 254.45

EXHIBIT E

FILED:
95 JUN -9 PM 4:19
581604

Vol. 2370 Pg. 1-2

RESUBDIVISION

SCALE: 1" = 50'

Rev.	Date	By	Comment

MDG
MUNICIPAL DEVELOPMENT GROUP
2601 BOLLINGER DRIVE EAST
COLLEGE STATION, TEXAS 77840
(409)693-5309
Engineering • Planning • Surveying

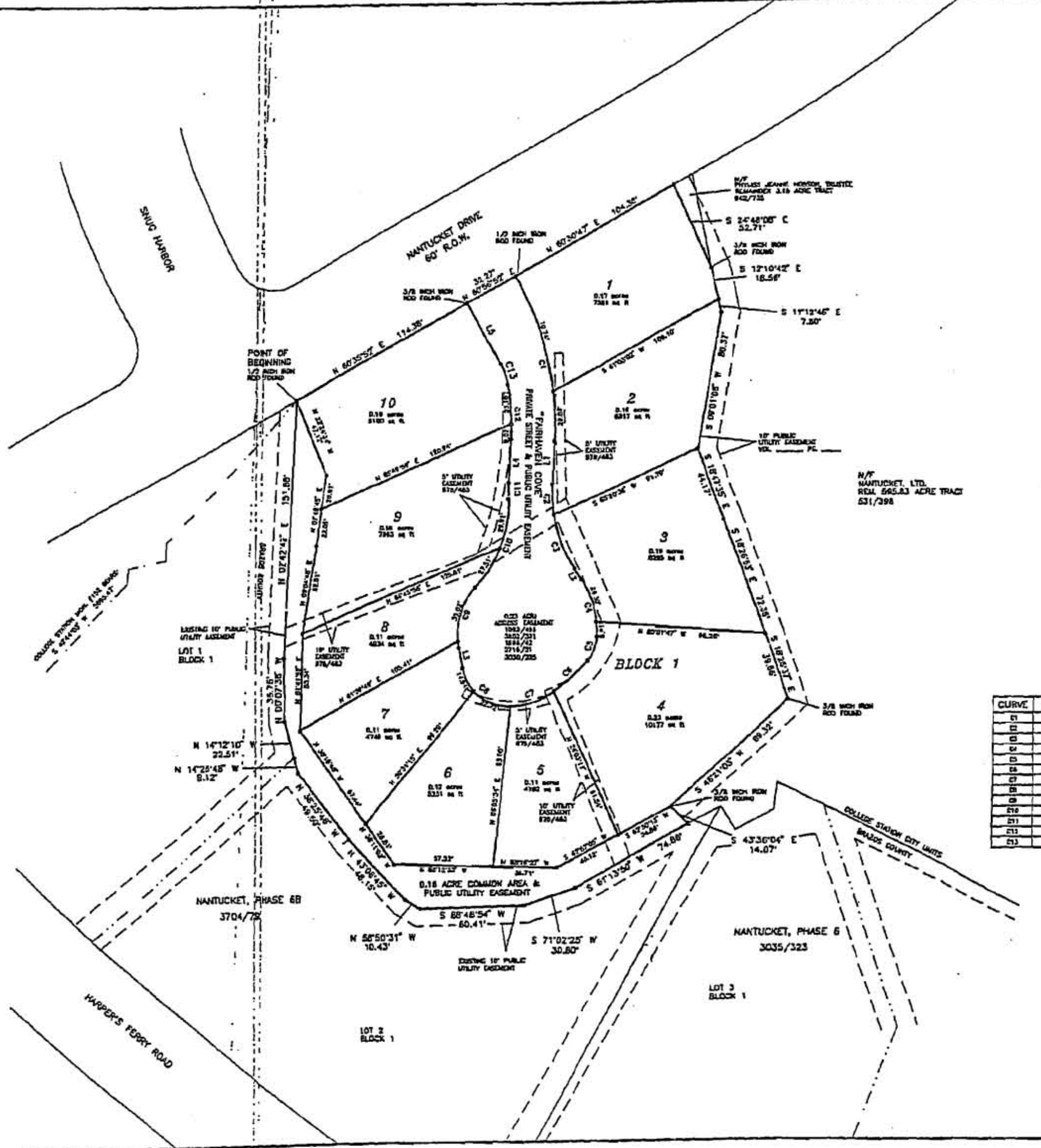
SNUG HARBOR – PHASE II
A RESUBDIVISION OF
REMAINDER OF LOT 1, BLOCK 13
NANTUCKET PHASE II
VOL 2189, PAGE 251
STERRET O. SMITH LEAGUE, A-210,
COLLEGE STATION, BRAZOS COUNTY, TEXAS

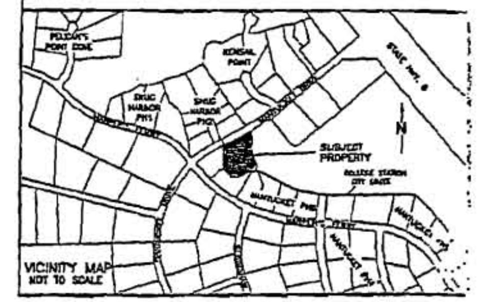
Prepared for:
NANTUCKET, LTD.
1502 NANTUCKET DRIVE
COLLEGE STATION, TEXAS

Scale: 1" = 50' Sht: 1/1
Date: 13 FEBRUARY 1995
Drawn By: CHARLES HASTINGS

M.D.G. No.

EXHIBIT "H"





GENERAL NOTES

1. BEARING SYSTEM SHOWN HEREON IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.
2. SUBJECT PROPERTY DOES NOT LIE WITHIN A DESIGNATED FLOOD PLAIN AREA ACCORDING TO THE F.I.R.M. MAPS, COMMUNITY PANEL NO. 48041C0200 D, DATED 02-09-2000.
3. 1/2 INCH IRON ROD FOUND AT ALL EXTERIOR PROPERTY CORNERS UNLESS OTHERWISE NOTED.
4. UTILITY EASEMENT TO CITY OF BRYAN SHOWN HEREON, VOL. [illegible], PG. [illegible], IS DESIGNATED AS AN ELECTRICAL EASEMENT.

LINE	DISTANCE	BEARING
L1	33.00'	S 02°28'24" W
L2	7.39'	S 31°34'07" E
L3	11.83'	N 10°52'07" W
L4	33.00'	N 02°28'08" E
L5	40.34'	N 28°04'10" W

CURVE	RADIUS	DELTA	ARC	TANGENT	BEARING	CHORD
C1	185.19	31°01'18"	100.26	51.39	S 13°07'14" E	99.04
C2	93.47	10°33'41"	18.54	8.30	S 07°58'58" E	18.51
C3	84.57	23°30'18"	34.74	17.62	S 20°13'59" E	34.50
C4	54.80	34°22'39"	35.34	18.20	S 14°47'41" E	34.81
C5	25.00	30°23'17"	15.12	7.87	S 25°05'10" W	14.83
C6	130.93	11°27'14"	26.16	13.13	S 47°36'31" W	38.12
C7	42.73	38°06'25"	16.94	13.83	S 71°17'25" W	26.50
C8	27.47	78°47'15"	36.63	23.13	N 60°43'44" W	35.49
C9	40.81	52°34'34"	37.60	20.25	N 10°27'40" E	36.28
C10	75.19	44°01'18"	57.77	30.40	N 18°46'02" E	56.36
C11	122.44	04°40'47"	10.00	5.00	N 60°04'37" E	10.00
C12	160.19	11°33'49"	32.33	16.30	N 42°18'39" W	32.23
C13	37.50	19°57'37"	13.06	6.60	N 19°04'24" W	13.00

SHEET ONE OF TWO

FINAL PLAT
OF
FAIRHAVEN COVE SUBDIVISION
1.97 ACRES
STERRETT D. SMITH LEAGUE, A-210
COLLEGE STATION, BRAZOS COUNTY, TEXAS

KSC

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 12-18-03
PLAT DATE: 02-23-03
REVISED: 03-08-04
JOB NUMBER: 03-0152
CAD NAME: 03-0152F
CRS FILE: FAIRHAVN

PREPARED BY: KERR SURVEYING LLC
505 CHURCH STREET, P.O. BOX 269
COLLEGE STATION, TEXAS 77841
PHONE (979) 268-3195

PREPARED FOR: NANTUCKET, LTD.
1101 UNIVERSITY DRIVE EAST
SUITE 108
COLLEGE STATION, TEXAS 778[illegible]

EXHIBIT H

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Joyce Thorn owner(s) and developer(s) of [illegible]

Joyce Thorn
Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared Joyce Thorn [illegible]

Given under my hand and seal on this 31st day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Domingo Munoz owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 16th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) CW Boyd owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 16th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Charles H Slusher owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 16th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Emily Zolin owner(s) and developer(s) of [illegible]

Emily Zolin
Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 17th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Olive Paden owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 16th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Jeff Hill and Kimberly Hill owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 29th day of March 2004.

Carol A. Canady
Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) [illegible] owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 19th day of April 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) David Godwin owner(s) and developer(s) of [illegible]

David Godwin
Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 17th day of March 2004.

Notary Public, Brazos County, Texas

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

I (We) Pat Kuhn owner(s) and developer(s) of [illegible]

Owner(s)

STATE OF TEXAS
COUNTY OF BRAZOS

[illegible]

Given under my hand and seal on this 21st day of April 2004.

Notary Public, Brazos County, Texas

Doc 00854129 Bk OR Vol 6028 Pg 78

Filed for Record in: BRAZOS COUNTY

On: May 05,2004 at 01:33P

As a Plats

Document Numbers 00854129

Amount 56.00

Receipt Number - 241254
By, File Workman

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of: BRAZOS COUNTY as stamped hereon by me.

May 05, 2004

HONORABLE KAREN McQUEEN, COUNTY CLERK
BRAZOS COUNTY

CERTIFICATE OF CITY ENGINEER

I, [illegible], City Engineer of the City of College Station, Texas, hereby certify that this Subdivision Plat conforms to the requirements of the Subdivision Regulations of the City of College Station.

City Engineer
City of College Station

APPROVAL OF PLANNING AND ZONING COMMISSION

I, Scott Shafer, Chairman of the Planning and Zoning Commission of the City of College Station, hereby certify that the attached plat was duly approved by the Commission on the [illegible] day of [illegible] 2004.

Chairman

CERTIFICATE OF THE COUNTY CLERK

STATE OF TEXAS
COUNTY OF BRAZOS

I, Karen McQueen, County Clerk, in and for said County, do hereby certify that this plat together with its certificates of authentication was filed for record in my office the [illegible] day of [illegible] 2004, in the Official Public Records of Brazos County, Texas, in Volume [illegible] Page [illegible].

County Clerk
Brazos County, Texas

CERTIFICATE OF SURVEYOR

I, [illegible], Registered Public Surveyor No. [illegible], in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property and that property markers and monuments were placed under my supervision on the ground.

[illegible] R.P.L.S. No. [illegible]

SHEET TWO OF TWO

FINAL PLAT
OF
FAIRHAVEN COVE SUBDIVISION
1.97 ACRES
STERRETT D. SMITH LEAGUE, A-210
COLLEGE STATION, BRAZOS COUNTY, TEXAS

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 12-18-03
PLAT DATE: 02-23-03
REVISED: 03-08-04
JOB NUMBER: 03-0152
CAD NAME: 03-0152F
CRS FILE: FAIRHAVN

KSC

PREPARED BY: KERR SURVEYING LLC
505 CHURCH STREET, P.O. BOX 269
COLLEGE STATION, TEXAS 77841
PHONE (979) 268-3195

PREPARED FOR: NANTUCKET, LTD.
1501 UNIVERSITY DRIVE EAST
SUITE 106
COLLEGE STATION, TEXAS 77840

EXHIBIT "F"

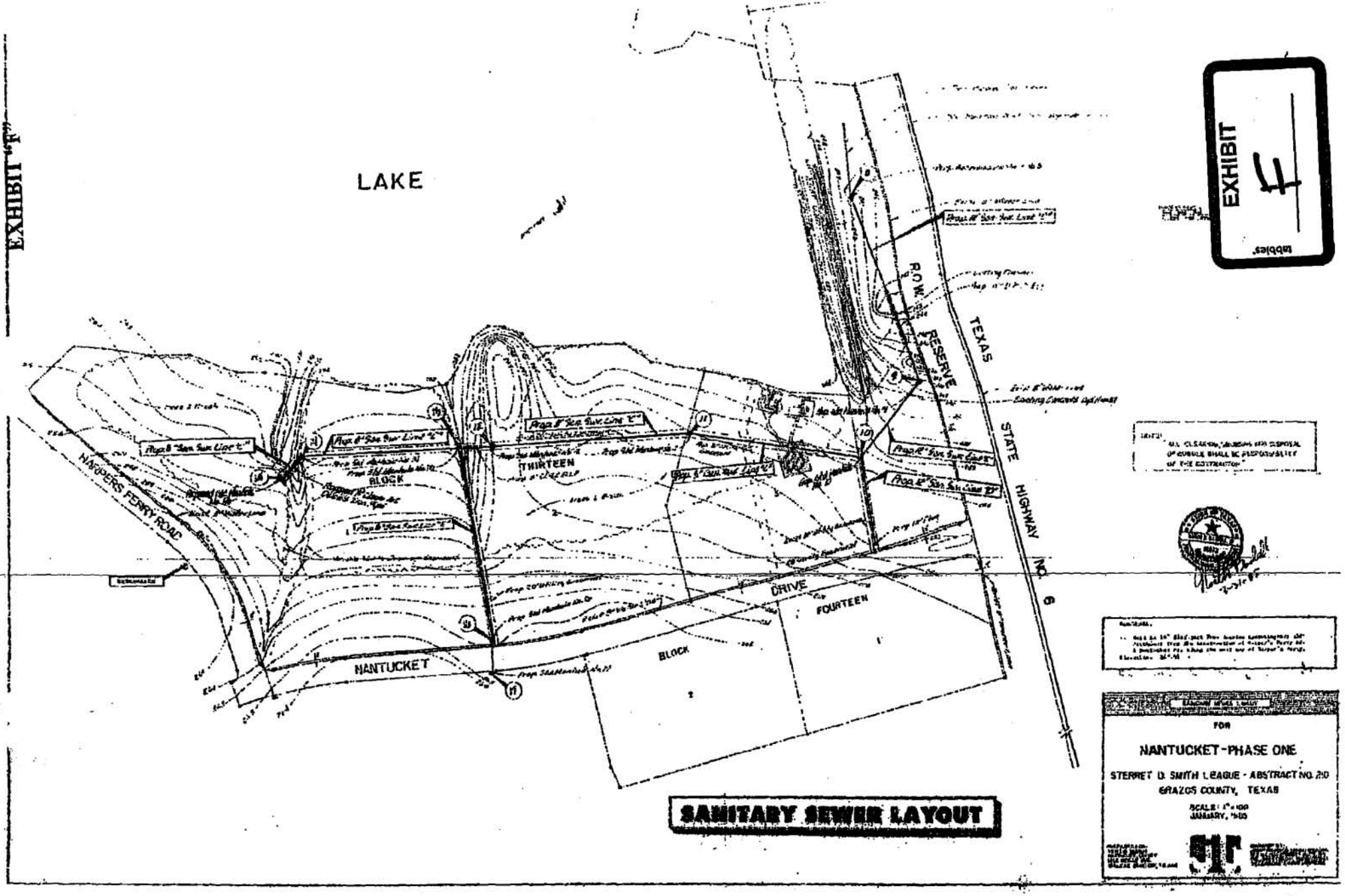


EXHIBIT 4

EXHIBIT "G"

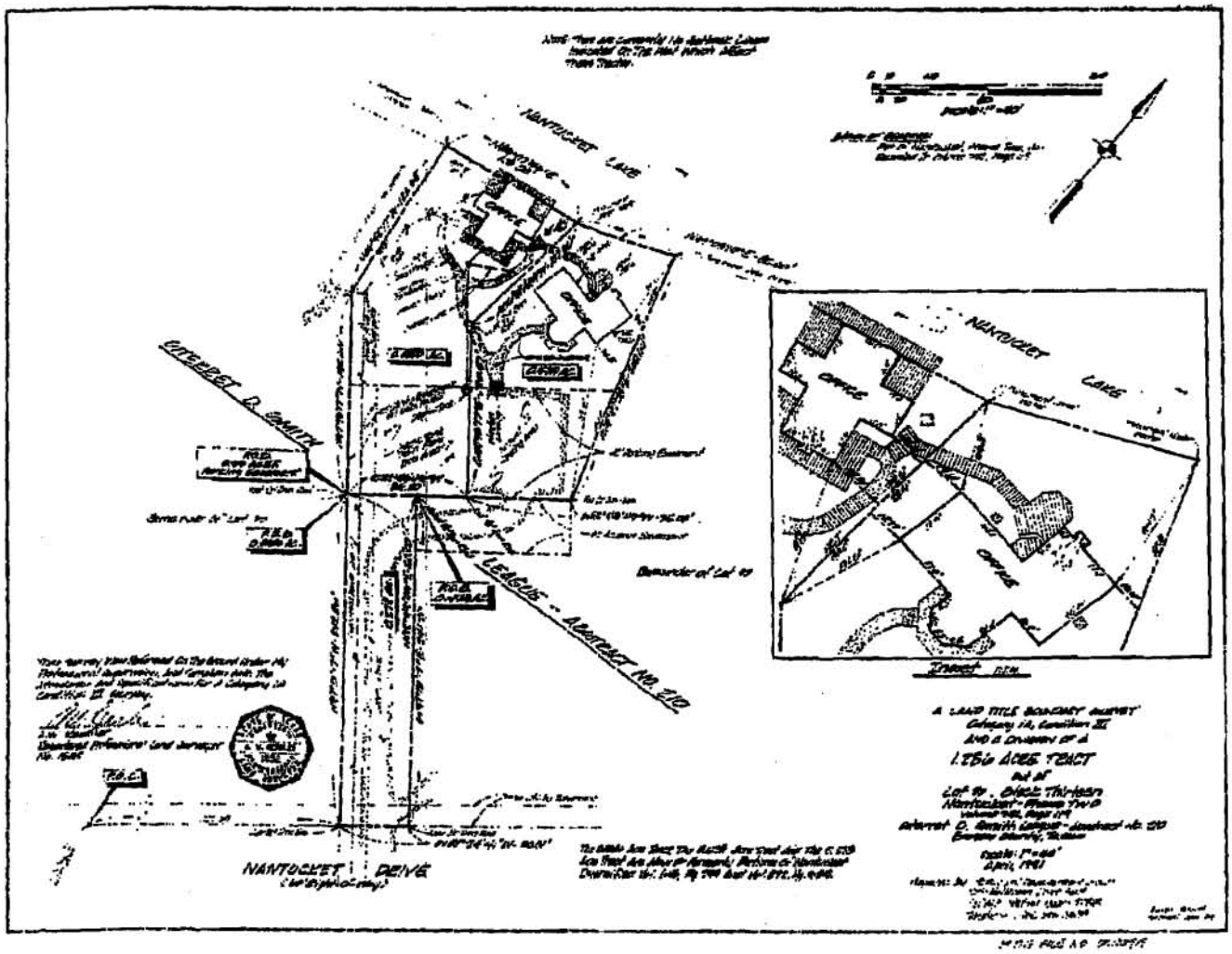


EXHIBIT
G

Correction Easement For Utilities

Date: May 20, 2006

Grantor: THOMAS B. BRAGG and KAREN A. BRAGG

Grantor's Mailing Address:

15437 Dewey Circle
Omaha, NE
68154-2719
Douglas County, NE

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address: [include county]

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

Kensail Point, Lot 3 (acreage 2.65). Further described in a Warranty Deed located in the Official Records at Volume 4529, Page 92, Official Records, Brazos County Clerk's Office, Brazos County, Texas.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas, at Volume 1567, Page 299, and being more particularly described on "Exhibit D," attached hereto and made a part hereof for all purposes; and

EXHIBIT
I

WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit D;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in **"Exhibit A"** and as shown on **"Exhibit C 1;"**

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and for the cancellation, rescission, and return of the original easement as described in "Exhibit D," in exchange for the correct description of the easement as described and shown by **"Exhibit A"** and **"Exhibit C 1,"** and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors,

and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

Thomas B. Bragg

THOMAS B. BRAGG, Grantor

Karen A. Bragg

KAREN A. BRAGG, Grantor

~~STATE OF TEXAS~~ § STATE of NEBRASKA
§ COUNTY of DOUGLAS
~~COUNTY OF BRAZOS~~ §

BEFORE ME, the undersigned authority, on this day personally appeared THOMAS B. BRAGG known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that THOMAS B. BRAGG executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 20 day of May, 2006.

GENERAL NOTARY - State of Nebraska
L.L. SPENCER
My Comm. Exp. May 20, 2007

L.L. Spencer 5/20/2007
NOTARY PUBLIC, ~~State of Texas~~
State of NEBRASKA

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared KAREN A. BRAGG known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that KAREN A. BRAGG executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office, this _____ day of May, 2006.

Jane H. Kennedy
NOTARY PUBLIC, State of Texas

11-15-06
MY COMMISSION EXPIRES

Correction Easement For Utilities

Date: June ~~May~~ 6, 2006

Grantor: GLEN H. CARTER AND KATHLEEN CARTER REVOCABLE LIVING TRUST

Grantor's Mailing Address:

Glen Carter and Kathleen Carter, Trustees
4201 Ballylough Lane
College Station, TX 77845-8739
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address:

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

Kensail Point, Lot 4 (acreage 1.64). Further described in Quitclaim Deeds, located in the Official Records at Volume 3801, Page 16, and at Volume 3968, Page 169, in the Official Records, Brazos County Clerk's Office, Brazos County, Texas.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas, at Volume 1567, Page 299, and being more

EXHIBIT
J

particularly described on "Exhibit D," attached hereto and made a part hereof for all purposes; and

WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit D;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in **"Exhibit A"** and as shown on **"Exhibit C 2;"**

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and for the cancellation, rescission, and return of the original easement as described in "Exhibit D," in exchange for the correct description of the easement as described and shown by **"Exhibit A"** and **"Exhibit C 2,"** and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

GLEN H. CARTER AND KATHLEEN CARTER REVOCABLE LIVING TRUST, by

GLEN CARTER, Trustee

Kathleen Carter

KATHLEEN CARTER, Trustee

STATE OF TEXAS §
§
COUNTY OF ~~BRAZOS~~ Bexar §

BEFORE ME, the undersigned authority, on this day personally appeared GLEN H. CARTER, Trustee for the GLEN H. CARTER AND KATHLEEN CARTER REVOCABLE LIVING TRUST, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that GLEN H. CARTER executed the same for and on behalf of the Revocable Living Trust, that he had the authority to execute same for the Revocable Living Trust, that he executed same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 8th day of ~~May~~ June, 2006.

JANET LARSEN
Notary Public, State of Texas
My Commission Expires
January 25, 2009

Janet Larsen

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
§
COUNTY OF ~~BRAZOS~~ BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared KATHLEEN CARTER, Trustee for the GLEN H. CARTER AND KATHLEEN CARTER REVOCABLE LIVING TRUST, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that KATHLEEN CARTER executed the same for and on behalf of the Revocable Living Trust, that she had the authority to execute same for the Revocable Living Trust, and that she executed same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 7th day of ~~May~~ JUNE, 2006.

ROGER A. TOVAR
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 10-29-2006

NOTARY PUBLIC, State of Texas

Correction Easement For Utilities

Date: ~~May~~ June 1, 2006

Grantor: R. MARK SYKES

Grantor's Mailing Address:

1500 Nantucket Drive
College Station, TX
77845-8364
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address: [include county]

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

Nantucket Phase #2, Block 13, Part of Lot 3 (acreage 0.67). Further described in Warranty Deeds located in the Official Records at Volume 646, Page 799, and Volume 872, Page 385, Official Records, Brazos County Clerk's Office, Brazos County, Texas.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket—Phase One which adjacent to, across, and providing service to the .0533

EXHIBIT
K

Acre Tract, the .0475 Acre Tract, and the 0.278 Acre Tract, which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas, at Volume 646, Page 799, and Volume 872, Page 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dated April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket—Phase One is more particularly described in "**Exhibit G,**" attached hereto and made a part hereof for all purposes; and

WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit G;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in "**Exhibit A,**" and as shown on "**Exhibit C 5;**"

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and for the cancellation, rescission, and return of the original easement as described in "Exhibit G," in exchange for the correct description of the easement as described and shown by "**Exhibit A,**" and as shown on "**Exhibit C 5,**" and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all

or such portion of the Dominant Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to

their original condition on the completion of the work.

R. Mark Sykes

R. MARK SYKES

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared R. MARK SYKES known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that R. MARK SYKES executed the same of the purposes and consideration therein expressed. Given under my hand and seal of office, this 1 day of June ~~May~~, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

Chris Kremer

NOTARY PUBLIC, State of Texas

Correction Easement For Utilities

Date: ~~May~~ JUNE 1, 2006

Grantor: GREGORY SHIBE PHELPS

Grantor's Mailing Address:

1502 Nantucket Drive
College Station, TX
77845-8364
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address:

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

Nantucket Phase #2, Block 13, Part of Lot 3 (acreage 0.61). Further described in a Warranty Deed located in the Official Records at Volume 3232, Page 267, Official Records, Brazos County Clerk's Office, Brazos County, Texas.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket—Phase One which adjacent to, across, and providing service to the .0533 Acre Tract, the .0475 Acre Tract, and the 0.278 Acre Tract, which are now or formerly

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portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas, at Volume 646, Page 799, and Volume 872, Page 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dated April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket—Phase One is more particularly described in **"Exhibit F,"** attached hereto and made a part hereof for all purposes; and

WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit F;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in **"Exhibit A,"** and as shown on **"Exhibit C 6;"**

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS **($10.00)**, and for the cancellation, rescission, and return of the original easement as described in "Exhibit F," in exchange for the correct description of the easement as described and shown by **"Exhibit A,"** and as shown on **"Exhibit C 6,"** and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Correction Easement is

nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

GREGORY SHIBE PHELPS

STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared GREGORY SHIBE PHELPS known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that GREGORY SHIBE PHELPS executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 1st day of ~~May~~ June, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

NOTARY PUBLIC, State of Texas

Correction Easement For Utilities

Date: May 22, 2006

Grantor: CLARENCE H. PRIHODA and MARIAN J. PRIHODA

Grantor's Mailing Address:

14181 FM 2154 Road
College Station, TX 77845-3349
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address: [include county]

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

Kensail Point, Lot 5 (acreage 1.04). Further described in a Warranty Deed located in the Official Records at Volume 2019, Page 348, Official Records, Brazos County Clerk's Office, Brazos County, Texas.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas, at Volume 1567, Page 299, and being more particularly described on "Exhibit D," attached hereto and made a part hereof for all purposes; and

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WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit D;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in "**Exhibit A**" and as shown on "**Exhibit C 3**;"

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and for the cancellation, rescission, and return of the original easement as described in "Exhibit D," in exchange for the correct description of the easement as described and shown by "**Exhibit A**" and "**Exhibit C 3**," and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is

nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

CLARENCE H. PRIHODA

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MARIAN J. PRIHODA

STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared CLARENCE H. PRIHODA known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that CLARENCE H. PRIHODA executed the same of the purposes and consideration therein expressed. Given under my hand and seal of office, this 22nd day of May, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

Chris Kremer
NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared MARIAN J. PRIHODA known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that MARIAN J. PRIHODA executed the same of the purposes and consideration therein expressed. Given under my hand and seal of office, this 22nd day of May, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

Chris Kremer
NOTARY PUBLIC, State of Texas

Correction Easement For Utilities

Date: June 14, 2006

Grantor: NANTUCKET, LTD., a Texas Limited Partnership

Grantor's Mailing Address:

Phyllis Hobson
Homefinder Realty, Inc., General Partner
9304 Chadwick Lane
College Station, TX
77845-8785
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address:

2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Dominant Estate Property:

A 4.29-acre tract, described as Nantucket Phase Two, Block 13, Part of Lot 3 (acreage 4.17) and part of Lot 2 (acreage 0.12) further referenced in Brazos County Appraisal District records as R76572.

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines over and across the dominant estate (as defined herein above); and

WHEREAS said Utility Easement was described as all that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket—Phase One which adjacent to, across, and providing service to the .0533 Acre Tract, the .0475 Acre Tract, and the 0.278 Acre Tract, which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas, at Volume 646, Page 799, and Volume 872, Page 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dated April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket—Phase One is more particularly described in **"Exhibit F,"** attached hereto and made a part hereof for all purposes; and

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WHEREAS the pipes of the sanitary sewer and waste water system were and are actually laid on and across the dominant estate but outside and adjacent to the easement granted by the Grantor in accordance with "Exhibit F;" and

WHEREAS the pipes of the sanitary sewer and waste water system are actually and currently laid on and across the dominant estate as described in the metes and bounds description set forth in **"Exhibit A"** and **"Exhibit B,"** and as shown on **"Exhibit C 4"** and on **"Exhibit C 7;"**

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and for the cancellation, rescission, and return of the original easement as described in **"Exhibit F,"** in exchange for the correct description of the easement as described and shown by **"Exhibit A"** and **"Exhibit B,"** and as shown on **"Exhibit C 4"** and on **"Exhibit C 7,"** and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor;

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the dominant estate for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such

further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement and Holder may not harm or interfere with the use of any improvements located on the Adjacent Property.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

6. The Holder does, by the recording of this Correction Easement, release all right to use the easement in the location described on Exhibit "F" attached hereto and incorporated herein by reference.

NANTUCKET, LTD., a Texas Limited Partnership

By: Phyllis Hobson
PHYLLIS HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd.

By: Phyllis Hobson
PHYLLIS HOBSON, Individually

STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared PHYLLIS HOBSON, President of Home Finder Realty, Inc., General Parter of Nantucket, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that PHYLLIS HOBSON executed the same as President for and on behalf of the Home Finder Realty, Inc., general partner of Nantucket, Ltd., a Texas Limited Partnership, that she had the authority to execute same for Home Finder Realty, Inc., who had the authority to sign as general partner of Nantucket, Ltd., and that she executed same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 14th day of June, 2006.

Cynthia Ann Stead
NOTARY PUBLIC, State of Texas

CYNTHIA ANN STEAD
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
SEPTEMBER 29, 2007

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STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared PHYLLIS HOBSON known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that PHYLLIS HOBSON executed the same in her individual capacity for the purposes and consideration therein expressed. Given under my hand and seal of office, this 14th day of June, 2006.

Cynthia Ann Stead
NOTARY PUBLIC, State of Texas

CYNTHIA ANN STEAD
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
SEPTEMBER 29, 2007

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Correction Easement For Utilities

Filed for Record in:
BRAZOS COUNTY

On: Sep 13,2006 at 12:43P

as a
Recording

Document Number: 00940544

Amount -7.00

Receipt Number - 299462

By
Kim Green

Date: September 13, 2006

Grantor: NANTUCKET, LTD., a Texas Limited Partnership

Grantor's Mailing Address: Phyllis Hobson
Homefinder Realty, Inc., General Partner
9304 Chadwick Lane
College Station, TX
77845-8785
Brazos County, TX

Grantee: Beaver Consulting Corp.
d/b/a Municipal Development Group

Grantee's Mailing Address: 2551 Texas Avenue South
College Station, TX
77840
Brazos County, TX

Servient Estate Property:

That certain 1.53-acre remainder of that same 595.83 acre tract conveyed to Nantucket, Ltd, as described by deed recorded in Volume 531 Page 398 of the Official Records of Brazos County, Texas. The 1.53-acre tract is referenced as "Not Included" on that certain unrecorded Exhibit Drawing of Land Transfer, which is attached hereto and incorporated herein by reference as Exhibit "A" and by the Brazos County Appraisal District as Tract No. R302071 (Exhibit "B").

Dominent Estate Property.

That certain 0.08 acre tract or parcel of land, being a 20-foot wide Utility Easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, College Station, Brazos County, Texas and being a portion out of that certain 1.53-acre remainder of that same 595.83 acre tract conveyed to Nantucket, Ltd, as described by deed recorded in Volume 531 Page 398 of the Official Records of Brazos County, Texas. The 0.08 - acre Utility Easement is more particularly described by metes and bounds in Exhibit "C" which is attached hereto and incorporated herein by reference. The 1.53-acre tract is referenced as "Not Included" on that certain unrecorded Exhibit Drawing of Land Transfer, which is attached hereto and incorporated herein by reference as Exhibit "A" and by the Brazos County Appraisal District as Tract No. R302071 (Exhibit "B").

WHEREAS Grantor conveyed to Grantee for good and valuable consideration an easement for the right of ingress and egress for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines and across the Servient Estate Property; and

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WHERE[illegible] Utility Easement was originally described as all that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket—Phase One which adjacent to, across, and providing service to the .0533 Acre Tract, the .0475 Acre Tract, and the 0.278 Acre Tract, which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas, at Volume 646, Page 799, and Volume 872, Page 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dated April, 1999, and which ties into Nantucket Drive;

WHEREAS the it was originally intended that the 20-foot wide Utility Easement also include, encompass, and incorporate that the reference that it was adjacent to, and across that certain 1.53 remainder of that certain 595.83 acre tract conveyed to Nantucket, Ltd., and which is more particularly described above as the servient estate; and

WHEREAS, the Grantee has represented to the Grantor that the Grantee has now physically located the existing sewer pipe and that it is located within the area described above as the Dominent Estate Property; and

WHEREAS, the Grantor has agreed to execute a Correction Easement for Utilities in reliance upon the Grantee's representations concerning the physical location of the existing sewer pipe.

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS ($10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged by Grantor, in exchange for the correction of the Utility Easement in include the extension of the .08-acre tract as more particularly described on Exhibit "C" and as shown on Exhibit "D";

GRANTOR, for the Consideration expressed immediately above, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement, as is more particularly described by metes and bounds in Exhibit "C" hereto and as shown on Exhibit "D," over, on, and across the Servient Estate Property for the purpose of the right of ingress and egress for the installation, construction, operation, maintenance, replacement, repair, upgrade, or removal of waste water and sewer lines, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement.

The following terms and conditions apply to this Correction Easement granted by this agreement just as they applied to the Easement originally granted:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominent Estate Property, whether or not the Correction Easement is referenced or described in any conveyance of all or such portion of the Servient Estate Property. The Correction Easement is nonexclusive and irrevocable. The Correction Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own any interest in the Servient Estate Property (as applicable, the "Holder").

2. *Duration of Correction Easement.* The duration of the Correction Easement is perpetual.

3. *Reservation of Rights.* Holder's right to use the Correction Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Correction Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Correction Easement Property by Holder for the Correction Easement Purpose, and the right to convey to others the right to use all or part of the Correction Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Correction Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the waste water and sewer lines within the Correction Easement Property that are reasonably suited for the Correction Easement Purpose. **However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement and Holder may not harm or interfere with the use of any improvements located on the Adjacent Property.**

5. *Improvement and Maintenance of Correction Easement Property.* Installation, improvement, and maintenance of the Correction Easement Property and the waste water and sewer lines will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Correction Easement Property. Holder must maintain the Correction Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove the waste water and sewer lines under or across any portion of the Correction Easement Property. All matters concerning the waste water and sewer lines and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Correction Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the waste water and sewer lines, subject to replacement of the fences to their original condition on the completion of the work.

6. The Holder does, by the recording of this Correction Easement, release all right to use the easement in the location described on Exhibit "F" attached hereto and incorporated herein by reference.

[SIGNATURES TO FOLLOW NEXT PAGE]

Signed this ____ day of September, 2006.

NANTUCKET, LTD., a Texas Limited Partnership

By: _____
PHYLLIS HOBSON, President of Home Finder Realty, Inc., General Partner of Nantucket, Ltd.

By: _____
PHYLLIS HOBSON, Individually

STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared PHYLLIS HOBSON, President of Home Finder Realty, Inc., General Parter of Nantucket, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that PHYLLIS HOBSON executed the same as President for and on behalf of the Home Finder Realty, Inc., general partner of Nantucket, Ltd., a Texas Limited Partnership, that she had the authority to execute same for Home Finder Realty, Inc., who had the authority to sign as general partner of Nantucket, Ltd., and that she executed same for the purposes and consideration therein expressed. Given under my hand and seal of office, this 13 day of September, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

_____
NOTARY PUBLIC, State of Texas
My Commission Expires: 2-15-09

STATE OF TEXAS §
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COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared PHYLLIS HOBSON known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that PHYLLIS HOBSON executed the same in her individual capacity for the purposes and consideration therein expressed. Given under my hand and seal of office, this 13 day of September, 2006.

CHRIS KREMER
Notary Public, State of Texas
My Commission Expires
February 15, 2009

_____
NOTARY PUBLIC, State of Texas
My Commission Expires: 2-15-09

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BRAZOS §

That **NANTUCKET, LTD.**, a Texas limited partnership, acting by and through its general partner Homefinder Realty, Inc., and Phyllis Hobson, Individually, ("Grantors") for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **THE BEAVER CONSULTING CORP. D/B/A MUNICIPAL DEVELOPMENT GROUP** of the County of Brazos, and State of Texas, all of Grantors' right title and interest in and to the following described Easements, to wit:

EASEMENT ONE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.203 acre tract or parcel of land, being a 15' wide utility easement, and lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in Volume 752, Page 119 of the Official Records of Brazos County, Texas, said 15' wide utility easement and the 0.203 acre tract being more particularly described and shown by that Conveyance of Easement recorded in Volume 1735, Page 317 of the Official Records of Brazos County, Texas, which is **Exhibit "A"** attached hereto and made a part hereof for all purposes.

EASEMENT TWO: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Three" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT THREE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly

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described as "Tract Four" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FOUR: any and all easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Five" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FIVE: All that certain 15' Utility Easement (Vol. 1735, Page 1320) as established on that certain Resubdivision Plat of Lot 1, Block Thirteen – Phase II, Snug Harbor - Phase I; and Lot 1R, Block Thirteen, Nantucket Phase Two, as recorded in the Official Records of Brazos County, Texas at Volume 2189, Page 251, and being more particularly described on **Exhibit "C"** attached hereto and made a part hereof for all purposes.

EASEMENT SIX: All that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas at Volume 1567, Page 299, and being more particularly described on **Exhibit "D"** attached hereto and made a part hereof for all purposes.

EASEMENT SEVEN: All that certain 15' and the 20' Utility Easements as established on that certain Resubdivision Plat of the Remainder of Lot 1, Block 13, Nantucket Phase II, as recorded in the Official Records of Brazos County, Texas at Volume 2370, Page 63, and being more particularly described on **Exhibit "E"** attached hereto and made a part hereof for all purposes.

EASEMENT EIGHT: All that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket–Phase One which adjacent to, across, and providing service to the .0533 Acre Tract, the 0475 acre Tract and the 0.278 acre tract which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas at Volume 646, Page 799 and Volume 872, Paqe 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dates April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket–Phase One is more particularly described in **Exhibit "F"** attached hereto and made a part hereof for all purposes. The Category 1A, Condition III Land Title Boundary Survey is more particularly described in **Exhibit "G"** attached hereto and made a part hereof for all purposes.

EASEMENT NINE: All that certain 10' Existing Utility Easement (Volume 978, Page 483), and that certain 5' Existing Utility Easement (Volume 978, Page 483), and that 10' Existing Utility Easement (Volume , Page) and that .16 Acre Existing Common

Area and Public Utility Easement, as established on that certain Final Plat of Fairhaven Cove Subdivision, as recorded in the Official Records of Brazos County, Texas, at Volume 6020, Page 78, and being more particularly described on **Exhibit "H"** attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

2. Nantucket Ltd reserves and saves and excepts all of the oil, gas and other minerals in on and under the herein described real property; however, Grantors waives the right to use the surface of the subject property to develop such oil, gas, and other minerals.

3. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantors' predecessors in title together with any leases pertaining to such interest. TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantors does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, 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 warranty, when the claim is by, through, or under Grantors but not otherwise.

EXECUTED this the 30th day of June, 2004.

NANTUCKET, LTD., a Texas limited partnership

By: Phyllis Hobson, Pres.
Phyllis Hobson, President of Home Finder Realty, Inc.
General Partner of Nantucket, Ltd.

By: Phyllis Hobson
Phyllis Hobson, Individually

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this 30th day of June, 2004 , by Phyllis Hobson, president of Homefinder Realty, Inc., the sole general partner of Nantucket Ltd., on behalf of said Corporation and Limited Partnership.

JENNIFER L. HELMCAMP
Notary Public, State of Texas
My Commission Expires
MAY 5, 2007

Jennifer L. Helmcamp
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this 30th day of June, 2004 , by Phyllis Hobson, in her Individual Capacity.

JENNIFER L. HELMCAMP
Notary Public, State of Texas
My Commission Expires
MAY 5, 2007

Jennifer L. Helmcamp
Notary Public, State of Texas

SPECIAL WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BRAZOS §

That **HUNTER'S BISMUTH, LLC**, a Texas limited liability company, ("Grantors") for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto **THE CITY OF COLLEGE STATION,** State of Texas, all right title and interest in and to the following described Easements which are appurtenant to the Nantucket Sewer Plant & System located in Brazos County, Texas, expressly subject to and as expressly corrected by those certain subsequently described Correction Easements for Utilities all of which are hereby conveyed, to wit:

EASEMENT ONE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.203 acre tract or parcel of land, being a 15' wide utility easement, and lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a portion of Lot 1, Block Thirteen, Nantucket - Phase Two, as shown by plat recorded in Volume 752, Page 119 of the Official Records of Brazos County, Texas, said 15' wide utility easement and the 0.203 acre tract being more particularly described and shown by that Conveyance of Easement recorded in Volume 1735, Page 317 of the Official Records of Brazos County, Texas, which is **Exhibit "A"** attached hereto and made a part hereof for all purposes.

EASEMENT TWO: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide sanitary sewer easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Three" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT THREE: any and all easements, including the right of ingress and egress for the purpose of operating a waste water and sewer disposal plant and related equipment and sewer lines over and across that certain 0.55 acre tract or parcel of land, being a 140' x 170' sanitary sewer treatment plant easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.55 acre tract being more particularly

EXHIBIT

described as "Tract Four" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FOUR: any and all easements for the purpose of constructing, maintaining, repairing, and removing electrical lines over and across that certain 0.18 acre tract or parcel of land, being a 20' wide electric easement, lying and being situated in the Sterrett D. Smith League, Abstract No. 210, Brazos County, Texas, and being a remainder of that same 595.83 acre tract conveyed from Donald S. Morris, et al, to Nantucket, Ltd., as described by deed recorded in Volume 531, Page 398 of the Deed Records of Brazos County, Texas, said 0.18 acre tract being more particularly described as "Tract Five" on **Exhibit "B"** attached hereto and made a part hereof for all purposes.

EASEMENT FIVE: All that certain 15' Utility Easement (Vol. 1735, Page 1320) as established on that certain Resubdivision Plat of Lot 1, Block Thirteen – Phase II, Snug Harbor - Phase I; and Lot 1R, Block Thirteen, Nantucket Phase Two, as recorded in the Official Records of Brazos County, Texas at Volume 2189, Page 251, and being more particularly described on **Exhibit "C"** attached hereto and made a part hereof for all purposes.

EASEMENT SIX: All that certain 20' Utility Easement as established on that certain Final Plat of Kensail Point, as recorded in the Official Records of Brazos County, Texas at Volume 1567, Page 299, and being more particularly described on **Exhibit "D"** attached hereto and made a part hereof for all purposes.

EASEMENT SEVEN: All that certain 15' and the 20' Utility Easements as established on that certain Resubdivision Plat of the Remainder of Lot 1, Block 13, Nantucket Phase II, as recorded in the Official Records of Brazos County, Texas at Volume 2370, Page 63, and being more particularly described on **Exhibit "E"** attached hereto and made a part hereof for all purposes.

EASEMENT EIGHT: All that certain 20' Existing Easement as established on that certain unrecorded Sanitary Sewer Layout of Nantucket–Phase One which adjacent to, across, and providing service to the 0.533 Acre Tract, the 0.475 acre Tract and the 0.278 acre tract which are now or formerly portions of Nantucket Diversified, as recorded in the Official Records of Brazos County, Texas at Volume 646, Page 799 and Volume 872, Paqe 385, as identified in that Category 1A, Condition III Land Title Boundary Survey by A.W. Kessler, dates April, 1999, and which ties into Nantucket Drive. The unrecorded Sanitary Sewer Layout of Nantucket–Phase One is more particularly described in **Exhibit "F"** attached hereto and made a part hereof for all purposes. The Category 1A, Condition III Land Title Boundary Survey is more particularly described in **Exhibit "G"** attached hereto and made a part hereof for all purposes.

EASEMENT NINE: All that certain 10' Existing Utility Easement (Volume 978, Page 483), and that certain 5' Existing Utility Easement (Volume 978, Page 483), and that 10' Existing Utility Easement (Volume , Page) and that .16 Acre Existing Common

Area and Public Utility Easement, as established on that certain Final Plat of Fairhaven Cove Subdivision, as recorded in the Official Records of Brazos County, Texas, at Volume 6020, Page 78, and being more particularly described on **Exhibit "H"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES ONE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.13 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated May 20, 2006, with Thomas B. Bragg and Karen A. Bragg as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 188, and being more particularly described on **Exhibit "I"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES TWO: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 6, 2006, with Glen H. Carter and Kathleen Carter Revocable Living Trust as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 180, and being more particularly described on **Exhibit "J"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES THREE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.04 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 1, 2006 with R. Marks Sykes as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 172, and being more particularly described on **Exhibit "K"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES FOUR: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.05 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 1, 2006, with Gregory Shibe Phelps as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 164, and being more particularly described on **Exhibit "L"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES FIVE: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.04 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated May 22, 2006, with Clarence H. Prihoda and Marian J. Prihoda, as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of

Brazos County, Texas, at Volume 7438, Page 196, and being more particularly described on **Exhibit "M"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES SIX: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "A" to that certain Correction Easement for Utilities, dated June 14, 2006, with Nantucket, Ltd., as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume 7438, Page 153, and being more particularly described on **Exhibit "N"** attached hereto and made a part hereof for all purposes.

CORRECTION EASEMENT FOR UTILITIES SEVEN: All of that certain 20' wide Sanitary Sewer Easement consisting of that certain 0.08 acre tract or parcel of land which is more particularly described by metes and bounds in Exhibit "C" to that certain Correction Easement for Utilities, dated September 13, 2006, with Nantucket, Ltd. as Grantor, and Beaver Consulting Corp. d/b/a Municipal Development Group as Grantee, as recorded in the Official Records of Brazos County, Texas, at Volume _____, Page _____, and being more particularly described on **Exhibit "O"** attached hereto and made a part hereof for all purposes.

This conveyance is made subject to the following exceptions:

1. All zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the herein described real property.

2. All prior reservations and exceptions as set out and contained in that certain Special Warranty Deed conveying the heretofore described easements, dated June 30, 2004, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "P".**

2. Nantucket Ltd's. prior reservation of all of the oil, gas and other minerals in on and under the herein described real property; however, Grantors waives the right to use the surface of the subject property to develop such oil, gas, and other minerals, as reflected in that certain Special Warranty Deed dated June 30, 2004, a copy of which is attached hereto and incorporated herein by reference as **Exhibit "P".**

3. Any prior reservation of oil, gas and other minerals in, on or under the herein described property by Grantors' predecessors in title together with any leases pertaining to such interest. TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successor and assigns forever; and Grantors does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, 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 warranty, when the claim is by, through, or under Grantors but not otherwise.

EXECUTED this the _____ day of October, 2006.

Hunter's Bismuth, LLC, A Texas Limited Liability Company

By: _____
Greg Taggart, President

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This Instrument was acknowledged before me on this _____ day of October, 2006, by Greg Taggart, President of Hunter's Bismuth, LLC, a Texas Limited Liability Company, on behalf of said Company.

_____
Notary Public, State of Texas

NANTUCKET, LTD. – WASTEWATER TREATMENT PLANT
INVENTORY OF MAINTENANCE, OPERATION, AND BUSINESS RECORDS

FILE DESCRIPTION	NAME	DATES
Limited Title Search for Nantucket Preservation Association, Inc, and Nantucket, Ltd.	Aggieland Title Company	05/10/04
State of Texas Sewer Utility Tariff for Nantucket, Ltd. Waste Water Treatment Plant	Nantucket, Ltd. Wastewater Treatment Plant – Sewer Utility Tariff	10/14/02
Nantucket Sewer Plant (WWTP) Customer Lists	Nantucket, Ltd. Waste Water Treatment Plant	12/2004 to 12/25/05
Miscellaneous Correspondence	Various Entities and Individuals	03/04/03 to 10/12/05
Monthly Texas Commission on Environmental Quality Monthly Effluent Report	Nantucket, Ltd.	11/04 to 09/06
Texas Natural Resource Conservation Commission – Permit to Dispose of Wastes and Texas Commission on Environmental Quality (TCEQ) Correspondence	Texas Commission on Environmental Quality	10/14/04 to 05/18/05;
Texas Commission on Environmental Quality (TCEQ) Permit and Correspondence	Municipal Development Group	05/07/99 to 09/06/05
Monthly Plant Operating Lab Reports	Chaparral Laboratories to MDG	02/12/04 to 01/10/06
Engineering Design Report	Nantucket Ltd.	Oct. 1991
Drawings of Nantucket Sewage Treatment Plant (7 total)	Prepared by Municipal Development Group for Nantucket Joint Venture Home Finder Realty	July, 1984 to Feb., 1985
Miscellaneous Plats and Surveys Out of Nantucket – Phase One, Two and Future	Prepared for Don Morris T – D Company	July, 1995
Miscellaneous Drawings and Property Detail Sheets	Nantucket, Ltd. – Wastewater Treatment Plant	05/21/05
Drawing of Snug Harbor, Phase Two	Municipal Development Group	March, 1995

EXHIBIT
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CONTRACT FOR SALE

ATTN: Deborah Rice

Frank's Electric Motor Service, Inc.

2600 Maloney St.
P. O. Box 3566
Bryan, TX 77805
(979) 822-2024

Invoice

DATE	INVOICE #
10/4/05	513821

BILL TO
MDG

P.O. NO.	TERMS	PROJECT

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
	3 hp Century, Tag#38479 Motor grounded, replaced with			
DT0034	3 HP, 3 PH, 1800 RPM, 182 T frame, ODP, Teco #DT0034 Serial #HO3383390068		203.92	203.92T
	State sales tax		8.25%	16.82

1-yr. manufacturer warrenty - from date of purchase

Pd
CK 5187

Signature

Total $220.74

EXHIBIT
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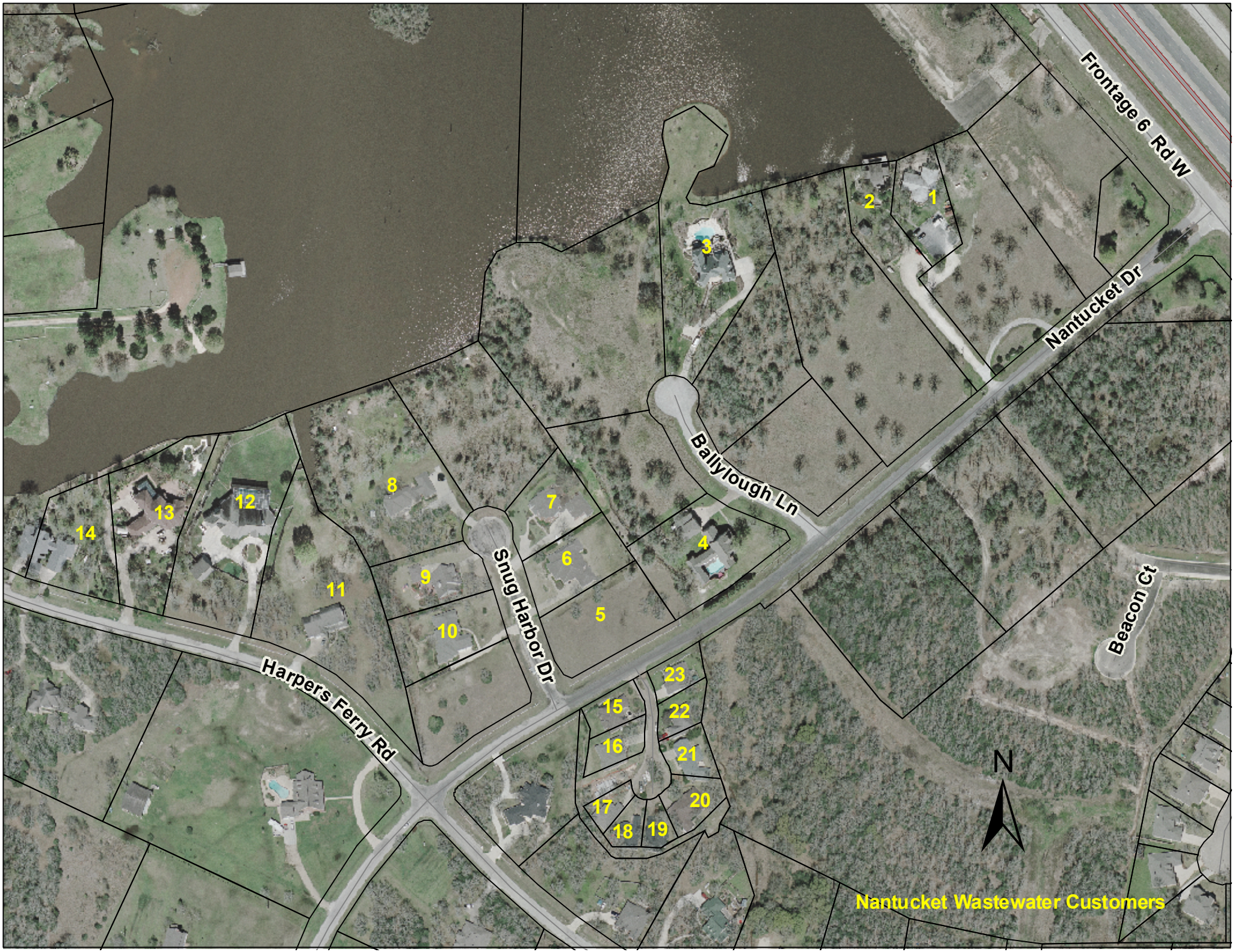
Frontage 6 Rd W
Nantucket Dr
Ballylough Ln
Snug Harbor Dr
Harpers Ferry Rd
Beacon Ct
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Nantucket Wastewater Customers

January 11, 2007

Consent Agenda Item No. 12.7

Property for Groundwater Wells 8, 9, and 10

To: Glenn Brown, City Manager

From: John Woody, Director of Water Services Department

Agenda Caption: Presentation, possible action, and discussion to approve a Needs Resolution authorizing the purchase or condemnation of property, water rights, right-of-way and easement interest in certain properties for the Groundwater Wells 8, 9, and 10 Project.

Recommendation: Staff recommends approval of the Needs Resolution.

Summary: College Station public water demand continues to steadily increase, and new wells are required for the water supply to be adequate. Engineering plans are under development for a new deep well in the Simsboro formation, which will be Well 7. The production from this well, when added to Simsboro wells 1 through 6 and the two shallow wells, was expected to meet future demands for several years. However, we now know that existing Well 4 will be taken away by the City of Bryan within 3 years, which means that College Station must accelerate plans for additional water wells. This Needs Resolution is the first step in the process of obtaining a replacement for Well 4, and two more wells to meet future demands. We estimate these wells will supply the City's customers through approximately 2025 at the present population growth rate and usage.

The Brazos Valley Groundwater Conservation District rules require owners of all new public water supply wells producing 3,000 gallons per minute from the Simsboro aquifer to own the land (or control the groundwater rights) for 649 acres, with the land being contiguous and reasonably reflecting the cone of depression of each well. This BVGCD Rule requires the City to acquire at least 1,947 acres for Groundwater Wells 8, 9, and 10. We are proposing to acquire 1,984 acres from 12 land owners.

The attached map shows the properties necessary to drill these three groundwater wells in the Simsboro formation. The properties are located for optimal water quality and quantity, plus are near our existing wells, to facilitate connection to our well-field water collection system.

Budget & Financial Summary: Funds are available and budgeted in the Water Budget and future Bond sales.

Attachments:

Resolution

RESOLUTION DETERMINING NEED

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, RELATING TO: (1) THE AUTHORITY OF THE CITY TO INITIATE, COMPLETE, AND ACQUIRE, BY PURCHASE OR CONDEMNATION, FEE SIMPLE, GROUNDWATER RIGHTS, RIGHT-OF-WAY AND EASEMENT PROPERTY INTERESTS IN CERTAIN PROPERTY FOR THE GROUNDWATER WELLS 8, 9, AND 10 PROJECT; (2) A DECLARATION THAT PUBLIC NECESSITY EXISTS FOR THE CITY TO ACQUIRE SUCH INTERESTS, THROUGH PURCHASE OR CONDEMNATION; AND (3) ESTABLISHING PROCEDURES FOR THE ACQUISITION OF SUCH INTERESTS IN THE PROPERTIES.

WHEREAS, the City of College Station, Texas ("City") is a home rule municipality duly incorporated and chartered under the Constitution and laws of Texas; and

WHEREAS, the City owns, operates, constructs, repairs and maintains a Public Water System as a public service; and

WHEREAS, the City's ownership, operation, construction, repair, and maintenance of the city Public Water System is a benefit to the public; and

WHEREAS, the City, through a condemnation proceeding, may exercise the power of eminent domain to acquire property in order to carry out the ownership, operation, construction, repair, and maintenance of its Public Water System pursuant to Chapter 251 of the Texas Local Government Code, Chapter 2 1 of the Texas Property Code, and Article I1 of the City's Charter; and

WHEREAS, the City is engaged in the following project regarding improvements to the Public Water System by adding Groundwater Wells 8, 9, and 10, including installation of public water supply wells, public utilities, collection lines, access, and communications, and

WHEREAS, the City determines that the best interests and needs of the public, including the health, safety and welfare of the public, require that the City improve the Public Water System by adding Groundwater Wells 8, 9, and 10, including installation of public water supply wells, public utilities, collection lines, access, and communications (referred to hereinafter as the "Project") through the City's acquisition, by purchase or condemnation proceeding of the fee simple, groundwater rights, right-of-way and/or easement interests in that property as described in Exhibit "A", attached hereto and incorporated herein by reference for all purposes (referred to hereinafter as the "Property"); now, therefore;

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

PART 1: That the City Council of the City of College Station, Texas, hereby officially determines that there is a public necessity for the Project, and the public welfare and convenience will be served by the acquisition of the Property, as set out in Exhibit "A".

PART 2: That the City Manager is hereby authorized to contract, on behalf of the City of College Station, with a professional appraiser for the appraisal services, with a professional real

estate agent to act as a Land Agent for the City and with attorneys for preparation of title opinions needed by the City from time to time in connection with acquisition of the Property.

PART 3: That the City's Land Agent or other staff appraiser is hereby authorized and directed to examine the independent appraisal reports as they are submitted to the City to determine whether said appraisal reports are supported by sufficient data. Based upon such examination of said appraisal reports, the Land Agent or other staff appraiser shall make a recommendation to the City Manager as to the establishment and approval of the amount of the just compensation for the Property.

PART 4: After consideration of said recommendation, the City Manager shall establish and approve the amount determined for acquisition of the Property.

PART 5: Upon establishment and approval by the City Manager of the amount of just compensation for the acquisition of the Property, the City's Land Agent or other staff appraiser is authorized to communicate a written offer to the Property owners for the acquisition of such interest at the full amount determined and established to be just compensation therefore and to negotiate with said owners on behalf of the City.

PART 6: That the Mayor after approval by City Council, or the City Manager as delegated, is hereby authorized to execute all documents necessary to acquire said Property for the Project, on behalf of the City of College Station.

PART 7: That, if necessary, and should a Property owner fail to accept a bona fide, good faith offer from the City to purchase the Property, City representatives shall have the authority to initiate arid complete condemnation proceedings against said owner, in order to acquire through condemnation all required property interests and title regarding the Property.

PART 8: That the City Manager be and is hereby authorized to sell any such surplus improvements, or order the demolition thereof, if any, located on the real property acquired in connection with this Project.

PART 9: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____day of _____,A.D.2007.

ATTEST: APPROVED:

_____ _____

CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvel

_____

City Attorney

EXHIBIT "A"

PROPERTIES AS LISTED ON THE TAX ROLLS
BY THE BRAZOS COUNTY APPRAISAL DISTRICT

1.	R13390	K. MARVIN & AMY ADAMS, a 3.91 acre tract, Francisco Ruiz League
2.	R13393	K. MARVIN & AMY ADAMS, a 104.1 acre tract, Francisco Ruiz League
3.	R13395	ANN WEHRMAN AYERS, a 15.45 acre tract, Francisco Ruiz League
4.	R13385	LEWIS A. AYERS, JR., a 90 acre tract, Francisco Ruiz League
5.	R13399	DORCAS HIGGS & CHARLES C. HALTOM, a 61.47, Francisco Ruiz League
6.	R13396	MARY J. KOPECKY (LIFE ESTATE), a 10 acre tract, Francisco Ruiz League
7.	R13373	W. E. KUTZSCHBACH & TRUST, a 197.7 acre tract, Francisco Ruiz League
8.	R15242	W. E. KUTZSCHBACH & TRUST, a 166 acre tract, Moses Hughes League
9.	R15267	W. E. KUTZSCHBACH & TRUST, a 15 acre tract, Robert Henry League
10.	R16093	W. E. KUTZSCHBACH & TRUST, a 100 acre tract, John Smith League
11.	R13401	PETE LERO, a 42 acre tract, Francisco Ruiz League
12.	R13386	FRED LUTHER, Jr., an 85.4 acre tract, Francisco Ruiz League
13.	R13387	FRED LUTHER, Jr., a 7.6 acre tract, Francisco Ruiz League
14.	R13369	FRED LUTHER, Jr., a 35 acre tract, Francisco Ruiz League
15.	R13370	FRED LUTHER, Jr., a 29.41 acre tract, Francisco Ruiz League
16.	R13400	PORTERFIELD FAMILY PTNRS I LTD, a 64 acre tract, Francisco Ruiz League
17.	R13371	IRENE H. PORTERFIELD, a 70 acre tract, Francisco Ruiz League
18.	R13388	IRENE H. PORTERFIELD, a 71.53 acre, tract, Francisco Ruiz League
19.	R102581	MARICELA CISNEROS, a 33.3 1 acre tract, Francisco Ruiz League
20.	R13372	HANSON AGGREGATE (Cornerstone), a 485.19 acre tract, Francisco Ruiz League
21.	R13403	HANSON AGGREGATE (Cornerstone), a 321.48 acre tract, Francisco Ruiz League

January 11, 2007
Consent Agenda Item No. 12.8
Annual Price Agreement for the Purchase of Crushed Stone

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion regarding renewal of an annual price agreement with Superior Crushed Stone, LC in an amount not to exceed $424,560 for crushed stone to be used by BVSWMA, Public Works and College Station Utilities.

