



Mayor
Ben White
Mayor Pro Tem
Ron Gay
City Manager
Glenn Brown

Councilmembers
John Crompton
James Massey
Lynn McIlhaney
Chris Scotti
David Ruesink

Agenda
College Station City Council
Regular Meeting
Thursday, September 27, 2007 at 7:00 p.m.
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

1. Pledge of Allegiance, Invocation, absence requests

Hear Visitors: A 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.

ON BEHALF OF THE CITIZENS OF COLLEGE STATION, HOME OF TEXAS A&M UNIVERSITY, WE WILL CONTINUE TO PROMOTE AND ADVANCE THE COMMUNITY'S QUALITY OF LIFE.
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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 will sound after 2 1/2 minutes to signal thirty seconds remaining so that the speaker may conclude your remarks.

2. Presentation, possible action and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.
 - a. Presentation, possible action, and discussion of City Council minutes for September 13, 2007.

- b. Presentation, possible action, and discussion regarding the award of Bid 07-109, for purchase of an electrical substation transformer from Kuhlman Electric Corporation in the amount of \$1,039,178.00; and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.
- c. Presentation, possible action, and discussion regarding an amendment to the engineering design contract 07-152 with Malcolm-Pirnie, Inc in the amount of \$240,000 to provide a full-time, on-site Resident Project Representative during the construction phase of the Parallel Transmission Line State phase 3, Highway 21 to Villa Maria.
- d. Presentation, possible action, and discussion regarding approval of a resolution awarding Contract Number 07-256, a construction contract with Acklam Construction in the amount of \$114,876 for the construction of additional improvements to John Crompton Park.
- e. Presentation, possible action, and discussion of a user agreement between Texas A&M University and the City of College Station authorizing Texas A&M University to provide the University Services Complex parking lot area and ingress/egress roads on October, 20, 2007 to the Brazos Valley Solid Waste Management Agency for the fall Household Hazardous Waste & Computer Collection event.
- f. Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the College Station Utilities (CSU) Meeting and Training Facility Project (WF0847168)
- g. Presentation, possible action, and discussion to approve three real estate contracts for potential purchase of properties for Groundwater Wells 8, 9, and 10; and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.
- h. Presentation, possible action, and discussion on the third and final reading of an ordinance granting a non-exclusive medical waste hauling franchise agreement to Enviromed.
- i. Presentation, possible action and discussion on the third and final reading of a franchise agreement with CCAA, LLC d/b/a Brazos Valley Recycling for collection, hauling and disposal services for residential and commercial construction debris solid waste for the purpose of recycling.
- j. Presentation, possible action, and discussion on renewal agreement of Third Party Claims Administration with A S & G Claims Administration, Inc. for an annual expenditure of \$50,000. Anticipated workers compensation claims for FY 08 are \$328,000 and anticipated liability claims for FY 08 are \$300,000.
- k. Presentation, possible action, and discussion on approval of policy renewal for Excess Liability and Workers Compensation to Star National Insurance Company for \$261,243; policy renewal for Property/Boiler & Machinery to Affiliated FM for \$95,600; policy

renewal for Crime coverage to Federal Insurance Company for \$4,522; and policy renewal for EMT Liability to Western World Insurance Company for \$5,077.

- l. Presentation, possible action, and discussion to approve purchase requests for FY'08, items exempt from competitive bidding as described more fully in Texas Local Government Code, Chapter 252.022; and other expenditures for interlocal contracts or fees mandated by state law that are greater than \$50,000.
- m. Presentation, possible action, and discussion regarding approval of expenditures related to copying and printing services to Copy Max (\$50,000) and Tops Printing (\$25,000) through our Interlocal Agreement with CSISD and Copy Corner (\$50,000) and Newman's Printing (\$25,000) through our Interlocal Agreement with TAMU.
- n. Presentation, possible action and discussion on a funding agreement between the City of College Station and the Research Valley Partnership for FY08 in the amount of \$293,287.
- o. Presentation, possible action and discussion on approving the budget of the Brazos Valley Convention and Visitors Bureau (CVB); and presentation, possible action and discussion on a funding agreement between the City of College Station and the Brazos Valley Convention and Visitors Bureau for FY08 in the amount of \$1,060,000.
- p. Presentation, possible action, and discussion regarding a competitive matters resolution relating to the College Station electric utility.
- q. Presentation, possible action, and discussion regarding minor revisions to the flow chart of the Gateway Grant Policy, approved May 24, 2007.
- r. Presentation, possible action, and discussion for Oversize Participation (OP) for a water line improvement in the Sonoma Subdivision, Phase 2 being made per City Code of Ordinances, Chapter 9, Subdivision Regulations, Section 9, Responsibility for Payment for Installation Costs, 9-A Oversized Participation for a total requested City participation of \$153,605.50.

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 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.

1. Public hearing, presentation, possible action, and discussion on an ordinance amending Chapter 10, "Traffic Code," to restrict parking on Crystal Dove Avenue, Dove Crossing Lane, Dove Landing Avenue, Turtle Dove Trail, and Whitewing Lane.
2. Public hearing, presentation, possible action, and discussion regarding two ordinances vacating and abandoning a portion of the right-of-way of Richards Street and a portion of the right-of-way of Sterling Street, said portions being part of the Richards Addition, according to the plat recorded in Volume 137, Page 25, of the Deed Records of Brazos County, Texas.
3. Public hearing, presentation, possible action, and discussion regarding an ordinance amendment to Chapter 12 of the Code of Ordinances, Unified Development Ordinance Section 2.4 Design Review Board and Section 2.8 Summary of Review Authority.
4. Public hearing, possible action, and discussion on an ordinance Budget Amendment #3 amending ordinance number 2923 which will amend the budget for the 2006-2007 Fiscal Year and authorizing amended expenditures in the amount of \$167,485; and presentation, possible action, and discussion regarding an interfund budget transfer in the amount of \$32,000.
5. Presentation, possible action, discussion on an ordinance amending Chapter 10, "Traffic Code", of the Code of Ordinances of the City of College Station, Texas by amending section 5: Junked Motor Vehicles.
6. Presentation, possible action and discussion on approving the budget of the Arts Council of Brazos Valley; and presentation, possible action and discussion on two (2) funding agreements between the City of College Station and the Arts Council of Brazos Valley for FY07 totaling \$240,000.
7. Presentation, possible action and discussion on a resolution authorizing banners recognizing the Big State Music Festival.
8. Presentation, possible action, and discussion regarding appointments for the Red Light Photo Enforcement Citizen Advisory Committee.
9. The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for September 27, 2007.
10. Final action on executive session, if necessary.
11. Adjourn.

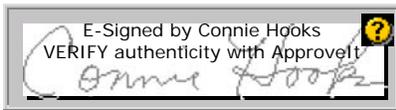
If litigation issues arise to the posted subject matter of these Council Meetings an executive session will be held.

APPROVED:

City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, September 27, 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 24th day of September, 2007 at 2:30 p.m.



City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on September 24, 2007 at 2:30 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.



Mayor
Ben White
Mayor Pro Tem
Ron Gay
City Manager
Glenn Brown

Council members
John Crompton
James Massey
Lynn McIlhaney
Chris Scotti
David Ruesink

Draft Minutes
City Council Workshop Meeting
Thursday September 13, 2007 at 3:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

COUNCIL MEMBERS PRESENT: Mayor White, Mayor Pro Tem Gay, Council members, Crompton, Massey, McIlhaney, Scotti, Ruesink

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

Mayor White called the meeting to order at 3:00 p.m.

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

2k – Presentation, discussion and possible action on a resolution approving a contract for the loan of HOME Investment Partnership (HOME) Program funds for the proposed Santour Court Housing Tax Credit development; and authorization for the Mayor to sign the resolution and contract.

Community and Economic Development Director David Gwin answered questions of Council member Crompton.

Workshop Agenda Item No. 2 – Presentation, possible action and discussion regarding public input and planning of road projects from conception to construction.

Director of Public Works Mark Smith presented the city’s current processes and practices for planning and construction of roadway projects and facilitated discussion to identify modifications to the city’s process.

Council directed staff to implement a process of notification to citizens and public meetings to insure that all measures are being accomplished; including citizens from the biking community.

Workshop Agenda Item No. 3 – Presentation, possible action and discussion regarding an update on the annexation planning process, including areas that may be considered as part of the three-year plan.

Assistant Director of Planning and Development Services Lance Simms presented a summary of the city's annexation history since 2000. He described the legal requirements, purpose of proposed annexation, a three year plan process, and annexation policies. Mr. Simms presented a map of various locations that could be included in a three-year plan.

Council directed staff to move forward with the project.

Council recessed for a short break at 4:04 p.m. and reconvened the workshop meeting at 4:15 p.m.

Workshop Agenda Item No. 4 – Presentation, possible action and discussion on the City's Economic Development Incentive Guidelines and extent and past performance of incentives under the program.

Director of Economic and Community Development David Gwin presented a brief overview of the City's Economic Development Incentive Guidelines and extent and past performance of incentives under the program. The guidelines may be used as a mechanism to accomplish the City's adopted fiscal policies.

Bob Malaise, Vice President of Economic Services with Research Valley Partnership provided an overview of their activities, results of analysis and annual status report.

Todd McDaniel, President and CEO of Research Valley Partnership made comments pertaining to the Research Valley Partnership activities.

Mr. Gwin encouraged a more aggressive recruiting process for specific development types and additional target categories.

Council members concurred with Mr. Gwin's statements and directed staff to move forward with the additional targeted categories on specific development types. Mr. Gwin noted that he will modify the Economic Development Guidelines (Section II) and incorporate the revised guidelines into the departmental strategic plan. Once the modifications are completed staff would prepare a future item for council consideration.

Workshop Agenda Item No. 5 – Council Calendar

Council reviewed their upcoming events.

Workshop Agenda Item No. 6 -- 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.

This item was postponed until after the regular meeting. Refer to regular minutes of September 13, 2007 for any action taken.

Workshop Agenda Item No. 7 -- Discussion, review and possible action regarding the following meetings: Arts Council Subcommittee of the Council, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Cemetery Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Library Committee, Metropolitan Planning Organization, Outside Agency Funding

This item was postponed until after the regular meeting. Refer to regular minutes of September 13, 2007 for any action taken.

Workshop Agenda Item No. 8 – Executive Session

At 5:15 p.m., Mayor White announced in open session that the City Council would convene into executive session pursuant to Sections 551.071 and 551.087 of the Open Meetings Act, to seek the advice of our attorney with respect to pending and contemplated litigation, and economic development negotiations.

Consultation with Attorney {Gov't Code Section 551.071}; 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:

Application with TCEQ in Westside/Highway 60 area, near Brushy Water Supply Corporation.

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*.

Cause No. GN-502012, Travis County, *TMPA v. PUC* (College Station filed Intervention 7/6/05)

Sewer CCN request.

Legal aspects of Water Well and possible purchase of or lease of another water site.

Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, *JK Development v. College Station*.

Cause No. 06-002318-CV-272, 272nd Judicial District Court, Brazos County, Texas, *Taylor Kingsley v. City of College Station, Texas and Does 1 through 10, inclusive*.

Cause No. 485-CC, County Court at Law No. 1, Brazos County, Texas, *City of College Station v. David Allen Weber, et al.*

Bed & Banks Water Rights Discharge Permits for College Station and Bryan

Cause No. 07-001241-CV-361, 361st Judicial District Court, Brazos County, Texas

Gregory A. & Agnes A. Ricks v. City of College Station

Water CCN request

Economic Incentive Negotiations {Gov't Code Section 551.087}; The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city with which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Hotel and Conference Center

Workshop Agenda Item No. 9 -- Final action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting will be discussed in tonight's Regular Meeting if necessary.

Council completed executive session at 6:58 p.m. No action was taken.

Workshop Agenda Item No. 10 -- Adjourn.

Hearing no objections, the meeting adjourned at 6:59 p.m. on Thursday, September 13, 2007.

APPROVED:

Mayor Ben White

ATTEST:

Connie Hooks, City Secretary



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Mayor Pro Tem
Ron Gay
City Manager
Glenn Brown

Council members
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Draft Minutes
City Council Regular Meeting
Thursday September 13, 2007 at 3:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

COUNCIL MEMBERS PRESENT: Mayor White, Mayor Pro Tem Gay Council members, Crompton, Massey, McIlhaney, Scotti, Ruesink

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

Regular Agenda Item No. 1 – Pledge of Allegiance, Invocation, Consider absence requests.

Mayor White called the regular meeting to order at 7:00 p.m. with all council members present. He led the audience in the Pledge of Allegiance. Director of Economic and Community Development David Gwin provided the invocation.

Mayor White and City Manager Glen Brown recognized, expressed thanks, and appreciation to the employees of the Wastewater and Water Division for receiving the Peak Performance Award for Lick Creek Wastewater Treatment Plant for five years of complete and consistent National Pollutant Discharge elimination System permit compliance, and the Texas Commission on Environmental Quality program award 2006 for College Station Water.

Hear Visitors

Tom Woodfin, 3215 Innsbruck Circle, addressed the City Council regarding greenways and hike and bike paths.

Consent Agenda

- a. Approved by common consent minutes for City Council Meetings, July 16-17, 2007, August 3, 2007, August 13, 2007, August 14, 2007, August 23, 2007, August 27, 2007, August 28, 2007, and September 5, 2007.
- b. Approved by common consent the second reading of an ordinance granting a non-exclusive medical waste hauling franchise agreement to Environed.
- c. Approved by common consent the second reading of a franchise agreement with CCAA, LLC d/b/a Brazos Valley Recycling for collection, hauling and disposal services for residential and commercial construction debris solid waste for the purpose of recycling.
- d. Approved by common consent **Resolution No. 9-13-2007-2d** to award Contract 07-229 to Brazos Valley Services in the amount of \$5,521,133.50 for the construction of the Parallel Water Transmission Line Phase III.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE CONSTRUCTION OF THE PARALLEL WATER TRANSMISSION LINE PHASE III PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

- e. Approved by common consent a Renewal Agreement for an Annual Landscape Maintenance Service Contract for thirty-three (33) municipal sites comprised of buildings, parks, and street medians to Green Teams, Inc. (d.b.a: The Greenery) for an annual expenditure in the amount of \$300,555.00.
- f. Approved by common consent **Resolution No. 9-13-2007-2f** to award Contract 07-243 to Weisinger Water Wells in the amount of \$2,698,483 for the construction of Water Well # 7.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE CONSTRUCTION OF WATER WELL # 7 PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

- g. Approved by common consent **Resolution No. 9-13-2007-2g** awarding Contract Number 07-249, a construction contract with Dudley Construction in the amount of \$254,900 for the construction of a basketball pavilion at Oaks Park. This amount includes the base bid, plus two accepted alternates.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE OAKS PARK BASKETBALL PAVILION CONSTRUCTION PROJECT, PROJECT NUMBER PK 0706, AND AUTHORIZING THE EXPENDITURE OF FUNDS.

- h. Approved by common consent **Resolution No. 9-13-2007-2h** approving a construction contract with Tidal Power Services in the amount of \$134,000 for replacement of a substation electrical transformer load tap changer.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE REPLACEMENT OF A ELECTRICAL SUBSTATION TRANSFORMER LOAD TAP CHANGER AND AUTHORIZING THE EXPENDITURE OF FUNDS.

- i. Approved by common consent an annual contract with Pavement Restoration, Inc. for the application of Reclimite Pavement Restoration, at a cost not to exceed \$140,800.00.
- j. Approved by common consent ratification of a Change Order No. 1 to Contract #06-267 with Doughtie Construction Company in an amount not to exceed \$61,471.00 for the Nantucket Sewer Line Project.
- k. Approved by common consent **Resolution No. 9-13-2007-2k** approving a contract for the loan of HOME Investment Partnership (HOME) Program funds for the proposed Santour Court Housing Tax Credit development; and authorization for the Mayor to sign the resolution and contract.

A RESOLUTION OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONTRACT FOR THE LOAN OF HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS TO SANTOUR COURT, LTD AND AUTHORIZING THE COMMITMENT AND EXPENDITURE OF FUNDS.

- l. Approved by common consent the 2007 contracts for employee insurance with Pharmacare, Interface EAP, The Standard Insurance Company, and Blue Cross Blue Shield for the health plan and reinsurance (stop loss).
- m. Approved by common consent the ratification of contracts for employee insurance from 2004, 2005, and 2006 with Blue Cross/Blue Shield for the health plan, and the 2005 contract with The Standard Insurance Company.
- n. Approved by common consent **Resolution No. 9-13-2007-2n** for the City of College Station to continue to provide Emergency Medical Service and Emergency Ambulance Transport in Brazos County.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE INTERLOCAL AGREEMENT FOR EMS PROVIDER/FIRST RESPONDER SERVICES WITH THE CITY OF BRYAN AND WITH BRAZOS COUNTY VOLUNTEER FIRE DEPARTMENTS.

- o. Approved by common consent **Resolution No. 9-13-2007-2o** to update the Inter local Agreement for Emergency Medical Ambulance Service to respond to

emergencies in Brazos County and to establish the annual fee for FY 2008 at \$175,000.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, UPDATING THE INTERLOCAL AGREEMENT TO PROVIDE EMERGENCY MEDICAL AMBULANCE SERVICE TO UNINCORPORATED PORTIONS OF BRAZOS COUNTY.

- p. Approved by common consent **Resolution No. 9-13-2007-2p** for the Annual Reconfirmation and use of Service and Equipment to be provided by the City of College Station in the Event of a Radiological Incident at the Texas A&M University Nuclear Science Center.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE INTERLOCAL AGREEMENT FOR THE ANNUAL RECONFIRMATION AND USE OF SERVICE AND EQUIPMENT TO BE PROVIDED BY THE CITY OF COLLEGE STATION IN THE EVENT OF A RADIOLOGICAL INCIDENT AT THE TEXAS A&M UNIVERSITY NUCLEAR SCIENCE CENTER.

- q. Approved by common consent **Resolution No. 9-13-2007-2q** for the Comprehensive Selective Traffic Enforcement Program grant contract for fiscal year 2008.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS AUTHORIZING THE MAYOR TO SIGN A TEXAS HIGHWAY TRAFFIC SAFETY PROGRAM GRANT AGREEMENT FOR THE COMPREHENSIVE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM WITH THE TEXAS DEPARTMENT OF TRANSPORTATION.

- r. Approved by common consent a contract with MicroAge of College Station for the purchase of Software and Services to upgrade the City's Data Backup and Recovery System in an amount not to exceed \$72,652.00.

Regular Agenda

Regular Agenda Item No. 1 -- Public hearing, presentation, possible action, and discussion on an ordinance rezoning 13.07 acres from A-O, Agricultural Open to R-1, Single Family Residential consisting of 1 lot in the general vicinity of the area northeast of Windwood Subdivision at 2708 Harvey Road.

This item was removed from the regular agenda by the applicant and will be rescheduled for a future City Council meeting.

Regular Agenda Item No. 2 -- Public hearing, presentation, possible action, and discussion regarding recommendations for possible revisions to an ordinance amending Chapter 9, "Subdivisions" of the Code of Ordinances of the City of College Station, Texas by amending Section 10, "Parkland Dedication", by

increasing fees, extending parkland requirements into the ETJ; providing a severability clause; declaring a penalty; and providing an effective date.

Director of Parks and Recreation Steve Beachy presented the proposed ordinance amending Chapter 9, "Subdivisions" of the Code of Ordinances of the City of College Station, Texas, by amending Section 10 "Parkland Dedication; by increasing fees, and extending park land requirements into the ETJ. The City Council considered the proposed revisions to the ordinance on August 23, 2007. At that meeting, they directed staff to modify the original proposal to set the land value at \$24,000 and eliminate the proposal to add community parks to the requirements. Staff recommended approval of revisions to the Parkland Dedication Ordinance with a adoption date of January 1, 2008 as the effective date; and that the revised ordinance be incorporated into the subdivision regulations and become effective for areas in the ETJ; and all projects currently "vested" in the City of College Station development process be governed by the existing ordinance and related fee structure.

Mayor White opened the public hearing. No one spoke. Mayor White closed the public hearing.

Council member McIlhaney moved to approve **Ordinance No. 2997** amending Chapter 9 "Subdivisions" of the Code of Ordinances of the City of College Station, Texas, by amending Section 10, "Park Land Dedication"; increasing fees, extending park land requirements into the ETJ. Council member Ruesink seconded the motion, which carried by a vote of 5-2.

FOR: White, Crompton, McIlhaney, Scotti, Ruesink
AGAINST: Gay, Massey

Regular Agenda Item No. 3 -- Public hearing, presentation, possible action, and discussion regarding an ordinance vacating and abandoning a 5029 square foot portion of the Public Right of Way of Lodge Street, in the City of College Station.

Acting City Engineer Allen Gibbs described the proposed ordinance vacating and abandoning a 5029 square foot portion of the Public Right of Way of Lodge Street. Staff recommended approval of the proposed ordinance.

Mayor White opened the public hearing.

Will McCollum, 4317 Maywood, Bryan, Texas spoke in favor of the proposed ordinance vacating and abandoning a 5029 square foot portion of the public right of way for Lodge Street.

Mayor White closed the public hearing.

Council member Massey moved to approve **Ordinance No. 2998** vacating and abandoning a 5029 square foot portion of the Public Right of Way of Lodge Street, in the

City of College Station. Council member Crompton seconded the motion, which carried unanimously, 7-0.

FOR: White, Gay, Crompton, Massey, McIlhaney, Scotti, Ruesink
AGAINST: None

Regular Agenda Item No. 4 -- Presentation, possible action, and discussion regarding appointments for the Red Light Photo Enforcement Citizen Advisory Committee.

Assistant Finance Director Cheryl Turney provided a brief overview of the appointment process.

Council member Scotti appointed Ryan Clark.

Council member Ruesink moved to appoint Tom Herrmann, Don Hellriegel Ph.D., William L. Eisele Ph.D., P.E., Mike Perrone, Dillon Briers and Ryan Clark to the Red Light Photo Enforcement Citizen Advisory Committee. Council member Scotti seconded the motion, which carried unanimously, 7-0.

FOR: White, Gay, Massey, McIlhaney, Scotti, Ruesink
AGAINST: None

Regular Agenda Item No. 5 – Presentation, possible action, and discussion on an ordinance adopting the City of College Station 2007-2008 Budget; and presentation, possible action and discussion ratifying the property tax increase reflected in the budget.

Chief Financial Officer Jeff Kersten answered questions of the Council and clarified the ratification of the property tax increase reflected in the budget.

Council member Crompton moved to increase the 2007-2008 Budget by \$10,000 for Brazos Valley Cricket Association. After a brief discussion, council members did not support the motion however; Council member McIlhaney directed staff to survey the Parks and Recreation Budget for funding and schedule a regular agenda item in the near future with additional information/recommendations.

Council member McIlhaney moved to approve **Ordinance No. 2999** adopting the City of College Station 2007-2008 Budget as presented, including the changes by staff. Council member McIlhaney abstained from the employee medical benefits. Council member Crompton seconded the motion, which carried by a vote of 6-1.

FOR: White, Massey, McIlhaney, Scotti, Ruesink
AGAINST: Gay

Council member McIlhaney moved to ratify the property tax increase reflected in the budget. Council member Crompton seconded the motion, which carried by a vote of 6-1.

FOR: White, Crompton, Massey, McIlhaney, Scotti, Ruesink
AGAINST: Gay

Regular Agenda Item No. 6 -- Presentation, possible action, and discussion on approval of an ordinance adopting the City of College Station 2007-2008 advertised ad valorem tax rate of \$0.4499 per \$100 assessed valuation.

Chief Financial Officer Jeff Kersten presented a summary of the proposed ordinance adopting the City of College Station 2007-2008 advertised ad valorem tax rate of \$0.4499 per \$100 assessed valuation. Staff recommended approval of the proposed ordinance.

Council member McIlhaney moved that property taxes be increased by the adoption of a tax rate of \$0.4394 per \$100 assessed valuation (**Ordinance No. 3000**). Council member McIlhaney seconded the motion, which carried by a vote of 6-1.

FOR: White, Crompton, Massey, McIlhaney, Scotti, Ruesink
AGAINST: Gay

Regular Agenda Item No. 7 – Presentation, possible action, and discussion regarding an ordinance amending Chapter 11, “Utilities”, Section 4, “Electric Service” of the Code of Ordinances of the City of College Station, Texas having the effect of raising rates for electric services on an average of ten percent (10%).

Director of Electric Utilities David Massey remarked that the proposed ordinance authorized the implementation of a ten percent (10%) increase in electric rates as discussed with Council at the Budget Workshop on August 27, 2007. The rate increase is necessary to cover increased wholesale power costs resulting from higher fuel and generation costs in the ERCOT market. In addition, the rate increase is necessary due to system expansion projects associated with transportation, substations and distribution. Staff recommended approval of the proposed ordinance.

Council member Ruesink moved to approve **Ordinance No. 3001** amending Chapter 11, “Utilities”, Section 4, “Electric Service” of the Code of Ordinances of the City of College Station, Texas having the effect of raising rates for electric services on an average of ten percent (10%). Council member Massey seconded the motion, which carried unanimously, 7-0.

FOR: White, Gay, Crompton, Massey, McIlhaney, Scotti, Ruesink
AGAINST: None

Regular Agenda Item No. 8 – Presentation, possible action and discussion regarding the creation of a joint subcommittee with the College Station Independent School District.

City Manager Glenn Brown described this item.

Council member Crompton moved to appoint a subcommittee of three people to meet quarterly with the school board pending the agreement of the College Station School Board members. His motion also included an increase in the number of meetings with the school board if necessary. Council member McIlhaney seconded the motion, which carried unanimously, 7-0.

FOR: White, Gay, Crompton, Massey, McIlhaney, Scotti, Ruesink
AGAINST: None

Workshop Agenda Item No. 7 -- Discussion, review and possible action regarding the following meetings: Arts Council Subcommittee of the Council, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Cemetery Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Library Committee, Metropolitan Planning Organization, Outside Agency Funding

Council member Ruesink presented a brief report on the Transportation Summit.

Council member Scotti reported on deliberations held at the Research Valley Partnership meeting.

Council member McIlhaney conveyed comments from the Arts Council Board meeting.

Council member Gay made comments regarding the Audit Committee and Transportation Committee Meeting.

Council member Massey presented a report on the future Intergovernmental Committee Meeting agenda.

Council member Crompton discussed factors from the BVSWMA Meeting.

Mayor White discussed factors associated with the Policy Advisory Committee of the Emergency Advisory Center.

Workshop Agenda Item No. 9 -- The City Council may convene the executive session following the regular meeting to discuss matters posted on the executive session agenda for September 13, 2007.

The City Council completed their executive session prior to the regular meeting.

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

No action was taken.

Regular Agenda Item No. 11 – Adjourn.

Hearing no objections the meeting adjourned at 8:40 p.m. on Thursday, September 13, 2007.

APPROVED:

Mayor Ben White

ATTEST:

City Secretary Connie Hooks

DRAFT

September 27, 2007
Consent Agenda Item No. 2b
Three Phase Electrical Substation Transformer, Bid 07-109

To: Glenn Brown, City Manager

From: David Massey, Director of Electric Utilities

Agenda Caption: Presentation, possible action, and discussion regarding the award of Bid 07-107, for purchase of an electrical substation transformer from Kuhlman Electric Corporation in the amount of \$1,039,178.00; and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Recommendation: Staff recommends award to the lowest bidder, Kuhlman Electric Corporation, in the amount of \$1,039,178.00. Kuhlman Electric Corporation's bid was also found to provide the evaluated best value for the City as shown below under Summary. Best value for this item was determined by including total bid price, total installation cost and total operating cost of the transformer unit in accordance with the bid specification.

Summary: The transformer is necessary to meet future power requirements for the customers of College Station. Listed below are the Bid Price and Evaluated Best Value Price for each bidder:

	Bid Price	Evaluated Best Value Price
Kuhlman Electric Corporation	\$1,039,178.00	\$1,314,769.99
Virginia Transformer Corporation	\$1,186,825.00	\$1,471,491.25
Delta Star	\$1,326,160.00	\$1,592,970.20
Pennsylvania Transformer	\$1,349,160.00	\$1,676,074.40

Budget & Financial Summary: Four (4) sealed competitive bids and two (2) no bids were received and opened on August 28, 2007. Bids were evaluated based on cost of operation and bid exceptions. \$1,200,000 for this item was included as part of the FY07 budget amendment #2 and these funds are currently budgeted in the Electric Capital Improvement Projects Fund.

Attachments:

1. Bid Tab
2. Transformer Resolution

BID 07-109	<u>Bidder 1</u>	<u>Bidder 2</u>	<u>Bidder 3</u>	<u>Bidder 4</u>	<u>Bidder 5</u>	<u>Bidder 6</u>
Vendor Name	DAVIDSON & ASSOCIATES	PREFERRED SALES AGENCY	DELTA STAR	POWER REPS	Techline	Kessler & Assoc
Manufacturer Name	KUHLMAN	VIRGINIA TRANSFORMER CORP	DELTA STAR	PENNSYLVANIA TRANSFORMER	No Bid	No Bid
Bid Price	\$1,039,178.00	\$1,186,825.00	\$1,326,724.00	\$1,349,160.00		

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 \$1,200,000, 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 27th DAY OF SEPTEMBER, 2007.

Ben White, 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:

Electrical Substation Transformer

September 27, 2007

Consent Agenda Item 2c

Amendment to Engineering Design Contract for Parallel Transmission Line phase 3

To: Glenn Brown, City Manager

From: David Coleman, Director of Water Services

Agenda Caption: Presentation, possible action, and discussion regarding an amendment to the engineering design contract 07-152 with Malcolm-Pirnie, Inc in the amount of \$240,000 to provide a full-time, on-site Resident Project Representative during the construction phase of the Parallel Transmission Line phase 3, Highway 21 to Villa Maria.

Recommendation: Staff recommends Council approve this amendment.

Summary: On September 13, 2007 City Council approved the award of the construction contract to build phase 3 of the Parallel Water Transmission Line, which will install the last phase of the new water pipeline, from SH 21 to Villa Maria Road. This amendment will provide the design firm, Malcolm Pirnie, Inc the funds necessary to provide a fulltime on-Site Resident Project Representative to inspect the project and report findings to the Project Engineer. This pipe line is a critical part of our water supply infrastructure, and a full-time on-site inspector is required to ensure the construction proceeds smoothly and according to specifications. Since the City's construction inspectors are already fully occupied with other construction projects, it is necessary to hire an outside inspector, and Malcolm-Pirnie has already located an excellent candidate who is very experienced in this type of work and is available for the entire construction period. Staff recommends Council approve this amendment, to protect our \$5.5 million investment in water infrastructure.

Budget & Financial Summary: Additional funds will be needed for this portion of the project. These funds will be transferred from the Parallel Wellfield Collection Line project which is currently budgeted in the Water Capital Improvement Projects Fund. It is anticipated that these funds will be requested back for the Parallel Wellfield Collection Line project in the future.

Attachment:
Amendment

**AMENDMENT TO THE
CONSULTANT CONTRACT
Between
CITY OF COLLEGE STATION and MALCOLM PIRNIE, INC.**

A Contract was executed on April 5, 2007 between the City of College Station (City) and Malcolm Pirnie, Inc. (Contractor) for Design Services for Parallel Water Transmission Line State Highway 21 to Villa Maria.

City and Contractor now desire to amend the contract to include the services as described below.

1. Scope of Services – Exhibit A of the original contract shall be amended to include the tasks of the On-Site Resident Project Representative for 2080 hours. Such tasks are attached herein as Exhibit A1.
2. Payment – Article I, paragraph 1.03 of the original contract shall be amended to add two hundred forty thousand dollars (\$240,000.00) to the original contract amount of one hundred ninety eight thousand, four hundred thirty two dollars (\$198,432.00) bringing the total contract amount to four hundred thirty eight thousand four hundred thirty two dollars (\$438,432.00).

MALCOLM PIRNIE, INC.

CITY OF COLLEGE STATION

By: *S. Lynn Mays*
Printed Name: *S. Lynn Mays*
Title: *Vice President*
Date: *9.13.07*

By: _____
Mayor
Date: _____

ATTEST:

City Secretary

APPROVED:

City Manager
Angela M DeLuca
City Attorney

Chief Financial Officer

Exhibit A1

Scope of Services

Task 1 – On-site Resident Project Representative

Malcolm Pirnie shall furnish a full-time Resident Project Representative (RPR), to assist in observing the performance of the Work of the CONSTRUCTION CONTRACTOR. The furnishing of such RPR will not make Malcolm Pirnie responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs, or for the CONSTRUCTION CONTRACTOR'S failure to perform the work in accordance with the Contract Documents.

The RPR will act as directed by and under the supervision of the Engineer of Record. RPR'S dealings in matters pertaining to the on-site Work shall in general be only with the Engineer of Record and CONSTRUCTION CONTRACTOR, and dealings with Subcontractors shall only be through or with the full knowledge of CONSTRUCTION CONTRACTOR.

Task 1.1 - Review of Work, Rejection of Defective Work, Inspections and Tests

- A. Review the progress schedule, schedule of CONSTRUCTION CONTRACTOR'S submittals and Schedule of Values prepared by CONSTRUCTION CONTRACTOR.
- B. Serve as liaison with CONSTRUCTION CONTRACTOR, working principally through CONSTRUCTION CONTRACTOR'S superintendent and assist the superintendent in understanding the intent of the Construction Contract Documents. Assist in serving as OWNER'S liaison with CONSTRUCTION CONTRACTOR, when CONSTRUCTION CONTRACTOR'S operations affect OWNER'S on-site operations. Assist in obtaining from OWNER additional details or information, when required at the job site for proper execution of the Work.
 - C. Conduct on-site observations of the work in progress to determine if the work is proceeding in accordance with the Contract Documents and that completed work conforms to the Contract Documents.
 - D. Report to the Engineer of Record and the OWNER work that is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or does not meet the requirements of inspections, tests or approval required to be made, or has been damaged prior to final payment.
 - E. Observe the material testing conducted and field samples collected by the testing laboratory.
 - F. Advise Engineer of Record and OWNER when it is believed work should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

Exhibit A1
Scope of Services, Continued

- G. Verify that tests, equipment and systems start-up and operating and maintenance instructions are conducted as required by the Construction Documents and in presence of the required personnel, and that CONSTRUCTION CONTRACTOR maintains required records thereof; observe, record and report to ENGINEER appropriate details relative to the test procedures and start-ups.
- H. Conduct field checks to ensure that Shop Drawings have been approved for equipment and materials being installed and verify that installers are using approved Shop Drawings.
- I. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections.

Task 1.2 - Records

- A. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples submissions, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents, progress reports and other Project related documents.
- B. Prepare daily reports recording CONSTRUCTION CONTRACTOR and Subcontractors work performed on the job site, major construction equipment on-site, weather conditions, data relative to questions of extras or deductions, list of visiting officials and representatives of manufacturers, fabricators, suppliers and distributors, daily activities, decisions, on-site equipment, Subcontractors activity on-site, observations in general and specific observations in detail as in the case of observing test procedures.
- C. Record names, addresses and telephone numbers of the CONSTRUCTION CONTRACTOR, subcontractors and major suppliers of materials and equipment.
- D. Maintain notes to be capable of cross-referencing the CONSTRUCTION CONTRACTOR'S record drawing information for accuracy and completeness.
- E. Receive, review and process CONSTRUCTION CONTRACTOR'S daily reports.
- F. Maintain a digital photo file of the progress of the construction activities throughout the duration of the project. This photo file will consist of color digital photographs taken to document specific construction activities that may be of value to future modifications to the facility. The photographs will be labeled as to the subject, location, and date of the photo.

Exhibit A1
Scope of Services, Continued

- G. The RPR will inspect the CONSTRUCTION CONTRACTOR'S marked up record drawings weekly, to determine if the mark-ups are up to date and reflect the record condition of the Work. If deficiencies are evident, RPR will provide written notification of said deficiencies to CONSTRUCTION CONTRACTOR.

Task 1.3 - Payment Applications

- A. Review applications for payment with CONSTRUCTION CONTRACTOR for compliance with the established procedure for their submission, noting particularly their relation to the Schedule of Values, work completed, and materials and equipment delivered at the site but not incorporated in the work.
- B. Compare the application for payment with the daily reports developed by the RPR.

Task 1.4 - Substantial Completion/Completion

- A. RPR shall assist Engineer of Record in the completion of the Substantial Completion and Final Acceptance tasks.
- B. Before a Certificate of Substantial Completion is issued, the RPR will submit to CONSTRUCTION CONTRACTOR a list of observed items requiring completion or correction in accordance with the requirements of the Contract Documents.
- C. After the CONSTRUCTION CONTRACTOR has completed the work and upon request of the CONSTRUCTION CONTRACTOR, the RPR shall conduct final inspection in the company of ENGINEER, OWNER and CONSTRUCTION CONTRACTOR. Prepare a final list of items to be completed or corrected in accordance with the requirements of the Construction Documents.
- D. After the CONSTRUCTION CONTRACTOR has completed the work and upon written notice from the CONSTRUCTION CONTRACTOR, review and determine that items on final list have been completed or corrected and make recommendations to the Engineer of Record and OWNER concerning acceptance.

RPR will not:

- A. Authorize any deviations from the Contract Documents or approve any substitute materials or equipment without approval from the OWNER.

Exhibit A1
Scope of Services, Continued

- B. Undertake the responsibilities of CONSTRUCTION CONTRACTOR, Subcontractors or CONSTRUCTION CONTRACTOR'S superintendent, or expedite the work.
- C. Advise on or issue directions relative to the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
- D. Advise on or issue directions as to safety precautions and programs in connection with the work.
- E. Authorize OWNER to occupy the Project in whole or in part.

September 27, 2007
Consent Agenda Item 2d
Award of a Contract for Improvements to John Crompton Park

To: Glenn Brown, City Manager

From: Eric Ploeger, Assistant Director of Parks and Recreation Department

Agenda Caption: Presentation, possible action, and discussion regarding approval of a resolution awarding Contract Number 07-256, a construction contract with Acklam Construction in the amount of \$114,876 for the construction of additional improvements to John Crompton Park.

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

Summary: The first phase of John Crompton Park was completed in 2005. The second phase of development will provide additional walks, a small shelter near the pond, additional area lights, benches, drinking fountain, park sign, drainage improvements, and a pond aerator.

This fifteen-acre neighborhood park is the only park located in Park Zone 7. These improvements are consistent with the master plan approved by Parks and Recreation Advisory Board for this park.

Sealed, competitive bids for Bid Number 07-110 were received from three contracting firms. The bid summary is attached.

Budget & Financial Summary: This project is funded through Park Zone 7 Park Land Dedication fees. Funds are budgeted and available for this project in the Parks Capital Projects fund.

Attachments:

- 1) Resolution
- 2) Bid Number 07-110 Bid Tabulation
- 3) John Crompton Park Location Map
- 4) John Crompton Park Site Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR JOHN CROMPTON PARK, PHASE II IMPROVEMENTS CONSTRUCTION PROJECT, PROJECT NUMBER PK0712 AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited proposals for the construction phase of the John Crompton Park, Phase II Improvements Construction Project; and

WHEREAS, the selection of Acklam Construction Company, Inc. is being recommended as the lowest responsible bidder for the construction services related to the John Crompton Park, Phase II Construction Project; now, therefore,

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

- PART 1: That the City Council hereby finds that Acklam Construction Company, Inc. is the lowest responsible bidder.
- PART 2: That the City Council hereby approves the contract with Acklam Construction Company, Inc. in the amount of \$114,876.00 for the labor, materials, and equipment required for the John Crompton Park, Phase II Construction Project.
- PART 3: That the funding for this contract shall be as budgeted from the Parks Capital Improvement Projects Fund in the amount of \$114,876.00

ADOPTED this the 27th day of September, A.D. 2007.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:

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

City Attorney

**City of College Station
Bid Tabulation**

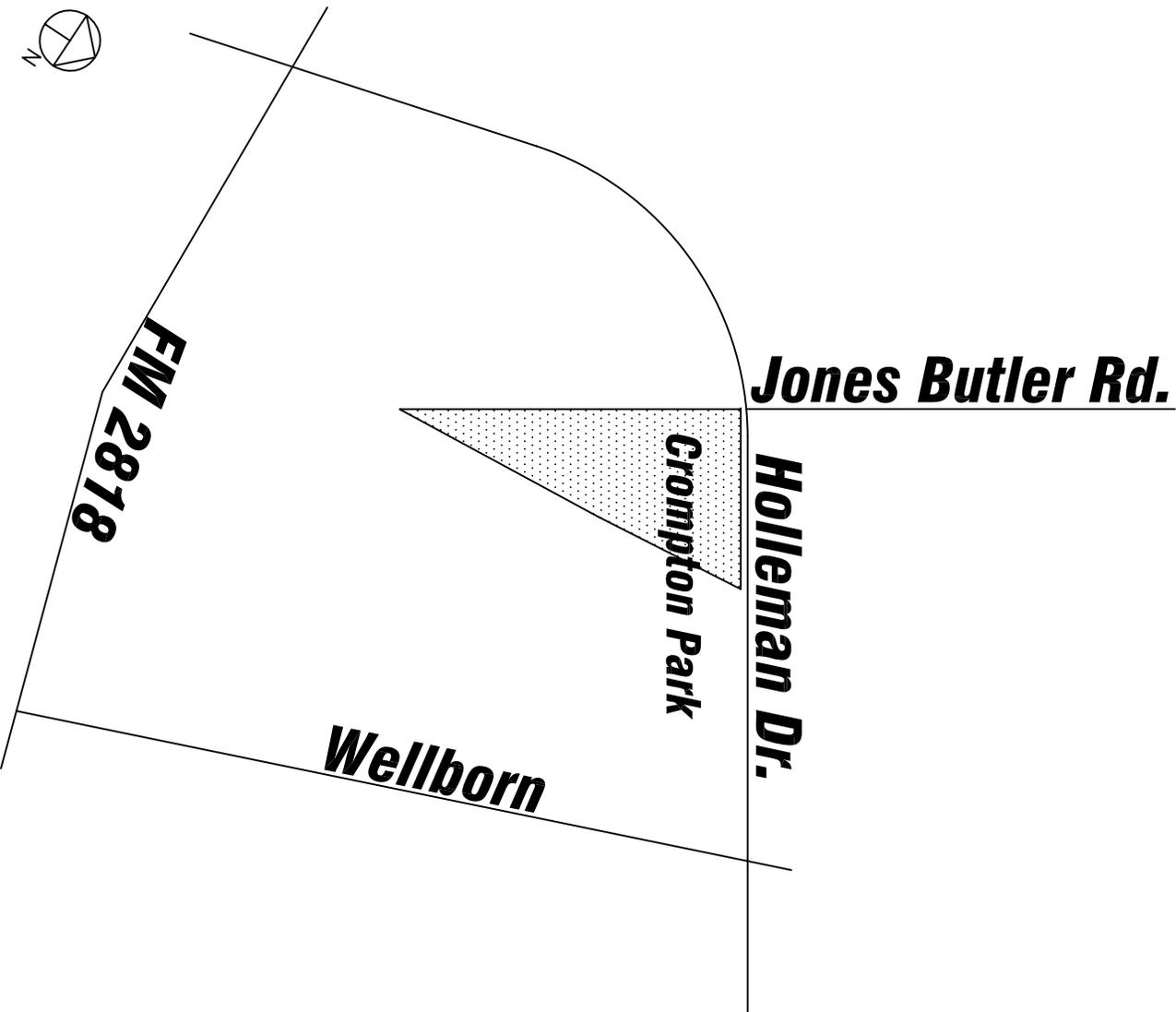
**BID TAB FOR: Crompton Park Phase II
DEPARTMENT: Parks and Recreation
BID: 07-110**

08/30/07

Qty	Unit Meas.	Description	Acklam Construction College Station, TX		CLM Construction Bryan, TX		Dudley Construction College Station, TX	
			Unit Price	Unit Total	Unit Price	Unit Total	Unit Price	Unit Total
Crompton Park Phase II								
1	Lot	Picnic shelter & slab	\$37,810.00	\$37,810.00	\$43,042.00	\$43,042.00	\$52,000.00	\$52,000.00
1	Lot	Concrete retaining wall	\$2,300.00	\$2,300.00	\$5,158.00	\$5,158.00	\$5,975.00	\$5,975.00
1	Sq. Ft.	Sidewalks	\$5.15 sq.ft.	\$3,975.00	\$5.51 sq.ft.	\$6,620.00	\$7.00 sq.ft.	\$7,000.00
1	Lot	Earthwork and seeding	\$3,350.00	\$3,350.00	\$4,190.00	\$4,190.00	\$3,300.00	\$3,300.00
1	Lot	Sign	\$2,296.00	\$2,296.00	\$2,297.00	\$2,297.00	\$2,700.00	\$2,700.00
1	Lot	6 Area lights & electrical & lights on shelter	\$28,789.00	\$28,789.00	\$41,800.00	\$41,800.00	\$46,000.00	\$4,600.00
1	Lot	3/4 " water line	\$585.00	\$585.00	\$1,250.00	\$1,250.00	\$2,950.00	\$2,950.00
1	Lot	Drinking fountain with slab	\$4,850.00	\$4,850.00	\$4,290.00	\$4,290.00	\$3,175.00	\$3,175.00
1	Lot	4 Benches with concrete slabs at Shelter	\$7,600.00	\$7,600.00	\$7,664.00	\$7,664.00	\$15,725.00	\$15,725.00
1	Lot	Silt Fencing and Erosion Control	\$1.00	\$1.00	\$910.00	\$910.00	\$800.00	\$800.00
1	Lot	Furnish & install pond aerator & electrical	\$23,320.00	\$23,320.00	\$8,193.00	\$8,193.00	\$7,500.00	\$7,500.00
Total Bid Price			\$114,876.00		\$125,168.00		\$147,125.00	

Total Number of Calendar Days to Completion	100	120	180
Number of Addenda Acknowledged	1	1	1
Bid Bond	Y	Y	Y
Bid Certification Page	Y	Y	Y

Staff Award Recommendation



Crompton Park Location Map

September 27, 2007
Consent Agenda Item 2e
BVSWMA TAMU Household Hazardous Waste Collection Event User Agreement

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion of a user agreement between Texas A&M University and the City of College Station authorizing Texas A&M University to provide the University Services Complex parking lot area and ingress/egress roads on October, 20, 2007 to the Brazos Valley Solid Waste Management Agency for the fall Household Hazardous Waste & Computer Collection event.

Recommendation(s): Staff recommends approval of the user agreement authorizing Texas A&M University to provide the University Services Complex parking lot area, and ingress/egress roads on October, 20, 2007 to the Brazos Valley Solid Waste Management Agency for the fall Household Hazardous Waste & Computer Collection Event.

Summary: The Brazos Valley Solid Waste Management Agency has a semi-annual regional Household Hazardous Waste & Computer Collection Event for the safe disposal and recycling of household hazardous waste. Previous events have been held at the Brazos Center in Bryan. Public participation at the event has increased in recent years, and the Brazos Center is no longer a suitable location due to constraints in space for traffic management and vehicle unloading. The Brazos Valley Solid Waste Management Agency will be able to provide a safe environment for the disposal of hazardous waste and decrease the amount of traffic congestion due to the increased space at the University Services Complex.

Budget & Financial Summary: None.

Attachments:

1. User Agreement
2. Location Map

SITE USE AGREEMENT

This Site Use Agreement is entered into by and between Texas A&M University ("TAMU"), a component of the Texas A&M University System, an agency of the State of Texas ("University") and the City of College Station, a Home Rule Municipal Corporation, on behalf of the Brazos Valley Solid Waste Management Agency ("BVSWMA").

WHEREAS, BVSWMA conducts, on a semi-annual basis, its Household Hazardous Waster and Computer Collection Event ("Event") for the benefit of the citizens of Brazos and surrounding counties; and

WHEREAS, Texas A&M University System Policy 33.04 Use of System Property states, "No TAMUS employee shall entrust state property to any state official or employee or to anyone else to be used for other than state purposes. . ."; and

WHEREAS, Texas A&M University Rule 41.05.02.M1 Space and Land Use Management states, "The President will oversee the day-to-day management and maintenance of real property and improvements located on the College Station Campus. The President delegates this authority for space assignment and land use to (1) Vice President for Facilities for non-academic unit space assignments and general land use..."; and

WHEREAS, University agrees to grant BVSWMA the privilege of hosting Event on certain facilities of Texas A&M University and University will provide parking area, ingress and egress to BVSWMA and the end users of the Event. The facility is referred to by TAMU as the University Service Building, located at 3380 University Dr. East and as further shown in the attached Exhibit A ("Site");

NOW, THEREFORE, in consideration of the mutual premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the University and BVSWMA agree as follows:

1. The times and dates of access granted to BVSWMA begin at 5:00 p.m. on October 19, 2007, and end at 10:00 a.m. on October 21, 2007. The schedule for collection activities is 9:00a.m. through 4:00 p.m. on October 20, 2007. Access is granted for Event set-up, Event and Event clean-up during the times stated above.

2. BVSWMA will be solely responsible, at its sole cost and expense, for arranging personnel including, but not limited to, hazardous waste collection contractors, employees volunteers and sufficient law enforcement personnel to assist with traffic control, and all equipment necessary for the conduct of Event.

3. BVSWMA will be responsible for applying herbicide and cleaning of access asphalt road from Site to Harvey Rd. TAMU and BVSWMA will evaluate the asphalt road at the conclusion of the event to determine if the level of traffic necessitates repair to the road. In the event repairs are needed, BVSWMA and University will enter into a separate written agreement to establish the terms and conditions for such repairs.

4. BVSWMA will be responsible for Event advertising, Event set up, including all coordination with and direction of contractors, employees, volunteers at the Site, conduct of the Event, including the installation of electronic traffic signs and hiring of sufficient law enforcement personnel to assist with traffic flow/direction, and all Event clean up activities.

5. BVSWMA will be solely responsible for cleaning all debris, refuse or any waste produced as a result of event and shall return University's premises to original condition as found prior to BVSWMA use of premises. Should University incur any costs or otherwise be obligated to clean or restore the area to its original condition, BVSWMA shall reimburse University for all such costs upon receipt of invoice from University.

6. SUBJECT TO THE LIMITATION AS TO DAMAGES IN THE TEXAS TORT CLAIMS ACT, BVSWMA WILL INDEMNIFY, DEFEND AND HOLD HARMLESS UNIVERSITY AND ANY OF ITS COMPONENTS, OFFICERS OR EMPLOYEES FROM ANY CLAIM, DEMAND, OR SUIT WHATSOEVER, WHETHER BASED UPON PERSONAL INJURY, INCLUDING DEATH, OR PROPERTY DAMAGE, OR OTHERWISE, WHICH RELATES IN ANY WAY TO THE USE OF TAMU PROPERTY BY BVSWMA FOR THE EVENT AS SET FORTH HEREIN CAUSED BY BVSWMA'S NEGLIGENCE. BY ENTERING INTO THIS AGREEMENT, NEITHER THE CITY NOR BVSWMA CONSENT TO SUIT OR WAIVE THEIR RESPECTIVE GOVERNMENTAL IMMUNITY.

7. BVSWMA will be responsible for assuring BVSWMA employees and guests are made aware of and comply with appropriate University rules and regulations and shall be held responsible for their conduct while occupying University property.

8. BVSWMA, as host of the event, is responsible for defraying all costs associated with the Event either through sponsorship or direct payment with BVSWMA funds.

9. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, diagrams 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.

IN WITNESS OF THIS AGREEMENT, BVSWMA and University, through their duly appointed agents, have executed this Agreement in duplicate originals.

EXECUTED this the _____ day of September, 2007, by University and BVSWMA.

TEXAS A&M UNIVERSITY

**CITY OF COLLEGE STATION
(BVSWMA)**

K. Sue Redman
Senior Vice President/Chief Financial Officer

Ben White
Mayor

RECOMMENDED APPROVAL:

Charles A. Sippial
Vice President for Administration

Robert T. Bisor
Associate Vice President for Finance

ATTEST:

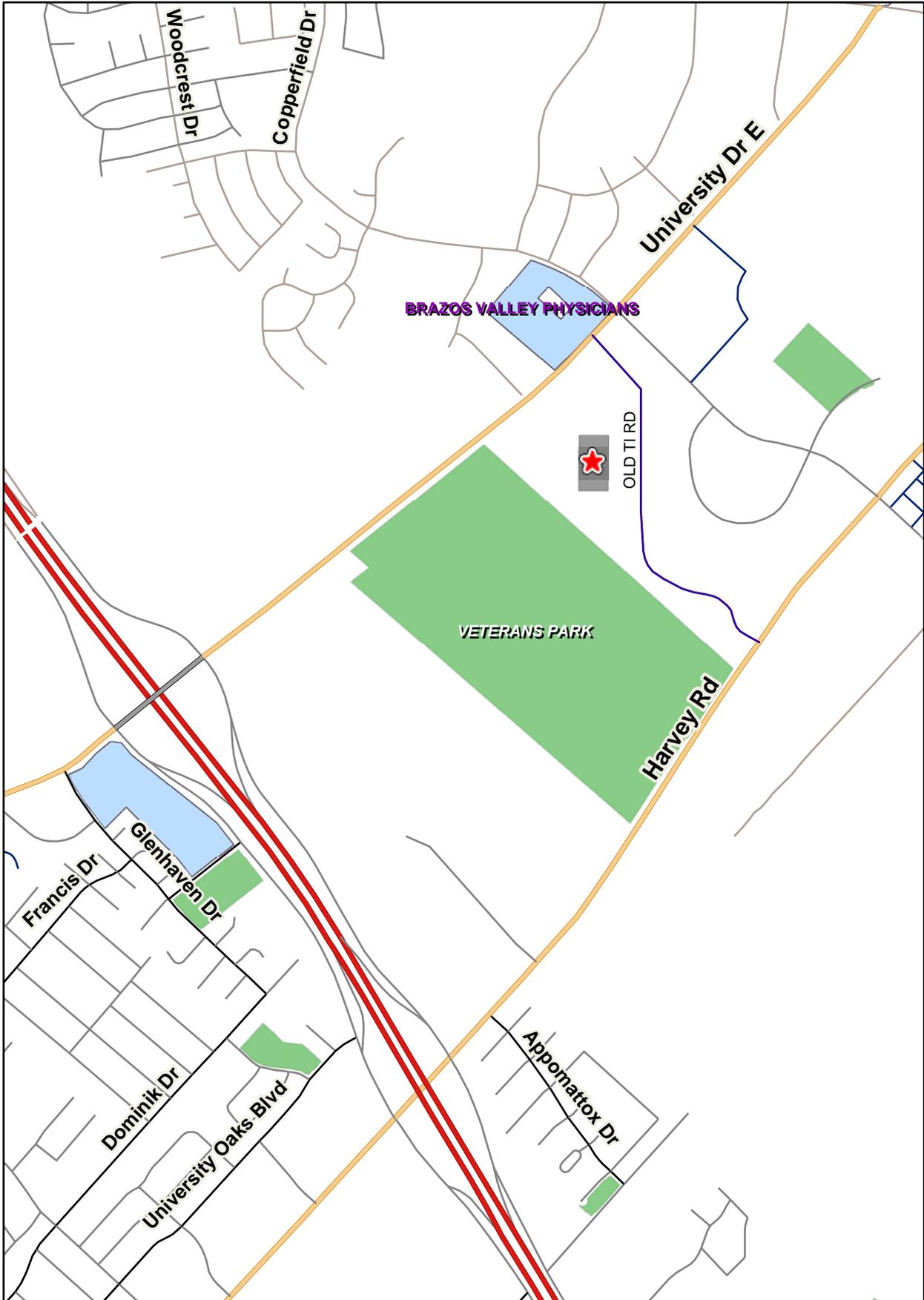
City Secretary

APPROVED:

City Manager

City Attorney

Chief Financial Officer



September 27, 2007
Consent Agenda Item 2f
CSU Meeting and Training Facility (WF0847168)
Alternate Bid Method

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding a resolution designating the Request for Competitive Sealed Proposal as an alternative delivery method for the College Station Utilities (CSU) Meeting and Training Facility Project (WF0847168).

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

Summary: This item provides for the use of competitive sealed proposals for the construction of the CSU Meeting and Training Facility Project (WF0847168).

In entering into a contract for the construction of a facility, a governmental entity may use competitive sealed proposals for construction services if the method provides the best value for the governmental entity.

There are two reasons that the Request for Competitive Sealed Proposal method will prove to be the best value for this project. First, we will be able to consider other evaluation factors in awarding this contract, other than the lowest, responsible bid. Factors that we may consider include; proposed construction contract amount and contract time, contractor experience and qualifications, contractor current work schedule and record, contractor key personnel, contractor references and reputation, contractor safety record, contractor financial resources. Second, we will be able to negotiate terms, conditions, and pricing utilizing the Request for Competitive Sealed Proposal method of procurement. Negotiation of terms, conditions, and pricing is not available under the traditional competitive bidding process.

Budget & Financial Summary: The budget for the CSU Meeting and Training Facility Project (WF0847168) is \$2,000,000.

Attachments:

1. Resolution
2. Project Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING WHICH METHOD PROVIDES FOR THE BEST VALUE TO THE CITY OF COLLEGE STATION FOR THE CONSTRUCTION OF THE COLLEGE STATION UTILITIES (CSU) MEETING AND TRAINING FACILITY PROJECT AND AUTHORIZING THE USE OF THIS PROCUREMENT METHOD FOR PROJECT NUMBER (WF0847168) IN ACCORDANCE WITH SECTION 271.114(a) OF THE TEXAS LOCAL GOVERNMENT CODE.

WHEREAS, the City Council of the City of College Station, Texas, determined a need to construct the CSU Meeting and Training Facility Project (Project No. WF0847168); and

WHEREAS, the City has considered using a method specified by TEXAS LOCAL GOVERNMENT CODE, Section 271.113(a), other than competitive bidding; and

WHEREAS, the City Council has determined that the method which provides the best value for the City for the construction of the CSU Meeting and Training Facility Project (Project No. WF0847168) is the use of competitive sealed proposals for construction services as permitted by TEXAS LOCAL GOVERNMENT CODE, Section 271.113(a)(2); now, therefore,

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

PART 1: That the City Council hereby finds that the use of competitive sealed proposals provides the best value for the City in the construction of the CSU Meeting and Training Facility (Project No. WF0847168);

PART 2: That the City Council hereby authorizes the use of competitive sealed proposals as the procurement method for the CSU Meeting and Training Facility Project (Project No. WF0847168);

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

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST:

APPROVED:

City Secretary

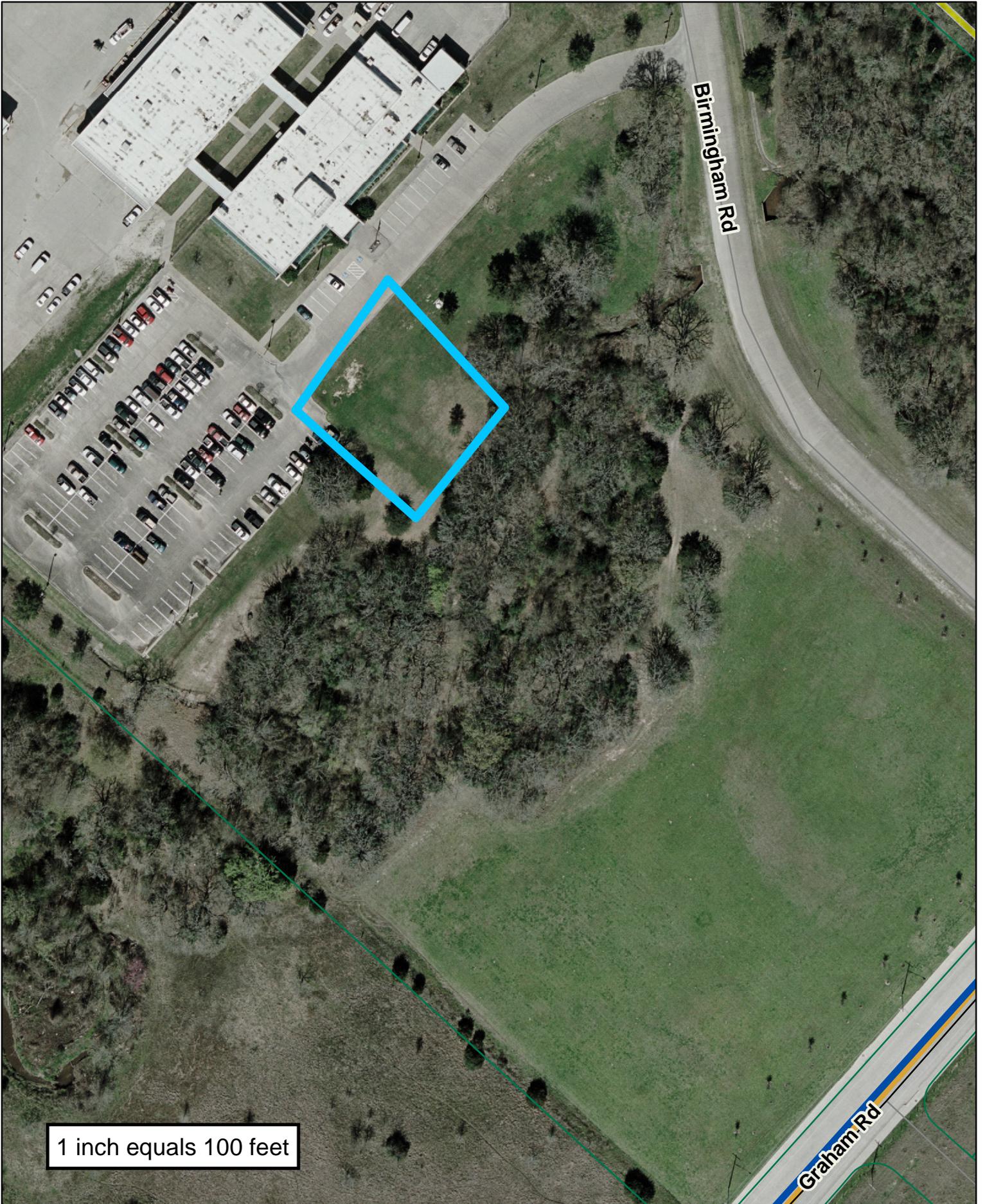
Mayor

APPROVED:



City Attorney

CSU Meeting and Training Facility Site Map



September 27, 2007
Consent Agenda 2g
Real Estate Contracts for Wells 8, 9, and 10

To: Glenn Brown, City Manager

From: David Coleman, Director of Water Services

Agenda Caption: Presentation, possible action, and discussion to approve three real estate contracts for potential purchase of properties for Groundwater Wells 8, 9, and 10; and a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Recommendation: Staff recommends approval of these contracts; and approval of the resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Summary: City Council approved a Needs Resolution on April 26, 2007 for the purchase of land sufficient for water wells 8, 9, and 10 to meet the City's future water needs. This land purchase is required, since the Brazos Valley Groundwater Conservation District rules require owners of all new water wells to own large parcels of land, with the land being contiguous and reasonably reflecting the cone of depression of each well.

The City's Land Agent has located three willing sellers within, or adjacent to, the areas identified in the Needs Resolution:

- Charles Rowe: 199.6 acres @ \$2,500 per acre = \$499,000.00
- Willie Allen: 55.0 acres @ \$2,500 per acre = \$137,500.00
- Henry Allen: 172.1 acres @ \$2,500 per acre = \$430,337.50

- Grand Total: 426.7 acres for \$1,066,837.50

The attached contracts commit the sellers to close the sale at the stipulated prices, but they allow the City to perform site assessments and surveys, and the contracts provide the City the option to cancel the contract if we so choose.