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

Summary: Superior Crushed Stone, LC was the successful bidder for the FY2006 annual contract. Crushed rock is used by the landfill, Street Division and College Station Utilities operations to maintain all weather roads and tipping areas, streets, and utilities. This FY2007 renewal is the first of two optional annual renewals of the FY2006 contract (P.O. 060403). The contract provides for up to a 5% increase for renewal. This renewal is an increase of 5% over the previous contract amount. Staff feels that the increase would be higher than 5% if this item were re-bid.

Budget & Financial Summary: Funds to purchase crushed stone are budgeted and available in the BVSWMA, General and Utilities Funds within the Operations Budgets.

Attachments:
1. Renewal Letter

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #06-43, for crushed stone/limestone, in accordance with all terms and conditions previously agreed to and accepted with a 5% increase as stipulated as a mutual agreement of both parties as a condition of Bid No. 06-43. This is the first renewal of the contract.

I understand this renewal term will be for the period beginning January 27, 2007 through January 26, 2007.

SUPERIOR CRUSHED STONE, LC

AUTHORIZED REPRESENTATIVE	12-15-06 DATE

CITY OF COLLEGE STATION

Ron Silvia, Mayor	DATE

ATTEST:

Connie Hooks, City Secretary	DATE

APPROVED:

Glenn D. Brown, City Manager	DATE
Carla A Robinson City Attorney	DATE
Chief Financial Officer	DATE

STATE OF TEXAS **~~CORPORATE~~ Limited Liability Company ACKNOWLEDGMENT**

COUNTY OF Travis

This instrument was acknowledged on the 15th day of December, 2006

by John W. Schuler in his/her capacity as Manager of

Superior Crushed Stone, LC, a TEXAS ~~Corporation~~ Limited Liability Company, on behalf of said ~~corporation~~ company.

Notary Public in and for the
State of Texas

ELIZABETH M. TORRES
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
02-19-2007

STATE OF TEXAS **ACKNOWLEDGMENT**

COUNTY OF BRAZOS

This instrument was acknowledged on the _____ day of _____, 200 ,

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

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January 11, 2007
Consent Agenda Item No. 12.9
Dartmouth Extension Phase II Construction Contract

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding a resolution approving a construction contract with Young Contractors, Inc., in the amount of $3,019,477.00 for the Dartmouth Extension Phase II Project.

Recommendation(s): Staff recommends award to the lowest, responsible bidder meeting specifications, Young Contractors, Inc., in the amount of $3,019,477.00.

Summary: Four bids were received in response to a bid solicitation for this project. The bid tab is attached. The contract allows 1 year for the completion of the project.

Budget & Financial Summary: The total budget for this project is $4,009,000.00 ($3,600,000 in the Street Capital Projects Fund, $183,000 in the Water Utility Fund, and $226,000 in the Wastewater Utility Fund).

Attachments:

1. Bid Tab
2. Resolution
3. Project Location Map

Darthmouth Extension - Phase II
BID: #07-24

December 08,2006

				Young Construction Bryan, Tx.		R.M. Dudley College Station, Tx.		Brazos Valley Services Bryan, Tx.		Fuqua Navasota, Tx.	
Item No.	Est. Quan.	Unit Meas.	Description	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
			General Items								
1	1	LS	Mobilization & Project overhead	$217,000.00	$217,000.00	$167,980.00	$167,980.00	$175,710.00	$175,710.00	$117,840.46	$117,840.46
2	1	LS	Barricades, Signs, & Traffic Handling	$16,000.00	$16,000.00	$3,737.00	$3,737.00	$5,000.00	$5,000.00	$18,437.32	$18,437.32
3	1	LS	Erosion & Sedimentation Control	$13,500.00	$13,500.00	$9,754.00	$9,754.00	$18,500.00	$18,500.00	$35,704.09	$35,704.09
4	44,505	SY	Hydromulch Seeding	$0.25	$11,126.25	$0.27	$12,016.35	$0.50	$22,252.50	$0.28	$12,461.40
5	9,400	SF	Sodding, Bermuda,	$0.35	$3,290.00	$0.35	$3,290.00	$0.50	$4,700.00	$0.37	$3,478.00
6	960	LF	4" Irrigation Sleeves	$3.80	$3,648.00	$3.61	$3,465.60	$5.00	$4,800.00	$7.62	$7,315.20
7	1,030	SY	Demo Concrete Pavement	$5.50	$5,665.00	$16.62	$17,118.60	$10.00	$10,300.00	$18.15	$18,694.50
8	291	SY	Demo Concrete Sidewalk	$5.00	$1,455.00	$14.36	$4,178.76	$10.00	$2,910.00	$8.05	$2,342.55
9	2	EA	Demo Drainage Structure	$1,050.00	$2,100.00	$1,065.00	$2,130.00	$1,000.00	$2,000.00	$3,937.66	$7,875.32
10	1	LS	Clear & Grub	$16,500.00	$16,500.00	$16,480.00	$16,480.00	$10,000.00	$10,000.00	$40,963.47	$40,963.47
11	1	LS	Street Light System	$102,000.00	$102,000.00	$109,255.00	$109,255.00	$103,130.00	$103,130.00	$129,020.96	$129,020.96
			Sub Total		*$392,284.25*		*$349,405.31*		*$359,302.50*		*$394,133.27*
			Pavement Items								
12	46,500	CY	Excavation & Embankment	$4.650	$216,225.00	$4.31	$200,415.00	$4.75	$220,875.00	$6.80	$316,200.00
13	16,063	SY	8" Lime Treated Subgrade	$3.45	$55,417.35	$3.41	$54,774.83	$3.25	$52,204.75	$7.86	$126,255.18
14	14,587	SY	8" Concrete Paving	$38.10	$555,764.70	$44.10	$643,286.70	$38.00	$554,306.00	$54.97	$801,847.39
15	12	EA	Wheelchair Ramps	$600.00	$7,200.00	$1,028.00	$12,336.00	$750.00	$9,000.00	$1,601.05	$19,212.60
16	25,124	SF	4" Thick Concrete Sidewalk	$3.30	$82,909.20	$3.10	$77,884.40	$3.00	$75,372.00	$4.21	$105,772.04
17	1,984	SF	Brick Pavers Crosswalk	$7.50	$14,880.00	$8.42	$16,705.28	$6.00	$11,904.00	$11.39	$22,597.76
18	41	SF	Concrete Median Nose	$10.25	$420.25	$21.48	$880.68	$20.00	$820.00	$67.09	$2,750.69
			Sub Total		*$932,816.50*		*$1,006,282.89*		*$924,481.75*		*$1,394,635.66*
			Drainage Items								
19	10	EA	Std. 10' Recessed Inlet	$3,100.00	$31,000.00	$2,784.00	$27,840.00	$4,500.00	$45,000.00	$5,118.16	$51,181.60
20	4	EA	Std. 5' Recessed Inlet	$2,100.00	$8,400.00	$1,755.00	$7,020.00	$2,500.00	$10,000.00	$5,143.07	$20,572.28
21	53	LF	15" RCP (Class III) in Non-Structureal Backfill	$41.00	$2,173.00	$58.05	$3,076.65	$38.00	$2,014.00	$51.94	$2,752.82
22	263	LF	18" RCP (Class III) in Non-Structureal Backfill	$48.00	$12,624.00	$48.01	$12,626.63	$41.00	$10,783.00	$53.17	$13,983.71
23	365	LF	18" RCP (Class III) in Structureal Backfill	$57.00	$20,805.00	$61.77	$22,546.05	$45.00	$16,425.00	$77.71	$28,364.15
24	274	LF	36" RCP (Class III) in Non-Structureal Backfill	$70.000	$19,180.00	$102.43	$28,065.82	$85.00	$23,290.00	$112.70	$30,879.80
25	779	LF	48" RCP (Class III) in Structureal Backfill	$136.00	$105,944.00	$194.33	$151,383.07	$138.00	$107,502.00	$208.02	$162,047.58
26	2	EA	30 X 30 Std. Junction Box	$2,500.00	$5,000.00	$1,701.00	$3,402.00	$2,000.00	$4,000.00	$5,607.18	$11,214.36
27	2	EA	Grate Inlet	$2,000.00	$4,000.00	$2,606.00	$5,212.00	$1,500.00	$3,000.00	$2,547.17	$5,094.34
28	1	EA	Std. Square Junction Box for 60" Pipe	$11,000.00	$11,000.00	$2,266.00	$2,266.00	$4,500.00	$4,500.00	$6,246.25	$6,246.25
29	2	EA	Special Junction Box, 2-36" RCP	$7,800.00	$15,600.00	$2,935.00	$5,870.00	$4,500.00	$9,000.00	$6,841.92	$13,683.84
30	1	EA	Headwall, 2X36" Upright	$4,800.00	$4,800.00	$4,856.00	$4,856.00	$2,500.00	$2,500.00	$9,616.31	$9,616.31
31	1	EA	Tie into Exist 30" RCP Headwall	$1,000.00	$1,000.00	$1,296.00	$1,296.00	$1,000.00	$1,000.00	$750.80	$750.80
32	2	EA	15" Safety End Treatment	$660.00	$1,320.00	$1,322.00	$2,644.00	$800.00	$1,600.00	$1,283.7700	$2,567.54
33	1	EA	18" Safety End Treatment	$730.00	$730.00	$1,322.00	$1,322.00	$800.00	$800.00	$3,056.84	$3,056.84
34	45	SY	Rock Rubble Rip Rap	$28.00	$1,260.00	$56.42	$2,538.90	$50.00	$2,250.00	$105.80	$4,761.00
			Sub Total		*$244,836.00*		*$281,965.12*		*$243,664.00*		*$366,773.22*
			Water Line items								
35	1,930	LF	12" Water Line PVC in Non-Structural Backfill	$32.25	$62,242.50	$24.13	$46,570.90	$30.00	$57,900.00	$36.57	$70,580.10
36	180	LF	12" Water Line DIP in Non-Stuctural Backfill	$48.25	$8,685.00	$42.05	$7,569.00	$50.00	$9,000.00	$46.06	$8,290.80
37	208	LF	8" Water Line PVC in Structural Backfill	$47.00	$9,776.00	$35.59	$7,402.72	$28.00	$5,824.00	$58.20	$12,105.60
38	2	EA	12"X8' M.J. Tee	$580.00	$1,160.00	$514.00	$1,028.00	$650.00	$1,300.00	$385.25	$770.50
39	2	EA	12"X8' M.J. Reducer	$280.00	$560.00	$302.00	$604.00	$325.00	$650.00	$355.61	$711.22
40	1	EA	12"X12" M.J. Tee	$650.00	$650.00	$578.00	$578.00	$750.00	$750.00	$2,307.75	$2,307.75
41	6	EA	12" - 45 Degree MJ Bend	$490.00	$2,940.00	$372.00	$2,232.00	$600.00	$3,600.00	$444.52	$2,667.12
42	2	EA	12" - 90 Degree MJ Bend	$520.00	$1,040.00	$396.00	$792.00	$600.00	$1,200.00	$474.15	$948.30
43	4	EA	8" M.J. Gate Valve & Box	$1,000.00	$4,000.00	$925.00	$3,700.00	$1,150.00	$4,600.00	$948.30	$3,793.20
44	3	EA	12" M.J. Gate Valve & Box	$1,700.00	$5,100.00	$1,563.00	$4,689.00	$1,900.00	$5,700.00	$1,778.06	$5,334.18
45	1	EA	24"X12" Tapping Sleeve & Valve	$4,400.00	$4,400.00	$4,328.00	$4,328.00	$5,000.00	$5,000.00	$5,037.84	$5,037.84
46	2	EA	8" MJ Plug	$135.00	$270.00	$173.00	$346.00	$300.00	$600.00	$207.44	$414.88

Darthmouth Extension - Phase II
BID: #07-24

December 08,2006

				Young Construction Bryan, Tx.		R.M. Dudley College Station, Tx.		Brazos Valley Services Bryan, Tx.		Fuqua Navasota, Tx.	
Item No.	Est. Quan.	Unit Meas.	Description	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total
	180	LF	24" Steel Casing	$210.00	$37,800.00	$72.56	$13,060.80	$110.00	$19,800.00	$367.47	$66,144.60
48	172	LF	20" Steel Casing	$77.00	$13,244.00	$63.24	$10,877.28	$106.00	$18,232.00	$151.73	$26,097.56
49	2	LF	Std. Fire Hydrant Assembly	$3,000.00	$6,000.00	$2,799.00	$5,598.00	$2,800.00	$5,600.00	$3,141.24	$6,282.48
50	3	EA	Water connection to existing system	$1,400.00	$4,200.00	$1,404.00	$4,212.00	$1,000.00	$3,000.00	$592.69	$1,778.07
51	275	LF	Trench Safety	$5.50	$1,512.50	$1.00	$275.00	$5.00	$1,375.00	$2.07	$569.25
			Sub Total		*$163,580.00*		*$113,862.70*		*$144,131.00*		*$213,833.45*
			Sanitary Sewer Items								
52	255	LF	16" DIP Sanitary Sewer	$83.2500	$21,228.75	$50.86	$12,969.30	$75.00	$19,125.00	$74.5600	$19,012.80
53	200	LF	24" Dip Sanitary Sewer	$112.25	$22,450.00	$92.88	$18,576.00	$100.00	$20,000.00	$126.18	$25,236.00
54	250	LF	30" DIP Sanitary Sewer	$145.00	$36,250.00	$125.47	$31,367.50	$130.00	$32,500.00	$155.66	$38,915.00
55	140	LF	30" Stell Casing by open Cut	$145.00	$20,300.00	$179.89	$25,184.60	$197.00	$27,580.00	$197.57	$27,659.80
56	190	LF	36" Steel Casing by Open Cut	$200.00	$38,000.00	$273.37	$51,940.30	$222.00	$42,180.00	$236.77	$44,986.30
57	120	LF	42" Steel Casing by Open Cut	$270.00	$32,400.00	$269.69	$32,362.80	$281.50	$33,780.00	$332.48	$39,897.60
58	2	EA	4' Diam. Std. Manhole	$2,600.00	$5,200.00	$2,320.00	$4,640.00	$4,200.00	$8,400.00	$2,252.21	$4,504.42
59	4	EA	5' Diam. Std. Manhole	$5,600.00	$22,400.00	$4,080.00	$16,320.00	$7,000.00	$28,000.00	$6,045.41	$24,181.64
60	705	LF	Trench Safety	$2.00	$1,410.00	$2.07	$1,459.35	$5.00	$3,525.00	$2.37	$1,670.85
61	3	EA	Bypass Pumping	$875.00	$2,625.00	$1,378.00	$4,134.00	$3,000.00	$9,000.00	$1,185.38	$3,556.14
			Sub Total		*$202,263.75*		*$198,953.85*		*$224,090.00*		*$229,620.55*
			Bridge Items								
62	200	LF	Drill Shaft (18")	$49.00	$9,800.00	$70.71	$14,142.00	$78.75	$15,750.00	$52.26	$10,452.00
63	800	LF	Drill Shaft (30")	$116.50	$93,200.00	$182.94	$146,352.00	$168.75	$135,000.00	$111.65	$89,320.00
64	98	CY	CL C Concrete (ABUT)	$630.00	$61,740.00	$780.00	$76,440.00	$1,113.75	$109,147.50	$763.80	$74,852.40
65	48	CY	CL C Concrete (BENT)	$1,160.00	$55,680.00	$819.29	$39,325.92	$1,350.00	$64,800.00	$1,533.97	$73,630.56
66	12800	SF	Reinforced Concrete Slab (8")	$19.10	$244,480.00	$15.04	$192,512.00	$21.94	$280,832.00	$15.79	$202,112.00
67	1593	LF	Prestressed Concrete Beam (TY C)	$97.00	$154,521.00	$132.43	$210,960.99	$135.00	$215,055.00	$101.60	$161,848.80
68	1422	SY	Concrete Surface Treatment	$3.00	$4,266.00	$2.24	$3,185.28	$2.25	$3,199.50	$2.45	$3,483.90
69	240	LF	Structural Steel (ARMOR JOINT)	$56.00	$13,440.00	$116.72	$28,012.80	$112.50	$27,000.00	$59.75	$14,340.00
70	752	LF	Bridge Rail	$175.00	$131,600.00	$75.20	$56,550.40	$146.25	$109,980.00	$120.45	$90,578.40
71	3200	SF	Bridge Approach Slab	$24.00	$76,800.00	$19.08	$61,056.00	$28.00	$89,600.00	$21.31	$68,192.00
72	3196	SF	6" Thick Concrete Sidewalk	$8.00	$25,568.00	$3.93	$12,560.28	$9.57	$30,585.72	$11.24	$35,923.04
73	600	LF	Stone Masonry Guardrail	$98.00	$58,800.00	$153.98	$92,388.00	$175.00	$105,000.00	$108.02	$64,812.00
74	6000	SF	Channel Armoring	$5.80	$34,800.00	$7.06	$42,360.00	$6.25	$37,500.00	$7.67	$46,020.00
75	2800	SY	Curlex Soil Retention Blanket	$1.65	$4,620.00	$1.66	$4,648.00	$2.00	$5,600.00	$1.75	$4,900.00
76	3720	SF	Modular Retaining Wall	$24.50	$91,140.00	$27.30	$101,556.00	$30.00	$111,600.00	$23.76	$88,387.20
			Sub Total		*$1,060,455.00*		*$1,082,049.67*		*$1,340,649.72*		*$1,028,852.30*
			Pavement Markings & Signage Items								
77	716	LF	4" Broken While (Lane) Stripe	$1.10	$787.60	$1.12	$801.92	$1.25	$895.00	$1.07	$766.12
78	2864	LF	4" Solid White (Bike Lane) Stripe	$1.10	$3,150.40	$1.12	$3,207.68	$1.25	$3,580.00	$1.07	$3,064.48
79	800	LF	4" Solid Yellow (Median on Ex. Section) Stripe	$1.10	$880.00	$1.12	$896.00	$1.25	$1,000.00	$1.07	$856.00
80	400	LF	24" Solid Yellow (Median on Ex. Section) Stripe	$9.50	$3,800.00	$9.54	$3,816.00	$9.80	$3,920.00	$6.52	$2,608.00
81	570	LF	8" Solid White (Left Turn Lane) Stripe	$2.25	$1,282.50	$2.24	$1,276.80	$2.50	$1,425.00	$2.13	$1,214.10
82	8	EA	Solid White Turn arrow	$120.00	$960.00	$123.00	$984.00	$125.00	$1,000.00	$94.83	$758.64
83	8	EA	Solid White Arrow (Bike Lane)	$75.00	$600.00	$79.00	$632.00	$80.00	$640.00	$82.98	$663.84
84	8	EA	Solid White Words (ONLY)	$160.00	$1,280.00	$168.00	$1,344.00	$175.00	$1,400.00	$148.17	$1,185.36
85	8	EA	Solid White Symbol (Bicyclist)	$130.00	$1,040.00	$135.00	$1,080.00	$140.00	$1,120.00	$177.81	$1,422.48
	1	EA	Left Turn Only, Right Turn Only	$330.00	$330.00	$337.00	$337.00	$350.00	$350.00	$444.52	$444.52
	3	EA	Stop Sign (R1-1)	$330.00	$990.00	$337.00	$1,011.00	$350.00	$1,050.00	$207.44	$622.32
88	3	EA	Stop Ahead Sign	$330.00	$990.00	$337.00	$1,011.00	$350.00	$1,050.00	$207.44	$622.32
89	2	EA	Speed Limit Sign	$330.00	$660.00	$337.00	$674.00	$350.00	$700.00	$177.81	$355.62
90	300	LF	Eliminate Exisiting Pavement markings	$3.35	$1,005.00	$3.37	$1,011.00	$3.50	$1,050.00	$1.19	$357.00
91	60	EA	Raised Pavement Markers	$7.75	$465.00	$8.00	$480.00	$8.25	$495.00	$7.11	$426.60
92	2950	LF	Pavement Sealer for Pavement Marker (Stripe)	$1.10	$3,245.00	$1.12	$3,304.00	$1.25	$3,687.50	$0.83	$2,448.50
93	32	EA	Pavement Sealer for Pavement Marker (Object)	$55.50	$1,776.00	$56.00	$1,792.00	$60.00	$1,920.00	$29.63	$948.16

Darthmouth Extension - Phase II
BID: #07-24

December 08,2006

				Young Construction Bryan, Tx.		R.M. Dudley College Station, Tx.		Brazos Valley Services Bryan, Tx.		Fuqua Navasota, Tx.	
Item No.	**Est. Quan.**	**Unit Meas.**	**Description**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**	**Unit Price**	**Item Total**
			Sub Total		*$23,241.50*		*$23,658.40*		*$25,282.50*		*$18,764.06*
			Total General Items		**$392,284.25**		**$349,405.31**		**$359,302.50**		**$394,133.27**
			Total Pavement Items		**$932,816.50**		**$1,006,282.89**		**$924,481.75**		**$1,394,635.66**
			Total Drainage Items		**$244,836.00**		**$281,965.12**		**$243,664.00**		**$366,773.22**
			Total Water Line Items		**$163,580.00**		**$113,862.70**		**$144,131.00**		**$213,833.45**
			Total Sanitary Sewer Items		**$202,263.75**		**$198,953.85**		**$224,090.00**		**$229,620.55**
			Total Bridge Items		**$1,060,455.00**		**$1,082,049.67**		**$1,340,649.72**		**$1,028,852.30**
			Total Pavement Markings & Signage Items		**$23,241.50**		**$23,658.40**		**$25,282.50**		**$18,764.06**
			Total Base Bid		**$3,019,477.00**		**$3,056,177.94**		**$3,261,601.47**		**$3,646,612.51**
			Bid Certification		Yes		Yes		No		Yes
			Delivery Date		365		365		365		365
			Bid Bond		Yes		Yes		Yes		Yes
			Addendums Acknowledged		1		1		1		1

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE DARTMOUTH EXTENSION PHASE II PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Dartmouth Extension Phase II Project; and

WHEREAS, the selection of Young Contractors, Inc. is being recommended as the lowest responsible bidder for the construction services related to the Dartmouth Extension Phase II 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 Young Contractors, Inc. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Young Contractors, Inc. for $3,019,477.00 for the labor, materials and equipment required for the improvements related to the Dartmouth Extension Phase II Project.

PART 3: That the funding for this Contract shall be as budgeted from the Water Utility Fund, in the amount of $183,000.00, from the Wastewater Utility Fund in the amount of $226,000.00, and from the Street Capital Projects Fund (Certificates of Obligation) in the amount of $2,610,477.00.

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

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST: APPROVED:

_____ _____

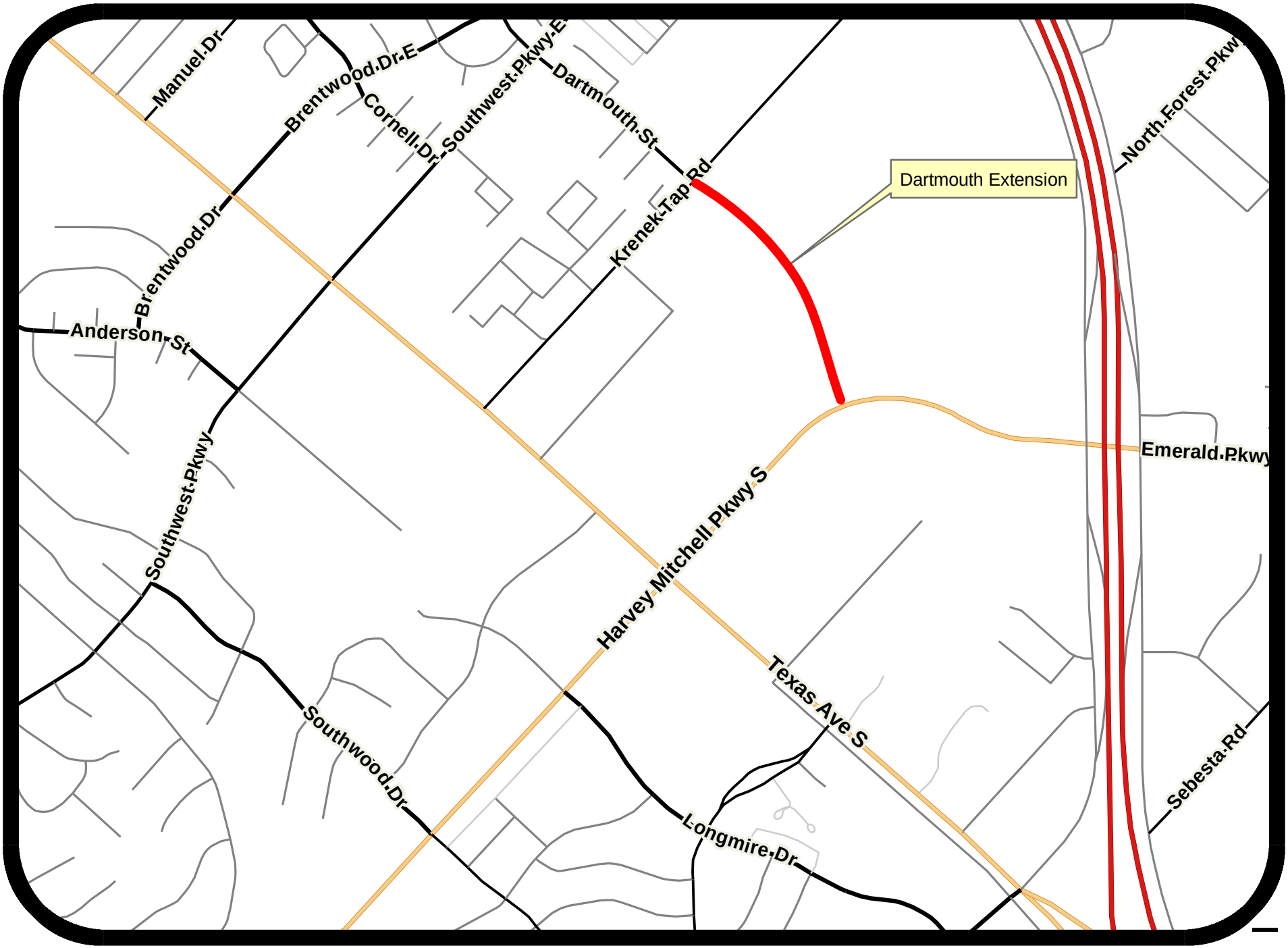
CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvel

_____

City Attorney



Dartmouth Extension Phase II Location Map

1,000 500 0 1,000 Feet

January 11, 2007
Consent Agenda Item No. 12.10
Annual Price Agreement for the Purchase of Emulsified Asphalt

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion regarding renewal of an annual price agreement with Cleveland Asphalt Products in an amount not to exceed $212,800 to provide emulsified asphalt for the maintenance of streets.

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

Summary: Cleveland Asphalt Products was the successful bidder for the FY2006 annual contract. Emulsified asphalt is used for the seal coat process, pothole repair and maintenance of streets in the City. This FY2007 renewal is the first of two optional annual renewals of the FY2006 contract (P.O. 060347). The contract provides for up to a 5% increase for renewal. This renewal does not increase the previous contract amount. The annual price agreement supports maintenance operations in the Street Maintenance Division.

Budget & Financial Summary: Funding is available in the operating budget of the Street Maintenance Division.

Attachments:
1. Renewal Letter

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #06-42, for various emulsiphied asphalt products, in accordance with all terms and conditions previously agreed to and accepted as a condition of Bid No 06-42. This is the first renewal of the contract.

I understand this renewal term will be for the period beginning January 12, 2007 through January 11, 2007.

CLEVELAND ASPHALT PRODUCTS

AUTHORIZED REPRESENTATIVE	12/15/06 DATE

CITY OF COLLEGE STATION

Ron Silvia, Mayor	DATE

ATTEST:

Connie Hooks, City Secretary	DATE

APPROVED:

Glenn D. Brown, City Manager	DATE
Carla A Robinson. City Attorney	DATE
Chief Financial Officer	DATE

STATE OF TEXAS **CORPORATE ACKNOWLEDGMENT**

COUNTY OF SAN JACINTO

This instrument was acknowledged on the 15th day of DECEMBER, 200 6

by ROBERT L.NOLAN in his/her capacity as SALES MANAGER of CLEVELAND ASPHALT PRODUCTS, INC, a TEXAS Corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

CRAIG CLAYTON MOORE
NOTARY PUBLIC
STATE OF TEXAS
12-12-2008

STATE OF TEXAS **ACKNOWLEDGMENT**

COUNTY OF BRAZOS

This instrument was acknowledged on the _____ day of _____, 200 ,

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

****

January 11, 2007
Consent Agenda Item No. 12.11
Municipal Court 2nd Floor Finish-out

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion of a resolution awarding a contract to Hidell Associates Architects in the amount of $87,290.00 to provide architectural services for the finish out of the second floor of the Municipal Court Building (Project # GG0701) and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Recommendation(s): Staff recommends approval of the resolution awarding an architectural service to Hidell Associates in the amount of $87,290.00 for the finish out of the second floor of the Municipal Court Building and approval of the resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Summary: On May 27th, 2006 Staff made a workshop presentation to Council regarding City office space needs and a proposal to develop a site plan for the remaining city owned property on Krenek Tap Road. At that meeting Council directed staff to move forward on a site development plan, implement a plan to meet immediate space needs, and the completion of the 2nd floor of the Municipal Court Building.

Hidell Associates was the architectural firm that designed the Municipal Court Building back in 2001. That project involved the construction of a 32,000 square foot facility located on Krenek Tap Road. Half of the facility will be finished out. The remaining portion (2nd floor) is a shell.

Hidell Associates was selected to complete the second floor because of their familiarity with the building. The finish-out project was approved by Council in the FY07 budget. Anticipated completion and move-in date will be January 2008.

Budget & Financial Summary: The FY07 Approved Budget includes the issue of $12,501,300 in CO debt. $1,750,000 is included for this project under the heading of municipal complex improvements.
The "Resolution Declaring Intention to Reimburse Certain Expenditures With Proceeds From Debt" is necessary for this item because the long term debt has not been issued for this project. This debt is scheduled to be issued later this fiscal year.

Attachments:
1. Resolution Awarding Contract
2. Location Map
3. Funding Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, SELECTING A PROFESSIONAL CONTRACTOR, APPROVING A PROFESSIONAL SERVICES CONTRACT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE MUNICIPAL COURT SECOND FLOOR FINISH OUT PROJECT.

WHEREAS, the selection of Hidell Associates, Architects, is being recommended as the most highly qualified provider of the architectural services due to their experience in designing the original building; 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 Hidell Associates, Architects, is the most highly qualified provider of the services for the finish out of the second floor for the Municipal Court Building Project on the basis of demonstrated competence and qualifications.

PART 2: That the City Council hereby approves the contract with Hidell Associates, Architects, for an amount not to exceed $87,290.00 for the architectural services related to the finish out of the second floor for the Municipal Court Building Project.

PART 3: That the funding for this Contract shall be as budgeted from the Capital Improvement Project Fund in the amount of $87,290.00.

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

ADOPTED this 11th day of January, A.D. 2007.

ATTEST: APPROVED:

_____ _____

CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

_____

City Attorney

Oak Forest Mhp
Utility Customer Service
Krenek Tap Rd
Municipal Court
Public Works
Texas Ave S
William King Cole Dr
Police

RESOLUTION NO. _____

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH PROCEEDS FROM DEBT

WHEREAS, the City of College Station, Texas (the "City") is a home-rule municipality and political subdivision of the State of Texas;

WHEREAS, the City expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described on Exhibit "A" hereto (collectively, the "Project") prior to the issuance of obligations by the City in connection with the financing of the Project from available funds;

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

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

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed $1,750,000, for the purpose of paying the aggregate costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

PASSED AND APPROVED THIS 11th DAY OF JANUARY, 2007.

_____
Ron Silvia, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

(Seal)

APPROVED:

McCall, Parkhurst & Horton L.L.P.
Bond Counsel

Exhibit "A"

The projects to be financed that are the subject of this Statement are:

Municipal Facility Improvements - Municipal Court Building 2nd Floor Improvements

January11, 2006
Consent Agenda Item No. 12.12
Ravenstone Loop Parking Restrictions

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, "Traffic Code," Section 4E(3)(a) of the Code of Ordinances of the City of College Station to restrict parking on both sides of Ravenstone Loop adjacent to the properties with the address numbers 2061, 2063, 2065, 2067, and 2069.

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will amend Chapter 10, "Traffic Code," by restricting parking along Ravenstone Loop in front of the properties with the following addresses:

- 2061 Ravenstone Loop;
- 2063 Ravenstone Loop;
- 2065 Ravenstone Loop;
- 2067 Ravenstone Loop; and,
- 2069 Ravenstone Loop.

A citizen informed staff that motorists were parking in front of these houses and walking to Forest Ridge Elementary School to get their children. This creates a problem because this section of Ravenstone Loop has a median in the middle of it which reduces the pavement with to approximately 16 feet. With an eight foot wide vehicle parked in front of these houses, the owners are unable to access their homes with their eight foot wide vehicles. More importantly, emergency vehicles are unable to access the houses. This issue was discussed at the November 2006 meeting of the Traffic Management Team meeting where the recommendation was made to remove parking in this area. The parking restriction will improve the ability of motorists and emergency vehicles to access the identified properties.

Budget & Financial Summary: The "No Parking" signs are planned operation and maintenance expenses accounted for in the Public Works Traffic Operation budget.

Attachments:
1. Ordinance
2. Location Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", 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 10, "Traffic Code", 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 liable for a civil offense, and, upon a finding of liability thereof, shall be punished by a civil penalty of not less than One Dollar ($1.00) nor more than Two Thousand Dollars ($2,000.00). Said Ordinance becomes effective at least ten (10) days after its publication in the newspaper, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
City Attorney

EXHIBIT "A"

That Chapter 10, "Traffic Code", Section 4.E(3)(b), "NO PARKING ANYTIME", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by adding paragraph (xxxix) as set out hereafter to read as follows:

> "On both sides of Ravenstone Loop adjacent to the properties with the address numbers 2061, 2063, 2065, 2067, and 2069."

Ravenstone Loop Parking Removal

January 11, 2007

January 11, 2007
Consent Agenda Item No. 12.13
Intersections Controlled with Stop Signs

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on consideration of an ordinance modifying Chapter 10, "Traffic Code," Section 2.D of the Code of Ordinances of the City of College Station by updating the Traffic Control Device Inventory – Schedule III to add STOP signs at various intersections.

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will modify Chapter 10, "Traffic Code," by updating schedule III of the Traffic Control Device Inventory to add STOP signs at various intersections:

Brandenburg Ln at Eagle Avenue;
Pavilion Avenue at Earl Rudder Frwy (SH 6) E;
Pavilion Avenue at Sebesta Road; and,
Central Park Ln at Krenek Tap Rd.

These are new stop locations created by new roadway construction.

The adoption of this ordinance will allow for the enforcement of the stop signs and improve the safety at the intersections.

Budget & Financial Summary: The "Stop" signs are planned operation and maintenance expenses accounted for in the Public Works Traffic Operation budget.

Attachments:
1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", 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 10, "Traffic Code", 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 Hundred Dollars ($200.00). 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 _____, 2007.

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
City Attorney

EXHIBIT "A"

That Traffic Control Device Inventory - Schedule III as referenced in Chapter 10, "Traffic Code", Section 2 "Traffic Control Devices", sub-section D "Special Hazard Intersections Controlled by Stop Signs" is hereby amended to include the following:

"Brandenburg Ln at Eagle Avenue
Pavilion Avenue at Earl Rudder Frwy (SH 6) E
Pavilion Avenue at Sebesta Road
Central Park Ln at Krenek Tap Rd"

January 11, 2006
Consent Agenda Item No. 12.14
Central Park Lane Parking Restrictions

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, "Traffic Code," Section 4E(3)(a) of the Code of Ordinances of the City of College Station to restrict parking on both sides of Central Park Lane between Krenek Tap Road and Southwest Parkway.

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will amend Chapter 10, "Traffic Code," by restricting parking on both sides of Central Park Lane between Krenek Tap Road and Southwest Parkway. In October 2006, the City of College Station completed the extension of Central Park Lane from its current dead-end south of Southwest Parkway to Krenek Tap Road. On the previously existing section of roadway, the parking has been removed and bike lanes added. This ordinance will remove parking from the new street section and allow bike lanes to be striped.

Striping bike lanes on Central Park Lane is consistent with the Bike and Pedestrian Master Plan. Additionally, at the intersection of Krenek Tap Road and Central Park Lane there is a trailhead for the bike path through Central Park. The addition of the bike lanes along this section of Central Park Lane will provide continuity.

Budget & Financial Summary: The "No Parking" and "Bike Lane" signs as well as striping are planned operation and maintenance expenses accounted for in the Public Works Traffic Operation budget.

Attachments:
1. Ordinance
2. Location Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", 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 10, "Traffic Code", 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 liable for a civil offense, and, upon a finding of liability thereof, shall be punished by a civil penalty of not less than One Dollar ($1.00) nor more than Two Thousand Dollars ($2,000.00). Said Ordinance becomes effective at least ten (10) days after its publication in the newspaper, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
City Attorney

EXHIBIT "A"

That Chapter 10, "Traffic Code", Section 4.E(3)(b), "NO PARKING ANYTIME", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by adding paragraph (xl) as set out hereafter to read as follows:

> "On both sides of Central Park Lane between Krenek Tap Road and Southwest Parkway."

Central Park Lane Parking Removal

January 11, 2007

January 11, 2007
Consent Agenda Item No. 12.15
Interlocal Agreement with The Local Government Purchasing Cooperative

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action, and discussion regarding a revised Interlocal Agreement between the City of College Station and The Local Government Purchasing Cooperative (BuyBoard) for the purpose of fulfilling the respective public and governmental purposes, needs, objectives and programs in the purchasing of supplies, equipment, and services.

Recommendation(s): Staff recommends approval of the revised Interlocal Agreement with The Local Government Purchasing Cooperative.

Summary: The original agreement between the City and The Local Government Purchasing Cooperative (BuyBoard) was approved on December 14, 2000. This revised agreement reflects changes in the structure of the Cooperative and adds provisions requiring prior notice of amendments. In order to maintain our membership and continue to use the Cooperative, they require a new Interlocal Agreement to be executed.

Budget & Financial Summary: There is no financial impact in approving this revised Interlocal Agreement. The revised agreement eliminates the annual membership fee of $200 and provides for a potential rebate back to the City based on the amount of vendor service fees generated by the purchases we make.

Attachments: Interlocal Participation Agreement with the The Local Government Purchasing Cooperative

The Local Government
Purchasing Cooperative

INTERLOCAL PARTICIPATION AGREEMENT

This Interlocal Participation Agreement ("Agreement") is made and entered into by and between The Local Government Purchasing Cooperative ("Cooperative"), an administrative agency of cooperating local governments, acting on its own behalf and the behalf of all participating local governments, and the undersigned local government of the State of Texas ("Cooperative Member").

I. RECITALS

WHEREAS, a local government entity is authorized by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, to agree with other local government entities to form a purchasing cooperative; and

WHEREAS, the Cooperative is further authorized as a local purchasing cooperative organization as set forth in Section 271.101, *et seq.*, of the Texas Local Government Code; and

WHEREAS, the purpose of this Agreement is to facilitate compliance with state procurement requirements, to identify qualified vendors of commodities, goods and services, to relieve the burdens of the governmental purchasing function, and to realize the various potential economies, including administrative cost savings, for Cooperative Members;

NOW THEREFORE, in consideration of the mutual covenants, promises and obligations contained herein, the undersigned Cooperative Member and the Cooperative agree as follows.

II. TERMS AND CONDITIONS

1. **Adopt Organizational Interlocal Cooperation Agreement**. The Cooperative Member by the execution or acceptance of this Agreement hereby adopts and approves the Organizational Interlocal Agreement dated January 26, 1998, which agreement is incorporated herein by reference (and is available from the Cooperative upon request). The Organizational Interlocal Agreement established the Cooperative as an administrative agency of its collective participants, and Cooperative Member agrees to become a participant or additional party to that Organizational Interlocal Agreement.

2. **Term**. The initial term of this Agreement shall commence on the date it is executed by both parties and shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. If the Cooperative Member is an existing Cooperative Member that joined the Cooperative by executing a participation agreement which authorized amendment upon the Cooperative providing 60 days notice, then this Agreement will be deemed an Amendment by Notice,

which will be effective on the 61st day that the Cooperative Member is sent notice of this document. In addition, this Agreement will continue to automatically renew for successive one-year terms on the anniversary date of the Cooperative Member's initial term (not the effective date of the Amendment by Notice), unless the Agreement is sooner terminated in accordance with the provisions herein.

3. **Termination.**

(a) **By the Cooperative Member**. This Agreement may be terminated by the Cooperative Member at any time by thirty (30) days prior written notice to the Cooperative, provided any amounts owed to the Cooperative and any vendor have been fully paid.

(b) **By the Cooperative.** The Cooperative may terminate this Agreement by:

(1) Giving ten (10) days notice by certified mail to the Cooperative Member if the Cooperative Member breaches this Agreement; or

(2) Giving thirty (30) days notice by certified mail to the Cooperative Member with or without cause.

(c) **Termination Procedure.** If the Cooperative Member terminates its participation under this Agreement or breaches this Agreement, or if the Cooperative terminates participation of the Cooperative Member, the Cooperative Member shall bear the full financial responsibility for all of its purchases made from vendors under or through this Agreement. The Cooperative may seek the whole amount due, if any, from the terminated Cooperative Member. In addition, the Cooperative Member agrees it will neither be entitled to a refund of any membership dues paid nor a distribution which may occur after the Cooperative Member terminates from the Cooperative.

4. **Payments by Cooperative Member.**

(a) The Cooperative Member agrees to pay membership fees as may be required by the Cooperative. The Cooperative will provide the Cooperative Member with 60 days prior written notice of any change in the membership fee before such fee becomes effective. Membership fees are payable by Cooperative Member upon receipt of an invoice from the Cooperative or its designee. A late charge amounting to the maximum interest allowed by law, but not less than the rate of interest under Section 2251.021, *et seq.*, Texas Government Code, shall begin to accrue daily on the 31st day following the due date and continue to accrue until the membership fees and late charges are paid in full. The Cooperative reserves the right to collect all funds that are due to the Cooperative in the event of termination by Cooperative Member or breach of this Agreement by Cooperative Member.

(b) In addition to membership fees, the Cooperative Member will make timely payments to the vendor for the goods, materials and services received in accordance with the terms and conditions of the bid invitation, instructions, and all other applicable procurement documents. Payment for goods, materials and services and inspections and acceptance of goods, materials and services ordered by the procuring Cooperative Member shall be the exclusive obligation of

the procuring Cooperative Member, and not the Cooperative. Furthermore, the Cooperative Member is solely responsible for negotiating and securing ancillary agreements from the vendor on such other terms and conditions, including provisions relating to insurance or bonding, that the Cooperative Member deems necessary or desirable under state or local law, local policy or rule, or within its business judgment.

5. **Payments by Vendors.** The parties agree that the Cooperative will require payment from vendors which are selected to provide goods, materials or services to Cooperative Members. Such payment (hereafter "Vendor Fees") may be up to two percent (2%) of the purchase price paid by Cooperative Members or a flat fee amount that may be set from time to time by the Cooperative Board of Trustees. Cooperative Member agrees that these Vendor Fees fairly compensate the Cooperative for the services and functions performed under this Agreement and that these Vendor Fees enable the Cooperative to pay the administrative, endorsement, licensing, marketing, and other expenses involved in successfully operating a program of electronic commerce for the Cooperative Members. Further, Cooperative Member affirmatively disclaims any rights to such Vendor Fees, acknowledging all such fees are the property of the Cooperative. Similarly, in no event shall a Cooperative Member be responsible for payment of Vendor Fees.

6. **Distribution.** From time to time, and at the sole discretion of the Cooperative Board of Trustees, the Cooperative may issue a distribution to Cooperative Members under a plan developed by the Cooperative Board of Trustees. Cooperative Member acknowledges that a distribution is never guaranteed and will depend on the overall financial condition of the Cooperative at the time of the distribution and the purchases made by the Cooperative Member.

7. **Administration.** The Cooperative may enter into contracts with others, including non-profit associations, for the administration, operation and sponsorship of the purchasing program provided by this Agreement. The Cooperative will provide reports, at least annually, to the Cooperative Member electronically or by mail. Cooperative Member will report purchase orders generated under this Agreement to the Cooperative or its designee, in accordance with instructions of the Cooperative.

8. **BuyBoard®.** Cooperative Member will have a non-exclusive license to use the BuyBoard electronic purchasing application during the term of this Agreement. Cooperative Member acknowledges and agrees that the BuyBoard electronic application and trade name are owned by the Texas Association of School Boards, Inc. and that neither the Cooperative nor the Cooperative Member has any proprietary rights in the BuyBoard electronic application or trade name. Cooperative Member will not attempt to resell, rent, or otherwise distribute any part of the BuyBoard to any other party; nor will it attempt to modify the BuyBoard programs on the server or acquire the programming code. Cooperative Member may not attempt to modify, adapt, translate, distribute, reverse engineer, decompile, or disassemble any component of the application. Cooperative Member will use the BuyBoard in accordance with instructions from the Cooperative (or its designee) and will discontinue use upon termination of participation in the Cooperative. Cooperative Member will maintain equipment, software and conduct testing to operate the BuyBoard system at its own expense.

III. GENERAL PROVISIONS

1. **Amendment by Notice.** The Board may amend this Agreement, provided that prior written notice is sent to the Cooperative Member at least 60 days prior to the effective date of any change described in such amendment and provided that the Cooperative Member does not terminate its participation in the Cooperative before the expiration of said 60 days.

2. **Authorization to Participate and Compliance with Local Policies.** Each Cooperative Member represents and warrants that its governing body has duly authorized its participation in the Cooperative and that the Cooperative Member will comply with all state and local laws and policies pertaining to purchasing of goods and services through its membership in the Cooperative.

3. **Bylaws.** The Cooperative Member agrees to abide by the Bylaws of the Cooperative, as they may be amended, and any and all written policies and procedures established by the Cooperative.

4. **Cooperation and Access.** The Cooperative Member agrees that it will cooperate in compliance with any reasonable requests for information and/or records made by the Cooperative. The Cooperative reserves the right to audit the relevant records of any Cooperative Member. Any breach of this provision shall be considered material and shall make the Agreement subject to termination on ten (10) days written notice to the Cooperative Member.

5. **Coordinator.** The Cooperative Member agrees to appoint a program coordinator who shall have express authority to represent and bind the Cooperative Member, and the Cooperative will not be required to contact any other individual regarding program matters. Any notice to or any agreements with the coordinator shall be binding upon the Cooperative Member. The Cooperative Member reserves the right to change the coordinator as needed by giving written notice to the Cooperative. Such notice is not effective until actually received by the Cooperative.

6. **Current Revenue.** The Cooperative Member hereby warrants that all payments, fees, and disbursements required of it hereunder shall be made from current revenues budgeted and available to the Cooperative Member.

7. **Defense and Prosecution of Claims.** The Cooperative Member authorizes the Cooperative to regulate the commencement, defense, intervention, or participation in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution, or other appearances of the Cooperative in any litigation, claim or dispute which arises from the services provided by the Cooperative on behalf of its members, collectively or individually. Neither this provision nor any other provision in this Agreement will create a legal duty for the Cooperative to provide a defense or prosecute a claim; rather, the Cooperative may exercise this right in its sole discretion and to the extent permitted or authorized by law. The Cooperative Member shall reasonably cooperate and supply any information necessary or helpful in such prosecution or defense. Subject to specific revocation, the Cooperative Member hereby designates the Cooperative to act as a class representative on its behalf in matters arising out of this Agreement.

8. **Governance.** The Board of Trustees (Board) will govern the Cooperative in accordance with the Bylaws.

9. **Jurisdiction/Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and venue for all disputes arising under this Agreement shall lie in Travis County, Texas.

10. **Legal Authority.** The Cooperative Member represents and warrants to the Cooperative the following:
    a) It meets the definition of "Local Government" or "State Agency" under the Interlocal Cooperation Act ("Act"), Chapter 791 of the Texas Government Code.
    b) The functions and services to be performed under the Agreement will be limited to "Administrative Functions" as defined in the Act, which includes purchasing.
    c) It possesses the legal authority to enter into this Agreement and can allow this Agreement to automatically renew without subsequent action of its governing body.
    d) Purchases made under this Agreement will satisfy all procedural procurement requirements that the Cooperative Member must meet under all applicable local policy, regulation, or state law.
    e) All requirements—local or state–for a third party to approve, record or authorize the Agreement have been met.

11. **Disclaimer.** THE COOPERATIVE, ITS ENDORSERS (TEXAS ASSOCIATION OF SCHOOL BOARDS, INC., TEXAS ASSOCIATION OF COUNTIES, AND TEXAS MUNICIPAL LEAGUE) AND SERVICING CONTRACTOR (TEXAS ASSOCIATION OF SCHOOL BOARDS, INC.) DO NOT WARRANT THAT THE OPERATION OR USE OF COOPERATIVE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

    THE COOPERATIVE, ITS ENDORSERS AND SERVICING CONTRACTORS, HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY INFORMATION, PRODUCT OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. **Limitation of Liability.** Without waiver of the disclaimer or other limitation of liability in this Agreement, the parties agree that:
    (a) Neither party waives any immunity from liability afforded under law;
    (b) In regard to any lawsuit or formal adjudication arising out of or relating to this Agreement, neither party shall be liable to the other under any circumstance for special, incidental, consequential, or exemplary damages;
    (c) The maximum amount of damages recoverable will be limited to the amount of fees which the Cooperative received as a direct result of the Cooperative Member's membership fee and purchase activity, within 24 months of when the lawsuit or action was filed; and
    (d) In the event of a lawsuit or formal adjudication the prevailing party will be entitled to recover reasonable attorney's fees pursuant to Section 271.159 of the Texas Local Government Code.

    Without waiver of the disclaimer or other limitation of liability in this Agreement, the parties further agree to limit the liability of the Cooperative's servicing contractor, endorsers and sponsors (including,

but not limited to, the Texas Association of School Boards, Inc., Texas Association of Counties, Texas Municipal League, and educational service centers) up to the maximum amount each received from or through the Cooperative, as a direct result of the undersigned Cooperative Member's membership fee and purchase activity, within 24 months of the filing of any lawsuit or action.

13. **Limitation of Rights.** Except as otherwise expressly provided in this Agreement, nothing in this Agreement, is intended to confer upon any person, other than the parties hereto, any benefits, rights, or remedies under or by reason of this Agreement.

14. **Merger/Entirety.** This Agreement, together with the Cooperative's Bylaws and Organizational Interlocal Agreement, represents the complete understanding of the Cooperative and Cooperative Member. To the extent there exists any conflict between the terms of this Agreement and that of prior agreements, the terms of this Agreement shall control and take precedence over all prior participation agreements.

15. **Notice.** Any written notice to the Cooperative shall be made by first class mail, postage prepaid, and delivered to the BuyBoard Administrator, Texas Association of School Boards, Inc., P.O. Box 400, Austin, Texas 78767-0400. Notices to Cooperative Member may be made by first class mail, postage prepaid, and delivered to the Cooperative Member's Coordinator or chief executive officer (e.g., superintendent, city manager, county judge or mayor).

16. **Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions shall continue in full force and effect.

17. **Signatures/Counterparts.** The failure of a party to provide an original, manually executed signature to the other party will not affect the validity, enforceability or binding effect of this Agreement because either party may rely upon a facsimile signature as if it were an original. Furthermore, this Agreement may be executed in several separate counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

18. **Warranty.** By the execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

IN WITNESS WHEREOF, the parties, acting through their duly authorized representatives, accept this Agreement.

TO BE COMPLETED BY THE COOPERATIVE:

The LOCAL GOVERNMENT PURCHASING COOPERATIVE,
as acting on behalf of all other Cooperative Members

By: _____ Date: 11/13/06
James B. Crow, Secretary

TO BE COMPLETED BY COOPERATIVE MEMBER:

City of College Station, TX
(Name of Local Government)

By: _____ Date: _____
Signature of authorized representative of Cooperative Member

_____
Printed name and title of authorized representative
Ron Silvia, Mayor

Coordinator for the
Cooperative Member is:

Cheryl K. Turney
Name

Purchasing Manager
Title

1101 Texas Avenue
Mailing Address

College Station, Texas
City

77840
Zip

(979) 764-3557
Telephone

(979) 764-3899
Fax

cturney@cstx.gov
Email

As revised by the Cooperative Board of Trustees on October 18, 2006.

ATTEST:

_____
CONNIE HOOKS, City Secretary
Date:_____

APPROVED:

_____
City Manager
Date:_____

Carla A. Robinson
City Attorney
Date:_____

_____
Chief Financial Officer
Date:_____

January 11, 2007
Consent Agenda Item No. 12.16
Wireline Crossing Agreement with Union Pacific Railroad
for the Dowling Road Pump Station Chemical Feed Project

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion to approve a Wireline Crossing Agreement with Union Pacific Railroad for the Dowling Road Pump Station Chemical Feed Project. This agreement is required in order to get a permit at a cost of $1,500 to install overhead fiber optic cable across the railroad tracks to provide connectivity with the City's fiber optic network.

Recommendation(s): Staff recommends approval.

Summary: This item is for the approval of a Wireline Crossing Agreement in order to install fiber optic cable across the railroad tracks to provide connection to the City's fiber optic network. This item is in conjunction with the Dowling Road Pump Station Chemical Feed Project.

Budget & Financial Summary: The funding for this capital improvement project is from the Water Fund and budgeted under "Dowling Road Pump/Chemical System" for a project total of $3,207,397. The cost of the permit is $1,500.

Attachments:
1. Pipeline Crossing Agreement
2. Location Map

March 31, 2006
Folder: 2378-14

MR. JON SCHLANDT
CITY OF COLLEGE STATION
1101 TEXAS AVE.
COLLEGE STATION TX 77840

RE: Proposed Construction of a Overhead Fiber Optic Wireline Crossing at Mile Post 71.56 on the Navasota Subdivision at or near College Station, Brazos County, Texas

Dear Jon,

Enclosed are duplicate originals of a Wireline Crossing Agreement covering your use of the Railroad Company's right-of-way.

To properly document your use of the Railroad Company's right-of-way, it is necessary that you execute these crossing agreements, and return the following to me in the enclosed envelope:

1. **BOTH** duplicate originals of the crossing agreement.

2. A Certificate of Insurance.

3. Resolution of Authority for individual executing the agreements, if required.

4. Check, **with Folder No. 2378-14 written on the front**, made payable to the Union Pacific Railroad Company in the amount of One Thousand Five Hundred Dollars ($1,500.00). If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Service's policy regarding Form 1099, I certify that 94-6001323 is the Railroad Company's correct Federal Taxpayer Identification Number and that Union Pacific Railroad Company is doing business as a corporation.

If any work to install the utility is to be performed by a contractor, please ensure that the enclosed letter and duplicate originals of a Contractors Right of Entry Agreement are forwarded to your Contractor for execution and return to me. Your Contractor will not be permitted on the Railroad Company's right-of-way without this Agreement.

If the crossing agreements are not executed and returned within six months from the date of this letter, offer of the agreement is withdrawn and becomes null and void.

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UNION PACIFIC RAILROAD
1400 Douglas Street, Stop 1690
Omaha, Nebraska 68179-1690
fx. (402) 501-0340

If you have any questions concerning this agreement, please feel free to call me.

Yours truly,

Mary C. Gross

Mary Gross
Manager - Contracts
(402) 544-8623

Real Estate

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Omaha, Nebraska 68179-1690
fx. (402) 501-0340

WLX.DOC 940204
Form Approved, AVP-Law

Folder No. 2378-14

WIRELINE CROSSING AGREEMENT

Mile Post: 71.56, Navasota Subdivision
Location: College Station, Brazos County, Texas

THIS AGREEMENT is made and entered into as of March 31, 2006, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, (hereinafter the "Licensor") and **CITY OF COLLEGE STATION**, a Texas municipal corporation to be addressed at 1101 Texas Ave., College Station, Texas 77840 (hereinafter the "Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article I. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **One Thousand Five Hundred Dollars ($1,500.00).**

Article II. LICENSOR GRANTS RIGHT.

In consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate

one overhead fiber optic wireline crossing only

(hereinafter the "Wireline") in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated March 31, 2006, marked Exhibit "A". Under no circumstances shall Licensee modify the use of the Wireline for a purpose other than the above-mentioned, and said Wireline shall not be used for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

Article III. CONSTRUCTION, MAINTENANCE AND OPERATION.

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in Exhibit B, attached hereto and hereby made a part hereof.

Article IV. IF WORK IS TO BE PERFORMED BY CONTRACTOR.

If a contractor is to do any of the work performed on the Wireline (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Licensee shall require its contractor to execute the Licensor's form Contractor's Right of Entry Agreement. Licensee acknowledges receipt of a copy of the Contractor's Right of Entry Agreement and understands its terms, provisions, and

Real Estate

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Omaha, Nebraska 68179-1690
fx. (402) 501-0340

requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Licensee's contractor be allowed onto Licensor's premises without first executing the Contractor's Right of Entry Agreement.

Article V. **INSURANCE.**

~~A. The Licensee, at its expense, shall obtain the insurance described in Exhibit B-1, hereto~~ attached. The Licensee will also provide to the Licensor a Certificate of Insurance, **identifying Folder No. 2378-14**, issued by its insurance carrier confirming the existence of such insurance and that the policy or policies contain the following endorsement:

> UNION PACIFIC RAILROAD COMPANY is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the 'Wireline' located on Railroad right-of-way at Mile Post 71.56, on the Navasota Subdivision, at or near College Station, Brazos County, Texas.

B. If the Licensee named in this Agreement is a public entity subject to any applicable statutory tort laws, the limits of insurance described in Exhibit B-1 shall be the limits the Licensee then has in effect or which is required by applicable current or subsequent law, whichever is greater, a portion of ~~which may be self insured with the consent and approval of the Licensor~~

C. All insurance correspondence shall be directed to:

Mary Gross
Folder No. 2378-14
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street STOP 1690
Omaha, NE 68179-1690

Article VI. **TERM.**

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____
Manager - Contracts

CITY OF COLLEGE STATION

By: _____
Title: Mayor
Date: _____

ATTEST:

_____
CONNIE HOOKS, City Secretary
Date: _____

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1400 Douglas Street, Stop 1690
Omaha, Nebraska 68179-1690
fx. (402) 501-0340

APPROVED:

_____
City Manager
Date:_____

Carla A Robinson
City Attorney
Date:_____

_____
Chief Financial Officer
Date:_____

AMENDMENTS

Article V. Insurance

The Licensee is a public entity subject to the TEXAS TORT CLAIMS ACT TEX. CIV. PRAC. & REM. Code 101.001 (Vernon 1997 and Vernon Supp. 2003) and by entering into this Agreement expressly does not agree to and does not waive its governmental immunity. However, the Licensee agrees to self-insure any limits of its statutory liability of up to a maximum of $500,000.00, if any, subject to the TEXAS TORT CLAIMS ACT. Licensor expressly consents to Licensee's self-insurance of said limits of liability.

Article VII. Special Provisions

Sections 7(a); 7(b) and 13(b) of the Exhibit B attached hereto and made a part hereof is hereby amended to read as follows:

Section 7.

(a) Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will commence no work on the right of way until all such protection or relocation has been accomplished. Licensee shall indemnify and hold the Licensor harmless to the extent allowed by Texas law, from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of or caused in any way by Licensee's failure to comply with the provisions of this paragraph.

(b) In addition to other indemnity provisions in this Agreement, the Licensee shall indemnify and hold the Licensor harmless to the extent allowed by Texas law from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) caused by the negligence of the Licensee, its contractor, agents and/or employees, resulting in (1) any damage to or destruction of any telecommunications system on Licensor's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Licensor's property, except if such costs, liability or expenses are caused solely by the direct active negligence of the Licensor. Licensee further agrees that it shall not have or seek recourse against Licensor for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Licensor's property or a customer or user of services of the fiber optic cable on Licensor's property.

Section 13.

(b) In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than one hundred eighty (180) days subsequent to the date upon which such notice shall be given.

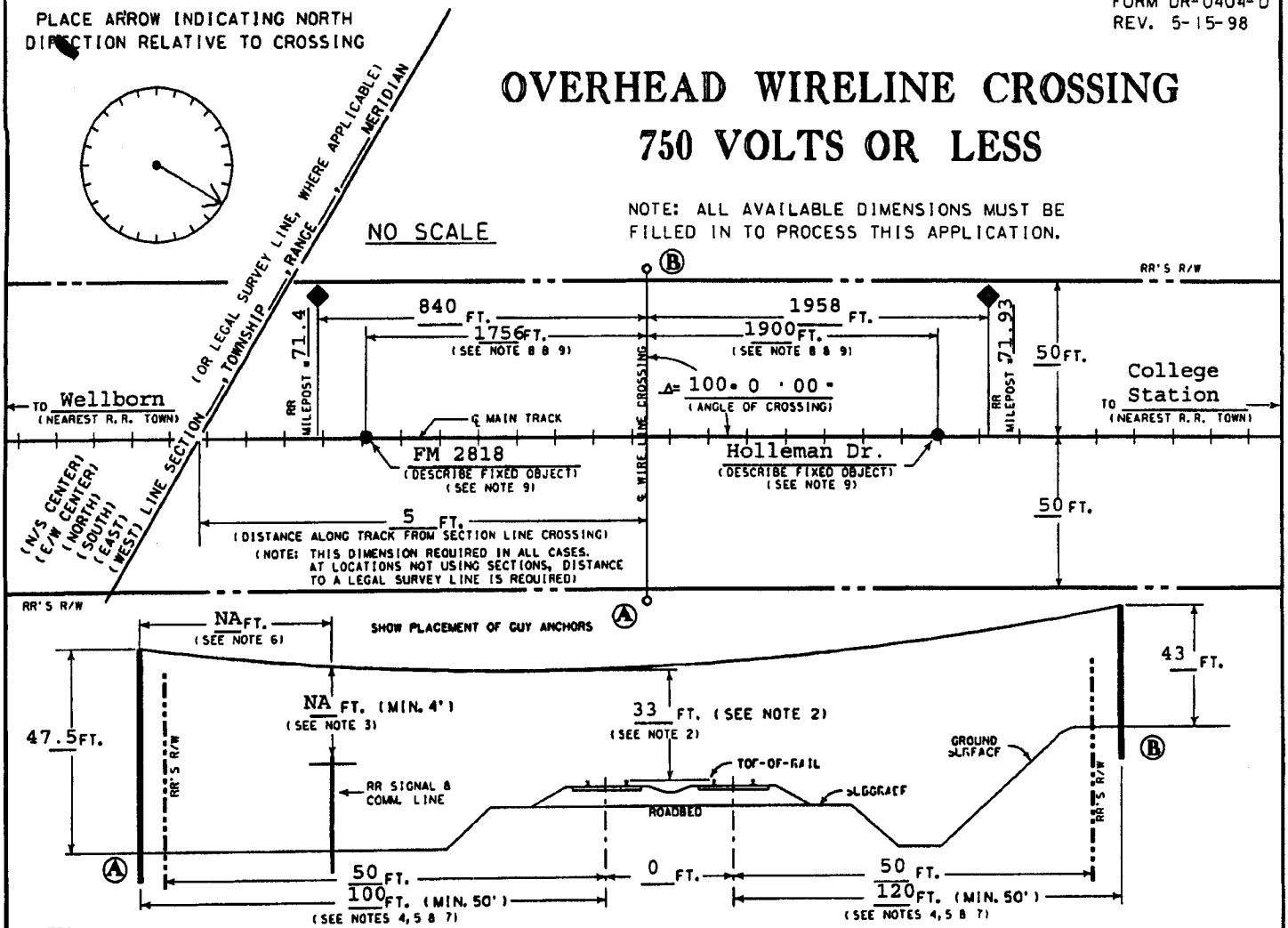
FORM DR-0404-D
REV. 5-15-98

OVERHEAD WIRELINE CROSSING
750 VOLTS OR LESS

PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING

NO SCALE

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.



NOTES :

1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM ℄ OF TRACK, EXCEPT AS NOTED.
2) MINIMUM 23.5' OR 24' ABOVE TOP-OF-RAIL CLEARANCE REQUIRED, REFER TO WIRELINE CLEARANCE CHART.
3) MINIMUM 4' CLEARANCE REQUIRED ABOVE SIGNAL AND COMMUNICATION LINES, REFER TO WIRELINE CLEARANCE CHART.
4) POLES MUST BE LOCATED 50' OUT FROM ℄ OF OUR MAIN, BRANCH, AND RUNNING TRACKS, CTC SIDINGS, AND HEAVY TONNAGE SPURS.
5) REGARDLESS OF THE VOLTAGE, UNGUYED POLES SHALL BE LOCATED A MINIMUM DISTANCE FROM ℄ OF ANY TRACK EQUAL TO THE HEIGHT OF POLE ABOVE GROUNDLINE PLUS 10 FEET.
6) POLE(S) (INCLUDING STEEL POLES) MUST BE LOCATED A MINIMUM DISTANCE FROM OUR SIGNAL AND COMMUNICATION LINES EQUAL TO THE HEIGHT OF THE POLE ABOVE GROUNDLINE OR ELSE BE GUYED AT RIGHT ANGLES TO OUR LINES.
7) POLE LOCATION ADJACENT TO INDUSTRY TRACKS MUST PROVIDE AT LEAST 10' CLEARANCE FROM ℄ OF TRACK WHEN MEASURED AT RIGHT ANGLES. IF LOCATED ADJACENT TO CURVE TRACK, THEN SAID CLEARANCE MUST BE INCREASED AT A RATE OF 1-1/2" PER DEGREE OF CURVE TRACK.
8) POWER LINES MUST BE LOCATED A MINIMUM OF 500' FROM THE END OF ANY RAILROAD BRIDGE OR 300' FROM ℄ OF ANY CULVERT.
9) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES; ℄ OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME), OR ℄ CULVERTS.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET ? ____ YES; X NO;
B) IF YES, NAME OF STREET ____
C) TYPE WIRELINE CROSSING: ____ TELEPHONE; ____ TELEVISION; X FIBER OPTIC; OTHER; ____
D) VOLTAGE TO BE CARRIED N/A NO. OF WIRES 1
E) CURRENT TO BE CARRIED N/A
F) WIRELINE WILL PASS OVER: X UNDER: ____ UPRR COMMUNICATION OR SIGNAL LINE? WHAT IS THE MINIMUM CLEARANCE BETWEEN WIRES? N/A FEET.
G) WILL ANY ATTACHMENTS BE MADE TO ANY EXISTING POLES? Yes
H) WILL ANY ATTACHMENTS BE MADE TO RAILROAD'S POLES? No
I) WHAT TYPE OF FACILITY WILL LINE BE SERVING? Municipal Pump Station
J) APPLICANT HAS CONTACTED 1-800-336-9193, U. P. COMMUNICATION DEPARTMENT, AND HAS DETERMINED FIBER OPTIC CABLE X DOES ; ____ DOES NOT ; EXIST IN VICINITY OF WORK TO BE PERFORMED. TICKET NO. 20060222022

Fiber In Area:
Quest
Sprint
Willtel

EXHIBIT "A"

(FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX)

UNION PACIFIC RAILROAD CO.

Navasota
(SUBDIVISION)

M. P. 71.56 E. S. 4919+91±

OVERHEAD WIRELINE CROSSING

College Station (NEAREST RR STATION) Brazos (COUNTY) TX (STATE)

FOR City of College Station (APPLICANT)

RR FILE NO. 2378-14 DATE 3-31-06

WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.
PHONE : 1-800-336-9193

EXHIBIT B

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

(a) The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire property including the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Licensor without liability to the Licensee or to any other party for compensation or damages.

(b) The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Licensor's property, and others) and the right of the Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 2. CONSTRUCTION, MAINTENANCE AND OPERATION.

(a) If the Wireline or any part thereof is to be located above the top of the rails of any track or communication and signal lines, including static wires, overhead clearance provided by the Wireline shall be no less than that shown on Exhibit A. The Wireline shall be constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Licensee in strict conformity with the Specifications prescribed in the current issue of the National Electrical Safety Code of the American National Standards Institute. In the event such Specifications conflict in any respect with the requirements of any federal, state or municipal law or regulation, such requirements shall govern on all points of conflict, but in all other respects the Specifications shall apply.

(b) All work performed on property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline shall be done to the satisfaction of the Licensor.

(c) If the Wireline is an existing one not conforming in its construction to the above provisions of this Section 2, the Licensee shall, within ninety (90) days after the date hereof, reconstruct it so as to conform therewith.

(d) The Wireline shall be constructed, maintained and operated by the Licensee in such manner as not to be or constitute a hazard to aviation. With respect to the Wireline the Licensee, without expense to the Licensor, will comply with all requirements of law and of public authority, whether federal, state or local, including but not limited to aviation authorities.

Real Estate

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(e) In the operation of the Wireline, the Licensee shall not transmit electric current at a difference of potential in excess of the voltage indicated on Exhibit A. If the voltage indicated is in excess of seven hundred fifty (750) volts, and the Wireline is, or is to be, buried at any location on the property of the Licensor outside track ballast sections or roadbed, the Licensee shall install metallic conduit, or non-metallic conduit encased in a minimum of three (3) inches of concrete with a minimum of four (4) feet of ground cover the entire length of the Wireline on the property of the Licensor. A Wireline buried by removal of the soil shall have, at a depth of one (1) foot beneath the surface of the ground directly above the Wireline, a six (6) inch wide warning tape bearing the warning, "Danger-High Voltage," or equivalent wording. A Wireline encased in conduit, jacked or bored under the property of the Licensor, must be identified by placing warning signs, to be installed and properly maintained at the expense of the Licensee, at each edge of the Licensor's property. The Licensee shall not utilize the signs in lieu of the warning tape where portions of the casing are installed by direct burial.

Section 3. NOTICE OF COMMENCEMENT OF WORK.

If an emergency should arise requiring immediate attention, the Licensee shall provide as much notice as practicable to Licensor before commencing any work. In all other situations, the Licensee shall notify the Licensor at least ten (10) days (or such other time as the Licensor may allow) in advance of the commencement of any work upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline. All such work shall be prosecuted diligently to completion.

Section 4. LICENSEE TO BEAR ENTIRE EXPENSE.

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair and renewal and any and all modification, revision, relocation, removal or reconstruction of the Wireline, including any and all expense which may be incurred by the Licensor in connection therewith for supervision or inspection, or otherwise.

Section 5. REINFORCEMENT, RELOCATION OR REMOVAL OF WIRELINE.

(a) The license herein granted is subject to the needs and requirements of the Licensor in the operation of its railroad and in the improvement and use of its property, and the Licensee shall, at the sole expense of the Licensee, reinforce or encase the Wireline (if it is an underground facility) to the satisfaction of the Licensor, or move all or any portion of the Wireline to such new location, as the Licensor may designate, whenever in the furtherance of its needs and requirements, the Licensor shall find such action necessary or desirable.

(b) All the terms, conditions and stipulations herein expressed with reference to the Wireline on property of the Licensor in the location hereinbefore described shall, so far as the Wireline remains on the property, apply to the Wireline as modified, changed or relocated within the contemplation of this section.

Real Estate

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Omaha, Nebraska 68179-1690
fx. (402) 501-0340

Section 6. INTERFERENCE.

In the operation and maintenance of the Wireline the Licensee shall take all suitable precaution to prevent any interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of the Licensor or of its tenants; and if, at any time, the operation or maintenance of the Wireline results in any electrostatic effects which the Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be provided by the Licensor and/or its tenants, the Licensee shall, at the sole expense of the Licensee, immediately take such action as may be necessary to eliminate such interference.

Section 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

(a) Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will commence no work on the right of way until all such protection or relocation has been accomplished. Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of or caused in any way by Licensee's failure to comply with the provisions of this paragraph.

(b) In addition to other indemnity provisions in this Agreement, the Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) caused by the negligence of the Licensee, its contractor, agents and/or employees, resulting in (1) any damage to or destruction of any telecommunications system on Licensor's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Licensor's property, except if such costs, liability or expenses are caused solely by the direct active negligence of the Licensor. Licensee further agrees that it shall not have or seek recourse against Licensor for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Licensor's property or a customer or user of services of the fiber optic cable on Licensor's property.

Section 8. CLAIMS AND LIENS FOR LABOR AND MATERIAL.

(a) The Licensee shall fully pay for all materials joined or affixed to and labor performed upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee. The Licensee shall indemnify and hold harmless the Licensor against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

Real Estate

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(b) The Licensee shall promptly pay or discharge all taxes, charges and assessments levied upon, in respect to, or on account of the Wireline, to prevent the same from becoming a charge or lien upon property of the Licensor, and so that the taxes, charges and assessments levied upon or in respect to such property shall not be increased because of the location, construction or maintenance of the Wireline or any improvement, appliance or fixture connected therewith placed upon such property, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the property of the Licensor, then the Licensee shall pay to the Licensor an equitable proportion of such taxes determined by the value of the Licensee's property upon property of the Licensor as compared with the entire value of such property.

Section 9. RESTORATION OF LICENSOR'S PROPERTY.

In the event the Licensor authorizes the Licensee to take down any fence of the Licensor or in any manner move or disturb any of the other property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Licensor, its officers, agents and employees, against and from any and all liability, loss, damages, penalties, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the taking down of any fence or the moving or disturbance of any other property of the Licensor.

Section 10. INDEMNITY.

(a) As used in this Section, "Licensor" includes other railroad companies using the Licensor's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Licensor's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and/or (b) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Licensor, or property in its care or custody).

(b) As a major inducement and in consideration of the license and permission herein granted, the Licensee agrees to indemnify and hold harmless the Licensor from any Loss which is due to or arises from: to the extent permitted under state law

1. The prosecution of any work contemplated by this Agreement including the installation, construction, maintenance, repair, renewal, modification, reconstruction, relocation, or removal of the Wireline or any part thereof; or

2. The presence, operation, or use of the Wireline or electric current conducted thereon or escaping therefrom,

except to the extent that the Loss is caused by the sole and direct negligence of the Licensor.

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Section 11. REMOVAL OF WIRELINE UPON TERMINATION OF AGREEMENT.

Prior to the termination of this Agreement howsoever, the Licensee shall, at Licensee's sole expense, remove the Wireline from the property of the Licensor and restore such property to as good a condition as it was in before the Wireline was originally constructed, all to the satisfaction of the Licensor. If the Licensee fails to do the foregoing, the Licensor may perform the work of removal and restoration at the expense of the Licensee. The Licensor shall not be liable to the Licensee for any damage sustained by the Licensee as a result of the removal of the Wireline by the Licensor as in this section provided, nor shall such action prejudice or impair any right of action for damages or otherwise that the Licensor may, at the time of such removal, have against the Licensee.

Section 12. WAIVER OF BREACH.

The waiver by the Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Licensor to avail itself of any remedy for any subsequent breach thereof.

Section 13. TERMINATION.

(a) If the Licensee does not use the right herein granted or the Wireline for one (1) year, or if the Licensee continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Licensor to the Licensee specifying such default, the Licensor may, at its option, forthwith immediately terminate this Agreement by written notice.

(b) In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date upon which such notice shall be given.

(c) Notice of default and notice of termination may be served personally upon the Licensee or by mailing to the last known address of the Licensee. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liability, accrued or otherwise, which may have arisen prior thereto.

Section 14. AGREEMENT NOT TO BE ASSIGNED.

The Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the Licensor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Licensor, shall terminate this Agreement.

Section 15. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

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EXHIBIT B-1

Union Pacific Railroad Company
Insurance Provisions For
Pipeline / Wireline / Drainage License Agreements

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability** insurance. This insurance shall contain broad form contractual liability with a single limit of at least $2,000,000 each occurrence or claim and an aggregate limit of at least $4,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The employee and worker's compensation related exclusions in the above policy apply only to Licensee's employees
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Waiver of subrogation

B. **Business Automobile Coverage** insurance. This insurance shall contain a combined single limit of at least $2,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The employee and worker's compensation related exclusions in the above policy apply only to Licensee's employees
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

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C. **Workers Compensation and Employers Liability** insurance including but not limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
  $500,000 each accident, $500,000 disease policy limit
  $500,000 each employee

If Workers Compensation insurance will not cover the liability of Licensee in states that require participation in state workers' compensation fund, Licensee shall comply with the laws of such states. If Licensee is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

D. **Umbrella or Excess Policies** In the event Licensee utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

Other Requirements

E. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

F. Licensee agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Licensor. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody and control. Licensee's insurance shall be primary with respect to any insurance carried by Licensor. All waivers of subrogation **shall be indicated on the certificate of insurance.**

G. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Licensor as an additional insured. **Severability of interest and naming Licensor as additional insured shall be indicated on the certificate of insurance.**

H. Prior to commencing the Work, Licensee shall furnish to Licensor original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing of any cancellation or material alteration. **Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.**

I. Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

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J. Licensee **WARRANTS** that this Agreement has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement and acknowledges that Licensee's insurance coverage will be primary.

K. The fact that insurance is obtained by Licensee or Licensor on behalf of Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

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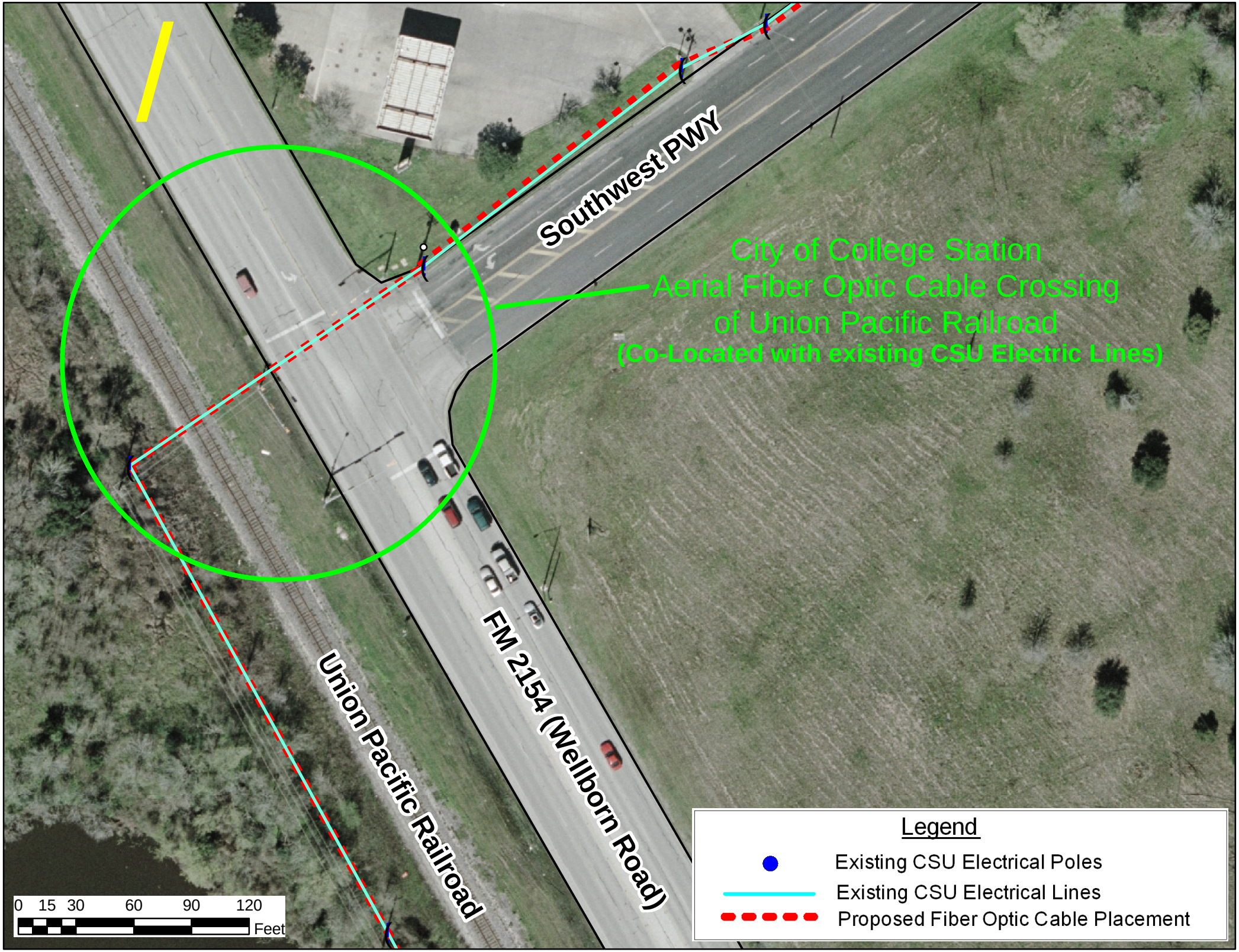
Southwest PWY
City of College Station
Aerial Fiber Optic Cable Crossing
of Union Pacific Railroad
(Co-Located with existing CSU Electric Lines)
FM 2154 (Wellborn Road)
Union Pacific Railroad
0 15 30 60 90 120
Feet
Legend
Existing CSU Electrical Poles
Existing CSU Electrical Lines
Proposed Fiber Optic Cable Placement

January 11, 2007
Consent Agenda Item No. 12.17
Interlocal Agreement with City of Grand Prairie

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action, and discussion on an Interlocal Agreement for cooperative purchasing activities between the City of College Station and City of Grand Prairie, Texas.

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

Summary: This agreement would authorize the City of College Station and City of Grand Prairie Purchasing Managers to jointly prepare bids and proposals for the purchase of goods and services. It would also allow us to piggyback on each others bids and contracts when in our best interest. At this time, City of Grand Prairie is specifically interested in exploring opportunities to piggyback on our streaming video contract with Granicus.

Budget & Financial Summary: No expenses will be incurred to approve the Interlocal Agreement. Future savings may be realized through economies of scale in administrative, advertising and other purchasing costs.

Attachments: Interlocal Agreement with City of Grand Prairie

INTERLOCAL AGREEMENT BETWEEN
THE CITY OF COLLEGE STATION
AND CITY OF GRAND PRAIRIE

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies and services;

WHEREAS, City of College Station and City of Grand Prairie desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs and services;

WHEREAS, the City of 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, The City of College Station and City of Grand Prairie represent that each are independently authorized to perform the functions or services contemplated by this Agreement;

WHEREAS, each party has sufficient funds available from current revenues to perform the functions contemplated by this Agreement;

WHEREAS, it is deemed in the best interest of all participating governments that said governments do enter into a mutually satisfactory agreement for the purchase of necessary equipment, supplies and services;

WHEREAS, the participating governments are of the opinion that cooperation in the purchasing of equipment, supplies, services and auctions will be beneficial to the taxpayers of the governments through the efficiencies and potential savings to be realized.

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as to each of the other as follows:

1. City of College Station and City of Grand Prairie Purchasing Agents shall be authorized to jointly prepare bids, proposals, requests for qualifications and other procurement activity for the purchase of equipment, supplies, services, insurance, high technology, professional services and other expenditures that may be exempt from competitive bidding/proposals.

2. The Purchasing Agents shall fairly distribute the bids, proposals, requests for qualifications and other purchases to be made and the cost of advertising shall be borne equally by each entity, whenever joint purchasing is undertaken.

3. The City of College Station and City of Grand Prairie Purchasing Agents shall agree on who is responsible for all such administrative duties as may be necessary to lawfully facilitate processing and preparation of any bids, proposals and request for qualifications and other procurement activity as may be required for the purchase of any equipment, supplies, services, insurance, high technology, professional services and other expenditures that may be exempt from competitive bidding/proposals. The City of College Station and City of Grand Prairie shall share equally any and all cash rebates related to any joint purchases pursuant to this Agreement.

4. Each entity shall pay invoices directly to the providers of goods and services that are invoiced and delivered directly to each respective entity.

5. Participation of either entity in any cooperative purchasing activity is strictly voluntary. Nothing in this Agreement shall prevent either entity from purchasing and/or accepting and awarding bids, proposals and contracts subject to this Agreement on its own behalf.

6. Each entity shall ensure that all applicable laws and ordinances have been satisfied.

7. **Effective Date and Term.** This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed and will remain in full force and effect until September 30, 2007. This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The conditions set forth below shall apply to the initial term and all renewals. Notwithstanding this provision, any party may modify or terminate this Agreement as provided in Paragraph(s) 8 or 9.

8. **Modification.** The terms and conditions of this Agreement may be modified upon the mutual consent of all parties. Mutual consent will be demonstrated approval of each governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of all parties.

9. **Termination. By the City of College Station or City of Grand Prairie**. This Agreement may be terminated at any time by the **City of College Station or City of Grand Prairie**, with or without cause, upon thirty (30) days written notice to the other parties in accordance with Paragraph 12 herein.

10. **Hold Harmless. The City of College Station and City of Grand Prairie agree to hold each 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, or for any breach of contract, arising out of or in connection with the work done under this Agreement.**

11. **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.

12. **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.

City of College Station: Fiscal Services - Purchasing Division
City of College Station
1101 Texas Ave.
P.O. Box 9960
College Station, Texas 77842

City of Grand Prairie: Purchasing Department
P.O. Box 534045
Grand Prairie, Texas 75053-4045

13. **Entire Agreement.** 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. Nor 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.

14. **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.

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

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

17. **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 corporations.

18. **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 anyway 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.

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 any party without the prior written approval of the other parties to this Agreement.

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.

CITY OF COLLEGE STATION

BY: _____
Ron Silvia, Mayor

DATE:

_____

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
Glenn Brown, City Manager

Carla A Robinson
City Attorney

_____
Jeff Kersten, Chief Financial Officer

CITY OF GRAND PRAIRIE

BY: _____
~~Tom Hart, City Manager~~
Anna Doll, Deputy City Mgr.

DATE:
12/01/06

ATTEST:

Catherine E. DiMaggio
Cathy DiMaggio, City Secretary

APPROVED:

Donald R. Postell
City Attorney

Contract No.
11/13/06

January 11, 2007
Consent Agenda Item No. 12.18
Annual Concrete Meter Boxes

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, discussion and possible action on the renewal agreement with Sims Plastics of Waco for the annual purchase of concrete meter boxes to be maintained in inventory, Bid No. 04-93, for an annual expenditure of $82,210.22.

Recommendation(s): Staff recommends approval of the renewal agreement with Sims Plastics of Waco for an annual expenditure of $82,210.22.

Summary: These purchases will be made as needed during the term of the agreement. The concrete meter boxes are maintained in Water Inventory in an inventory account and expensed as necessary during the agreement period.

Budget & Financial Summary: The original contract was awarded by Council in October 2004. This is the second and final renewal term, December 1, 2006 – November 30, 2007. The bid provides for up to a 5% increase for renewals. This renewal includes a proposed increase of 3% over the original contract amount and the first renewal. Staff feels that the increase would be higher than 5% if this item were re-bid. Even with the proposed 3% increase, the total expenditure is still lower than the other bids received in 2004. Funds are budgeted and available in the Water Fund. Various projects may be expensed as supplies are pulled from inventory and issued.

Attachments:

1 Renewal letter

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #04-93, for concrete meter boxes for water inventory, in accordance with all terms and conditions previously agreed to and accepted with a 3% increase as stipulated as a mutual agreement of both parties as a condition of Bid No 04-93. This is the first renewal of the contract.

I understand this renewal term will be for the period beginning December 1, 2006 through November 30, 2007.

SIMS PLASTICS, INC.

AUTHORIZED REPRESENTATIVE — DATE 12/04/06

CITY OF COLLEGE STATION

Ron Silvia, Mayor — DATE

ATTEST:

Connie Hooks, City Secretary — DATE

APPROVED:

Glenn D. Brown, City Manager — DATE

Carla A Robinson
City Attorney — DATE

Chief Financial Officer — DATE

STATE OF TEXAS **CORPORATE ACKNOWLEDGMENT**

COUNTY OF McLennan

This instrument was acknowledged on the 04 day of December, 2006,

by Jared Stracener in his/her capacity as Manager of

Sims Plastics, Inc., a TEXAS Corporation, on behalf of said corporation.

ANGIE C. RUSHTON
Notary Public, State of Texas
My Comm. Expires Dec. 5, 2009

Notary Public in and for the
State of Texas

STATE OF TEXAS **ACKNOWLEDGMENT**

COUNTY OF BRAZOS

This instrument was acknowledged on the _____ day of _____, 2006,

by Ron Silvia, in his capacity as Mayor of the City of College Station, a Texas

home-rule municipality, on behalf of said municipality.

Notary Public in and for the
State of Texas

****

January 11, 2007
Consent Agenda Item No. 12.19
Installation of Access and Security Equipment at Municipal Court

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a construction contract (Contract #07-025) with Siemens Building Technologies Inc. in the amount of $144,307.88 for the installation of access and security equipment at the College Station Municipal Court Building.

Recommendation(s): Staff recommends award of the contract to Siemens Building Technologies, Inc. for $144,307.88.

Summary: This contract is for the installation of access and security equipment at the College Station Municipal Court Building. 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 access/security system follows the management team decision to standardize the cities access/security systems.

The security improvements at the Municipal Court Building will include door access devices, audio and video surveillance for the interior of the building, and video surveillance for the exterior of the building. Other improvements being made outside the scope of this contract will include metal detectors and x ray machines. Staff is working to ensure the security and safety measures are done while minimizing the impact these changes will have on citizens and visitors utilizing the building.

Budget & Financial Summary: Funds are available for this project in the Court Technology Fund. A budget amendment will be brought to Council in the near future to provide the budget appropriation for this expenditure.

Attachments:

1. Construction Contract with Siemens

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 Access and Security Equipment at College Station Municipal Court 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:
Access and Security System for Municipal Court Building – more fully described in Siemens Proposal No 052006-82280-4019 dated August 24, 2006.

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 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 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 **40** 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 (l) 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 (l) 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.

By: RD Zoromski
Printed Name: **RON ZOROMSKI**
Title: **VICE PRESIDENT**
FINANCE & BUSINESS ADMINISTRATION
Date: 10/26/06

APPROVED BY LEGAL
Stephanie Y. Henderson
STEPHANIE Y. HENDERSON

NAME: Noe G. Bermudez
TITLE: Noe G. Bermudez
Assistant Secretary
DATE: 10/30/06

CITY OF COLLEGE STATION

By: _____
Ron Silvia, Mayor
Date: _____

ATTEST:

_____
Connie Hooks, City Secretary
Date: _____

APPROVED:

_____
Glenn Brown, City Manager
Date: _____

Carla A Robinson
City Attorney
Date: _____

_____
Jeff Kersten, Chief Financial Officer
Date: _____

STATE OF ~~TEXAS~~ Illinois)
) ACKNOWLEDGMENT
COUNTY OF ~~BRAZOS~~ Lake)

This instrument was acknowledged before me on the 26th day of October, 2006 by Ron Zeromski in his/her capacity as Vice President of SIEMENS BUILDING TECHNOLOGIES, INC., a corporation, on behalf of said corporation.

Pamela Missty
Notary Public in and for
the State of ~~Texas~~ Illinois

OFFICIAL SEAL
PAMELA MISSTY
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1-24-2008

STATE OF TEXAS)
) ACKNOWLEDGMENT
COUNTY OF BRAZOS)

This instrument was acknowledged before me on the ___ day of _____, 2006, 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 ("subcontractors" 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 an 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)

By: _____
Name:
Title:

ATTEST/WITNESS (SEAL)

By: _____
Name:
Title:
Date:

_____
(Name of Contractor)

By: _____
Name:
Title:
Date:

_____
(Full Name of Surety)

_____
(Address of Surety for Notice)

_____

By: _____
Name:
Title:
Date:

REVIEWED:

_____
City Attorney's Office

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

_____

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)

By: _____
Name:
Title:

ATTEST/WITNESS (SEAL)

By: _____
Name:
Title:
Date:

_____
(Name of Contractor)

By: _____
Name:
Title:
Date:

_____
(Full Name of Surety)

_____
(Address of Surety for Notice)

_____

By: _____
Name:
Title:
Date:

REVIEWED:

_____
City Attorney's Office

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

_____

Exhibit D

CERTIFICATES OF INSURANCE AND ENDORSEMENTS

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 01/02/07

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

100129-SS--06/07 676 0704 XXXX

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.

COMPANIES AFFORDING COVERAGE

COMPANY A GERLING AMERICA INSURANCE COMPANY A XI

COMPANY B LIBERTY MUTUAL FIRE INSURANCE COMPANY A XV

COMPANY C LIBERTY INSURANCE CORPORATION A XV

COMPANY D

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

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	7200509 GLP	10/01/06	10/01/07	GENERAL AGGREGATE	$ 10,000,000
	X COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG	$ INCL.
	CLAIMS MADE X OCCUR				PERSONAL & ADV INJURY	$ 1,000,000
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	$ 1,000,000
					FIRE DAMAGE (Any one fire)	$ 1,000,000
					MED EXP (Any one person)	$ 100,000
B	AUTOMOBILE LIABILITY	AS2-631-004334-216	10/01/06	10/01/07	COMBINED SINGLE LIMIT	$ 2,000,000
	X ANY AUTO				BODILY INJURY (Per person)	$ N/A
	X ALL OWNED AUTOS					
	SCHEDULED AUTOS				BODILY INJURY (Per accident)	$ N/A
	X HIRED AUTOS					
	X NON-OWNED AUTOS				PROPERTY DAMAGE	$ N/A
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
A	EXCESS LIABILITY	9000188 CUP	10/01/06	10/01/07	EACH OCCURRENCE	$ 5,000,000
	X UMBRELLA FORM				AGGREGATE	$ 5,000,000
	OTHER THAN UMBRELLA FORM					$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WA7-63D-004334-016 (AOS)	10/01/06	10/01/07	X WC STATUTORY LIMITS / OTHER	
C		WC7-631-004334-026 (OR, WI)	10/01/06	10/01/07	EACH ACCIDENT	$ 1,000,000
C	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: X INCL / EXCL	EW7-63N-004334-046 (WA)	10/01/06	10/01/07	DISEASE - POLICY LIMIT	$ 1,000,000
		$500K LIMIT / $500K SIR			DISEASE - EACH EMPLOYEE	$ 1,000,000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

SEE ATTACHED

CERTIFICATE HOLDER NYC-002378592-08

CITY OF COLLEGE STATION
P.O. BOX 9960
COLLEGE STATION, TX 77842

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.~~

AUTHORIZED REPRESENTATIVE
Mary Radaszewski

Mary Radaszewski

© ACORD CORPORATION 1988

ADDITIONAL INFORMATION

NYC-002378592-08

DATE (MM/DD/YY) 01/02/07

PRODUCER

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

100129-SS--06/07 676 0704 XXXX

INSURED

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

COMPANIES AFFORDING COVERAGE

COMPANY E

COMPANY F

COMPANY G

COMPANY H

TEXT

CITY OF COLLEGE STATION, ITS OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE 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.

CONTRACTUAL LIABILITY IS INCLUDED UNDER THE GENERAL LIABILITY AND AUTOMOBILE LIABILITY COVERAGE.

$1,000,000 PROFESSIONAL LIABILITY IS INCLUDED UNDER THE GENERAL LIABILITY POLICY AND $1,000,000 IS INCLUDED UNDER THE UMBRELLA LIABILITY POLICY.

HOST LIQUOR LIABILITY COVERAGE IS INCLUDED IN GENERAL LIABILITY.

COMPLETED OPERATIONS COVERAGE IS INCLUDED IN THE GENERAL LIABILITY POLICY.

EXPLOSION, COLLAPSE & UNDERGROUND COVERAGE IS NOT EXCLUDED.

CERTIFICATE HOLDER

CITY OF COLLEGE STATION
P.O. BOX 9960
COLLEGE STATION, TX 77842

MARSH USA INC. BY

Mary Radaszewski Mary Radaszewski

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION REQUIRED BY WRITTEN CONTRACT	**ALL LOCATIONS WHERE THE INSURED IS PERFORMING ONGOING OPERATIONS FOR AN ADDITIONAL INSURED AS REQUIRED BY WRITTEN CONTRACT**
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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Exhibit E

TECHNICAL SPECIFICATIONS AND PLANS

SIEMENS

Building Technologies, Inc.
Security Systems
8850 Fallbrook, Houston TX 77064. Attn:James Humbert

Hou-SES:College Station-Court Admin Bldg. 300 Kernek Tap Rd College Station TX 7777842 Attention: Carol Arnold Quote ID:052006-82280-4019	Date Payment Terms Freight Delivery	08-24-2006 Net 30 FOB Shipping To staging area

Detailed list of materials

Quantity	Model	Description	Unit	Unit Total
		SiPASS Access Solution:		
2	6FL7820-8AE00	SiPass Additional Client Workstation OPTION	$1,089.34	$2,178.68
1	ACC-010 (6FL7820-8BA10)	ACC-010 Advanced Central Contr.	$1,265.21	$1,265.21
2	RIM-010 (6FL7820-8CA10)	DRI Module, 12 or 24Vdc Operation	$306.51	$613.02
13	RIM-020 (6FL7820-8CA20)	SRI Module 12Vdc Operation Only	$179.24	$2,330.12
1	OPM-010 (6FL7820-8CC10)	OPM-010 16 Output 16 Input Isolated Input Module	$537.71	$537.71
2	ENC-030 (6FL7820-8DA30)	Large Enclosure 40" x 20" x 5"	$376.40	$752.80
1	CBL-010 (6FL7820-8FB10)	CBL-010 ACC cable	$72.06	$72.06
1	CIC-020 (6FL7820-8FC20)	CIC-020 Cable RS232/RS485	$71.69	$71.69
1	IPM-010 (6FL7820-8CB10)	IPM-010 32 Non Isolated Inputs 4 Output Module	$627.34	$627.34
1	GRI-8300	End of line resistor packs (100 pieces)	$118.57	$118.57
2	6FL7820-8AD20	SiPass 8 Reader Additional Reader capacity	$316.31	$632.62
2	PSD8 (97463)	8-Door Access Control System OLS Power Supply. Two (2) power supply boards each with a continuous output rating of 12V DC @ 8A or 24V DC @ 4A. One EDB-10 and one LDB-8 board included (10 electronics and 8 lock outputs).	$850.00	$1,700.00
2	MHUBX8	8 Port RS485 Multiplexer	$284.29	$568.58
17	6120AKN0002	iCLASS R40, BLK, CBL, STNDRD, 26 BIT	$162.00	$2,754.00
17	DS150I	Request to Exit Motion Sensor, Gray	$62.86	$1,068.62

SIEMENS

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Detailed list of materials

Quantity	Model	Description	Unit	Unit Total
1	EX-VD9-SR-7-5-01-PXC-1	Wireless prox reader with ICLASS Interface.	$1,397.14	$1,397.14
1	PIM-TD2	Panel interface Module.	$428.57	$428.57
1	5881ENL	Wireless Receiver w/Encryption Mec, 8 Zones	$62.43	$62.43
2	5816	Wireless Door/WindowTransmitter w/2 Zones	$50.43	$100.86
1	EL99EO313	Electric Exit Rim Device, Exit Only, 36", Satin Chrome (626)	$909.97	$909.97
100	2002CG1NN	ICLASS 16K/16, CONFIGURED NON-PROG, F-GLOSS, B-GLOSS, NO ICLASS #, NO SLOT	$5.79	$579.00
4	NP7-12	12 VDC 7Ah Battery	$16.17	$64.68
14	71275NFS12VUS3	Door Hardware - Electric Strike, Non -Fail Safe, 12V, Satin Stainless Steel (US32D)	$271.40	$3,799.60
21	1078C-G	3/4" Dia. Recessed Steel Door/Closed Loop, Gray	$6.26	$131.46
3	AS-SL401C	CLEAR STROBE	$21.43	$64.29
		CCTV:		
2	WJ-HD316/2500	Panisonic DVR	$14,972.86	$29,945.72
14	PIC244L2D	Indoor dome camera pak, c/l, wv-cp244 camera, 2.8-12mm lens	$455.71	$6,379.94
4	WV-CP240	Camera, 1/3" CCD Color DSP, 480 TVL, 2 Lux at f/1.4, 120VAC	$211.43	$845.72
1	PIH-900	INDOOR HSE. & MNT FOR THE CP240	$142.86	$142.86
4	WV-LZF61/2	Lens, 1/3", Variable Focal Lens, Zocm 3.8 - 8mm Fixed	$67.14	$268.56
4	WV-CW864A	Panisonic ptz	$3,095.71	$12,382.84

SIEMENS

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Detailed list of materials

Quantity	Model	Description	Unit	Unit Total
4	PWM30G	Parapet Mount f/POD7C (outside wall)	$368.57	$1,474.28
3	POH1000HB	POH1000 w/Factory Installed 24VAC Heater and Blower	$275.71	$827.13
3	PSS15	Sun Shield f/POH1500 Indoor/Outdoor Camera Housing	$45.71	$137.13
3	WV-831P	Bracket, Wall f/WV-7130D/POH1000/POH1500 Housings	$77.14	$231.42
1	WV-CU360C	Controller System f/WJ-MP204, WJ-FS309, WJ-FS316	$535.71	$535.71
1	TV-2416-UL (02029)	Camera Power Supply - 24 VAC / 8A - 16 Zone Output	$215.51	$215.51
1	WCS4-20	Allows 4 fused outputs with a total capacity of 20 amps. 120/240 VAC input, 24/28 VAC output.	$207.20	$207.20
1	H950V	HANSOL 19IN. FLAT PANEL HI-RES MONITOR.	$934.29	$934.29
8	ASK-4-KIT	AUDIO MIC KIT.	$178.57	$1,428.56
3	accessjktplen	ACCESS BUNDELED CABLE	$925.71	$2,777.13
3	S-RG59U-20-CM	Type "D" cable, 1000 ft., SECURITY RG59U 20AWG COAX,CM (order in increments of 1000' ONLY)	$134.29	$402.87
3	V4000XEMXBK	The Detex Value Series® Electric Delayed Egress Mangetic Locking Device (V40xEM) provides a secure 15 second delay	$2,108.57	$6,325.71
		Walk Thru Scanner: Provided by others		
		Metal Detector installed by Siemens		
		Notes:		
		SQL software and Server provided by others.		

SIEMENS

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Detailed list of materials

Quantity	Model	Description	Unit	Unit Total
		All work can be performed during regular business hours (M-F/8a-5p)		
		Fire Connection at Fire Panel provided by others.		
		Plywood Wall Space and 110V Dedicated Circuit provided by others at designated Control Panel/s location.		
		All wire, labor and Misc. parts are included in pricing.		
		All Servers and Workstations provided by others.		

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Detailed list of materials

Quantity	Model	Description	Unit	Unit Total

Equipment Total:	$88,291.60
Training Labor:	$400.00
Shipping & Handling:	$1,854.12
Installation / Labor:	$53,762.16
Solutions System Sub Total:	$144,307.88
Total Quote Price:	$144,307.88

Applicable sales taxes are not included in the total price of this proposal.

ACKNOWLEDGMENT

I have read the attached Terms & Conditions of Sale, understand them fully, and agree to abide by them. I understand that payment is due upon receipt of invoice. Equipment will be invoiced upon shipment from the designated shipping point and installation charges will be invoiced as the job progresses.

Quote ID 052006-82280-4019

AGREED TO:

Proposal Amount _____

Solutions P.O. _____

Service P.O. _____

Company Name: _____

CUSTOMER REPRESENTATIVE

By: _____

Name: _____

Title: _____

Date: _____

ACCEPTED:

SIEMENS BUILDING TECHNOLOGIES, INC.

By: _____

Name: _____

Title: _____

Date: _____

☐ Hou-SES:College Station-Court Admin Bldg. understands that Siemens Building Technologies, Inc. highly recommends comprehensive service coverage and scheduled maintenance of your System to ensure proper System performance. Siemens has offered to provide an advantage services program as outlined in this proposal. If the Client elects not to engage Siemens to perform these services, Client agrees that Siemens, beyond our standard warranty if applicable, shall have no further responsibility or liability for the performance or failure to perform any recommended or required security services upon the System unless later engaged by separate written agreement.

January 11, 2007
Consent Agenda Item No. 12.20
Exception to Policy for Sewer Service to Mr. Charles Cox

To: Mr. Glenn Brown, City Manager

From: Mr. John Woody, Water Services Department Director

Agenda Caption: Presentation, possible action, and discussion to approve a resolution providing an exception to Policy to allow Mr. Charles Cox to construct sewer infrastructure necessary to connect his home to the City sewer system.

Recommendation: Staff recommends Council approve this resolution.

Summary: Mr. Charles Cox has requested the City provide sewer service to his home, which is located near Midsummer Avenue in Nantucket. His letter, with map, is attached. This home is outside the City's current certificated area for sewer, but it is within the City's extra-territorial jurisdiction (ETJ) and within the area that the City has applied for the sewer Certificate of Public Convenience and Necessity (CCN). The home owner has consented to be included in the City's CCN, and will bear all infrastructure cost for connecting to the City system. The City's sewer CCN application has not yet been approved by the TCEQ, however, the area is presently not certificated and the City has the legal right to provide this sewer service. Mr. Cox's property is not contiguous with the City limits, so a petition for annexation is not possible.

The Water Services Department is currently constructing a sewer line in this area, which will be complete approximately February, 2007.

City Policy states that the City may provide sewer service outside the City limits or the City's sewer certificated area, only in certain situations. (See attachment.) Since the City does not yet hold the CCN for this area, an exception to Policy is required. Exceptions are allowed for three cases, one of which is for health and safety reasons. The health and safety of all the area residents is much better served by having this home connected to the City sewer system, rather than being served by an on-site sewage facility that would spray treated water in his yard. On this basis, staff recommends approval of this request for an exception to City Policy.

Budget & Financial Summary: City funds are not required to execute this project.

Attachments:
- Letter
- Policy
- Resolution
- Map

December 22, 2006

RECEIVED
DEC 22 2006
CSU ADMINISTRATION

Water Services Department
Attn: Mr. David Coleman
1601 Graham Road
College Station, TX 77842

Re: Telephone Conversation with Charles Cox on December 19, 2006 concerning sewer line installation in Nantucket area.

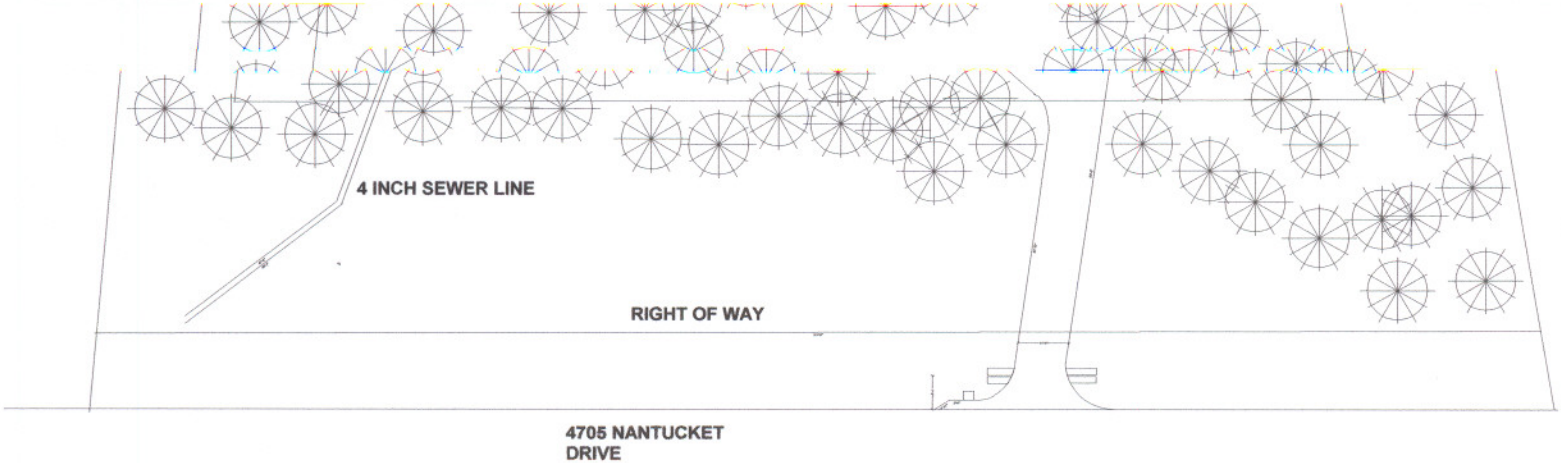
Dear Mr. Coleman,

I am presently constructing a new single family home at 4705 Nantucket Drive (Nantucket Phase II, Block 9, Lot 3). This location is outside the current College Station city limit approximately 1,000 feet. I understand the new sewer line being constructed by Dowdy Construction Company along Highway 6 in the Nantucket area is designed to have a sewer manhole adjacent to my property. Request authorization / approval for a sewer tap from my home into the new sewer system. Please find attached a sketch of my property and house with the approximate location of the sewer line I have installed in anticipation of the new sewer line arrival. I have installed a 4 inch gravity feed sanitary sewer line from my house to the approximate location of the planned sewer system.

Please feel free to contact me for any additional information you may need to approve this request. I may be reached at my home (979)690-7609 or cell (979)220-0773 or e-mail (aggiechad@suddenlink.net).

Charles R. Cox

Charles R. Cox (Chad)


4 INCH SEWER LINE
RIGHT OF WAY
4705 NANTUCKET
DRIVE

RESOLUTION NO. 2-9-2006-13.04

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED this 9th day of February, 2006.

ATTEST:

CONNIE HOOKS, City Secretary

APPROVED:

RON SILVIA, Mayor

APPROVED:

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AN EXCEPTION TO THE CITY'S UTILITY EXTENSION POLICY TO ALLOW THE EXTENSION OF SEWER UTILITY SERVICES TO MR. CHARLES COX OF 4705 NANTUCKET DRIVE, WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF COLLEGE STATION, TEXAS.

WHEREAS, the City of College Station adopted Resolution Number 02-09-2006-13.04 on February 9, 2006, which states in Part 1 "that water and sewer utility services will not be available to properties outside the City's corporate limits without a petition for annexation from said properties meeting the legal requirements of such petitions or areas not certificated to the City of College Station for that purpose" and further states in Part 3 "That the City Council hereby agrees that it may grant exceptions as it deems necessary to the best interests of the City of College Station in the following cases: For other governmental agencies through an interlocal agreement, For the purposes of economic development, or For health and safety reasons" (such resolution referred to hereinafter as the "City's Utility Extension Policy"); and

WHEREAS, Mr. Charles Cox, homeowner at 4705 Nantucket Drive, has requested an exception to the City's Utility Extension Policy for his home, located in the Nantucket development in the City's ETJ; and

WHEREAS, the City of College Station has a Certificate of Convenience and Necessity for water and a Certificate of Convenience and Necessity for wastewater pending in certain parts of the City's Extraterritorial Jurisdiction, including the area in which Mr. Cox's home is located, in order to facilitate public health in that area; and

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

WHEREAS, The City Council of the City of College Station previously approved exceptions to the City's Utility Extension Policy to provide sewer utility service to many developments, based on improving the health and safety of the residents in the City's ETJ; now, therefore,

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

PART 1: That the City Council hereby approves an exception to the City's Utility Extension Policy to make sewer utility services available to the home of Mr. Charles Cox of 4705 Nantucket Drive, College Station, Texas, based on improving the health and safety of the residents in the City's ETJ.

PART 2: That the City Council hereby requires that Mr. Cox extend sewer utility service to his home, as provided in the City's Utility Extension Policy.

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

ADOPTED this _____ day of _____, 2006.

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
Ron Silvia, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvel

_____
City Attorney

NANTUCKET DR
S H 6 S
BALLYLOUGH LN
SNUG HARBOR DR
CRANBERRY DR
FRONTAGE 6 RD E
S H 6 S
FRONTAGE 6 RD W
WINDRIFT CV
PARKLAND DR
MIDSUMMER LN
TWIN POND CIR
SCRIMSHAW LN
HARPER'S FERRY RD
Charles Cox
MARINERS COVE
FARAWAY ISLAND DR
WAYFARER LN
TUCKER NUCK
WAYFARER LN

January 11, 2007
Consent Agenda Item No. 12.21
Change Order on Bid 06-39

To: Glenn Brown, City Manager

From: David Massey Director of Electric Utilities

Agenda Caption: Presentation, possible action, and discussion regarding approval of Change Order 1 to Bid 06-39 with Schweitzer Engineering Laboratories for modifications to a substation control building purchased for the College Station /Brazos Transmission Tie project. The combined change order totals $50,979.00 and elevates the purchase cost from $729,100 to $780,079.

Recommendation(s): Staff recommends approval of Change Order 1

Summary: This change order is necessary due to delays in final construction of the Brazos Transmission Tie project. Construction delays were caused by transmission line right of way issues. The project provided facilities at the College Station Switch Station in order to connect to the Brazos Electric Cooperative Transmission system. The original purchase price for equipment was $729,100 and the change order of $50,979, elevates the cost of the purchase to $780,079. The change order includes cost of necessary equipment needed to match the microwave communication link required by Brazos Electric Cooperative for transmission protection and coordination. The change order also includes re-mobilization charges from Schweitzer Engineering Laboratories, due to multiple trips required to College Station. Multiple trips were required due to project delays caused by transmission line right of way issues.

Budget & Financial Summary: Sufficient funds for this change order are budgeted in this project as part of the FY07 Electric Capital Improvements Budget and are available in the Electric Utility Capital Improvement Projects Fund.

Attachments: 1.Change Order 1
2. Vicinity Map

CHANGE ORDER NO. 1
Bid # 06-39

DATE: 10-25-06

PROJECT DESCRIPTION: College Station Switch Station/Brazos Transmission Construction

P.O.#060406

PROJECT # WFO 605194

OWNER:

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

CONTRACTOR:

Schweitzer Engineering Laboratories
2401 Whitehall Park Drive
Charlotte, NC 28273

Ph: 704 504 4116

Fax: 704 504 4140

PURPOSE OF THIS CHANGE ORDER:

Item 1: 311 protection equipment, Print modifications, Greens Prairie settings

Item 2: Brazos interface equipement

Item 3: Extended commission testing trips due to delays

ITEM NO.	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	ea	Equipment for Greens Prairie	$20,405.00	0	1	$20,405.00
2	ea	Brazos interface equipment change	$ 2,754.00	0	1	$ 2,754.00
3	ea	Extended commission testing trips	$27,820.00	0	1	$27,820.00

THE NET AFFECT OF THIS CHANGE ORDER IS A Increase (Increase or Decrease).

ORIGINAL CONTRACT AMOUNT	$729,100.00	
Change Order No. 1	$ 50,979.00	7 % of Original Contract Amount
Change Order No. 2	$	% of Original Contract Amount
Change Order No. 3	$	% of Original Contract Amount
REVISED CONTRACT AMOUNT	$780,079.00	

ORIGINAL CONTRACT TIME		**Days**
Change Order No. 1 Time Extension or Reduction	0	Days
Change Order No. 2 Time Extension or Reduction		Days
Change Order No. 3 Time Extension or Reduction		Days
REVISED CONTRACT TIME	**0**	**Days**

ORIGINAL SUBSTANTIAL COMPLETION DATE	12-1-06
REVISED SUBSTANTIAL COMPLETION DATE	12-1-06

APPROVED:

N/a			
A/E CONTRACTOR	Date	DIRECTOR OF FISCAL SERVICES	Date
N/a		Carla A. Robinson	
CONSTRUCTION CONTRACTOR	Date	CITY ATTORNEY	Date
Chris R Clysinger	12/5/2006		
PROJECT MANAGER	Date	CITY MANAGER	Date
	12/6/2006		
CITY ENGINEER	Date	MAYOR	Date
	12/14/06		
DEPARTMENT DIRECTOR/ ADMINISTRATOR	Date	CITY SECRETARY	Date

Tara Ct
Clearwood Ct
Appomattox Dr
Windwood Dr
Harvey Rd
College Station Electrical
Switch Station
Switch Station Rd
Onramp 6 S
Horseback Ct
Horse Haven Ln
Frontage 6 Rd W
Frontage 6 Rd E
Appomattox Dr
Raintree Dr
Wilderness Dr N
Red Hill Dr
Shiloh Ct
Holleman Dr E
1,512 Feet

January 11, 2007
Consent Agenda Item No. 12.22
Tejas Medical Waste Hauling Franchise Third and Final Reading

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion on the third and final reading of an ordinance granting a non-exclusive medical waste hauling franchise agreement to Tejas Medical Waste.

Recommendation(s): Staff recommends approval of the ordinance granting a non-exclusive medical waste hauling franchise to Tejas Medical Waste.

Summary: The proposed franchise agreement allows Tejas Medical Waste to engage in the business of collecting, hauling and disposing of treated and untreated medical waste from various health care facilities within the city limits. The disposal of medical waste, a State mandated service, was privatized because untreated medical waste cannot be deposited in the BVSWMA landfill and staff has determined that privatizing this service is the most cost-effective way to offer this service to our community.

Tejas Medical Waste had a franchise with the City for a term of two years beginning August 2004 and has paid all franchise fees and provided all reports to the City as required.

Other companies having similar non-exclusive medial waste hauling franchise agreements with the City are Enviromed, Stericycle, Inc. and American Medical Waste Management, Inc.

Budget & Financial Summary: The franchise agreement requires Tejas Medical Waste to pay five percent (5%) of the company's gross delivery and hauling revenues generated from the company's business of collecting and disposing of treated and untreated medical waste within the City.

Attachments:
Franchise Ordinance

ORDINANCE NO. _____

AN ORDINANCE GRANTING **TEJAS MEDICAL WASTE**, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTION AND DISPOSAL OF TREATED AND UNTREATED MEDICAL WASTE FROM VARIOUS HEALTH CARE-RELATED FACILITIES WITHIN THE CITY LIMITS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES AND FOR PARTIAL INVALIDITY.

WHEREAS, the City of College Station regulates, the collection and disposal of all solid waste generated from within the corporate limits of the City of College Station; and

WHEREAS, the City of College Station may, pursuant to Article XI of its Charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of **CITY** and for the collection and disposal of treated and untreated medical wastes generated from within the corporate limits of the City of College Station; and

WHEREAS, **Tejas Medical Waste,** is engaged in the business of collection and disposal of treated and untreated medical waste from health care-related facilities and is requesting a franchise to operate its business within the City limits of the City of College Station; and

WHEREAS, the City of College Station (hereinafter referred to as "**CITY**"), believes it is in the best interest of College Station to offer **Tejas Medical Waste,** a franchise on such terms and conditions as will provide College Station with control and options necessary to provide for the public good; now, therefore,

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

I.
DEFINITIONS

1.1 For the purposes of this Ordinance, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in this Ordinance shall be given their common and ordinary meaning.

1.2 For the purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meaning given in Section. 1.1

Franchise means this ordinance and all rights and obligations established herein or as it may be amended.

CITY means the City of College Station, a home rule municipal corporation in the State of Texas.

City Council or "Council" means the governing body of the City of College Station.

City Manager means the City official appointed by the City Council who is responsible for the daily operation of the City of College Station.

Brazos Valley Solid Waste Management Agency or ***BVSWMA*** means a permitted municipal solid waste facility jointly owned by the Cities of Bryan and College Station and operated by the City of College Station on behalf of the cities as authorized by an interlocal agreement.

Customers. Those health care-related facilities located within the **CITY** that generate treated and untreated medical waste.

Medical Wastes means medical wastes as that term is defined in 30 T.A.C. 330.2(74), (93), (141), and (141)(C) as it now exists or as is hereafter amended.

Treated or Processed Medical Waste is medical waste that has been treated as provided in 25 T.A.C. 1.133 and 1.136 as it now exists or as it is hereafter amended.

COMPANY means **Tejas Medical Waste**, a privately held corporation incorporated in the State of Texas which provides medical waste management services for the healthcare industry as well as providing destruction services to major pharmaceutical manufacturers and which operates in the State of Texas as well as other states.

T.A.C. means the Texas Administrative Code as it now exists or as it is hereinafter amended.

Force Majeure means, without limitation, by the following enumeration, acts of God and the public enemy, the elements, fire, or accidents.

TCEQ means Texas Commission on Environmental Quality.

II.
GRANT OF NONEXCLUSIVE FRANCHISE

2.1 **CITY** hereby grants to **COMPANY** a nonexclusive franchise to operate and establish in College Station, as constituted as of the effective date of this Franchise, or as may hereafter be constituted to collect and dispose of treated and untreated medical waste from various health care-related facilities within the jurisdictional limits of **CITY**, and **COMPANY** is hereby granted passage and right-of-way on, along and across the streets, avenues, rights-of-way, alleys, and highways within the corporate limits of College Station, for any such service and lawful purpose as herein mentioned; provided that all such work, activity and undertakings by **COMPANY** shall be subject to the terms and provisions of this Franchise and the continuing exercise by College Station of its governmental and police powers, and provided further that nothing herein shall be construed to require or authorize **COMPANY** to exceed any rights granted herein or by the TCEQ.

2.2 Nothing in this Franchise shall be construed as granting any exclusive franchise or right.

III.
FRANCHISE AND RENTAL FEES

3.1. For and in consideration of the use of the **CITY**'s rights-of-way, streets, alleys, highways, avenues and thoroughfares as well as in consideration of the covenants and agreements contained herein, **COMPANY** agrees to and shall pay to **CITY** upon acceptance of this Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of **COMPANY**'s monthly gross delivery and hauling revenues generated from **COMPANY**'s provision of collection and disposal of treated and untreated medical waste services within the **CITY.** Said payment shall be paid quarterly to the **CITY**'s Finance Department and shall be due by the twentieth of the month following the end of the previous quarter.

3.2 The franchise fee shall be in lieu of any and all other College Station imposed rentals or compensation or franchise, license, privilege, instrument, occupation, excise or revenue taxes or fees and all other exaction's or charges (except ad valorem property taxes, special assessments for local improvements, city sales tax, and such other charges for utility services imposed uniformly upon persons, firms or corporations then engaged in business within College Station) or permits upon or relating to the business, revenue, franchise, equipment, and other facilities of **COMPANY** and all other property of **COMPANY** and its activities, or any part thereof, in College Station which relate to the operation of **COMPANY**'s medical waste collection business.

3.3 Payment after that date shall incur a ten percent (10%) penalty on the outstanding amount owed under this article, and after written notice by **CITY**, may constitute a basis for forfeiture or termination under this Franchise pursuant to Article VIII herein.

IV.
TERM OF FRANCHISE

4.1 The term of this franchise shall be for a period of five (5) years beginning on the 15th day of February, 2007.

V.
SERVICE TO BE PROVIDED BY COMPANY

5.1 **COMPANY** shall furnish service consistent with the requirements and intent of this Franchise, and specified in this ordinance as now or hereafter approved by the Council or other regulatory authority having jurisdiction, without unreasonable discrimination, to all areas of College Station.

5.2 **COMPANY** shall maintain its property and equipment in good order and working condition, consistent with the needs of the services rendered therefrom and in accordance with 30 T.A.C. 330.1005(g) through (i).

5.3 **COMPANY** agrees that a standby vehicle shall always be available.

5.4 **COMPANY**'s vehicles shall at all times be clearly marked with **COMPANY**'s name and TCEQ registration number in letters not less than three (3) inches in height.

5.5 **COMPANY**'s operations shall be conducted in a manner that minimizes noise, disturbance, and commotion.

5.6 **COMPANY** shall use all proper skill and care, and exercise all due and proper precautions that meet or exceed industry standards and TCEQ regulatory requirements to prevent injury to any person or person(s) and damage to any property.

5.7 **COMPANY** shall register their operations with the TCEQ prior to commencing operations under this Franchise and shall provide proof of such registration and renewal thereof annually to **CITY.**

5.8 AD VALOREM TAXES

COMPANY agrees to render a list annually of all personal property utilized in its treated and untreated medical waste operation services to Brazos County Appraisal District so that said personal property will be subject to ad valorem taxation by the applicable taxing entities.

5.9 DISPOSAL SITE FOR TREATED MEDICAL WASTE

Unless approved otherwise in writing by **CITY**, **COMPANY** shall utilize the BVSWMA landfill located on Rock Prairie Road, College Station or any other municipal landfill site designated by **CITY** for its municipal solid waste disposal for disposal of all treated medical waste collected by **COMPANY** from within the corporate limits of the City of College Station. Untreated medical waste collected by **COMPANY** within the corporate limits of the City of College Station will be treated and disposed of at any site of **COMPANY**'s selection, provided however, that any site used shall be permitted to accept this classification of waste by the appropriate regulatory authority.

5.10 **CITY** shall have access to all books of accounts and records of its business operations from which Gross Receipts may be determined.

5.11 **COMPANY** further agrees **CITY** may review its books and records, during normal business hours and on a non-disruptive basis, as reasonably necessary to monitor compliance with the terms hereof, or as otherwise required by law

(a) **COMPANY** shall keep complete and accurate books of accounts and records of its business and operations from which Gross Receipts may be determined.

(b) The following records and reports shall be filed monthly with the City Manager or his delegate:

i. Reports of all complaints and investigations received from any customer or regulatory authority and remedial action taken by **COMPANY** in response to said complaints.

ii. A listing of all **COMPANY**'s customer accounts and monthly revenue derived from collections made in the **CITY** under the terms of this Agreement. The reports shall include customer's name, address, frequency of pick-up, number of containers, pounds of waste collected by customer separated by treated and untreated, and monthly charges.

5.12 COMPLAINTS

COMPANY shall respond to any customer complaints. Any customer complaints received by **CITY** shall be forwarded to **COMPANY** within twenty-four (24) hours of their receipt. **COMPANY** shall notify **CITY** of action taken within twenty-four (24) hours following receipt of complaint. Failure to timely respond to Customer complaints by **COMPANY** may result in the imposition of a Twenty-five Dollar ($25.00) per incident charge from **CITY** payable with the next payment due to **CITY** under Article III of this Agreement.