If Council approves these three contracts, then Staff will perform all due diligence and make a final recommendation to City Council (whether to purchase or cancel) at a future Council meeting.

Budget & Financial Summary: Funds for this project are budgeted in the Water Capital Improvement Projects Budget.

Attachments:

1. Charles Rowe contract
2. Willie Allen contract
3. Henry Allen contract
4. Water well land resolution
5. Map

REAL ESTATE CONTRACT
(Fee Purchase)

This Real Estate Contract ("Contract") is made by and between CHARLES A. ROWE, SR., JOINED HEREIN BY HIS SPOUSE, IF MARRIED ("Seller", whether one or more), and the CITY OF COLLEGE STATION, TEXAS, a Texas home rule municipal corporation, situated in Brazos County, Texas ("Buyer"), upon the terms and conditions set forth herein. The promises by Buyer and Seller stated in this Contract are the consideration for the formation of this Contract.

ARTICLE I
PURCHASE AND SALE

1.1 Seller is the sole owner of fee simple title to the following real property:

- (i) approximately 83.60 acres of land, more or less, in Robertson County, Texas, out of Abstract 95, Tract 20, W Cooley, being the same property conveyed by instrument recorded in Volume 657, Page 707 of the Real Property Records of Robertson County, Texas; and
- (ii) approximately 116.0 acres of and, more or less, in Brazos County, Texas, out of AO25300 Wright Cooley, Tract 1,

LESS, SAVE AND EXCEPT all oil, gas and other minerals in, on and under the Land, previously retained by a prior owner or owners, provided, however, that this reservation does not include the right to use the surface of the Property to access, explore for, drill for, excavate, or produce oil, gas or other minerals, or to use any groundwater from the Property in connection with the oil, gas or mineral estates,

collectively, the "Land", which is more fully described in Exhibit "A" attached hereto.

1.2 For the consideration, and subject to the terms and conditions stated in this Contract, Seller agrees to sell and convey to Buyer and Buyer agrees to purchase and pay for fee simple title to the Land, together with all rights and appurtenances pertaining thereto, including:

- a. all groundwater now or hereafter located in and under the Land,
- b. all right, title and interest of Seller in and to adjacent roads, streets, alleys or rights-of-way,
- c. all easements appurtenant to the Land;
- d. all development rights related to the Land;
- e. all improvements located on the Land, including all water wells.

- 1.3 The property interests and rights described in Section 1.1 are referred to collectively as "Property."
- 1.4 If a new survey is provided under the terms of this Contract, the legal description in Exhibit "A" will automatically be replaced by the legal description provided by the Survey, once it is approved by Seller and Buyer.
- 1.5 This Contract is subject to approval by the City Council of the City of College Station, Texas; such approval indicated by signature of Buyer's representatives to this Contract.

ARTICLE II PURCHASE PRICE AND EARNEST MONEY

Purchase Price. The purchase price for the Property will be the sum of FOUR HUNDRED NINETY-NINE THOUSAND AND NO/100 DOLLARS (\$499,000.00) payable in cash at Closing ("Purchase Price"). The Purchase Price is based on \$2,500 per acre x 199.60 acres of Land.

The Purchase Price is subject to adjustment at Closing in the event that any of the acreage amounts of the Land, as determined by the Survey, differ from those shown in Section 1.1.

- 2.1 **Earnest Money.** Within 20 days after this Contract is fully signed, Buyer will pay the sum of \$7485.00 ("Earnest Money") to Brazos County Abstract Company, Kathy Vicini, Closer, 3800 Cross Park Drive, Bryan, TX 77802 (979) 731-1900 ("Title Company") to be held by Title Company in escrow in accordance with the terms of this Contract. Title Company will deposit the Earnest Money in an interest-bearing account at a financial institution whose accounts are federally insured, and will hold and distribute such Earnest Money in accordance with the terms of this Contract. All interest accrued on the Earnest Money will become part of the Earnest Money. In the event Buyer terminates this Contract during the Inspection Period (as defined in Article III), Title Company will promptly return the Earnest Money to Buyer. If Buyer completes the purchase of the Property, the Earnest Money will be applied to the Purchase Price at Closing.
- 2.2 **Independent Consideration.** The sum of \$100.00 out of the Earnest Money will constitute independent consideration ("Independent Consideration") for Buyer's right to terminate this Contract as described in Article III. If Buyer terminates this Contract during the Inspection Period as provided in Article III, Title Company will pay the Independent Consideration to Seller. In all other instances, the Independent Consideration will constitute a portion of the Earnest Money, and will be held and paid out by Title Company as "Earnest Money" under the terms of this Contract.

ARTICLE III INSPECTION PERIOD

- 3.1 **Inspection Period.** The Buyer shall have an Inspection Period in which to determine whether the Property is suitable for Buyer. The Inspection Period shall begin on the Effective Date of this Contract, and shall terminate 90 days thereafter. Buyer, at its option, may extend the Inspection Period by an additional 30 days by giving Seller written notice of the extension before the expiration of the initial 90-day period. In addition to the foregoing, in the event that Seller fails to provide the Seller's Records, Title Commitment, UCC Search or other information or documentation required to be provided by Seller within the time periods required by this Contract, the Inspection Period shall be extended by one day for each day any such information is provided after its due date, not to exceed 60 days.
- 3.2 **Seller's Records.** Within 20 days after the Effective Date of this Contract, the Seller will provide Buyer with copies of the following documents relating to the Property:
- a. Any existing surveys of the Property;
 - b. Any drilling logs, permits, or other records regarding Seller's wells located on the Property, if requested by the Buyer;
 - c. Any notices or other communications received by Seller from any taxing authority or government agency regarding a violation of law applicable to the Property or its use;
 - d. Any notice of threatened condemnation, or intent to condemn all or any portion of the Property;
 - e. Any litigation proceedings involving the Property;
 - f. Any unrecorded leases or other documents granting the right to possession or use of the Property; and
 - g. Any other records relating to the use or condition of the Property, including any legal claims.

If Seller receives any additional information or records regarding the Property during the term of this Contract, Seller will provide copies of such information to Buyer no later than 10 days after Seller receives it.

- 3.3 **Entry onto the Property.** Buyer may enter the Property during the Inspection Period and at any time before Closing to inspect the Property, and may conduct any and all investigations that Buyer deems necessary, including surveys, environmental site assessments, appraisals, and investigations to determine the condition of the Property and to estimate the quality, quantity and sustainability of the groundwater, including the drilling of test holes or wells, and the taking of water samples. Buyer's right to inspect will be subject to the following:

- a. Buyer will endeavor to give Seller advance notice by telephone, in person or in writing of Buyer's plans to inspect or conduct tests on the Property.
 - b. If the Property is damaged because of Buyer's inspections, Buyer will return the Property as closely as possible to its preinspection condition promptly after the completion of its inspections. Any test holes drilled by Buyer will be promptly plugged in accordance with the requirements of applicable law.
 - c. Buyer, at the request of Seller, will deliver to Seller copies of all inspection and other reports that Buyer prepares or receives from third-party consultants or contractors regarding the Property.
- 3.4 **Buyer's Right to Terminate.** Buyer may terminate this Contract for any reason by notifying Seller before the end of the Inspection Period.

**ARTICLE IV
TITLE MATTERS AND OBJECTIONS**

- 4.1 **Title Commitment.** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, will request Title Company to furnish:
- a. a Commitment for an Owner's Policy of Title Insurance (the "Title Commitment") to insure Buyer's title to the Property at the time Buyer purchases the Property; and
 - b. legible copies of all instruments referred to in the Title Commitment.
- 4.2 **Survey** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, may request a surveyor selected by Buyer to perform a survey of the Property. Buyer will have the right, at its sole discretion, to obtain (i) a boundary survey of the Property, together with field notes, or (ii) a category I A land title survey of the Property, together with field notes, and (iii) any other survey of the Property that Buyer chooses to obtain. Any survey obtained by Buyer will be certified to Buyer, Seller, Title Company and the Title Company's underwriter.
- 4.3 **Environmental Site Assessment.** Buyer, at Buyer's expense, may order a Phase I Environmental Site Assessment to be performed during the Inspection Period.
- 4.4 **Objections to Title.** Buyer will have 20 days after the receipt of the last of the Sellers' Records, the Survey, the Title Commitment, and legible copies of the title documents to review the same and make objections to the information shown by them. Sellers will have 20 days after the receipt of Buyer's objections in which to cure such objections. In the event Sellers are unwilling or unable to cure the objections prior to Closing, Buyer will have the right to (i) terminate this Contract prior to Closing and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. Sellers agree to cooperate with Buyer in the event Buyer endeavors to cure any title matters prior to Closing. Matters shown on Schedule B of the Title Commitment or Survey and not timely objected to by Buyer, or matters objected to and waived by Buyer, will constitute

Permitted Exceptions. The foregoing notwithstanding, all liens, adverse claims affecting the Property, errors or discrepancies in the legal description of the Property, or its size or location, and matters shown on Schedule C of the Title Commitment will not be considered Permitted Exceptions, and Seller must resolve them to the reasonable satisfaction of Buyer and Title Company prior to Closing as a condition to Closing, without the need for Buyer to make written objections to them.

- 4.5 **Subsequent or Additional Information.** If, at any time prior to Closing, revisions or updates are made to the Title Commitment or the Survey, or if Buyer is made aware of additional information relating to the condition of or title to the Property, including, but not limited to additions to the Seller's Records and changes to the use or condition of the Property, then Buyer will have an additional 20 days after receiving the revised Title Commitment, Survey, and/or additional information in which to make objections to matters disclosed in such documents or information which were not previously disclosed to Buyer. Seller will have 20 days after receipt of Buyer's objections in which to cure such objections. In the event that Seller is unwilling or unable to do so, Buyer will have the right to (i) terminate this Contract prior to Closing, and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. The Closing Date will be extended, if necessary, to accommodate the additional objection and cure periods.
- 4.6 **Environmental Matters.** If the Phase I Environmental Site Assessment indicates the need for further investigation or indicates the presence of contamination, then Buyer will notify Seller of the conditions shown by the Environmental Site Assessment within 20 days after Buyer's receipt of the report. Buyer will have the right, at Buyer's expense, to conduct a Phase II Environmental Site Assessment or additional testing of the Property or groundwater to determine the likelihood or degree of contamination. If environmental contamination is found, and the parties are unable to agree in writing prior to the Closing Date as to who will pay for the cleanup or remediation, and within what time period, then Buyer shall have the right to (i) terminate this Contract at any time prior to Closing, and receive the return of the Earnest Money, or (ii) agree to accept the Property in its present condition and close on the purchase of the Property.
- 4.7 **Ad Valorem Taxes and Assessments.** Each Seller will be responsible for paying, prior to or at Closing, all assessments and ad valorem property taxes due and owing against the Property as of the date of Closing, including any and all delinquent taxes and assessments, penalties, interest, fees and other charges in connection therewith. At Closing, Sellers will pay all taxes against the Property for the year of Closing that are payable on the date of Closing. If taxes for the current year are not then payable, Title Company will require the tax assessor to determine taxes due against the Property to the date of Closing, in accordance with the provisions of Section 26.11 of the Texas Tax Code, and Sellers shall pay the amount of taxes so assessed at Closing. Unless otherwise agreed to by the parties in writing, if the Property has been the subject of special valuation and reduced tax assessments pursuant to the provisions of Chapter 23, Subchapter D, or any other provisions of the Texas Tax Code with respect to any period before the Closing and additional taxes are assessed pursuant to Section 23.55 or other applicable section of the Texas Tax Code, the following will apply:

CAR

- (1) Seller will be responsible for paying any additional taxes, penalties or interest resulting from a change in ownership or use of the Property by Seller prior to Closing; and
- (2) If this sale or Buyer's use of the Property after Closing results in the assessment of additional taxes for periods before Closing, Buyer will pay the additional taxes as they relate to the Property.

The provisions of this Section 4.7 shall survive Closing.

ARTICLE V REPRESENTATIONS OF SELLER

- 5.1 Seller hereby represents to Buyer that, to the best of Seller's knowledge and belief, the following are true and correct as of the Effective Date of this Contract and will be true and correct on the Closing Date:
- a. Seller is the sole owner of the Property and has the full right, power, and authority to enter into and perform its obligations under this Contract without the consent or joinder of any other person.
 - b. There are no unrecorded leases or other rights to occupy or use the Property except for those disclosed by Seller to Buyer in writing.
 - c. Seller has no actual knowledge of any potential, pending or threatened litigation, condemnation or other proceedings affecting the Property or any part thereof, or which could result in Buyer incurring expenses or losses in connection with the Property after the purchase of it.
 - d. Seller has not received any notice that a governmental entity is contemplating condemnation of any portion of the Property.
 - e. To the best of Seller's knowledge and belief, Seller (i) has paid all ad valorem taxes and assessments against the Property as they became due, (ii) is entitled to any exemption from property taxes or special use valuation which has been claimed by Seller in connection with the Property, and (iii) has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or the use of the Property, or any portion thereof.
 - f. Seller has no knowledge that the Property contains any environmental hazards or contamination.
 - g. To the best of Seller's knowledge and belief, there are no unpaid charges, debts, liabilities, claims or obligations arising from any construction, occupancy, ownership, use or operation of the Property, or the business operated thereon, if any, which could give rise to any mechanic's or materialmen's or other statutory liens against the Property, or any part thereof, or for which Buyer will be responsible.

- 5.2 In the event Seller learns that any of the above statements are untrue or incorrect, or that they have become untrue or incorrect, Seller shall promptly notify Buyer in writing. If the state or condition is not resolved to Buyer's reasonable satisfaction prior to Closing, Buyer will have the right to terminate this Contract prior to Closing, and obtain the return of the Earnest Money. In the event Buyer first learns after Closing that any of the above statements were untrue or incorrect as of the Date of Closing, Buyer shall have all rights and remedies available at law or equity.

ARTICLE VI CONDITION OF PROPERTY

- 6.1 Until Closing, Seller (a) will maintain the Property as it existed on the Effective Date of this Contract, except for reasonable wear and tear and casualty damage; (b) will operate the Property in the same manner as it was operated on the Effective Date of this Contract; including any use necessary to maintain any agricultural exemption on the Property; and (c) will not grant to any other person without the prior written consent of Buyer, any rights or interests in the Property, including easement rights, or rights to use the groundwater, or amend any existing agreement relating to the Property, including easements, oil and gas leases, or any other documents evidencing or creating an interest or right in the Property. Any conveyance or amendment in violation of this provision will be void and of no effect, and shall not be binding on Buyer. Seller will be in default under this Contract if Seller fails to comply with the provisions of this section.
- 6.2 Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before Closing. Buyer may terminate this Contract and receive the return of the Earnest Money, if the casualty damage that occurs before Closing would materially affect Buyer's intended use of the Property, by giving notice to Seller prior to Closing.
- 6.3 Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this Contract and receive the return of the Earnest Money if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller prior to Closing. If Buyer does not terminate this Contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation with regard to the Property will be assigned to Buyer, and (c) if the taking occurs before Closing, the description of the Property will be revised to delete the portion taken.
- 6.4 Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before Closing that affects the Property.
- 6.5 Seller will cooperate with Buyer (a) before and after Closing, if requested by Buyer, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after Closing; and (b) before Closing, with any reasonable evaluation, assessment, inspection,

audit, or study of the Property prepared by, for, or at the request of Buyer, and making available to Buyer and Buyer's consultants, information known by Seller regarding the Property, and the name and contact information for a person (if any) known by Seller to be knowledgeable about the condition and use of the Property, if Seller has no such knowledge.

- 6.6 ***Prohibited Uses.*** Without limiting the generality of any of the provisions of this Contract, before Closing, and after Closing, if Sellers have any interest in oil, gas or minerals in connection with the Land, Sellers will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, or (d) drilling of groundwater well(s) or other surface use of the Property. Sellers are prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Sellers, their heirs, successors and assigns and persons with whom they or any of them contract for the use or production of minerals. This provision will be set forth in the Deed.

ARTICLE VII CLOSING

- 7.1 The Closing shall be held at the office of the Title Company, within thirty (30) calendar days after the expiration of the Inspection Period. The Closing will take place at a date and time agreed to by the parties, or, if none has been agreed upon, then at 2:00 p.m. on the 30th day after the expiration of the Inspection Period (the "Closing Date"). The Closing Date is subject to extension as provided in Section 4.5 of this Contract. The City Attorney for Buyer is authorized to extend the time for Closing.
- 7.2 Buyer will pay the cost for preparation of the Special Warranty Deed to be used at Closing, which is to be substantially in the form attached hereto as **Exhibit "B"** modified, as necessary, to reflect the terms of this Contract.
- 7.3 At the Closing, Seller shall:
- a. Deliver to Buyer the duly executed and acknowledged Special Warranty Deed conveying good and marketable title in and to the Property, free and clear of any and all liens, encumbrances, or title matters except for the Permitted Exceptions.
 - b. Deliver possession of the Property to Buyer.
 - c. Deliver any notice required by law to be given, and satisfactory evidence of Seller's authority to sell and convey the Property to Buyer in accordance with this Contract.

- d. Deliver to Buyer, as soon as practicable after Closing, a Title Policy issued by Title Company in Buyer's favor in the full amount of the Purchase Price, insuring Buyer's fee simple absolute title to the Property to be good and indefeasible, subject only to the Permitted Exceptions, without exception to any rights of parties in possession other than the rights of lessee under any grazing lease affecting the Property which constitutes a Permitted Exception.
 - e. Execute and deliver an IRS Non-Foreign Person Affidavit, and any other documents reasonably required by the Title Company to issue a Title Policy meeting the requirements of this Contract, or required by Buyer to evidence or carry out the terms of this Contract.
 - f. Pay any and all property taxes and assessments as provided in Section 4.7.
 - g. Pay the costs to obtain, deliver and record releases of all liens affecting the Property.
 - h. Pay the costs to obtain, deliver and record all documents to cure title objections which Seller has agreed to cure, and the costs to record any curative documents obtained by Buyer.
 - i. Pay for the certificates or reports of ad valorem taxes, and any other costs or expenses required to be paid by Seller at Closing under the terms of this Contract.
 - j. Pay the Seller's expenses and attorney's fees.
- 7.4 Upon such performance by Seller at Closing, Buyer shall:
- a. Pay the balance of the Purchase Price.
 - b. Pay the escrow fee charged by Title Company.
 - c. Pay the expenses required to be paid by Buyer under this Contract, including any title insurance, survey and Environmental Site Assessment costs.
 - d. Pay for the brokerage fees of Buyer's Real Estate Broker.
 - e. Pay the costs to obtain, deliver and record all documents other than those to be obtained, delivered or recorded at Seller's expense.
 - f. Pay the Buyer's expenses and attorney's fees.

**ARTICLE VIII
ADDITIONAL PROVISIONS**

- 8.1 This sale is made in lieu of condemnation by the Buyer.
- 8.2 Disposition of Earnest Money after Termination:

- a. *To Buyer.* If Buyer terminates this Contract in accordance with any of Buyer's rights to terminate, Seller will, within five days after receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer. If Buyer terminates this Contract under the provisions of Article III, the Independent Consideration will be withheld from the Earnest Money and paid to Seller.
 - b. *To Seller.* If Seller terminates this Contract in accordance with any of Seller's rights to terminate, Buyer will, within five days after receipt of Seller's termination notice, authorize Title Company to deliver the Earnest Money to Seller.
- 8.3 If this Contract is terminated, Buyer, upon request of Seller, will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer. After return of the documents and copies, neither party will have further duties or obligations to the other under this Contract, except for those obligations that survive termination of the Contract.

**ARTICLE IX
BREACH BY SELLER**

- 9.1 In the event Seller fails to fully and timely perform any of Seller's obligations under this Contract or fails to consummate the sale of the Property for any reason except Buyer's default, or the Buyer's exercise of a right to terminate this Contract, then, in addition to exercising any other rights available at law or equity, Buyer may:
- a. enforce specific performance of this Contract; or
 - b. terminate this Contract, and obtain the Earnest Money.

**ARTICLE X
BREACH BY BUYER**

- 10.1 In the event Buyer fails to consummate the purchase of the Property for any reason other than a default by Seller or the exercise of a right to terminate under this Contract, Seller shall have as its exclusive remedy the right to terminate this Contract and retain the Earnest Money.

**ARTICLE XI
BROKERS**

- 11.1 Buyer is represented in this transaction by the following Real Estate Broker:

John P. Schneider, Jr.
SCHNEIDER & ASSOCIATES
3703 Speedway
Austin, Texas 78705

11.2 Seller is represented in this transaction by the following Real Estate Broker:

None.

Buyer will be responsible for paying any commission owed to Buyer's Real Estate Broker. Seller will be responsible for paying any commission owed to Seller's Real Estate Broker. Any commission agreements between the parties and their respective Brokers are in separate agreements and are not a part of this Contract.

11.3 **Brokers' Commissions.** Each party represents and warrants to the other that it has not used any real estate broker in connection with this Contract except those identified above and any appraiser hired by Buyer. Buyer, to the extent it is permitted to do so by applicable law, and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this Contract, whether the claimant is disclosed to the indemnitee or not. At Closing, each party will provide the other party with a release of broker's or appraiser's liens from all brokers or appraisers for which each party was responsible. The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

ARTICLE XII MISCELLANEOUS

12.1 **Notices.** Any notice required by or permitted under this Contract ("Notice") must be in writing, unless otherwise provided by this Contract. Any Notice required by this Contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, or facsimile transmission, and will be effective when actually received. Notice may not be given by email. Copies of each Notice must be given by one of these methods to the attorney of the party to whom Notice is given, if the attorney is identified below or if the name and address of the attorney has been provided in writing to the party giving Notice. Any party or address for Notice may be changed by written notice delivered as provided herein.

Seller:

Charles A. Rowe, Sr.
2410 Fall Meadow Drive
Missouri City, Texas 77459-3342
Phone: 281-437-5737
Fax: 281-261-6895

With Copy to:

Buyer: City of College Station, Texas
Legal Department
1101 Texas Avenue
College Station, Brazos County, Texas, 77840
Attn.: Carla A. Robinson, First Assistant City Attorney
Phone: (979) 764-3507
Fax: (979) 764-3481

With Copy to:

Buyer's Attorney:
Bickerstaff Heath Delgado Acosta LLP
816 Congress Ave., Suite 1700
Austin, Texas 78701
Attn.: Denise Cheney/Susan Maxwell
Phone: (512) 472-8021
Fax: (512) 320-5638

Buyer's Broker:
John P. Schneider, Jr.
Schneider & Associates
3703 Speedway
Austin, TX 78705
Phone: (512) 477-5827
Fax: (512) 477-5930

- 12.2 **Entire Agreement.** This Contract, together with its exhibits, and any Closing Documents delivered at Closing constitute the entire agreement of the parties concerning the sale and use of the Property. There are no oral representations, warranties, agreements or promises between the parties pertaining to the sale and use of the Property that are not expressly set forth in those documents. All exhibits to this Contract are incorporated herein.
- 12.3 **Amendment.** This Contract may be amended only by an instrument in writing signed by the parties.
- 12.4 **Assignment.** Buyer may assign this Contract and Buyer's rights under it without the need for Seller's consent. This Contract binds, benefits and may be enforced by the parties and their respective heirs, successors and permitted assigns.
- 12.5 **Survival.** The provisions of this Contract which expressly state that they survive termination or Closing, all representations and warranties, and all obligations and rights set out in this Contract that cannot be performed or exercised before termination of this

Contract or before Closing, or which are performable or exercisable thereafter, will survive termination of this Contract or Closing, respectively, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents executed at Closing and this Contract, the Closing Documents will control.

- 12.6 **Choice of Law; Venue; Alternative Dispute Resolution.** This Contract will be construed under and in accordance with the laws of the State of Texas, without regard to choice of law rules of any jurisdiction, and all obligations of the parties created by this Contract are to be performed in Brazos County, Texas. Venue is in the county in which all, or the majority, of the Real Property is located, and in the Federal Courts of the Southern District of Texas, Houston Division, except as otherwise provided by applicable law.
- 12.7 **Waiver of Default.** It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays taking any action with respect to the default.
- 12.8 **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract.
- 12.9 **Legal Construction.** If any provision in this Contract is for any reason held invalid, illegal, or unenforceable in any respect, to the extent such invalidity, illegality, or unenforceability does not destroy the basis of the bargain among the parties, the invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Contract will be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Contract. Whenever context requires, the singular will include the plural and neuter will include the masculine or feminine gender, and vice versa. Article and Section headings in this Contract are for reference only and are not intended to restrict or define the text of any section.
- 12.10 **Ambiguities Not to Be Construed Against Party Who Drafted Contract.** The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Contract.
- 12.11 **No Special Relationship.** The parties' relationship is an ordinary commercial relationship, and the parties do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.
- 12.12 **Counterparts.** If this Contract is executed in multiple counterparts, all counterparts taken together will constitute this Contract. The parties agree that signatures transmitted by the parties by facsimile or electronic mail will have the same force and effect as original signatures.
- 12.13 **Confidentiality.** The parties will keep confidential this Contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.
- 12.14 **Binding Effect.** This Contract and the terms, covenants, and conditions herein contained, binds, benefits, and may be enforced by the parties and their respective heirs, executors,

administrators, legal representatives, successors, and permitted assigns. The persons executing this Contract do so in their capacities as set forth below and in no other capacity whatsoever, and such persons shall have no personal liability for executing this Contract in a representative capacity. All such liability is limited to the principal for which they execute this document as a representative.

- 12.15 **Attorney's Fees.** If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees as provided by Section 271.159 of the Texas Local Government Code, expenses and court and other costs from the non-prevailing party.
- 12.16 **Memorandum of Contract.** Upon request of either party, both parties shall promptly execute a memorandum of this Contract in the form attached hereto as Exhibit "C", suitable for filing of record in the real property records of the County or Counties in which the Property is located.
- 12.17 **Time.** Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day. Legal public holidays shall be deemed to include holidays on which the administrative offices of Buyer are closed for business.
- 12.18 **Further Assurances.** Each party agrees to take such actions, or to execute such documents, as may be reasonably necessary to evidence or carry out the terms of this Contract.
- 12.19 **Effective Date.** The Contract will be effective on the date on which this Contract has been duly executed by Seller and Buyer.
- 12.20 THIS CONTRACT IS A LEGAL DOCUMENT. IT IS RECOMMENDED THAT SELLER OBTAIN AN ATTORNEY TO ADVISE SELLER IN CONNECTION WITH THIS CONTRACT.

EXECUTED on the dates set forth below to be effective as of the Effective Date.

List of Exhibits:

Exhibit "A" – Legal Description of the Property
Exhibit "B" – Special Warranty Deed Form
Exhibit "C" - Form for Memorandum of Contract

Seller:



Buyer:

CITY OF COLLEGE STATION, TEXAS

Charles A. Rowe, Sr.

BY: _____
Mayor

Date: August 30, 2007

Date: _____

Date: _____

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____

Chief Financial Officer
Date: _____

Carla A. Robinson
City Attorney
Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007 by _____, as Mayor of the CITY OF COLLEGE STATION, a Texas home rule municipal corporation, on behalf of said municipality.

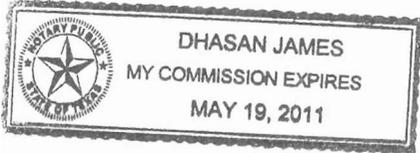
CAR

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF FT. BEND §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 30th day of August, 2007,
by Charles A. Rowe, Sr.



Dhasan James

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007,
by _____

NOTARY PUBLIC in and for
the STATE OF TEXAS

CAR

EXHIBIT "A"

Legal Description of the Property

In Re: 200.000 Acres and a 30 foot
wide - 1.554 acre easement
Wright Coley Survey, A-95
Robertson County, Texas
Wright Coley Survey, A-253
Brazos County, Texas



All that certain tract or parcel of land being 83.600 acres situated in Robertson County, Texas and being 116.400 acres of land situated in Brazos County, being a part of the Wright Coley Survey, Abstract No. 95 (Robertson Co.) and being a part of the Wright Coley Survey, Abstract No. 253 (Brazos County) and being a part of a so called "Fourth Tract" 255 acres as conveyed from F. L. Henderson, Trustee of Allen Smith, Inc. and Allen Smith to Ivan Langford by Deed of Trust dated May 1, 1934 (Not Recorded) and being more particularly described by metes and bounds as follows, to wit:

200.000 ACRES

BEGINNING at an iron pin set at a fence corner post on an occupied East line as fenced of a John Smith Survey, Abstract No. 209 for a common Northwest corner of a Moses Hughes Survey, Abstract No. 135 and a W. E. Kutzcybach, et ux 478.69 acre tract (167/473), same being a common Southwest corner of said Coley Survey, A-253 and said original 255 acre tract and for the Southwest corner of this tract;

THENCE with an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a common line between said original 255 acre tract and said Kutzcybach 478.69 acre tract and a Forbin Investments N. V. "Tract 3" - 833.04 acres, respectively (1009/345) as follows:

N30°40'03"W (Bearing based upon an occupied common line as fenced between said original Ivan Langford 104.3 acre tract (138/069) and a Virginia Capps 336 acre tract - 624/764 being N60°00'00"E) - 1215.78 feet to a fence corner post for the most westerly Northeast corner of said 478.69 acre tract, same being the Southeast corner of said 833.04 acre tract and for an exterior ell corner of this tract;

N29°30'59"W - 1377.48 feet to an iron pin set for the Northwest corner of this tract;

THENCE N60°00'00"E - 3602.88 feet to a point in the center of Little Brazos River, same being a common line between said original 255 acre tract and a Sanford Johnson 138.06 acre tract (269/314) for the Northeast corner of this tract (a reference iron pin set bears S60°00'00"W - 50.00 feet);

THENCE with the center of said Little Brazos River, same being a common line between said original 255 acre tract and said Johnson 138.06 acre tract and a Sanford Johnson 60 acre tract (342/031), respectively as follows;

S31°08'34"E - 136.46 feet to a point for an interior ell corner of this tract;
S33°27'16"E - 390.10 feet to a point for an exterior ell corner of this tract;
S21°21'40"E - 522.82 feet to a point for an exterior ell corner of this tract;
S16°48'44"E - 435.88 feet to a point for an exterior ell corner of this tract;
S06°26'34"E - 261.96 feet to a point for an exterior ell corner of this tract;
S01°36'59"W - 260.99 feet to a point for an exterior ell corner of this tract;
S07°42'19"W - 439.81 feet to a point for an exterior ell corner of this tract;
S23°09'38"W - 544.92 feet to a point on an occupied common line as fenced between said Coley Survey and said Hughes Survey, same being a common line between said original 255 acre tract and said Kutzcybach 478.69 acre tract for the Southwest corner of said Sanford 60 acre tract and for the Southeast corner of this tract (a reference iron pin set bears S63°12'33"W - 60.00 feet);

THENCE with an occupied common line as fenced between said Coley Survey and said Hughes Survey, same being a common line between said original 255 acre tract and said Kutzcybach 478.69 acre tract as follows:

S63°12'33"W - 316.62 feet to a fence corner post for an interior ell corner of this tract;
S60°38'40"W - 897.12 feet to a fence corner post for an interior ell corner of this tract;
S59°31'01"W - 509.48 feet to a fence corner post for an interior ell corner of this tract;
S57°31'35"W - 234.02 feet to a fence corner post for an exterior ell corner of this tract;
S59°44'58"W - 545.55 feet to the PLACE OF BEGINNING and containing 200.000 Acres of Land.