5.13 **COMPANY** agrees to provide free service to **CITY** during periodic **CITY** clean-up campaigns and following natural disasters or Acts of God.

5.14 TERMINATION OF SERVICE

COMPANY must notify **CITY** in writing of termination of any customer's service for cause via registered mail within forty-eight (48) hours of said termination and the basis therefor.

VI.
TITLE TO WASTE

6.1 Sole and exclusive title to all treated and untreated medical waste collected by **COMPANY** under this Agreement shall pass to **COMPANY** when said waste is placed on **COMPANY**'s truck.

VII.
RATES, RULES AND REGULATIONS

7.1 The **COMPANY** shall charge for the aforementioned services according to the rates set out in the Schedule of Rates attached hereto as **Exhibit "A"** and incorporated herein by reference. The Schedule of Rates may be revised periodically and must be submitted to the City Manager or his delegate upon each revision and will be attached to the original franchise agreement.

VIII.
FORFEITURE AND TERMINATION OF FRANCHISE

8.1 In addition to all other rights and powers retained by **CITY** under this Franchise or otherwise, **CITY** reserves the right to declare this Franchise forfeited and to terminate the Franchise and all rights and privileges of **COMPANY** hereunder in the event of a material breach of the terms, covenants, or conditions herein set forth. A material breach by **COMPANY** shall include, but not be limited to, the following:

1. Failure to pay the fee prescribed by Article III;

2. Failure to materially provide the services provided for in this Franchise;

3. Material misrepresentation of fact in the application for or negotiation of this Franchise;

4. Conviction of any director, officer, employee, or agent of **COMPANY** of the offense of bribery or fraud connected with or resulting from the awarding of this Franchise;

5. Material misrepresentations of fact knowingly made to **CITY** with respect to or regarding **COMPANY**'s operations, management, revenues, services or reports required pursuant to this Franchise;

6. Revocation or denial of registration or renewal of registration by TCEQ;

7. Excessive interruption in service for a period of seventy-two (72) hours or more due to causes other than force majeure.

8.2 **COMPANY** shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

8.3 **CITY** may after a hearing as described herein, revoke and cancel the Franchise by and between the parties and said Franchise shall be null and void. **CITY** shall mail notice to **COMPANY**, at the address designated herein or at such address as may be designated from time to time, by registered mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and **COMPANY** shall be allowed to present evidence and be given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice, it may by majority vote cancel this Agreement between the parties at no penalty to the **CITY**.

IX.
RECEIVERSHIP AND BANKRUPTCY

9.1 The Council shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of **COMPANY**, whether in receivership, reorganization, bankruptcy, other action or proceeding, whether voluntary or involuntary, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, unless:

9.2 Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this franchise and remedied all defaults thereunder; or

9.3 Such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

X.
INDEMNIFICATION

10.1 COMPANY shall not dispose of any untreated medical waste, special waste or other hazardous waste or any waste that the landfill is not permitted to accept by TCEQ in the BVSMA landfill. COMPANY hereby agrees to indemnify, defend and hold CITY harmless for disposal of any such waste in the BVSMA landfill whether intentional or inadvertent.

10.2 COMPANY shall indemnify and hold CITY harmless from any and all injuries to persons or claims of damage to property caused by COMPANY, its agents, employees, and representatives.

10.3 COMPANY agrees to and shall indemnify and hold harmless CITY, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the services provided or medical waste collected, treated, or disposed of by COMPANY under this contract, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence, including but not limited to the contractual comparative negligence, concurrent negligence or gross negligence, of CITY.

10.4 COMPANY assumes responsibility and liability and hereby agrees to indemnify the City of College Station from any liability caused by COMPANY's failure to comply with applicable federal, state or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

XI.
INSURANCE

11.1 COMPANY shall procure and maintain at its sole cost and expense for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by **COMPANY**, its agents, representatives, volunteers, employees or subcontractors.

11.2 **COMPANY**'s insurance coverage shall be primary insurance with respect to the **CITY**, its officials, employees and volunteers. Any insurance or self-insurance maintained by the **CITY**, its officials, employees or volunteers shall be considered in excess of the **COMPANY**'s insurance and shall not contribute to it.

11.3 **COMPANY** shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

11.4 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 B, and approved by the CITY *before* work commences.

A. *Standard Insurance Policies Required:*

1. Commercial General Liability Policy
2. Automobile Liability Policy
3. Workers' Compensation Policy
4. Pollution Liability Policy
5. Excess Liability Policy

B. *General Requirements Applicable to all Policies:*

1. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.

2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.

3. "Claims Made" policies will not be accepted.

4. 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.

5. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.

6. The City of College Station, its officials, employees and volunteers, are to be added as "Additional Insured" to all applicable Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the **CITY**, its officials, employees or volunteers.

C. *Commercial General Liability*

1. 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.

2. Minimum Limit of $1,000,000.00 per and $2,000,000.00 annual aggregate.

3. Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

4. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

5. The coverage shall include but not be limited to the following: premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); and where exposures exist, "Explosion, Collapse, and Underground" coverage.

D. *Automobile Liability*

1. 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.

2. Minimum Combined Single Limit of $2,000,000.00 per occurrence for bodily injury and property damage.

3. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.

4. The coverage shall include owned or leased autos, non-owned autos, and hired cars. Where applicable endorsement MCS-90, (Motor Carrier Policies for Insurance for Public Liability) is required.

5. COMPANY is responsible for any liability and/or costs that exceed the dollar limits set forth in this section.

E. *Workers' Compensation*

1. Employer's Liability limits of $500,000/$500,000/$500,000 are required.

2. City of College Station shall be named as Alternate Employer on endorsement WC 99 03 OI unless written through TWCARP.

3. Texas Waiver of Our Right to Recover from Others Endorsement, WC 42 03 04 shall be included in this policy.

4. Texas must appear in Item 3A of the Workers' 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, WY.

F. *Pollution Liability*

1. Minimum acceptable limit $2,000,000 aggregate and $1,000,000 per occurrence.

2. Pollution coverage endorsement CG 04 22 required.

G. *Excess Liability*

1. Minimum acceptable limit $5,000,000 aggregate and $1,000,000 per occurrence.

H. *Certificates of Insurance*

Certificates of Insurance shall be prepared and executed by the insurance company or it's authorized agent, and shall contain the following provisions and warranties:

1. The company is licensed and admitted to do business in the State of Texas.

2. 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.

3. All endorsements and insurance coverages according to requirements and instructions contained herein.

4. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.

5. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

11.5 The coverage requirements set forth in this Article are in addition to those required under 30 T.A.C. 330.1005(j). **COMPANY** shall provide proof that it has met the requirements of 30 T.A.C. 330.1005(j) to **CITY** upon the execution of this Franchise by **COMPANY**.

11.6 **COMPANY** shall notify **CITY** by certified mail of the commencement of voluntary proceedings under Title 11 (Bankruptcy), United States Code, naming the **COMPANY** as debtor, within ten (10) business days after the commencement of the proceeding.

11.7 If **COMPANY** is deemed to be without financial assurance pursuant to 30 T.A.C. 330.1005(j), **COMPANY**'s operations shall be suspended until **COMPANY** establishes other acceptable financial assurance with the TCEQ and provides proof of same to **CITY.**

XII.
GOVERNING LAW; LIMITATIONS; COMPLIANCE

12.1 This ordinance shall be construed in accordance with the **CITY**'s Charter and Code in effect on the Effective Date of this ordinance to the extent that such Charter and Code are not in conflict with or in violation of the constitution and laws of the United States or the State of Texas.

12.2 This ordinance shall be governed in accordance with the laws of the State of Texas.

12.3 Notwithstanding any other provision in this franchise to the contrary, **CITY** and **COMPANY** shall at all times comply with all laws, rules and regulations of the state and federal government and any administrative agencies thereof, with respect to the subject matter of this ordinance.

XVIII.
ASSIGNMENT

13.1 This Agreement and the rights and obligations contained herein may not be assigned by **COMPANY** without the specific prior written approval of the City Council.

XIV.
NOTICES

14.1 All notices required under the terms of this Contract to be given by either party to the other shall be in writing, and unless otherwise specified in writing shall be sent to the parties at the addresses following:

CITY:
Glenn Brown, City Manager
City of College Station
P.O. Box 9960
College Station, Texas 77842

COMPANY:
Janet K. McClain
Tejas Medical Waste
P.O. Box 1547
Copperas Cove, Texas 76522

14.2 All notices shall be deemed to have been properly served only if sent by Registered or Certified Mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

XV.
AMENDMENTS

15.1 It is understood and agreed by the parties to this Franchise that no alteration or variation to the terms of this Franchise shall be effective unless made in writing, approved by both parties, and attached to this Agreement to become a part hereof.

XVI.
SEVERABILITY

16.1 If any section, sentence, clause or paragraph of this Ordinance is for any reason held to be invalid or illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect the remaining portions of the Ordinance other than the part or parts held invalid or unconstitutional.

XVII.
AUTHORIZATION TO EXECUTE

17.1 The parties signing the Franchise shall provide adequate proof of their authority to execute this Agreement. The Franchise shall inure to the benefit of and be binding upon the parties hereto and their respective successors or assigns, but shall not be assignable by either party without the written consent of the other party.

XVIII.
ACCEPTANCE OF FRANCHISE BY COMPANY

18.1 In accordance with CITY OF COLLEGE STATION CITY CHARTER, SECTION 103, this Ordinance shall be effective sixty (60) days after its adoption. **COMPANY** shall file its written acceptance of the terms and conditions of the Ordinance with the City Secretary within thirty (30) days from the final adoption of this Ordinance. Such acceptance shall be typed or printed on the letterhead of **COMPANY** and, with the blank spaces appropriately completed, shall be as follows:

Attn: City Manager

Tejas Medical Waste acting by and through the undersigned _____ who is acting within his/her official capacity and authority, hereby accepts the franchise to operate a medical waste collection service within the City of College Station, Texas ("College Station") as said franchise is set forth and provided in Ordinance No. _____ (the "Ordinance"). **Tejas Medical Waste** agrees to be bound and governed by each term, provision and condition of the Ordinance, to accept and to give the benefits provided for in the Ordinance in a business like and reasonable manner and in compliance with the Ordinance.

Tejas Medical Waste

By:_____
Name:

Ordinance No. _____

Title:

XIX.
PUBLIC HEARING

19.1 It is hereby found and determined that the meetings at which this ordinance was passed were open to the pubic, as required by TEXAS GOVERNMENT CODE § 551 (Vernon 1994, Vernon Supp. 2003), as amended, and that advance public notice of time, place, and purpose of said meetings was given.

PASSED, ADOPTED and APPROVED by a majority vote of the City Council of the City of College Station on this the _____ day of _____, 2005.

TEJAS MEDICAL WASTE

BY: Janet K. Al Clair
Title President

Date: 10-20-06

CITY OF COLLEGE STATION

BY: _____
RON SILVIA, Mayor

Date: _____

ATTEST:

_____
CONNIE HOOKS, City Secretary
Date: _____

APPROVAL:

_____
Glenn Brown, City Manager
Date: _____

_____
Jeff Kersten, Director of Fiscal Services
Date: _____

Carla A Robinson
City Attorney

Contract No. _____
10/12/06

Ordinance No. _____

Date: _____

First Consideration and Approval: _____

Second Consideration and Approval: _____

Third Consideration and Approval: _____

Ordinance No. _____

Exhibit "A"

SCHEDULE OF RATES

Rates are from $19.00 to $21.00 depending on the size of contract boxes and number of accounts included in contract. These prices are for from 1 to 6 boxes per month.

Exhibit "B"

CERTIFICATES OF INSURANCE

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 11/09/05

PRODUCER Tom Stewart Insurance
1001 S. Dairy Ashford, Suite 225
Houston, TX 77077
(281)589-0004

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.

INSURED [redacted]
PO BOX 1547
Copperas Cove, TX 76522

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Arch Insurance Co.	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES

THE POLICIES OF INSURANCE LISTED 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.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	✓	GENERAL LIABILITY ✓ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ✓ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC	FBCAT0044202	05/21/06	05/21/07	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	1,000,000 100,000 5,000 1,000,000 2,000,000 Included
A	✓	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ✓ SCHEDULED AUTOS ✓ HIRED AUTOS ✓ NON OWNED AUTOS ✓ Broad Pollution	FBCAT0044201	05/21/06	05/21/07	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	1,000,000
	☐	GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC / AGG	
		EXCESS LIABILITY ☐ OCCUR ☐ CLAIMS MADE ✓ DEDUCTIBLE RETENTION				EACH OCCURRENCE AGGREGATE	
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER / MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS / OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Truckers Operations/Scheduled Vehicles; excluding certified acts of terrorism

Certificate holder is named as additional insured as respects to general liability and auto liability.

CERTIFICATE HOLDER

City of College Station
Attn: Risk Management PO box 9960
College Station, TX 77842

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Tom Stewart

© ACORD CORPORATION 1988

TEXAS WORKERS' COMPENSATION COMMISSION
Southfield Building, 4000 South IH-35
Austin, Texas 78704

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

Texas Workers' Compensation Act, Texas Labor Code, Section 406.121(2) defines "independent contractor" as follows: (1) "Independent contractor" means a person who contracts to perform work or provides a service for the benefit of another and who ordinarily: (A) acts as the employer of any employee of the contractor by paying wages, directing activities, and performing other similar functions characteristic of an employer-employee relationship; (B) is free to determine the manner in which the work or service is performed, including the hours of labor or method of payment to any employee; (C) is required to furnish or have his employees, if any, furnish necessary tools, supplies, or materials to perform the work or service; and (D) possesses the skills required for the specific work or service.

AGREEMENT BETWEEN GENERAL CONTRACTOR AND SUBCONTRACTOR TO ESTABLISH INDEPENDENT RELATIONSHIP

Notice of Agreement

The undersigned General Contractor and the undersigned Subcontractor hereby declare that:

(A) the Subcontractor meets the qualifications of an Independent Contractor under Texas Workers' Compensation Act, Texas Labor Code, Section 406.121;
(B) the Subcontractor is operating as an independent contractor as that term is defined under Section 406.121 of the Act;
(C) the Subcontractor assumes the responsibilities of an employer for the performance of work; and
(D) the Subcontractor and the Subcontractor's employees are not employees of the General Contractor for purposes of the Act.

TERM (DATES) OF AGREEMENT: FROM: _____

TO: _____

City of College Station
Name of General Contractor

Name of Subcontractor

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT): Blanket

Estimated number of employees affected: _____

THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

General Contractor's Affirmation

If the General Contractor's workers' compensation carrier changes during the effective period of coverage, it is advisable for the General Contractor to file this form with the new insurance carrier.

74-6000534
Federal Tax I.D. Number

City of College Station 3/12/04 1101 Texas Avenue
Signature of General Contractor Date Address (Street)

College Station, TX 77842
Printed Name of General Contractor Address (City, State, Zip)

Subcontractor's Affirmation

* Tejas Medical Waste

74-2959182
Federal Tax I. D. Number

Janet K. McClain 3-24-04 Box 534 CR 3384
Signature of Subcontractor Date Address (Street)

TEJAS MEDICAL WASTE / JANET K. McCLAIN Kempner, TX. 76539
Printed Name of Subcontractor Address (City, State, Zip)

Three copies of this form must be completed: This agreement must be filed by the General Contractor with the workers' compensation insurance carrier of the General Contractor within 10 days of the date of execution. The original must be filed with the insurance carrier by PERSONAL DELIVERY OR REGISTERED OR CERTIFIED MAIL. Both the General Contractor and the Subcontractor must also retain a copy of the agreement.

TWCC-85 (Rev. 5/95) Rule 112.101

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Form Approved
OMB No. 2125-0074

Issued to Tejas Medical Waste, Inc. of PO Box 1547, Copperas Cove, TX 76522

Dated at Denver, CO this 21st day of May, 2003

Amending Policy No. AT7119538 Effective Date 05/21/03

Name of Insurance Company Atlantic Insurance Company

Telephone Number (404) 497-7200. Countersigned by [signature]

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "X", for the limits shown:

[X] This insurance is primary and the company shall not be liable for amounts in excess of $ 1,000,000 for each accident.

[ ] This insurance is excess and the company shall not be liable for amounts in excess of $ _____ for each accident. In excess of the underlying limit of $ _____ for each accident.

Whenever required by the Federal Highway Administration (FHWA) or the Interstate Commerce Commission (ICC), the company agrees to furnish the FHWA or the ICC a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FHWA or the ICC, to verify that the policy is in force as of a particular date.

Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the ICC's jurisdiction, by providing thirty (30) days notice to the ICC (said 30 days notice to commence from the date the notice is received by the ICC at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

ACCIDENT includes continuous or repeated exposure to conditions which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

MOTOR VEHICLE means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

BODILY INJURY means injury to the body, sickness, or disease to any person, including death resulting from any of these.

ENVIRONMENTAL RESTORATION means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

PROPERTY DAMAGE means damage to or loss of use of tangible property.

PUBLIC LIABILITY means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Highway Administration (FHWA) and the Interstate Commerce Commission (ICC).

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately, to each accident, and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

The Motor Carrier Act of 1980 requires limits of financial responsibility according to the type of carriage and commodity transported by the motor carrier. It is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility. THE SCHEDULE OF LIMITS SHOWN ON THE NEXT PAGE DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

ACORD™ COMMERCIAL POLICY CHANGE REQUEST

DATE (MM/DD/YY): 11/14/05

AGENCY
PHONE (A/C, No, Ext): (281)589-0004
FAX (A/C, No): (281)589-8889

Tom Stewart Insurance
1001 S. Dairy Ashford, Suite 225
Houston, TX 77077

CODE: SUBCODE:

AGENCY CUSTOMER ID

POLICY TYPE: ☐ PROPERTY ☑ GENERAL LIABILITY ☐ MOTOR CARRIERS ☐ ☐ INLAND MARINE ☐ AUTO ☐ BUSINESS OWNERS ☐ ☐ UMBRELLA ☐ TRUCKERS ☐ WORKERS COMP ☐

COMPANY: Arch Insurance Co.

NAIC CODE:

ATTENTION:

INSURED'S NAME: Tejas Medical Waste

POLICY NUMBER: FBCAT0044201

EFFECTIVE DATE OF CHANGE: 11/09/05

INSURED'S MAILING ADDRESS IF CHANGED (INC ZIP+4)
Tejas Medical Waste
PO BOX 1547
Copperas Cove, TX 76522

POLICY INCEPTION DATE: 05/21/05

POLICY EXPIRATION DATE: 05/21/06

THIS IS AN ACKNOWLEDGEMENT OF YOUR REQUEST. UPON APPROVAL, THE COMPANY'S RECORDS WILL BE ADJUSTED ACCORDINGLY, AND IF A PREMIUM ADJUSTMENT IS REQUIRED, IT WILL BE DONE AT PREMIUM AUDIT OR BY ENDORSEMENT.

PREMISES INFORMATIO

☐ ADD ☐ CHANGE ☐ DELETE

LOC #	BLD #	STREET, CITY, COUNTY, STATE, ZIP+4	CITY LIMITS	INTEREST	YR BUILT	PART OCCUPIED
			☐ INSIDE ☐ OUTSIDE	☐ OWNER ☐ TENANT		

NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)

☐ ADD ☐ CHANGE ☐ DELETE

LOC #	BLD #	

AUTO-VEHICLE DESCRIPTION/LIMITS

☐ POLICY LIMIT(S) CHANGED ☐ ADD ☐ CHANGE ☐ DELETE

VEH #	YEAR	MAKE:	BODY TYPE:	VEHICLE TYPE	SYM/AGE	COST NEW
		MODEL:	V.I.N.:	☐ P ☐ SPEC ☐ COML		$

CITY, STATE, ZIP WHERE GARAGED	LIC STATE	TERR	GVW/GCW	CLASS	SIC	FACTOR	SEAT CP	RADIUS	FARTHEST TERM

DRIVE TO WORK/SCHOOL: ☐ < 15 MILES ☐ 15 MILES +

USE: ☐ COMM'L ☐ PLEASURE ☐ RETAIL ☐ FARM ☐ SERVICE

CHECK COVERAGES: ☐ LIAB ☐ NO-FAULT ☐ ADD'L NO-FAULT ☐ MED PAY ☐ UNINS MOTOR ☐ UNDRINS MOTOR ☐ TOWING & LABOR ☐ SPEC C OF L ☐ F ☐ FT ☐ FTW ☐ LSP ☐ COMP ☐ COLL ☐ RENT REIMB ☐ FG

DEDUCTIBLES: ☐ ACV ☐ AA ☐ ST AMT $ ☐ COMP ☐ SPEC C OF L $ $ COLL

NET VEH DR/CR:

TOTAL PREM $

LIABILITY	NO FAULT	ADD'L NO FAULT	MEDICAL PAYMENTS	UNINSURED MOTORISTS	UNDERINSURED MOTORISTS
$	$	$	$	$	$

AUTO-VEHICLE DESCRIPTION/LIMITS

☐ POLICY LIMIT(S) CHANGED ☐ ADD ☐ CHANGE ☐ DELETE

VEH #	YEAR	MAKE:	BODY TYPE:	VEHICLE TYPE	SYM/AGE	COST NEW
		MODEL:	V.I.N.:	☐ P ☐ SPEC ☐ COML		$

CITY, STATE, ZIP WHERE GARAGED	LIC STATE	TERR	GVW/GCW	CLASS	SIC	FACTOR	SEAT CP	RADIUS	FARTHEST TERM

DRIVE TO WORK/SCHOOL: ☐ < 15 MILES ☐ 15 MILES +

USE: ☐ COMM'L ☐ PLEASURE ☐ RETAIL ☐ FARM ☐ SERVICE

CHECK COVERAGES: ☐ LIAB ☐ NO-FAULT ☐ ADD'L NO-FAULT ☐ MED PAY ☐ UNINS MOTOR ☐ UNDRINS MOTOR ☐ TOWING & LABOR ☐ SPEC C OF L ☐ F ☐ FT ☐ FTW ☐ LSP ☐ COMP ☐ COLL ☐ RENT REIMB ☐ FG

DEDUCTIBLES: ☐ ACV ☐ AA ☐ ST AMT $ ☐ COMP ☐ SPEC C OF L $ $ COLL

NET VEH DR/CR:

TOTAL PREM $

LIABILITY	NO FAULT	ADD'L NO FAULT	MEDICAL PAYMENTS	UNINSURED MOTORISTS	UNDERINSURED MOTORISTS
$	$	$	$	$	$

DRIVER INFORMATION (List drivers who frequently use own vehicles)

☐ ADD ☐ CHANGE ☐ DELETE

DRIVER #	NAME (Include address, if required)	SEX	MAR STAT	DATE OF BIRTH	YRS EXP	YEAR LIC	DRIVERS LICENSE NUMBER/ SOCIAL SECURITY NUMBER	STATE LIC	DATE HIRE	BROADEN. NO-FAULT	DOC	USE VEH #	% USE

DRIVER INFORMATION (List drivers who frequently use own vehicles)

☐ ADD ☐ CHANGE ☐ DELETE

DRIVER #	NAME (Include address, if required)	SEX	MAR STAT	DATE OF BIRTH	YRS EXP	YEAR LIC	DRIVERS LICENSE NUMBER/ SOCIAL SECURITY NUMBER	STATE LIC	DATE HIRE	BROADEN. NO-FAULT	DOC	USE VEH #	% USE

WORKERS COMPENSATION RATING INFORMATION

TYPE OF CHANGE	STATE	LOC	CLASS CODE	DESCR CODE	CATEGORIES, DUTIES, CLASSIFICATIONS	# OF EMPLOYEES FULL TIME	# OF EMPLOYEES PART TIME	ESTIMATED ANNUAL REMUNERATION

© ACORD CORPORATION 1991

PROPERTY/INLAND MARINE - PREMISES INFORMATION

PREMISES #: | BUILDING #: | ☐ ADD ☐ CHANGE ☐ DELETE

SUBJECT OF INSURANCE	AMOUNT	COINS %	VALUATION	CAUSES OF LOSS	INFLATION GUARD %	DEDUCTIBLE	FORMS AND CONDITIONS TO APPLY

ADDITIONAL COVERAGES, OPTIONS, RESTRICTIONS, ENDORSEMENTS AND RATING INFORMATION

CONSTRUCTION TYPE	DISTANCE TO HYDRANT FT	DISTANCE TO FIRE STAT MI	FIRE DISTRICT/CODE NUMBER	PROT CL	# STORIES	# BASM'TS	YR BUILT	TOTAL AREA

BUILDING IMPROVEMENTS ☐ PLUMBING, YR: ☐ WIRING, YR: ☐ HEATING, YR: ☐ ROOFING, YR: ☐ OTHER:

BLDG CODE GRADE | INSPECTED? ☐ YES ☐ NO | ROOF TYPE | TAX CODE | OTHER OCCUPANCIES

RIGHT EXPOSURE & DISTANCE | LEFT EXPOSURE & DISTANCE | REAR EXPOSURE & DISTANCE

BURGLAR ALARM TYPE | CERTIFICATE # | EXPIRATION DATE | EXTENT | GRADE | ☐ CENTRAL STATION ☐ WITH KEYS

BURGLAR ALARM INSTALLED AND SERVICED BY | # GUARDS/WATCHMEN | ☐ CLOCK HOURLY ☐

PREMISES FIRE PROTECTION (Sprinklers, Standpipes, CO2/Chemical Systems) | FIRE ALARM MANUFACTURER | ☐ CENTRAL STATION ☐ LOCAL GONG

INLAND MARINE - SCHEDULED EQUIPMEN

% COINSURANCE: | ☐ ADD ☐ CHANGE ☐ DELETE

#	MODEL YEAR	DESCRIPTION (TYPE, MANUFACTURER, MODEL, CAPACITY, ETC)	ID #/SERIAL #	DATE PURCHASED	NEW/USED	AMOUNT OF INSURANCE
						$
						$

GENERAL LIABILITY - LIMITS

☐ CHANGE

GENERAL AGGREGATE	$	DAMAGE TO RENTED PREMISES	$
PRODUCTS & COMPLETED OPERATIONS AGGREGATE	$	MEDICAL EXPENSE (Any one person)	$
PERSONAL & ADVERTISING INJURY	$	EMPLOYEE BENEFITS	$
EACH OCCURRENCE	$		$

GENERAL LIABILITY - SCHEDULE OF HAZARDS

TYPE OF CHANGE	LOCATION #	CLASSIFICATION	CLASS CODE	PREMIUM BASIS	TERR	PREMIUM BASIS CODES
						(S) GROSS SALES - PER $1,000/SALES
						(P) PAYROLL - PER $1,000/PAY
						(A) AREA - PER 1,000/SQ FT
						(C) TOTAL COST - PER $1,000/COST
						(M) ADMISSIONS - PER 1,000/ADM
						(U) UNIT - PER UNIT
						(T) OTHER

UMBRELLA

☐ CHANGE

LIMIT OF LIABILITY $ | OTHER (DESCRIBE)

RETAINED LIMIT $

ADDITIONAL INTEREST

☑ ADD ☐ CHANGE ☐ DELETE

INTEREST | RANK: | NAME AND ADDRESS | REFERENCE #: | ☑ CERTIFICATE REQUIRED | INTEREST IN ITEM NUMBER

- ☑ ADDITIONAL INSURED
- ☐ LOSS PAYEE
- ☐ MORTGAGEE (#_____)
- ☐ MORTGAGEE (#_____)
- ☐ LIENHOLDER
- ☐ EMPLOYEE AS LESSOR

City of College Station
Attn: Risk Management PO Box 9960
College Station, TX 77842

PREMISES: | BUILDING:
VEHICLE: | BOAT:
SCHEDULED ITEM NUMBER:
OTHER

ITEM DESCRIPTION:

ADDITIONAL CHANGES/REMARKS

Please add additional insured as shown above.

Thanks

SIGNATURE (Any deletion or reduction in coverage requires the insured's signature)

INSURED'S SIGNATURE	DATE	PRODUCER'S SIGNATURE	NATIONAL PRODUCER NUMBER
		Tom Stewart	

ACORD 175 (2003/08)

January 11, 2007
Consent Agenda Item No. 12.23
Electric System Construction & Maintenance Annual Labor Contract

To: Glenn Brown, City Manager

From: David Massey, Director of Electric Utilities

Agenda Caption: Presentation, possible action, and discussion regarding a resolution approving a construction contract for Electric System Construction & Maintenance Annual Labor Contract to H&B Construction in the amount of $1,019,898.71.

Recommendation(s): Staff recommends approval of this resolution and award of contract.

Summary: On November 14, 2006, one (1) bid proposal from H&B Construction was received in response to Bid No. 07-19 for Electric System Construction & Maintenance Annual Labor Contract. A total of six (6) power line contractors downloaded the bid document from the City's purchasing web site and three (3) of them participated in our pre-bid meeting on November 1, 2006.

The Electric System Construction & Maintenance Annual Labor Contract is for supplemental labor and equipment to construct the required electric distribution line extensions and conversions and provide for necessary maintenance of the City's electric distribution system for the twelve (12) month period. Estimated unit quantities were based on 2005 work performed by the current contractor and were used to determine the annual estimate for labor cost. Some of the unit prices were actually lower than in the previous contract.

Budget & Financial Summary: Funds are budgeted and available for electric system capital improvements and conversion in Electric Capital Improvement Projects Fund.

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 ELECTRIC SYSTEM CONSTRUCTION & MAINTENANCE ANNUAL LABOR CONTRACT PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Electric System Construction & Maintenance Annual Labor Contract Project; and

WHEREAS, the selection of H&B Construction, Ltd. is being recommended as the lowest responsible bidder for the construction services related to Electric System Construction & Maintenance Annual Labor Contract; 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 H&B Construction, Ltd. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with H&B Construction, Ltd. for $1,019,898.71 for the labor and equipment required for the improvements related the Electric System Construction & Maintenance Annual Labor Contract Project.

PART 3: That the funding for this Contract shall be as budgeted from the College Station Utilities Capital Improvement Funds, Electric Department, in the amount of $1,019,898.71.

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 Carla A. Robinson
VERIFY authenticity with Approvelt

_____

City Attorney

City of College Station
Bid Tabulation

BID FOR: Annual Electrical Labor Contract
DEPARTMENT: Public Utilities/Electric Division
Nov. 14, 2006 **BID: 07-19**

H & B Construction
Montgomery, TX
Contact: Bill Hendrix

Item No.	Quan.	Unit Meas.	Description	Unit Price	Item Total
1	1	lot	Base Bid-Overhead Labor Unit Total	190,441.71	190,441.71
2	1	lot	Base Bid-Service Labor Unit Total	251,532.00	251,532.00
3	1	lot	Base Bid-Trenchless Boring Labor Unit Total	148,250.00	148,250.00
4	1	lot	Base Bid-Underground Labor Unit Total	126,050.00	126,050.00
5	1	lot	Base Bid-Street Light Labor Unit Total	303,625.00	303,625.00

Grand Total Bid $** **$ 1,019,898.71

Staff Award Recommendation

Calendar Days for Completion	365
Certification of Bid	Y
Addendum Acknowledged	N/A
Bid Bond	Y
Deviations/Conditions	N

January 11, 2007
Consent Agenda Item No. 12.24
Roadway Improvements
Luther Street & Holleman Drive
At Harvey Mitchell Parkway

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on the award of Bid#07-02 for the construction of roadway improvements to prepare for signal installation, in the amount of $101,115.00, to Brazos Valley Services.

Recommendation(s): Staff recommends award of Bid #07-02 to lowest responsible bidder Brazos Valley Services in the amount of $101,115.00

Summary: Widening of Luther Street and Holleman Drive where they intersect with FM 2818 is a requirement from Texas Department of Transportation in order to provide increased capacity at these two intersections. The capacity is increased by providing dedicated turning lanes. Over the past two years accidents have increased in frequency and severity at the intersection of Luther Street and Harvey Mitchell Parkway. Upon completion of the proposed roadway improvements traffic signals will be installed at these locations. Presentation, possible action, and discussion on the award of Bid#07-02 for the construction of roadway improvements to prepare for signal installation, in the amount of $101,115.00, to Brazos Valley Services. Temporary barriers which prohibit left-turns from Luther Street and Harvey Mitchell Parkway will be removed when the signal work is complete. These two new signals will be interconnected with fiber optic cables to George Bush Drive at Harvey Mitchell Parkway signal to allow for progression along this corridor.

Budget & Financial Summary: Funds to purchase these signal supports are budgeted and available in the 2003 Traffic Signal Capital Improvement Funds.

Attachments:

1. Resolution
2. Location Map
3. Bid Tabulation

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE WIDENING OF HOLLEMAN DRIVE AND LUTHER STREET AT THE INTERSECTION OF FM 2818 (HARVEY MITCHELL PARKWAY) PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Widening of Holleman Drive and Luther Street at the Intersection of FM 2818 (Harvey Mitchell Parkway) Project; and

WHEREAS, the selection of Brazos Valley Services is being recommended as the lowest responsible bidder for the construction services related to the Widening of Holleman Drive and Luther Street at the intersection of FM 2818 (Harvey Mitchell Parkway) 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 Brazos Valley Services is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Brazos Valley Services for $101,115.00 for the labor, materials and equipment required for the improvements related to the Widening of Holleman Drive and Luther Street at the intersection of FM 2818 (Harvey Mitchell Parkway) Project.

PART 3: That the funding for this Contract shall be as budgeted from the 2003 GOB Fund, Traffic Division, in the amount of $101,115.00.

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

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST: APPROVED:

_____ _____

CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvel

_____

City Attorney

Public Works - Geographic Information
George Bush Dr W
Marion Pugh Dr
N
Jones-butler Rd
Sienna Dr
JOHN CROMPTON PARK
Woodsman Dr
Alley
Gridiron Dr
Woodway Dr
Luther St W
Alley
Corregidor Dr
Legacy Ln
Holleman Dr W
Canyon Creek Cir
Luther St W
Harvey Mitchell Pkwy S
0
287.5
575
1,150
1,725
2,300
Feet

FM 2818 & Holleman Drive & Luther Street Intersection Improvements

BID TABULATION
Bid #07-02

September 19, 2006

Item No.	Approx. Quantity	Unit	Description	Brazos Valley Services Unit Price	Brazos Valley Services Amount	Young Contractors Unit Price	Young Contractors Amount	Dudley Construction Unit Price	Dudley Construction Amount
			HOLLEMAN DRIVE CONSTRUCTION						
1	1	L.S.	Traffic Control Plan	9,500.00	9,500.00	16,700.00	16,700.00	5,643.00	5,643.00
2	1	L.S.	Excavation and Embankment	7,500.00	7,500.00	7,000.00	7,000.00	7,717.00	7,717.00
3	283	S.Y.	6" Lime Stabilized Subgrade (w/6% Lime by wt.)	20.00	5,660.00	18.00	5,094.00	34.10	9,650.30
4	250	S.Y.	8" Crushed Limestone Base (complete in place)	25.00	6,250.00	24.00	6,000.00	35.40	8,850.00
5	39	S.Y.	10" Crushed Limestone Base (complete in place)	50.00	1,950.00	84.00	3,276.00	38.40	1,497.60
6	251	S.Y.	2" HMAC Surface Course (type "D")	20.00	5,020.00	22.00	5,522.00	24.00	6,024.00
7	34	S.Y.	Concrete Pavers (including sand leveling course)	90.00	3,060.00	50.00	1,700.00	258.00	8,772.00
8	422	L.F.	Curb and Gutter (all types)	20.00	8,440.00	20.00	8,440.00	25.90	10,929.80
9	173	L.F.	24" RCP Pipe, ASTM C-76 CL III, Non-Str. Backfill	80.00	13,840.00	69.00	11,937.00	114.60	19,825.80
10	1	EACH	Standard 5' Inlet	3,000.00	3,000.00	3,900.00	3,900.00	3,575.00	3,575.00
11	1	EACH	Sloped HW for 24" RCP	800.00	800.00	1,400.00	1,400.00	1,495.00	1,495.00
12	1	L.S.	Connect 24" RCP to Ex. Headwall	500.00	500.00	1,200.00	1,200.00	2,652.00	2,652.00
13	1,190	S.Y.	Hydromulch Seeding	1.00	1,190.00	1.10	1,309.00	0.90	1,071.00
14	1	L.S.	Erosion and Sedimentation Control	1,000.00	1,000.00	1,500.00	1,500.00	2,216.00	2,216.00
			Holleman Drive Construction Total		$67,710.00		$74,978.00		$89,918.50
			LUTHER STREET CONSTRUCTION						
1	1	L.S.	Traffic Control Plan	6,500.00	6,500.00	16,700.00	16,700.00	3,654.00	3,654.00
2	1	L.S.	Excavation and Embankment	5,000.00	5,000.00	2,900.00	2,900.00	1,476.00	1,476.00
3	192	S.Y.	6" Lime Stabilized Subgrade (w/6% Lime by wt.)	20.00	3,840.00	25.00	4,800.00	37.30	7,161.60
4	188	S.Y.	8" Crushed Limestone Base (complete in place)	25.00	4,700.00	30.00	5,640.00	37.80	7,106.40
5	36	S.Y.	10" Crushed Limestone Base (complete in place)	50.00	1,800.00	90.00	3,240.00	40.20	1,447.20
6	143	S.Y.	2" HMAC Surface Course (type "D")	20.00	2,860.00	32.00	4,576.00	24.00	3,432.00
7	146	L.F.	Curb and Gutter (all types)	20.00	2,920.00	25.00	3,650.00	31.80	4,642.80
8	214	S.F.	Concrete Flume	8.00	1,712.00	10.00	2,140.00	12.80	2,739.20
9	6	L.F.	Rock Rip-Rap on Filter Fabric	500.00	3,000.00	170.00	1,020.00	148.00	888.00
10	573	S.Y.	Hydromulch Seeding	1.00	573.00	1.10	630.30	0.90	515.70
11	1	L.S.	Erosion and Sedimentation Control	500.00	500.00	1,500.00	1,500.00	2,216.00	2,216.00
			Luther Street Construction Total		$33,405.00		$46,796.30		$35,278.90
			TOTAL BID		**$101,115.00**		**$121,774.30**		**$125,197.40**
			Calendar Days to Completion		60		90		60

January 11. 2007
Consent Agenda Item No. 12.25
Switch Station to Post Oak to Southwood
Transmission Line Reconductor

To: Glenn Brown, City Manager

From: David Massey, Director of Electric Utilities

Agenda Caption: Presentation, discussion, and possible action regarding a resolution approving a construction contract with Texas Power Construction, Ltd., in the amount of $2,021,000.00 for the construction of the Switch Station to Post Oak to Southwood Transmission Line Reconductor Project.

Recommendation(s): Staff recommends award to the lowest, responsible bidder meeting specifications, Texas Power Construction, Ltd.

Summary: This contract (Contract 07-071) is for the necessary labor, equipment and materials to construct the Switch Station to Post Oak to Southwood Transmission Line Reconductor Project. This project is necessary to meet current and future electric load demands and improve electric reliability within the community. Sealed competitive bids were received from two (2) firms with a summary of the results attached.

Budget & Financial Summary: Funds are budgeted and available for electric system capital improvements and conversion in the Electric Capital Improvement Projects Fund.

Attachments:

1. Resolution
2. Bid Tabulation
3. Project Map Location

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE SWITCH STATION TO POST OAK SUBSTATION AND POST OAK SUBSTATION TO SOUTHWOOD SUBSTATION TRANSMISSION LINE RECONDUCTOR PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Switch Station to Post Oak Substation and Post Oak Substation to Southwood Substation Transmission Line Reconductor Project; and

WHEREAS, the selection of Texas Power Construction, Ltd. is being recommended as the lowest responsible bidder for the construction services related to the Switch Station to Post Oak Substation and Post Oak Substation to Southwood Substation Transmission Line Reconductor 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 Texas Power Construction, Ltd. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Texas Power Construction, Ltd. for $2,021,000.00 for the labor, materials and equipment required for the improvements related to the Switch Station to Post Oak Substation and Post Oak Substation to Southwood Substation Transmission Line Reconductor Project.

PART 3: That the funding for this Project shall be as budgeted from the College Station Utilities Capital Improvement Project Fund, Electric Department, in the amount of $2,021,000.00

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

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST:

_____

CONNIE HOOKS, City Secretary

APPROVED:

_____

RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approve

_____

City Attorney

SWITCH STATION TO POST OAK & POST OAK TO SOUTHWOOD TRANSMISSION LINE RECONDUCTOR

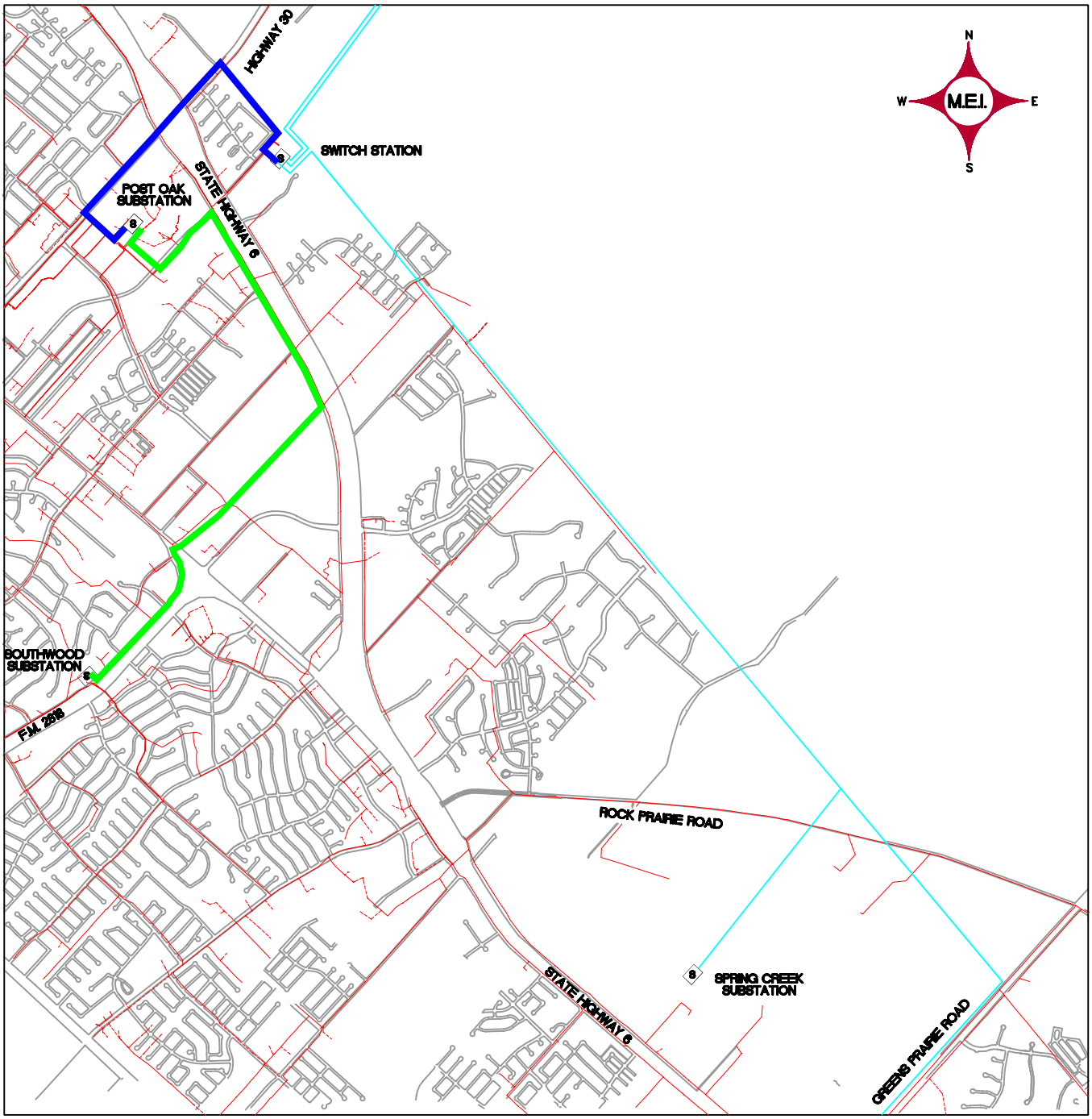
BID # 07-27

	Texas Power Construction	Great Southwestern Construction	InfraSource Transmission Services
SWITCH STATION TO POST OAK RECONDUCTOR			
DISTRIBUTION			
NEW CONSTRUCTION			
Section 1 - Pole Units	none	none	
Section C - Three Phase Pole Top Assembly Units	$756.00	$4,630.00	
Section E - Guy Assembly Units	none	none	
Section F - Anchor Assembly Units	none	none	
Section M - Miscellaneous Assembly Units	$588.00	$2,571.00	
LINE CHANGES			
Section I - Removal Assembly Units	$2,209.20	$2,532.00	
DISTRIBUTION SUB-TOTAL	$3,553.20	$9,733.00	
TRANSMISSION			
NEW CONSTRUCTION			
Section 1 - Pole Units	$45,520.00	$36,591.00	
Section 2 - Pole Top Assembly Units	$44,006.40	$41,016.00	
Section 3 - Conductor Assembly Units	$181,388.00	$189,334.00	
Section 4 - Guy Assembly Units	$23,237.40	$23,868.00	
Section 5 - Anchor Assembly Units	$5,724.80	$4,176.00	
Section 6 - Miscellaneous Assembly Units	$240,118.10	$230,558.00	
LINE CHANGES			
Section I - Removal Assembly Units	$12,492.00	$50,179.00	
RIGHT-OF-WAY CLEARING			
Section R - Right-of-Way Clearing	none	none	
TRANSMISSION SUB-TOTAL	$552,486.70	$575,722.00	
SWITCH STATION TO POST OAK RECONDUCTOR TOTAL	$556,039.90	$585,455.00	NO BID

POST OAK TO SOUTHWOOD RECONDUCTOR			
DISTRIBUTION			
NEW CONSTRUCTION			
Section 1 - Pole Units	$1,026.00	$2,560.00	
Section C - Three Phase Pole Top Assembly Units	$6,840.00	$45,582.00	
Section E - Guy Assembly Units	$2,328.00	$3,459.00	
Section F - Anchor Assembly Units	$336.00	$654.00	
Section M - Miscellaneous Assembly Units	$12,044.40	$16,717.00	
LINE CHANGES			
Section I - Removal Assembly Units	$22,803.60	$19,897.00	
DISTRIBUTION SUB-TOTAL	$45,378.00	$88,869.00	
TRANSMISSION			
NEW CONSTRUCTION			
Section 1 - Pole Units	$416,341.20	$340,583.00	
Section 2 - Pole Top Assembly Units	$155,996.40	$150,210.00	
Section 3 - Conductor Assembly Units	$347,550.00	$345,450.00	
Section 4 - Guy Assembly Units	$13,227.00	$14,997.00	
Section 5 - Anchor Assembly Units	$2,862.40	$2,088.00	
Section 6 - Miscellaneous Assembly Units	$410,531.60	$602,678.00	
LINE CHANGES			
Section I - Removal Assembly Units	$35,573.50	$138,878.00	
RIGHT-OF-WAY CLEARING			
Section R - Right-of-Way Clearing	$37,500.00	$19,950.00	
TRANSMISSION SUB-TOTAL	$1,419,582.10	$1,614,834.00	
POST OAK TO SOUTHWOOD RECONDUCTOR TOTAL	$1,464,960.10	$1,703,703.00	NO BID
SWITCH STATION TO POST OAK RECONDUCTOR TOTAL	$556,039.90	$585,455.00	NO BID
POST OAK TO SOUTHWOOD RECONDUCTOR TOTAL	$1,464,960.10	$1,703,703.00	NO BID
GRAND TOTAL	**$2,021,000.00**	**$2,289,158.00**	NO BID

Certification	YES	YES
Delivery Date	240	180
Addendum	1	1

Apparent Low Bidder



THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF VISUAL REPRESENTATION ONLY. IT IS NOT TO BE USED IN CONJUNCTION WITH ANY OTHER LEGAL DOCUMENT OR FOR ANY PURPOSE OTHER THAN THE AFOREMENTIONED.

LEGEND

- EXISTING THREE-PHASE DISTRIBUTION LINES
- EXISTING TRANSMISSION LINES
- EXISTING THREE-PHASE UNDERGROUND DISTRIBUTION LINES
- SWITCH TO POST OAK SUBSTATION LINE RECONDUCTOR
- POST OAK TO SOUTH SUBSTATION LINE RECONDUCTOR

CITY OF COLLEGE STATION

VICINITY MAP

SWITCH TO POST OAK AND POST OAK TO SOUTH SUBSTATION RECONDUCTOR

McCORD ENGINEERING, INC.
916 Southwest Parkway East
P.O. Box 10047
College Station, Texas 77842

SCALE:	DATE:	DWG NO.	SHEET NO.
1" =4000'	9-5-06	MEI-7377	1 of 1
DRAWN BY: MRC	JOB CODE: CSB-4.24		REV. MRC 9-13-06

January 11, 2007
Consent Agenda Item No. 12.26
East College Station Transportation Study

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion of a resolution awarding a contract to Kimley Horn and Associates, Inc in the amount of $80,000.00 to conduct a transportation study and make recommendations for improvements.

Recommendation(s): Staff recommends approval of the resolution awarding the contract to Kimley-Horn in the amount of $80,000.00 for a transportation study of east College Station.

Summary: On September 28, 2006, Council directed staff to solicit proposals for a transportation study of the east side of College Station and for a transportation study of the entire City of College Station. Three firms submitted responses to a Request for Proposals. Those firms are; Kimley-Horn, Klotz Associates and Lockwood Andrews and Newnam. A committee that included City staff as well as Brian Bochner from the Texas Transportation Institute reviewed the proposal and determined that Kimley-Horn was the most qualified to provide the services we requested.

Kimley-Horn submitted proposals for a city-wide study as well as one of the east side area discussed by Council in September. The city-wide study would cost $236,000.00 and would take 267 days to complete. The east side study would cost $80,000.00 and would take 90 days to complete. Staff recommends the narrower scoped east side study due to time and cost considerations. The timing of this study will make the recommendations of this study available to be used by our comprehensive planning consultant.

The desire for an advisory committee for the purpose of ensuring that the consultant addresses all of the pertinent issues was expressed by the Council and is supported by the Council Transportation Committee (CTC). The make-up of that committee is proposed to be the CTC with the addition of some other neighborhood representatives. A recommendation for that committee membership as well as a committee charter will be considered by the CTC later this month. The CTC's recommendations will be brought to Council for a vote at the following meeting.

Budget & Financial Summary: The study will be funded from the General Fund ($50,000) and the Streets Capital Project Fund ($30,000). A budget amendment will be needed to appropriate the General Fund portion of the funds for this project from salary savings in the Planning and Development Services Department that were realized last fiscal year. This budget amendment will be coming forward in the near future.

Attachments:
1. Resolution
2. Study area map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, SELECTING A PROFESSIONAL CONTRACTOR, APPROVING A CONSULTANT CONTRACT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE EAST COLLEGE STATION TRANSPORTATION STUDY PROJECT.

WHEREAS, the City of College Station, Texas, solicited proposals for the East College Station Transportation Study (*eg*. design, engineering, etc.); and

WHEREAS, the selection of Kimley-Horn and Associates, Inc. is being recommended as the most highly qualified provider of the Transportation Planning and Engineering services for the East College Station transportation Study 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 Kimley-Horn and Associates, Inc. is the most highly qualified provider of the services for the East College Station Transportation Study Project on the basis of demonstrated competence and qualifications.

PART 2: That the City Council hereby approves the contract with Kimley-Horn and Associates, Inc. for an amount not to exceed $80,000.00 for the Transportation Planning and Engineering services related to the East College Station Transportation Study Project.

PART 3: That the funding for this Contract shall be as budgeted from the Street Capital Projects Fund in the amount of $80,000.00.

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

ADOPTED this 11th day of January, A.D. 2007.

ATTEST: APPROVED:

_____ _____

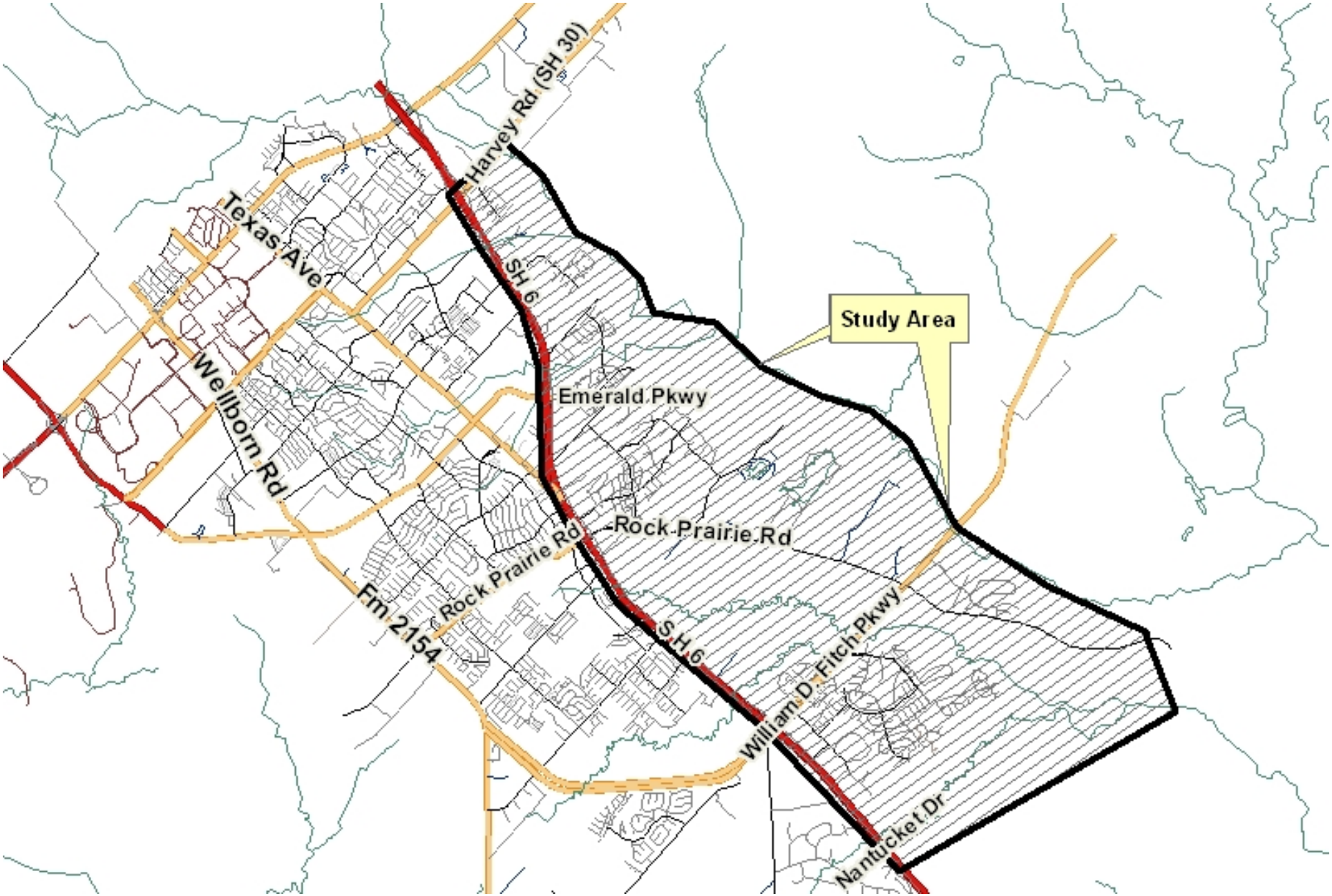
CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvefi

_____

City Attorney


Harvey Rd (SH 30)
Texas Ave
SH 6
Study Area
Wellborn Rd
Emerald Pkwy
Rock Prairie Rd
Rock Prairie Rd
Fm 2154
S H 6
William D. Fitch Pkwy
Nantucket Dr

January 11, 2006
Consent Agenda Item No. 12.28
Change Order #2 Contract 04-xxq, Parks and Recreation Automation

To: Glenn Brown, City Manager

From: Olivia Burnside, Chief Information Officer

Agenda Caption: Presentation, possible action, and discussion regarding approval of Change Order #2 for Contract # 04-xxq, Parks and Recreation Department (PARD) Automation (Project CO 0402), with RecWare, Active Network, Inc. for a increase in the amount of $20,687.17.

Recommendation(s): Staff recommends approval.

Summary: This change order adds the capability for citizens to register and pay for PARD courses, activities and facilities using the phone or the internet as appropriate.

The original contract specified that RecWare would work with the City's primary Interactive Voice Response/Interactive Web Response (IVR/IWR) vendor, Tele-works to provide "telephone registration". The City desires to make services available via both telephone and internet. Attempts to reconcile differences between the two vendors were unsuccessful.

This change order removes the provisions of change order #1 and implements the full phone and internet interface provided by RecWare, the PARD software vendor. This change eliminates the requirement for two separate vendors to collaborate on this project.

Budget & Financial Summary: Contracts 04-xxq/xxr/xxs were awarded to RecWare, Active Networks and approved by Council on January 8, 2004, Consent Item # 9.8 for an amount of $88,183.00. Subsequently PO 040516 was issued for this full contract amount. This change order increases the contract and PO total to $108,870.17 an increase to the Project of $20,687.17. The remaining project fund balance of $14,791.78 will be augmented by $5,895.39 from Project CO0102 (Automated Customer Service).

Attachments:
Change Order No. 1 to contract 04-xxq
Contract 04-xxq
P0 040516
PO 040516 with change order #1

CHANGE ORDER NO. 2
CONTRACT # 04-xxq

DATE: 11/30/2006
PROJECT DESCRIPTION: RecWare Software - PARD Automation

P.O.# 040516

PROJECT # CO0-02

OWNER:
City of College Station
P.O. Box 9960
College Station, Texas 77842

CONTRACTOR:
RecWare, Active Network, Inc.
057 Enterprise Drive
Sacramento, CA 95815-4666
Ph: 888-732-9273
Fax:916-925-0649

PURPOSE OF THIS CHANGE ORDER: Add capability to register for classes and sports events and reserve facilities via telephone and internet. Please see attached quote attached hereto and incorporated herein by reference for all purposes.

Item 1: Delete custom feature, "Provide support for Teleworks interface with RecWare Safari Software for telephone registration" as specified in Exhibit D, Item D of the Purchase Agreement.

Item 2: Delete "Safari API for Web Integration with Teleworks" (added by change order #1)

Item 3: Delete "Additional Annual Maintenance" (added by change order #1)

Item 4: Increase "Annual Software Maintenance" in Exhibit A of the Agreement by $7,625.00 for a new total of $[illegible]

Item 5: Add new line item to Exhibit A of the Contract: "Installation and Training" $5,200.00

Item 6: Add new line item to Exhibit A of the Contract: "3rd Party Hardware/Software Cost" $8,744.00

ITEM NO.	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	COST DIFFER
1	EA	Delete Item D of Exhibit D	$ 881.83	1	0	($ 881.83)
2	EA	Delete Item #1 of Change Order #1	$ 1.00	5000	0	($ 5,000.00)
3	EA	Delete Item # 2 of Change Order #1	$ 1.00	1250	0	($ 1,250.00)
4	EA	Annual Maintenance Increase	$ 1.00	11,168	18,693	$7,625.00
5	EA	Installation and Training	$ 1.00	0	5,200	$ 5,200.00
6	EA	3rd Party Hardware/Software	$ 1.00	0	8,744	$ 8,744.00

THE NET AFFECT OF THIS CHANGE ORDER IS A Increase (Increase or Decrease).

ORIGINAL CONTRACT AMOUNT	$ 86,183.00	
Change Order No. 1	$ 8,250.00	7.088 % of Original Contract Amount
Change Order No. 2	$ 14,437.17	16.372 % of Original Contract Amount
Change Order No. 3	$	% of Original Contract Amount
REVISED CONTRACT AMOUNT	$ 108,870.17	

ORIGINAL CONTRACT TIME Days N/A
REVISED CONTRACT TIME Days N/A

ORIGINAL SUBSTANTIAL COMPLETION DATE
REVISED SUBSTANTIAL COMPLETION DATE

APPROVED:

Nick Nicola Jan 2/07
CONTRACTOR Date

SIGN HERE

CITY FINANCE OFFICER Date

N/A - Construction not involved
CONSTRUCTION CONTRACTOR Date

Carla A Robinson
CITY ATTORNEY Date

PROJECT MANAGER Date

CITY MANAGER Date

DIRECTOR, PARKS AND RECREATION Date

MAYOR Date

DEPARTMENT DIRECTOR/ADMINISTRATOR Date

CITY SECRETARY Date

Purchase Agreement

RECITALS

A. This Purchase Agreement ("Agreement") is between The Active Network, Inc. ("Active Network"), a Delaware corporation, and The City of College Station, TX ("Purchaser").

B. The parties hereto (the "Parties") desire to enter into this Agreement in order to provide for the purchase and sale and to set forth certain representations, warranties, covenants, conditions, and agreements made in connection with and as an inducement to such a transaction.

AGREEMENTS

In consideration of the mutual covenants, agreements, representations, warranties and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1 – SALE AND PURCHASE

Sale and Purchase. Active Network agrees to sell, and Purchaser agrees to purchase, licenses to operate certain software products, computer hardware, technical and other services, and other items as identified in Exhibit A, which is attached and is incorporated herein by reference. Active Network and Purchaser agree that any future purchases of licenses to operate certain software products, computer hardware, technical and other services will apply as add-ons to the existing Purchase Agreement, Software License Agreement, and Software Subscription Agreement.

A. Taxes. Except for income taxes imposed on Active Network, all taxes arising out of this transaction are the sole obligation of Purchaser, and shall be promptly paid when due.Purchaser is a tax-exempt entity and will provide its tax exemption number to Active Network.

B. Payment. Active Network shall invoice upon product shipment, upon provision of services, or upon other dates that may be mutually agreed to. Except for items that are disputed by Purchaser in writing regarding any invoice, and notwithstanding anything to the contrary in these agreements, all Active Network invoices are due and payable no later than 30 days from the invoice date. If Purchaser contests invoice, Purchaser shall provide written notice to Active Network with complete, detailed and accurate description of reason for contesting the invoice.

C. Additional Agreements. Active Network and Purchaser agree that products provided by Active Network are subject to the provisions of the Active Network License Agreement, which is attached as Exhibit B and incorporated herein by reference. As a condition to the acceptance and performance of this Agreement, Active Network and Purchaser agree to enter into a separate Software Subscription Agreement which shall provide software maintenance services for software products furnished by Active Network. The separate Software Subscription Agreement shall be executed at the same time as the acceptance of this Agreement.

D. Definitions. The terms "Software" or "Product" or "Software Product" shall mean non-exclusive and non-transferable Licensed Program Materials granted by Active Network for Purchaser to operate such products, as

well as all related materials and documentation, either in machine readable or printed form.

E. Property Rights of Active Network. All copies of the Licensed Program Materials provided by Active Network, including translations, compilations, partial copies within modifications, derivative works and updated works, are the property of Active Network and may not be distributed by the Purchaser to any other persons, including other licenses of the Licensed Program, without Active Network's prior written consent.

F. Copyright Notices. Active Network shall have the unrestricted right to include copyright notices on all products provided by Active Network, in a form or manner as chosen solely by Active Network. This form or manner may include, but not limited to, a written or text message, viewable button, link, or other methods or combinations of these methods. Purchaser agrees to reproduce all copyright notices as provided by Active Network and agrees to not make any adjustment or alterations to such copyright notices.

G. Restricted Access. The Purchaser shall not provide, or otherwise make available, Licensed Program Materials in any form without Active Network's prior written consent except to Purchaser employees, Active Network employees, or other persons during the period they are on Purchaser premises for purposes specifically related to the Purchasers authorized use of the Licensed Program Materials.

H. Access by Active Network. Purchaser grants Active Network reasonable and necessary right to access any or all of Purchaser's data that Purchaser publishes or otherwise makes publicly available or accessible. Further, Purchaser grants Active Network reasonable and necessary access any or all of Purchaser's data when reasonably required for Active Network to perform its obligations to Purchaser.

I. Shipment and Delivery. Active Network shall ship products to Purchaser on the dates shown in Exhibit A, or on other dates that may be mutually agreed to. Neither Active Network nor the Purchaser shall be responsible for delays resulting from acts beyond the control of each party. These include, but are not limited to, acts of God, riots, acts of war, fire, earthquakes, epidemics, work stoppages, or disasters. In such event, the contract term and warranty will be extended for the period of delay.

J. Replacement of Lost Materials. If Licensed Program Materials are lost or damaged while in the possession of the Purchaser, Active Network shall replace them at a processing fee not to exceed $150.00. Any expedited shipments requested by the Purchaser shall be at the Purchaser's expense.

K. Purchaser's Right to Use. The Purchaser's rights in the computer Software developed by Active Network may be restricted by Active Network in accordance with this Agreement and in any duly executed Attachment, Order, or Schedule referencing this Agreement. However, the Purchaser shall have:

(1) Use of such Software on computer processing units as defined in the attached Software License Agreement; and

(2) Use of such Software with a backup system, provided that the backup system is solely used for the purposes of an archival copy.

L. Acceptance by Purchaser. Purchaser shall notify Active Network in writing of acceptance of all products within 60 days of loading of software on the purchaser's servers and workstations by Active Network, so long as all products conform to the testing and acceptance criteria as provided in Exhibit E. If the products are not in substantial conformance with the testing and acceptance criteria as provided in Exhibit E, purchaser shall immediately notify Active Network of any non-conformities in sufficient detail to allow Active Network to isolate and duplicate same. Active Network shall use all reasonable efforts to remedy all such non-conformities. Upon correction, Active Network shall demonstrate same to Purchaser, without requiring an additional 60 day testing and acceptance period, and the software module shall be accepted by Purchaser. If no notification of non-conformance is received by Active Network during the applicable 60 day testing and acceptance period, such products shall be deemed to meet the testing and acceptance criteria as provided in Exhibit E and shall be deemed accepted.

M. Damages or remedies. In no event, shall either party be liable for special, consequential, or liquidated damages. The parties' respective maximum aggregate liability shall be the lower of a) the amount charged by Active Network for software licenses provided under this agreement, or b) the amount invoiced and received by Active Network if only a partial delivery or partial payment has been made.

N. Product documentation. Active Network shall provide product documentation with the Active Network-developed products delivered to the Purchaser.

O. Unrestricted changes by Active Network. Active Network may make reasonable and necessary changes as it deems fit to operating procedures, programming languages, general purpose library programs, timing accessibility techniques, types of hardware supportability, product functionality, and other related areas.

P. Services Outside of this Agreement. In the event the Purchaser requests any services other than that included under this Agreement, and depending upon the availability of its personnel, Active Network shall use its best efforts to promptly furnish such support in accordance with their current published billing rates.

Q. Severability. Each provision of this Agreement is severable from all other provisions of this Agreement and, if one or more of the provisions of this Agreement shall be declared invalid, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

R. Currency. All amounts referred to herein or otherwise payable pursuant to any term of this Agreement shall be United States of America Dollars.

S. Prior Agreements. This Agreement represents the entirety of agreements between Purchaser and Active Network and supersedes all prior agreements and understandings between Active Network and the Purchaser relative to Software and Software Support for the Software and/or Software Product(s), with the exception of the separate Software Subscription Agreement (per Article 1, Section C). No change or attempted waiver of any provision of this Agreement shall be binding unless expressed in writing and signed by the party against whom the same is sought to be enforced.

T. Term. This Agreement is effective from the date on which both parties execute this Agreement as set forth on the signature page hereto and shall remain in effect until all provisions have been satisfied. The provisions of Software Licenses and other restrictions for Licensed Program Materials shall survive indefinitely and past the termination of all other provisions of this Agreement.

U. Amendments. No amendment to this Agreement shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless waiver or consent to breach is in writing. For purposes of the Agreement, the only authorized representatives shall be:

Active Network:	Purchaser:
Active Network	The City of College Station
937 Enterprise Dr.	1101 Texas Avenue South
Sacramento, CA 95825	College Station, TX 77840

V. Source Code and Escrow of Software. Purchaser will not be provided with Active Network's source code. Purchaser and Active Network may choose to enter into a separate agreement for the escrow of Active Network's source code, labeled "Software Escrow Agreement."

W. Title and Ownership. Purchaser's right of use shall remain subject to Active Network's approval until all sums due under this contract are paid. Except for amounts disputed by Purchaser in writing, and notwithstanding anything to the contrary in these agreements, if Purchaser contests invoice, Purchaser shall provide written notice to Active Network with complete, detailed and accurate description of reason for contesting, if payment is not made when due, Purchaser agrees after written notice from Active Network and an opportunity to remedy any unpaid amounts, upon request of Active Network, to cease use of products which have not been paid for until full

payment has been made to Active Network.

X. **Provision of Services. Purchaser agrees that Active Network's sole obligation for on-site services and on-site training is to supply a qualified installer or instructor for the designated number of service or training hours. Active Network will maintain a trained staff capable of rendering the performance under this Agreement. Active Network neither warrants nor represents that after such training time any specific individual or individuals designated by Purchaser will be able to properly use and operate the Products.**

Y. Warranty of Products Manufactured by Active Network. Active Network warrants that upon delivery, Active Network developed Products shall be in substantial conformance with Active Network's printed documentation and specifications, and specifications as modified per Exhibit D, which is attached and is incorporated herein by reference). After delivery, should any part of the Licensed Program Materials media prove to be defective, Active Network will promptly provide a replacement Licensed Program Material media at no charge to Purchaser for a period of 120 days from the date of initiation of on-site training services. THIS IS THE ONLY WARRANTY MADE AS TO THE PRODUCTS AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL ACTIVE NETWORK OR ITS EMPLOYEES BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE OR OTHER INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

Z. Warranty of Products Not Manufactured by Active Network. Should Active Network provide products manufactured by others ("Third Party Products"), Purchaser shall seek and obtain warranty service for such products directly from the product manufacturer or authorized service center. With respect to Third Party Products, Active Network makes no warranties, whether express or implied, including without limitation warranties of merchantability or fitness for particular purpose.

AA. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Texas. Any action or court proceeding which may arise from this Agreement shall be heard in the Courts in the County of Brazos, TX.

BB. Assignment. This Agreement may be assigned if Active Network participates in any merger or similar transaction in which a majority of Active Network's stock is transferred, provided that the assignee or successor assumes all rights and obligations under this Agreement.

CC. No Hire Clause. Active Network agrees that it will not actively recruit or employ any current employee of Purchaser's Parks and Recreation department or from the Purchaser's Office of Information Technology for employment by Active Network for the time period of one year after the project go-live date.

ARTICLE 2 – OBLIGATIONS OF ACTIVE NETWORK

Active Network agrees to:

A. Maintain sales prices as described in the attached Exhibit A until the time of product shipment, unless otherwise specified; and
B. Ensure that software products as modified (per Exhibit D) and provided by Active Network are in substantial conformance with Active Network's printed documentation and specifications, and specifications as modified per Exhibit D, as long as they are operated on the recommended Active Network hardware, network, or other recommended platform.

ARTICLE 3 – OBLIGATIONS OF PURCHASER

Purchaser acknowledges that Purchaser's successful use of the software product and services purchased from Active Network are dependent upon the Purchaser's own efforts in making the software product work for the Purchaser. Active Network can only provide software and technical support and it can not be responsible for the Purchaser's practices and the proper or improper use of the software. The Purchaser agrees to implement and perform reasonable practices and procedures to ensure the successful use of the software product. A sample of such practices is attached as Exhibit C.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES OF ACTIVE NETWORK

A. Active Network represents and warrants that, in addition to Article 1, Section Y:

(1) Active Network has not employed or retained any person or persons not generally associated with Active Network, except Active Network's representatives or regular employees, for the purpose of soliciting or securing this Agreement. Active Network further warrants that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon the award or making of this Agreement;

(2) Active Network shall maintain, during the equipment delivery and installation process, insurance coverage's in the amount of $1 million General Commercial Liability, and workmen's compensation insurance;

(3) Each of the Licensed Program materials as modified by Active Network per printed documentation and specifications, and specifications as modified per Exhibit D, which is attached and is incorporated herein by reference shall substantially conform to any product documentation provided by Active Network, including, but not limited to, operating performance, timing characteristics, and compatibility; and,

(4) ACTIVE NETWORK SHALL DEFEND AND INDEMNIFY AND HOLD THE PURCHASER HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES OR CAUSES OF ACTION, INCLUDING ATTORNEY FEES, COSTS, EXPERT FEES AND OTHER RELATED EXPENSES THAT LICENSED PROGRAM MATERIALS SUPPLIED HEREUNDER INFRINGE A TRADE SECRET OR A PATENT OR COPYRIGHT ENFORCEABLE IN THE UNITED STATES. To be eligible for Active Network's defense, Purchaser must:

a) Give Active Network prompt written notice of any such claim;

b) Allow Active Network to control and reasonably cooperate with Active Network in the defense and settlement negotiations;

c) Allow Active Network, at Active Network's option and expense, if such claim has occurred or in Active Network's judgment is likely to occur, to procure the right for the Purchaser to continue using the Licensed Program Materials or to promptly replace or to promptly modify them so that they become non-infringing; and, if neither of the foregoing alternatives is available on terms which are reasonable in Active Network's judgment, upon written request, the Purchaser shall return the Licensed Program Materials to Active Network and Active Network shall promptly refund the total amount the Purchaser paid Active Network; and,

d) Active Network shall have no obligation with respect to any such claim based upon the Purchaser's modification of the Licensed Program Materials or their combination, operation or use with data or programs not furnished by Active Network or in other than the Specified Operating Environment.

(5) Active Network warrants that Active Network owns the software, including all associated intellectual property rights, or otherwise has the right to grant Purchaser the right and license provided in this Agreement , and that as of the date of this Agreement, to the best of Licensor's knowledge, neither the software nor the end-user materials infringe any valid patents, copyrights, trademarks, or other proprietary rights of any third parties.

ARTICLE 5

Purchaser agrees that it will:

A. Not at any time sell, assign, or otherwise transfer Active Network's Software and/or Software Product(s), parts of the Software and/or Software Product(s), or updates, changes, improvements or enhancements to the Software and/or Software Product(s), or parts thereof, or provide to any third party any support described in this Agreement for the Software and/or Software Product(s);

B. Treat the design specifications and associated documentation of the Software and/or Software Product(s) with the same confidentiality that it treats its own confidential materials and shall disclose the Software and/or Software Product(s) in confidence only to, and shall authorize the use of the Software and/or Software Product(s) in confidence only by, its employees. The Purchaser acknowledges that Active Network has expended substantial sums in creating its Software and Software Products, incurs substantial additional expense in maintaining them, and as a result, has and will continue to have substantial proprietary interest and valuable trade secrets in them. These agreements of the Purchaser remain in full force and effect even if the Purchaser or Active Network elects to terminate this Agreement, per Article 6; and,

C. Use its best efforts to protect from disclosure to any third party all data structures, data layouts, table and fields names, and other similar information which are delivered to Purchaser or are utilized by Active Network provided products. Except as required by law or court order, Purchaser agrees that these shall not be published, communicated, transmitted, or revealed in any way to any third party without the written consent of Active Network.

Article 6 – TERMINATION AND CANCELLATION

TERMINATION AND CANCELLATION

A. Purchaser shall have the right to terminate this Agreement for Default, in the event that any one or more of the following events of default occur or continue during the term of this Agreement:

(1) Active Network shall fail to deliver the Software or services required by this Agreement, after having been notified in writing by Purchaser of its failure and having been given a 60 day cure and correction period for Active Network to achieve conformance.

B. Active Network shall have the right to terminate this Agreement for Default, in the event that any one or more of the following events of default occur or continue during the term of this Agreement:

(1) Purchaser shall fail to conform to the requirements of this Agreement, after having been notified in writing by Active Network of its failure and having been given a 90 day cure and correction period for Purchaser to achieve conformance; and

(2) Purchaser's failure to pay Active Network's invoices for undisputed amounts within 90 days of the date of Active Network's invoice.

C. If Active Network terminates this Agreement for default by Purchaser, Purchaser shall pay Active Network, on a pro-rated basis, for any products shipped by Active Network, and any services provided by Active Network, up to the date of termination.

ACCEPTED AND AGREED:

Active Network	PURCHASER
Signature	Signature
Duane A. Harlan	Ron Silvia
Name	Name
President - RecWare Div.	Mayor
Title	Title
12-17-03	1-14-04
Date	Date

ATTEST:

Connie Hooks, City Secretary
Date: 1-15-04

APPROVED:

Thomas E. Brymer, City Manager
Date: 1/13/04

City Attorney
Date: 1/13/04

Charles Cryan, Director of Fiscal Services
Date: 1/12/04

Exhibit A

RecWare Safari Pricing for The City of College Station, TX

Prepared by Rich McGuire

Description	Qty	Unit	Extension	Notes
Customer Information				
Number of Geographic Sites/Locations	13	N/A	N/A	A
Number of Workstations	30	N/A	N/A	B
Max Workstations Needed for Simultaneous Use	82%	N/A	N/A	C
Anticipated Number of Concurrent User Licenses	25	N/A	N/A	D
Safari Core System				
Safari Central, *includes:*	1	$9,995	$9,995	E
Fully Integrated Client/Server recreation software		N/A		
Compatible with Microsoft SQL Server or Oracle		N/A		
Integrated Customer Account Management		N/A		
Integrated Financial Tracking System		N/A		
Integrated Data Reporting Engine		N/A		
Integrated "Standard" Point of Sale		N/A		
Integrated .AVI Video Help/Video Training		N/A		
Base/Included Concurrent User Licenses	5	Incl.		
Safari Core System Investment			**$9,995**	
Software Applications (Client/Server)				
Activity Registration	1	$3,995	$3,995	F
Facility Reservation	1	$3,995	$3,995	G
Membership Management	1	$3,995	$3,995	H
League Scheduling	1	$3,995	$3,995	I
Tournament Scheduling	0	N/A		
Point of Sale (premium upgrade)	0	N/A		
Inventory Control	1	$3,995	$3,995	L
Financial Interface	1	$1,000	$1,000	M
Crystal Reports (single user license)	1	$395	$395	N
Entity Relationship Diagram/Encyclopedia	1	$1,000	$1,000	O
Touch Tone Registration (English)	0	N/A		
Touch Tone Registration (Spanish)	0	N/A		
4-line Touch Tone expansion	0	N/A		
Software Applications Investment			**$22,370**	
Internet Registration				
ProActive Internet Registration, *includes:*	1		**$0**	S
Web Hosting by The Active Network, Inc.			No charge	
Internet Registration			No charge	
Credit card processing			No charge	
Internet Registration Investment			**$0**	
User Licenses				
Base Concurrent User Licenses (shown above)	5	N/C	N/C	

Recommended Concurrent User License Adjustment	20	$1,000	$20,000	T
Other Concurrent User License Adjustment	0	N/A		
Total User Licenses & User License Investment	**25**		**$20,000**	
Implementation & Support Services				
Trips to Customer Location*	1	$1,000	$1,000	V
Service days- On-Site at Customer Location	18	$1,250	$22,500	W
Project Management Days (Active's offices)	1	$1,000	$1,000	X
Services Investment			**$24,500**	
(*Travel fees are all-inclusive)				
Software Maintenance				
Software Escrow Agreement (annual)	1	$150	$150	Y
Software Maintenance (annual)	1		$11,168	Z
Software Maintenance Investment			**$11,318**	
Total System Investment*			**$88,183**	
Grand Total for Products, Maintenance, Services			**$88,183**	

(*Includes 1st Year Annual Maintenance)
(* Quote is subject to "Notes" explanation which is attached)

Payment Schedule

Down Payment Due at Contract Signing	25%	$22,046
Payment Due Upon Shipment of Software	50%	$44,092
Payment Due At Rendering Initial Services	20%	$17,637
Payment Due At acceptance of software per Exhibit D	5%	$4,408

(Note: Contract total to be invoiced within 120 days of order acceptance.)

Quotation Notes

A: Each separate community center or separate location is defined as a unique site.
B: This is the total number of workstations that could potentially be using the software (regardless of whether they would use the system daily or just occasionally.)
C: Normal usage shows that a percentage of workstations are typically idle at any given time, or users at these stations may be using software applications other than RecWare. A 50% license-to-station ratio is common; however, the percentage you need may vary based on your business practices, season, or
D: This is the license-to-percentage of workstation ratio used for this quotation.
E: Safari Central requires an appropriate computing environment and a database such as Microsoft SQL server or Oracle. These items are supplied, installed, and configured by the customer.
F: Activity Registration offers capability such as enrollment, refund, wait list processing, and financial
G: Facility Reservation offers capability such as scheduling facilities, producing permit contracts, invoicing, accounts receivable, and financial reporting.
H: Membership Management hardware peripherals such as cameras, scanners, photo ID printers, etc. must be Active-approved models and are supplied by the customer.
I: League Scheduling offers capability such as Round Robin Scheduling, automatic reservation of sport facilities, and production of balanced team schedules.
J: N/A.
K: N/A.
L: Inventory Control tracks inventory items, receipt and sale of new goods. Any necessary peripherals are customer-supplied.
M: Financial Interface creates an ASCII export file using an Active-specified format. Customizations to this format, if necessary, are chargeable separately and billed on an hourly basis.
N: Crystal Reports is a 3rd party reporting tool. Active does not supply training or technical support for this product. Purchase of the ERD diagram is strongly recommended with Crystal Reports.
O: The ERD diagram is useful for advanced users that wish to use Crystal Reports to produce their own reports. The ERD diagram is a 'road map' to the RecWare database.
P: N/A.
Q: N/A.
R: N/A.
S: ProActive allows activities to be automatically posted and become available for online registration at Active.com. Active provides hosting, processing, and credit card verification services. Requires customer-supplied dial up Internet account.
T: This is the number of additional user licenses recommended, based upon total workstations, % of use, and factoring in base licenses already included. This recommendation is an approximation only.
U: N/A.
V: This is a fixed 'per trip' charge that covers the cost of airfare, hotel, and rental car.
W: Examples of on-site services include staff training and loading software onto servers or workstations. Active personnel do not install hardware nor configure network systems or databases.
X: Project management days are normally conducted at Active's offices and may include implementation planning and other preparatory work.
Y: Software escrow cost is $150 annually, and requires acceptance of a separate software escrow
Z: Software Maintenance is billed annually, and examples of services rendered include toll-free telephone technical support and regular software updates.

Exhibit B

RecWare Software License Agreement and Registration Form

This agreement is between The Active Network, Inc., with its office at 937 Enterprise Drive, Sacramento, CA 95825, (hereafter called "Active Network"), and the below named Purchaser of RecWare software, hereafter called "Licensee".

Product Name(s)	Serial #	Version #	Product Type (single, multi user, etc.)
RecWare Safari Central	TBA	3.3.63	Multi-user
RecWare Safari Standard Point of Sale	TBA	3.3.63	Multi-user
RecWare Safari Activity Registration	TBA	3.3.63	Multi-user
RecWare Safari Facility Reservation	TBA	3.3.63	Multi-user
RecWare Safari Inventory Control	TBA	3.3.63	Multi-user
RecWare Safari Membership / Pass Management	TBA	3.3.63	Multi-user
RecWare Safari League Scheduling	TBA	3.3.63	Multi-user

TBA = To be assigned

Name of licensed user / organization The City of College Station

Street address 1101 Texas Avenue South

City, State/Province, Zip/Postal Code College Station, TX 77840

Telephone Number / FAX Number (979) 764-3731

Contact Person / Installation Date Peter Lamont __TBA____/_____/_____

Number of file servers / video monitors 1 / _____ Approximately

READ THE FOLLOWING TERMS CAREFULLY BEFORE OPENING THE SOFTWARE DISKETTE PACKAGE. OPENING THE PACKAGE CONTAINING THE SOFTWARE DISKETTES INDICATES YOUR COMPLETE AND UNCONDITIONAL ACCEPTANCE OF THE BELOW TERMS AND CONDITIONS.

LICENSE

Active Network (hereafter called "Active Network") and any applicable sublicensors, upon licensee's acceptance of the following terms and conditions, grants to licensee a non-exclusive, nontransferable license to use the software programs and related documentation in the package(s) named above (hereafter referred to as the "software"). Software designated "network version" shall be used on a single file server only unless a "multi-site" network version has been purchased. Network and multi-site network versions shall be loaded and/or operated simultaneously on no more than the number of video monitors specified above. Software designated single user shall be installed and operational only on a single computer system with a single video monitor. Licensee agrees to pay for additional licenses if the software is used beyond the scope of this license in any way.

Licensee shall make no attempt to sublicense, assign, rent, sell, loan or transfer in any other manner the software or the rights or obligations of this agreement without the prior written consent of Active Network. Licensee's privileges under this agreement shall automatically terminate, without notice to the licensee, for failure to comply with its terms.

The software is copyrighted, and licensee agrees to take all reasonable steps to protect the software, documentation, and related materials from unauthorized copying or use in the same manner that it protects its own confidential materials. Licensee may make copies of the software for installation, backup, or archival purposes only. Licensee agrees to retain possession of the original and all copies of the software, and all software updates that may be received after the initial purchase. Unauthorized copying, reverse engineering, de-compiling, disassembling and/or creating derivative works based upon the software is prohibited. Ownership and title to the software, including the copy of the software and the media upon which it is stored and the associated documentation, are retained by Active Network. These obligations shall not apply to any information generally available to the public; ascertainable based on the operation of the Object Code version of the Computer Program or use of operator training information or End-user Materials; independently developed or obtained without reliance on Active Network's information; or approved for release by Active Network without restriction.

LIMITED WARRANTY AND LIMITATIONS ON LIABILITY

Active Network warrants that if the enclosed magnetic diskettes or documentation are visibly damaged or in a defective condition at the time that they are received, Active Network shall replace them at no additional charge. Licensee must notify Active Network within 10 days of receipt if such a defective condition occurs, and return the defective items to Active Network postage prepaid.

Active Network warrants that if the software fails to substantially conform to the specifications as modified by Active Network to the software per printed documentation and specifications, and specifications as modified per Exhibit D, which is attached and is incorporated herein by reference and if the nonconformity is reported to Active Network within 90 days from the date of shipment by Active Network, then Active Network shall at its option either promptly remedy the nonconformity or promptly refund the License Fee to the Licensee upon return of the original and all copies of the software and documentation to Active Network. Freight and/or installation/training charges shall not be refunded. In the event of a refund, this license shall terminate automatically. This limited warranty shall expire 90 days after the date of shipment by Active Network.

LIMITATIONS

(a) Active Network and any other third party vendors make no warranty, representation, or promise not expressly set forth in this agreement. Active Network disclaims and excludes any and all implied warranties of merchantability and/or fitness for a particular purpose. Active Network, expressly, does not warrant that the software or documentation are without defect or error or that the software will be uninterrupted or error free in its operation or that the software will satisfy licensee's requirements. However, Active Network does warrant that it will promptly, but not later than 60 days after receiving written notice, correct verifiable and reproducible Errors when reported to Active Network in accordance with Active Network's standard reporting procedures.

Active Network's aggregate liability arising from or relating to this agreement or the software or documentation, regardless of the source or the form of action or claim-E.G. Warranty, Contract, Tort, Computer Malpractice, and/or any other- is limited to the amount paid by the Licensee for the software, and in no case shall it exceed the Active Network suggested retail price of the software on the Active Network price list in effect at the time of the purchase of the software license, whichever is less.

Active Network makes no warranty as to the compatibility with any brands or configurations of computer equipment or operating systems.

Active Network shall not, in any case, be liable for any consequential, incidental, special, liquidated, indirect or punitive damages in any form or from any cause, including, but not limited to, loss of revenue, profits, data, costs incurred in recovering data, claims by third parties, security of data or other costs resulting from this License Agreement. Except as provided in the license agreement or maintenance agreement, the entire risk as to the quality and performance of the software is with the Licensee. Licensee's sole and exclusive remedy is set forth in these agreements. This agreement defines a mutually agreed upon allocation of risk and Active Network's process and fees reflect such allocation of risk.

GENERAL CONDITIONS

This agreement shall be governed by the laws of the State of Texas. All disputes that may arise as a result of this agreement shall be settled in the Courts in the County of Brazos, Texas.

This agreement sets forth the entire understanding and agreement between Active Network and Licensee and may be amended only in writing that is signed by an authorized officer or representative of both parties.

NO THIRD PARTY VENDOR, DISTRIBUTOR, DEALER, RETAILER, SALES PERSON OR OTHER PERSON IS AUTHORIZED BY ACTIVE NETWORK TO MODIFY THIS AGREEMENT OR MAKE ANY WARRANTY, REPRESENTATION OR PROMISE WHICH IS DIFFERENT THAN, OR IN ADDITION TO, THE WARRANTIES, REPRESENTATIONS OR PROMISES OF THIS AGREEMENT.

This license is effective for the useful life of the software. Active Network may terminate this license at any time after written notice to the licensee and a reasonable opportunity to cure any such default, should licensee breach the terms of this agreement. Licensee agrees to return the original and all copies of the licensed software and documentation within 30 days of the termination of this agreement.

If any provision of this agreement is held invalid or not enforceable, that provision or action shall be limited to that specific provision and action and all other provisions of this agreement which protect Active Network shall remain in effect.

Licensee hereby warrants and certifies that no software shall be made available for export from the United States and/or Canada.

BY SIGNING OF THIS AGREEMENT OR OPENING THE DISKETTE PACKAGE LICENSEE ACKNOWLEDGES TO HAVE READ AND UNDERSTOOD THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. This agreement must be signed and returned to Active Network for the limited warranty to be in effect.

The undersigned warrants that he/she has the authority to bind the party he/she represents to this agreement.

By (signature): Ron Silvia Date: 1-14-04
Ron Silvia

ATTEST:

Connie Hooks
Connie Hooks, City Secretary
Date: 1-15-04

APPROVED:

Thomas E. Brymer
Thomas E. Brymer, City Manager
Date: 1/13/04

Roxanne Nemeth
City Attorney
Date: 1/13/04

Charles Cryan, Director of Fiscal Services
Date: 1/12/04

EXHIBIT C

Obligations of Purchaser

Purchaser agrees to use reasonable efforts to:

A. Provide, properly maintain, and enhance as needed a stable source of electrical power and a computing, network, and telecommunications platform, equipment, and/or structure that is appropriate to operate products and equipment provided by Active Network;

B. Provide, properly train, and maintain adequate personnel and staffing to properly operate and maintain equipment and products provided by Active Network;

C. Create or form a committee of staff to function as a "core group" that will provide first level support for questions or issues that arise;

D. Create a method or committee to evaluate and resolve internal differences and make decisions that encourage continuity and a standardized method of operation;

E. Develop appropriate system and software security and data backup strategies and ensure that the software and data is fully secure and protected and that the backup procedures are fully and properly executed at all times. Purchaser agrees that Purchaser is solely responsible for the software and data security, integrity and accessibility of Purchaser's data. Furthermore, Purchaser agrees that they understand the need to back up regularly and protect their software and data and that Active Network shall not be held liable for security or loss of any data under any circumstances;

F. Provide a training facility, color overhead LCD projector, and workstations for staff to be trained;

G. Conduct advance scheduling of training rooms and staff schedules of all personnel who will receive training;

H. Conduct initial software setup functions and all data entry;

I. Conduct initial parallel operation and continuing verification and manipulation of transaction and financial data to the Purchaser's satisfaction before any products are used in a "live" environment;

J. Provide "System Administrator" staff at the beginning of the project, and make appropriate adjustments to work responsibilities so that they may devote time as needed for the initial training, initial work on the project, and for recurrent training and recurrent work on the project;

K. Provide direction to recreation staff and managers so that they allocate time and resources necessary to learn the new system and implement it;

L. Monitor the progress as the project begins, and respond effectively if the Center or staff begins falling behind;

M. Promptly pay all undisputed invoices presented by Active Network (within 30 days of invoice date); and,

N. Not modify products and equipment provided by Active Network. Should Purchaser make alterations or modifications, Active Network shall have the right to charge for any additional effort or services that are required or results from providing program services of an altered Licensed Program or for a release that is not current.

EXHIBIT D

Custom programming to be provided to The City of College Station by Active Network

Active Network agrees to provide the following enhancements:

A. Add the ability to enroll teams into activities in RecWare Safari, which will require the following changes:

- Modification of enrollment process to allow entry of team name and contact info (coach) instead of a customer name
- Modification of rosters to show team names instead of individuals
- Modification of receipt to show team names instead of individuals
- Modification of team management to allow entry of players

Timeframe: RecWare Safari Spring Release 2004.

B. Add custom questions to the RecWare Safari enrollment process, this will require the following changes:

- Modification of question setup process to allow easier question configuration
- Modification of enrollment screen to allow asking of question and input collection

Timeframe: RecWare Safari Spring Release 2004.

C. Provide functionality for RecWare Safari facility reservation to interface with automatic lighting control hardware/software, i.e. Sky Logix

- Allow configuration of multiple lighting units associated with each facility.
- Based on scheduled usage of facilities within Safari, turn lights for those facilities on and off at appropriate times.

Timeframe: To be determined -- Dependent upon the City of College Station's timeframe and process for choosing a ball field lighting control vendor.

D. Provide support for Teleworks interface with RecWare Safari Software for telephone registration.

- RecWare will provide API's, technical support and documentation to TeleWorks required to provide basic activity registration functionality through touchtone. Functionality will be similar to RecWare's Touchtone.

Timeframe: Active Network and TeleWorks have initiated the process to develop in partnership the before mentioned interface. Since Active Network is reliant on TeleWorks for this development, Active Network cannot guarantee any specific development time frame. However, Active Network is committed to work in a commercially reasonable manner on this development. Active Network anticipates that the development timeframe will occur over the course of the next six months.

E. Add the ability to do equipment reservations and to track check-in/check-out of equipment.

- Provide the ability for the user to include equipment on the reservation.

- Provide an equipment check-out/check-in component that will allow reading of reservations and check-in and check-out tracking.

  - Provide the ability to do ad hoc rental when checking out a piece of equipment.

  - Some equipment (basketballs, etc.) will be checked-in/checked-out on a strictly ad hoc basis.

  - Provide ability to track status of checked equipment.

  - Provide the ability to place a deposit on equipment and hold the reservation, and later pay the balance to complete the reservation.

- Modify all calendar and column reports to include facilities, equipment or both and modify all reports to clearly show equipment vs. facilities.

Timeframe: RecWare Safari Fall Release 2003.

Penalty: Active Network agrees that the City of College Station reserve five percent (5%) of the value of the quoted products, as a hold back until the City of College Station provides acceptance of RecWare Safari and the noted customizations.

[Any software customization programming must be preceded by mutually agreed upon written customization specifications, which have been finalized by both parties.]

Exhibit E

Testing and Acceptance Criteria

The City of College Station, TX will provide The Active Network, Inc. with a written acceptance on the completion of each area of functionality below within the timeframe outlined in the Purchase Agreement.

Verification of the bulleted functionality listed in Exhibit E will be deemed tested and accepted by Purchaser upon completion of the corresponding functional procedure within the RecWare Safari software. This acceptance will be noted by checking the empty box preceding each functional procedure below:

- The software allows the System Administrator to create user "profiles" that allows granting security rights to various functions of the system. Each user may be given read/write or read only access where applicable. Each user may be attached to a specific group, which gives them all of the rights to a particular group. The System Manager is able to change the specific rights for any individual user.

  ☐ Add Profile option.

- The Software has a customer master file. This one file contains all pertinent customer information. It includes but is not limited to, name, address, phone number, e-mail, legal guardian information and date of birth. This customer master file is used for all modules and may be updated at any time.

  ☐ Add Customer to system

- The Software allows staff to access all functional areas of the software from one screen.

  ☐ Click on the major Headings in the Task Manager

- The Software allows unlimited combinations of transactions from multiple functional areas onto a single receipt and without having to close and launch separate modules.

  ☐ Enroll into Activity and sell a POS item

- Required Participant/Payee/Customer information is the same in all functional areas.

  ☐ The system requires the following fields: First Name, Last Name, Address1, Home (or Work) Phone

- The ability to refund and Void are password protected or otherwise limited in access only to specific individuals authorized by the System Manager.

  ☐ This is a Profile option in the Profiles.

- Software produces financial reports including Daily, Monthly an Yearly Closes based on Date or receipt as well as Income, Expense and Net Revenue Reports that can be sorted by account number project code or cost center, and can include all functional areas.

  ☐ Daily Close Reports
  - Run Cash Receipts report
  - Run Cash Distribution Report

  Financial Reports
  - Run Net revenue report by GL Account

Run Net revenue report by Site
Run Net revenue report by Facility

- Software allows G/L accounts to be set up in the same manner as the current City financial system (HTE) with alphanumeric project codes and can export all financial data to the City's accounting system.

  ☐ Add GL Account

- Software will allow the enrollment of a participant into several activities in the same transaction or allow several participants into the same activity in the same transaction.

  ☐ Multi-enroller option for one person into many classes
  Use Same Activity check box for many people into one class

- Software allows the capture of both basic participant information, such as Name, address, contact information, e-mail birthdate and gender, as well as notes specific to either the activity, the participant or both.

  ☐ Add Customer

- Software can accept new enrollments, withdrawals, transfers waiting lists and voids.

  ☐ Enroll into Activity
  Transfer into a second Activity
  Withdraw from second Activity

- Software notifies the operator if they attempt to enroll a participant into an activity in which the participant is already enrolled, to old, to young, have not had prerequisite classes, the program is full or the registration time period has either not started or is expired.

  ☐ Enroll into an activity with a participant that is 101 years old
  Enroll into full class

- Software produces rosters for activities, which can show basic information such as name and contact information.

  ☐ Registration Reports
  Roster, Brief

- All modules have the capability to operate independently or simultaneously with other modules.

  ☐ Open Enrollment Screen
  Open Reservation Screen
  Open POS Items
  Reserve facility and print receipt
  Enroll into Activity and sell POS Item print receipt
  Close all screens

- When operated together Facility Reservation, Registration and League Scheduling shall have the ability to set up programs, schedule facilities and schedule leagues if necessary without having to duplicate data entry.

  ☐ Create Facilities

Create Activity
Add Teams to Activity
Create League
Link Activity to League
Create Schedule

- Software does not allow double booking of facilities and will recognize overlap conflicts.

  Create 3 Facilities
  Using Facility overlap create and overlap scenario
  Reserve main facility
  Check the sub facilities for overlapping reservations

- Software will produce league schedules based on either round robin play or based on number of weeks of play, and all schedule are customizable after they are created.

  Create facilities
  Create a league
  Add Teams
  Create a schedule with round robin
  Create a schedule without round robin
  Customize schedule

- Software is capable of basic demographic analysis to determine such items as number of registrations, number of individual participants and their residency.

  Run Marketing Reports

- Software can produce, issue and recognize a variety of membership passes.

  Add Pass Layout

- City has the option to use barcode or magnetic strip passes.

  Add Pass Layout

- Software has the ability to use and track UPC codes for Point of sale.

  Add POS Product/Enter UPC code

- Software allows multiple persons or companies to pay for transactions

  Payment Screen/Multiple payers

- Receipts, Vouchers, and Permits may be reprinted individually or in batches

  Billing/Invoicing
  Reports
  Receipt Reports

- All reports may be viewed on screen prior to printing

  Preview Reports

- Software allows an activity, group of activities or season to be designated closed and will not allow registration into those programs.

  ☐ Activity status - Mass open/close

- Software allows multiple fees and G/L accounts to be assigned to activities and facilities.

  ☐ Charges/GL Account

- Software will pre-fill fees for pre-designated conditions, such as non-resident

  ☐ Charges/Pre-fill Condition

- Software allows default charges for facility rentals based on a combination of facility type and customer type.

  Add Charges to Charge Matrix

- Software allows multi-day and 24 hour facility rentals, even if multi day rental is not on consecutive or like days.

  ☐ Pending reservations

- Software allows the attachment of pre written disclaimers to be attached to rental permits.

  ☐ Add Disclaimers

- Software allows searching for a rental facility by name, type, or location.

  ☐ Permit search screen
  Reservation Grid

- Software allows tracking of event names and attendance

  ☐ Reservation Confirmation Screen
  Edit Reservation

- Standard setup instructions are allowed and assignable to facilities based on facility, facility type, or event type.

  ☐ Prep Codes – Event Setup Notes

- System tracks use of equipment for facility rental makes the equipment unavailable for use elsewhere.

  ☐ Equipment Rental

- System allows tracking of cancellations and reasons for cancellations

  ☐ Add Reasons

- System generates a facility setup report with a listing of all rentals for a given period,, hour, day, month etc. with specific setup instructions.

  ☐ Event setup report

- System automatically designates minimum time between rentals of the same facility.

  ☐ Attribute on Facility screen

- System allows transfer of rentals from one facility to another.

  ☐ Move Reservation

- System allows for e-mailing of rainout notification to renters

  ☐ Marketing reports

- Software tracks customer status with regards to insufficient fund checks and notifies operator of same.

  ☐ Special Handling in Customer screen

- System allows user defined text for activities, including text for export to publishing software, notes for a participant receipt or on screen notes for staff use during registration.

  ☐ Text button on activities screen

- Software has a scheduling calendar that allows for searching for facilities that can show multiple facilities, multiple days and can allow point and click selection of the desired facility and time.

  ☐ Scheduling Calendar Tab in reservation screen

- Individual users may set their own password without the system manger having access to it. System manger may force changes to passwords.

  ☐ System User attribute/Allow password change

- System will calculate prorated fees for activities in which classes have already taken place if desired.

  ☐ Activity Generation/Charges

The City of College Station, TX has the right to reasonably refuse (should reasonable grounds exist) to accept any particular area, however, once the City provides written acceptance, that acceptance cannot be withdrawn or rescinded thereafter.

City of College Station
Purchase Order

Purchase Order No.
040516
Above number must appear on all correspondence
Date
02/19/04

1101 Texas Avenue P O Box 9960
College Station, Texas 77842-0960
(979) 764-3555 Fax: (979) 764-3899
www.ci.college-station.tx.us

34263

VENDOR
RECWARE, ACTIVE NETWORK, INC.
937 ENTERPRISE DRIVE
SACRAMENTO, CA 95815-4666

TEL# (888) 732-9273
FAX# (916) 925-0649

SHIP TO
CITY OF COLLEGE STATION
UTILITY SERVICE CENTER
OTIS/COMMUNICATIONS
310 KRENEK TAP ROAD
COLLEGE STATION, TX 77845

DELIVER BY	F.O.B.	TERMS	ACCOUNT NO.	PROJECT NO.	REQ. NO.	BID NO
02/23/04	COLLEGE S	NET/30	13791119717020	CO0402		

LINE	QUANTITY	UOM	DESCRIPTION	UNIT COST	EXTENSION
1	9995.00	EA	SAFARI CENTRAL SOFTWARE INCLUDING: FULLY INTEGRATED CLIENT/SERVER RECREATION SOFTWARE COMPATIBLE WITH MICROSOFT SQL SERVER OR ORACLE INTEGRATED CUSTOMER ACCOUNT MANAGEMENT INTEGRATED FINANCIAL TRACKING SYSTEM INTEGRATED DATA REPORTING ENGINE INTEGRATED .AVI VIDEO HELP/VIDEO TRAINING BASE/INCLUDED CONCURRENT USER LICENSES--5 INCLUDED NUMBER OF GEOGRAPHIC SITES/LOCATIONS--13 NUMBER OF WORKSTATIONS--30 VENDOR ITEM NO.- SAFARI CORE SYSTEM	1.0000	9995.00
2	3995.00	EA	ACTIVITY REGISTRATION	1.0000	3995.00
3	3995.00	EA	FACILITY RESERVATION	1.0000	3995.00
4	3995.00	EA	MEMBERSHIP MANAGEMENT	1.0000	3995.00
5	3995.00	EA	LEAGUE SCHEDULING	1.0000	3995.00
6	3995.00	EA	INVENTORY CONTROL	1.0000	3995.00
7	1000.00	EA	FINANCIAL INTERFACE	1.0000	1000.00
8	395.00	EA	CRYSTAL REPORTS (SINGLE USER LICENSE)	1.0000	395.00
9	1000.00	EA	ENTITY RELATIONSHIP DIAGRAM/ENCYCLOPEDIA	1.0000	1000.00
10	20000.00	EA	TOTAL USER LICENSES & USER LICENSE INVESTMENT--25	1.0000	20000.00
11	1000.00	EA	TRIPS TO CUSTOMER LOCATION *TRAVEL FEES ARE ALL-INCLUSIVE	1.0000	1000.00
12	18.00	EA	SERVICE DAYS--ON-SITE AT CUSTOMER LOCATION *TRAVEL FEES ARE ALL-INCLUSIVE	1250.0000	22500.00
13	1000.00	EA	PROJECT MGMT DAYS (ACTIVE'S OFFICE) *TRAVEL FEES ARE ALL-INCLUSIVE	1.0000	1000.00
14	150.00	EA	SOFTWARE ESCROW AGREEMENT (ANNUAL)	1.0000	150.00
15	11168.00	EA	SOFTWARE MAINTENANCE (ANNUAL) PAYMENT SCHEDULE: DOWN PAYMENT DUE AT CONTRACT SIGNING 25% $22,046 PAYMENT DUE UPON SHIPMENT OF SOFTWARE 50% $44,092	1.0000	11168.00

NOTICE TO VENDOR: To insure prompt payment mail invoice in duplicate and copy of paid freight bill to be included if invoicing for prepaid freight. Mail invoice to Attn: Accounting Department, P. O. Box 9973, College Station, Texas 77842-0973. The City of College Station is exempt from Federal, State, and Local taxes. Federal No. is 1-74-6000534-5.

GRAND TOTAL

Cheryl K. Turney

PURCHASING AGENT

City of College Station
Purchase Order

Purchase Order No.
040516
Above number must appear on all correspondence
Date
02/19/04

1101 Texas Avenue P O Box 9960
College Station, Texas 77842-0960
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DELIVER BY	F.O.B.	TERMS	ACCOUNT NO.	PROJECT NO.	REQ. NO.	BID NO
02/23/04	COLLEGE S	NET/30	13791119717020	CO0402		

LINE	QUANTITY	UOM	DESCRIPTION	UNIT COST	EXTENSION
			PYMT DUE @ RENDERING INITIAL SERVICES 20% $17,637 PYMT DUE @ ACCEPTANCE OF SW PER EX D 5% $4,408 CONTRACT #'S 04-XXQ, 04-XXR, 04-XXS PRICES, TERMS, AND CONDITIONS OF CONTRACTS: 04-XXQ PURCHASE AGREEMENT FOR RECWARE SOFTWARE 04-XXR SOFTWARE SUBSCIPTION AGREEMENT (MAINT) 04-XXS SOFTWARE ESCROW AGREEMENT		

NOTICE TO VENDOR: To insure prompt payment mail invoice in duplicate and copy of paid freight bill to be included if invoicing for prepaid freight. Mail invoice to Attn: Accounting Department, P. O. Box 9973, College Station, Texas 77842-0973. The City of College Station is exempt from Federal, State, and Local taxes. Federal No. is 1-74-6000534-5.

GRAND TOTAL	88183.00

Cheryl K. Turney

PURCHASING AGENT

[redacted] of College Station
[redacted]urchase Order

1101 Texas Avenue P O Box 9960
College Station, Texas 77842-0960
(979) 764-3555 Fax: (979) 764-3899
www.cstx.gov

Purchase Order No.
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Date
02/19/04

CHANGE #: 1

34263 DATE CHG: 05/26/06

VENDOR	SHIP TO
RECWARE, ACTIVE NETWORK, INC. 937 ENTERPRISE DRIVE SACRAMENTO, CA 95815-4666 TEL# (888) 732-9273 FAX# (916) 925-0649	CITY OF COLLEGE STATION UTILITY SERVICE CENTER OTIS/COMMUNICATIONS 310 KRENEK TAP ROAD COLLEGE STATION, TX 77845

DELIVER BY	F.O.B.	TERMS	ACCOUNT NO.	PROJECT NO.	REQ. NO.	BID NO
06/30/06	COLLEGE S	NET/30	13791119717020	CO0402		

LINE	QUANTITY	UOM	DESCRIPTION	UNIT COST	EXTENSION
			**********		
			* *		
			* CHANGE ORDER *		
			* *		
			**********		
1	9995.00	EA	SAFARI CENTRAL SOFTWARE INCLUDING: FULLY INTEGRATED CLIENT/SERVER RECREATION SOFTWARE COMPATIBLE WITH MICROSOFT SQL SERVER OR ORACLE INTEGRATED CUSTOMER ACCOUNT MANAGEMENT INTEGRATED FINANCIAL TRACKING SYSTEM INTEGRATED DATA REPORTING ENGINE INTEGRATED .AVI VIDEO HELP/VIDEO TRAINING BASE/INCLUDED CONCURRENT USER LICENSES--5 INCLUDED NUMBER OF GEOGRAPHIC SITES/LOCATIONS--13 NUMBER OF WORKSTATIONS--30 VENDOR ITEM NO.- SAFARI CORE SYSTEM	1.0000	9995.00
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10	20000.00	EA	TOTAL USER LICENSES & USER LICENSE INVESTMENT--25	1.0000	20000.00
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GRAND TOTAL

Cynthia Scirulli

PURCHASING AGENT

[redacted] of College Station
[redacted]urchase Order

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34263 DATE CHG: 05/26/06

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LINE	QUANTITY	UOM	DESCRIPTION	UNIT COST	EXTENSION
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			* *		
			* CHANGE ORDER *		
			* *		
			**********		
14	150.00	EA	SOFTWARE ESCROW AGREEMENT (ANNUAL)	1.0000	150.00
15	11168.00	EA	SOFTWARE MAINTENANCE (ANNUAL) PAYMENT SCHEDULE: DOWN PAYMENT DUE AT CONTRACT SIGNING 25% $22,046 PAYMENT DUE UPON SHIPMENT OF SOFTWARE 50% $44,092 PYMT DUE @ RENDERING INITIAL SERVICES 20% $17,637 PYMT DUE @ ACCEPTANCE OF SW PER EX D 5% $4,408 CONTRACT #'S 04-XXQ, 04-XXR, 04-XXS PRICES, TERMS, AND CONDITIONS OF CONTRACTS: 04-XXQ PURCHASE AGREEMENT FOR RECWARE SOFTWARE 04-XXR SOFTWARE SUBSCIPTION AGREEMENT (MAINT) 04-XXS SOFTWARE ESCROW AGREEMENT	1.0000	11168.00
16	5000.00	EA	ADD WEB INTEGRATION IN TELE-WORKS API	1.0000	5000.00
17	1250.00	EA	ANNUAL MAINTENANCE FOR API	1.0000	1250.00
			Change Order #1 - Added $6,250.00		

NOTICE TO VENDOR: To insure prompt payment mail invoice in duplicate and copy of paid freight bill to be included if invoicing for prepaid freight. Mail invoice to Attn: Accounting Department, P. O. Box 9973, College Station, Texas 77842-0973. The City of College Station is exempt from Federal, State, and Local taxes. Federal No. is 1-74-6000534-5.

GRAND TOTAL 94433.00

PURCHASING AGENT

January 11, 2007
Consent Agenda Item No. 12.29
Interlocal Agreement between the City of College Station and the College Station Independent School District (CSISD) for the Construction of Drainage Improvements at Pebble Creek Park

To: Glenn Brown, City Manager

From: Eric Ploeger, Assistant Director of Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion regarding an Interlocal Agreement between the City of College Station and the College Station Independent School District (CSISD) for the construction of drainage improvements to Pebble Creek Park, an equal, cost-sharing project, with the City of College Station's portion not to exceed the amount of $50,000.

Recommendation(s): Staff recommends approval of the Interlocal Agreement between the City of College Station and CSISD for drainage improvements to Pebble Creek Park. This is an equal, cost-sharing agreement, with the City of College Station's share not to exceed $50,000. The CSISD School Board approved the Interlocal Agreement during its November 20, 2006 meeting.

Summary: Initial development of Pebble Creek Park occurred in 1996. The park is immediately adjacent to the Pebble Creek Elementary School and is a typical neighborhood park with playgrounds, a basketball court, sidewalks, and practice fields. The playgrounds and basketball court are in close proximity to the school and are heavily used. Both the school grounds and the park have very little slope, consequently drainage in the playground area is poor with muddy conditions for extended periods after rain.

These conditions prompted both the school district and the city to work together to reach a solution. The Parks and Recreation Department contracted with Mitchell and Morgan Engineering to develop a solution to this drainage problem. Design documents have been prepared that call for an improved drainage channel that will extend to an existing underground drainage structure on the east end of the park. This will increase the slope of the current drainage channel to provide more positive drainage. The project also calls for additional irrigation to help establish grass in the heavily used areas.

Budget & Financial Summary: The engineer's estimate for the project is $89,000. The improvements will be constructed on both school district property and park property. The Interlocal Agreement calls for the City of College Station and CSISD to share equally in the cost, with a maximum cost of $50,000 to the City of College Station. CSISD will administer the construction project.

The City of College Station source of funding for our portion of this project will be from the Drainage Utility Fund, Minor Drainage Improvements.

Attachments:
1) Interlocal Agreement
2) Drainage Improvements Site Plan
3) Park Location Map

INTERLOCAL AGREEMENT BETWEEN THE CITY OF COLLEGE STATION AND COLLEGE STATION INDEPENDENT SCHOOL DISTRICT FOR THE CONSTRUCTION OF DRAINAGE IMPROVEMENTS TO PEBBLE CREEK PARK

This agreement is made and entered into this 20th day of November, 2006, by and between the CITY OF COLLEGE STATION, TEXAS (hereinafter referred to as "City"), a Texas Home Rule Municipal Corporation, and COLLEGE STATION INDEPENDENT SCHOOL DISTRICT, a Texas local government (hereinafter referred to as "CSISD"), acting through its Board of Trustees.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments 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, and engineering;

WHEREAS, the City 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, CSISD is a Texas local government and is authorized by the authority of its Board of Trustees to enter into this Agreement;

WHEREAS, CSISD and the City each own property, with such property known collectively as the Pebble Creek Park, located adjacent to Pebble Creek Elementary School in Brazos County, College Station, Texas;

WHEREAS, CSISD and the City have identified a drainage problem at Pebble Creek Park;

WHEREAS, CSISD and the City desire construction of drainage improvements at Pebble Creek Park in order to resolve the drainage problem;

WHEREAS, the City agrees to cooperate with CSISD in the construction of drainage improvements to Pebble Creek Park for the mutual benefit of both parties;

WHEREAS, the City will provide and pay for the design of the drainage improvements;

WHEREAS, CSISD will provide and pay for construction of the drainage improvements;

WHEREAS, the City and CSISD agree that the City will reimburse half of the cost of construction of the drainage improvements to CSISD, in a total amount not to exceed **Fifty Thousand and No/100 Dollars ($50,000.00),** for the expenses incurred in the construction of the drainage improvements and that any and all additional funds necessary for the construction of the drainage improvements will be expended by CSISD;

WHEREAS, the City agrees to maintain the drainage improvements;

WHEREAS, the City and CSISD desire to enter into an Interlocal Agreement for the purpose of constructing the drainage improvements in Pebble Creek Park;

NOW THEREFORE, for and in consideration of the representations and recitations hereinabove and the promises and covenants that follow hereinbelow, the parties enter into this Agreement pursuant to the above-named act to authorize CSISD to contract for construction of the drainage improvements on behalf of itself and the City under the following terms and conditions.

The following establishes the obligations of each party for the Drainage Improvements to be constructed in Pebble Creek Park, on both the portion owned by CSISD and the portion owned by the City.

1. **Scope of Services**

CSISD will advertise the project to the public for bids or proposals and upon receipt of a bid or proposal response that is acceptable to the Board of Trustees, CSISD will contract with an independent contractor for the construction of drainage improvements at Pebble Creek Park (hereinafter "Project") in accordance with the design and specifications outlined in the scope of services which is attached hereto as Exhibit "A" and incorporated herein for all purposes.

CSISD may not modify the scope of services for the Project without the express written authorization of the City. Notwithstanding the foregoing, if there are no bids or proposals reasonably acceptable to CSISD, or if the total cost of the Project is reasonably expected to exceed $100,000.00, then CSISD may terminate this Agreement by giving written notice to the City setting forth the basis for such termination.

2. **Insurance**

CSISD shall require that the Contractor's insurance coverage be primary with respect to CSISD and the City, their officials, employees, and volunteers, and that the City is included as an "Additional Insured" on the policies required in the contract between CSISD and the Contractor. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers, shall be considered in excess of the CSISD's and Contractor's insurance and shall not contribute to it. **All Certificates of Insurance and endorsements shall be furnished to both the City's and CSISD Representative and approved by the City and CSISD before work commences on the Project.**

3. **Project Cost and Payment Provision**

Upon final completion of the Project, CSISD will submit a request for reimbursement to the City accompanied by a detailed, written invoice. The City will reimburse one-half of the actual cost of the Project to CSISD; subject to the limitation that the City's reimbursement to CSISD shall not

exceed $50,000.00. CSISD agrees to pay all costs of the Project that exceed the City's reimbursement. The City shall pay CSISD within ten (10) days of the City's receipt of the invoice.

4. **Term of Work**

All work on this Project must be completed by September 1, 2007; subject to weather delays, force Majeure, and other construction delays not reasonably within the control of CSISD. CSISD shall notify the City, in accordance with Paragraph 10, in the event that any extensions to the completion date are anticipated of this Agreement.

5. **Time is of the Essence of this Agreement**

Time is of the essence in this Agreement.

6. **The City and CSISD Further Agree That:**

a. Payments for this service will be taken from the available current revenues of each party.
b. The terms and conditions of the Agreement may be modified as provided in Paragraph 14 hereinbelow, and upon the mutual consent of both parties. Mutual consent will be demonstrated approval of each governing body of each party hereto.
c. From and after the completion of the Project, the City shall maintain the Project and the drainage improvements.

7. **Termination**

This Agreement may be terminated by either party at any time before the contracts for construction are entered into by CSISD, by providing thirty (30) days advance notice to the non-cancelling party. Notice of termination shall be in writing and provided in accordance with Paragraph 12 herein.

8. **Indemnification**

Subject to the limitations as to damages and liability under the Texas Tort Claims Act or the Texas Recreational Use Statute, and without waiving its governmental immunity, each party to this Agreement agrees to hold harmless each other, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused, or asserted to be caused, directly or indirectly by any other party to this Agreement, or any of its officers, agents or employees as a result of its performance under this Agreement.

9. **Consent to Suit**

Nothing in this Agreement will be construed as a waiver or relinquishment by CSISD or the City of its right to claim such exemptions, privileges and immunities as may be

provided by law. Neither the City nor CSISD, by entering into this Agreement, gives its consent to suit.

10. **Municipality Privileges and Immunities**

Nothing in this Agreement will act as a waiver or relinquishment by either party of any right, exemption, privileges and/or immunities that may be provided by law.

11. **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.

12. **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.

College Station Independent School District
ATTN: Eddie Coulson, Superintendent
1812 Welsh
College Station, Texas 77840

City of College Station
Parks and Recreation Department
ATTN: Steve Beachy, Director
1000 Krenek Tap Road
College Station, Texas 77840

13. **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 terms or obligations hereunder.

14. **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.

15. **Texas Law**

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

16. **Place of Performance**

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

17. **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 corporations.

18. **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 or 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.

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.

22. **Effective Date**

This Agreement will be effective when signed by the last party whose signing makes the Agreement fully executed.

COLLEGE STATION INDEPENDENT SCHOOL DISTRICT

By: _____

Printed Name: TIM JONES

Title: PRESIDENT

Date: 11-20-06

CITY OF COLLEGE STATION

By: _____

Ron Silvia, Mayor

Date: _____

ATTEST:

_____

Connie Hooks, City Secretary

Date: _____

APPROVED:

_____ _____

Glenn Brown, City Manager **Date**

Carla A Robinson _____

City Attorney **Date**

_____ _____

Jeff Kersten, Chief Financial Officer **Date**

Exhibit "A"

Attached hereto and incorporated herein for all purposes is the scope of services which includes and design specifications.

EXHIBIT A

SPECIAL SPECIFICATIONS
TABLE OF CONTENTS

Specification	101	Mobilization
Specification	106	Erosion and Sedimentation Control
Specification	130	Excavating, Trenching and Backfilling
Specification	150	Concrete
Specification	160	Clearing and Grubbing
Specification	165	Hydro-Mulch Seeding
Specification	200	Storm Drainage System
Specification	250	Reinforced Concrete Riprap
Specification	302	Excavation and Embankment
Specification	370	Concrete Sidewalk
Specification	708	Topsoil and Sodding
Specification	02750	Irrigation System

STATE OF TEXAS
VERONICA J.B. MORGAN
77689
REGISTERED
PROFESSIONAL ENGINEER

10-12-06

Pebble Creek Park
Bid Tab

Item No.	Quantity	Units	Description & Unit Price in Words	Unit Price	Total Price
Ladies and Gentlemen: Pursuant to the foregoing Notice to Contractors and Instructions to Bidders, the undersigned Bidder hereby proposes to do all work and to furnish all necessary superintendence, labor, machinery, equipment, tools and materials and to complete all work upon which the bids, as provided by the attached Specifications and shown on the Plans, and binds himself according to the accompanying forms for performing and completing the said work within the required time as set forth hereinafter, and to furnish all required guarantees, for the following prices, to wit:					
			BASE BID - PEBBLE CREEK PARK		
General Items					
1	1	LS	Mobilization , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
2	390	SF	Demo Concrete Sidewalk , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
3	1	EA	Demo Storm Sewer Pipe , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
Drainage/Sidewalk Items					
4	2	EA	Concrete Flume with Bolted Trench Plate , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
5	1	LS	Excavation , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
6	30	SF	3' Wide Concrete Flume , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
7	1	EA	New Headwalls / Retaining Wall , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
8	2	EA	Relocate Trees- 2 live oaks- 4 cal. , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
9	390	SF	New Sidewalk , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
Landscape Items					
10			Add 2 Zones of irrigation for Lawn areas per plan , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
11	636	SF	Solid Sod & Soil Preparation , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
12	1	LS	Hydromulch & Topsoil , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
13	24	Bubblers	Relocate Existing Irrigation System along berms only , complete and in place for the sum of _____ dollars and _____ cents per unit.	$_____	$_____
			Total Base Bid		$_____

SPECIAL CONDITIONS

Pebble Creek Park and School Drainage Improvements

1.0 PROJECT SPECIFICATIONS

1.1. The B/CS Unified Technical Specifications dated January 2005 are hereby included as technical specifications for this project. These specifications and all updates are available at: **http://www.bcsunited.net**

1.2. Additional technical specifications are included in this contract book.

2.0 PROJECT DESCRIPTION

2.1. The contractor will regrade approximately 920 linear feet of drainage channel, remove 34 linear feet of storm drain, construct a special headwall system on the storm sewer line and install two sidewalk trench grates and associated replacement of sidewalk, along with irrigation, and seeding and sodding of the disturbed area.

3.0 PROJECT START

3.1. Before commencing construction the Contractor shall meet with the Owners Representative, the Engineer and the City Parks Department to discuss the work plan, layout of the work based upon the construction plans, safety, construction sequence and project schedule.

4.0 PROJECT PARKING, EQUIPMENT AND MATERIAL STORAGE

4.1. The Contractor's equipment, private automobiles, materials, etc shall be kept to those areas of the public rights-of-way in a fashion which does not obstruct any roadway, driveway, etc. The Contractor may obtain additional offsite parking and storage area(s). Written permission allowing the use of such areas will be required from the property owner(s) prior to the use of such areas. Any areas damaged by the parking, equipment, material storage, etc shall be repaired to "as good or better" condition including regrading and re-vegetation as required. Repair of these areas shall be subsidiary to the cost of "Mobilization."

5.0 TRAFFIC CONTROL

5.1. The Contractor is responsible for assuring that his construction and/or equipment does not impede or interfere with any vehicular, pedestrian or bicycle traffic. If traffic control is required it shall be designed by the Contractor in accordance with the Texas MUTCD.

6.0 SAFETY AND CONTROL OF WORK AREA

6.1. The Contractor shall assure that all work areas are properly cordoned off from school children while under construction. The Contractor shall propose the means and methods for this work and it must be approved by the Owners Representative prior to commencing construction.

7.0 DIFFERING SITE CONDITIONS

7.1. Existing site conditions shall be determined through a combination of the improvement plans and visual evidence in the field. Surface facilities such as valves or linear patches shall be considered sufficient evidence that an underground facility exists in that location. The Contractor shall pothole and physically verify the location and depths of all underground utilities and structures prior to work in that area of the project. In particular, all utilities that are located along the new channel grading shall be field verified. This work shall be considered subsidiary to Specification No. 101, "Mobilization and Project Overhead." The Owner's Representative will serve as the liaison between the Contractor and all utility companies and the City.

7.2. Damage to structures or facilities shown on the improvement plans, marked in the field, or surmised from visual evidence shall be the sole responsibility of the Contractor.

7.3. Relocation of or damage to (except as provided under 8.2) structures or facilities which have been found in the field to be in conflict with the proposed improvements and could have been surmised from the plans or visual evidence in the field shall be performed by the Contractor at no extra expense as they are considered subsidiary to the item of work being performed. Relocation of or damage to structure or facilities which have been found to be in conflict with the proposed improvements and were clearly not evident through thorough field investigation shall be performed by the Contractor as Extra Work or by the Owner of the facility under the City Franchise rights, as determined and decided by the Owner's Representative.

8.0 PROTECTION OF EXISTING FACILITIES AND STRUCTURES

8.1. It shall be the sole responsibility of the Contractor to protect all existing facilities from damage caused by or arising out of the work. The Contractor shall utilize such methods as he deems necessary to progress with the work without causing damage to facilities or structures both above and below ground.