30 FOOT WIDE - 1.554 ACRE EASEMENT

COMMENCING at a point in a common line between the center of said Little Brazos River for the Southwest corner of an Ivan Langford 70.6 acre tract (113/037), same being the Northwest corner of said Johnson 138.06 acre tract (a reference iron pin set at a fence corner post bears N60°31'34"E - 30.00 feet;

THENCE with a common line between said Langford 70.6 acre tract and said Johnson 138.06 acre tract, respectively as follows;

N60°31'34"E - 985.74 feet to a fence corner post;
N60°05'25"E - 25.15 feet to a point on the North line of said Mumford Road for the Southeast corner of this easement and for the PLACE OF BEGINNING;

THENCE with the South line of herein described easement as follows:

N51°10'W - 48.69 feet to a point for an interior ell corner of this easement;
S86°24'W - 44.46 feet to a point for an exterior ell corner of this easement;
N50°58'W - 106.35 feet to a point for an interior ell corner of this easement;
N74°10'W - 78.42 feet to a point for an interior ell corner of this easement;
S75°58'W - 97.08 feet to a point for an interior ell corner of this easement;
S62°17'W - 152.96 feet to a point for an interior ell corner of this easement;
S60°13'W - 266.98 feet to a point for an exterior ell corner of this easement;
S66°01'W - 107.96 feet to a point for an interior ell corner of this easement;
S59°32'W - 107.85 feet to a point for an exterior ell corner of this easement;
S74°32'W - 76.36 feet to a point for an interior ell corner of this easement;
S63°35'W - 109.12 feet to a point for an interior ell corner of this easement;
S58°24'W - 65.29 feet to a point for an interior ell corner of this easement;
S55°15'W - 107.92 feet to a point for an exterior ell corner of this easement;
S64°01'W - 62.63 feet to a point for an interior ell corner of this easement;
S41°59'W - 90.30 feet to a point for an interior ell corner of this easement;
S17°26'W - 97.29 feet to a point for an interior ell corner of this easement;
S01°03'E - 270.84 feet to a point for an interior ell corner of this easement;
S04°14'E - 179.61 feet to a point for an interior ell corner of this easement;
S06°49'E - 119.53 feet to a point for an exterior ell corner of this easement;

S03°01'E - 19.09 feet to a point on a common line between said 200 acre tract and a 55.000 acre tract as surveyed by me this date for the Southwest corner of this easement (said point being S60°00'00"W - 764.34 feet from the Southeast corner of said 55 acre tract, same being the Northeast corner of said 200.000 acre tract;

THENCE S60°00'00"W - 33.67 feet with said common line to a point for the Northwest corner of this easement;

THENCE with the North line of herein described easement as follows:

N03°01'W - 33.37 feet to a point for an interior ell corner of this easement;
N06°49'W - 119.21 feet to a point for an exterior ell corner of this easement;
N04°14'W - 181.12 feet to a point for an exterior ell corner of this easement;
N01°03'W - 276.56 feet to a point for an exterior ell corner of this easement;
N17°26'E - 108.69 feet to a point for an exterior ell corner of this easement;
N41°59'E - 102.67 feet to a point for an exterior ell corner of this easement;
N64°01'E - 66.17 feet to a point for an interior ell corner of this easement;
N55°15'E - 106.44 feet to a point for an exterior ell corner of this easement;
N58°24'E - 67.47 feet to a point for an exterior ell corner of this easement;
N63°35'E - 113.35 feet to a point for an exterior ell corner of this easement;
N74°32'E - 75.29 feet to a point for an interior ell corner of this easement;
N59°32'E - 105.60 feet to a point for an exterior ell corner of this easement;
N66°01'E - 108.14 feet to a point for an interior ell corner of this easement;
N60°13'E - 266.00 feet to a point for an exterior ell corner of this easement;
N62°17'E - 157.10 feet to a point for an exterior ell corner of this easement;
N75°58'E - 108.68 feet to a point for an exterior ell corner of this easement;
S74°10'E - 92.58 feet to a point for an exterior ell corner of this easement;
S50°58'E - 100.80 feet to a point for an interior ell corner of this easement;
N86°24'E - 44.40 feet to a point for an exterior ell corner of this easement;

S51°10'E - 72.01 feet to a point on the North line of said Mumford Road, same being a common line between said Langford 70.6 acre tract and said Johnson 138.06 acre tract for the Northeast corner of this easement;

THENCE S60°05'25"W - 32.19 with the North line of said Mumford Road, same being a common line between said Langford 70.6 acre tract and said Johnson 138.06 acre tract to the PLACE OF BEGINNING and containing 1.554 Acre of Land.

I, W. L. Ferguson, Registered Professional Land Surveyor No. 2547, in the State of Texas, do hereby certify that the above survey was performed on the ground under my supervision and the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 28th day of May, 1996.

W. L. Ferguson
W. L. FERGUSON


EXHIBIT A

REAL ESTATE CONTRACT
(Fee Purchase)

This Real Estate Contract (“Contract”) is made by and between WILLIE E. ALLEN, JOINED HEREIN BY HIS SPOUSE, IF MARRIED (“Seller”, whether one or more), and the CITY OF COLLEGE STATION, TEXAS, a Texas home rule municipal corporation, situated in Brazos County, Texas (“Buyer”), upon the terms and conditions set forth herein. The promises by Buyer and Seller stated in this Contract are the consideration for the formation of this Contract.

ARTICLE I
PURCHASE AND SALE

1.1 Seller is the sole owner of fee simple title to the following real property:

Approximately 55.0 acres of land more or less, in Robertson County, Texas, out of Abstract 95, Tr 20, W Cooley, being the same property conveyed by instrument recorded in Volume 657, Page 746 of the Real Property Records of Robertson County, Texas,

LESS, SAVE AND EXCEPT all oil, gas and other minerals in, on and under the Land, previously retained by a prior owner or owners, provided, however, that this reservation does not include the right to use the surface of the Property to access, explore for, drill for, excavate, or produce oil, gas or other minerals, or to use any groundwater from the Property in connection with the oil, gas or mineral estates,

collectively, the “Land”, which is more fully described in **Exhibit “A”** attached hereto.

1.2 For the consideration, and subject to the terms and conditions stated in this Contract, Seller agrees to sell and convey to Buyer and Buyer agrees to purchase and pay for fee simple title to the Land, together with all rights and appurtenances pertaining thereto, including:

- a. all groundwater now or hereafter located in and under the Land,
- b. all right, title and interest of Seller in and to adjacent roads, streets, alleys or rights-of-way,
- c. all easements appurtenant to the Land;
- d. all development rights related to the Land;
- e. all improvements located on the Land, including all water wells.

1.3 The property interests and rights described in Section 1.1 are referred to collectively as “Property.”

- 1.4 If a new survey is provided under the terms of this Contract, the legal description in Exhibit "A" will automatically be replaced by the legal description provided by the Survey, once it is approved by Seller and Buyer.
- 1.5 This Contract is subject to approval by the City Council of the City of College Station, Texas; such approval indicated by signature of Buyer's representatives to this Contract.

ARTICLE II PURCHASE PRICE AND EARNEST MONEY

Purchase Price. The purchase price for the Property will be the sum of ONE HUNDRED THIRTY-SEVEN THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS (\$137,500.00) payable in cash at Closing ("Purchase Price"). The Purchase Price is based on \$2,500 per acre x 55.00 acres of Land.

The Purchase Price is subject to adjustment at Closing in the event that any of the acreage amounts of the Land, as determined by the Survey, differ from those shown in Section 1.1.

- 2.1 **Earnest Money.** Within 20 days after this Contract is fully signed, Buyer will pay the sum of \$2,062.00 ("Earnest Money") to Brazos County Abstract Company, Kathy Vicini, Closer, 3800 Cross Park Drive, Bryan, TX 77802 (979) 731-1900 ("Title Company") to be held by Title Company in escrow in accordance with the terms of this Contract. Title Company will deposit the Earnest Money in an interest-bearing account at a financial institution whose accounts are federally insured, and will hold and distribute such Earnest Money in accordance with the terms of this Contract. All interest accrued on the Earnest Money will become part of the Earnest Money. In the event Buyer terminates this Contract during the Inspection Period (as defined in Article III), Title Company will promptly return the Earnest Money to Buyer. If Buyer completes the purchase of the Property, the Earnest Money will be applied to the Purchase Price at Closing.
- 2.2 **Independent Consideration.** The sum of \$100.00 out of the Earnest Money will constitute independent consideration ("Independent Consideration") for Buyer's right to terminate this Contract as described in Article III. If Buyer terminates this Contract during the Inspection Period as provided in Article III, Title Company will pay the Independent Consideration to Seller. In all other instances, the Independent Consideration will constitute a portion of the Earnest Money, and will be held and paid out by Title Company as "Earnest Money" under the terms of this Contract.

ARTICLE III INSPECTION PERIOD

- 3.1 **Inspection Period.** The Buyer shall have an Inspection Period in which to determine whether the Property is suitable for Buyer. The Inspection Period shall begin on the Effective Date of this Contract, and shall terminate 90 days thereafter. Buyer, at its

option, may extend the Inspection Period by an additional 30 days by giving Seller written notice of the extension before the expiration of the initial 90-day period. In addition to the foregoing, in the event that Seller fails to provide the Seller's Records, Title Commitment, UCC Search or other information or documentation required to be provided by Seller within the time periods required by this Contract, the Inspection Period shall be extended by one day for each day any such information is provided after its due date, not to exceed 60 days.

3.2 **Seller's Records.** Within 20 days after the Effective Date of this Contract, the Seller will provide Buyer with copies of the following documents relating to the Property:

- a. Any existing surveys of the Property;
- b. Any drilling logs, permits, or other records regarding Seller's wells located on the Property, if requested by the Buyer;
- c. Any notices or other communications received by Seller from any taxing authority or government agency regarding a violation of law applicable to the Property or its use;
- d. Any notice of threatened condemnation, or intent to condemn all or any portion of the Property;
- e. Any litigation proceedings involving the Property;
- f. Any unrecorded leases or other documents granting the right to possession or use of the Property; and
- g. Any other records relating to the use or condition of the Property, including any legal claims.

If Seller receives any additional information or records regarding the Property during the term of this Contract, Seller will provide copies of such information to Buyer no later than 10 days after Seller receives it.

3 **Entry onto the Property.** Buyer may enter the Property during the Inspection Period and at any time before Closing to inspect the Property, and may conduct any and all investigations that Buyer deems necessary, including surveys, environmental site assessments, appraisals, and investigations to determine the condition of the Property and to estimate the quality, quantity and sustainability of the groundwater, including the drilling of test holes or wells, and the taking of water samples. Buyer's right to inspect will be subject to the following:

- a. Buyer will endeavor to give Seller advance notice by telephone, in person or in writing of Buyer's plans to inspect or conduct tests on the Property.
- b. If the Property is damaged because of Buyer's inspections, Buyer will return the Property as closely as possible to its preinspection condition promptly after the

completion of its inspections. Any test holes drilled by Buyer will be promptly plugged in accordance with the requirements of applicable law.

- c. Buyer, at the request of Seller, will deliver to Seller copies of all inspection and other reports that Buyer prepares or receives from third-party consultants or contractors regarding the Property.

- 3.4 **Buyer's Right to Terminate.** Buyer may terminate this Contract for any reason by notifying Seller before the end of the Inspection Period.

ARTICLE IV TITLE MATTERS AND OBJECTIONS

- 4.1 **Title Commitment.** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, will request Title Company to furnish:

- a. a Commitment for an Owner's Policy of Title Insurance (the "Title Commitment") to insure Buyer's title to the Property at the time Buyer purchases the Property; and
- b. legible copies of all instruments referred to in the Title Commitment.

- 4.2 **Survey** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, may request a surveyor selected by Buyer to perform a survey of the Property. Buyer will have the right, at its sole discretion, to obtain (i) a boundary survey of the Property, together with field notes, or (ii) a category I A land title survey of the Property, together with field notes, and (iii) any other survey of the Property that Buyer chooses to obtain. Any survey obtained by Buyer will be certified to Buyer, Seller, Title Company and the Title Company's underwriter.

- 4.3 **Environmental Site Assessment.** Buyer, at Buyer's expense, may order a Phase I Environmental Site Assessment to be performed during the Inspection Period.

- 4.4 **Objections to Title.** Buyer will have 20 days after the receipt of the last of the Sellers' Records, the Survey, the Title Commitment, and legible copies of the title documents to review the same and make objections to the information shown by them. Sellers will have 20 days after the receipt of Buyer's objections in which to cure such objections. In the event Sellers are unwilling or unable to cure the objections prior to Closing, Buyer will have the right to (i) terminate this Contract prior to Closing and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. Sellers agree to cooperate with Buyer in the event Buyer endeavors to cure any title matters prior to Closing. Matters shown on Schedule B of the Title Commitment or Survey and not timely objected to by Buyer, or matters objected to and waived by Buyer, will constitute Permitted Exceptions. The foregoing notwithstanding, all liens, adverse claims affecting the Property, errors or discrepancies in the legal description of the Property, or its size or location, and matters shown on Schedule C of the Title Commitment will not be considered Permitted Exceptions, and Seller must resolve them to the reasonable

satisfaction of Buyer and Title Company prior to Closing as a condition to Closing, without the need for Buyer to make written objections to them.

- 4.5 **Subsequent or Additional Information.** If, at any time prior to Closing, revisions or updates are made to the Title Commitment or the Survey, or if Buyer is made aware of additional information relating to the condition of or title to the Property, including, but not limited to additions to the Seller's Records and changes to the use or condition of the Property, then Buyer will have an additional 20 days after receiving the revised Title Commitment, Survey, and/or additional information in which to make objections to matters disclosed in such documents or information which were not previously disclosed to Buyer. Seller will have 20 days after receipt of Buyer's objections in which to cure such objections. In the event that Seller is unwilling or unable to do so, Buyer will have the right to (i) terminate this Contract prior to Closing, and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. The Closing Date will be extended, if necessary, to accommodate the additional objection and cure periods.
- 4.6 **Environmental Matters.** If the Phase I Environmental Site Assessment indicates the need for further investigation or indicates the presence of contamination, then Buyer will notify Seller of the conditions shown by the Environmental Site Assessment within 20 days after Buyer's receipt of the report. Buyer will have the right, at Buyer's expense, to conduct a Phase II Environmental Site Assessment or additional testing of the Property or groundwater to determine the likelihood or degree of contamination. If environmental contamination is found, and the parties are unable to agree in writing prior to the Closing Date as to who will pay for the cleanup or remediation, and within what time period, then Buyer shall have the right to (i) terminate this Contract at any time prior to Closing, and receive the return of the Earnest Money, or (ii) agree to accept the Property in its present condition and close on the purchase of the Property.
- 4.7 **Ad Valorem Taxes and Assessments.** Each Seller will be responsible for paying, prior to or at Closing, all assessments and ad valorem property taxes due and owing against the Property as of the date of Closing, including any and all delinquent taxes and assessments, penalties, interest, fees and other charges in connection therewith. At Closing, Sellers will pay all taxes against the Property for the year of Closing that are payable on the date of Closing. If taxes for the current year are not then payable, Title Company will require the tax assessor to determine taxes due against the Property to the date of Closing, in accordance with the provisions of Section 26.11 of the Texas Tax Code, and Sellers shall pay the amount of taxes so assessed at Closing. Unless otherwise agreed to by the parties in writing, if the Property has been the subject of special valuation and reduced tax assessments pursuant to the provisions of Chapter 23, Subchapter D, or any other provisions of the Texas Tax Code with respect to any period before the Closing and additional taxes are assessed pursuant to Section 23.55 or other applicable section of the Texas Tax Code, the following will apply:
- (1) Seller will be responsible for paying any additional taxes, penalties or interest resulting from a change in ownership or use of the Property by Seller prior to Closing; and

- (2) If this sale or Buyer's use of the Property after Closing results in the assessment of additional taxes for periods before Closing, Buyer will pay the additional taxes as they relate to the Property.

The provisions of this Section 4.7 shall survive Closing.

ARTICLE V REPRESENTATIONS OF SELLER

- 5.1 Seller hereby represents to Buyer that, to the best of Seller's knowledge and belief, the following are true and correct as of the Effective Date of this Contract and will be true and correct on the Closing Date:
- a. Seller is the sole owner of the Property and has the full right, power, and authority to enter into and perform its obligations under this Contract without the consent or joinder of any other person.
 - b. There are no unrecorded leases or other rights to occupy or use the Property except for those disclosed by Seller to Buyer in writing.
 - c. Seller has no actual knowledge of any potential, pending or threatened litigation, condemnation or other proceedings affecting the Property or any part thereof, or which could result in Buyer incurring expenses or losses in connection with the Property after the purchase of it.
 - d. Seller has not received any notice that a governmental entity is contemplating condemnation of any portion of the Property.
 - e. To the best of Seller's knowledge and belief, Seller (i) has paid all ad valorem taxes and assessments against the Property as they became due, (ii) is entitled to any exemption from property taxes or special use valuation which has been claimed by Seller in connection with the Property, and (iii) has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or the use of the Property, or any portion thereof.
 - f. Seller has no knowledge that the Property contains any environmental hazards or contamination.
 - g. To the best of Seller's knowledge and belief, there are no unpaid charges, debts, liabilities, claims or obligations arising from any construction, occupancy, ownership, use or operation of the Property, or the business operated thereon, if any, which could give rise to any mechanic's or materialmen's or other statutory liens against the Property, or any part thereof, or for which Buyer will be responsible.
- 5.2 In the event Seller learns that any of the above statements are untrue or incorrect, or that they have become untrue or incorrect, Seller shall promptly notify Buyer in writing. If the state or condition is not resolved to Buyer's reasonable satisfaction prior to Closing,

Buyer will have the right to terminate this Contract prior to Closing, and obtain the return of the Earnest Money. In the event Buyer first learns after Closing that any of the above statements were untrue or incorrect as of the Date of Closing, Buyer shall have all rights and remedies available at law or equity.

ARTICLE VI CONDITION OF PROPERTY

- 6.1 Until Closing, Seller (a) will maintain the Property as it existed on the Effective Date of this Contract, except for reasonable wear and tear and casualty damage; (b) will operate the Property in the same manner as it was operated on the Effective Date of this Contract; including any use necessary to maintain any agricultural exemption on the Property; and (c) will not grant to any other person without the prior written consent of Buyer, any rights or interests in the Property, including easement rights, or rights to use the groundwater, or amend any existing agreement relating to the Property, including easements, oil and gas leases, or any other documents evidencing or creating an interest or right in the Property. Any conveyance or amendment in violation of this provision will be void and of no effect, and shall not be binding on Buyer. Seller will be in default under this Contract if Seller fails to comply with the provisions of this section.
- 6.2 Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before Closing. Buyer may terminate this Contract and receive the return of the Earnest Money, if the casualty damage that occurs before Closing would materially affect Buyer's intended use of the Property, by giving notice to Seller prior to Closing.
- 6.3 Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this Contract and receive the return of the Earnest Money if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller prior to Closing. If Buyer does not terminate this Contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation with regard to the Property will be assigned to Buyer, and (c) if the taking occurs before Closing, the description of the Property will be revised to delete the portion taken.
- 6.4 Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before Closing that affects the Property.
- 6.5 Seller will cooperate with Buyer (a) before and after Closing, if requested by Buyer, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after Closing; and (b) before Closing, with any reasonable evaluation, assessment, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer, and making available to Buyer and Buyer's consultants, information known by Seller regarding the Property, and the name and contact information for a person (if any) known by Seller to

be knowledgeable about the condition and use of the Property, if Seller has no such knowledge.

- 6.6 ***Prohibited Uses.*** Without limiting the generality of any of the provisions of this Contract, before Closing, and after Closing, if Sellers have any interest in oil, gas or minerals in connection with the Land, Sellers will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, or (d) drilling of groundwater well(s) or other surface use of the Property. Sellers are prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Sellers, their heirs, successors and assigns and persons with whom they or any of them contract for the use or production of minerals. This provision will be set forth in the Deed.

ARTICLE VII CLOSING

- 7.1 The Closing shall be held at the office of the Title Company, within thirty (30) calendar days after the expiration of the Inspection Period. The Closing will take place at a date and time agreed to by the parties, or, if none has been agreed upon, then at 2:00 p.m. on the 30th day after the expiration of the Inspection Period (the "Closing Date"). The Closing Date is subject to extension as provided in Section 4.5 of this Contract. The City Attorney for Buyer is authorized to extend the time for Closing.
- 7.2 Buyer will pay the cost for preparation of the Special Warranty Deed to be used at Closing, which is to be substantially in the form attached hereto as **Exhibit "B"** modified, as necessary, to reflect the terms of this Contract.
- 7.3 At the Closing, Seller shall:
- a. Deliver to Buyer the duly executed and acknowledged Special Warranty Deed conveying good and marketable title in and to the Property, free and clear of any and all liens, encumbrances, or title matters except for the Permitted Exceptions.
 - b. Deliver possession of the Property to Buyer.
 - c. Deliver any notice required by law to be given, and satisfactory evidence of Seller's authority to sell and convey the Property to Buyer in accordance with this Contract.
 - d. Deliver to Buyer, as soon as practicable after Closing, a Title Policy issued by Title Company in Buyer's favor in the full amount of the Purchase Price, insuring Buyer's fee simple absolute title to the Property to be good and indefeasible, subject only to the Permitted Exceptions, without exception to any rights of

parties in possession other than the rights of lessee under any grazing lease affecting the Property which constitutes a Permitted Exception.

- e. Execute and deliver an IRS Non-Foreign Person Affidavit, and any other documents reasonably required by the Title Company to issue a Title Policy meeting the requirements of this Contract, or required by Buyer to evidence or carry out the terms of this Contract.
- f. Pay any and all property taxes and assessments as provided in Section 4.7.
- g. Pay the costs to obtain, deliver and record releases of all liens affecting the Property.
- h. Pay the costs to obtain, deliver and record all documents to cure title objections which Seller has agreed to cure, and the costs to record any curative documents obtained by Buyer.
- i. Pay for the certificates or reports of ad valorem taxes, and any other costs or expenses required to be paid by Seller at Closing under the terms of this Contract.
- j. Pay the Seller's expenses and attorney's fees.

7.4 Upon such performance by Seller at Closing, Buyer shall:

- a. Pay the balance of the Purchase Price.
- b. Pay the escrow fee charged by Title Company.
- c. Pay the expenses required to be paid by Buyer under this Contract, including any title insurance, survey and Environmental Site Assessment costs.
- d. Pay for the brokerage fees of Buyer's Real Estate Broker.
- e. Pay the costs to obtain, deliver and record all documents other than those to be obtained, delivered or recorded at Seller's expense.
- f. Pay the Buyer's expenses and attorney's fees.

ARTICLE VIII ADDITIONAL PROVISIONS

8.1 This sale is made in lieu of condemnation by the Buyer.

8.2 Disposition of Earnest Money after Termination:

- a. *To Buyer.* If Buyer terminates this Contract in accordance with any of Buyer's rights to terminate, Seller will, within five days after receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to

Buyer. If Buyer terminates this Contract under the provisions of Article III, the Independent Consideration will be withheld from the Earnest Money and paid to Seller.

b. *To Seller.* If Seller terminates this Contract in accordance with any of Seller's rights to terminate, Buyer will, within five days after receipt of Seller's termination notice, authorize Title Company to deliver the Earnest Money to Seller.

8.3 If this Contract is terminated, Buyer, upon request of Seller, will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer. After return of the documents and copies, neither party will have further duties or obligations to the other under this Contract, except for those obligations that survive termination of the Contract.

ARTICLE IX BREACH BY SELLER

9.1 In the event Seller fails to fully and timely perform any of Seller's obligations under this Contract or fails to consummate the sale of the Property for any reason except Buyer's default, or the Buyer's exercise of a right to terminate this Contract, then, in addition to exercising any other rights available at law or equity, Buyer may:

- a. enforce specific performance of this Contract; or
- b. terminate this Contract, and obtain the Earnest Money.

ARTICLE X BREACH BY BUYER

10.1 In the event Buyer fails to consummate the purchase of the Property for any reason other than a default by Seller or the exercise of a right to terminate under this Contract, Seller shall have as its exclusive remedy the right to terminate this Contract and retain the Earnest Money.

ARTICLE XI BROKERS

11.1 Buyer is represented in this transaction by the following Real Estate Broker:

John P. Schneider, Jr.
SCHNEIDER & ASSOCIATES
3703 Speedway
Austin, Texas 78705

11.2 Seller is represented in this transaction by the following Real Estate Broker:

None.

Buyer will be responsible for paying any commission owed to Buyer's Real Estate Broker. Seller will be responsible for paying any commission owed to Seller's Real Estate Broker. Any commission agreements between the parties and their respective Brokers are in separate agreements and are not a part of this Contract.

11.3 **Brokers' Commissions.** Each party represents and warrants to the other that it has not used any real estate broker in connection with this Contract except those identified above and any appraiser hired by Buyer. Buyer, to the extent it is permitted to do so by applicable law, and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this Contract, whether the claimant is disclosed to the indemnitee or not. At Closing, each party will provide the other party with a release of broker's or appraiser's liens from all brokers or appraisers for which each party was responsible. The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

**ARTICLE XII
MISCELLANEOUS**

12.1 **Notices.** Any notice required by or permitted under this Contract ("Notice") must be in writing, unless otherwise provided by this Contract. Any Notice required by this Contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, or facsimile transmission, and will be effective when actually received. Notice may not be given by email. Copies of each Notice must be given by one of these methods to the attorney of the party to whom Notice is given, if the attorney is identified below or if the name and address of the attorney has been provided in writing to the party giving Notice. Any party or address for Notice may be changed by written notice delivered as provided herein.

Seller:

Willie E. Allen
9911 Sageorchard Lane
Houston, Texas 77089-3630
Phone: _____
Fax: _____

With Copy to:

Buyer: City of College Station, Texas
Legal Department
1101 Texas Avenue
College Station, Brazos County, Texas, 77840
Attn.: Carla A. Robinson, First Assistant City Attorney
Phone: (979) 764-3507
Fax: (979) 764-3481

With Copy to:

Buyer's Attorney:
Bickerstaff Heath Delgado Acosta LLP
816 Congress Ave., Suite 1700
Austin, Texas 78701
Attn.: Denise Cheney/Susan Maxwell
Phone: (512) 472-8021
Fax: (512) 320-5638

Buyer's Broker:
John P. Schneider, Jr.
Schneider & Associates
3703 Speedway
Austin, TX 78705
Phone: (512) 477-5827
Fax: (512) 477-5930

- 2.2 **Entire Agreement.** This Contract, together with its exhibits, and any Closing Documents delivered at Closing constitute the entire agreement of the parties concerning the sale and use of the Property. There are no oral representations, warranties, agreements or promises between the parties pertaining to the sale and use of the Property that are not expressly set forth in those documents. All exhibits to this Contract are incorporated herein.
- 12.3 **Amendment.** This Contract may be amended only by an instrument in writing signed by the parties.
- 12.4 **Assignment.** Buyer may assign this Contract and Buyer's rights under it without the need for Seller's consent. This Contract binds, benefits and may be enforced by the parties and their respective heirs, successors and permitted assigns.
- 12.5 **Survival.** The provisions of this Contract which expressly state that they survive termination or Closing, all representations and warranties, and all obligations and rights set out in this Contract that cannot be performed or exercised before termination of this Contract or before Closing, or which are performable or exercisable thereafter, will survive termination of this Contract or Closing, respectively, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents executed at Closing and this Contract, the Closing Documents will control.

- 12.6 **Choice of Law; Venue; Alternative Dispute Resolution.** This Contract will be construed under and in accordance with the laws of the State of Texas, without regard to choice of law rules of any jurisdiction, and all obligations of the parties created by this Contract are to be performed in Brazos County, Texas. Venue is in the county in which all, or the majority, of the Real Property is located, and in the Federal Courts of the Southern District of Texas, Houston Division, except as otherwise provided by applicable law.
- 12.7 **Waiver of Default.** It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays taking any action with respect to the default.
- 12.8 **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract.
- 12.9 **Legal Construction.** If any provision in this Contract is for any reason held invalid, illegal, or unenforceable in any respect, to the extent such invalidity, illegality, or unenforceability does not destroy the basis of the bargain among the parties, the invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Contract will be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Contract. Whenever context requires, the singular will include the plural and neuter will include the masculine or feminine gender, and vice versa. Article and Section headings in this Contract are for reference only and are not intended to restrict or define the text of any section.
- 12.10 **Ambiguities Not to Be Construed Against Party Who Drafted Contract.** The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Contract.
- 12.11 **No Special Relationship.** The parties' relationship is an ordinary commercial relationship, and the parties do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.
- 12.12 **Counterparts.** If this Contract is executed in multiple counterparts, all counterparts taken together will constitute this Contract. The parties agree that signatures transmitted by the parties by facsimile or electronic mail will have the same force and effect as original signatures.
- 12.13 **Confidentiality.** The parties will keep confidential this Contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.
- 12.14 **Binding Effect.** This Contract and the terms, covenants, and conditions herein contained, binds, benefits, and may be enforced by the parties and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. The persons executing this Contract do so in their capacities as set forth below and in no other capacity whatsoever, and such persons shall have no personal liability for executing this

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

- 12.15 **Attorney's Fees.** If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees as provided by Section 271.159 of the Texas Local Government Code, expenses and court and other costs from the non-prevailing party.
- 12.16 **Memorandum of Contract.** Upon request of either party, both parties shall promptly execute a memorandum of this Contract in the form attached hereto as Exhibit "C", suitable for filing of record in the real property records of the County or Counties in which the Property is located.
- 12.17 **Time.** Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day. Legal public holidays shall be deemed to include holidays on which the administrative offices of Buyer are closed for business.
- 12.18 **Further Assurances.** Each party agrees to take such actions, or to execute such documents, as may be reasonably necessary to evidence or carry out the terms of this Contract.
- 12.19 **Effective Date.** The Contract will be effective on the date on which this Contract has been duly executed by Seller and Buyer.
- 12.20 THIS CONTRACT IS A LEGAL DOCUMENT. IT IS RECOMMENDED THAT SELLER OBTAIN AN ATTORNEY TO ADVISE SELLER IN CONNECTION WITH THIS CONTRACT.

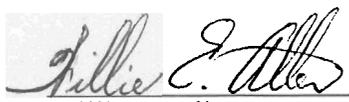
EXECUTED on the dates set forth below to be effective as of the Effective Date.

List of Exhibits:

Exhibit "A" – Legal Description of the Property
Exhibit "B" – Special Warranty Deed Form
Exhibit "C" - Form for Memorandum of Contract

Seller:

Buyer:



Willie E. Allen

CITY OF COLLEGE STATION, TEXAS

BY: _____
Mayor

Date: August 31, 2007

Date: _____

Date: _____

ATTEST:

City Secretary

Date: _____

APPROVED:

City Manager

Date: _____

Chief Financial Officer

Date: _____

Carla A Robinson

City Attorney

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

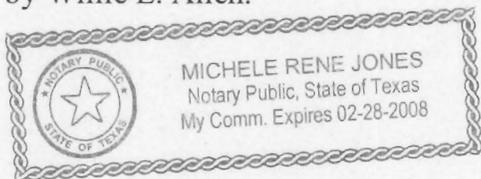
This instrument was acknowledged before me on the _____ day of _____, 2007 by _____, as Mayor of the CITY OF COLLEGE STATION, a Texas home rule municipal corporation, on behalf of said municipality.

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF Harris §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 31st day of August, 2007,
by Willie E. Allen.



Michele R. Jones
NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007,
by _____.

81

NOTARY PUBLIC in and for

TITLE COMPANY'S ACKNOWLEDGEMENT OF RECEIPT

Title Company acknowledges receipt of Earnest Money in the amount of \$_____ on the _____ day of _____, 2007 and a copy of this Contract executed by both Buyer and Seller. Title Company hereby agrees to hold the Earnest Money as directed in this Contract, and to distribute the Earnest Money in accordance with the terms and provisions of this Contract.