8.2. Methods employed by the Contractor which, in the opinion of the Owner's Representative, are causing or will cause damage to existing structures or facilities will be modified or terminated upon written notice of such damage to the Contractor by the Owner's Representative, with no delay or damage charges payable to the Contractor for compliance with this section.

8.3. Information and data reflected in the Bidding Documents with respect to underground facilities at or contiguous to the site is based upon information and data from the Owner's files for its underground facilities and information and data furnished by Owners of other underground facilities.

8.4. Before submitting a Bid, each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface, and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the terms and conditions of the Bidding Documents.

9.0 TREE PROTECTION & RELOCATION

9.1. Existing trees located within the work zone shall be protected. The contractor is responsible for replacing, at his expense, all trees or vegetation that are damaged as a result of his negligence.

9.2 Several trees and shrubs are indicated for relocation. The Contractor shall coordinate this relocation with the City Parks Department. If the relocated vegetation dies within the 1 year warranty period, the Contractor shall be responsible for replacement, at his expense, with like size and species.

10.0 EROSION CONTROL

10.1. The Contractor shall be responsible for any and all materials, improvements, and maintenance activities necessary to keep dust, silt, and mud from leaving the work zone, including being tracked by vehicles traveling throughout the zone.

10.2. Should, in the opinion of the Owner, the Contractor fail to prevent the escape of dust from the project, after due notification by the Owners Representative, Owner forces will be used to contain the dust, as needed, and the cost of the same will be deducted from this contract.

10.3. Prior to Substantial Completion, the Contractor shall verify that no dust, silt, or mud exists within the work zone in deposits deeper than two inches (2") as a result of the contractor's containment procedures. Should the Contractor claim final completion without removing such deposits, they will be removed by Owner forces and the cost of which shall be deducted from the contract.

11.0 IRRIGATION SYSTEMS

11.1. The Contractor shall be responsible for the relocation of all private irrigation piping, heads, controllers and all appurtenances that conflict with the project. The Contractor shall coordinate this work with the adjacent property owners. This work shall be paid for as a lump sum as indicated in the bid proposal under RELOCATION OF PRIVATE IRRIGATION SYSTEMS.

12.0 TIME EXTENSIONS

12.1. Time extension requests must be submitted to the Owners Representative within 30 days of the incident, which created the delay. All appropriate paperwork documenting the incident and their effect on the project schedule must be submitted with the request.

13.0 JOINT SEALER & FILLERS/EXPANSION JOINT MATERIAL

17.1 G-Seal by Greenstreak is considered an acceptable equivalent for all joint applications on this project. Material shall be placed in accordance with all manufacturers' specifications.

14.0 PROJECT BENCHMARK

14.1. The project does not have a benchmark. The elevations shown on the plan were established based upon the finished floor of the school.

B/CS UNIFIED
SPECIFICATION NO. 101

MOBILIZATION

101.01 DESCRIPTION:

This item shall govern for the establishment of office and other facilities at the project site and the movement of personnel, construction equipment and supplies to the project site or to the vicinity of the project site in order to enable the Contractor to begin work on the other contract items that will be performed by the Contractor. The cost of the payment bond and performance bond on projects that cannot begin because of a closed construction season or for the convenience of the City will be considered part of the mobilization item under this contract.

101.02 MATERIALS

(NOT USED)

101.03 SUBMITTALS

(NOT USED)

101.04 CONSTRUCTION METHODS

(NOT USED)

101.05 MEASUREMENT:

This Item will be measured by the "Lump Sum", as the work progresses.

101.06 PAYMENT:

Partial payments of the "Lump Sum" bid for mobilization will be as follows. The adjusted contract amount for construction items as used below is defined as the total contract amount less the lump sum bid for Mobilization.

A. Upon presentation of a paid invoice for the payment bond, performance bond and/or required insurance, the Contractor will be paid that cost from the amount bid for mobilization.

B. When 1% of the adjusted contract amount for construction items is earned, 50% of the mobilization lump sum bid or 5% of the total contract amount, whichever is less, will be paid. Previous payments under this Item will be deducted from this amount.

C. When 5% of the adjusted contract amount for construction items is earned, 75% of the mobilization lump sum bid or 10% of the total contract amount, whichever is less, will be paid. Previous payments under this Item will be deducted from this amount.

D. When 10% of the adjusted contract amount for construction items is earned, 90% of the mobilization lump sum bid or 10% of the total contract amount, whichever is less, will be paid. Previous payments under this Item will be deducted from this amount.

E. Payment for the remainder of the lump sum bid for "Mobilization" will be made on the next monthly estimate cycle after the retainage estimate.

B/CS UNIFIED
SPECIFICATION NO. 106

EROSION AND SEDIMENTATION CONTROL

106.01 DESCRIPTION

The work covered by this section consists of the installation and maintenance of all erosion siltation control devices, wash down areas, or seeding and sodding applications necessary to effectively prevent storm water pollution of adjoining or downstream areas that may occur as a direct or indirect result of the construction of this project. The contractor is responsible for creating and maintaining the storm water pollution prevention plan by utilizing the base sheets and narrative provided in the bid documents. The contractor is also responsible for submitting the Notice of Intent (NOI) and Notice of Termination (NOT) and conducting inspections as required by the Texas Commission on Environmental Quality (TCEQ.) The required forms for these activities are included in the bid documents.

The engineer will provide:

1. Base Sheets for Erosion Control Plan (ECP)
2. The Narrative for the Storm Water Pollution Prevention Plan (SWPPP)

The contractor will generate, submit, and maintain the:

1. ECP
2. SWPPP
3. NOI (if required)
4. NOT (if required)

106.02 MATERIALS

(NOT USED)

106.03 SUBMITTALS

The contractors shall submit the initial erosion control plan along with the NOI (if required) prior to receiving a notice to proceed.

If required, the Contractor is responsible for filing a "Notice of Intent" (NOI.) The contractor shall comply with all TCEQ and EPA regulations and pay the filing fees associated with the regulations. Fees associated with these regulations are subsidiary to the bid item Storm Water Prevention. The forms are available at:

http://www.tceq.state.tx.us/assets/public/permitting/waterquality/forms/20022.pdf
http://www.tceq.state.tx.us/assets/public/permitting/waterquality/forms/20023.pdf

Said NOI must be postmarked two days before construction begins. NOI's and NOT's shall be submitted to the address shown on the forms. It is the Contractor's responsibility to file and provide the owner a copy of the Notice of Termination (NOT) at the completion of the project.

106.04 CONSTRUCTION METHODS

It is the responsibility of the Contractor to utilize whatever techniques are necessary to address erosion problems as they occur during construction.

Siltation control and sediment trapping devices shall be installed prior to site clearing, grading or utility construction operations. All devices should be positioned so as to effectively remove silt from storm water before it leaves the site. Of particular concern, are gravel or stone blankets placed at construction traffic exits and entrances. These controls should be closely monitored to see that they trap sediment before it reaches the existing street and drainage system.

Construction activities should be phased to expose a minimum of graded area at one time. Earth exposed by the construction process shall be re-vegetated every two weeks until vegetation is established. Re-vegetation shall require seeding, hydromulching or sodding. Fresh growth of vegetation shall eliminate the need for additional re-vegetation but does not constitute stabilization.

Should a construction process remove any portion of the perimeter controls, the controls should be replaced in accordance with the TCEQ guidelines. Prior to the completion of the project, all bare areas shall be re-vegetated with a cellulose fiber hydromulch seeding process or sodded.

Siltation control devices placed at storm drain inlets and culverts shall be removed by the Contractor once the site has been stabilized.

106.04.01 MAINTENANCE AND INSPECTION

The contractor shall familiarize himself with the erosion control requirements of TCEQ. The site superintendent, or his representative, shall make a visual inspection of all structural and/or natural controls and newly stabilized areas as required by TCEQ, especially after a rainfall to insure that all controls are maintained and properly functioning. Any damaged controls shall be repaired prior to the end of the work day, including re-seeding and mulching or re-sodding if necessary. All inspections shall be documented with a written report. Reports shall include the effectiveness of erosion control measures, construction activities conducted since the last report and their location. Reports shall be maintained by the Contractor along with the Erosion Control Plan per the TCEQ guidelines.

The contractor is responsible for the ECP. The contractor shall continuously update the plan with all changes. Areas already stabilized shall be noted on the plan. All sediment trapping devices shall be installed as soon as practical after the area has been disturbed (never more than 14 days). All sediment trapping devices shall be cleaned when the sediment level reaches 25% capacity. Sediment shall be disposed of by spreading on site or hauling away if not suitable for fill.

The Contractor shall be responsible for any and all materials, improvements, and maintenance activities necessary to keep dust, silt, and mud from leaving the work zone, including being tracked by vehicles traveling throughout the zone.

Should, in the opinion of the Owner, the Contractor fail to prevent the escape of dust or contain silt and mud within the project, after due notification by the City Representative, Owner forces will be used to clean up those affected areas, and the cost of same will be deducted from the contract.

Prior to Substantial Completion, the Contractor shall verify that no dust, silt, or mud exists within the work zone in deposits deeper than two inches (2") as a result of the contractor's containment procedures. Should the Contractor claim final completion without removing such deposits, they will be removed by Owner forces and the cost of which shall be deducted from the contract.

106.05 TESTING REQUIREMENTS

(NOT USED)

106.06 MEASUREMENT

Erosion and Sediment Control is measured as a lump sum item.

The work and materials as prescribed by this item will be paid on the following schedule:

A. 25% of the bid value shall be paid when the erosion control plan is fully detailed and implemented, the NOI (if required) is submitted to both TCEQ and the City Inspector, and all of the initial erosion control devices have been installed and are in working order.

B. 50% of the value will be prorated for the installation and maintenance of erosion control devices during the course of construction as a percent of the total contract value. If the sediment trapping devices on the site appear to be un-maintained, no payment of this portion of the item shall be paid.

C. 25% will be paid at the completion of construction when the site is stabilized, the NOT is submitted to both TCEQ and the City Inspector and all erosion control devices are removed from the site.

B/CS UNIFIED
SPECIFICATION NO. 130

EXCAVATING, TRENCHING, AND BACKFILLING

(Sentences and/or paragraphs that are double underlined indicate revisions that were made from the 2005 specification.)

All excavation will meet the most current OSHA Regulations. See Specification No. 131 for trench safety requirements.

130.01 DESCRIPTION

The work to be performed under this Specification shall consist of furnishing all labor, equipment and materials and performing all operations in connection with the excavating, trenching, and backfilling for pipelines as shown on the plans and as specified herein.

130.02 MATERIALS

A. Materials for pipe embedment will meet TCEQ Regulations for depth of bury and class of pipe and City of Bryan Embedment Details as shown on the Plans.

B. Concrete (For encasement or blocking) See Specification No. 150.

Material shall conform to ASTM C94. The compressive strength of the concrete shall be at least 2,000 psi and shall contain at least four (4) sacks of cement per cubic yard.

C. Cement stabilized sand. See Specification No. 135.

130.03 CONSTRUCTION METHODS

130.03.1 CONTROL OF WATER

Provide sufficient pumping equipment, in good working order, available at all times to remove any water that accumulates in excavations. When the excavation crosses a drainage pathway, the contractor shall provide for means of alternate drainage. The discharge of dewatering equipment shall not cause damage to private or public property.

130.03.2 SHEETING, SHORING, AND BRACING

See Specification No. 131.

In caving ground, or in wet, saturated, or flowing materials, the contractor shall sheet, shore, or brace the sides of the trench so as to maintain the excavation properly in place. When excavations are made adjacent to existing building or other structures or in paved streets, particular care must be taken to adequately sheet, shore, and brace the sides of the excavation to prevent undermining of, or settlement beneath, the structures or pavement. Underpinning of adjacent structures or pavement shall be done by the Contractor at his own cost and expense, in a manner satisfactory to the Engineer and when required by the Engineer. The pavement shall be removed, the void satisfactorily refilled and compacted, and the pavement replaced by the Contractor. The entire expense of such removal and subsequent replacement thereof shall be borne by the Contractor. Sheeting, shoring, and bracing shall not be left in place, unless otherwise provided for in the contract or

authorized by the Engineer. The removal of sheeting, shoring and bracing shall be done in such a manner as not to endanger or damage either new or existing structure, private or public properties, and so as to avoid cave-ins or sliding of the banks. All holes or voids left by the removal of the sheeting, shoring, or bracing shall be immediately and completely filled and compacted with suitable materials.

130.03.3 GUARANTEE

1. Guarantee the backfilling of excavation and trenches against settlement for a period of one (1) year after the final completion of the contract under which the work is performed.

2. Make all repairs or replacements made necessary by settlement, including refilling, compacting, and reseeding or resodding the upper portion of the ditch and repairing broken or settled pavements, driveways, and sidewalks within five (5) days after notice from the Engineer.

130.03.4 PREPARATION

1. Site Preparation

   Prepare the construction site for construction operations by removing and disposing of all obstructions and objectionable materials in accordance with contract documents.

2. Alignment, Grade and Minimum Cover

   a. General

      The water and sewer mains shall be laid and maintained to lines and grades established by the plans and specifications with fittings, valves, hydrants, manholes and clean-outs at the required locations, unless otherwise pre-approved by the Engineer. Valve-operating stems shall be oriented in a manner to allow proper operation. Hydrants shall be installed plumb.

   b. Cut sheets shall be provided to the City's Inspector. The contractor shall determine the alignment and grade or elevation of the pipeline from offset stakes. The contractor shall also provide a continuous chalk line along the alignment of the trench for use by the operator of the excavating equipment. The contractor shall provide a laser beam and grade pole to assist in grading the ditch to the proper elevation.

   c. Should the ditch be graded below the required elevation, bring subgrade to the required elevation with cement stabilized sand or rounded pea gravel. The use of excavating materials for this application will not be allowed.

   d. Where pipe grades or elevations are not definitely fixed by contract drawings, trenches shall be excavated to a depth sufficient to provide a minimum depth of backfill cover over the pipe. Greater pipe cover depths may be necessary for clearance beneath existing pipes, conduits, drains, drainage structures, or other obstructions encountered at normal pipe grades. Measurement of pipe cover depth shall be made vertically from the outside top of pipe to finished ground or pavement surface elevations.

3. Prior Investigation

   Prior to excavation, investigation shall be made to the extent necessary to determine the location of existing underground structures and conflicts. Care should be exercised by the Contractor during excavation avoid damage to existing structures.

4. Unforeseen Obstructions

   When obstructions that are not shown on the plans are encountered during the progress of work and interfere so that an alteration of the plans is required, the Engineer will alter the plans or order a deviation in line and grade or arrange for removal, relocation or reconstruction of the obstructions.

5. Clearance

   When crossing existing pipelines or other structures, alignment and grade shall be adjusted as necessary, with the approval of the Engineer, to provide clearance as required by federal, state or local regulations or as deemed necessary by the Engineer to prevent future damage or contamination of either structure.

130.03.5 EXCAVATION

All excavation shall meet the most current OSHA regulations.

1. Classification

   Excavation of trenches for pipelines is unclassified. Soils will be classified utilizing OSHA Standards and Regulations. The Contractor shall assume that the site contains the worse type of soils and make provisions for shoring the work area.

2. Trench Excavation

   a. General

      The trench shall be excavated to the required alignment, depth and width and in conformance with all federal, state and local regulations for the protection of the workmen.

   b. Trench Preparation

      i) Trench preparation shall proceed in advance of pipe installation for only as far as pipe will be laid that day.

      ii) The contractor shall keep the trench dry from both storm water and seepage from the sides of the trench. Discharge from any trench dewatering pumps shall be conducted to natural drainage channels, storm sewers or a pre-approved reservoir. Do not discharge into any municipal sewer system without municipal approval. The contractor shall be responsible for cleaning any storm drain system, which was used for dewatering discharge.

      iii) Excavated material shall be placed in a manner that will not obstruct the work nor endanger the workmen, obstruct sidewalks, driveways, or other structures and shall be done in compliance with federal, state, or local regulations.

3. Pavement Removal

   Removal of pavement and road surfaces shall be a part of the trench excavation, and the amount removed shall depend upon the width of trench required for installation of the pipe and the dimensions of area required for the installation of valves, hydrants, specials, manholes or other structures. The dimensions of pavement removed shall not exceed the dimensions of the opening required for installation of pipe, valves, hydrants, specials, manholes and other structures by more than twelve (12") inches in any direction, unless otherwise required or pre-approved by the Engineer.

4. Width

   See City Standard Bedding and Trench Detail.

5. Bell Holes

   Holes for the bells shall be provided at each joint, but shall be no larger than necessary for joint assembly and assurance that the pipe barrel will lie flat on the trench bottom. Other than noted previously, the trench bottom shall be true and even in order to provide support for the full length of the pipe barrel, except that a slight depression may be provided to allow withdrawal of pipe slings or other lifting tackle.

6. Subgrade in Earth

   a. Where a firm and stable foundation for the pipe can be obtained in the natural soil, and where special embedment is not shown on the plans, or specified herein, carefully and accurately trim the bottom of the trench to fit the lower portion of the pipe barrel. The bottom of the trench shall be firm, stable and free of standing water.

   b. If water is allowed to collect in an originally dry trench after a reasonable time has passed to complete the embedment of the pipe, as determined by the Engineer, the contractor shall place a minimum of four (4") inches of clean rounded pea gravel in the ditch and pump out all accumulated water before placing the pipe. No deleterious materials will be allowed in the gravel. No extra compensation will be allowed for this work.

   c. Where wet, soft, or spongy material is encountered in the excavation at subgrade level, the contractor shall remove such material at the direction of the Engineer and replace it with crushed stone of sufficient quantity such that when fully compacted, the subgrade is firm and stable.

7. Subgrade in Rock

   a. When excavation of rock is encountered, all rock shall be removed to provide a clearance of at least six (6") inches below and on each side of all pipe, valves and fittings for pipe sizes twenty-four (24") inches or smaller, and nine (9") inches for pipe sizes thirty (30") inches and larger. When excavation is completed, the proper embedment material shall be placed on the bottom of the trench to the previously mentioned depths, leveled and tamped.

   b. These clearances and bedding procedures shall also be observed for pieces of concrete or masonry and other debris or subterranean structures, such as masonry walls, piers or foundations that may be encountered during excavation.

c. The installation procedures specified in this section shall be followed when gravel formations containing loose boulders greater than eight (8") inches in diameter are encountered.

d. In all cases, the specified clearances shall be maintained between the bottom of all pipe and appurtenances and any part, projection or point of rock, boulder or stones of sufficient size and placement, which, in the opinion of the Engineer, could cause a fulcrum point.

130.03.6 CONCRETE ENCASEMENT

The Contractor shall place 2,000 psi concrete encasement under and around pipe as shown on the embedment detail, and provide necessary anchors to prevent the pipe from floating out of place. The contractor shall remove and relay any pipes that are floated out of proper position

130.03.7 BACKFILLING

1. General

   a. The Contractor shall not begin backfilling until approval has been obtained from the Inspector. Backfilling includes refilling and consolidation of the fill in trenches and excavations up to the natural ground surface or road grade.

   b. Backfill shall be accomplished in accordance with the specified laying condition as shown on the plans.

2. Backfill Material

   a. All backfill material shall meet latest edition of ASTM D2321 unless otherwise specified by the Engineer.

   b. If excavated material is indicated on the drawings or specified for backfill, and there is a deficiency due to a rejection of part thereof, the contractor shall provide the required amount of sand, gravel or other pre-approved material.

3. Do not leave trenches open overnight without backfilling to the natural ground level. Steel plates (1/2" in thickness) may be used to cover open trenches only with the approval of the Engineer.

4. Compaction

   Compaction requirements are as specified on the plans.

130.04 TESTING REQUIREMENTS

Compaction tests for all backfill may be required for every 200 linear feet of trench and for each twelve-inches (12") vertically. Density tests, shall be measured as one unit for each test. The Owner shall pay for Geotechnical tests ordered that meet the requirements of the plans and specifications. Failed tests shall be charged to the Contractor. Refer to City Standard Trench Detail for compaction effort requirements.

130.05 MEASUREMENT

All trench excavation, backfill and compaction are not considered pay items. Payment for these items shall be included in the unit price laid in the Proposal for each size of pipe at their respective depths. This unit price shall be full remuneration for performing the trench and backfill complete including grading, bell holes, sheeting, dewatering, tamping, and water soaking; and including the furnishing of sewer pipe, all equipment, labor, materials, power, teams, tools, and transportation necessary or incidental thereto; but not including tunneling, or boring, all of which will be paid for extra.

B/CS UNIFIED
SPECIFICATION NO. 150

CONCRETE

(Sentences and/or paragraphs that are double underlined indicate revisions that were made from the 2005 specification.)

150.01 DESCRIPTION

This specification shall govern for Portland cement concrete to be used in concrete pavement, concrete structures and other concrete construction.

150.02 MATERIALS

A. PORTLAND CEMENT:

Cement shall be Type I, II or III Portland Cement conforming to ASTM C150, or Type IA, IIA or IIIA, conforming to ASTM C175 except as noted below.

1. Different types of cement, as prescribed above may be used in the same structure, but all cement used in any one monolithic placement shall be of the same type and brand.

2. Type III cement shall not be used when the anticipated air temperature for the succeeding 12 hours will exceed 60 °F.

B. FLY ASH:

Fly Ash shall be Type C or F Fly Ash in accordance with ASTM C618. When fly ash is used, "cement" shall be defined as "cement plus fly ash". "Cement plus fly ash" shall be composed of Type I, II or III Portland cement and 20 to 35 percent fly ash by absolute volume, except that for classes of concrete which are specified to have less than five (5) sacks of Portland cement per cubic yard, the fly ash replacement of cement shall not exceed 25 percent by absolute volume of the specified cement content.

C. AGGREGATE:

1. Concrete aggregate shall conform to all requirements of Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (2004) Section 421.2 E 1, 2 and 3, and ASTM C33.

2. The maximum size of aggregate shall not be larger than one-fifth of the narrowest dimension between forms of the member for which concrete is to be used nor larger than three-fourths of the minimum clear spacing between reinforcing bars.

D. WATER:

Water for use in concrete and for curing shall be from municipal supplies approved by the Texas Commission on Environmental Quality and Texas Department of Health or shall conform to the provisions of AASHTO T26 for quality of water.

E. REINFORCING STEEL:

1. The reinforcing steel shall be Grade 60.

2. Steel reinforcing bars as required, shall be of the type and size as shown on Plans and shall be open hearth new billet steel of structural, intermediate, or hard grade, or shall be rail steel concrete reinforcement bars. All steel shall be bent cold.

3. New billet steel shall conform to the requirements of the Standard Specifications for Billet-Steel Concrete Reinforcement Bars, ASTM Designation A-15.

4. When fabricated steel bar or rod mats are specified, the mats shall meet the current requirements of specifications for Fabricated Steel Bar or Rod Mats for Concrete Reinforcement ASTM Designation A-184.

5. In the event reinforcing bars manufactured outside of the Continental United States or its territories are used, two sets of tests from an independent testing laboratory acceptable to the Engineer shall be submitted showing that the steel meets the ASTM Standards for tensile strength, phosphorus content, bend, deformations and such other requirements outlined in the ASTM Standards for the grade used. These tests shall be made by and independent testing laboratory at the Contractor's expense and shall be submitted for each 25 tons of steel supplied from each individual mill.

6. At the time of placement in the concrete, reinforcing steel shall be free of dirt, loose rust, mill scale, paint, grease, oil or other deleterious materials that would impair the bonding of the concrete to the steel.

7. Reinforcement shall be accurately positioned and, unless otherwise shown or specified, shall be secured against displacement by using at intersection, annealed iron wire of not less than No. 18 gauge or suitable metal clips. It shall be supported by plastic or metal chairs or spacers. In general, reinforcement shall be placed, spliced, lapped, located, etc., in accordance with the recommendations of the Concrete Reinforcement Steel Institute or Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (2004) Section 440.

8. Under no circumstances shall reinforcing steel or dowel bars be "stabbed" into fresh concrete. When reinforcing steel or dowel bars are required to extend beyond the slip-formed surface, holes shall be drilled and the steel shall be epoxyed into place using a pre-approved epoxy.

F. STORAGE OF MATERIALS:

1. All cement, fly ash and mineral filler shall be stored in well-ventilated weatherproof buildings or pre-approved bins, which will protect them from dampness or absorption of moisture.

2. The method of handling and storing concrete aggregates shall prevent contamination with foreign materials. To assure uniform concrete, aggregate stockpiles shall be maintained at reasonably uniform moisture content.

150.03 SUBMITTALS

List of Admixtures proposed
Concrete Mix Designs and three sets of tests on the mix designs submitted.
Certification for cement conformance to specification
Test reports for all required concrete tests
Mill report/Certifications for all Reinforcing Bar.
Material Data on Control, Expansion and Contraction Joint materials and sealants.

150.04 CONSTRUCTION METHODS

150.04.1 PREPARATION OF EQUIPMENT AND PLACE OF DEPOSIT:

1. Before placing concrete, all equipment for mixing and transporting the concrete shall be cleaned. All debris shall be removed from the place to be occupied by the concrete.
2. Water shall be removed from place of deposit before concrete is placed unless otherwise permitted by the Engineer.

150.04.2 MIXING OF CONCRETE

1. The concrete shall be mixed until there is a uniform distribution of materials and shall be discharged completely, before the mixer is recharged.
2. For job-mixed concrete, the mixer shall be rotated at a speed recommended by the manufacturer. Mixing shall be continued at least one (1) minute after all materials are in the mixer. Job-mixed concrete shall be rejected and disposed of as directed if not placed as prescribed within thirty (30) minutes after beginning of mixing. Job-mixed concrete is only allowed with written approval from the City Engineer 72-hours prior to the pour.
3. Ready-mixed concrete shall be measured, mixed and delivered in accordance with the requirements set forth in "Standard Specifications for Ready-Mixed Concrete" (ASTM C-94).

150.04.3 CONVEYING

1. Concrete shall be conveyed from the mixer to the place of final deposit by methods which will prevent the separation or loss of the materials.
2. Equipment for chuting, pumping, and pneumatically conveying concrete shall be of a size and design to insure a continuous flow of the concrete at the delivery point, without separation of the materials.

150.04.4 TRANSPORTATION EQUIPMENT

Transportation of concrete mixed completely in a stationary mixer, from the mixer to the point of placement, shall be by truck agitator, or in a truck mixer operating at agitator speed, or in non-agitating equipment conforming to ASTM Standard C-94 except as modified herein. Truck agitators, truck mixers, and non-agitating equipment shall be capable of delivering concrete without segregation in transit. Slump tests of individual samples taken at approximately the one-quarter and three-quarter points of the load during discharge shall not

vary by more than 1 inch. Vehicles transporting concrete mixed partially or completely in stationary mixers shall be equipped with discharge chutes or other devices when operating outside of the prepared subgrade, or shall be supplemented by additional transfer equipment capable of discharging or transferring the concrete from the transporting vehicle to its final position in the form without segregation.

150.04.5 FACILITIES FOR SAMPLING

Suitable facilities shall be provided for readily obtaining representative samples of aggregate from each of the bins or compartments for test purposes. Suitable facilities shall be provided for obtaining representative samples of concrete for uniformity tests. All necessary platforms, tools, and equipment for obtaining samples shall be furnished by the Contractor.

150.04.6 PLACING CONCRETE

1. The Contractor shall give the Engineer and the owner a minimum 24 hours advance notice before placing concrete to permit the inspection of forms, reinforcing steel placement and other preparations.

2. Concrete placement will not be permitted when impending weather conditions would impair the quality of the finished work.

3. Transporting Time: The maximum time interval between the addition of cement to the batch and the placing of concrete in the forms shall conform to the requirements below:

Concrete Temp (at point of placement)	Max Time (No Retarding Agent Minutes)	Max Time (with Retarding Agent) Minutes
Non-Agitated Concrete		
Above 80 F	15	30
80 F and Below	30	45
Agitated Concrete		
Above 90 F	45	75
Above 75 F thru 90 F	60	90
75 F and Below	90	120

4. All forms, sub grade and steel shall be dampened before placement of concrete to assist with retaining moisture in the concrete.

5. Cold Weather Precautions:

   Concrete shall not be placed when the ambient temperature is below 40 °F and falling. Concrete may be placed when the ambient temperature is above 35 °F and rising, the ambient temperature being taken in the shade and away from artificial heat. Concrete shall not be placed when the forecast predicts 72 continuous hours of temperatures less than 32 °F.

   The Contractor shall have available a sufficient supply of pre-approved cotton mats, polyethylene sheeting or other pre-approved covering materials to immediately protect concrete if the air temperature falls to 32 °F, or below, before concrete has been in place for less than four (4) hours. Such protection shall remain in place during the period the temperature continues below 32 °F, or for a period of not more than five (5) days.

Neither salt nor other chemical admixtures shall be added to the concrete to prevent freezing. The Contractor shall be responsible for the quality and strength of concrete under cold weather conditions and any concrete damaged by freezing shall be removed and replaced at the Contractor's expense.

The surface of all concrete in bents, piers, culvert walls, retaining walls, bottom of slabs, and similar formed concrete shall be maintained at 40 °F or above for a period of 72 hours from the time of placements. The temperature of all concrete, including the bottom slabs (footings) of culverts placed on or in the ground, shall be maintained above 32 °F for a period of 72 hours from time of placement.

Protection shall consist of providing additional covering, insulated forms or other means, and if necessary, supplementing such coverings with artificial heating.

6. Warm Weather Precautions

   The following precautions shall be taken in placing, curing, and protecting the concrete when local weather records show that the maximum daily temperature is likely to exceed 95 °F. The forms and the subgrade, subbase or base course shall be sprinkled with water immediately before placing the concrete. The concrete shall be placed at the coolest temperature practicable, and in no case shall the temperature of the concrete exceed 95 °F when deposited on the subgrade, subbase or base course. The temperature of the concrete shall not exceed 85 °F for bridge slabs or in the top slab of direct-traffic culverts. The aggregates and/or mixing water will be cooled as necessary to maintain the concrete temperature within the specified maximum. Concrete shall be placed in the forms continuously and rapidly at a rate of not less than 100 feet of paving lane per hour. The surface of the newly laid pavement shall be kept damp by means of a water fog or mist applied with pre-approved spraying equipment until the pavement is covered by the pre-approved curing medium.

7. Concrete shall be deposited as nearly as practicable in its final position to avoid segregation due to rehandling or flowing. The deposition shall be at a rate that allows the concrete to be plastic at all times and permits flow readily into the space between the rebar. Retempered concrete shall not be used and concrete shall not have a free fall of more than five (5) feet, except in the case of thin walls such as in culverts or as specified in other items. Any hardened concrete spatter ahead of the plastic concrete shall be removed.

8. Concrete deposition shall be a continuous operation until completed at the panel or section. Cold joints in a monolithic placement shall be avoided. The sequence of successive layers or adjacent portions of concrete shall be such that they can be vibrated into a homogeneous mass with the previously placed concrete. Not more than one (1) hour shall elapse between adjacent or successive placements of concrete.

9. Concrete shall be thoroughly consolidated and vibrated in the forms with pre-approved mechanical vibrators of a type considered in the design of forms.

150.04.07 FINISHING

Unless noted otherwise, apply an ordinary surface finish as the final finish to the following exposed surfaces:

- inside and top of inlets,
- inside and top of manholes,

- inside of sewer appurtenances,
- inside of culvert barrels, bottom of bridge slabs between girders and beams, and
- vertical and bottom surfaces of interior concrete beams or girders.

An ordinary surface finish shall be as follows:

- Chip away all loose or broken material to sound concrete where porous, spalled, or honeycombed areas are visible after form removal.
- Repair spalls by saw-cutting and chipping at least 1/2 in. deep, perpendicular to the surface to eliminate feather edges. Repair shallow cavities using a latex adhesive grout, cement mortar, or epoxy mortar as pre-approved. Repair large areas using concrete as directed or pre-approved.
- Clean and fill holes or spalls caused by the removal of form ties, etc., with latex grout, cement grout, or epoxy grout as pre-approved. Fill only the holes. Do not blend the patch with the surrounding concrete. On surfaces to receive a rub finish in accordance with Item 427, "Surface Finishes for Concrete," chip out exposed parts of metals chairs to a depth of 1/2 in. and repair the surface.
- Remove all fins, runs, drips, or mortar from surfaces that will be exposed. Smooth all form marks and chamfer edges by grinding or dry-rubbing.
- Ensure that all repairs are dense, well bonded, and properly cured. Finish exposed large repairs to blend with the surrounding concrete where a higher class of finish is not specified.

Finish of Bridge Slabs and related features shall be in compliance with TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (2004) Section 420.4.

150.04.8 CURING

The concrete shall be kept wet by spraying with water after attaining its final set and before removing the forms. Bottom forms supporting floor or roof slabs shall remain in place for not less than seven (7) days. The concrete shall have attained a compressive strength of not less than 2,000 psi prior to removal of bottom forms. All other forms may be removed twenty-four hours after completion of concrete placement, providing the weather has allowed the concrete to attain its final set in less than five (5) hours. The forms shall be left on for forty-eight (48) hours whenever the temperature of the air in the shade during pouring is 90 °F or over. Curing shall be continued for five days after placement of concrete. This may be done with wet mats, with two applications of Type I (White in color) Liquid-Membrane-Forming Compound meeting requirements of ASTM C309, or with waterproof curing paper meeting the requirements of ASTM C171.

150.04.9 CONSTRUCTION JOINTS

Construction joints will be made only at locations shown on the Plans unless written permission is granted by the Engineer to make additional joints. Unless otherwise required, make construction joints square and normal to the forms. Use bulkheads in the forms for all vertical joints. Thoroughly roughen the top surface of a concrete placement terminating at a horizontal construction joint as soon as practical after initial set is attained. Thoroughly clean the hardened concrete surface of all loose material, laitance, dirt, and foreign matter. The surface is to be dampened just prior to casting of concrete against the joint.

150.05 TESTING REQUIREMENTS

150.05.1 CONCRETE QUALITY AND ALLOWABLE STRESSES

CONCRETE QUALITY:

Concrete mixes will be designed and made in sufficient number to represent the required water-cement ratios. These mixes shall comply with the requirements prescribed for strength and consistency as shown below. The Contractor shall furnish the results on trial mixes from a testing laboratory pre-approved by the Engineer.

Minimum Compressive Strength, psi at 28 days	Minimum Cement Content Sack/cubic yard	Maximum Water Content Gal/sack of cement	General Usage
1,500	3.0	11.0	Riprap
3,000	4.5	6.0	Drilled Shaft, Culverts (except Top Slab of Direct Traffic Culverts); Inlets; Manholes; Headwalls; Sidewalks; Driveways;
3,500	5.0	6.0	Concrete Pavement; curb and gutters
4,000	5.5	5.0	Bridge slab; Top slab of Direct Traffic Culvert

The slump of concrete mixtures shall be within the following limits when measured according to "Test for Slump of Portland Cement Concrete" (ASTM C142). When admixtures are used to increase the workability, the mix design shall indicate the slump before and after its introduction into the mix.

TYPE OF CONSTRUCTION	COMPRESSIVE STRENGTH OF CONCRETE, psi	MAXIMUM SLUMP (before admixtures)
Concrete Pavement	3,500	3"
Curb and Gutter	3,500	3"
Sidewalk	3,000	5"
Drilled Shafts and Footings	3,000	7"
Thin Walled Sections (9" or less)	3,000	5"
Thick Walls	By Special Design	

150.05.2 TESTS ON CONCRETE

1. During the progress of the work, compression test specimens shall be made and cured in accordance with "Standard Method of Making and Curing Concrete Compression and Flexure Test Specimens in the Field" (ASTM C31). Not less than three specimens shall be made for each test, nor less than one test for each 75 square yards or fraction thereof of concrete placed or for each days pour. These tests shall be made by an independent testing laboratory at the Owner's expense.

2. Specimens shall be tested in accordance with "Standard Method of Test for Compressive Strength of Molded Concrete Cylinders" (ASTM C39).

3. The standard age of test shall be 7 days and 28 days.

4. If the average strength of the control cylinders for any portion of the structure falls below the specified compressive strength, the Engineer shall have the right to order changes in the proportions or the cement content for the remaining portion of the structure. If the concrete minimum 28 day strength is not achieved the Engineer shall have the right to order its removal.

5. An air-entraining admixture may be used with Type I, II, or III Portland Cement in lieu of an Air-Entraining Portland Cement. The admixture shall meet the requirements of "Specifications for Air-Entraining Admixtures for Concrete" (ASTM C260). Concrete produced from either Type IA, IIA, or IIIA cement or the use of air-entraining admixtures shall have an air content from 3 to 5 percent when determined by means of the test for air-content, ASTM C231.

150.05.3 TEST CYLINDERS

Preparation of test cylinders and tests on concrete cylinders shall be made at the expense of the Owner. The cost of all failed tests shall be charged to the Contractor.

150.06 MEASUREMENT

In general and unless otherwise specified, no separate payment will be made for concrete as an item. The cost of concrete including all materials and equipment, furnishing and placing all reinforcing steel, and performing all labor for the manufacturing, transporting, placing, finishing, and curing of concrete will be included in the unit price bid for specific items as set forth in the Proposal. Payment will not be made for unauthorized work.

B/CS UNIFIED
SPECIFICATION NO. 160

CLEARING AND GRUBBING

(Sentences and/or paragraphs that are double underlined indicate revisions that were made from the 2005 specification.)

160.01 DESCRIPTION

Clearing and grubbing shall consist of the removal and disposal of trees, stumps, brush, roots, vegetation, logs, rubbish and other objectionable matter from the designated portions of the right of way as well as from authorized construction sites.

160.02 MATERIALS

(NONE)

160.03 SUBMITTALS

(NONE)

160.04 CONSTRUCTION METHODS

Designated portions of the right-of-way shall be cleared of all trees, stumps, brush, logs and rubbish, with the exception of trees and brush designated by the Engineer for preservation. Trees and brush designated for preservation shall be carefully trimmed as directed and shall be protected from scarring, barking or other injuries during construction operations. Scars from pruned limbs shall be treated by painting the exposed cuts with a pre-approved asphaltic material.

Areas required for embankment construction, roadway, channel and structural excavation, borrow sites, and material sources shall be cleared and grubbed. On areas required for roadway, channel, or structural excavation, all stumps, roots, etc., (except for designated trees and brush) shall be removed to a depth of at least two (2) feet below the lower elevation of the excavation. On areas required for embankment construction, all stumps, roots, etc., shall be removed to a depth of at least two (2) feet below the existing ground surface. All holes remaining after clearing and grubbing shall be backfilled and tamped as directed by the Engineer. The entire area will be bladed to prevent ponding of water and to provide drainage. In areas to be immediately excavated, the Engineer may direct that the holes not be backfilled. When permitted by the plans, trees and stumps may be cut as close to natural ground as practicable on areas which are to be covered by at least three (3) feet of embankment. On areas required for borrow sites and material sources, stumps, roots, etc., (except for designated trees and brush) shall be removed to the extent necessary to prevent such objectionable matter from becoming mixed with the material to be used in construction.

All cleared and grubbed material shall be disposed in the city or county's landfill, in any legally permitted landfill or in a manner satisfactory to the Engineer.

160.05 TESTING REQUIREMENTS

(NONE)

160.06 MEASUREMENT

Clearing and grubbing will be considered subsidiary to the subsequent bid item unless a specific bid item is provided in the proposal. All work performed in clearing and grubbing areas not so designated on the Plans or in the Special Provisions, will not be paid for directly but shall be considered subsidiary work pertaining to the various bid items. Payment will not be made for unauthorized work.

If included in the bid proposal, all work performed will be paid for at the unit price bid for clearing and grubbing or as a lump sum price according to the bid proposal. Price shall include full compensation for furnishing all labor, equipment, tools, supplies and incidentals necessary to complete the work.

B/CS UNIFIED
SPECIFICATION NO. 165

HYDRO-MULCH SEEDING

165.01 DESCRIPTION

The work covered by this section consists of furnishing all plant, labor, materials, equipment, supplies, supervision and tools and performing all work necessary to top soiling, smoothing, seeding, fertilizing, watering, maintenance and cleanups of side slopes, all in accordance with these specifications.

The hydro-mulch seeding operations, together with all necessary related work, shall conform to the requirements specified in this section. The area(s) to be hydro-mulch seeded shall be as shown on the construction drawings.

165.02 MATERIALS

All seed must meet the requirements of the U.S. Department of Agriculture Rules & Regulations as set forth in the Federal Seed Act and the Texas Seed Law.

Type of seed, purity and germination requirements, rate of application and planting dates are as follows:

TABLE 1
Application
Rate-Pounds

Type	Per Acre	Planting Date
Hulled Common Bermuda Grass 98/88	40	Jan. 1 to Apr. 15
Unhulled Common Bermuda Grass 98/88	40	Jan. 1 to Apr. 15
Annual Rye Grass, including Gulf	50	Jan. 1 to Apr. 15
Hulled Common Bermuda Grass 98/88	40	Apr. 15 to Oct. 1
Hulled Common Bermuda Grass 98/88	40	Oct. 1 to Jan. 1
Unhulled Common Bermuda Grass 98/88	40	Oct. 1 to Jan. 1

Fertilizer shall be water soluble with an analysis of 10 percent nitrogen, 20 percent phosphoric acid and 10 percent potash. Rate of application shall be 500 pounds per acre, except during the period of April 15 through September 1, when the rate shall be reduced to 400 pounds per acre. The fertilizer shall be delivered to the site in bags or other convenient containers, each fully

labeled, conforming to the applicable State Fertilizer Laws and bearing the name and warranty of the producer.

Mulch shall be virgin wood cellulose fiber made from whole wood chips. Within the fiber mulch material, at least 20 percent of the fibers will be 10.7 mm in length and 0.27 mm in diameter. Rate of application shall be 2000 pounds per acre. Soil stabilizers such as Terra Type III (or pre-approved equal) shall be applied at a rate of 40 pounds per acre on side slopes and Terra Tack I (or pre-approved equal) shall be applied at a rate of 40 pounds per acre on flatter portions.

Wood cellulose fiber mulch, for use in the grass seed and fertilizer, shall be processed in such a manner that it will not contain germination or growth inhibiting factors. It shall be dyed an appropriate color to allow visual metering of its application. The wood cellulose fibers shall have the property of becoming evenly dispersed and suspended when agitated in water. When sprayed uniformly on the surface of the soil, the fibers shall form a blotter-like ground cover, which readily absorbs water and allows infiltration to the underlying soil. Weight specifications from suppliers for all applications shall refer only to the underlying soil. Weight specifications from suppliers, shall refer only to the air dry weight of the fiber. The mulch material shall be supplied in packages having a gross weight not in excess of 100 pounds and must be marked by the manufacturer to show the dry weight content. Suppliers shall be prepared to certify that laboratory and field testing of their product has been accomplished and that it meets all of the foregoing requirements.

Water shall be free from oil, acid, alkali, salt and other substances harmful to the growth of grass. The water source shall be subject to approval, prior to use.

165.03 SUBMITTALS

(NOT USED)

165.04 CONSTRUCTION METHODS

A. **EXECUTION:** Immediately after the finished grade has been approved, begin hydro-mulching operations to reduce erosion and excessive weed growth.

Hydraulic equipment used for the application of fertilizer, seed and slurry of prepared wood fiber mulch shall have a built-in agitation system with an operating capacity sufficient to agitate, suspend and homogeneously mix a slurry containing up to forty (40) pounds of fiber plus a combined total of 70 pounds of fertilizer solids for each 100 gallons of water. The slurry distribution lines shall be large enough to prevent stoppage. The discharge line shall be equipped with a set of hydraulic spray nozzles which provide even distribution of the slurry on the area to be seeded. The slurry tank shall have a minimum capacity of 800 gallons and shall be mounted on a traveling unit, which may either be self-propelled or drawn with a separate unit which will place the slurry tank and spray nozzles within sufficient proximity to the areas to be seeded, so as to provide uniform distribution without waste. The Engineer may authorize equipment with a smaller tank capacity, provided the equipment has the necessary agitation system and sufficient pump capacity to spray the slurry in a uniform coat.

Care shall be taken that the slurry preparation takes place on the site of the work. The slurry preparation should begin by adding water to the tank when the engine is at half throttle. When the water level has reached the height of the agitator shaft, good re-circulation shall be established and seed shall be added. Fertilizer shall then be added, followed by wood pulp mulch. The wood pulp mulch shall only be added to the mixture after the seed and when the tank is at least one-third filled with water. The engine throttle shall be opened to full speed

when the tank is half filled with water. All the wood pulp mulch shall be added by the time the tank is two-thirds to three-fourths full. Spraying shall commence immediately when the tank is full. The operator shall spray the area with a uniform visible coat, by using the green color of the wood pulp as a guide.

B. **APPLICATION:** The contractor shall obtain approval of hydro-mulch area preparation from the Engineer prior to application.

Operators of hydro-mulching equipment shall be thoroughly experienced in this type of application. Apply the specified slurry mix in a motion to form a uniform mat at the specified rate. Operators shall keep the hydro-mulch within the areas designated and keep from contact with other plant material. Immediately after application, thoroughly wash off any plant material, planting areas or paved areas not intended to receive slurry mix.

Keep all paved and planting areas clean during maintenance operations. Contractor shall keep hydro-mulching within the areas designated and keep from contact with other plant material. If in the opinion of the Engineer, unplanted skips and areas are noted after hydro-mulching, the contractor shall be required to seed the unplanted areas with the grasses that were to have been planted at no additional cost to owner.

C. **CONTRACTOR'S MAINTENANCE & GUARANTEE PERIOD:** The hydro-mulch seeding shall be adequately watered until established. Any areas damaged by erosion or areas that do not have an acceptable turfing shall be redone to the satisfaction of the Engineer. Maintenance of grass areas shall be for 60 days after the completion of the project and shall consist of watering, weeding, repair of all erosion and reseeding, as necessary to establish a uniform stand of the specified grasses. Contractor shall guarantee growth and coverage of hydro-mulch planting under this contract to the effect that a minimum of 95% of the area planted will be covered with the specified planting after 60 days.

The Contractor shall be responsible for one (1) mowing per month between the months of April to September and shall mow every thirty (30) days plus or minus five (5) after the initial mowing. The Contractor shall also be responsible for one (1) mowing every six (6) weeks between the months of October to March. In addition, the Contractor shall water the entire sodded and hydro-mulched areas to a saturated depth of one (1) inch at least once a week between the months of April to September and at least once a month between the months of October to March.

The Contractor shall make a second application of specified hydromulch planting those bare areas not meeting specified coverage as determined by the Engineer. Such replanting is to be performed within 60 days of initial application and upon notification by the Engineer to replant.

The Contractor shall apply top dress fertilizer (delayed action), at the rate of 10 pounds per 1000 square feet at 25 days after hydro-mulching of all new lawn areas.

Top dress fertilizer shall be 16-6-8.

Prior to final inspection, the Contractor shall mow the entire right-of-way within the project limits, including weeding around existing structures.

165.05 TESTING REQUIREMENTS

(NOT USED)

165.06 MEASUREMENT

The unit of measurement for all work performed and materials furnished, as described herein. will be the acre or per station as indicated in the bid documents. Measurement shall be done upon completion of the work performed within the limits shown on the drawings and as described herein. The area measured for payment will be computed to the nearest 1/10-acre or station.

Payment for hydro-mulch seeding will be made at the contract unit price per acre or per station and includes topsoil (when specified), smoothing, mulch, seed fertilizer, watering, maintenance and clean-up. Additional payment shall not be made for those areas that are replanted.

B/CS UNIFIED
SPECIFICATION NO. 200

STORM DRAINAGE SYSTEM

200.01 DESCRIPTION

This Specification includes the general description of the Storm Drainage System and the components included in that system.

This is a general specification which applies to the furnishing of all plant, labor, equipment, appliances and materials and in performing all operations in connection with the construction of storm drainage systems, together with the inlets, storm drain manholes, headwalls, safety end treatments, cleanout structures and other incidentals, in accordance with the plans and these specifications.

200.02 MATERIALS

See:
Spec. 110 Pipe Boring, Jacking and Tunneling
Spec. 130 Excavating, Trenching, and Backfilling
Spec. 150 Concrete for Structures
Spec. 220 Reinforce Concrete Pipe
Spec. 225 HDPE Storm Drain Pipe
Spec. 240 Storm Drainage Inlets
Spec. 250 Reinforced Concrete Headwalls
Spec. 260 Precast Box Culverts
Spec. 270 Reinforced Concrete Riprap

200.03 SUBMITTALS

All submittal requirements are listed with the material specifications

200.04 CONSTRUCTION METHODS

Construction methods for each material are specified in the material specifications.

A. Minimum Cover

The minimum cover for class III storm drain pipe (12" through 60") (See Specification No. 220) shall be two feet (2') in areas subject to vehicular loads and one foot in non-vehicular areas as measured from the outside top of pipe vertically to finished ground or pavement surface elevation.

200.05 TESTING REQUIREMENTS

All storm pipe and storm drain systems shall be televised at the end of construction. If it is determined that the storm pipe contains foreign material (i.e. construction material, gravel, soil, etc.) the line will be required to be cleared of this foreign material and televised again.

200.06 MEASUREMENT

Payment shall be made at the price bid per unit item for furnishing and installing pipe, which bid price will include all costs for the complete pipe installation, including trenching and backfill, embedment, compaction or tamping, testing, final cleanup, and all other work not otherwise provided for in the Proposal.

A. Pipe

Payments will be made at the price bid per foot for furnishing and installing pipe, which bid price will include all costs for the complete pipe installation, including line fittings, trenching, and backfill, embedment, compaction or tamping, and all other work not otherwise provided for in bid proposal. Pipe will be measured (by horizontal distance) from the inside face of the inlet or junction box or end of pipe without adjustment for the slope of the pipe. The length of the inlet or junction box shall not constitute a payable quantity.

B. Manholes/Junction Boxes

Payment will be made at the unit price bid per each for manhole. Manholes will be measured per each.

C. Inlets

Payment will be made at the unit price bid per each for inlet by length and type. Inlets will be measured per each.

D. Headwalls

Payment will be made at the unit price bid per each for headwall by type. Headwalls will be measured per each.

E. Rock Rubble Rip Rap

Rock Rubble Rip Rap shall be measured by area as provided for in the bid proposal form.

F. Channel Grading

Channel Grading shall be measured by area as provided for in the bid proposal form.

B/CS UNIFIED
SPECIFICATION NO. 250

REINFORCED CONCRETE HEADWALLS AND ENDWALLS

250.01 GENERAL

This item shall include reinforced concrete headwalls and endwalls which shall be constructed as indicated on the Plans in true conformity with the lines, grades, dimensions and designs as shown on the Plans and in accordance with this Specification.

250.02 MATERIALS

Concrete shall be reinforced concrete as specified in Specification No. 150 for "Headwalls".

250.03 SUBMITTALS

A. Concrete Mix Designs
B. Certification for cement conformance to specification
C. Test reports for all required concrete tests

250.04 CONSTRUCTION METHODS

The surface of the ground on which the headwalls are to be constructed shall be tamped and compacted to ninety-eight percent (98%) standard proctor density (ASTM D 698) to form the bottom of the headwalls and endwalls. The construction of reinforced concrete headwalls and endwalls shall be in accordance with standard procedure and shall conform to the location, line, grade and dimensions as shown on the Drawings and/or as directed by the Engineer. All excavation, forming and placing of reinforcing steel shall be approved by the Engineer before any concrete is placed.

250.05 TESTING REQUIREMENTS

As specified in Specification No. 130 for Backfill and Specification No. 150 for Concrete materials.

250.06 MEASUREMENT

Payment for reinforced concrete headwalls or sloped end treatments will not be considered a separate pay item but shall be considered subsidiary to the price of the drainage pipe.

B/CS UNIFIED
SPECIFICATION NO. 302

EXCAVATION & EMBANKMENT

(Sentences and/or paragraphs that are double underlined indicate revisions that were made from the 2005 specification.)

302.01 DESCRIPTION

This item shall consist of the required excavation and placement of embankment within the limits of the work; the removal, import, hauling, disposal or proper utilization of all excavated materials; and the constructing, compaction, shaping and finishing of all earthwork on the entire project and approaches in conformity with the required lines, grades and typical cross sections and in accordance with specification requirements.

302.02 MATERIALS

The material shall consist of soil native to the work site, with or without stone or conglomerate, of a suitable quality to secure a well bonded course. Imported material shall consist of soil hauled to the work site for use in embankment operations.

All material for embankment shall be free of vegetation, wood, organic material, trash, bricks, broken concrete, piping, rubble, or other objectionable material. Material sources shall be selected to eliminate the introduction of hazardous materials into the work site.

Where "Select Material" is called for on the plans, this material shall have a Plasticity Index between 4 and 20 and meet all other requirements of this specification.

When water is required to achieve the required moisture content, the water must be from a source which does not contain any hazardous materials. Water removed from natural sources (ponds, lakes, rivers...) shall not impact any endangered species. Potable water sources shall be metered and paid by the contractor.

302.03 SUMBITTALS

All material to be imported to the site shall be sampled at its original location and tested for acceptability. This testing shall be provided by the contractor at no expense to the owner.

A list of all compaction equipment to be utilized shall be submitted for approval prior to equipment arriving on site.

302.04 CONSTRUCTION METHODS

Prior to any excavation or embankment, the topsoil shall be removed and stockpiled for reuse on the proposed surface. Topsoil in excess of what may be used on the finished surface shall be removed from the site by the contractor at no additional charge. Topsoil shall be assumed to be 6" deep, but shall be excavated deep enough to remove all roots and other organic material. Contractor shall first check with City to determine if the City would like to stockpile the topsoil. If material is to be placed on property owned by a third party, the City will need a letter from the third party stating acceptance of such fill. Fill will not be allowed in 100-year floodplain without approved permits.

1. Excavation:

All project excavation shall conform to the requirements of this specification. The completed roadway shall conform to the established alignment, grades and cross sections.

All suitable excavated materials shall be utilized, insofar as practicable, in constructing the required roadway sections or in uniformly widening embankments, flattening slopes, etc., as directed by the Engineer. Unsuitable roadway excavation and excavation in excess of that needed for construction shall be known as "Waste" and shall become the property of the Contractor to be disposed of at a location approved by the Engineer.

During construction, the roadbed and ditches shall be maintained in a condition to insure proper drainage at all times. Ditches and channels shall be constructed and maintained to avoid damage to the roadway section.

Gravel or base material on all existing streets shall be salvaged and used to tie-in new construction with existing unpaved streets and gravel and flexible pavement driveways. Driveways will be adjusted to provide smooth connections to new construction and shall be restored to a condition equal to or better than that existing before work began. All salvageable asphalt, gravel or rock base material not used in the work shall remain the property of the city. Such unused materials, as designated by the Engineer, shall be hauled to the city stockpile or to other stockpile locations designated by the Engineer and closer to the project than the site above.

2. Embankment:

Placement:
Stump holes or other small excavations in the limits of the embankments shall be backfilled with suitable material and thoroughly compacted by approved methods before commencing embankment construction. The surface of the ground, including plowed loosened ground, or surface roughened by erosion or otherwise, shall be restored to approximately its original grade by blading or other methods. Where indicated on Plans or required by the Engineer, the ground surface thus prepared shall be compacted by sprinkling and rolling.

Unless otherwise indicated on the Plans the surface of all unpaved areas, other than rock, which are to receive embankment shall be loosened by scarifying or plowing to a depth of not less than four (4) inches. The loosened material shall be recompacted with the new embankment as hereinafter specified.

Where indicated on Plans or directed by the Engineer, the surface of hillsides to receive embankment shall be loosened by scarifying or plowing to a depth of not less than four (4) inches, or cut into steps before embankment materials are placed. The embankment shall then be placed in layers, as hereinafter specified, beginning at the low side in part width layers and increasing the widths as the embankment is raised. The material which has been loosened shall be recompacted simultaneously with the embankment material placed at the same elevation.

Layers of embankment may be formed by utilizing equipment which will spread the material as it is dumped, or they may be formed by being spread by blading from piles or windrows dumped from excavating or hauling equipment in such amounts that material is evenly distributed.

No material placed in the embankment by dumping in a pile or windrow shall be incorporated in a layer in that position. All such piles or windrows shall be moved by blading or similar

methods. Clods or lumps of material shall be broken and the embankment material mixed by blading, harrowing, disking, or similar methods.
Water required for sprinkling to bring the material to the moisture content necessary for maximum compaction shall be evenly applied. It shall be the responsibility of the Contractor to secure uniform moisture content throughout the layer by such methods as may be necessary.

Where embankments are to be placed adjacent to or over existing roadbeds, the roadbed slopes shall be plowed or scarified to a depth of not less than six (6) inches and the embankment built up in successive layers, as hereinafter specified, to the level of the old roadbed before its height is increased. Then, if directed, the top of the old roadbed shall be scarified and recompacted with the next layers of the new embankment. The total depth of the scarified and added material shall not exceed the permissible depth of layer.

Except as otherwise required by the Plans, all embankment shall be constructed in layers approximately parallel to the finished grade of the roadbed, unless otherwise specified, each layer shall be so constructed as to provide a uniform slope of 1/4 inch per foot from the center line of the roadbed to the outside. Super elevated curves will require that each layer shall be constructed to conform to the super elevation required by the governing standard.

Embankments shall be constructed to the grade established by the Engineer and completed embankments shall correspond to the general shape of the typical sections shown on the Plans. Each section of the embankment shall correspond to the detailed section or slopes established by the Engineer. After completion of the roadway, it shall be continuously maintained to its finished section and grade until the project is accepted.

3. Compaction:

Each layer shall be compacted to the required density by suitable equipment.

The depth of each layer, prior to compaction, shall not exceed that depth which will produce six (6) inch compacted thickness. Prior to and in connection with, the compaction operation each layer shall be brought to the moisture content necessary to obtain the required density and shall be kept leveled with suitable equipment to insure uniform compaction of the entire layer.

When the Contractor states that each layer of earth embankment or select material is complete and ready for the next layer, tests as necessary will be made by the Engineer. If the material fails to meet the density specified, the course shall be reworked as necessary to obtain the specified compaction, and the compaction method shall be altered on subsequent work to obtain specified density. Such procedure shall be determined by, and subject to, the approval of the Engineer.

Should the subgrade, due to any reason or cause, lose the required stability, density, or finish before the pavement structure is placed, it shall be recompacted and refinished at the sole expense of the Contractor. Excessive loss of moisture in the subgrade shall be prevented by sprinkling, sealing or covering with a subsequent layer of granular material. Excessive loss of moisture shall be construed to exist when the subgrade soil moisture content is more than four (4) percent below the optimum for the density specified.

In addition to the requirements in the Roadway Excavation item of the Specifications covering the general selection and utilization of materials to improve the roadbed, embankments shall be constructed in proper sequence to receive the select material layers shown on Plans, with such modifications as may be directed by the Engineer. The layer of embankment immediately

preceding the upper layer of select material shall be constructed to the proper section and grade within a tolerance of not more than 0.10 foot from the established section and grade when properly compacted and finished to receive the select material layer.

4. Proof Rolling:

Prior to the placement of any material on native earth, the area shall be proof rolled. The native soil shall be rolled with sufficient intensity to bring out weak spots in the subgrade which would otherwise fail during the construction process. The proof rolling shall be completed with equipment weighing at least 20 tons with tire pressures at least 50 and no more than 150 psi. A minimum of two coverage's of the proof roller will be required each succeeding trip of the proof roller shall be offset by not greater than one tire width. Rollers shall be operated at speed between 2 and 6 miles per hour. Areas failing this test shall be excavated to a depth not to exceed two feet and horizontally ten feet beyond the failed area in all directions. Earth removed from this area may be replaced, stabilized, or "dried out" at the discretion of the engineer. No additional payment will be made for proof rolling prior to placement of embankment.

302.05 TESTING REQUIREMENTS

All embankment material placed shall be tested. Unless otherwise shown on the plans, material placed for the benefit of roadway construction shall be compacted as follows:

Structural areas (roadways, slabs, sidewalks, detention pond berms, and all areas within 5 feet of any of these) shall be compacted to 95% of the maximum dry density as determined by the Standard Procter Density Test (ASTM D698) at a moisture content between optimum and +4% wet of optimum moisture content.

Non-structural areas (as shown on plans) shall be compacted to 90% of the maximum dry density as computed by the Standard Procter Density Test (ASTM D698) at a moisture content between optimum and +4% wet of optimum moisture content.

Tests shall be taken at a minimum of one test per every 4000 square feet of embankment per every 12" of depth. Additional tests shall be conducted at the engineer's request. All tests meeting these requirements shall be paid for by the owner. The cost of all tests failing these requirements shall be deducted from payment for this item.

302.06 MEASUREMENT

This item will be measured by the cubic yard. Cubic yards will be measured by the difference between the surveyed original grades and the final grades. Measurements will include all authorized excavation below grade, which are not attributed to the Contractor's carelessness, in the opinion of the Engineer.

The prices bid shall be full compensation for furnishing all materials, tools, equipment, pre- and post-grade surveys and incidentals necessary to complete the work. Payment will not be made for borrow material that is not suitable to use in embankments. Payment for unauthorized work will not be made.

All work required for the disposal of waste, including haul, and for the salvage, utilization in the work and disposal of salvageable materials, will not be paid for directly but shall be considered a part of "Excavation and Embankment" and included in the unit price bid for this item. Payment will not be made for unauthorized work.

B/CS UNIFIED
SPECIFICATION NO. 370

CONCRETE SIDEWALK

370.01 DESCRIPTION

This item shall consist of Reinforced Concrete Sidewalk constructed on approved subgrade in conformity with the lines and grades established by the City Engineer. Sidewalks shall also be in accordance with the standard section, specifications and ordinances for sidewalks adopted by the city in which sidewalk is to be placed.

370.02 MATERIALS

This item shall consist of a mixture of reinforcing steel, coarse aggregate, fine aggregate, cement and water. The mixture shall conform to Specification No. 150 "Concrete".

370.03 SUBMITTALS

See Specification No. 150 "Concrete".

370.04 CONSTRUCTION METHODS

The subgrade shall be excavated and fine graded to a true grade. Any backfill shall be watered and tamped well ahead of the placing of the concrete. If dry, the subgrade shall be sprinkled immediately before depositing any concrete. Forms shall be metal or wood, free of warp and of a depth equal to the depth of the concrete. They shall be secured and accurately staked to line and grade and held in a true position during the placing of the concrete. Expansion joints of an approved material shall be used between the sidewalk and all abutting concrete. Placement of concrete may begin after the subgrade is thoroughly compacted and the forms, expansion joints (where necessary) and reinforcing steel are in place. The concrete shall be thoroughly worked with a flat spade or similar tool along the forms as the pouring continues to insure the absence of honeycombs. No concrete over thirty (30) minutes old or retempered concrete shall be used. After the placing of the concrete has sufficiently advanced, the concrete shall be struck off flush with the forms. Then the concrete shall be worked with a wooden float to flush excess mortar to the surface. All exposed corners are to be edged or rounded to the radius shown on the Plans.

Unless otherwise shown on the plans, the walk shall be cut transversely with a jointing tool every four (4) feet after the concrete has been thoroughly worked and has sufficiently set. Expansion joints shall be located every forty (40) feet.

After the finished concrete has sufficiently set, it shall be covered with burlap and kept wet for a period of four (4) days. As an alternate the concrete may be cured by the application of a clear membrane seal coat that will retain 85% of the original mixing water at the end of three (3) days.

After the construction work has been completed, the Contractor shall remove all debris, trash, excess materials, forms, stakes, empty sacks, etc. occasioned by his work from the premises. The site shall be left with a neat appearance. All excavation shall be backfilled and all excess excavated materials shall be disposed of.

370.05 TESTING REQUIREMENTS

See Specification No. 150 "Concrete".

370.06 MEASUREMENT

Concrete sidewalk shall be measured by the square foot of surface area when complete and in place.

The work performed and the materials furnished and measured shall be paid for at the contract unit price bid for concrete sidewalk. This shall include full compensation of all materials, labor, tools, equipment and incidentals necessary to complete the work. Payment will not be made for unauthorized work.

SPECIFICATION NO. 708 (Rev)

TOPSOIL AND SODDING

708.1 DESCRIPTION:

The work covered by this section of the specifications consists in furnishing all plant, labor, equipment and materials and in performing all operations in connection with installing topsoil and furnishing and planting of Bermuda grass on the areas designated on the plans or as directed by the Engineer. All planting shall be completed sixty (60) days in advance of acceptance of the work by the City unless permission to the contrary is obtained from the Engineer.

708.2 MATERIAL:

Topsoil which has been stockpiled from required excavations shall be used subject to approval by the Engineer. All other topsoil necessary to complete the work shall be furnished by the Contractor from approved sources off the site. Topsoil to be provided by the Contractor shall be natural, friable, fertile loam, possessing the characteristics of representative soils in the vicinity which produce heavy growths of crops, grass, or other vegetation and shall be obtained from naturally well drained areas. The topsoil shall be reasonably free from subsoil, brush, objectionable weeds, and other litter, and shall be free from clay lumps, stones, stumps, roots, or other objects larger than 2 inches in diameter, toxic substances, and any other material or substance which might be harmful to plant growth or be a hindrance to grading, planting, and maintenance operations.

The sod shall consist of live, growing grass secured from sources where the soil is fertile. All Bermuda sod shall have a healthy, virile root system of dense, thickly matted roots throughout the soil of the sod for a thickness of at least three (3) inches. St. Augustine sod shall have a healthy, virile root system of dense, thickly matted roots throughout the soil of the sod for a minimum thickness of one (1) inch. The Contractor shall not use sod from areas where the grass is thinned out, nor where the grass roots have been dried out by exposure to air and sun to such an extent to damage its ability to grow when transplanted. The sod shall be free from obnoxious weeds or other grasses and shall not contain any matter deleterious to its growth or which might affect its subsistence or hardiness when transplanted. Unless the areas have been closely pastured, it shall be closely mowed and raked to remove all weeds and long standing stems. Sources from which it is to be secured shall be subject to approval by the Engineer.

Fertilizer shall be balanced commercial pelleted fertilizer, with an analysis of 13-13-13. The figures in the analysis represent the percent of nitrogen, phosphoric acid, and potash nutrients respectively. The fertilizer shall be uniform in composition, free flowing and suitable for application with approved equipment, delivered to the site in bags or other convenient containers, each fully labeled, conforming to the applicable State fertilizer laws, and bearing the name, trademark, or trade name, and warranty of the producer. The fertilizer shall be dry and in good physical condition. Fertilizer that is powdered or caked will be rejected. Distribution of fertilizer for the particular item of work shall meet the approval of the Engineer. Unless otherwise indicated on the plans, fertilizer shall be applied uniformly at the average rate of 400 pounds per acre for all typesofsod

708.3 CONSTRUCTION METHODS:

Topsoil shall be placed and spread to the places so designated as shown on the plans or to areas as directed by the Engineer. The minimum thickness of topsoil shall be six (6) inches in excavated areas. Where no excavation was accomplished, the topsoil shall be placed and spread and brought to the proper line and grades as shown on the plans. After the topsoil has been placed and shaped, it shall be sprinkled with water. If the topsoil settles below the established grade after the application of water, additional topsoil shall be added and sprinkled with water as directed by the Engineer.

Equipment necessary for the proper preparation of the ground surface and for handling and placing all materials required shall be on hand, in good condition, and shall be approved by the Engineer before work is started.

Prior to grading and tillage operations, all heavy growth of vegetation on the site sufficient to interfere seriously with grading or tillage operations shall be mowed, grubbed, and raked and removed from the site, or, when suitable, it shall be used for mulch as directed by the Engineer. Prior to or during grading and tillage operations, the ground surface shall be cleared of all stumps, stones larger than 2 inches in diameter, roots, cable, wire, grade stakes, and any other materials which might hinder proper grading, tillage, or subsequent maintenance operations.

Grades on the areas to be topsoiled which have been established by others, as shown on the drawings, shall be maintained in a true and seven condition. Maintenance shall include any necessary repairs to previously graded areas.

After the areas required to be topsoiled have been brought to grade, and immediately prior to dumping and spreading the topsoil, the subgrade, wherever excessively compacted by traffic or other causes, shall be loosened by disking or by scarifying to a depth of at least 2 inches, to permit bonding of the topsoil to subgrade.

The topsoil shall be uniformly distributed on the designated areas and evenly spread to a minimum thickness as indicated on the drawings, and its surface shall conform to the grades called for on the drawings. The spreading shall be performed in such manner that planting can processed with little additional soil preparation or tillage. any irregularities in the surface resulting from topsoiling or other operations shall be corrected in order to prevent the formation of depressions where water will stand. Topsoil shall not be placed when the subgrade is frozen, excessively wet, extremely dry, or in a condition otherwise detrimental to the proposed planting or to proper grading.

After designated areas have been completed to the lines, grades and cross-sections shown on the plans and as provided for in other items of this contract, sodding shall be performed in accordance with the requirements hereinafter described. Sod blocks, sod in which native soil must be attached to the roots, shall be obtained by excavating to the minimum depths as specified above. Care shall be exercised to retain the soil on the roots of the sod during the process of excavation, hauling and planting. Mechanical devices for cutting the sod into strips may be used. Sod material shall be planted within three (3) days after it is excavated and shall be kept moist from the time it is dug until planted. After planting, all sodding shall be watered and finished in accordance with the provisions of this specification.

Designated areas shall be solid sodded. Sod strips shall be laid across slope with staggered joints. All joints shall be snug and even. The sod shall be thoroughly watered immediately after it is planted and shall be subsequently watered to insure that the grass remains alive and healthy for a period of sixty (60) days after the time of installation is completed.

It is the intent of this specification that all sodding be placed and well watered once a week, unless intervening rains make this unnecessary, for at least sixty (60) days prior to acceptance of the work by the city and the Contractor shall so schedule his operations. All areas shall be covered with live sod before final acceptance. Any blocks which show no signs of life shall be replaced with live sod before the work shall be approved.

Where applicable, the shoulders, slopes, and ditches shall be smoothed after planting has been completed and shaped to conform to the cross-section previously provided and existing all the time sodding operations were under way. Any excess dirt from the planting operations shall be spread uniformly over adjacent areas or disposed of as directed by the Engineer so that the completed surfaces will present a sightly appearance.

708.4 CLEANUP:

After the topsoil and sodding has been completed and graded as required, the sodded areas shall be cleared of all stones, stumps, or other objects larger than 1 inch in thickness or diameter, and of all roots, brush, wire, grade stakes, or other objects that might be a hindrance to maintenance operations. Any paved areas over which hauling operations are conducted shall be kept clean, and any topsoil or other dirt which may be brought upon the surfacing shall be removed promptly. The wheels of all vehicles shall be cleaned to avoid bringing dirt upon the surfacing of roads, walks and paved areas.

708.5 MEASUREMENT:

The item "Topsoil" will be measured per C.Y. for 6" of Topsoil In-Place. The item "Sodding" will be measured per S.Y. for Sodding In-Place.

708.6 PAYMENT:

The unit price bid in the Proposal for "Topsoil" shall constitute full payment for providing 6" depth of Topsoil In Place. The unit price bid in the Proposal for "Sodding" shall constitute full payment for providing solid sod complete and In-Place. This payment shall be full compensation for furnishing all materials, equipment, hauling and maintenance and for performing all operations necessary to complete the work.

SECTION 02750 - IRRIGATION SYSTEM

PART 1 - GENERAL

1.01 CONDITIONS OF THE CONTRACT AND DIVISION 1 - GENERAL REQUIREMENTS

Are hereby made a part of this section.

1.02 SCOPE

Furnish and install an operating irrigation system, complete and in place, including controls, supply lines, sprinkler heads, control valves and accessories as shown on the plans and as specified herein.

A. All work included in the installation of the irrigation system shall be performed in accordance with the plans and specifications.

B. The installation of the irrigation system will be made by an individual or firm duly licensed as an irrigator by the State of Texas.

C. Backflow preventor shall be tested by a Certified Backflow Tester.Written test results shall be forwarded to appropriate City representative in the Water department.

1.03 RELATED WORK SPECIFIED ELSEWHERE

A. Where possible, portions of the irrigation system shall be installed prior to the construction of those paved surfaces shown on the plans. Particular attention is directed to sleeves and conduit.

B. Electrical hook-up of controllers will be installed by Electrical Contractor.

1.04 CODES AND STANDARDS

A. Codes: All work shall be installed according to the Standard Plumbing Code.

B. Guarantee: The Contractor shall guarantee all workmanship, materials, fixtures, and equipment covered by the plans and specifications to be free of defects for a period of one (1) year from the date of acceptance of the project, and shall replace any parts found to be defective within the period of guarantee at no cost to the Owner.

1.05 EXISTING UTILITIES AND STRUCTURES

There may be certain existing underground utilities and structures which are not indicated on the plans. The Contractor shall determine the exact location of all existing underground utilities and structures which are not indicated on the plans. The Contractor shall determine the exact location of all existing utilities and conduct his work in such a manner as to prevent interruption of service or damage to them. In the event of damage to existing utilities or structures, the Contractor shall be responsible for their repair or replacement. Minor adjustments in the system will be permitted to clear existing fixed obstructions subject to the Owner's approval. Verify with Verizon for exact location of phone lines, Oncar for gas, City of College Station Electrical Department for electrical, City of College Station Water for water lines,and Cox Communications for TV cable or call DigTess 1-800-344-8377 for locates 48 hours prior to digging.

1.06 SUBMITTALS

Submit three (3) sets of complete shop drawings and manufacturer's product data sheets in a one-time submittal for the complete irrigation system. All proposed materials and products are subject to approval by the Architect/Engineer or Owner.

1.07 COORDINATION AND TIMING

Coordinate installation of irrigation system with related trades as necessary to prevent cutting, patching, and re-routing.

PART 2 - PRODUCTS

2.01 QUALITY AND BRAND

Unless otherwise noted on the plans, all materials shall be new and unused. Unless otherwise noted, Toro/Hunter irrigation equipment catalog numbers are used for reference in these specifications.

2.02 POLYVINYL CHLORIDE (PVC) PIPE

A. Main Pressure Line: All main pressure line pipe shall be schedule 40.

B. Non-Pressure or Sectional Lines: Pipe shall be PVC class 200

C. Markings: All pipe and fittings shall have the following information printed indelibly in ink, hot stamped, or molded thereon: manufacturer's name and trademark, material designation, diameter, schedule or class, and nsf logo/seal.

2.03 PVC FITTINGS

All PVC pipe fittings shall be solvent weld type, Schedule 40, and of the type recommended by the pipe manufacturer. No PVC pipe is to be threaded or connected to metal pipe or metal accessories; use PVC adapter with female thread.

2.04 IRRIGATION HEADS

All irrigation heads are of the named manufacturer, in the nozzle sets, circle angles and series indicated on the plans, or an approved equal.Heads to be Hunter brand.

2.05 BACK-FLOW PREVENTION

Back-flow prevention is existing

2.06 GATE VALVES

Gate valves shall be rated for 150 psi working pressure. Valves are to be sized as shown on the drawings, installed with specified precast adjustable box and cover. All two (2") inch and smaller valves may be Ohio brass, or approved equals.

2.07 ELECTRIC SECTION CONTROL VALVES

All sectional control valves are to be 24 VAC electric solenoid operated. They shall be sized, specified, and located on the plans, and shall be equipped with flow adjustment stems. Valves shall have plastic bodies and covers, and shall be globe-type diaphragm valves of normally open design, CWP 150 psi. The control valves and controller, as approved, must be of the same manufacturer. Only one (1) electric section to operate at one time on any one controller. Rainbird valves preferred.

2.08 WIRE

All wire between the irrigation system control unit and remote section control valves is to be copper, U.L. listed, Type UF, PVC insulated No. 14, suitable for direct burial and to conform in all respects with the requirements for a N.E.C. Class II circuit (30 volts AC or less). All wire is to be color coded -- red for the "hot" leads to each of the control valve solenoids, and white for common neutral wire.

2.09 WIRE CONNECTORS

All direct burial wire connectors are to have a one-piece PVC housing which, when filled with silicone, forms a reusable, one-piece, moisture-proof wire splice connector. All connectors are to be U.L. listed, rated 60C, 500 volt, for PVC insulated wire. Do not use epoxy types.

2.10 VALVE BOXES

A pre-cast box of the type listed, or approved equal, shall be provided for as follows:

A. Ball valve boxes shall be 10 inch diameter, plastic Ametek.

B. Section Control Valves: 10" plastic for 1" elec.valves

2.11 AUTOMATIC LAWN SPRINKLER CONTROLLER

The controller is an existing 11 station Toro pedestal mount controller

PART 3 - EXECUTION

3.01 DESIGN PRESSURE

This irrigation system has been designed to operate with a minimum existing main water line static pressure of 75 psi. The Contractor will take a pressure reading prior to ordering and installing the system. If the pressure reading is different than that indicated, the Contractor will notify the Architect/Engineer so that the system may be re-sized if necessary.

3.02 TRENCHING

Trenching shall be done in coordination with other contractors. The width of the trench shall be only wide enough to adequately connect and install piping. Generally, all closed system (pressure line) piping shall have a minimum cover of eighteen (18") inches, and all open-end (head sections) piping shall have a minimum cover of twelve (12") inches. Minimum cover is measured from the top of the pipe to the surface of the ground.

3.03 BACKFILLING

After installation of the pipe, the trenches shall be properly backfilled. Backfill around the pipe shall be rock free, and care shall be taken that no rocks or other obstructions rest against the pipe. The backfill shall be mechanically tamped so as to leave no depressions, and should depressions develop after completion of the work, the Contractor shall be responsible for additional topsoil or other work to correct these depressions. Where trenches are under paved areas, backfill trenches in six (6") inch layers and mechanically or hand tamp each layer.

3.04 PIPE LAYING

Polyvinyl chloride pipe sections and fittings shall be connected with approved PVC welding solvent, conforming to, and in accordance with the manufacturer's recommendations and the following procedures. All two (2") inch and larger PVC pipe will have cleaner and heavy duty solvent used for installations.

3.05 PIPE JOINTS

Pipe shall be square cut with no burr ends. Wipe all dirt and moisture from fittings, then apply solvent to both. Stab pipe into socket of the fitting, rotate about one-half turn to spread solvent uniformly. Hold joint in place about fifteen (15) seconds for it to set. Do not disturb for fifteen (15) minutes or until the chemical weld is made. Do not use excessive solvent. No PVC pipe is to be threaded for connection to metal pipe or accessories, use only a PVC solvent joint to thread adapter.

3.06 VALVE AND VALVE BOX PLACEMENT

All gate valves and automatic section control valves shall be set at the depth of pressure piping and shall be equipped with a valve access sleeve, if buried. If valves are specified to be in pre-cast boxes, they shall be set with a minimum of twelve (12") inches of space between their top surface and the finished grade. Valves after delivery shall be drained to prevent freezing and shall have interiors cleaned of all foreign matter before installation. Stuffing boxes shall be tightened and valves shall be fully opened and fully closed to ensure that all parts are in working conditions. Coil wire in a "pig tail" fashion inside valve box.

Valve boxes shall be set plumb, vertical and concentric with the valve stem. Any valve box which has so moved from its original position as to prevent the application of the valve key, shall be satisfactorily reset by the Contractor at his own expense.

3.07 HEAD PLACEMENT

All lawn heads shall be set one-half (1/2") inch above finish grade to bottom flange of head. Locate all rotary and lawn spray heads six (6") inches from edges of pavements.

3.08 TESTING AND CHECKING

Upon completion of the installation, the entire system shall be tested and adjusted for proper operation and distribution of the system. It shall be the Contractor's responsibility to obtain complete cover, with wind velocity not more than six (6) mph. The Contractor shall instruct the Owner's representative on operation and maintenance of the system.

3.09 CLEAN UP

Upon completion of the work covered in this project, all debris, rock, and surplus material resulting from the work shall be removed from the site of the project.

3.10 GUARANTEE

The Contractor shall guarantee all workmanship, materials, fixtures, and equipment covered by the plans and specification to be free of defects for a period of one (1) year from date of acceptance of the project and shall replace any parts found to be defective within the period of guarantee at no cost to the Owner.

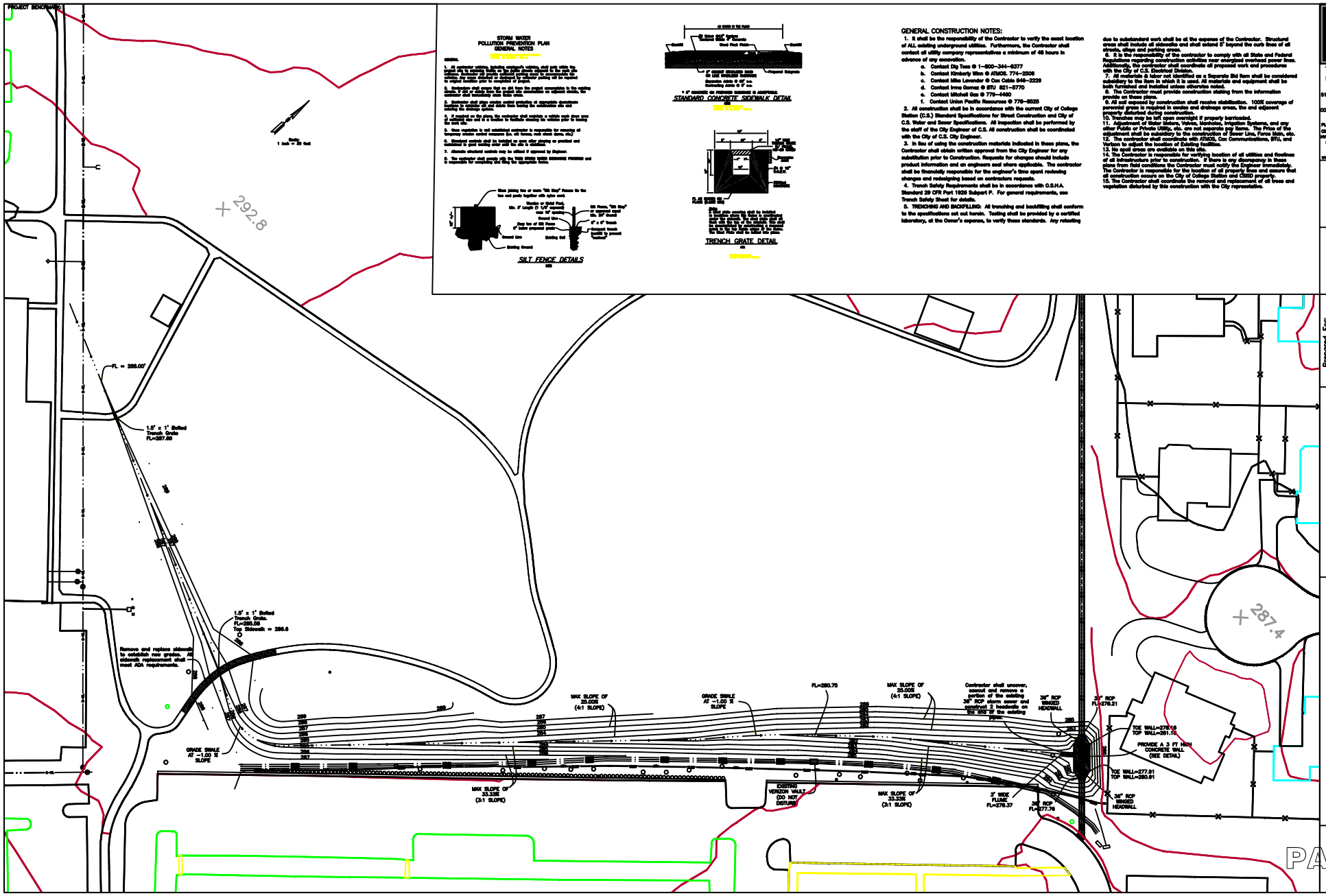
3.11 "RECORD OF INSTALLATION" DRAWING

The Contractor shall provide a neatly marked Irrigation Plan showing triangulated locations of all valves and showing any modifications of the original irrigation system as found in the contract documents. Show dimensions and locate valves, pip, heads, and wire.

3.12 SLEEVES

A. Install schedule 40 PVC pipe sleeve under existing concrete or asphalt surface by boring of the sleeve. Install a minimum of eighteen (18") inches deep. Obtain Owner's permission before cutting existing concrete or asphalt surfaces. Remove and replace existing concrete or asphalt where cutting is necessary.

END OF SECTION



STORM WATER POLLUTION PREVENTION PLAN GENERAL NOTES

GENERAL

1. All contractor vehicles, including trucks, and work vehicles, shall enter the site through the main gate. Access points shall be kept to the minimum necessary for ingress and egress. Additional access points must be approved by the City prior to use. Contractor shall maintain a log of all vehicles and personnel entering the site.
2. Contractor shall ensure that no dirt from the project accumulates in the roadway. Contractor shall immediately remove any dirt, mud, or debris from the roadway. Contractor shall immediately clean fugitive dust.
3. Contractor shall place silt fence around stockpiles of excavated material to minimize dirt and sediment from leaving the construction site and entering the drainage system.
4. If required by the City, the contractor shall provide a wheel wash area at the site entrance. Wash water shall be collected and disposed of in a manner approved by the City.
5. Once vegetation is not established contractor is responsible for removal of temporary erosion control measures (i.e. silt fences, rock check dams, etc.)
6. Disturbed areas shall be treated so as to stop erosion or sediment and be left in good working order and left free of debris.
7. Alternate structural controls may be utilized if approved by Engineer.
8. The contractor shall remove silt fence when permanent revegetation and is responsible for completing any filling for appropriate forms.

SILT FENCE DETAILS

STANDARD CONCRETE SIDEWALK DETAIL

TRENCH GRATE DETAIL

GENERAL CONSTRUCTION NOTES:

1. It shall be the responsibility of the Contractor to verify the exact location of ALL existing underground utilities. Furthermore, the Contractor shall contact all utility company representatives a minimum of 48 hours in advance of any excavation.
   a. Contact Dig Tess @ 1-800-344-8377
   b. Contact Kimberly Winn @ ATMOS. 774-2506
   c. Contact Mike Lavender @ Cox Cable 846-2229
   d. Contact Irma Gomez @ BTU 821-5770
   e. Contact Mitchell Gas @ 779-4440
   f. Contact Union Pacific Resources @ 778-8525
2. All construction shall be in accordance with the current City of College Station (C.S.) Standard Specifications for Street Construction and City of C.S. Water and Sewer Specifications. All inspection shall be performed by the staff of the City Engineer of C.S. All construction shall be coordinated with the City of C.S. City Engineer.
3. In lieu of using the construction materials indicated in these plans, the Contractor shall obtain written approval from the City Engineer for any substitution prior to Construction. Requests for changes should include product information and an engineers seal where applicable. The contractor shall be financially responsible for the engineer's time spent reviewing changes and redesigning based on contractors requests.
4. Trench Safety Requirements shall be in accordance with O.S.H.A. Standard 29 CFR Part 1926 Subpart P. For general requirements, see Trench Safety Sheet for details.
5. TRENCHING AND BACKFILLING: All trenching and backfilling shall conform to the specifications set out herein. Testing shall be provided by a certified laboratory, at the Owner's expense, to verify these standards. Any retesting due to substandard work shall be at the expense of the Contractor. Structural areas shall include all sidewalks and shall extend 5' beyond the curb lines of all streets, alleys and parking areas.
6. It is the responsibility of the contractor to comply with all State and Federal Regulations regarding construction activities near energized overhead power lines. Additionally, the contractor shall coordinate all proposed work and procedures with the City of C.S. Electrical Division.
7. All materials & labor not identified as a Separate Bid Item shall be considered subsidiary to the item in which it is used. All materials and equipment shall be both furnished and installed unless otherwise noted.
8. The Contractor must provide construction staking from the information provide on these plans.
9. All soil exposed by construction shall receive stabilization. 100% coverage of perennial grass is required in swales and drainage areas, the end adjacent property disturbed during construction.
10. Trenches may be left open overnight if properly barricaded.
11. Adjustment of Water Meters, Valves, Manholes, Irrigation Systems, and any other Public or Private Utility, etc. are not separate pay items. The Price of the adjustment shall be subsidiary to the construction of Sewer Line, Force Main, etc.
12. The contractor shall coordinate with ATMOS, Cox Communications, BTU, and Verizon to adjust the location of Existing Facilities.
13. No spoil areas are available on this site.
14. The Contractor is responsible for verifying location of all utilities and flowlines of all infrastructure prior to construction. If there is any discrepancy in these plans from field conditions the Contractor must notify the Engineer immediately. The Contractor is responsible for the location of all property lines and ensure that all construction occurs on the City of College Station and CISD property.
15. The Contractor shall coordinate the removal and replacement of all trees and vegetation disturbed by this construction with the City representative.

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HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

For Review Purposes Only. Not for construction, bidding or permit purposes. Registered Professional Engineer: Jeffrey A. Morgan, P.E. No. 75803

SEPTEMBER, 2009
Designed By: TJB
Drawn By: TJB
Checked By: MJM

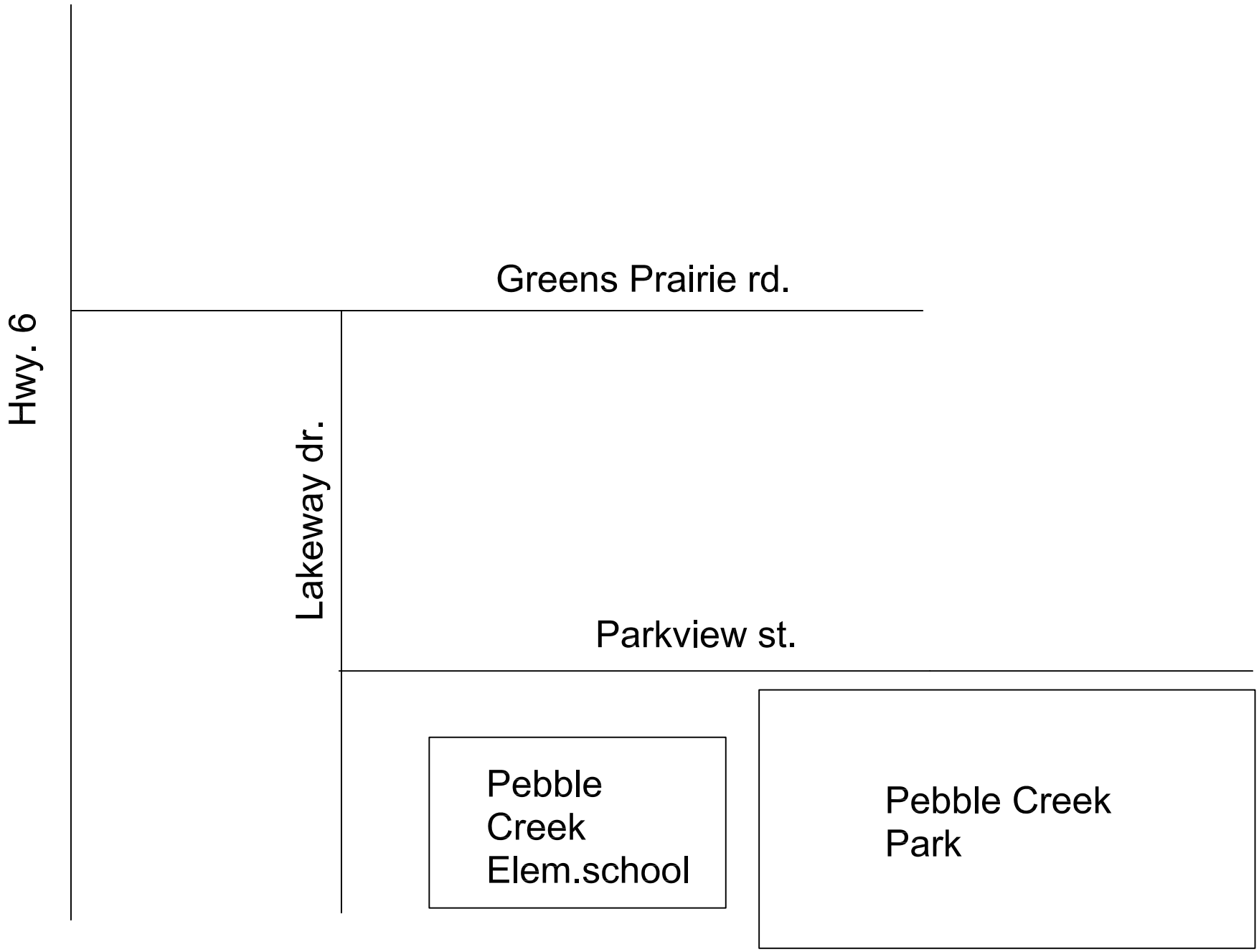
Prepared For: City of College Station

Revisions

Grading Plan
PEBBLE CREEK PARK & ELEMENTARY SCHOOL

Of __ Sheets

PAGEN



Location Map
Pebble Creek Park

11 January 2007
Regular Agenda Item No. 13.1
Crowley Rezoning

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

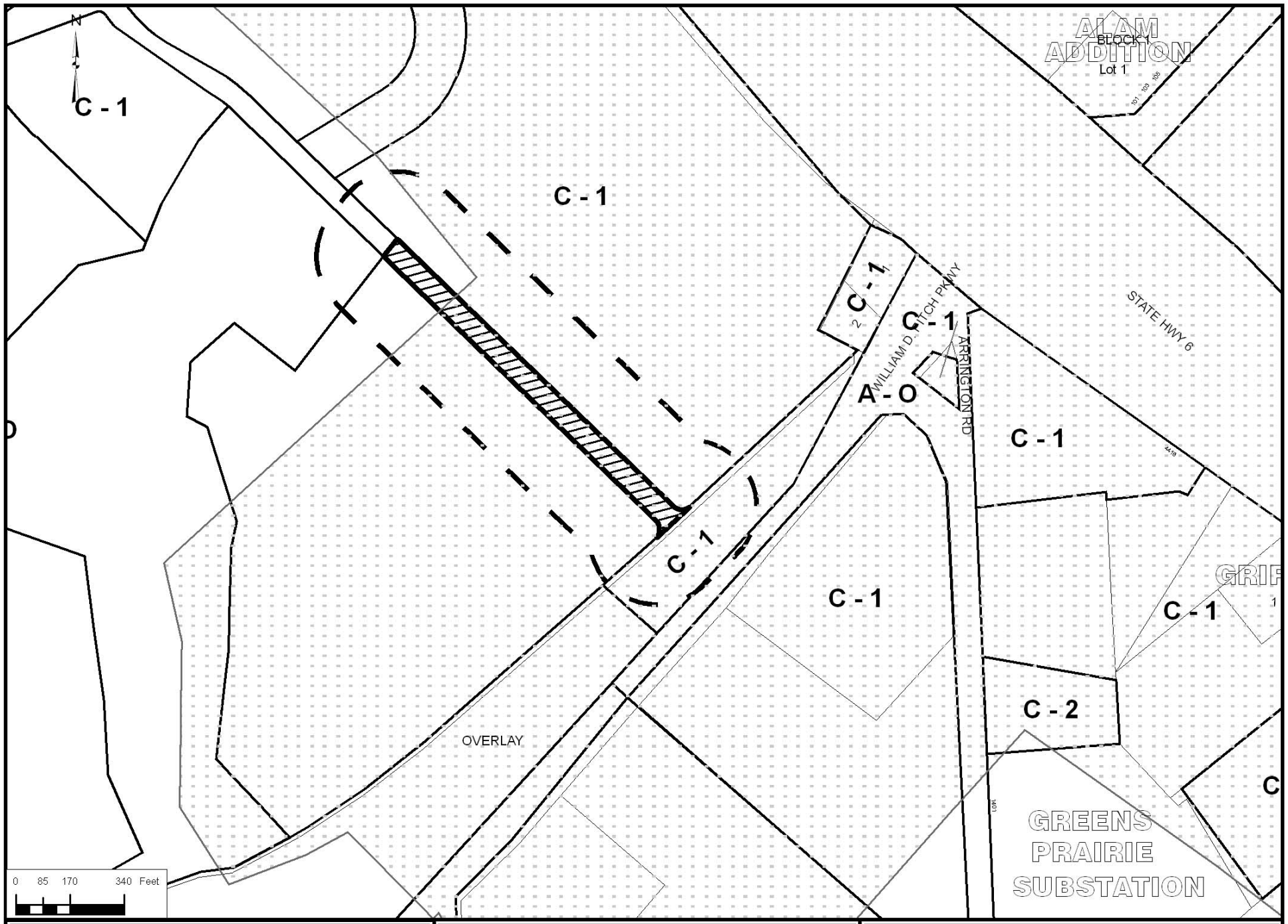
Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance rezoning 1.998 acres at 951 William D. Fitch Parkway, generally located at the northwest corner of State Highway 6 South and William D. Fitch Parkway, from A-O (Agricultural Open) to C-1 (General Commercial).

Recommendation(s): The Planning and Zoning Commission voted unanimously to recommend approval of this item at their regular meeting on 7 December 2006. Staff also recommends approval.

Summary: The subject property is part of a larger tract of approximately 350 acres that was rezoned to C-1 in April of 2001. At that time, this particular tract was rezoned A-O (Agricultural Open) because it was the location of the future alignment of Arrington Road, a major collector on the City's Thoroughfare Plan. Due to Texas Department of Transportation's restrictions for access onto William D. Fitch Parkway, the Thoroughfare Plan was amended in February of 2003 by moving the Arrington Road alignment to the west. This effectively created a strip of A-O property that is flanked on either side by C-1 zoning districts.

Budget & Financial Summary: N/A

Attachments:
1. Small Area Map (SAM) and Aerial Map
2. Item Background
3. Ordinance



DEVELOPMENT REVIEW	SH 6 & GREENS PRAIRE RD	Case: 06-227 REZONING

DEVELOPMENT REVIEW	SH 6 & GREENS PRAIRE RD	Case: 06-227 REZONING

Item Background: The subject property was annexed in October 1983. It was part of an approved Master Development Plan in May 1997 and amended in December 1998, each time shown as land reserved for a future roadway. As part of approximately 350-acre area, the property was rezoned from C-1 to A-O on April 12, 2001.

Comprehensive Plan: The subject property is shown as Regional Retail on the City's Comprehensive Land Use Plan, and has approximately 144 feet of frontage on William D. Fitch Parkway, a Freeway on the Thoroughfare Plan. The adjacent portions of the tract are also designated as Regional Retail.

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 Exhibits "A" and "B", 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 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

_____
City Attorney

EXHIBIT "A"

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 A-O, Agricultural Open to C-1, General Commercial and shown graphically in Exhibit "B":

All that tract or parcel of land lying and being situated in Brazos County, Texas, and being situated in the Robert Stevenson Survey, A-54, and being a part of the same tract of land described in a deed to Timothy J. Crowley, as recorded in Volume 1415, Page 74, of the Brazos County Official Records(B.C.O.R.), and being more particularly described by metes and bounds as follows with all control referred to the 1983 Texas State Plane Coordinate System, Lambert Projection, Central Zone:

COMMENCING at a fence post found for the north corner of said 62.18 acre tract, as recorded in Vol. 4712, Page 260, of the B.C.O.R., also being a point in the southwest right-of-way line of State Highway No. 6, also being the east corner of the John M. Lawrence, III, 247.46 acre tract, as recorded in Volume 929, Page 216, of the B.C.O.R., having a Texas State Plane Coordinate Value of X= 3,576,278.52(E), Y = 10,192,792.33 (N)

THENCE South 17°54'57" East, a distance of 2308.45 feet across said Crowley tract to a point for corner for the **PLACE OF BEGINNING**, also being the north corner of this tract;

THENCE across said Crowley tract for the following calls:

South 45°53'14" East, a distance of 1197.63 feet to a point of curvature;

Around a curve to the left having a delta angle of 81°54'43", an arc distance of 57.19 feet, a radius of 40.01 feet, and a chord of South 86°50'36" East, a distance of 52.44 feet to a point for the east corner of this tract, also being a point on the north right-of-way line of State Highway 40(R.O.W. Varies(410 +)), which is a 62.965 acre tract, as recorded in Vol. 3926, Page 85, of the B.C.O.R.;

THENCE along the common line between this tract and said State Highway 40 for the following calls:

South 46°54'23" West, a distance of 138.67 feet to a concrete monument with brass cap found for corner;

South 48°42'17" West, a distance of 5.19 feet to a point for the south corner of this tract;

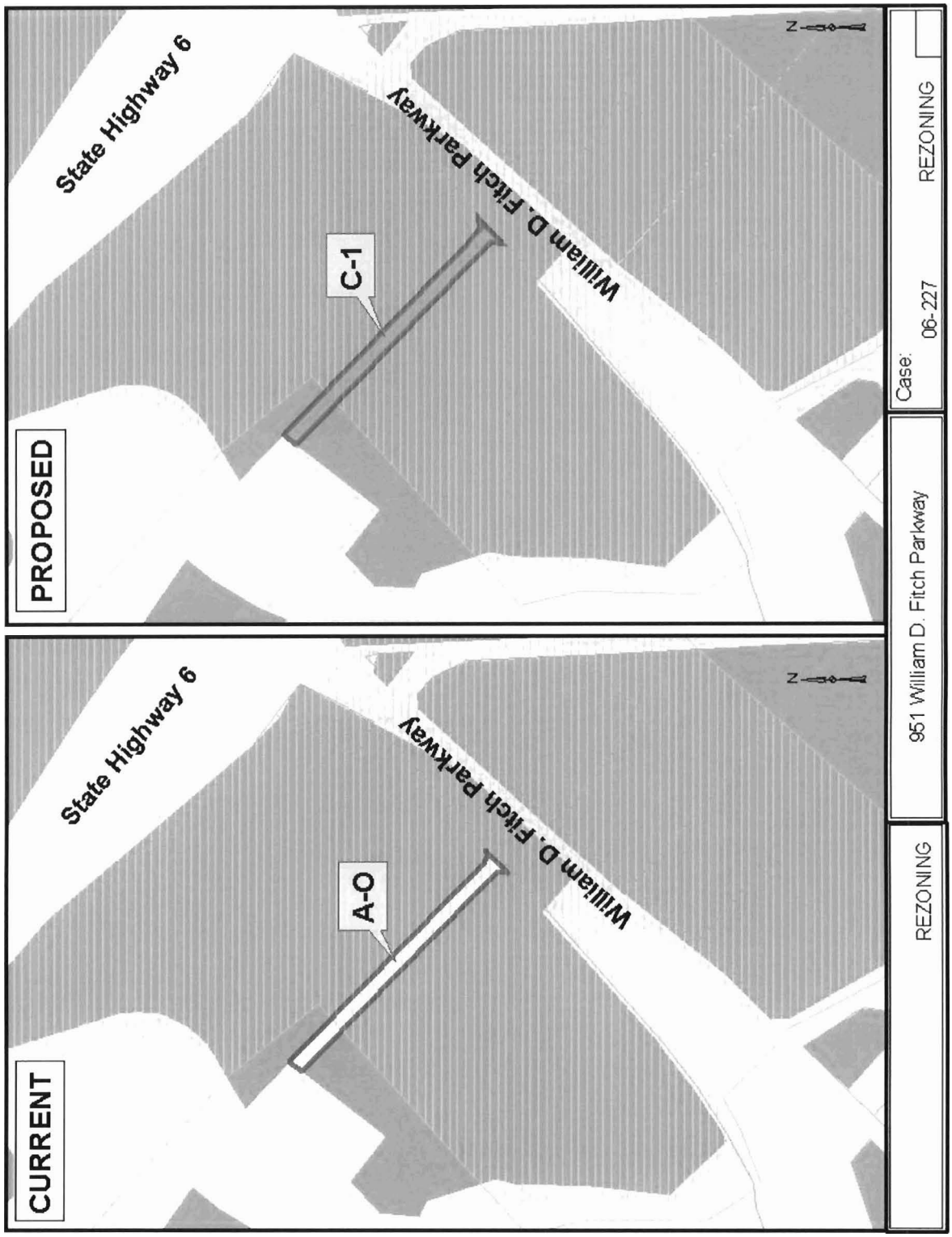
THENCE leaving said right-of-way line, and across said Crowley tract for the following calls:

Around a curve to the left having a delta angle of 89°00'05", an arc distance of 62.13 feet, a radius of 40.00 feet, and a chord of North 1°23'09" West, a distance of 56.07 feet to a point of tangency;

North 45°53'14" West, a distance of 1190.07 feet to a point for the west corner of this tract;

North 44°06'49" East, a distance of 70.00 feet to the **PLACE OF BEGINNING** containing 1.998 acres.

EXHIBIT "B"


PROPOSED
State Highway 6
William D. Fitch Parkway
C-1
N
CURRENT
State Highway 6
William D. Fitch Parkway
A-O
N
REZONING
951 William D. Fitch Parkway
Case: 06-227
REZONING

11 January 2007
Regular Agenda Item No. 13.2
Gateway Comprehensive Plan Amendment

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion on an ordinance amending the Comprehensive Plan from Floodplain & Streams to Residential Attached for 3.27 acres at 500 Earl Rudder Freeway South, generally located just behind Home Depot.

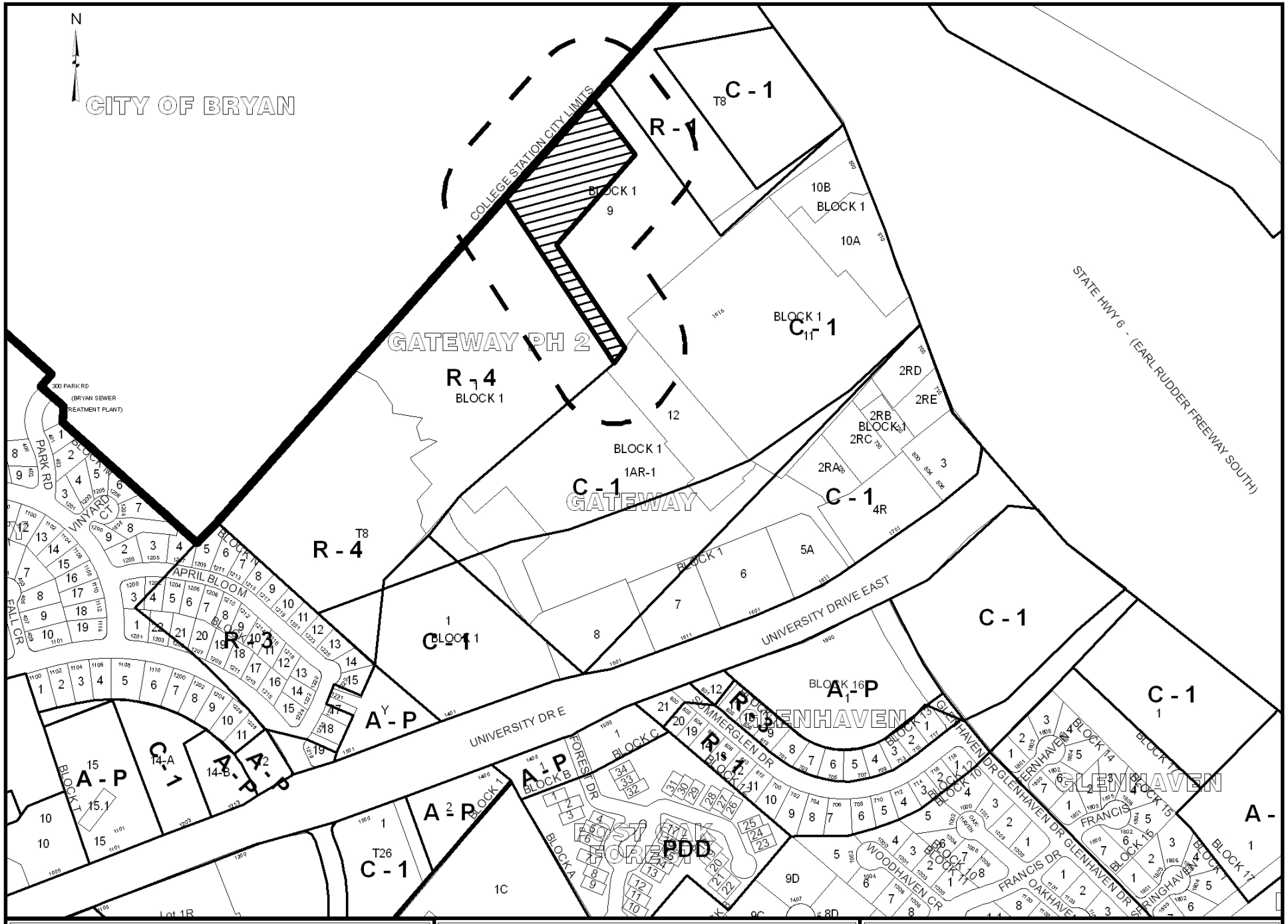
Recommendation(s): The Planning and Zoning Commission voted unanimously to recommend denial at their regular meeting on 7 December 2006. Staff also recommends denial of the request.

Summary: The applicant is requesting a change to the Land Use Plan from Floodplain & Streams to Residential Attached in order to develop a multi-family project. The majority of the subject property is located within the 100-year floodplain. Jurisdictional wetlands have also been identified on the portions of the property.

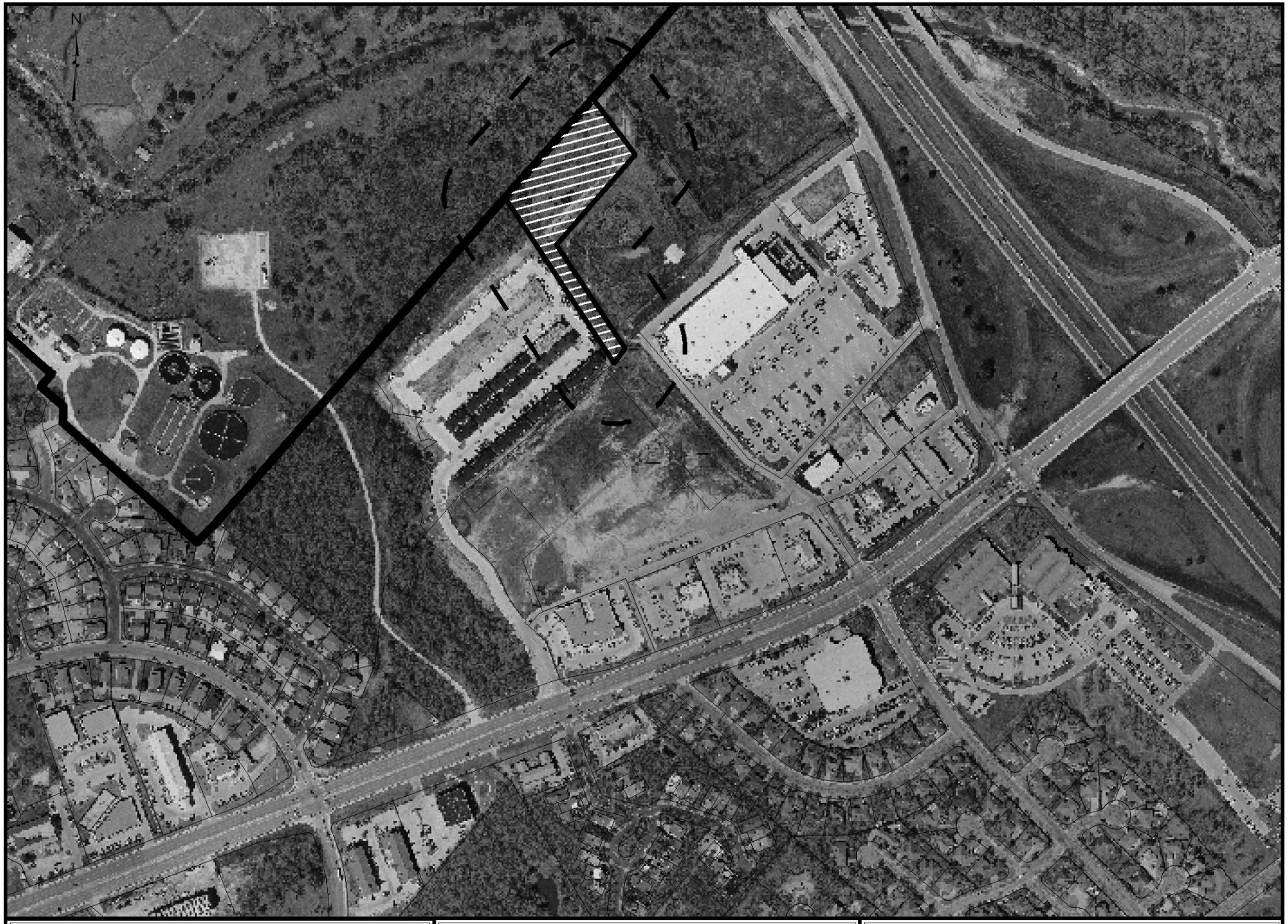
Staff does not feel that this property is appropriate for Residential Attached because of its proximity to Burton creek and the presence of jurisdictional wetlands. The goals of the Comprehensive Plan state that we should limit the reclamation of floodplains to avoid long term upstream flooding and to provide a city wide network of natural open space. Staff is concerned that approval of a Residential Attached designation on this property will lead to the incremental encroachment of development in the floodplain. Staff does not believe that amending the Comprehensive Plan for this property advances the Council's goal of maintaining our environmental and natural qualities.

Budget & Financial Summary: N/A

Attachments:
1. Small Area Map and Aerial
2. Item Background
3. Land Use Plan Map
4. Application
5. Ordinance



DEVELOPMENT REVIEW	GATEWAY PH 1	Case: 06-500207 COMP PLAN



DEVELOPMENT REVIEW	GATEWAY PH 1	Case: 06-500207 COMP PLAN

Item Background: The subject property was annexed into the City of College Station in 1971 and platted in 1981. In 1995, the subject property was rezoned from R-1 (Single Family) to C-B (Commercial Business). With the adoption of the Unified Development Ordinance in June of 2003, all C-B zoning district became C-1 (General Commercial), which is the current zoning.

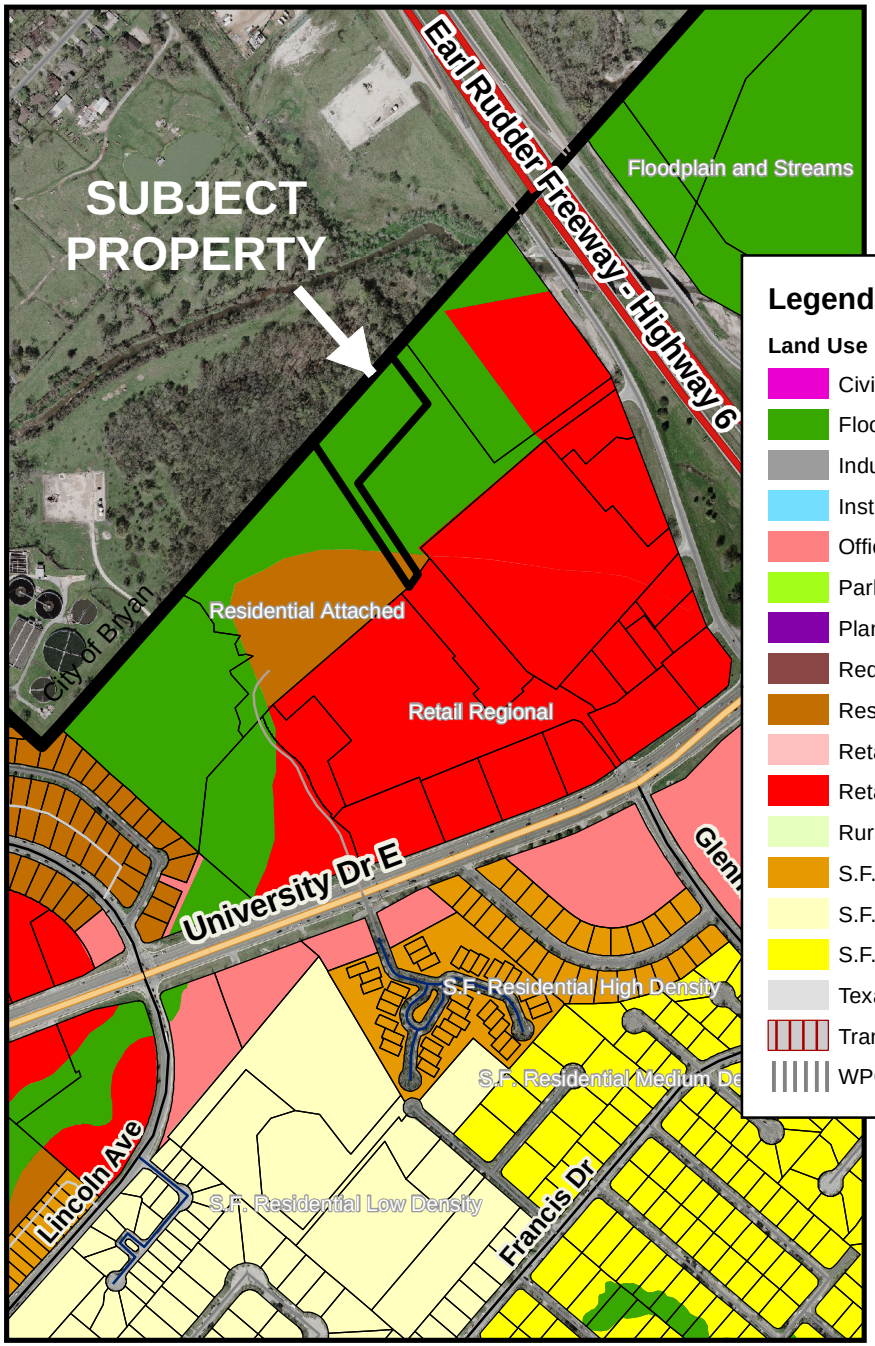
The Land Use Plan shows Floodplain and Streams on the majority of the lot. The majority of the property is located within the 100-year floodplain. Jurisdictional wetlands have also been identified on the subject property.

Burton Creek and the City of Bryan are located to the north. To the east is undeveloped property zoned C-1 (General Commercial) and R-1 (Single Family Residential), which are reflected as Floodplains and Streams on the Land Use Plan. To the south is property zoned C-1 (General Commercial) and developed as Home Depot. Between the subject property and Home Depot is a regional detention facility for the Gateway Development, which is reflected as Floodplains and Streams and Retail Regional on the Land Use Plan. To the west is property zoned R-4 (Multi-Family) and developed as apartments. The Jurisdictional Wetlands are located on both the northeast and northwest corners of the subject property.

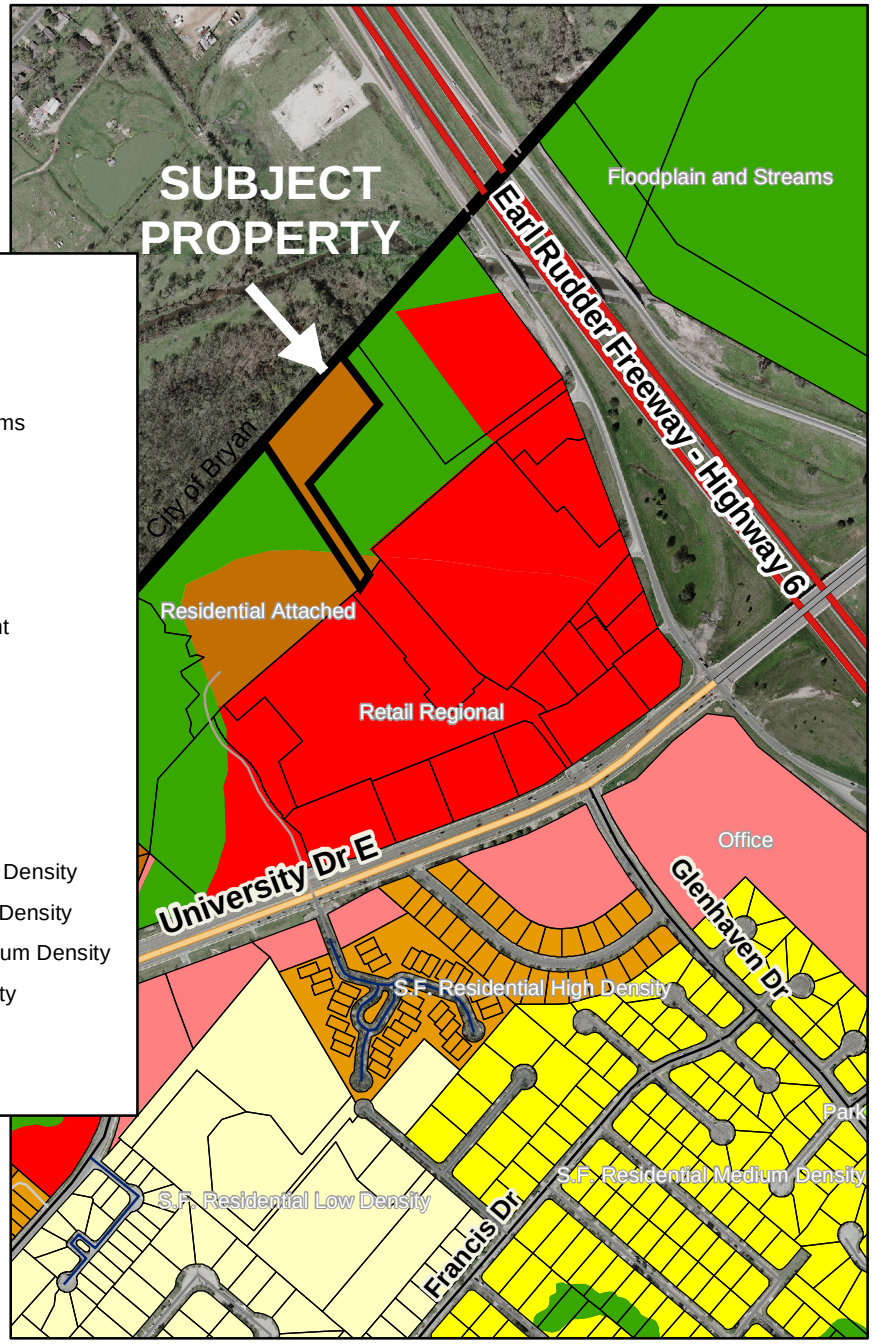
The Comprehensive Plan Goals and Objectives #5 encourages development that is in harmony with the environment. Objective 5.1 specifically addresses the reclamation of floodplains to avoid long term upstream flooding and to provide a city wide network of natural open space. Section 3.14 of the Comprehensive Plan encourages land uses that provide for on-going quality development in College Station and the surrounding area while maintaining its environmental and natural qualities. The Plan also encourages new development that is sensitive to existing development, the City's floodplains, and treed areas.

Due to the fact that the existing land use plan identifies the majority of the subject property as Floodplain and Streams, that Jurisdictional Wetlands are located on portions of the property, and in the interest of maintaining the environmental and natural qualities in this area, staff is recommending denial of the comprehensive plan amendment.

Existing



Proposed



Legend

Land Use Plan

- Civic
- Floodplain and Streams
- Industrial R and D
- Institutional
- Office
- Park
- Planned Development
- Redevelopment
- Residential Attached
- Retail Neighborhood
- Retail Regional
- Rural
- S.F. Residential High Density
- S.F. Residential Low Density
- S.F. Residential Medium Density
- Texas A & M Univeristy
- Transitional
- WPC Overlay

12/29/2006

CITY OF COLLEGE STATION
Planning & Development Services

FOR OFFICE USE ONLY
Case No. 06-207
Date Submitted 9.20.06
95 2100

COMPREHENSIVE PLAN AMENDMENT APPLICATION

(Check all applicable) ☑ Land Use Amendment ☐ Thoroughfare Amendment
☐ alignment / location
☐ classification

The following items must be submitted by the established deadline dates for consideration:

☑ Two (2) copies of a fully dimensioned map on 24" X 36" paper showing:
a. Land affected;
b. Present zoning of property and zoning classification of all abutting properties;
c. Current land use plan classification and proposed land use plan changes;
d. Current land use classification of all abutting property;
e. Current and proposed thoroughfare alignments
☑ General location and address of property;
☑ Total acres of property; and
☑ All applicable Comprehensive Plan Amendment Request form(s) completed in full.

The following information must be completed before an application is accepted for review.

APPLICANT INFORMATION:
(if different from owner, a complete affidavit shall be required)
Name: Robert W. Todd E-mail: Toddrw@cox.net
Street Address: 2902 Burning Tree
City: Bryan State: Texas Zip Code: 77802
Phone Number: 979-777-3606 Fax Number: 979-774-6605

PROPERTY OWNER'S INFORMATION:
Name: Frank Mihalopoulos E-mail: frank@corinthprop.com
Street Address: 4645 North Central Expressway
City: Dallas State: Texas Zip Code: 75205
Phone Number: 214-219-5600 Fax Number:

COMPREHENSIVE PLAN AMENDMENT REQUEST FORM

The following is required if an amendment to the **Land Use Plan** is requested. Based on the nature and extent of the requested amendment, additional studies may be required. Attach additional sheets if necessary.

Current Land Use Plan designation: C-1

Requested Land Use Plan designation: R-4

Explain the reason for this Land Use Plan amendment: To provide uniform development of the area.

Identify what conditions have changed to warrant a change in the land use plan designation. Townhomes were built adjacent to the proposed 3.27 acre tract after the original Gateway tract was zoned commercial (C-1)

How does the requested land use designation further the goals and objectives of the City of College Station Comprehensive Plan? Building additional townhomes will enhance the community experience of the existing residents and blend in with the overall development. It will also provide better emergency service to the existing Gateway II townhome development.

Explain why the requested land use designation is more appropriate than the existing designation. Commercial development of this tract would have an undesirable impact on the adjacent townhomes. C-4 zoning would be more compatible with the existing townhomes

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct.