Brazos County Abstract Company

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

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "A"

A

Handwritten initials

In Re: 55.000 Acres
Wright Coley Survey, A-95
Robertson County, Texas



All that certain tract or parcel of land situated in Robertson County, Texas, being a part of the Wright Coley Survey, Abstract No. 95 and being a part of a so called "Fourth Tract" 255 acres as conveyed from F. L. Henderson, Trustee of Allen Smith, Inc. and Allen Smith to Ivan Langford by Deed of Trust dated May 1, 1934 (Not Recorded) and being a part of a so called 104.3 acre tract as conveyed from J. G. Lightsey, et ux to Ivan Langford by Deed dated September 12, 1945 and being recorded in Volume 138, Page 069 of the Deed Records of said Robertson County and being more particularly described by metes and bounds as follows, to wit:

COMMENCING at an iron pin set at a fence corner post on an occupied common line as fenced between said Coley Survey and a John Smith Survey, Abstract No. 334, same being the East line of a Forbin Investments N. V. "Tract 3" - 833.04 acres (1009/345) for the Southwest corner of a Virginia L. Capps 336 acre tract (624/764) and for the Northwest corner of said original 104.3 acre tract;

THENCE S29°44'40"E (Bearing based upon an occupied common line as fenced between said original 104.3 acre tract and said Capps 336 acre tract being N60°00'00"E) - 1304.11 with an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a corner line between said original 104.3

THENCE S60°00'00"W - 3602.88 feet to an iron pin set on an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a common line between said original 255 acre tract and said Forbin 833.04 acre tract for the Southwest corner of this tract;

THENCE with an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a common line between said original 255 acre tract and said original 104.3 acre tract, respectively and said Forbin 833.04 acre tract as follows;

N29°30'59"W - 613.35 to a fence corner post for the Northwest corner of said original 255 acre tract, same being the Southwest corner of said 104.3 acre tract and for an interior ell corner of this tract;

N29°44'40"W - 58.30 feet to the PLACE OF BEGINNING and containing 55.000 Acres of Land.

I, W. L. Ferguson, Registered Professional Land Surveyor No. 2547 in the State of Texas, do hereby certify that the above survey was performed on the ground under my supervision and the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 28th day of May, 1996.

W. L. FERGUSON REGISTERED PROFESSIONAL LAND SURVEYOR

EXHIBIT "B"

Special Warranty Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Effective Date: _____, 2007

Grantor: Willie E. Allen, joined herein by his wife, _____

Grantor's Mailing Address: 9911 Sageorchard Lane
Houston, Texas 77089-3630

[To Be Filled in with Permitted Exceptions]

Prohibition on Use.

Without limiting the generality of any of the forgoing provisions, Grantor will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, or (d) drilling of groundwater well(s) or other surface use of the Property. Grantor is prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Grantor, Grantor's heirs, successors and assigns and persons with whom they or any of them contract in connection with the use or production of minerals.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to ~~g~~warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person who may lawfully claim or to claim the same or any part thereof, except as to the

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me this the _____ day of _____, 2007
by _____.

Notary Public, State of Texas

After Recording, Return to:

Bickerstaff Heath Delgado Acosta L.L.P.
Attn. Denise Cheney
816 Congress Ave., Suite 1700
Austin, Texas 78701-2443

EXHIBIT "C"

MEMORANDUM OF CONTRACT

Willie E. Allen, joined by his spouse, if any ("Seller") and the City of College Station, Texas ("Buyer") have entered into a Real Estate Contract ("Contract") for the purchase by the Buyer of the property described in Exhibit "A" attached hereto and incorporated herein (the "Property").

The Contract provides in part that:

During the term of the Contract, Seller will not grant to any other person without the prior written consent of Buyer, any rights or interests in the Property, including easement rights, oil and gas leases, or rights to use the groundwater, or amend any existing agreement relating to the Property, including easements, oil and gas leases, or any other documents evidencing or creating an interest or right in the Property. Any conveyance or amendment in violation of this provision will be void and of no effect, and shall not be binding on the Buyer.

Without limiting the generality of any of the provisions of this Contract, before Closing, and after Closing, if Sellers have any interest in oil, gas or minerals in connection with the Land, Sellers will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or

The City of College Station, Texas

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

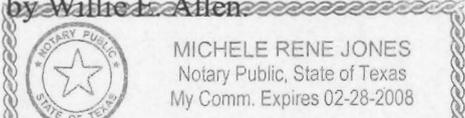
§

ACKNOWLEDGMENT

COUNTY OF Harris §

§

This instrument was acknowledged before me on the 31st day of August, 2007,
by Willie E. Allen



90

Michele R. Jones
NOTARY PUBLIC in and for

After Recording, Return to:

Bickerstaff Heath Delgado Acosta LLP
816 Congress Avenue, Suite 1700
Austin, Texas 78701
Attention: Denise Cheney or Susan Maxwell

**REAL ESTATE CONTRACT
(Fee Purchase)**

This Real Estate Contract ("Contract") is made by and HENRY L. ALLEN, JOINED HEREIN BY HIS SPOUSE, IF MARRIED ("Seller", whether one or more), and the CITY OF COLLEGE STATION, TEXAS, a Texas home rule municipal corporation, situated in Brazos County, Texas ("Buyer"), upon the terms and conditions set forth herein. The promises by Buyer and Seller stated in this Contract are the consideration for the formation of this Contract.

**ARTICLE I
PURCHASE AND SALE**

1.1 Seller is the sole owner of fee simple title to the following real property:

- (i) approximately 101.535 acres of land, more or less, in Robertson County, Texas, out of Abstract 95, Tr 14, W Cooley, being the same property conveyed by instrument recorded in Volume 657, Page 770 of the Real Property Records of Robertson County, Texas; and
- (ii) approximately 70.60 acres of land, more or less, out of Abstract 95, Tr 16, W Cooley, being the same property conveyed by instrument recorded in Volume 657, Page 770 of the Real Property Records of Robertson County, Texas,

LESS, SAVE AND EXCEPT all oil, gas and other minerals in, on and under the Land, previously retained by a prior owner or owners, provided, however, that this reservation does not include the right to use the surface of the Property to access, explore for, drill for, excavate, or produce oil, gas or other minerals, or to use any groundwater from the Property in connection with the oil, gas or mineral estates,

collectively, the "Land", which is more fully described in Exhibit "A" attached hereto.

1.2 For the consideration, and subject to the terms and conditions stated in this Contract, Seller agrees to sell and convey to Buyer and Buyer agrees to purchase and pay for fee simple title to the Land, together with all rights and appurtenances pertaining thereto, including:

- a. all groundwater now or hereafter located in and under the Land,
- b. all right, title and interest of Seller in and to adjacent roads, streets, alleys or rights-of-way,
- c. all easements appurtenant to the Land;
- d. all development rights related to the Land;

203-710-

- e. all improvements located on the Land, including all water wells.
- 1.3 The property interests and rights described in Section 1.1 are referred to collectively as "Property."
- 1.4 If a new survey is provided under the terms of this Contract, the legal description in Exhibit "A" will automatically be replaced by the legal description provided by the Survey, once it is approved by Seller and Buyer.
- 1.5 This Contract is subject to approval by the City Council of the City of College Station, Texas; such approval indicated by signature of Buyer's representatives to this Contract.

**ARTICLE II
PURCHASE PRICE AND EARNEST MONEY**

Purchase Price. The purchase price for the Property will be the sum of FOUR HUNDRED THIRTY THOUSAND THREE HUNDRED THIRTY-SEVEN AND 50/100 DOLLARS (\$430,337.50) payable in cash at Closing ("Purchase Price"). The Purchase Price is based on \$2,500 per acre x 172.135 acres of Land.

The Purchase Price is subject to adjustment at Closing in the event that any of the acreage amounts of the Land, as determined by the Survey, differ from those shown in Section 1.1.

- 2.1 **Earnest Money.** Within 20 days after this Contract is fully signed, Buyer will pay the sum of \$6455.00 ("Earnest Money") to Brazos County Abstract Company, Kathy Vicini, Closer, 3800 Cross Park Drive, Bryan, TX 77802 (979) 731-1900 ("Title Company") to be held by Title Company in escrow in accordance with the terms of this Contract. Title Company will deposit the Earnest Money in an interest-bearing account at a financial institution whose accounts are federally insured, and will hold and distribute such Earnest Money in accordance with the terms of this Contract. All interest accrued on the Earnest Money will become part of the Earnest Money. In the event Buyer terminates this Contract during the Inspection Period (as defined in Article III), Title Company will promptly return the Earnest Money to Buyer. If Buyer completes the purchase of the Property, the Earnest Money will be applied to the Purchase Price at Closing.
- 2.2 **Independent Consideration.** The sum of \$100.00 out of the Earnest Money will constitute independent consideration ("Independent Consideration") for Buyer's right to terminate this Contract as described in Article III. If Buyer terminates this Contract during the Inspection Period as provided in Article III, Title Company will pay the Independent Consideration to Seller. In all other instances, the Independent Consideration will constitute a portion of the Earnest Money, and will be held and paid out by Title Company as "Earnest Money" under the terms of this Contract.

ARTICLE III

INSPECTION PERIOD

- 3.1 **Inspection Period.** The Buyer shall have an Inspection Period in which to determine whether the Property is suitable for Buyer. The Inspection Period shall begin on the Effective Date of this Contract, and shall terminate 90 days thereafter. Buyer, at its option, may extend the Inspection Period by an additional 30 days by giving Seller written notice of the extension before the expiration of the initial 90-day period. In addition to the foregoing, in the event that Seller fails to provide the Seller's Records, Title Commitment, UCC Search or other information or documentation required to be provided by Seller within the time periods required by this Contract, the Inspection Period shall be extended by one day for each day any such information is provided after its due date, not to exceed 60 days.
- 3.2 **Seller's Records.** Within 20 days after the Effective Date of this Contract, the Seller will provide Buyer with copies of the following documents relating to the Property:
- a. Any existing surveys of the Property;
 - b. Any drilling logs, permits, or other records regarding Seller's wells located on the Property, if requested by the Buyer;
 - c. Any notices or other communications received by Seller from any taxing authority or government agency regarding a violation of law applicable to the Property or its use;
 - d. Any notice of threatened condemnation, or intent to condemn all or any portion of the Property;
 - e. Any litigation proceedings involving the Property;
 - f. Any unrecorded leases or other documents granting the right to possession or use of the Property; and
 - g. Any other records relating to the use or condition of the Property, including any legal claims.

If Seller receives any additional information or records regarding the Property during the term of this Contract, Seller will provide copies of such information to Buyer no later than 10 days after Seller receives it.

- 3.3 **Entry onto the Property.** Buyer may enter the Property during the Inspection Period and at any time before Closing to inspect the Property, and may conduct any and all investigations that Buyer deems necessary, including surveys, environmental site assessments, appraisals, and investigations to determine the condition of the Property and to estimate the quality, quantity and sustainability of the groundwater, including the drilling of test holes or wells, and the taking of water samples. Buyer's right to inspect will be subject to the following:

- a. Buyer will endeavor to give Seller advance notice by telephone, in person or in writing of Buyer's plans to inspect or conduct tests on the Property.
 - b. If the Property is damaged because of Buyer's inspections, Buyer will return the Property as closely as possible to its preinspection condition promptly after the completion of its inspections. Any test holes drilled by Buyer will be promptly plugged in accordance with the requirements of applicable law.
 - c. Buyer, at the request of Seller, will deliver to Seller copies of all inspection and other reports that Buyer prepares or receives from third-party consultants or contractors regarding the Property.
- 3.4 **Buyer's Right to Terminate.** Buyer may terminate this Contract for any reason by notifying Seller before the end of the Inspection Period.

ARTICLE IV TITLE MATTERS AND OBJECTIONS

- 4.1 **Title Commitment.** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, will request Title Company to furnish:
- a. a Commitment for an Owner's Policy of Title Insurance (the "Title Commitment") to insure Buyer's title to the Property at the time Buyer purchases the Property; and
 - b. legible copies of all instruments referred to in the Title Commitment.
- 4.2 **Survey** Within 15 days after the Effective Date of this Contract, Buyer, at Buyer's expense, may request a surveyor selected by Buyer to perform a survey of the Property. Buyer will have the right, at its sole discretion, to obtain (i) a boundary survey of the Property, together with field notes, or (ii) a category I A land title survey of the Property, together with field notes, and (iii) any other survey of the Property that Buyer chooses to obtain. Any survey obtained by Buyer will be certified to Buyer, Seller, Title Company and the Title Company's underwriter.
- 4.3 **Environmental Site Assessment.** Buyer, at Buyer's expense, may order a Phase I Environmental Site Assessment to be performed during the Inspection Period.
- 4.4 **Objections to Title.** Buyer will have 20 days after the receipt of the last of the Sellers' Records, the Survey, the Title Commitment, and legible copies of the title documents to review the same and make objections to the information shown by them. Sellers will have 20 days after the receipt of Buyer's objections in which to cure such objections. In the event Sellers are unwilling or unable to cure the objections prior to Closing, Buyer will have the right to (i) terminate this Contract prior to Closing and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. Sellers agree to cooperate with Buyer in the event Buyer endeavors to cure any title matters prior to Closing. Matters shown on Schedule B of the Title Commitment or Survey and not timely objected to by Buyer, or matters objected to and waived by Buyer, will constitute

Permitted Exceptions. The foregoing notwithstanding, all liens, adverse claims affecting the Property, errors or discrepancies in the legal description of the Property, or its size or location, and matters shown on Schedule C of the Title Commitment will not be considered Permitted Exceptions, and Seller must resolve them to the reasonable satisfaction of Buyer and Title Company prior to Closing as a condition to Closing, without the need for Buyer to make written objections to them.

- 4.5 **Subsequent or Additional Information.** If, at any time prior to Closing, revisions or updates are made to the Title Commitment or the Survey, or if Buyer is made aware of additional information relating to the condition of or title to the Property, including, but not limited to additions to the Seller's Records and changes to the use or condition of the Property, then Buyer will have an additional 20 days after receiving the revised Title Commitment, Survey, and/or additional information in which to make objections to matters disclosed in such documents or information which were not previously disclosed to Buyer. Seller will have 20 days after receipt of Buyer's objections in which to cure such objections. In the event that Seller is unwilling or unable to do so, Buyer will have the right to (i) terminate this Contract prior to Closing, and receive the Earnest Money, or (ii) waive the objections and close on the purchase of the Property. The Closing Date will be extended, if necessary, to accommodate the additional objection and cure periods.
- 4.6 **Environmental Matters.** If the Phase I Environmental Site Assessment indicates the need for further investigation or indicates the presence of contamination, then Buyer will notify Seller of the conditions shown by the Environmental Site Assessment within 20 days after Buyer's receipt of the report. Buyer will have the right, at Buyer's expense, to conduct a Phase II Environmental Site Assessment or additional testing of the Property or groundwater to determine the likelihood or degree of contamination. If environmental contamination is found, and the parties are unable to agree in writing prior to the Closing Date as to who will pay for the cleanup or remediation, and within what time period, then Buyer shall have the right to (i) terminate this Contract at any time prior to Closing, and receive the return of the Earnest Money, or (ii) agree to accept the Property in its present condition and close on the purchase of the Property.
- 4.7 **Ad Valorem Taxes and Assessments.** Each Seller will be responsible for paying, prior to or at Closing, all assessments and ad valorem property taxes due and owing against the Property as of the date of Closing, including any and all delinquent taxes and assessments, penalties, interest, fees and other charges in connection therewith. At Closing, Sellers will pay all taxes against the Property for the year of Closing that are payable on the date of Closing. If taxes for the current year are not then payable, Title Company will require the tax assessor to determine taxes due against the Property to the date of Closing, in accordance with the provisions of Section 26.11 of the Texas Tax Code, and Sellers shall pay the amount of taxes so assessed at Closing. Unless otherwise agreed to by the parties in writing, if the Property has been the subject of special valuation and reduced tax assessments pursuant to the provisions of Chapter 23, Subchapter D, or any other provisions of the Texas Tax Code with respect to any period before the Closing and additional taxes are assessed pursuant to Section 23.55 or other applicable section of the Texas Tax Code, the following will apply:

- (1) Seller will be responsible for paying any additional taxes, penalties or interest resulting from a change in ownership or use of the Property by Seller prior to Closing; and
- (2) If this sale or Buyer's use of the Property after Closing results in the assessment of additional taxes for periods before Closing, Buyer will pay the additional taxes as they relate to the Property.

The provisions of this Section 4.7 shall survive Closing.

ARTICLE V REPRESENTATIONS OF SELLER

5.1 Seller hereby represents to Buyer that, to the best of Seller's knowledge and belief, the following are true and correct as of the Effective Date of this Contract and will be true and correct on the Closing Date:

- a. Seller is the sole owner of the Property and has the full right, power, and authority to enter into and perform its obligations under this Contract without the consent or joinder of any other person.
- b. There are no unrecorded leases or other rights to occupy or use the Property except for those disclosed by Seller to Buyer in writing.
- c. Seller has no actual knowledge of any potential, pending or threatened litigation, condemnation or other proceedings affecting the Property or any part thereof, or which could result in Buyer incurring expenses or losses in connection with the Property after the purchase of it.
- d. Seller has not received any notice that a governmental entity is contemplating condemnation of any portion of the Property.
- e. To the best of Seller's knowledge and belief, Seller (i) has paid all ad valorem taxes and assessments against the Property as they became due, (ii) is entitled to any exemption from property taxes or special use valuation which has been claimed by Seller in connection with the Property, and (iii) has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or the use of the Property, or any portion thereof.
- f. Seller has no knowledge that the Property contains any environmental hazards or contamination.
- g. To the best of Seller's knowledge and belief, there are no unpaid charges, debts, liabilities, claims or obligations arising from any construction, occupancy, ownership, use or operation of the Property, or the business operated thereon, if any, which could give rise to any mechanic's or materialmen's or other statutory liens against the Property, or any part thereof, or for which Buyer will be responsible.

- 5.2 In the event Seller learns that any of the above statements are untrue or incorrect, or that they have become untrue or incorrect, Seller shall promptly notify Buyer in writing. If the state or condition is not resolved to Buyer's reasonable satisfaction prior to Closing, Buyer will have the right to terminate this Contract prior to Closing, and obtain the return of the Earnest Money. In the event Buyer first learns after Closing that any of the above statements were untrue or incorrect as of the Date of Closing, Buyer shall have all rights and remedies available at law or equity.

ARTICLE VI CONDITION OF PROPERTY

- 6.1 Until Closing, Seller (a) will maintain the Property as it existed on the Effective Date of this Contract, except for reasonable wear and tear and casualty damage; (b) will operate the Property in the same manner as it was operated on the Effective Date of this Contract; including any use necessary to maintain any agricultural exemption on the Property; and (c) will not grant to any other person without the prior written consent of Buyer, any rights or interests in the Property, including easement rights, or rights to use the groundwater, or amend any existing agreement relating to the Property, including easements, oil and gas leases, or any other documents evidencing or creating an interest or right in the Property. Any conveyance or amendment in violation of this provision will be void and of no effect, and shall not be binding on Buyer. Seller will be in default under this Contract if Seller fails to comply with the provisions of this section.
- 6.2 Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before Closing. Buyer may terminate this Contract and receive the return of the Earnest Money, if the casualty damage that occurs before Closing would materially affect Buyer's intended use of the Property, by giving notice to Seller prior to Closing.
- 6.3 Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this Contract and receive the return of the Earnest Money if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller prior to Closing. If Buyer does not terminate this Contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation with regard to the Property will be assigned to Buyer, and (c) if the taking occurs before Closing, the description of the Property will be revised to delete the portion taken.
- 6.4 Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before Closing that affects the Property.
- 6.5 Seller will cooperate with Buyer (a) before and after Closing, if requested by Buyer, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after Closing; and (b) before Closing, with any reasonable evaluation, assessment, inspection,

audit, or study of the Property prepared by, for, or at the request of Buyer, and making available to Buyer and Buyer's consultants, information known by Seller regarding the Property, and the name and contact information for a person (if any) known by Seller to be knowledgeable about the condition and use of the Property, if Seller has no such knowledge.

- 6.6 ***Prohibited Uses.*** Without limiting the generality of any of the provisions of this Contract, before Closing, and after Closing, if Sellers have any interest in oil, gas or minerals in connection with the Land, Sellers will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, or (d) drilling of groundwater well(s) or other surface use of the Property. Sellers are prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Sellers, their heirs, successors and assigns and persons with whom they or any of them contract for the use or production of minerals. This provision will be set forth in the Deed.

ARTICLE VII CLOSING

- 7.1 The Closing shall be held at the office of the Title Company, within thirty (30) calendar days after the expiration of the Inspection Period. The Closing will take place at a date and time agreed to by the parties, or, if none has been agreed upon, then at 2:00 p.m. on the 30th day after the expiration of the Inspection Period (the "Closing Date"). The Closing Date is subject to extension as provided in Section 4.5 of this Contract. The City Attorney for Buyer is authorized to extend the time for Closing.
- 7.2 Buyer will pay the cost for preparation of the Special Warranty Deed to be used at Closing, which is to be substantially in the form attached hereto as **Exhibit "B"** modified, as necessary, to reflect the terms of this Contract.
- 7.3 At the Closing, Seller shall:
- a. Deliver to Buyer the duly executed and acknowledged Special Warranty Deed conveying good and marketable title in and to the Property, free and clear of any and all liens, encumbrances, or title matters except for the Permitted Exceptions.
 - b. Deliver possession of the Property to Buyer.
 - c. Deliver any notice required by law to be given, and satisfactory evidence of Seller's authority to sell and convey the Property to Buyer in accordance with this Contract.

- d. Deliver to Buyer, as soon as practicable after Closing, a Title Policy issued by Title Company in Buyer's favor in the full amount of the Purchase Price, insuring Buyer's fee simple absolute title to the Property to be good and indefeasible, subject only to the Permitted Exceptions, without exception to any rights of parties in possession other than the rights of lessee under any grazing lease affecting the Property which constitutes a Permitted Exception.
- e. Execute and deliver an IRS Non-Foreign Person Affidavit, and any other documents reasonably required by the Title Company to issue a Title Policy meeting the requirements of this Contract, or required by Buyer to evidence or carry out the terms of this Contract.
- f. Pay any and all property taxes and assessments as provided in Section 4.7.
- g. Pay the costs to obtain, deliver and record releases of all liens affecting the Property.
- h. Pay the costs to obtain, deliver and record all documents to cure title objections which Seller has agreed to cure, and the costs to record any curative documents obtained by Buyer.
- i. Pay for the certificates or reports of ad valorem taxes, and any other costs or expenses required to be paid by Seller at Closing under the terms of this Contract.
- j. Pay the Seller's expenses and attorney's fees.

7.4 Upon such performance by Seller at Closing, Buyer shall:

- a. Pay the balance of the Purchase Price.
- b. Pay the escrow fee charged by Title Company.
- c. Pay the expenses required to be paid by Buyer under this Contract, including any title insurance, survey and Environmental Site Assessment costs.
- d. Pay for the brokerage fees of Buyer's Real Estate Broker.
- e. Pay the costs to obtain, deliver and record all documents other than those to be obtained, delivered or recorded at Seller's expense.
- f. Pay the Buyer's expenses and attorney's fees.

ARTICLE VIII ADDITIONAL PROVISIONS

- 8.1 This sale is made in lieu of condemnation by the Buyer.
- 8.2 Disposition of Earnest Money after Termination:

- a. *To Buyer.* If Buyer terminates this Contract in accordance with any of Buyer's rights to terminate, Seller will, within five days after receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer. If Buyer terminates this Contract under the provisions of Article III, the Independent Consideration will be withheld from the Earnest Money and paid to Seller.
 - b. *To Seller.* If Seller terminates this Contract in accordance with any of Seller's rights to terminate, Buyer will, within five days after receipt of Seller's termination notice, authorize Title Company to deliver the Earnest Money to Seller.
- 8.3 If this Contract is terminated, Buyer, upon request of Seller, will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer. After return of the documents and copies, neither party will have further duties or obligations to the other under this Contract, except for those obligations that survive termination of the Contract.

**ARTICLE IX
BREACH BY SELLER**

- 9.1 In the event Seller fails to fully and timely perform any of Seller's obligations under this Contract or fails to consummate the sale of the Property for any reason except Buyer's default, or the Buyer's exercise of a right to terminate this Contract, then, in addition to exercising any other rights available at law or equity, Buyer may:
- a. enforce specific performance of this Contract; or
 - b. terminate this Contract, and obtain the Earnest Money.

**ARTICLE X
BREACH BY BUYER**

- 10.1 In the event Buyer fails to consummate the purchase of the Property for any reason other than a default by Seller or the exercise of a right to terminate under this Contract, Seller shall have as its exclusive remedy the right to terminate this Contract and retain the Earnest Money.

**ARTICLE XI
BROKERS**

- 11.1 Buyer is represented in this transaction by the following Real Estate Broker:

John P. Schneider, Jr.
SCHNEIDER & ASSOCIATES
3703 Speedway
Austin, Texas 78705

11.2 Seller is represented in this transaction by the following Real Estate Broker:

None.

Buyer will be responsible for paying any commission owed to Buyer's Real Estate Broker. Seller will be responsible for paying any commission owed to Seller's Real Estate Broker. Any commission agreements between the parties and their respective Brokers are in separate agreements and are not a part of this Contract.

11.3 **Brokers' Commissions.** Each party represents and warrants to the other that it has not used any real estate broker in connection with this Contract except those identified above and any appraiser hired by Buyer. Buyer, to the extent it is permitted to do so by applicable law, and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this Contract, whether the claimant is disclosed to the indemnitee or not. At Closing, each party will provide the other party with a release of broker's or appraiser's liens from all brokers or appraisers for which each party was responsible. The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

ARTICLE XII MISCELLANEOUS

12.1 **Notices.** Any notice required by or permitted under this Contract ("Notice") must be in writing, unless otherwise provided by this Contract. Any Notice required by this Contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, or facsimile transmission, and will be effective when actually received. Notice may not be given by email. Copies of each Notice must be given by one of these methods to the attorney of the party to whom Notice is given, if the attorney is identified below or if the name and address of the attorney has been provided in writing to the party giving Notice. Any party or address for Notice may be changed by written notice delivered as provided herein.

Seller:

Henry L. Allen
3102 Cherryhill Drive
Missouri City, Texas 77459-3414

Phone: _____

Fax: _____

With Copy to:

Buyer: City of College Station, Texas
Legal Department
1101 Texas Avenue
College Station, Brazos County, Texas, 77840
Attn.: Carla A. Robinson, First Assistant City Attorney
Phone: (979) 764-3507
Fax: (979) 764-3481

With Copy to:

Buyer's Attorney:

Bickerstaff Heath Delgado Acosta LLP
816 Congress Ave., Suite 1700
Austin, Texas 78701
Attn.: Denise Cheney/Susan Maxwell
Phone: (512) 472-8021
Fax: (512) 320-5638

Buyer's Broker:

John P. Schneider, Jr.
Schneider & Associates
3703 Speedway
Austin, TX 78705
Phone: (512) 477-5827
Fax: (512) 477-5930

- 12.2 **Entire Agreement.** This Contract, together with its exhibits, and any Closing Documents delivered at Closing constitute the entire agreement of the parties concerning the sale and use of the Property. There are no oral representations, warranties, agreements or promises between the parties pertaining to the sale and use of the Property that are not expressly set forth in those documents. All exhibits to this Contract are incorporated herein.
- 12.3 **Amendment.** This Contract may be amended only by an instrument in writing signed by the parties.
- 12.4 **Assignment.** Buyer may assign this Contract and Buyer's rights under it without the need for Seller's consent. This Contract binds, benefits and may be enforced by the parties and their respective heirs, successors and permitted assigns.
- 12.5 **Survival.** The provisions of this Contract which expressly state that they survive termination or Closing, all representations and warranties, and all obligations and rights

set out in this Contract that cannot be performed or exercised before termination of this Contract or before Closing, or which are performable or exercisable thereafter, will survive termination of this Contract or Closing, respectively, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents executed at Closing and this Contract, the Closing Documents will control.

- 12.6 **Choice of Law; Venue; Alternative Dispute Resolution.** This Contract will be construed under and in accordance with the laws of the State of Texas, without regard to choice of law rules of any jurisdiction, and all obligations of the parties created by this Contract are to be performed in Brazos County, Texas. Venue is in the county in which all, or the majority, of the Real Property is located, and in the Federal Courts of the Southern District of Texas, Houston Division, except as otherwise provided by applicable law.
- 12.7 **Waiver of Default.** It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays taking any action with respect to the default.
- 12.8 **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract.
- 12.9 **Legal Construction.** If any provision in this Contract is for any reason held invalid, illegal, or unenforceable in any respect, to the extent such invalidity, illegality, or unenforceability does not destroy the basis of the bargain among the parties, the invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Contract will be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Contract. Whenever context requires, the singular will include the plural and neuter will include the masculine or feminine gender, and vice versa. Article and Section headings in this Contract are for reference only and are not intended to restrict or define the text of any section.
- 12.10 **Ambiguities Not to Be Construed Against Party Who Drafted Contract.** The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Contract.
- 12.11 **No Special Relationship.** The parties' relationship is an ordinary commercial relationship, and the parties do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.
- 12.12 **Counterparts.** If this Contract is executed in multiple counterparts, all counterparts taken together will constitute this Contract. The parties agree that signatures transmitted by the parties by facsimile or electronic mail will have the same force and effect as original signatures.
- 12.13 **Confidentiality.** The parties will keep confidential this Contract, this transaction, and all information learned in the course of this transaction, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.

- 12.14 **Binding Effect.** This Contract and the terms, covenants, and conditions herein contained, binds, benefits, and may be enforced by the parties and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. The persons executing this Contract do so in their capacities as set forth below and in no other capacity whatsoever, and such persons shall have no personal liability for executing this Contract in a representative capacity. All such liability is limited to the principal for which they execute this document as a representative.
- 12.15 **Attorney's Fees.** If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees as provided by Section 271.159 of the Texas Local Government Code, expenses and court and other costs from the non-prevailing party.
- 12.16 **Memorandum of Contract.** Upon request of either party, both parties shall promptly execute a memorandum of this Contract in the form attached hereto as Exhibit "C", suitable for filing of record in the real property records of the County or Counties in which the Property is located.
- 12.17 **Time.** Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day. Legal public holidays shall be deemed to include holidays on which the administrative offices of Buyer are closed for business.
- 12.18 **Further Assurances.** Each party agrees to take such actions, or to execute such documents, as may be reasonably necessary to evidence or carry out the terms of this Contract.
- 12.19 **Effective Date.** The Contract will be effective on the date on which this Contract has been duly executed by Seller and Buyer.
- 12.20 THIS CONTRACT IS A LEGAL DOCUMENT. IT IS RECOMMENDED THAT SELLER OBTAIN AN ATTORNEY TO ADVISE SELLER IN CONNECTION WITH THIS CONTRACT.

EXECUTED on the dates set forth below to be effective as of the Effective Date.

List of Exhibits:

Exhibit "A" – Legal Description of the Property
Exhibit "B" – Special Warranty Deed Form
Exhibit "C" - Form for Memorandum of Contract

Seller:

Buyer:

CITY OF COLLEGE STATION, TEXAS

Henry L. Allen
Henry L. Allen

By: _____
Mayor

Date: Sept 05, 2007

Date: _____

Date: _____

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____

Chief Financial Officer
Date: _____

Carla A. Robinson
City Attorney
Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

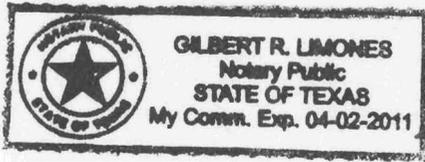
This instrument was acknowledged before me on the ____ day of _____, 2007 by _____, as Mayor of the CITY OF COLLEGE STATION, a Texas home rule municipal corporation, on behalf of said municipality.