Robert W. Todd Applicant
Signature and Title

9-20-06
Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING THE COMPREHENSIVE PLAN, FOR THE AREA OF 500 EARL RUDDER FREEWAY, JUST BEHIND HOME DEPOT , PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Thousand Dollars ($2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____day of _____, 2007.

ATTEST: APPROVED:

_____ _____

CONNIE HOOKS, City Secretary RON SILVIA, Mayor

APPROVED:

City Attorney

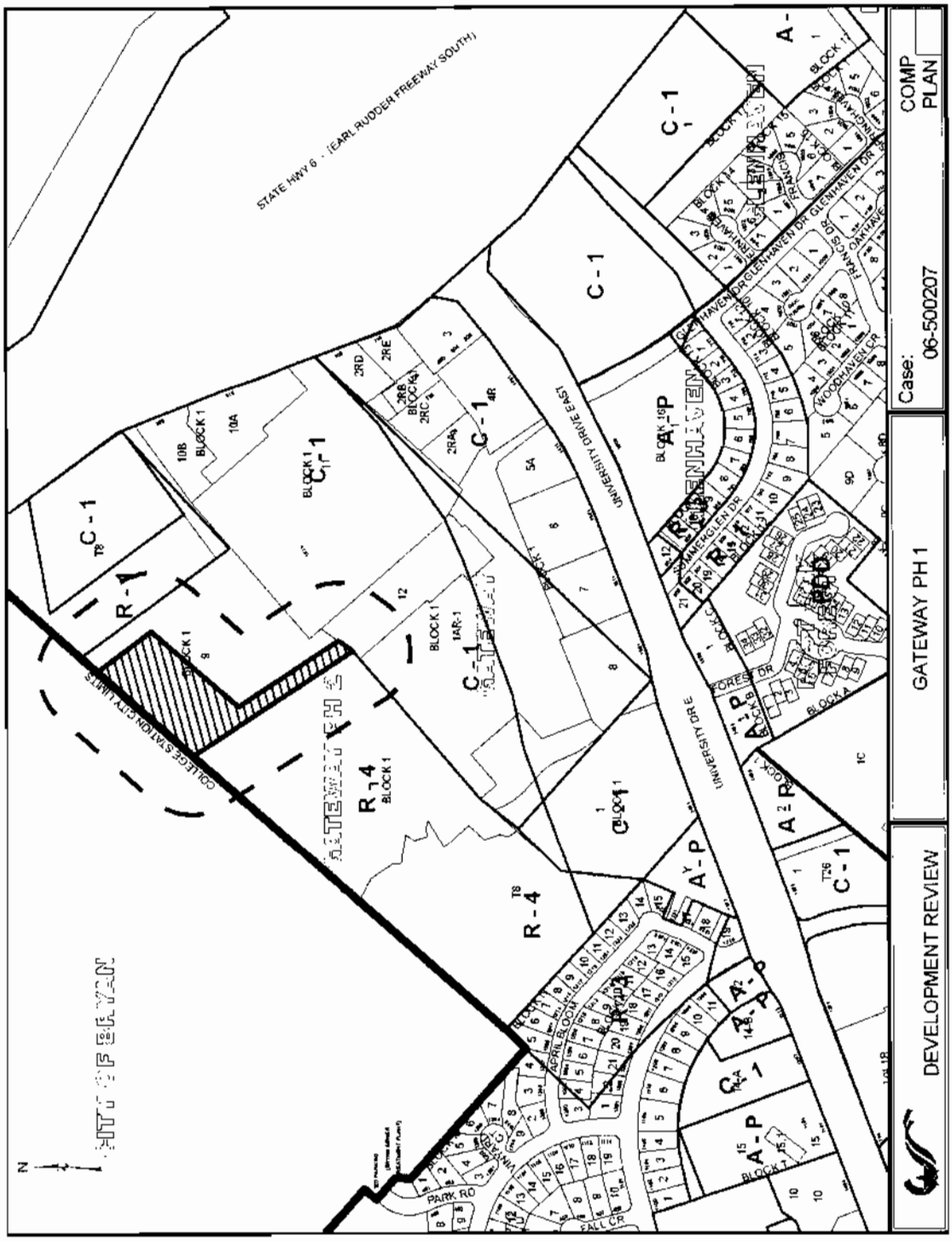
EXHIBIT "A"

AMENDED AREA OF
COLLEGE STATION LAND USE MAP

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

The 3.27 acres generally located at 500 Earl Rudder Freeway, just behind Home Depot is amended from Floodplain and Streams to Residential Attached, as shown on the attached Exhibit "B".

EXHIBIT "B"


STATE HWY 6 - (EARL RUDDER FREEWAY SOUTH)
UNIVERSITY DRIVE EAST
UNIVERSITY DR E
GLENHAVEN DR
COLLEGE STATION CITY LIMITS
PARK RD
FALL CR
C - 1
R - 1
R - 4
A - P
COMP PLAN
Case: 06-500207
GATEWAY PH 1
DEVELOPMENT REVIEW

11 January 2007
Regular Agenda Item No. 13.3
Roasted Bean Conditional Use Permit

To: Glenn Brown, City Manager

From: Lance Simms, Acting Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, discussion, and possible action on an ordinance expanding an existing Conditional Use Permit for the Roasted Bean Coffee Shop located at 2551 Texas Avenue South, Suite D, in the Homestead Place Shopping Center.

Recommendation(s): The Planning and Zoning Commission voted unanimously to recommend approval of this request at their regular meeting on 7 December 2006. Staff also recommends approval.

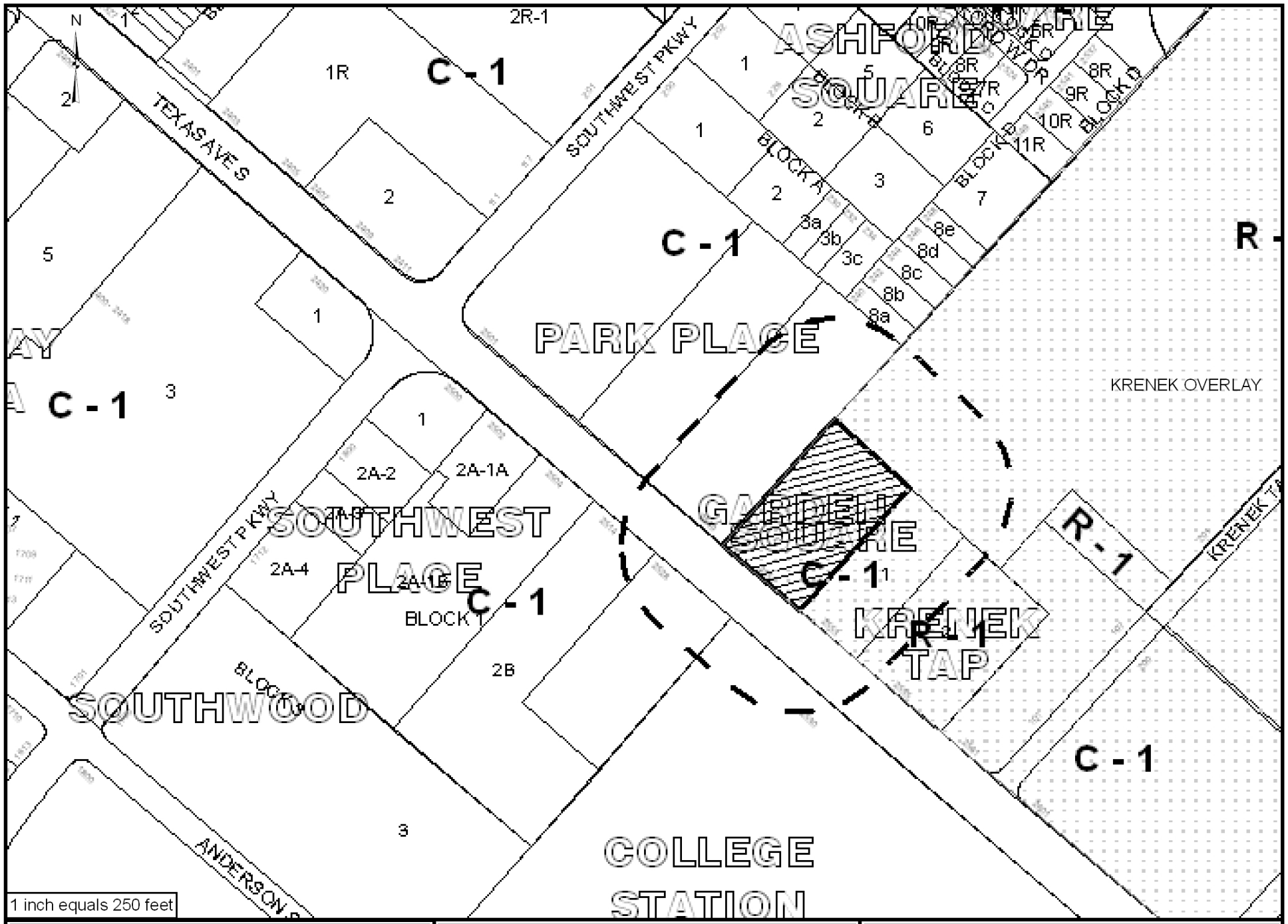
Summary: The applicant is requesting an expansion to an existing Conditional Use Permit that was approved by City Council on 12 May 2005, and further expanded on 13 October 2005. The requested expansion of the Conditional Use Permit is to allow live music at a new coffee shop. The music will be acoustical in nature and located inside the building. The Roasted Bean Coffee Shop is occupying the lease space that previously contained the Hookah Station Night Club. The existing Conditional Use Permit remains valid for the new business. Although the Roasted Bean will not serve alcohol, since live music will be provided at this location, the use remains classified as a Night Club according to the Unified Development Ordinance.

The prior business was granted a Conditional Use Permit to operate a Night Club, which was expanded in October of 2005 to allow an outdoor seating area. The Roasted Bean intends to continue the use of the existing outdoor seating area in front of the business. They also plan to provide limited food service.

The Roasted Bean intends to operate from 6:30 AM to 7:00 PM, Tuesday thru Thursday and from 6:30 AM to 12:00 PM, Friday and Saturday. They plan to be closed on Sunday and Monday. The abutting businesses to the subject property are Q-Nails (a nail salon), and Cutler2 Salon and Spa. The subject property is located approximately 400 feet from College Station Baptist Church.

Budget & Financial Summary: N/A

Attachments:
1. Small Area Map and Aerial
2. Draft Planning and Zoning Minutes
3. Ordinance



DEVELOPMENT REVIEW	THE ROASTED BEAN 2551 TEXAS AVE S STE D	Case: CUP 06-228

DEVELOPMENT REVIEW	THE ROASTED BEAN 2551 TEXAS AVE S STE D	Case: CUP 06-228

MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, December 7, 2006
at 7:00 P.M.
Council Chambers
College Station City Hall
1101 Texas Avenue
College Station, Texas

CITY OF COLLEGE STATION
Planning & Development Services

DRAFT

9. Public hearing, presentation, possible action, and discussion on the expansion of an existing Conditional Use Permit for the Roasted Bean Coffee Shop located at 2551 Texas Avenue South, Suite D, in the Homestead Place Shopping Center. **Case #06-500228 (GW)**

   Grant Wencel, Staff Planner, presented the Conditional Use Permit and recommended approval.

   No one spoke during the public hearing.

   Commissioner Christiansen motioned to recommend approval to City Council as submitted by staff. Commissioner Davis seconded the motion, motion passed (7-0).

ORDINANCE NO. _____

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

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

PART 1: That Chapter 12, "Unified Development Ordinance", Section 3.13, "Development Review Procedures, Conditional Use Permit", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in 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 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 11th day of January 2007.

ATTEST:

_____

Connie Hooks, City Secretary

APPROVED:

_____

RON SILVIA, MAYOR

APPROVED:

_____

City Attorney

EXHIBIT "A"

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

That an amendment to a Conditional Use Permit is hereby granted for a nightclub as provided for in Chapter 12, "Unified Development Ordinance", Section 3.13, "Development Review Procedures, Conditional Use Permit", of the Code of Ordinances of the City of College Station. The property located at 2551 Texas Avenue South, Suite D was granted a Conditional Use Permit in 2005 as a nightclub and expanded to allow a fenced outdoor seating area located on a twenty-six (26) foot by fourteen (14) foot patio, and on a twenty (20) foot by fourteen (14) foot patio directly in front of the lease space, separated by a four (4) foot sidewalk, as depicted on the approved site plan. Fencing material may be aluminum or iron at least three (3) feet in height and securely fastened so that it may not be moved to block sidewalks. No more than four (4) tables may be located in each fenced area, and tables must be complimentary in color and material to the fencing.

This is an expansion to the existing Conditional Use Permit to allow live music.

Conditions to the Conditional Use Permit:

Noise levels from live music are limited to 65 d.b.a. from 7:00 A.M. to 10:00 P.M. and 55 d.b.a. from 10:00 P.M. to 7:00 A.M. according to College Station Codes.

January 11, 2007
Regular Agenda Item No. 13.4
Redmond Terrace Easement Abandonment

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

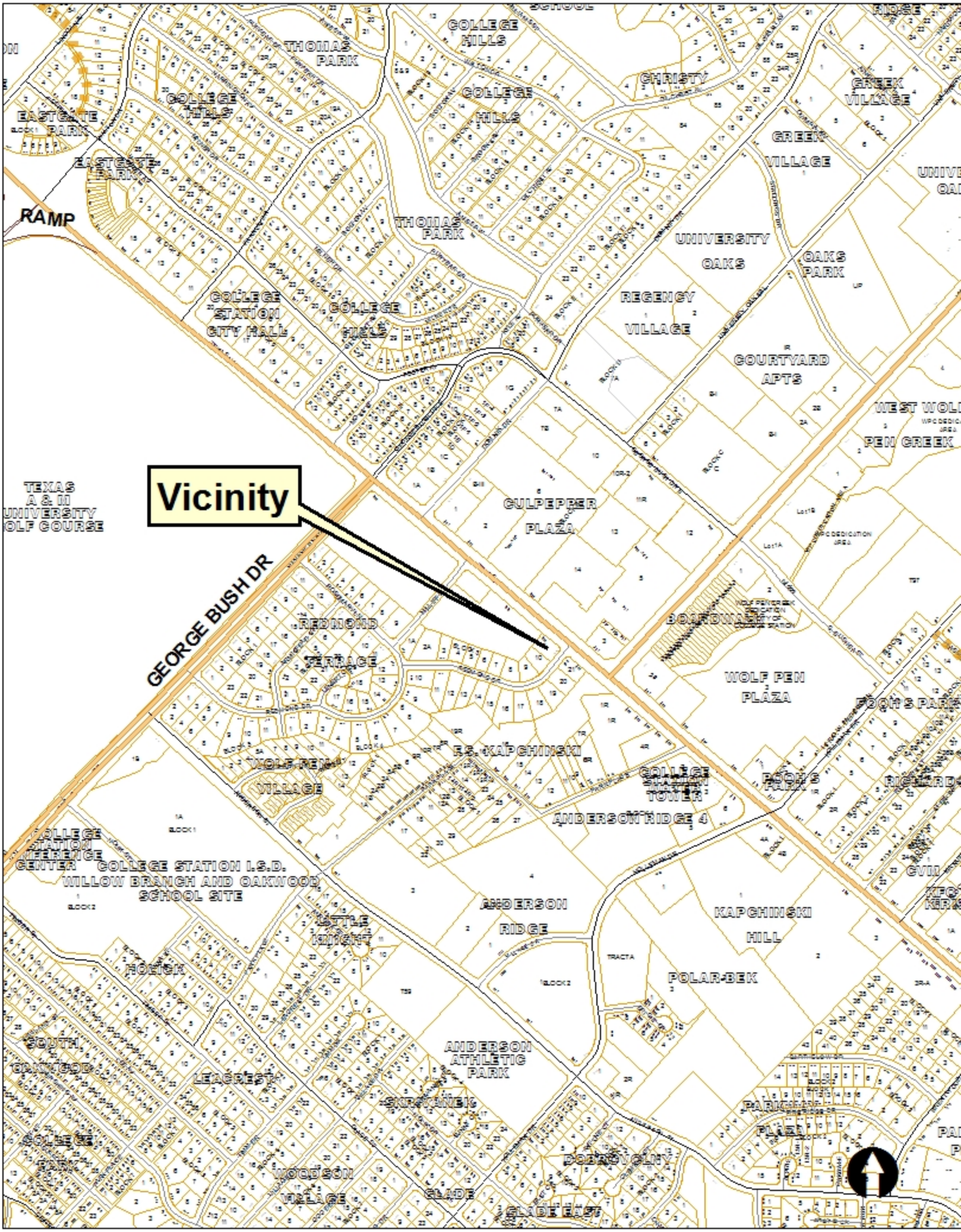
Agenda Caption: Public Hearing, presentation, possible action, and discussion regarding an ordinance vacating and abandoning a 2800 square foot portion of a twenty (20) foot wide utility easement located within Lots 10 and 11, Block 13 of the Redmond Terrace First Installment Subdivision.

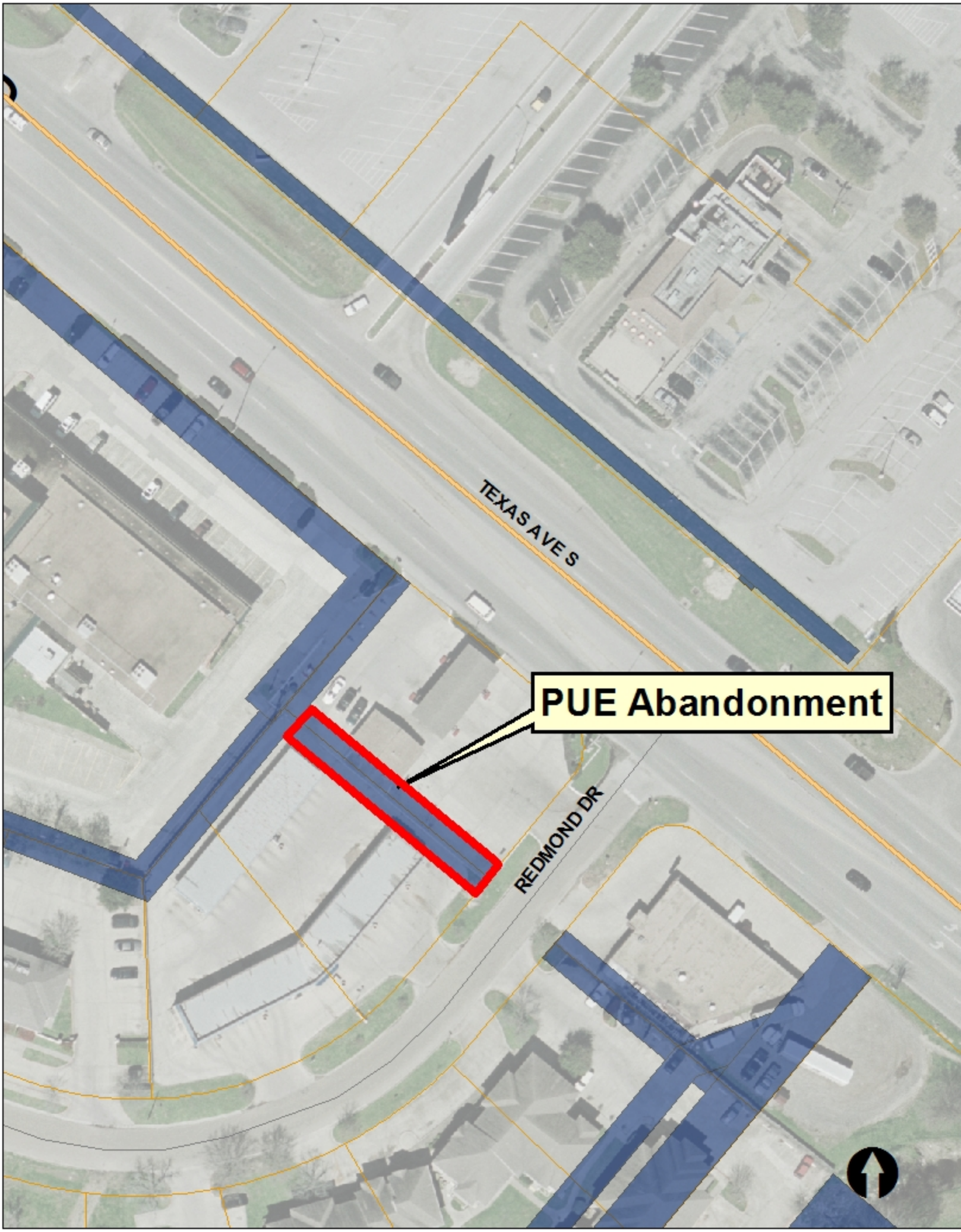
Recommendation(s): Staff recommends approval of the ordinance abandoning the described easement area.

Summary: The easement proposed to be abandoned is a 2800 square foot portion of a twenty (20) foot wide utility easement, which is located within Lots 10 and 11, Block 13 of the Redmond Terrace First Installment Subdivision. The sewer line has been relocated to another public utility easement and there is no other infrastructure in this easement to be abandoned. Removal of the easement will facilitate the redevelopment of this property.

Budget & Financial Summary: N/A

Attachments:
1. Exhibit 1 - Vicinity Map
2. Exhibit 2 – PUE Abandonment Location
3. Exhibit 3 - Ordinance
4. Exhibit 4 - Ordinance Exhibit "A"
5. Exhibit 5 - Application for abandonment


Vicinity
GEORGE BUSH DR
RAMP
COLLEGE HILLS
THOMAS PARK
CHRISTY
GREEK VILLAGE
EASTGATE PARK
UNIVERSITY OAKS
OAKS PARK
REGENCY VILLAGE
COURTYARD APTS
COLLEGE STATION CITY HALL
WEST WOLF PEN CREEK
TEXAS A & M UNIVERSITY GOLF COURSE
CULPEPPER PLAZA
BOARDWALK
REDMOND TERRACE
WOLF PEN PLAZA
R.S. KAPCHINSKI
WOLF PEN VILLAGE
COLLEGE STATION TOWER
ANDERSON RIDGE 4
COLLEGE STATION CONFERENCE CENTER
COLLEGE STATION I.S.D. WILLOW BRANCH AND OAKWOOD SCHOOL SITE
ANDERSON RIDGE
KAPCHINSKI HILL
LITTLE KNIGHT
HOLICK
POLAR-BEK
SOUTH OAKWOOD
LEAGREST
ANDERSON ATHLETIC PARK
SKRAVANEK
PARKWAY PLACE
DOBROVOLNY
WOODSON VILLAGE
GLADE
GLADE EAST


TEXAS AVE S
PUE Abandonment
REDMOND DR

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 2800 SQUARE FOOT PORTION OF THE TWENTY FOOT (20') PUBLIC UTILITY EASEMENT, SAID PORTION LYING ALONG LOTS 10 & 11, BLOCK 13, OF THE REDMOND TERRACE FIRST INSTALLMENT ADDITION SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 188, PAGE 295 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of a portion of the twenty foot (20') Public Utility Easement, said portion lying along Lots 10 & 11, Block 13, of the Redmond Terrace First Installment Addition Subdivision, according to the plat recorded in Volume 188, Page 295, of the Official Records of Brazos County, Texas, as described in Exhibit "A" attached hereto (such portion hereinafter referred to as the "Easement"); and

WHEREAS, in order for the Easement to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the Easement described in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Easement will not result in property that does not have access to public roadways or utilities.

2. There is no public need or use for the Easement.

3. There is no anticipated future public need or use for the Easement.

4. Abandonment of the Easement will not impact access for all public utilities to serve current and future customers.

PART 2: That the Easement described in Exhibit "A" be abandoned and vacated by the City.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
CONNIE HOOKS, City Secretary

APPROVED:

Carla A Robinson
City Attorney

Windrose Land Services, Inc
3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151
Professional Surveying and Engineering Services

DESCRIPTION
0.0643 ACRES OR 2,800 SQUARE FEET
UTILITY EASEMENT

A TRACT OR PARCEL OF LAND CONTAINING 0.0643 ACRES OR 2,800 SQUARE FEET SITUATED IN THE J. E. SCOTT SURVEY, ABSTRACT NO. 50, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OUT OF A CALLED 0.364 ACRE TRACT OF LAND CONVEYED TO BKXL PARTNERS NO. 2, LTD., RECORDED UNDER VOLUME 7207, PAGE 27 OF THE BRAZOS COUNTY DEED RECORDS, AND ALSO OUT OF A CALLED 0.5898 ACRE TRACT OF LAND CONVEYED TO BKXL PARTNERS NO. 2, LTD., RECORDED UNDER VOLUME 7207, PAGE 39, OF THE BRAZOS COUNTY DEED RECORDS, SAID 0.0643 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2" IRON ROD FOUND ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF TEXAS AVENUE (RIGHT OF WAY WIDTH VARIES), ALSO BEING THE MOST EASTERLY CORNER OF A CALLED 3.956 ACRE TRACT OF LAND CONVEYED TO BRIGHT LIGHT CORPORATION, RECORDED UNCER VOLUME 1375, PAGE 284 OF THE BRAZOS COUNTY DEED RECORDS, AND THE MOST NORTHERLY CORNER OF SAID 0.364 ACRE TRACT;

THENCE SOUTH 50 DEGREES 15 MINUTES 41 SECONDS EAST, WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF TEXAS AVENUE, ALSO BEING THE NORTHEASTERLY LINE OF SAID 0.364 ACRE TRACT, A DISTANCE OF 20.00 FEET;

THENCE SOUTH 39 DEGREES 44 MINUTES 19 SECONDS WEST, A DISTANCE OF 90.00 FEET TO THE PLACE OF BEGINNING, ALSO BEING THE MOST NORTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 50 DEGREES 15 MINUTES 41 SECONDS EAST, A DISTANCE OF 140.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF REDMOND DRIVE (CALLED 50' WIDE RIGHT OF WAY), ALSO ON THE MOST SOUTHEASTERLY BOUNDARY LINE OF SAID 0.364 ACRE TRACT, AND BEING THE MOST EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 39 DEGREES 44 MINUTES 19 SECONDS WEST, WITH THE COMMON LINE OF SAID NORTHWESTERLY RIGHT OF WAY LINE OF REDMOND DRIVE, AND SAID 0.364 ACRE TRACT, AT A DISTANCE OF 10.00 FEET PASS A CAPPED 5/8" IRON ROD STAMPED WINDROSE LAND SERVICES FOUND FOR THE MOST SOUTHERLY CORNER OF SAID 0.364 ACRE TRACT, ALSO BEING THE MOST EASTERLY CORNER OF SAID 0.5898 TRACT, CONTINUING WITH THE COMMON LINE OF SAID 0.5898 TRACT, A TOTAL DISTANCE OF 20.00 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT OF WAY LINE OF REDMOND DRIVE, BEING THE MOST SOUTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 50 DEGREES 15 MINUTES 41 SECONDS WEST, A DISTANCE OF 140.00 FEET TO A POINT MARKING THE MOST WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

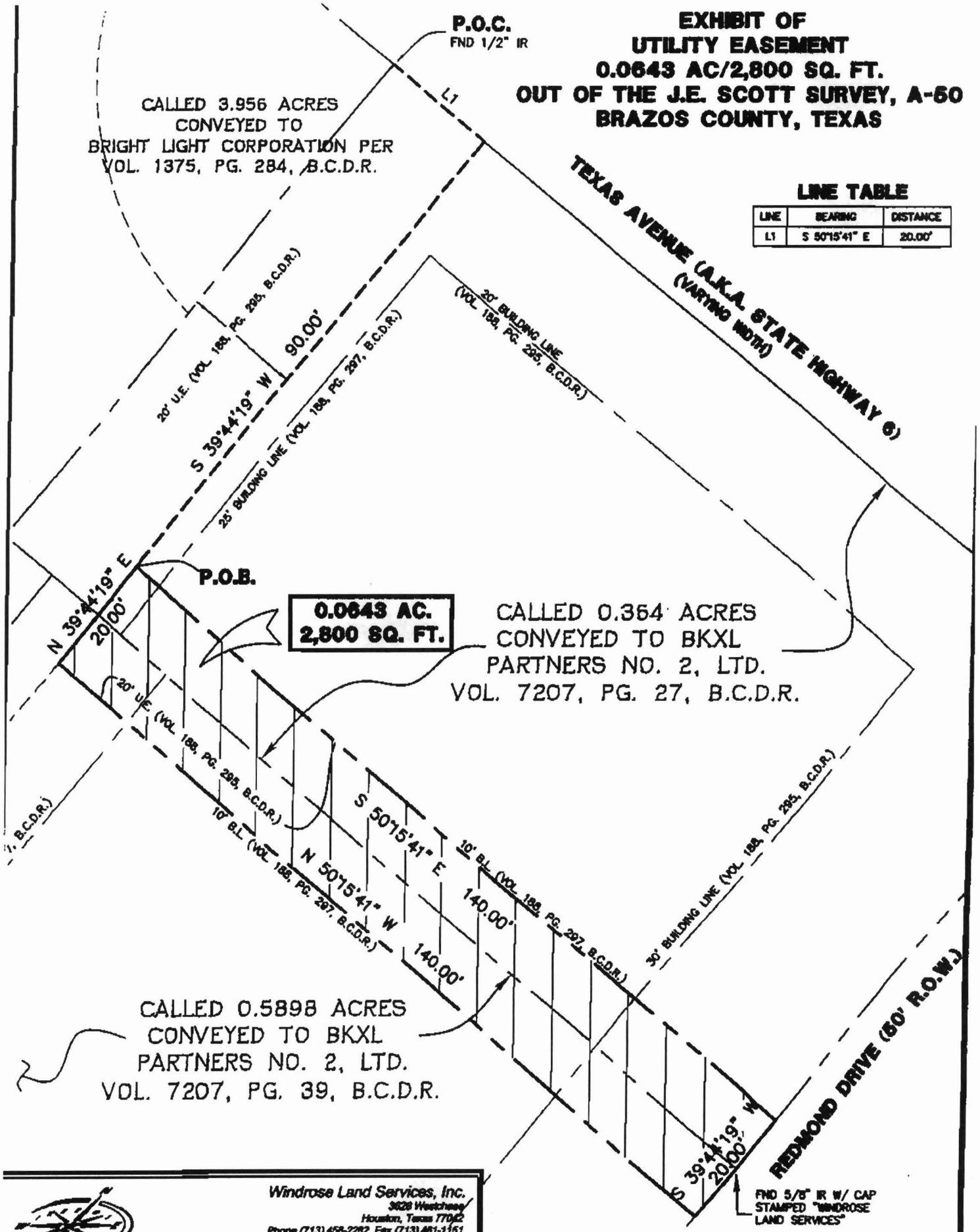
THENCE NORTH 39 DEGREES 44 MINUTES 19 SECONDS EAST, PASSING AT A DISTANCE OF 10.00 FEET THE COMMON LINE OF SAID 0.5898 ACRE AND 0.364 ACRE TRACTS, CONTINUING FOR A TOTAL DISTANCE OF 20.00 FEET TO THE PLACE OF BEGINNING AND CONTAINING 0.0643 ACRES OR 2,800 SQUARE FEET, PREPARED BY WINDROSE LAND SERVICES, JOB NUMBER 39513WC-EXHIBIT-ESMT.

MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS

09/28/06
DATE

Y:\Projects\39513-Redmond Terrace (Old Job #36469)\Surveying-SU\Drawings\Metes & Bounds\39513WC-EXHIBIT-ABANDON.DOC

EXHIBIT OF
UTILITY EASEMENT
0.0643 AC/2,800 SQ. FT.
OUT OF THE J.E. SCOTT SURVEY, A-50
BRAZOS COUNTY, TEXAS



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 50°15'41" E	20.00'

Windrose Land Services, Inc.
3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1161
Professional Surveying & Engineering Services

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3628 Westchase
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MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS

MIKE KURKOWSKI 5101 PROFESSIONAL LAND SURVEYOR

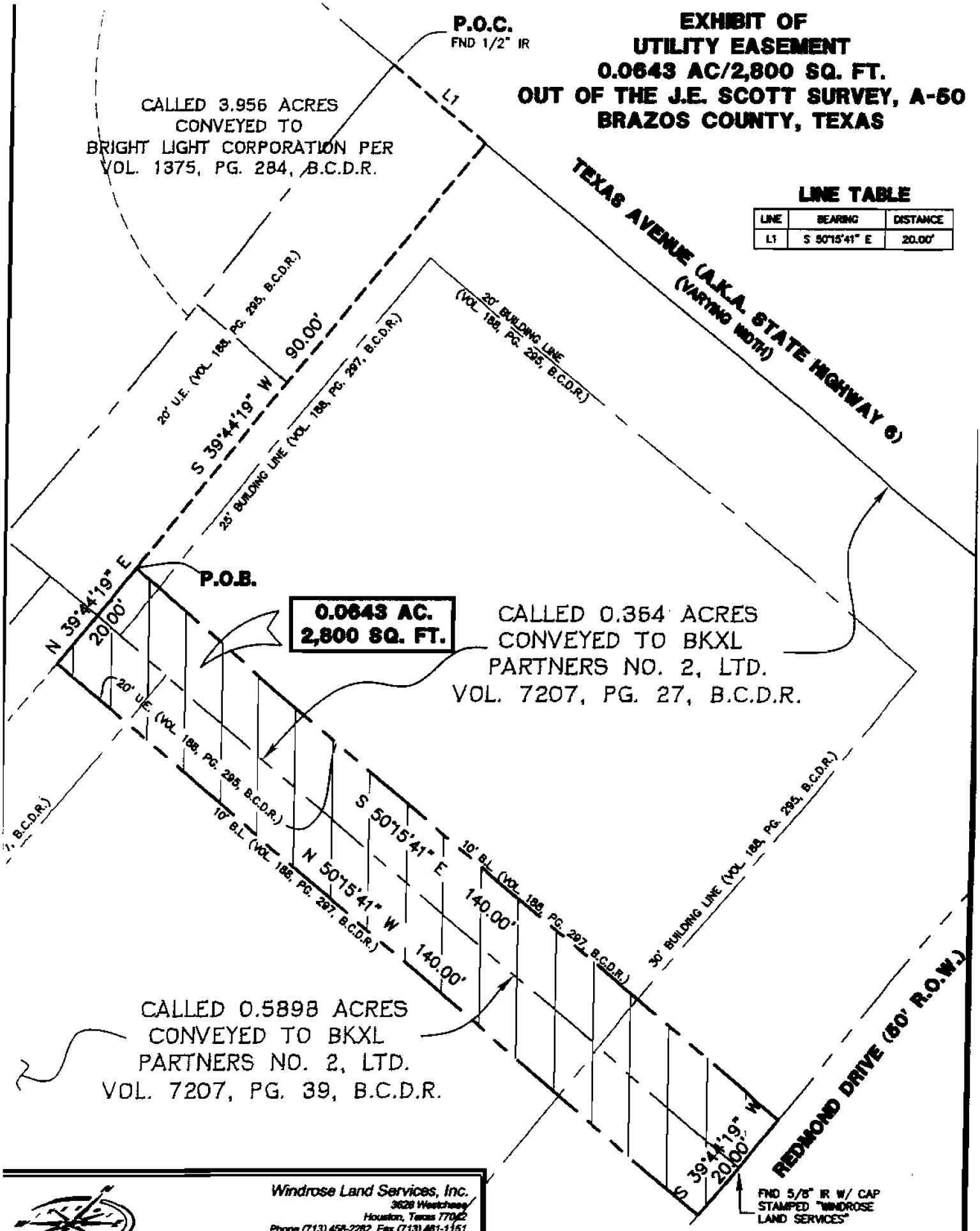
09/28/06
DATE

Y:\Projects\39513-Redmond Terrace (Old Job #36469)\Surveying-SU\Drawings\Metes & Bounds\39513WC-EXHIBIT-ABANDON.DOC

EXHIBIT OF UTILITY EASEMENT 0.0643 AC/2,800 SQ. FT. OUT OF THE J.E. SCOTT SURVEY, A-50 BRAZOS COUNTY, TEXAS

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 50°15'41" E	20.00'



Windrose Land Services, Inc.
3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151
Professional Surveying & Engineering Services

CITY OF COLLEGE STATION
Planning & Development Services

For Office Use Only
P&Z Case No. 04-226
Date Submitted: 10/13/06

ABANDONMENT OF PUBLIC ROW-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS

- ☑ $300.00 Abandonment of Public Right-of-Way (ROW)/Easement application fee.
- ☑ A completed copy of the attached Abandonment of Public ROW/Easement application.
- ☑ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☑ A completed copy of the Easement Dedication Sheet application with all requirements.

ADDRESS 317 Redmond Drive

LEGAL DESCRIPTION Lots 10 and 11 Block 3 Redmond Terrace First Installment

APPLICANT (Primary Contact for the Project):

Name Veronica J.B. Morgan E-Mail v@mitchellandmorgan.com

Street Address 511 University Drive East Suite 204

City College Station State Texas Zip Code 77840

Phone Number 979-260-6963 Fax Number 979-260-3564

PROPERTY OWNER'S INFORMATION (if different from above):

Name :BKXL Partners No. 2, LTD

E-Mail cmcdaniel@excelcommercial.com

Street Address 6363 Woodway Drive, Suite 950

City Houston State Texas Zip Code 77057

Phone Number 713-458-5151 Fax Number 713-458-5152

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct.

Mary McDaniel
Signature of Owner

10/3/06
Date

APPLICATION FOR THE ABANDONMENT OF A PUBLIC RIGHT-OF-WAY/EASEMENT

Date: September 25, 2006

Location of Right-of-Way/Easement to be Abandoned: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

Property Owner's Name & Address: BKXL Partners No. 2, LTD
6363 Woodway Drive, Suite 950
Houston, TX 77057

Property Owner's Phone Number: : (713) 458-5151

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.

2. Attached, marked Exhibit No. 1, are two sealed metes and bounds descriptions (dividing the area in half) of the area sought to be abandoned, prepared by a Registered Public Surveyor.

3. Attached, marked Exhibit No. 2, are two copies of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.

4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.

5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.

6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

   The easement is located entirely on this property and there are no abutting property owner adjacent to the portion of the easement to be abandoned.

7. Such public right-of-way/easement should be abandoned because:

The sewer line that was located within this easement has been moved to another location on the site.(see exhibit)

8. Such public right-of-way/easement has been and is being used as follows:

It was being use exclusively for a sanitary sewer line and this line has been relocated to another location on the site.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.

Owner's Signature: Clay McDa

Owner's Name: Clayton L. McDaniel, Member of BXKL Mananagement, LLC, general partner of BKXL Partners, No. 2. Ltd.

Owner's Address: 6363 Woodway Drive, Suite 950

Houston, TX 77057

Owner's Phone Number: (713) 458-5151

STATE OF TEXAS)
)
COUNTY OF HARRIS)

ACKNOWLEDGMENT

Subscribed and sworn to before me, a Notary Public, this 4th day of October, 2006, by CLAY MCDANIEL.

Iris V. Cortez
Notary Public in and for
the State of Texas

IRIS V. CORTEZ
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
NOV. 3, 2009

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

EXHIBIT NO. 1

Attached are two sealed copies of the metes and bounds description of the public right-of-way/easement situated on *Lots 10 and 11 in the Redmond Terrace First Installment Subdivision* to the City of College Station, Brazos County, Texas, sought to be abandoned.

Windrose Land Services, Inc
3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151
Professional Surveying and Engineering Services

DESCRIPTION
0.0643 ACRES OR 2,800 SQUARE FEET
UTILITY EASEMENT

A TRACT OR PARCEL OF LAND CONTAINING 0.0643 ACRES OR 2,800 SQUARE FEET SITUATED IN THE J. E. SCOTT SURVEY, ABSTRACT NO. 50, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OUT OF A CALLED 0.364 ACRE TRACT OF LAND CONVEYED TO BKXL PARTNERS NO. 2, LTD., RECORDED UNDER VOLUME 7207, PAGE 27 OF THE BRAZOS COUNTY DEED RECORDS, AND ALSO OUT OF A CALLED 0.5898 ACRE TRACT OF LAND CONVEYED TO BKXL PARTNERS NO. 2, LTD., RECORDED UNDER VOLUME 7207, PAGE 39, OF THE BRAZOS COUNTY DEED RECORDS, SAID 0.0643 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2" IRON ROD FOUND ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF TEXAS AVENUE (RIGHT OF WAY WIDTH VARIES), ALSO BEING THE MOST EASTERLY CORNER OF A CALLED 3.956 ACRE TRACT OF LAND CONVEYED TO BRIGHT LIGHT CORPORATION, RECORDED UNCER VOLUME 1375, PAGE 284 OF THE BRAZOS COUNTY DEED RECORDS, AND THE MOST NORTHERLY CORNER OF SAID 0.364 ACRE TRACT;

THENCE SOUTH 50 DEGREES 15 MINUTES 41 SECONDS EAST, WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF TEXAS AVENUE, ALSO BEING THE NORTHEASTERLY LINE OF SAID 0.364 ACRE TRACT, A DISTANCE OF 20.00 FEET;

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MIKE KURKOWSKI
R.P.L.S. NO. 5101
STATE OF TEXAS

MIKE KURKOWSKI 5101 PROFESSIONAL LAND SURVEYOR

09/28/06
DATE

Y:\Projects\39513-Redmond Terrace (Old Job #36469)\Surveying-SU\Drawings\Metes & Bounds\39513WC-EXHIBIT-ABANDON.DOC

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

EXHIBIT NO. 2

Attached are two copies of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.

EXHIBIT OF UTILITY EASEMENT 0.0643 AC/2,800 SQ. FT. OUT OF THE J.E. SCOTT SURVEY, A-50 BRAZOS COUNTY, TEXAS

LINE TABLE

LINE	BEARING	DISTANCE
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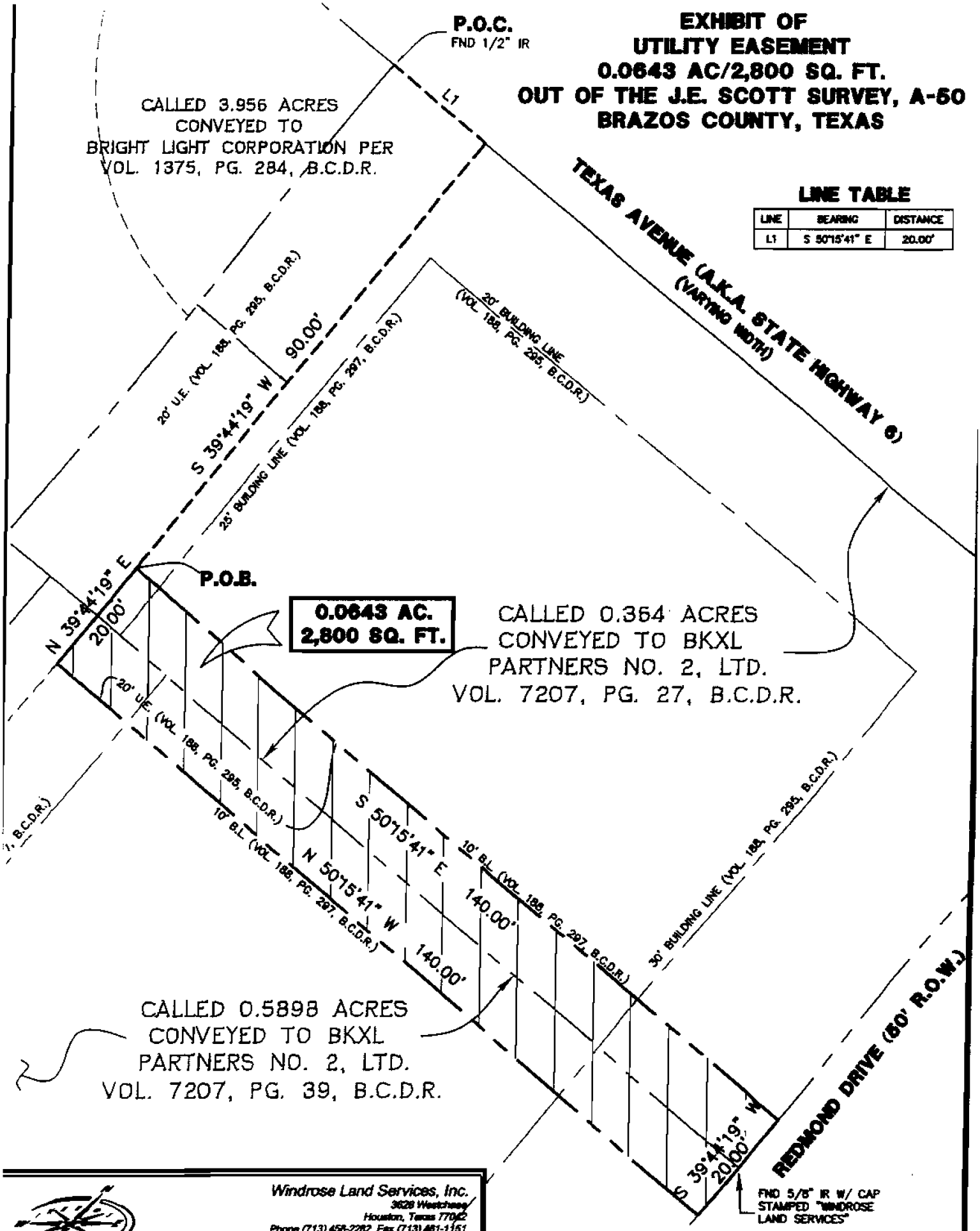

Windrose Land Services, Inc.
3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151
Professional Surveying & Engineering Services

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS GAS COMPANY

BY: _____

Title _____

VERIZON TELEPHONE COMPANY

BY: J. A. Stewart

Title Supervisor Engineering

SUDDEN-LINK COMMUNICATIONS

BY: _____

Title _____

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

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ATMOS GAS COMPANY

BY: _____

Title _____

VERIZON TELEPHONE COMPANY

BY: _____

Title_____

SUDDEN-LINK COMMUNICATIONS

BY: _____

Title Field System Manager

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

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ATMOS GAS COMPANY

BY: _____

Title Engineer

VERIZON TELEPHONE COMPANY

BY: _____

Title _____

SUDDEN-LINK COMMUNICATIONS

BY: _____

Title _____

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

EXHIBIT NO. 4

The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above from the standpoint of City of College Station ordinances and with respect to present and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

City Engineer
City of College Station

Building Official
City of College Station

Zoning Official
City of College Station

Fire Marshal
City of College Station

Electric Department
City of College Station

10 Nov 06
Water Services Department
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

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City Engineer
City of College Station

For Building Official
City of College Station

Zoning Official
City of College Station

Fire Marshal
City of College Station

Electric Department
City of College Station

Water Services Department
City of College Station

Post-it® Fax Note 7671	Date 10/17/06	# of pages ▶ 1
To Brittany	From Tony M	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

Application for Abandonment of
a Public Right-of-Way/Easement

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City Engineer
City of College Station

Building Official
City of College Station

Zoning Official
City of College Station

Fire Marshal
City of College Station

Tony Michelsky
Electric Department
City of College Station 10/17/06

Water Services Department
City of College Station

Application for Abandonment of
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City Engineer
City of College Station

Building Official
City of College Station

Zoning Official
City of College Station

Fire Marshal
City of College Station

Electric Department
City of College Station

Water Services Department
City of College Station

10/13/06 FRI 16:39 FAX 979 764 3403 CS FIRE DEPT.

Application for Abandonment of
a Public Right-of-Way/Easement

Located: ***Generally at 317 Redmond Drive at the northwest corner of Redmond Drive and Texas Avenue, on Lots 10 and 11, Block 3 of the Redmond Terrace First Installment Subdivision***

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

Name: **NOT APPLICABLE**

Address: _____

_____

Name: _____

Address: _____

_____

Name: _____

Address: _____

_____

Name: _____

Address: _____

_____

Name: _____

Address: _____

_____

January 11, 2007
Regular Agenda Item No. 13.5
Ch. 13 Flood Hazard Protection – Drainage Guidelines - Housekeeping

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Public Hearing, presentation, possible action, and discussion an ordinance amending City of College Station Code of Ordinances Chapter 13: Flood Hazard Protection, enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines.

Recommendation(s): Staff recommends approval of this ordinance amendment.

Summary: These items are being brought before the Council to consider enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. The Drainage Guidelines, like the other Water, Sanitary, Street Guidelines contained within the Bryan/College Station Unified Design Guidelines are to be engineering and construction guidance utilized by both the Cities of College Station and Bryan as the name implies in an effort to standardize and update the development, design, construction, and maintenance for both the development community and both of the cities. The Drainage Guidelines, also like the other Water, Sewer, and Street counterparts, was created as a result of numerous meetings and input from private engineers, developers, and both cities, over approximately a two year period.

This ordinance amendment would replace the Drainage Policy and Design Standards which was originally enacted in 1987 and has been largely unaltered.

Budget & Financial Summary: N/A

Attachments:
1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 13, "FLOOD HAZARD PROTECTION", 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 13, "FLOOD HAZARD PROTECTION", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibits "A" through "M", 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 thirty (30) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

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

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvelt

_____
City Attorney

EXHIBIT "A"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 1: "PURPOSE AND AUTHORITY", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection B, paragraph (6) as set out hereafter to read as follows:

"(6) To establish review, approval, and permit procedures for the methods of handling, conveying, and disposing of stormwater flows within the corporate limits and extraterritorial jurisdiction of the City, and insure the review by the appropriate authority of the design, analysis, construction and maintenance of all drainage facilities according to the provisions of this ordinance and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications;"

EXHIBIT "B"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 2: "DEFINITIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending the definitions of DRAINAGE FACILITY and PRIMARY DRAINAGE SYSTEM as set out hereafter to read as follows:

> "DRAINAGE FACILITY - means any element necessary to convey stormwater flows from its initial contact with earth to its disposition in an existing watercourse; said drainage facilities shall consist of both public and private storm sewers (closed conduits), streets, improved channels constructed in conformity with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, unimproved drainageways left in their natural condition, areas covered by drainage easements for the purpose of providing concentrated or overland sheet flow, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, energy dissipaters, culverts, etc."
>
> "PRIMARY DRAINAGE SYSTEM - means the system of natural watercourses, improved or channelized watercourses; and all closed conduits, culverts, bridges, detention facilities, and retention facilities associated with the watercourses; all of which are shown or indicated in the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications."

EXHIBIT "C"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 3: "GENERAL PROVISIONS AND APPLICABILITY", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by deleting subsection B. ESTABLISHMENT OF CITY DRAINAGE POLICY AND DESIGN STANDARDS and creating a new subsection B. ESTABLISHMENT OF BRYAN/COLLEGE STATION UNIFIED DESIGN GUIDELINES, STANDARD DETAILS, AND TECHNICAL SPECIFICATIONS as set out hereafter to read as follows:

"B. ESTABLISHMENT OF BRYAN/COLLEGE STATION UNIFIED DESIGN GUIDELINES, STANDARD DETAILS, AND TECHNICAL SPECIFICATIONS

All design, construction plans, as-built construction plans, plats, zoning change requests, site plans, building permit applications, and all items relating to stormwater flows shall be in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. This document shall be available at the office of the Administrator and shall be maintained by him as a single document."

EXHIBIT "D"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 3: "GENERAL PROVISIONS AND APPLICABILITY", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection C. ESTABLISHMENT OF DEVELOPMENT PERMIT, paragraph (1) as set out hereafter to read as follows:

"(1) Exception - The following uses shall be exempt from the permitting requirements of the ordinance but must otherwise meet all of the requirements of the ordinance and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications:

(a) Customary and incidental grounds maintenance, landscaping, and gardening.

(b) Improvements by a homeowner on property used as their principal residence where that property lies outside of the designated Area of Special Flood Hazard.

(c) Uses by a landowner of their property for bona fide agricultural purposes where that property lies outside of the designated Area of Special Flood Hazard."

EXHIBIT "E"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 3: "GENERAL PROVISIONS AND APPLICABILITY", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection E. COMPLIANCE as set out hereafter to read as follows:

"E. COMPLIANCE

No structure, permanent or otherwise, or land, shall hereafter be located, substantially improved, platted, replatted, subdivided, have its use changed, or have its drainage pattern changed, without full compliance with the terms and provisions of this chapter, the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, and other applicable regulations. The provisions of this chapter shall apply to and be binding on any and all persons, firms, or corporations who singly or jointly seek to develop, redevelop, grade, regrade, excavate, landfill, berm, dike, or otherwise change existing land within the corporate limit of the City, or its extraterritorial jurisdiction.

(1) Interpretation. In the interpretation and application of this chapter, all provisions shall be: (l) considered as minimum requirements; (2) liberally constructed in favor of the governing body, health, and safety, and (3) deemed neither to limit nor repeal any other powers granted under State statutes. The Administrator shall interpret and apply this chapter. If the Administrator determines that the meaning of a word, provision, or requirement is unclear, or that its application to a particular circumstance is uncertain, or upon written request for an interpretation by any interested party, the Administrator shall prepare a written interpretation or determination, setting forth the reasons, explanations, and conclusions regarding the interpretation. Appeals of interpretations made under this section shall be made in accordance with Section 4 of this chapter.

(2) Abrogation and Greater Restriction. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this chapter and another conflict, or overlap, whichever imposes the more stringent restrictions, under the interpretation of the Administrator, and subject to the provisions of interpretation defined above, shall apply.

(3) Warning and Disclaimer of Liability. The degree of flood protection accorded by the requirements of this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations which are consistent with accepted engineering principles and practice. Floods from stormwater flows can and will occur which are greater than those indicated or referenced under this chapter, and water surface elevations may be increased by man-made or natural causes beyond the scope of this chapter. This chapter does not imply that land outside the areas of special flood hazard, or uses permitted within such areas will be free or protected from flooding or flood damages. This chapter shall not be construed as warranting any such protection or freedom. This chapter shall not create liability on the part of the City, the Administrator of this chapter, or any office or employee of the City, or for any flood damages resulting from reliance on or compliance with the provisions and requirements of this chapter or any administrative decision lawfully made thereunder.

(4) Exception. Any development in an approval process prior to adoption of this chapter shall be excepted from the provisions and requirements of this chapter; however, said development shall be required to comply with all applicable provisions and requirements, and all applicable ordinances and regulations in effect prior to adoption of this chapter.

Developments shall be considered in an approval process given one or more of the following conditions apply:

(a) An acceptable application for building permit has been filed with all requirements for that application having been met within ninety (90) days of the date of adoption of this ordinance;

(b) An acceptable final plat, with all construction drawings, has been submitted, subject to the requirements of the Subdivision Control Ordinance, within one hundred eighty (180) days of the date of adoption of this ordinance;

(c) An acceptable site plan has been submitted, subject to the requirements of the Zoning Ordinance, within ninety (90) days of the date of adoption of this ordinance."

EXHIBIT "F"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 4: "ADMINISTRATION", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection B. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR, paragraphs (4), (7) and (8) as set out hereafter to read as follows:

"(4) maintain, update, and provide to interested parties at a reasonable cost the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications,"

"(7) provide information to the Zoning Board of Adjustments, Municipal Court, or City Council, as applicable on all variance requests, administrative appeals, enforcement actions, and proposed amendments to the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications as required;" and

"(8) review and utilize any acceptable new flood study data in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications;"

EXHIBIT "G"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 4: "ADMINISTRATION", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection D. PERMIT PROCEDURES, paragraph (2) as set out hereafter to read as follows:

"(2) An application for a Development Permit shall be presented to the Administrator, on forms available in his office, and shall include one or more of the following: construction plans, drainage plan, erosion and sediment control plan, engineering drainage design and analysis documentation, drainage report, and location of the foregoing in relation to Areas of Special Flood Hazard; each of which shall conform to the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications."

EXHIBIT "H"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 5: "SPECIAL PROVISIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection C. REVISION OR AMENDMENT OF FLOOD INSURANCE STUDY as set out hereafter to read as follows:

"C. REVISION OR AMENDMENT OF FLOOD INSURANCE STUDY

Any revision or amendment to the Flood Insurance Study which is requested by a land owner in the City shall be submitted to the designated Administrator of the Stormwater Management Program in accordance with the requirements set forth in the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. All requests for map amendment or map revision must be approved by the Administrator in writing prior to their submission to FEMA. If modification of any watercourse is involved, an effective Conditional Letter of Map Amendment shall be on file with the Administrator prior to any development. All submittals to FEMA shall be made at no cost to the City.

EXHIBIT "I"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 5: "SPECIAL PROVISIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection D. METHODS OF REDUCING FLOOD DAMAGE as set out hereafter to read as follows:

"D. METHODS OF REDUCING FLOOD DAMAGE

In order that the purposes of this chapter shall be accomplished in accordance with Section 1, the following methods, measures, requirements, and practices may be utilized by the Administrator in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications:

(1) Limit peak stormwater flows after development to that which existed before development;

(2) Limit, control, or prevent changes in the path of stormwater flows across or away from a site or development;

(3) Limit, control, or prevent alterations to existing watercourses and drainage facilities either inside or outside existing Areas of Special Flood Hazard;

(4) Limit, control, or prevent the alteration of natural or developed Areas of Special Flood Hazard, channels, or protective barriers which are necessary to accommodate flood waters;

(5) Limit, control, or prevent the use of existing or proposed drainage easements such that the easement remains useful for its intended purpose;

(6) Limit, control, or prevent the construction of barriers which may increase flood hazards to other lands or facilities;

(7) Establish or cause to be established adequate drainage easements and/or rights of way to control development and limit potential flood damage and protect existing or proposed drainage facilities;

(8) Limit, control, or prevent dumping of refuse, fill, garbage, grass clippings, brush, waste concrete, or other materials in existing drainage facilities including swales, streets, inlets, ditches, storm sewers, culverts, etc.;

(9) Limit, control, or prevent filling, grading, clearing, dredging, paving, berming, or other earthwork which may increase stormwater flows, change drainage pathways, increase erosion and sedimentation, or increase flood hazard or damage from flooding;

(10) Limit, control, or prevent development which is dangerous to health, safety, or property by causing increases in water surface elevations, velocities, or flowrates which exist prior to such development;

(11) Limit, control, or prevent development which is vulnerable to flood damage or require that said development shall be adequately protected against said flood damage at the time of construction;

(12) Require adequate maintenance of drainage facilities such that they retain their capacity for conveyance of stormwater flows.

EXHIBIT "J"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 5: "SPECIAL PROVISIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection G. SPECIAL PROVISIONS FOR FLOODWAYS, paragraph (1) as set out hereafter to read as follows:

"(1) Encroachments shall be prohibited, including fill, new construction, substantial improvements of existing construction, structures, manufactured homes, or other development. Variances requested on this standard shall be accompanied by a complete engineering report fully demonstrating that the encroachments shall not result in any increase in water surface elevation or flood hazard upstream, within, or downstream of the encroachment location. The engineering report shall conform to the requirements of the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications and shall bear the dated seal and signature of a registered professional engineer;"

EXHIBIT "K"

That Chapter 13, "FLOOD HAZARD PROTECTION", Section 7: "ENFORCEMENT AND PENALTIES", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending subsection D. FINE NOT EXCLUSIVE PENALTY as set out hereafter to read as follows:

"D. FINE NOT EXCLUSIVE PENALTY

In addition to a fine, the City may institute appropriate actions or proceedings at law or equity for the enforcement of the provisions of this chapter or Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, or to correct violations thereof, and, if applicable, appropriate actions or proceedings at law or equity against any surety company, escrow holder, or any third party who has affirmatively acted as surety or guarantor for the faithful performance of the permit holder's work."

January 11, 2007
Regular Agenda Item No. 13.6
Ch. 3 Building Regulations – Drainage Guidelines - Housekeeping

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Public Hearing, presentation, possible action, and discussion an ordinance amending City of College Station Code of Ordinances Chapter 3: Building Regulations, enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines

Recommendation(s): Staff recommends approval of this ordinance amendment.

Summary: These items are being brought before the Council to consider enacting the new Drainage Guidelines as part of the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. The Drainage Guidelines, like the other Water, Sanitary, Street Guidelines contained within the Bryan/College Station Unified Design Guidelines are to be engineering and construction guidance utilized by both the Cities of College Station and Bryan as the name implies in an effort to standardize and update the development, design, construction, and maintenance for both the development community and both of the cities. The Drainage Guidelines, also like the other Water, Sewer, and Street counterparts, was created as a result of numerous meetings and input from private engineers, developers, and both cities, over approximately a two year period.

This ordinance amendment would replace the Drainage Policy and Design Standards which was originally enacted in 1987 and has been largely unaltered.

Budget & Financial Summary: N/A

Attachments:
1. 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 Exhibits "A" and "B", 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 Five Hundred Dollars ($500.00). 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 thirty (30) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

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

APPROVED:

_____
RON SILVIA, Mayor

ATTEST:

_____
Connie Hooks, City Secretary

APPROVED:

E-Signed by Carla A. Robinson
VERIFY authenticity with Approvel

_____
City Attorney

EXHIBIT "A"

That Chapter 3, "BUILDING REGULATIONS", Section 3, DEVELOPMENT OF STREETS, of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by amending subsection J, paragraph 7(h), as set out hereafter to read as follows:

> "7(h) All drainage and waterway work must comply with Chapter 13 of the City of College Station Code of Ordinances and associated Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications.""

EXHIBIT "B"

That Chapter 3, "BUILDING REGULATIONS", Appendix 1, "International Building Code Adopted", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by amending the Section entitled "Amendments to International Residential Code," paragraph B(17), as set out hereafter to read as follows:

"B.17. Section 323.2.1 (Elevation requirements) is amended by deleting the existing text, save the exception, and replacing it with the following:

1. Buildings and structures shall have the lowest floors elevated in accordance with the City of College Station Code of Ordinances, Chapter 13 (Flood Hazard Protection) and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications (refer to Section II.D).

2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Maps, or at least 2 feet if a depth number is not specified, plus the additional footage requirements in the City of College Station Code of Ordinances, Chapter 13 (Flood Hazard Protection) and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications (refer to Section II.D).

3. Basement floors that are below grade on all sides shall be elevated in accordance with the City of College Station Code of Ordinances, Chapter 13 (Flood Hazard Protection) and Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications (refer to Section II.D)."

January 11, 2007
Regular Agenda Item No. 13.7
Audit Committee

To: Glenn Brown, City Manager

From: Julie O'Connell, Director of Human Resources

Agenda Caption: Presentation, possible action, and discussion regarding the appointment of an Audit Committee.

Recommendation(s): The City Council will discuss at the Council meeting and make a decision regarding the structure of the Audit Committee.

Summary: In May 2006, citizens approved a change to the City Charter that would allow the City Council to appoint an Internal Auditor. At the December 14, 2006 City Council meeting, a motion was passed to create an Audit Committee and direction given to appoint three Council members to the Committee. This item is to make appointments to this Committee. Once the Audit Committee is established, a recommendation to the City Council will be made by the Committee, regarding the internal audit function and whether the position should be appointed or the function contracted out to a firm.

Budget & Financial Summary: N/A

Attachments: N/A