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
§
COUNTY OF Fort Bend §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 5th day of _____, 2007 by Henry L. Allen.



NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
§
COUNTY OF _____ §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2007 by _____

NOTARY PUBLIC in and for
the STATE OF TEXAS

TITLE COMPANY'S ACKNOWLEDGEMENT OF RECEIPT

Title Company acknowledges receipt of Earnest Money in the amount of \$_____ on the _____ day of _____, 2007 and a copy of this Contract executed by both Buyer and Seller. Title Company hereby agrees to hold the Earnest Money as directed in this Contract, and to distribute the Earnest Money in accordance with the terms and provisions of this Contract.

Brazos County Abstract Company

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

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

TRACT I:

In Re: 172.135 Acres
Wright Coley Survey, A-95
Robertson County, Texas



All that certain tract or parcel of land situated in Robertson County, Texas, being a part of the Wright Coley Survey, Abstract No. 95 and being all of a so called 70.6 acre tract as conveyed from Robert Dorsey, et ux to Ivan Langford by Deed dated November 27, 1936 and being recorded in Volume 113, Page 037 of the Deed Records of said Robertson County and being a part of a so called 104.3 acre tract as conveyed from J. G. Lightsey, et ux to Ivan Langford by Deed dated September 12, 1945 and being recorded in Volume 138, Page 069 of said Deed Records and being more particularly described by metes and bounds as follows, to wit:

BEGINNING at an iron pin set at a fence corner post on an occupied common line as fenced between said Coley Survey and a John Smith Survey, Abstract No. 334, same being the East line of a Forbin Investments N. V. "Tract 3" ± 833.04 acres (1009/345) for the Southwest corner of a Virginia L. Capps 336 acre tract (624/764), same being the Northwest corner of said original 104.3 acre tract and for the Northwest corner of this tract;

THENCE N60°00'00"E (Deed Bearing) - 3191.63 feet with an occupied common line as fenced and its prolongation between said original 104.3 acre tract and said Capps 336 acre tract to a point in a common line between the center of Little Brazos River and said 70.6 acre tract for the Southeast corner of said 336 acre tract, same being the Northeast corner of said original 104.3 acre tract and for an interior ell corner of this tract (a reference iron pin set bears S60°00'00"W - 50.00 feet);

THENCE N29°50'53"W - 26.97 with the center of said Little Brazos River, same being a common line between said original 70.6 acre tract and said Capps 336 acre tract to a point for the Southwest corner of a Sanford Johnson "First Tract" - 9 acres (234/078), same being the Northwest corner of said original 70.6 acre tract and for an exterior ell corner of this tract (a reference iron set at a fence corner post bears N70°21'51"E - 41.00 feet);

THENCE with a common line between said original 70.6 acre tract and said Johnson 9 acre tract and a Sanford Johnson, et ux 25 acre tract (234/065), respectively as follows:

N70°21'51"E - 381.99 feet with an occupied fence line prolongation to a fence corner post for an interior ell corner of this tract;

N68°59'34"E - 1537.60 feet with an occupied fence line to a fence corner post for the Northeast corner of this tract;

N89°11'38"E - 253.87 feet with an occupied fence line to a fence corner post for an exterior ell corner of this tract;

- 1 -

EXHIBIT "A"

VOL 657 PAGE 779

TRACT I CONTINUED

WA

- S65°42'33"E - 357.70 feet with an occupied fence line to a fence corner post for an exterior ell corner of this tract;
- S58°56'19"E - 62.75 feet with an occupied fence line to a fence corner post for an exterior ell corner of this tract;
- S37°01'48"E - 898.15 feet with an occupied fence line to an iron pin set at a fence corner post on a common line between the North line of Mumford Road (County) and a Sanford Johnson 138.06 acre tract (269/314), same being a common line between said Coley Survey and a Henry Fullerton Survey, Abstract No. 153 for the Southwest corner of said Johnson 25 acre tract, same being the Southeast corner of said original 70.6 acre tract and for the Southeast corner of this tract;

THENCE with the North line of said Mumford Road as occupied by a fence line, same being a common line between said Coley Survey and said Fullerton Survey, same being a common line between said original 70.6 acre tract and said Johnson 138.06 acre tract as follows:

- S60°05'25"W - 1135.74 feet to a fence corner post for an exterior ell corner of this tract;
- S60°31'34"W - 985.74 feet to a point in a common line between the center of said Little Brazos River and an Ivan Langford "Fourth Tract" 255 acres (D.O.T. not recorded - May 1, 1934) for the Northwest corner of said Johnson 138.06 acre tract, same being the Southwest corner of said original 70.6 acre tract and for the most easterly Southwest corner of this tract (a reference iron pin set at a fence corner post bears N60°31'34"E - 30.00 feet;

THENCE N29°48'08"W - 327.75 feet with the center of said Little Brazos River, same being a common line between said Langford 255 acre tract and said original 70.6 acre tract and said original, 104.3 acre tract, respectively to a point for an interior ell, corner of this tract (a reference iron pin set bears S60°00'00"W - 50.00 feet);

THENCE S60°00'00"W - 3542.36 feet to an iron pin set on an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a common line between said original 104.3 acre tract and said Forbin 833.04 acre tract for the most westerly Southwest corner of this tract;

THENCE N29°44'40"W - 1304.11 with an occupied common line as fenced between said Coley Survey and said Smith Survey, same being a common line between said original 104.3 acre tract and said Forbin 833.04 acre tract to the PLACE OF BEGINNING and containing 172.135 Acres of Land,

EXHIBIT "A"

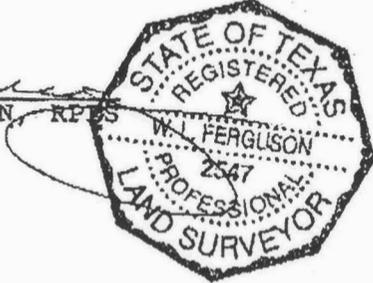
VOL 657 PAGE 780

TRACT I CONTINUED

NA

I, W. L. Ferguson, Registered Professional Land Surveyor No. 2547 in the State of Texas, do hereby certify that the above survey was performed on the ground under my supervision and the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 28th day of May, 1996.

W. L. Ferguson
W. L. FERGUSON, R.P.S.


- 3 -
EXHIBIT "A"^{1B}

VOL 657 PAGE 781

EXHIBIT "B"

Special Warranty Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Effective Date: _____, 2007

Grantor: Henry L. Allen, joined herein by his wife, _____

Grantor's Mailing Address: 3102 Cherryhill Drive
Missouri City, Texas 77459-3414

Grantee: The City of College Station

Grantee's Mailing Address: 1101 Texas Avenue, College Station, Texas 77842

Consideration: Good and valuable consideration, the receipt and sufficiency of which are acknowledged, and for which no lien, express or implied is retained by Grantor.

Property (including any improvements):

Reservations from Conveyance: All oil, gas and other minerals interest in on and under the Property retained by _____ in that Deed dated ___ and recorded in ___ of the Real Property Records of Nueces County, Texas, provided, however, that this reservation does not include the right to use the surface of the Property to access, explore for, drill for, excavate, or produce oil, gas or other minerals, or to use the groundwater from the Property in connection with the oil, gas and mineral estates, and Grantor, on behalf of himself, his heirs, successors and assigns, hereby waives and releases all rights to use the surface of the Property to access, explore for, excavate or produce oil, gas or other minerals and to use the groundwater from the Property in connection therewith.

Exceptions to Conveyance and Warranty:

[To Be Filled in with Permitted Exceptions]

Prohibition on Use.

Without limiting the generality of any of the forgoing provisions, Grantor will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, or (d) drilling of groundwater well(s) or other surface use of the Property. Grantor is prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Grantor, Grantor's heirs, successors and assigns and persons with whom they or any of them contract in connection with the use or production of minerals.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, when the claim is made by, through or under the Grantor, but not otherwise.

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

HENRY L. ALLEN

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me this the ____ day of _____, 2007 by Henry L. Allen.

Notary Public, State of Texas

STATE OF TEXAS

§

COUNTY OF _____

§

§

This instrument was acknowledged before me this the _____ day of _____, 2007
by _____

Notary Public, State of Texas

After Recording, Return to:

Bickerstaff Heath Delgado Acosta L.L.P.
Attn. Denise Cheney
816 Congress Ave., Suite 1700
Austin, Texas 78701-2443

EXHIBIT "C"

MEMORANDUM OF CONTRACT

Henry L. Allen joined by his spouse, if any ("Seller") and the City of College Station, Texas ("Buyer") have entered into a Real Estate Contract ("Contract") for the purchase by the Buyer of the property described in Exhibit "A" attached hereto and incorporated herein (the "Property").

The Contract provides in part that:

During the term of the Contract, Seller will not grant to any other person without the prior written consent of Buyer, any rights or interests in the Property, including easement rights, oil and gas leases, or rights to use the groundwater, or amend any existing agreement relating to the Property, including easements, oil and gas leases, or any other documents evidencing or creating an interest or right in the Property. Any conveyance or amendment in violation of this provision will be void and of no effect, and shall not be binding on the Buyer.

Without limiting the generality of any of the provisions of this Contract, before Closing, and after Closing, if Sellers have any interest in oil, gas or minerals in connection with the Land, Sellers will not enter into any oil and gas lease, surface use agreement or other agreement affecting the Property, or any portion thereof, that allows (a) flooding of all or any portion of the Property, (b) injection into or disposal of salt water onto all or any portion of the Property, (c) use of groundwater or fresh subterranean water located under the Property or any portion thereof for any purpose, (d) drilling of groundwater well(s) or other surface use of the Property, or (e) use of groundwater or of fresh subterranean water. Sellers are prohibited from engaging in the same activities. This provision will survive Closing, will run with the oil, gas and mineral estates, and will be binding on Sellers, their heirs, successors and assigns and persons with whom they or any of them contract for the use or production of minerals. This provision will be set forth in the Deed.

The Contract was entered into on the Effective Date of this Memorandum and if the Contract does not result in a sale, the Buyer will record a notice of the termination of the Contract in the Real Property Records of Brazos and Robertson Counties, Texas. The Contract may be modified or extended without the necessity of modifying this Memorandum of Contract.

Executed to be effective as of _____, 2007 ("Effective Date").

Henry L. Allen

The City of College Station, Texas

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007,
by Henry L. Allen.

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007,
by _____

NOTARY PUBLIC in and for
the STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2007,
by _____, as _____ of the CITY OF COLLEGE STATION, a Texas
home rule municipal corporation, on behalf of said municipality.

NOTARY PUBLIC

in and for The STATE OF TEXAS

After Recording, Return to:

Bickerstaff Heath Delgado Acosta LLP
816 Congress Avenue, Suite 1700
Austin, Texas 78701
Attention: Denise Cheney or Susan Maxwell

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 \$3,100,000, 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 27th DAY OF SEPTEMBER, 2007.

Ben White, Mayor

ATTEST:

Connie Hooks, City Secretary

(Seal)

APPROVED:

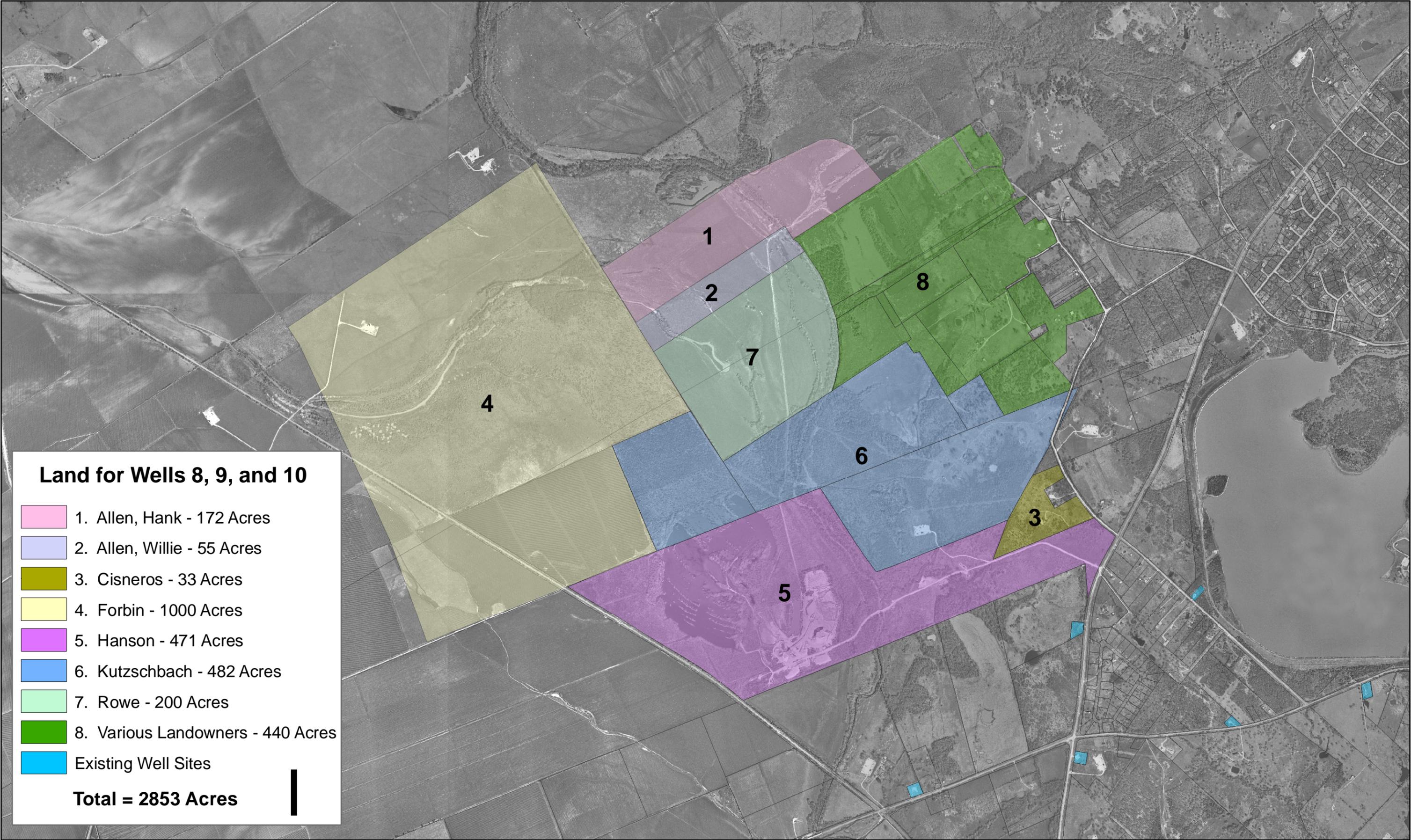


McCull Parkhurst & Horton L.L.P.
Bond Counsel

Exhibit "A"

The projects to be financed that are the subject of this Statement are:

Real Estate Contracts for Wells 8, 9, and 10



Land for Wells 8, 9, and 10

- 1. Allen, Hank - 172 Acres
- 2. Allen, Willie - 55 Acres
- 3. Cisneros - 33 Acres
- 4. Forbin - 1000 Acres
- 5. Hanson - 471 Acres
- 6. Kutzschbach - 482 Acres
- 7. Rowe - 200 Acres
- 8. Various Landowners - 440 Acres
- Existing Well Sites

Total = 2853 Acres



September 27, 2007
Consent Agenda Item 2h
Enviromed Medical Waste Hauling Franchise Third and Final Reading

To: Glenn Brown, City Manager

From: Hayden Migl, Assistant to the City Manager

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 Enviromed.

Recommendation(s): Staff recommends approval.

Summary: The proposed franchise agreement allows Enviromed 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.

Enviromed had a franchise with the City for a term of five years beginning July 2002 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 Tejas Medical Waste, Stericycle, Inc. and American Medical Waste Management, Inc.

Budget & Financial Summary: The franchise agreement requires Enviromed 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. College Station receives approximately \$2,000 annually through this franchise agreement.

Attachments:

1. Franchise Ordinance

ORDINANCE NO. _____

AN ORDINANCE GRANTING **ENVIROMED**, 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, **High Horizon, Inc. d/b/a Enviromed of Temple** (hereinafter referred to as "**Enviromed**") 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 **Enviromed**, 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.

Ordinance No. _____

1.2 For the purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meanings given below:

Brazos Valley Solid Waste Management Agency Landfill or **BVSWMA landfill** 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.

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.

COMPANY means **Enviromed**, 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.

Customers. Those health care-related facilities located within the **CITY** that generate treated and untreated medical waste.

Force Majeure means, without limitation, by the following enumeration, acts of God and the public enemy, the elements, fire, or accidents.

Franchise means this ordinance and all rights and obligations established herein or as it may be amended.

Medical Wastes means medical wastes as that term is defined in 30 T.A.C. 330 as it now exists or as is hereafter amended.

T.A.C. means the Texas Administrative Code as it now exists or as it is hereinafter amended.

TCEQ means Texas Commission on Environmental Quality.

Treated or Processed Medical Waste is medical waste that has been treated as provided in 30 T.A.C. 330 as it now exists or as it is hereafter amended.

II.

Ordinance No. _____

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 customers with 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.

Ordinance No. _____

TERM OF FRANCHISE

4.1 The term of this franchise shall be for a period of five (5) years beginning on the 26th day of November, 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.

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

Ordinance No. _____

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 Fifty (\$50.00) 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.

Ordinance No. _____

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;

Ordinance No. _____

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

Ordinance No. _____

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 applicable TCEQ standards in the BVSWMA landfill. COMPANY hereby agrees to indemnify, defend and hold CITY harmless for disposal of any such waste in the BVSWMA 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.

Ordinance No. _____

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 A-: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;

Ordinance No. _____

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 A-: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*

Ordinance No. _____

Certificates of Insurance shall be prepared and executed by the insurance company or its 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. 37. **COMPANY** shall provide proof that it has met the requirements of 30 T.A.C. 37 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. 37, **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

Contract No. _____

Ordinance No. _____

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:
City Manager
City of College Station
P.O. Box 9960
College Station, Texas 77842

COMPANY:
J. L. Ranly
Administrator
P.O. Box 1052
Temple, TX 76503

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.

Ordinance No. _____

**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

Enviromed 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"). **Enviromed** 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.

**High Horizon, Inc
d/b/a Enviromed of Temple**

By: _____
Name: J.L. Ranly
Title: Administrator

Contract No. _____

Ordinance No. _____

**XIX.
PUBLIC HEARING**

19.1 It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, 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 _____, 2007.

HIGH HORIZON, INC.
d/b/a ENVIROMED OF TEMPLE

CITY OF COLLEGE STATION

BY: *J. L. Harley, admin*
Title ADMINISTRATOR

BY: _____
Mayor

Date: 8-6-07

Date: _____

ATTEST:

City Secretary
Date: _____

APPROVAL:

City Manager
Date: _____

Chief Financial Officer
Date: _____

Nowell

City Attorney
Date: 8-8-07

Ordinance No. _____

First Consideration and Approval: _____

Second Consideration and Approval: _____

Third Consideration and Approval: _____

Contract No. _____

Ordinance No. _____

Exhibit "A"

SCHEDULE OF RATES

OUR RATES ARE AS FOLLOWS:

DESTRUCTION OF LARGE BOX OF MEDICAL WASTE

RANGE \$10.00 TO \$40.00 PER BOX

DESTRUCTION OF 28 GALLON REUSABLE CONTAINER

RANGE \$28.00 TO \$30.00 PER CONTAINER

Exhibit "B"

CERTIFICATES OF INSURANCE

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
07/25/07

PRODUCER Tom Stewart Insurance 1001 S. Dairy Ashford, Suite 225 Houston, TX 77077 Phone (281)589-0004 Fax (281)589-8889	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 High Horizons, Inc. DBA: Medtrak DBA: Enviromed DBA: All Med Disposal PO Box 1052 Temple, TX 76503	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURERS AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Arch Insurance Co.</td> <td></td> </tr> <tr> <td>INSURER B: Texas Mutual Insurance Company</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: Arch Insurance Co.		INSURER B: Texas Mutual Insurance Company		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURERS AFFORDING COVERAGE	NAIC #														
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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. ADD'L LTR. INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	FBCAT 0041103	04/18/07	04/18/08	EACH OCCURRENCE 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) 100,000 MED EXP (Any one person) 5,000 PERSONAL & ADV INJURY 1,000,000 GENERAL AGGREGATE 2,000,000 PRODUCTS - COMP/OP AGG Included
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON OWNED AUTOS <input checked="" type="checkbox"/> Broad Pollution <input type="checkbox"/>	FBCAT 0041103	04/18/07	04/18/08	COMBINED SINGLE LIMIT (Ea accident) 1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/>				AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION				EACH OCCURRENCE AGGREGATE
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER / MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	TSF-0001105699	05/15/07	05/15/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT 500,000 E.L. DISEASE - EA EMPLOYEE 500,000 E.L. DISEASE - POLICY LIMIT 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Medical Waste Hauler
 Certificate holder is hereby granted Additional Insured status with regards to Commercial General Liability in accordance with policy terms, conditions and exclusions. Blanket Waiver of Subrogation applies with regards to workers compensation in accordance with policy terms, conditions and exclusions.

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 <u>10</u> 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 <div style="text-align: right; font-family: cursive; font-size: 1.2em;"> Tom Stewart </div>
---	---

**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 HIGH HORIZONS, INC. of PO BOX 1052, TEMPLE TX 76503

Dated at DENVER, CO this 19TH day of APRIL, 2007

Amending Policy No. FBCAT0041103 Effective Date 04-18-2007

Name of Insurance Company ARCH INSURANCE COMPANY

Telephone Number (203) 388-3220 Countersigned by *Michael J. Hill*

Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by for the limits shown:

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.

**SCHEDULE OF LIMITS
Public Liability**

Type of Carriage	Commodity Transported	Minimum Insurance
(1) For-hire (In interstate or foreign commerce).	Property (nonhazardous)	\$ 750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Divisions 1 1, 1 2, and 1 3 materials; any quantity of Division 2 3 Hazard Zone A or Division 6.1, Packing Group 1, Hazard Zone A material; in bulk Division 2 1 or 2.2; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	5,000,000
(3) For-hire and Private (In interstate or foreign commerce: in any quantity) or (In intrastate commerce: in bulk only)	Oil listed in 49 CFR 172.101, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172 101, but not mentioned in (2) above or (4) below	1,000,000
(4) For-hire and Private (In interstate or foreign commerce).	Any quantity of Division 1 1, 1.2 or 1.3 material; any quantity of a Division 2 3, Hazard Zone A, or Division 6 1, Packing Group 1, Hazard Zone A material; or highway route controlled quantities of Class 7 material as defined in 49 CFR 173.403.	5,000,000

Note: The type of carriage listed under (1), (2), and (3) applies to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles with a gross vehicle weight rating of less than 10,000 pounds.

**Schedule of Limits
Public Liability**

For-hire motor carriers of passengers operating in interstate or foreign commerce

Vehicle Seating Capacity	Minimum Insurance
(1) Any vehicle with a seating capacity of 16 passengers or more.	\$ 5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less.	1,500,000

September 27, 2007
Consent Agenda Item 2i
Construction and Demolition Debris Hauling Franchise Third and Final Reading

To: Glenn Brown, City Manager

From: Hayden Migl, Assistant to the City Manager

Agenda Caption: Presentation, possible action and discussion on the third and final reading of a franchise agreement with CCAA, LLC d/b/a Brazos Valley Recycling for collection, hauling and disposal services for residential and commercial construction debris solid waste for the purpose of recycling.

Recommendation(s): Staff recommends approval.

Summary: The proposed non-exclusive five (5) year franchise agreement allows for the collection, hauling and disposal services for residential and commercial construction and demolition debris generated within the corporate limits of the City of College Station for the purpose of recycling the debris.

This company has a current franchise under Stop 'N Go Potties which is limited only to residential areas, roll-off containers not to exceed fifteen (15) cubic yards in volume, and does not allow a provision to recycle collected debris.

The roll-off container method allows contractors to keep their construction sites clean during construction and provides a better method of hauling the debris.

Section 120 of the City Charter states that "The City of College Station shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance, however, shall not be passed finally until it shall have been read at three (3) separate regular meetings of the City Council."

Budget & Financial Summary: The franchise agreement contains a tiered fee schedule requiring Brazos Valley Recycling to pay five percent (5%) of the company's gross delivery and hauling revenues if they recycle over 60% of the debris collected, six and one half percent (6.5%) if they recycle at least fifty-five percent (55%) but less than sixty percent (60%), and eight percent (8%) if they recycle less than fifty-five percent (55%) of the debris collected.

Attachments:

1. Franchise Ordinance

ORDINANCE NO. _____

AN ORDINANCE GRANTING CCAA, LLC, D/B/A BRAZOS VALLEY RECYCLING, 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 COLLECTING DEMOLITION AND CONSTRUCTION DEBRIS FOR THE PURPOSE OF RECYCLING; 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; FOR PARTIAL INVALIDITY AND ASSESSING A PENALTY FOR VIOLATION.

WHEREAS, the City of College Station, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of College Station; and

WHEREAS, the City of College Station may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of the City of College Station and for the collection and disposal of solid waste generated from within the corporate limits of the City of College Station; and

WHEREAS, the City of College Station desires to exercise the authority provided to it by ordinance and charter to grant a franchise for the collection and disposal of a certain classification of solid waste generated within the corporate limits of the City of College Station under the terms of this Franchise Agreement as set out below; and

WHEREAS, CCAA, LLC d/b/a BRAZOS VALLEY RECYCLING desires to obtain a franchise to provide for the collection, hauling and disposal of construction debris solid waste from the City of College Station;

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

I.
DEFINITIONS

1. Franchise Agreement means this franchise between the City of College Station and CCAA, LLC d/b/a BRAZOS VALLEY RECYCLING for provision of a roll-off container demolition and construction debris collection service for the purpose of recycling within the City of College Station, under certain terms and conditions set out herein.

Ordinance No. _____

2. BRAZOS VALLEY RECYCLING means CCAA, LLC d/b/a BRAZOS VALLEY RECYCLING conducting the roll-off container demolition and construction debris collection service for the purpose of recycling.

3. Brazos Valley Solid Waste Management Agency or BVSWMA means a landfill 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 through an interlocal agreement.

4. City of College Station or CITY means the City of College Station, Texas a Home-Rule Municipal Corporation incorporated under the laws of Texas.

5. City Council or "COUNCIL" means the governing body of the City of College Station, Texas.

6. Customers means those industrial, residential, and/or commercial premises located within the CITY that generate demolition and construction debris.

7. Demolition and Construction Debris means any building material waste resulting from demolition, remodeling, repairs, or construction as well as materials discarded during periodic temporary facility clean-up generated within the CITY.

8. Roll-Off Containers or container means that type of solid waste industry container loaded by winch truck or hook not to exceed thirty (30) cubic yards in volume.

II.

GRANT OF NONEXCLUSIVE FRANCHISE

For and in consideration of the compliance by BRAZOS VALLEY RECYCLING with the covenants and conditions herein set forth CITY hereby grants to BRAZOS VALLEY RECYCLING a NONEXCLUSIVE franchise for use of designated public streets, alleys and thoroughfares within the corporate limits of City for the sole purpose of engaging in the business of collecting demolition and construction debris for the purpose of recycling within the jurisdictional limits of CITY using roll-off containers.

III.

DISPOSAL SITE TO BE USED

Unless approved otherwise in writing by ASSISTANT DIRECTOR OF PUBLIC WORKS, BRAZOS VALLEY RECYCLING shall utilize the BVSWMA landfill located on Rock Prairie Road, College Station, Texas or any other site designated for their municipal solid waste disposal for the disposal of all non-recyclable demolition and construction debris collected by BRAZOS VALLEY RECYCLING under this Franchise Agreement. **BRAZOS VALLEY RECYCLING shall not dispose of any asbestos or other hazardous wastes at the BVSWMA landfill.**

IV.
RATES TO BE CHARGED BY BRAZOS VALLEY RECYCLING

Attached hereto as Exhibit "A" and incorporated herein by reference is the Schedule of Rates, which BRAZOS VALLEY RECYCLING shall charge for the aforementioned services. The rates provided herein shall be renegotiated at any time that the costs to the company of doing business have increased, due to the operation of new governmental regulation or due to increased costs of material or labor required to provide the services hereunder, or due to increased costs of disposal in a landfill operation. BRAZOS VALLEY RECYCLING agrees to use due diligence to keep costs from increasing.

V.
PAYMENTS TO CITY

For and in consideration of the grant of the franchise herein, BRAZOS VALLEY RECYCLING agrees and shall pay to CITY upon acceptance of this Franchise Agreement and thereafter during the term hereof, a sum based on the following graduated fee schedule depending on the percentage of aggregate recycling accomplished.

A fee equivalent to five percent (5%) of BRAZOS VALLEY RECYCLING's monthly gross delivery and hauling revenues generated from BRAZOS VALLEY RECYCLING's provision of demolition and construction debris roll-off container collection services within the CITY excluding landfill tipping charges is required if BRAZOS VALLEY RECYCLING reports aggregate recycling of at least sixty percent (60%) of demolition and construction debris collected.

A fee equivalent to six and one half percent (6.5%) of BRAZOS VALLEY RECYCLING's monthly gross delivery and hauling revenues generated from BRAZOS VALLEY RECYCLING's provision of demolition and construction debris roll-off container collection services within the CITY excluding landfill tipping charges is required if BRAZOS VALLEY RECYCLING reports aggregate recycling of at least fifty-five percent (55%) but less than sixty percent (60%) of demolition and construction debris collected.

A fee equivalent to eight percent (8%) of BRAZOS VALLEY RECYCLING's monthly gross delivery and hauling revenues generated from BRAZOS VALLEY RECYCLING's provision of demolition and construction debris roll-off container collection services within the CITY excluding landfill tipping charges is required if BRAZOS VALLEY RECYCLING reports aggregate recycling less than fifty-five percent (55%) of demolition and construction debris collected.

The exclusion is limited only to the amount BVSWMA charges BRAZOS VALLEY RECYCLING for landfill tipping charges. Any revenue received by BRAZOS VALLEY RECYCLING in excess of the landfill tipping charges will be subject to the franchise fee and shall be computed into BRAZOS VALLEY RECYCLING 's monthly gross delivery

and hauling revenue. Said payment shall be paid quarterly to the City Manager or his delegate and shall be due by the twentieth of the month following the end of the previous quarter. Payment after that date shall incur a ten percent (10%) late fee on the outstanding amount owed under this Article V.

Failure by BRAZOS VALLEY RECYCLING to pay any amount due under this franchise constitutes a Failure to Perform under this contract and is subject to the provisions of Article XV of this Franchise Agreement (FAILURE TO PERFORM).

VI.
ACCESS TO RECORDS & REPORTING

CITY shall have the right, upon reasonable notice, to inspect during normal business hours BRAZOS VALLEY RECYCLING's records, billing records of those customers served by BRAZOS VALLEY RECYCLING and all papers relating to the operation of demolition and construction debris collection and disposal within the CITY. BRAZOS VALLEY RECYCLING shall cooperate in allowing CITY to conduct the inspections.

Along with the payment to the CITY of the CITY's agreed share of revenue from the delivery and hauling of demolition and construction debris, BRAZOS VALLEY RECYCLING shall provide a Monthly Recycling Activity Report that shall be due to the CITY no later than the twentieth calendar day of each month and summarizing recycling activity for the previous calendar month. BRAZOS VALLEY RECYCLING's report shall include the following information:

1. Summaries of tonnage of all recyclable commodities collected from all customers, broken down by commodity.
2. Summaries of tonnage of demolition and construction debris collected from all customers.
3. Summaries of tonnage of demolition and construction debris collected only in the CITY.
4. Reports of the results of all complaints and investigations received and action taken by BRAZOS VALLEY RECYCLING.
5. A listing of all BRAZOS VALLEY RECYCLING accounts served and monthly revenue derived from roll-off containers placed in the CITY under terms of this franchise. The reports will include customer's address, frequency of pick-up, size of container, and monthly charges.
6. Such information concerning the business of collection, processing and marketing of recyclable materials as may be required by the City's representative.

VII.
PLACEMENT OF ROLL-OFF CONTAINERS

All roll-off containers placed in service shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall BRAZOS VALLEY RECYCLING place containers on public streets, alleys and/or thoroughfares without the prior written approval of the CITY. CITY reserves the right to designate the exact location of any or all roll-off container(s) placed in service in the CITY.

VIII.
CONTAINER AND EQUIPMENT MAINTENANCE

BRAZOS VALLEY RECYCLING agrees to properly maintain in a safe, clean and sanitary condition, and paint all roll-off containers placed out for service within the CITY.

All equipment necessary for the performance of this franchise shall be in good condition and repair.

All vehicles used by BRAZOS VALLEY RECYCLING in the removal of demolition and construction debris shall be covered during transport to prevent spillage, blowing, or scattering of refuse onto public streets or rights of way, private property or adjacent property. A standby vehicle shall always be available.

BRAZOS VALLEY RECYCLING's vehicles shall at all times be clearly marked with BRAZOS VALLEY RECYCLING's name, address, telephone number and if applicable, state permit number, in letters not less than three (3) inches in height.

IX.
COMPLAINTS REGARDING SERVICE/SPILLAGE

BRAZOS VALLEY RECYCLING shall handle directly any complaints pertaining to customer service, property damage or personal injury from their roll-off container service. Any such complaints received by CITY shall be forwarded to BRAZOS VALLEY RECYCLING within twenty-four (24) hours of their receipt by CITY. BRAZOS VALLEY RECYCLING shall respond to all complaints within twenty-four (24) hours of receiving notice of such complaint from CITY, resolve such complaints promptly and shall report to CITY the action taken. Failure by BRAZOS VALLEY RECYCLING to respond and report to CITY on action taken within this twenty-four (24) hour period may subject BRAZOS VALLEY RECYCLING to a \$50.00 per incident charge from CITY payable with the next payment due CITY under Article V of this Franchise Agreement.

X.
COMPLIANCE WITH LAWS

BRAZOS VALLEY RECYCLING shall comply with all applicable federal, state and local laws, policies, rules and regulations, and ordinances with regard to the collection, hauling and disposal of solid waste, including but not limited to the requirement that all persons on the BVSWMMA landfill premises wear a hard hat. All operations conducted by BRAZOS VALLEY RECYCLING shall be conducted without unnecessary noise, disturbance, or commotion.

XI.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY

This Franchise Agreement contains all the terms and conditions agreed on by the parties and no other agreements, or otherwise, regarding the subject matter of this franchise shall be of any force or effect.

Both parties agree and understand that nothing in this Franchise Agreement conveys to BRAZOS VALLEY RECYCLING an exclusive franchise for the services described in this franchise and that this franchise is nonexclusive.

XII.
OWNERSHIP OF MATERIALS

Sole and exclusive title to all demolition and construction debris collected by BRAZOS VALLEY RECYCLING under this Franchise Agreement shall pass to BRAZOS VALLEY RECYCLING when said debris is placed on BRAZOS VALLEY RECYCLING's truck.

XIII
CITY SERVICE

BRAZOS VALLEY RECYCLING agrees to provide free service to CITY following natural disasters or Acts of God.

XIV.
INTERRUPTION OR TERMINATION OF SERVICE

A. Termination in Service. In the event that BRAZOS VALLEY RECYCLING terminates service to any customer within the CITY's limit, BRAZOS VALLEY RECYCLING must notify CITY through registered mail within forty-eight (48) hours of termination and state the cause of such termination.

B. Excessive Interruption in Service. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform

Ordinance No. _____

under this contract and CITY may invoke the provisions of Article XV of this Franchise Agreement (FAILURE TO PERFORM).

XV.
FAILURE TO PERFORM

It is expressly understood and agreed by the parties that if at any time BRAZOS VALLEY RECYCLING shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after hearing as described herein, revoke and cancel the Franchise Agreement by and between the parties and said Franchise Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the Council of said CITY, CITY shall mail notice to BRAZOS VALLEY RECYCLING, 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 Franchise Agreement. The hearing shall be conducted in public before the City Council and BRAZOS VALLEY RECYCLING shall be allowed to present evidence and 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 Franchise Agreement between the parties at no penalty to the CITY.

**XVI.
INDEMNIFICATION**

In the event CITY is damaged due to the act, omission, mistake, fault or default of BRAZOS VALLEY RECYCLING, then BRAZOS VALLEY RECYCLING shall indemnify and hold CITY harmless for such damage.

BRAZOS VALLEY RECYCLING shall indemnify and hold CITY harmless for any disposal of any solid waste for which the BVSWMA landfill is not permitted whether intentional or inadvertent.

BRAZOS VALLEY RECYCLING shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by BRAZOS VALLEY RECYCLING, its agents, employees, and representatives.

BRAZOS VALLEY RECYCLING agrees to and shall indemnify and hold the CITY, its officers, agents and employees, harmless from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind and character, including all expenses of litigation, court costs, and reasonable 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 and business operated by BRAZOS VALLEY RECYCLING under this Franchise Agreement, 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.

**XVII.
INSURANCE**

BRAZOS VALLEY RECYCLING shall procure and maintain at its sole cost and expense for the duration of the Franchise 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 BRAZOS VALLEY RECYCLING, its agents, representatives, volunteers, employees or subcontractors.

BRAZOS VALLEY RECYCLING'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 BRAZOS VALLEY RECYCLING's insurance and shall not contribute to it.

BRAZOS VALLEY RECYCLING 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.

Certificates of Insurance and endorsements shall be furnished to CITY and approved by CITY before BRAZOS VALLEY RECYCLING provides services in the CITY.

A. STANDARD INSURANCE POLICIES REQUIRED

- 1. Commercial General Liability Policy**
- 2. Automobile Liability Policy**
- 3. Worker's Compensation Policy.**

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

- 1. General Liability and Automobile Liability insurance shall be written by a carrier with a A- VII or better rating in accordance with the current Best Key Rating Guide.**
- 2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.**
- 3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence bases for property damage only.**
- 4. Claims Made Policies will not be accepted.**
- 5. The City of College Station, its officials, employees and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees or volunteers.**
- 6. A Waiver of Subrogation in favor of the City of College Station with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.**
- 7. 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.**
- 8. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.**

C. COMMERCIAL GENERAL LIABILITY

- 1. Minimum Combined Single Limit of \$2,000,000 aggregate with \$1,000,000 per occurrence for Bodily Injury and Property Damage.**
- 2. Coverage shall be at least as broad as Insurance service's Office form number CG OO OL.**
- 3. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.**

D. AUTOMOBILE LIABILITY

1. **Minimum Combined Single Limit \$1,000,000 combined single limit per occurrence for Bodily Injury Property on any auto.**
2. **The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section on Item 2 of the declarations page.**

E. WORKER'S COMPENSATION

1. **Workers' Compensation to statutory limits and employer liability of \$500,000/\$500,000/\$500,000 as required.**
2. **City of College Station shall be named as Alternate Employer on endorsement WC 99 09 OI unless written through TWCARP.**
3. **Texas must appear in Item 3A of the Workers' Compensations coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States NV, ND, OH, WA, WV, WY.**

F. CERTIFICATES OF INSURANCE

1. **Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:**
 - a. **The company is licensed and admitted to do business in the State of Texas**
 - b. **The insurance set forth by the insurance company are underwritten on forms which have been approved by the Texas State Board of Insurance or ISO.**
 - c. **Sets forth all endorsements as required above and insurance coverages as previously set forth herein.**
 - d. **Shall specifically set forth 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.**

XVIII.
ASSIGNMENT

This Franchise Agreement and the rights and obligations contained herein may not be assigned by BRAZOS VALLEY RECYCLING without the specific prior written approval of the City Council.

XIX.
SAFETY AND LIABILITY FOR INJURIES TO CITY OR ABUTTING PROPERTY

BRAZOS VALLEY RECYCLING shall perform the collection in accordance with the applicable laws, codes, ordinances and regulations of the United States, State of Texas, Brazos County, and City of College Station and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that the safety precautions are a part of the collection techniques for which BRAZOS VALLEY RECYCLING is solely responsible. In the carrying on of the services herein provided for, BRAZOS VALLEY RECYCLING shall use all proper skill and care, and BRAZOS VALLEY RECYCLING shall exercise all due and proper precautions to prevent injury to any property, or person(s).

BRAZOS VALLEY RECYCLING assumes responsibility and liability and hereby agrees to indemnify and hold the City of College Station harmless from and against any and all claims, losses, property damage, personal injury or death arising out of or in connection with BRAZOS VALLEY RECYCLING'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.

BRAZOS VALLEY RECYCLING shall pay for all damages to City property resulting from the operation of its service and shall pay to every owner of property abutting the residential property on which the container is located that is injured by the operation of the franchise all physical damage caused by any act or omission of BRAZOS VALLEY RECYCLING or of any of its subcontractors or employees in the operation of the BRAZOS VALLEY RECYCLING service.

XX.
AD VALOREM TAXES

BRAZOS VALLEY RECYCLING agrees to render all personal property utilized in its solid waste operation services provided to Brazos County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

XXI.
NOTICES AND PAYMENTS

All notices and payments required under the terms of this Contract to be given by either party to the other party shall be in writing, and unless otherwise specified in writing by the respective parties, shall be sent to the parties at the addresses following:

City Manager
City of College Station
P.O. Box 9960
College Station, Texas 77842

Charles Mancuso
President, CCAA, LLC, d/b/a
Brazos Valley Recycling
P. O. Box 5449
Bryan, Texas 77805

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.

XXII.
PENALTY

Any person, firm or corporation violating any provision of this ordinance shall be fined not exceeding \$2,000.00 for each offense and each and every day said violation continues constitutes a separate offense.

XXIII.
AMENDMENTS

It is hereby understood and agreed by the parties to this franchise that no amendment to the terms of this franchise shall be made unless made in writing, approved by both parties, and attached to this Franchise Agreement to become a part hereof.

XXIV.
SEVERABILITY

If any section, sentence, clause or paragraph of this Franchise Agreement is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of the Franchise Agreement.

XXV.
AUTHORIZATION TO EXECUTE

The parties signing this Franchise Agreement shall provide adequate proof of their authority to execute this Franchise Agreement. This Franchise Agreement shall inure to the benefit 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.

XXVI.
TERM OF FRANCHISE.

The term of this Franchise Agreement shall be for a period of five (5) years beginning on the 26th day of November 2007.

XXVII.
ACCEPTANCE OF FRANCHISE

This grant of franchise and its terms shall be accepted by BRAZOS VALLEY RECYCLING by a written instrument, executed and acknowledged, filed with the City Secretary within thirty (30) days after the date of its passage. The written instrument shall state the acceptance of this franchise and its terms. BRAZOS VALLEY RECYCLING shall agree in the instrument to abide by the terms and declare that the statements and recitals in it are correct.

This franchise shall take effect sixty (60) days after the date of its passage by the City Council provided formal acceptance of the terms by BRAZOS VALLEY RECYCLING is filed with the City Secretary within the time provided herein.

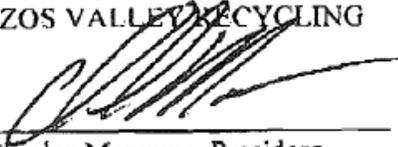
XXVIII.
PUBLIC MEETING

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by TEXAS GOVERNMENT CODE § 551, as amended, and that advance public notice of time, place, and purpose of said meetings was given.

Ordinance No. _____

PASSED, ADOPTED and APPROVED by a majority vote of the City Council of the City of College Station on this the _____ day of _____, 2005.

CCAA, LLC, d/b/a
BRAZOS VALLEY RECYCLING

BY: 
Charles Mancuso, President

Date: 8/8/07

CITY OF COLLEGE STATION

BY: _____
Ben White, Mayor

Date: _____

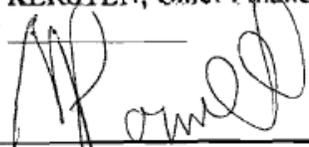
ATTEST:

CONNIE HOOKS, City Secretary
Date: _____

APPROVAL:

GLENN BROWN, City Manager
Date: _____

JEFF KERSTEN, Chief Financial Officer
Date: _____



City Attorney
Date: 8-8-07

Contract No. _____

Ordinance No. _____

First Consideration and Approval: _____

Second Consideration and Approval: _____

Third Consideration and Approval: _____

Contract No. _____

Exhibit "A"

SCHEDULE OF RATES

Rental Fees

14 cubic yard	\$2.75 / day
20 cubic yard	\$3.00 / day
30 cubic yard	\$3.00 / day

Dump Fees

14 cubic yard	\$ 80.00
20 cubic yard	\$132.00
30 cubic yard	\$154.00

Tipping Fees

14 cubic yard	\$25.30 / ton
20 cubic yard	\$25.30 / ton
30 cubic yard	\$25.30 / ton

Delivery & Set-up Fees (pick-up fees included)

14 cubic yard	\$35.00
20 cubic yard	\$35.00
30 cubic yard	\$35.00

Ordinance No. _____

Exhibit "B"

CERTIFICATES OF INSURANCE

Contract No. _____

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/07/2007

PRODUCER

Wm. Blanchard & Assoc.
P. O. Box 308
Granbury, Texas 76048
800-456-7306

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	St. Paul Fire & Marine Ins. Co.
COMPANY B	
COMPANY C	
COMPANY D	

INSURED

Chas. Mancuso, dba We Rent It,
Inc. & BCS StopNGoPotties, LLC, etal
3030 S. Texas Ave.
Bryan, TX 77802

COVERAGES
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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM PREMISES/OPERATIONS UNDERGROUND TAPILIATION & COLLAPSE HAZARD PRODUCTS/COMPLETED OPER CONTRACTUAL INDEPENDENT CONTRACTORS ROAD FORM PROPERTY DAMAGE PERSONAL INJURY	CK00219264	5/8/07	5/8/08	BODILY INJURY OCC \$
	BODILY INJURY AGG \$				
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS (Private Pass) ALL OWNED AUTOS (Other than Private Passenger) <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input checked="" type="checkbox"/> UM	CK00219264	5/8/07	5/8/08	PROPERTY DAMAGE OCC \$
					PROPERTY DAMAGE AGG \$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM OTHER THAN UMBRELLA FORM	502XA9897	5/8/07	5/8/08	BI & PD COMBINED OCC \$1,000,000
					BI & PD COMBINED AGG \$2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				PERSONAL INJURY AGG \$1,000,000
					Med Pay 5,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	Fire Legal 100,000
					Each Occurrence \$2,000,000
A	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM OTHER THAN UMBRELLA FORM	502XA9897	5/8/07	5/8/08	Aggregate \$2,000,000
					Ret. 10,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	PROPERTY DAMAGE \$
					BODILY INJURY & PROPERTY DAMAGE COMBINED \$1,000,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	EACH OCCURRENCE \$2,000,000
					AGGREGATE \$2,000,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	Ret. 10,000
					Ret. 10,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	WORKERS COMPENSATION AND EMPLOYERS LIABILITY
					EL EACH ACCIDENT \$
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	EL DISEASE - POLICY LIMIT \$
					EL DISEASE - CA EMPLOYEE \$
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	OTHER \$495,000
					VALUES-\$2,000,000
A	OTHER BLDGS & CONTENTS All Risk Blanket Equipment Floater	CK00219264	5/8/07	5/8/08	\$175,000 any one item with \$2,500 ded./Ocour
					\$175,000 any one item with \$2,500 ded./Ocour

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
CERTIFICATE HOLDER IS NAMED ADDITIONAL INSURED WITH WAIVER OF SUBROGATION. ALL PERSONS AND ORGANIZATIONS ARE PROTECTED AS PROVIDED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

CITY OF COLLEGE STATION, ITS OFFICIALS, EMPLOYEES & VOLUNTEERS
P.O. BOX 9960
COLLEGE STATION, TX 77842

FAX :
ACORD 26-N (1/95)

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILING TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

© ACORD CORPORATION 1988

ACORD CERTIFICATE OF LIABILITY INSURANCE		OP ID 82 6EAST-1	DATE (MM/DD/YYYY): 08/06/07
PRODUCER Cravens/Warren & Company P. O. Box 41328 Houston TX 77241-1328 Phono: 713-690-6000 Fax: 713-690-6020		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 G&A Partners 4801 Woodway #210 Houston TX 77056		INSURER B AFFORDING COVERAGE	NAIC #
		INSURER A Texas Mutual Insurance Company	
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

THE POLICIES OF THIS POLICY 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 BE 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 OTHER CLAIMS.						
INSR ADD'L LTR (NDR)	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PER OCCUR <input type="checkbox"/> YEAR				EACH OCCURRENCE	\$
					TOWNSHIP TO TOWNSHIP PREMIUMS (FA AND MARY)	\$
					MED INF (ANY AND OCCUR)	\$
					REFRIGERATOR & AIR CONDITIONING	\$
					GENERAL AGGREGATE	\$
					PRODUCTS COMBINATION	\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ALL OWNED <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SOLE DRIVERS AUTOS <input type="checkbox"/> HIRING AUTOS <input type="checkbox"/> NON-OWNED/OPERATED				COVERED SINGLE LIMIT (Per accident)	\$
					DOCKILE INLAND (Per person)	\$
					BOATILE INLAND (Per accident)	\$
					TRUCK TRAILER DAMAGE (Per accident)	\$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - PER ACCIDENT	\$
					OTHER THAN AUTO ONLY	\$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
					AGGREGATE	\$
						\$
						\$
A	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY EMPLOYER PROVIDED BY CONTRACTOR OR MEMBER IS EXCLUDED. If yes, describe under SPECIAL PROVISIONS below. OTHER	TSP0001076234	02/23/07	02/23/08	<input checked="" type="checkbox"/> WORKERS COMPENSATION <input type="checkbox"/> DISABILITY BENEFIT <input type="checkbox"/> DISABILITY BENEFIT	\$1000000 \$1000000 \$1000000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Co Employees of G&A Partners and CCAA, LLC are insured under the referenced policy. Alternate Employer Ends. Applies. Waiver of Subrogation in favor of the Certificate Holder with respects to Worker s Compensation as required by written contract. Alternate Employer: City of College Station.

CERTIFICATE HOLDER CITCOL1 City of College Station Attn: Susan P. O. Box 9960 Collogo 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 30 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 <i>C. Michael Schmidt</i>
--	--

September 27, 2007

Consent Agenda Item 2j

Claims Administration Services

To: Glenn Brown, City Manager

From: Julie O'Connell, Director of Human Resources

Agenda Caption: Presentation, possible action, and discussion on renewal agreement of Third Party Claims Administration with A S & G Claims Administration, Inc. for an annual expenditure of \$50,000. Anticipated workers compensation claims for FY 08 are \$328,000 and anticipated liability claims for FY 08 are \$300,000.

Recommendation(s): Staff recommends the renewal of the fifth (and final) year option with A S & G Claims Administration, Inc. for the City's third party claims administration and authorization to pay up to \$628,000 for anticipated workers compensation and liability claims.

Summary: The City of College Station is Self- Insured which requires the service of claims adjustment on all workers compensation claims and significant liability claims. A S & G Claims Administration, Inc. has provided excellent customer service while continuing to assist the City in reducing the costs of the claims administration. Renewal is effective October 1, 2007.

Budget & Financial Summary: Funds are available in the FY 08 budget in the Property Casualty Fund and the Workers Compensation Fund. Expenditures for the claims administration are the same as last year.

Attachments: Renewal Agreement Letter



August 20, 2007

Abercrombie, Simmons & Gillette, Inc.
ATTN: Wanda Browning
10050 Northwest Freeway, Suite 245
Houston, TX 77092

**RE: Renewal--RFP #03-94; Contract #03-205
Third Party Administrator Services**

Dear Ms. Browning:

The City of College Station appreciates the services provided by Abercrombie, Simmons & Gillette, Inc. this past year. We would like to exercise our option to renew the above referenced agreement for Fifty Thousand dollars and no/100 (\$50,000.00) for the term of October 1, 2007 through September 30, 2008 under the same terms and conditions. This is the fourth and final renewal term.

If this meets with your company's approval, please complete this renewal agreement (including notarization), and return it as soon as possible. We will then issue your company a new purchase order effective October 1, 2007 through September 30, 2008.

Should you have any questions, please call me at (979) 764-3557.

Sincerely,

Cheryl K. Turney, C.P.M.
Purchasing Manager

Attachment

PO Box 9960
1101 Texas Avenue
College Station, TX 77842

www.cstx.gov

.....
RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew RFP No. 03-94; Contract No. 03-205, for Third Party Claims Administration for Fifty Thousand dollars and no/100 (\$50,000.00) in accordance with all terms and conditions previously agreed to and accepted.

I understand this renewal term will be for the period beginning October 1, 2007 through September 30, 2008. This is the fourth and final renewal term.

ABERCROMBIE, SIMMONS & GILLETTE, INC.

Wanda Browning
Wanda Browning

8/21/07
DATE

CITY OF COLLEGE STATION

Ben White, 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

September 27, 2007

Consent Agenda 2k

Excess Liability/Workers Compensation Coverage and Property, Boiler & Machinery, Mobile Equipment, Crime and EMT.

To: Glenn Brown, City Manager

From: Julie O'Connell, Director of Human Resources

Agenda Caption: Presentation, possible action, and discussion on approval of policy renewal for Excess Liability and Workers Compensation to Star National Insurance Company for \$261,243; policy renewal for Property/Boiler & Machinery to Affiliated FM for \$95,600; policy renewal for Crime coverage to Federal Insurance Company for \$4,522; and policy renewal for EMT Liability to Western World Insurance Company for \$5,077.

Recommendation(s): Staff recommends approval of each of these policy renewals.

Summary: The City of College Station requested our Broker, McGriff Seibels & Williams of Texas, Inc. to obtain renewal quotes from our present insurance carriers. The renewal quotes obtained are for the same coverage as in the prior fiscal year. Our Excess Liability and Workers Compensation coverage is in the third year of a three year rate guarantee. The City's Property, Boiler & Machinery coverage, Crime coverage and Emergency Medical Technician Liability coverage are straight renewals without any rate guarantees. This renewal is effective October 1, 2007.

Excess Liability & Workers Compensation insurance covers Auto liability, General liability, Directors and Officials, Law Enforcement liability, Employment Practices liability and Workers' Compensation claims. Property, Boiler & Machinery insurance covers Buildings, Contents, Fine Arts, Valuable Papers & Records, Extra Expense and Motor Vehicle Coverage including Mobile Equipment. Crime insurance covers Employee Theft coverage, Premises Coverage, Transit coverage, Depositors Forgery coverage and Computer Theft & Fund Transfer Fraud.

EMT Liability covers bodily injury, property damage, or personal injury arising out of a "Professional Incident".

Budget & Financial Summary: Funds are available in the proposed FY08 budget in the Property Casualty Fund and Workers Compensation Fund for these expenditures. The Excess Liability and Worker's Compensation policy renewal represents an increase of 6% over last year's premium; however the City's payroll increased 6%. The Property, Boiler & Machinery policy renewal represents a slight increase of 1.6% over last year's premium; while our values increased by \$4,271,247. There are no changes on the Crime or EMT Liability policy renewals except for a slight reduction due to a change in the State Tax Stamping Office.

Attachments: Letter from Broker with recommendations dated September 20, 2007.



MCGRIFF. SEIBELS & WILLIAMS OF TEXAS. INC.

5949 Sherry Lane, Suite 1300 • Dallas, TX 75225 • TEL – (469) 232-2100 • FAX – (469) 232-2101

September 20, 2007

Ms. Julie O'Connell
Director of Human Resources
City of College Station
1101 Texas Ave.
College Station, TX 77840

Re: Renewal Recommendation
October 1, 2007

Dear Julie:

In previous correspondence, we have sent you the City's renewal quotes for the Property/Boiler & Machinery, Crime Coverage, Excess Liability and Workers' Compensation and EMT Liability Insurance. Our recommendation for your renewal is as follows:

- Property/Boiler & Machinery Insurance - \$95,600 Premium with Affiliated FM
- Crime Coverage - \$4,522 Premium with Federal Insurance Company
- Excess Liability and Workers' Compensation Coverage - \$261,243 Premium with Star National Insurance Company
- EMT Liability - \$5,077.64 with Western World Insurance Company

These premiums are an increase of 4.6% over the expiring insurance costs. This increase in premium is not due to rate increases, rather, it is because the City has added additional properties to their schedule over the last 12 months and a 6% increase in payroll.

Please review this information and let us know if you have any questions. We look forward to continuing our relationship with the City of College Station. Thank you.

Sincerely,

Johnny Fontenot, CPCU, ARM, AIC
Senior Vice President

Tk/JF

September 27, 2007
Consent Agenda Item 2L
Annual Exemptions

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Discussion and possible action to approve purchase requests for FY'08, items exempt from competitive bidding as described more fully in Texas Local Government Code, Chapter 252.022; and other expenditures for interlocal contracts or fees mandated by state law that are greater than \$50,000.

Recommendation(s): Staff recommends approval of the purchase requests as listed.

Summary: The following are purchases that are exempt from competitive bidding in accordance with Local Government Code 252.022 (a) (7) (A); and other purchases greater than \$50,000 available from one source.

The following purchase requests are available from only one source and thereby exempt from competitive bidding in accordance with LGC 252.022 (a)(7) (A) Items that are available from only one source because of patents, copyrights, secret processes, or other natural monopolies:

U.S. Postmaster (postage - IT/Mail) FY08-\$110,000; FY07-\$110,000

The following purchase requests are available from one source and thereby exempt from competitive bidding in accordance with LGC 252.022 (a)(7) (D) captive replacement parts or components for equipment, computer software and hardware maintenance and equipment lease and maintenance:

EnRoute Emergency System LLC (formerly GEAC) (application software upgrade/maintenance - Public Safety System) FY08-\$130,000; FY07-\$126,500

Ikon Office Solutions (copier maintenance/lease) FY08-\$80,000; FY07-\$50,000

The following purchase requests are considered professional services and thereby exempt from competitive bidding in accordance with LGC 252.022 (a)(4) procurement for personal, professional, or planning services:

Bickerstaff, Heath Attorneys (electric issues including condemnation) FY08-\$50,000; FY07-\$70,000

Bickerstaff, Heath Attorneys (water issues including land purchase & condemnation) FY08-\$500,000; FY07-\$150,000

Bickerstaff, Heath Attorney (Risk/General Liability) FY08-\$25,000; FY07-\$25,000

Mathews & Freeland (CCN/groundwater issues) FY08-\$150,000; FY07-\$150,000

Coats, Rose Ryman and Lee Attorneys (land acquisition lawsuit) FY08-\$15,000; FY07-\$50,000

Bickerstaff, Heath Attorneys (BVSWMA condemnations) FY08-\$75,000; FY07-\$75,000

Bruchez, Goss Attorneys (BVSWMA condemnations) FY08-\$50,000; FY07-\$50,000

CME Testing (geotechnical testing services) FY08-\$50,000; FY07-\$70,000

Buchanan Soil Mechanics (geotechnical testing services) FY08-\$50,000; FY07-\$60,000

Joe Orr Surveying (land surveying) FY08-\$100,000 FY07-\$65,000

JMP (land agent/acquisition) FY08-\$50,000; FY07-\$65,000

Jo Ann Mikeska Sette dba J. Mikeska & Co. (real estate appraisal services) FY08-\$100,000; FY07-\$100,000

The following purchases are available from one source and thereby exempt from competitive bidding in accordance with LGC 252.022 (a) (7) (c) gas, water, and other utility service.

City of Bryan (utilities for Wells 1-7, two shallow wells & Sandy Point Pump Station) FY08-\$1,050,000; FY07-\$950,000

City of Bryan (purchase of water for well #4) FY08-\$120,000; FY07-\$90,000

Verizon (local phone services) FY08-\$150,000; FY07-\$150,000

The following purchases are made pursuant to interlocal agreements with various agencies:

ILA with City of Bryan for Library services:

Bryan Public Library (operational expenses for CS Public Library) FY08-\$840,301; FY07-\$817,811

Bryan Public Library (Bryan and College Station book money) FY08-\$80,000; FY07-\$80,000

ILA with the Texas Building and Procurement Commission (State Contract):

AT&T Wireless (formerly Cingular) (DIR)(wireless phone/data) FY08-\$100,000; FY07-\$100,000

Office Max (TxMAS)(office supplies) FY08-\$150,000; FY07-\$100,000

The following purchase requests are for mandated state fees to the Texas Commission on Environmental Quality (TCEQ), and the Brazos Valley Groundwater Conservation District.

TCEQ (quarterly disposal and permitting fees - BVSWMA) FY08-\$400,000; FY07-\$350,000

TCEQ (inspections/assessments, permitting fees - W/WW) FY08-\$67,500; FY07-\$50,000

BV Groundwater Conservation District FY08-\$175,000; FY07-\$150,000

Budget & Financial Summary: Funds are either available and budgeted for each of the listed purchase requests in the fiscal year 2007-2008 budget in various funds of the City or if necessary will be made available by proposing an appropriate budget amendment or contingency transfer.

Attachments: None

September 27, 2007
Consent Agenda Item 2m
Copying and Printing Services

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action, and discussion regarding approval of expenditures related to copying and printing services to Copy Max (\$50,000) and Tops Printing (\$25,000) through our Interlocal Agreement with CSISD and Copy Corner (\$50,000) and Newman's Printing (\$25,000) through our Interlocal Agreement with TAMU.

Recommendation(s): Staff recommends approval of expenditures to Copy Max (\$50,000) and Tops Printing (\$25,000) through our Interlocal Agreement with CSISD and Copy Corner (\$50,000) and Newman's Printing (\$25,000) through our Interlocal Agreement with TAMU.

Summary: The College Station Print Shop will close effective October 1, 2007. Staff is developing a request for proposal(s) for copying and printing services. Between October 1, 2007 and before a contract can be awarded by Council, staff recommends we utilize existing contracts approved by CSISD and TAMU through established interlocal agreements. CSISD has awarded printing services contracts to Copy Max and Tops Printing; TAMU has awarded contracts to Copy Corner and Newman's Printing. Staff anticipates that it could take 3-4 months to establish specifications, solicit proposals, evaluate proposals received and make recommendations to Council. The proposed expenses are estimates only and are for this interim period.

Budget & Financial Summary: Funds are available and budgeted in each Department for copying and printing services.

Attachments:

1. CSISD award letter to Copy Max and pricing summary
2. CSISD award letter to Tops Printing and pricing summary
3. TAMU purchase order to Copy Corner
4. TAMU purchase order to Newman's Printing



College Station Independent School District

Success....each life....each day....each hour

June 27, 2007

Mr. Ben Winkle
Corporate Account Manager
Office Max
41 Harvey Road
College Station, TX 77840

Dear Mr. Winkle,

This is to congratulate and inform you that the RFB #7-026 Printing Services has been awarded to Tops Printing inc. and Office Max. The bid is to supply printing and copying services to the district beginning July 1, 2007 through June 30, 2008 with an option to renew for two additional years if agreed to by both parties.

Prices charged should be in accordance with the prices quoted. Additional items not specifically listed shall be quoted upon request. College Station I.S.D. reserves the right to terminate this bid at any point of its duration should non-compliance with the terms and conditions of the bid become a factor.

I will contact you in the near future to discuss the order and billing process, contacts, common forms and documents, training and other issues related to our transition to out sourced printing.

Sincerely,

A handwritten signature in black ink that reads "Mark Pantel".

Mark Pantel, C.P.M.
Director of Purchasing

MARK PANTEL, C.P.M.
Director of Purchasing

1812 Welsh Street
College Station, TX 77840
979-764-5408 FAX 979-694-5636

EDDIE COULSON, Ed.D.
Superintendent of Schools



Sample Inventory - Specifications identified are not necessarily identical to the samples provided. This also does not include some items that were not specified as to quantity, size, paper type.

Estimated Total Spend \$ 82,981.50

Does not include offset printed items ie business cards/Letterhead/Envelopes

Does not include vendored bindery ie die cutting and perforating

Estimated Total Spend + 25% \$ 103,726.88

25% adjustment is due to various estimates in auxillary costs ie thermal spine imprint

	A Cost per impression	B number of Impressions	Total Multiply A x B
All print items will be paid for at time of delivery.			
example 8.5x11 20# white SS	0.025	100	2.5
11x17 20# white DS	0.12	100	12
BW			
BW 8.5x11 20# white SS	0.025		
BW 8.5x11 20# white DS	0.05		
BW 8.5x14 20# white SS	0.035		
BW 8.5x14 20# white DS	0.07		
BW 11x17 20# white SS	0.06		
BW 11x17 20# white DS	0.12		
8.5 11 AstroBright 24#	0.04		
8.5 x 11 Card Cover 80# SS	0.09		
Color			
8.5x11 24# white SS	0.34		
8.5x11 24# white DS	0.68		
8.5x14 24# white SS	0.49		
8.5x14 24# white DS	0.98		
11x17 24# white SS	0.79		
11x17 24# white DS	1.58		
8.5x11 Card Cover 80# SS	0.44		
8.5x11 Card Cover 80# SS Gld	0.83		
11x17 Card Cover 80# SS Glos	1.6		
Saddle Stitch Booklet made	0.2		
Machine Fold	0.02		
Folding by hand	0.05		
8.5 x 11 pastel	0.03		
8.5 x 11 Astrobrite	0.04		
8.5 x 14 Pastel	0.08		
8.5 x 14 Astro	0.085		
11 x 17 24# white	0.14		
8.5 x 11 12 pt	0.49		
12 x 18 32 # white	1.75		

This offer is being made in the interest of providing City College Station opportunity for outsourced printing and copy work at discount available to CSISD. Pricing is good for 90 Days. Business review to discuss next step for City College Station October 2007. Price may continue after that time for a period to be determined.



College Station Independent School District

Success...each life...each day...each hour

June 27, 2007

Mr. Steven Britton,
President
Tops Printing, Inc.
2023 S. Texas Ave.
Bryan, TX 77802

Dear Mr. Britton,

This is to congratulate and inform you that the RFB #7-026 Printing Services has been awarded to Tops Printing inc. and Office Max. The bid is to supply printing and copying services to the district beginning July 1, 2007 through June 30, 2008 with an option to renew for two additional years if agreed to by both parties.

Prices charged should be in accordance with the prices quoted. Additional items not specifically listed shall be quoted upon request. College Station I.S.D. reserves the right to terminate this bid at any point of its duration should non-compliance with the terms and conditions of the bid become a factor.

I will contact you in the near future to discuss the order and billing process, contacts, common forms and documents and other issues related to our transition to out sourced printing.

Sincerely,

A handwritten signature in black ink that reads "Mark Pantel".

Mark Pantel, C.P.M.
Director of Purchasing

MARK PANTEL, C.P.M.
Director of Purchasing

1812 Welsh Street
College Station, TX 77840
979-764-5408 FAX 979-694-5636

EDDIE COULSON, Ed.D.
Superintendent of Schools

Awarded Vendors RFB # 7-026		Tops Printing	
DESCRIPTION		UNIT	UNIT PRICE
Section I: General Items			
1	Letterhead Envelope, Color #10, 24 lb.wht. wove, maroon ink, 500 per order	Each	\$0.090
2	1000 per order	Each	\$0.064
3	1500 per order	Each	\$0.053
4	Letterhead Envelope, Maroon #10 with Window, 24 lb. wht. wove window, 500 per order	Each	\$0.092
5	1000 per order	Each	\$0.066
6	1500 per order	Each	\$0.055
7	Letterhead Stationery, 25% cotton water mark, maroon ink , 500 per order	Each	\$0.098
8	1000 per order	Each	\$0.071
9	1500 per order	Each	\$0.061
10	Business Card with Logo, 1-Color, Matte Finish, flat ,500 per order	Each	\$0.058
11	1000 per order	Each	\$0.035
12	Business Card with Logo, 1-Color, Glossy Finish, flat , 500 per order	Each	\$0.058
13	1000 per order	Each	\$0.035
14	Business Card with Logo, Maroon brite wht. fiber White 80#, Matte, 500 per order	Each	\$0.050
15	1000 per order	Each	\$0.031
16	Student Code of Conduct, 48-50 pages, 11 x 17 page size folded 8 1/2 x 11 finish size, 60 lb. wht. with 65# covers, saddle stitch and trim	Each	\$0.712
17	Student Code of Conduct in Spanish, 48-50 pages, 11 x 17 page size folded, 8 1/2 11 finish, 60 lb. wht., with 65# covers	Each	\$1.650
18	School Menus 8 1/2 x 14 60# Astrobright front & back, 1600 per order, three times a year for intermediate schools	Each	\$0.061
19	School Menus 8 1/2 x 14 60# Astrobright front & back, 5000 per order three times a year for elementary schools	Each	\$0.052
20	Note Pads with letterhead, one color 4 1/4 x 5 1/2, 50 sheets per pad, maroon ink 20# white, 10 pads per order	Pad	\$2.100
21	Note Pads with letterhead, one color 8 1/2 x 5 1/2, 50 sheets per pad, maroon ink 20#, 10 pads per order	Pad	\$2.200
22	Headstart Journals, 8 1/2 x 11 blank. spiral 20# white w/65# cover, coil spirals, one time print	Each	\$1.450
23	High School Course Description Guide, 11 x 17 page size, white folded, 72 pages 65 # cover, saddle stitch and trim, one time print	Each	\$0.984
24	Student Hall Pass 3 1/4 x 5 1/4 20# green, cut and padded, 400 per order	Pad	\$0.810
25	800 per order	Pad	\$0.620
26	1200 per order	Pad	\$0.557
27	Student Handbook, 11 x 17 page size folded 56 pages, 24# paper white with cover 65# maroon ink , saddle stitch and trim, one time printing for High School	Each	\$0.662
28	Student Handbook, 11 x 17 page size folded, 60 # white inside, 65# cover front and backed/staple, 24 pages, two prints of 700 for the two middle schools	Each	\$0.637
29	Student Handbook - 11 x 17 page size 60# White, Cover 65#, 28 pgs, saddle stitch and trim, two prints of 700 for the two intermediate schools	Each	\$0.814
30	Student Handbook front & back fold/staple, 11 x17page size, 60# paper, 65# cover , 20 pages, one time printing of 700 for six elementary schools	Each	\$0.644
31	Task card 20# paper, 8 1/2 x 5 1/2, buff, front only, 5000 per order	Each	\$0.016
32	Counselors Student packet mail out, 8 1/2 x 11 page size, 20#, two sides, various colors, one time print of 2700 packets for High School	Pk	\$0.328
33	Counselor registration sheets 20#, 8 1/2 x 14 white, front and back, one time order for High School (9) individual sheets, no fold	Each	\$0.038
34	Guidance Request front only, 20# pink, cut and padded, 3 1/4 x 5, 50 sheets per pad, 30 pads per order	Pad	\$1.400
	150 pads per order	Pad	\$0.960
36	Post Cards with return address, 5 1/2 x 4 1/4, astrobright 65# (for report cards, open house, senior info, vehicle reg.), 100 per order	Each	\$0.165
37	500 per order	Each	\$0.048
38	1500 per order	Each	\$0.031
39	2500 per order	Each	\$0.028
40	Nurses daily log 8 1/2 x 11 front, white 20#, padded, 100 sheets per pad, 100 per order	Pad	\$2.100
41	School Nurse Letter 8 1/2 x 11 - 20# Orchid 2 sided, 100 per order	Each	\$2.360
42	Immunization Letter 8 1/2 x 11 front only, 20# white, 500 per order	Each	\$0.036
43	1000 per order	Each	\$0.028
44	Accident/Illness Card 8 1/2 x 5 1/2 front and back,blue,110 lb. card stock, 100 per order	Each	\$0.210
45	500 per order	Each	\$0.064
46	1500 per order	Each	\$0.037
47	Faculty Handbook, 110 pages, one sided 20# bond, 65 # cover,15 tabs for high school	Each	\$4.800
48	Teacher Handbooks 80 pgs 8 1/2 x 11, 20# 3 hole punch, front only, collated slip sheet, 6 separate orders of 60 for elementary	Each	\$2.400
49	100 per order	Each	\$2.400
50	HS Graduation Program, 11 x 17 page size 70# white royal linen, maroon ink, 16 pages, front and back	Each	\$0.432

Awarded Vendors RFB # 7-026			Tops Printing
51	Programs for Choir, Orchestra UIL, 8 1/2 x 11, 60# astrobright and astroparche, 6 pages, 250 per order, Folded in half, saddle stitch with (1) insert	Each	\$0.396
52	500 per order	Each	\$0.260
53	1500 per order	Each	\$0.160
54	Senior Newsletter, 11 x 17 page size folded, 60# ,black ink, 12 pages, saddle stitch and trim, 900 six times per year	Each	\$0.292
55	Tiger Tales 11 x 17 page size folded, 60# black ink, 12 pages, saddle stitch and trim, 2600 six times per year	Each	\$0.205
56	Flyers, 8 1/2 x 11 various color paper 20#, black ink, front only, 500 per order	Each	\$0.040
57	1000 per order	Each	\$0.030
58	1500 per order	Each	\$0.027
59	Tiger Awards, Maroon Ink 5 1/2 x 8 1/2 - 70# cover, staple and trim, 28 pages, brite white fiber, one time print	Each	\$0.659
60	Course Selection Book 68 pgs - 11 x 17 page size, 8 1/2 x 11 finish size - 60# white, 65# cover, two separate orders for two middle schools, 800 per campus, one time print	Each	\$1.554
61	Student I.D. Cards 2 1/4 x 3 1/4, cardstock 110# colored	Each	\$0.031
62	Textbook Condition Agreement 1/2 pg. 20# Blue, padded 100 sheet per pad for High School	Pads	\$1.650
63	Student Directory 11 x 17 page size - 60 # White, 65# Cover 20 pgs, folded, saddle stitch and trim, black ink, two separate prints of 650 for each intermediate schools	Each	\$0.665
64	Student Directory 11 x 17 page size - 60 # White, 65# Cover 36 pgs, folded saddle stitch and trim, black ink , six separate prints of 700 for the six elementary schools	Each	\$0.969
65	Report Cards Index front & back fold, 110 lb. manila 8 1/2 x 14 Kindergarten & 1st grade, tri-fold, six separate orders of 400 for each of the elementary schools	Plans	\$0.233
66	Report Cards Index front & back fold, 110 lb. manila 8 1/2 x 14 Kindergarten & 1st grade, tri-fold, six separate orders of 400 for each of the elementary schools, Spanish, 50 per order	Plans	\$0.640
67	Campus Improvement Plan 70 pgs 20# 8 1/2 x 11 - tan, loose one sided 3 hole punch, collated with 60# cover, plastic spiral binders 3 hole punch and collated or collated with 60# cover, plastic spiral binders	Each	\$3.450
68	Course Selection Book 14 pgs - 11 x 17 page size, 8 1/2 x 11 finished - 60# white, 65# cover	Each	\$0.405
69	Copies, Black and White, 1-Sided, 8 1/2 x 11 20#	Each	\$0.028
70	Copies, Black and White, 2-Sided, 8 1/2 x 11 20#	Each	\$0.050
71	Copies, Black and White, 1-Sided, 8 1/2 x 17 20#	Each	\$0.060
72	Copies, Black and White, 2-Sided, 8 1/2 x 17 20#	Each	\$0.100
73	Copies, Color, 1-Sided, 8 1/2" x 11"	Each	\$0.290
74	Copies, Color, 2-Sided, 8 1/2" x 11"	Each	\$0.490
75	Copies, Black and White, 1 sided 8 1/2 x 14, 20#	Each	\$0.028
76	Copies, Black and White, 2 sided 8 1/2 x 14 , 20#	Each	\$0.050
79	Copies, Black and White 1 sided 11 x 17, 20#	Each	\$0.600
80	Copies, Black and White, 1 sided 11 x 17, 20#	Each	\$0.100

Section IV NCR and Padded Forms					
		Tops Printing			
81	8 ½ x 11	2-Part NCR	3-Part NCR	4-Part NCR	5 Part-NCR
	Qty				
	100	\$21.00	\$25.00	\$31.00	\$37.00
	500	\$64.00	\$95.00	\$122.00	\$148.00
	1000	\$117.00	\$159.00	\$211.00	\$249.00
	5000	\$396.00	\$564.00	\$754.00	\$940.00
82	5 ½ x 8 ½	2-Part NCR	3-Part NCR	4-Part NCR	5 Part-NCR
	Qty				
	100	\$20.00	\$24.00	\$30.00	\$36.00
	500	\$46.00	\$60.00	\$73.00	\$87.00
	1000	\$70.00	\$98.00	\$125.00	\$151.00
	5000	\$314.00	\$421.00	\$547.00	\$673.00
83	4 ¼ x 5 1/2	2-Part NCR	3-Part NCR	4-Part NCR	5 Part-NCR
	Qty				
	100	\$20.00	\$24.00	\$30.00	\$36.00
	500	\$33.00	\$42.00	\$51.00	\$60.00
	1000	\$49.00	\$68.00	\$87.00	\$105.00
	5000	\$241.00	\$319.00	\$402.00	\$490.00
84	4 ½ x 3 1/2	2-Part NCR	3-Part NCR	4-Part NCR	5 Part-NCR
	Qty				
	100	\$20.00	\$24.00	\$30.00	\$36.00
	500	\$33.00	\$42.00	\$51.00	\$60.00
	1000	\$49.00	\$68.00	\$87.00	\$105.00
	5000	\$241.00	\$339.00	\$421.00	\$498.00
Finishing Products:		All, add'l services:see bid			
Document Solutions:		All available			
Special Materials:					
Design:		\$50.00 per hr			
Type of Inhouse Printing		Webb not available			
Catalog Discount for all					
Terms:		Net 30, 2% discount if paid within 10 days from invoice			
Years of Business:		22 yrs			
24 Hours Turnaround:		Yes			
Normal Turnaround time:		24 hrs - 7 working days			
Supported Platforms:		All			
Paper Capabilities:		See bid			
Catalog:		No			
Online ordering:		No			
Minimum ordering:		None			
Shipping Charges:		Freight on specialty items, cups, mugs, pencils			
Multiple Locations:		No			
All items be furnished as ordered without		Yes			
Business Days:		M-F 7:30 - 5:30, after hr drop offs by appt			



Texas A&M University
 Department of Strategic Sourcing & Purchasing Services
 Sourcing for Success!

May 29, 2007

H&B Copies Inc.
 Dba Copy Corner
 Attn: Lawrence B. Hodges
 2307 Texas Avenue S
 Suite B
 College Station, TX 77840-4654
 Fax# 979-694-1281

Dear Mr. Hodges:

Texas A&M University would like to exercise the renewal option for master order **M790017** for **copying services** for Texas Engineering Extension Service. All terms and conditions shall remain the same and a price escalation of no more than 4% may be allowed per the original proposal RFP TEEX 04-0018 and addenda 1, 2 & 3.

Renewal: 2 of 3

- Accept Renewal**
- Reject Renewal**

To accept the renewal option for offset printing services for Texas Engineering Extension Service for the 2007-2008 academic year please sign below and return by FAX to (979) 862-5108. Upon receipt of signed document, I will issue a master order per the original agreement for the period of date of award through August 31, 2007. Please return by June 11, 2007. If you have any questions, I may be reached at (979) 845-4505.

Sincerely,

Pam Pantel
 Buyer II

Please Check One of the Following:

- Yes, there will be a price increase – indicate percent _____ %.
- No, there will not be a price increase.

Renewal accepted by: Larry @ Copy-Corner.com

Lawrence B. Hodges Jr
 E-mail Address

979-693-0640
 Phone Number

Signature

5/30/07
 Date

PO Box 30013
 College Station, TX 77842-3013
 Phone 979-845-4570
 Fax 979-845-3800



Purchasing & Stores Building
 Agronomy Road
 1477 TAMU
 College Station, TX 77843-1477

TEXAS ENGINEERING EXTENSION SERVICE

VENDOR

COLLEGE STATION, TX 77843-1477

06/13/2007

PURCHASE ORDER

Page 01 of 5

Include PO Number on all correspondence and packages
M890005

VENDOR GUARANTEES MERCHANDISE DELIVERED ON THIS ORDER WILL MEET OR EXCEED SPECIFICATIONS IN THE BID INVITATION.

INVOICE (IN QUADRUPPLICATE) TO AGENCY BELOW

TEXAS ENG. EXTENSION SERVICE
TEEX-ADMINISTRATIVE OFFICE
MS 3000
ATTN: JASON COOK
COLLEGE STATION TX 77843

VENDOR
17425160935
COPY CORNER
2307 TEXAS AVE S
SUITE B
COLLEGE STATION, TX 77840-4654

ALL TERMS AND CONDITIONS SET FORTH IN OUR BID INVITATION BECOME A PART OF THIS ORDER.

Ship to:

TEXAS ENG. EXTENSION SERVICE
TEEX WAREHOUSE
TAMU RIVERSIDE CAMPUS
3100 HWY 47, BLDG #7240
BRYAN TX 77807

ANY EXCEPTIONS TO PRICING OR DESCRIPTION CONTAINED HEREIN MUST BE APPROVED BY THE TAMU PURCHASING SERVICES DEPARTMENT PRIOR TO SHIPPING.

PLEASE NOTE: IF YOUR INVOICE IS NOT ADDRESSED AS INSTRUCTED PAYMENT WILL BE DELAYED.

Item	Description	Quantity	UOM	Unit Price	Ext Price
PKP	<p>USER REF: -</p> <p>THIS IS NOT AN ORDER. IT IS AN INFORMATIONAL COPY ONLY. ORDERS WILL BE PLACED INDIVIDUALLY ON AN AS NEEDED BASIS.</p> <p>VENDOR CONTACT: LARRY HODGES 979-693-0640</p> <p>RENEWAL 2 OF 3. REFER TO M790017 ORIGINAL M590023</p> <p>THIS MASTER ORDER IS BEING ESTABLISHED TO FACILITATE COPYING SERVICES FOR THE TEXAS ENGINEERING EXTENSION SERVICE. THE AGREEMENT FOR THE MASTER ORDER IS BASED ON THE REQUEST FOR PROPOSAL RFP TEEX 04-0018, ADDENDA 1, 2 & 3, LETTERS OF CLARIFICATION, AND THE RESPONSE FROM COPY CORNER TO THE REQUEST FOR BEST AND FINAL OFFER. COPIES OF THOSE DOCUMENTS ARE ATTACHED.</p> <p>COPY CORNER WAS SELECTED TO BE IN THE POOL FOR COPYING SERVICES AND WAS NOTIFIED MAY 26, 2005 OF THE AWARD. PRICING, TERMS, AND CONDITIONS ARE BASED ON THE PROPOSAL AND RESPONSES FROM COPY CORNER ON AS NEEDED BASIS. QUOTES MAY BE REQUESTED THAT WILL PROVIDE THE PRICING (AS PER RESPONSE-ATTACHMENT B) BASED ON THE SPECIFIC JOB REQUIREMENTS.</p> <p>THE DELIVERY, CHANGES IN WORK, AND PROOFS WILL BE AS PER SECTION 2.4 OF THE PORPOSAL.</p>				

FOB: DESTINATION FRT INCLUDED

Terms: N 30

Texas A&M University cannot accept collect freight shipments.

FAILURE TO DELIVER - If the vendor fails to deliver these supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications the State reserves the right to purchase specified supplies elsewhere, and charge the increase in price and cost of handling, if any, to the vendor. No substitutions nor cancellations permitted without prior approval of the Purchasing Services Dept. of Texas A&M.

IN ACCORDANCE WITH YOUR BID, SUPPLIES/EQUIPMENT MUST BE PLACED IN THE DEPARTMENT RECEIVING ROOM BY

The State of Texas is exempt from all Federal Excise Taxes.

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT.

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Chapter 20, Title 122A, Revised Civil Statutes of Texas, for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.



PURCHASING AGENT FOR

TEXAS ENGINEERING EXTENSION SERVICE

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

VENDOR

Page 02

ORDER DATE: 06/13/2007
 PO NUMBER: M890006
 VENDOR: 17425160936
 COPY CORNER

Item	Description	Quantity	UOM	Unit Price	Ext Price
	<p>THIS AGREEMENT IS IN EFFECT FROM SEPTEMBER 1, 2007 THROUGH AUGUST 31, 2008. ALL PRICES TO BE HELD FIRM THROUGH AUGUST 31, 2008.</p> <p>RENEWAL:</p> <p>THIS AGREEMENT HAS AN OPTION TO RENEW FOR UP TO ONE ADDITIONAL YEAR BY MUTUAL AGREEMENT PROVIDED ALL TERMS AND CONDITIONS REMAIN THE SAME. IT IS NOT EXPECTED THAT THERE WOULD BE PRICE ESCALATIONS FOR YEAR 5. COPY CORNER RESERVES THE RIGHT TO ESCALATE PRICING FOR YEAR 5 NOT TO EXCEED 4% AS PER THE BEST AND FINAL OFFER.</p> <p>DEFAULT:</p> <p>IN THE EVENT THAT THE SELLER FAILS TO CARRY OUT OR COMPLY WITH ANY OF THE TERMS AND CONDITIONS OF THE AGREEMENT WITH TEXAS A&M, TEXAS A&M MAY NOTIFY THE SELLER OF SUCH FAILURE OR DEFAULT IN WRITING AND DEMAND THAT THE FAILURE OR DEFAULT BE REMEDIED WITHIN TEN (10) DAYS; AND IN THE EVENT THAT THE SELLER FAILS TO REMEDY SUCH FAILURE OR DEFAULT WITHIN THE TEN (10) DAY PERIOD, TEXAS A&M SHALL HAVE THE RIGHT TO CANCEL THE AGREEMENT UPON THIRTY (30) DAYS WRITTEN NOTICE.</p> <p>THE CANCELLATION OF THE AGREEMENT, UNDER ANY CIRCUMSTANCES WHATSOEVER, SHALL NOT EFFECT OR RELIEVE SELLER FROM ANY OBLIGATION OR LIABILITY THAT MAY HAVE BEEN INCURRED OR WILL BE INCURRED PURSUANT TO THE AGREEMENT AND SUCH CANCELLATION BY TEXAS A&M SHALL NOT LIMIT ANY OTHER RIGHT OR REMEDY AVAILABLE TO TEXAS A&M AT LAW OR IN EQUITY.</p> <p>TERMINATION:</p> <ul style="list-style-type: none"> - FOR CONVENIENCE: THE AGREEMENT MAY BE TERMINATED, WITHOUT PENALTY, BY TEXAS A&M WITHOUT CAUSE BY GIVING SIXTY (60) DAYS WRITTEN NOTICE OF SUCH TERMINATION TO THE SELLER. - UPON AWARD, THE AGREEMENT IS SUBJECT TO TERMINATION, WITHOUT PENALTY, EITHER IN WHOLE OR IN PART, IF FUNDS ARE NOT APPROPRIATED. - UNACCEPTABLE PERFORMANCE BY THE VENDOR MAY BE CAUSE FOR CANCELLATION IF DEEMED NECESSARY BY THE PURCHASING SERVICES DEPARTMENT. - IN NO EVENT SHALL SUCH TERMINATION BY TEXAS A&M AS PROVIDED FOR UNDER THIS SECTION GIVE RISE TO ANY LIABILITY ON THE PART OF TEXAS A&M INCLUDING, BUT NOT LIMITED TO, 				

PKP

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

VENDOR

Page 03

ORDER DATE: 06/13/2007

FO NUMBER: M890006

VENDOR: 17425160936

COPY CORNER

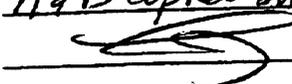
Item	Description	Quantity	LOM	Unit Price	Ext Price
1	<p>CLAIMS OF SELLER FOR COMPENSATION FOR ANTICIPATED PROFITS, UNABSORBED OVERHEAD, OR INTEREST ON BORROWING. TEXAS A&M'S SOLE OBLIGATION HEREUNDER IS TO PAY SELLER FOR POLICY OR SERVICES AND RECEIVED PRIOR TO THE DATE OF TERMINATION.</p> <p>INSURANCE:</p> <ul style="list-style-type: none"> - THE CONTRACTOR SHALL NOT COMMENCE WORK UNTIL ALL OF THE INSURANCE SPECIFIED ON ATTACHMENT A HAS BEEN OBTAINED AND CERTIFICATES OF SUCH INSURANCE IN FORCE HAVE BEEN FILED WITH AND ACCEPTED BY TEXAS A&M. INSURANCE COVERAGE SHALL PROVIDE FOR A THIRTY (30) DAY NOTICE OF CANCELLATION OR MATERIAL CHANGE TO THE POLICY COVERAGE AND/OR LIMITS AND THE CERTIFICATE OF INSURANCE IN FORCE MUST INCLUDE A NOTICE THAT THE POLICY OR POLICIES DO CONTAIN THESE PROVISIONS. ACCEPTANCE OF INSURANCE CERTIFICATES BY TEXAS A&M SHALL NOT RELIEVE OR DECREASE THE LIABILITY OF THE CONTRACTOR. - UNLESS OTHERWISE SPECIFIED, THE CONTRACTOR SHALL PROVIDE AND MAINTAIN, UNTIL THE WORK INCLUDED IN THIS PROPOSAL IS COMPLETED AND ACCEPTED BY TEXAS A&M, THE MINIMUM INSURANCE OUTLINE ON ATTACHMENT A. - CERTIFICATES OF INSURANCE MUST BE DELIVERED OR MAILED TO: PURCHASING SERVICES TEXAS A&M UNIVERSITY ATTN: PAM PANTEL P.O. BOX 3C013 COLLEGE STATION, TX 77842-3013 <p>COPYING SERVICES AS PER ATTACHMENT E, ITEMS 1 - 7</p> <p>OTHER SERVICES INCLUDED PER THE ATTACHMENT AND ORIGINAL RFP 04-0018.</p> <p>VENDOR REF: LARRY HODGES 979-693-6640 PHONE: 979-694-2679</p>				

PKP

Attachment E

Copying Services

Please quote jobs below according to requirements outlined in Section 2.4.

Company Name: H&B Copies Inc, dba Copy Corner
 Authorized Signature:  Date: 5/31/04

Description	Price	
	One Sided	Two Sided
1) Black-and-white copies on 8.5x11 sheet size:		
White 20# bond	\$.025	.05
White 70# offset	.03	.06
Color 20# bond	.035	.06
Color blank	.025	
65# cardstock	.025	.10
65# cardstock blank	.05	
110# cardstock	.075	.16
110# cardstock blank	.05	
NCR per sheet	.10	.125
2) Black-and-white copies on 11x17 sheet size:		
White 20# bond	\$.05	.10
White 70# offset	.06	.11
Color 20# bond	.07	.12
65# cardstock	.15	.20
65# cardstock blank	.16	
110# cardstock	.15	.20
110# cardstock blank	.10	
	.20	n/a
3) Black-and-white copies on 5th-cut, 90# tabs, 3-hole punched:		
4) Color copies on 8.5x11 sheet size:		
White 20# bond	\$.59	1.18
65# cardstock	.69	1.28
110# cardstock	.69	1.28
5) Color copies on 11x17 sheet size:		
White 20# bond	\$.90	1.80
65# cardstock	\$ 1.10	2.00
6) Color copies on 5th-cut, 90# tabs, 3-hole punched:		
	n/a	n/a
7) Finishing:		
Coil Binding (per finished piece)	\$ 1.25	
Less than 60 Sheets	1.75	
More than 60 Sheets	.01	
Drilling (per sheet)	.015	
Folding (machine per fold)	.05	
Inserting	.25	
Insert (binders)	.50	
Shrink Wrapping (per finished piece)	.03	
Stapling	.10	
Trim Booklets	\$18 per 1000	
Perforate	\$18 per 1000	
Score		

TEXAS ENGINEERING EXTENSION SERVICE

FILE COPY

COLLEGE STATION, TX 77843-1477

06/21/2007

PURCHASE ORDER

Page 01

Include PO Number on all correspondence and packages
M890005

VENDOR GUARANTEES MERCHANDISE DELIVERED ON THIS ORDER WILL MEET OR EXCEED SPECIFICATIONS IN THE BID INVITATION.

INVOICE (IN QUADRUPPLICATE) TO AGENCY BELOW

TEXAS ENG. EXTENSION SERVICE
TEEX-ADMINISTRATIVE OFFICE
MS 8000
ATTN: JASON COOK
COLLEGE STATION TX 77843

VENDOR
17416093062 NEWMAN PRINTING COMPANY INC 1300 E 29TH ST BRYAN, TX 77802
- - S

ALL TERMS AND CONDITIONS SET FORTH IN OUR BID INVITATION BECOME A PART OF THIS ORDER.

Ship to:

TEXAS ENG. EXTENSION SERVICE
TEEX WAREHOUSE
TAMU RIVERSIDE CAMPUS
3100 HWY 47, BLDG #7240
BRYAN TX 77807

ANY EXCEPTIONS TO PRICING OR DESCRIPTION CONTAINED HEREIN MUST BE APPROVED BY THE TAMU PURCHASING SERVICES DEPARTMENT PRIOR TO SHIPPING.

PLEASE NOTE: IF YOUR INVOICE IS NOT ADDRESSED AS INSTRUCTED PAYMENT WILL BE DELAYED.

Item	Description	Quantity	LCM	Unit Price	Ext Price
PKP	<p>USER REF: -</p> <p>***** THIS IS NOT AN ORDER. IT IS AN INFORMATIONAL COPY ONLY. ORDERS WILL BE PLACED INDIVIDUALLY ON AN AS NEEDED BASIS. *****</p> <p>VENDOR CONTACT: LOUIS NEWMAN 579-779-7700</p> <p>RENEWAL 2 OF 3. REFER TO M790033 ORIGINAL M590022</p> <p>THIS MASTER ORDER IS BEING ESTABLISHED TO FACILITATE COPYING SERVICES FOR THE TEXAS ENGINEERING EXTENSION SERVICE. THE AGREEMENT FOR THE MASTER ORDER IS BASED ON THE REQUEST FOR PROPOSAL RFP TEEX 04-0018, ADDENDA 1, 2 & 3, LETTERS OF CLARIFICATION, AND THE RESPONSE FROM NEWMAN PRINTING TO THE REQUEST FOR BEST AND FINAL OFFER. COPIES OF THOSE DOCUMENTS ARE ATTACHED.</p> <p>NEWMAN WAS SELECTED TO BE IN THE POOL FOR COPYING SERVICES AND WAS NOTIFIED ON 12/13/2004. PRICING, TERMS, AND CONDITIONS ARE BASED ON THE PROPOSAL AND RESPONSES FROM NEWMAN. ON AN AS NEEDED BASES, QUOTES MAY BE REQUESTED THAT WILL PROVIDE THE PRICING (AS PER RESPONSE- ATTACHMENT E) BASED ON THE SPECIFIC JOB REQUIREMENTS.</p>				

FOB: DESTINATION FRT INCLUDED

Texas A&M University cannot accept collect freight shipments.

Terms:

N 30

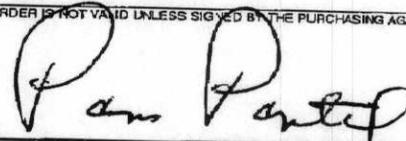
FAILURE TO DELIVER - If the vendor fails to deliver these supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications, the State reserves the right to purchase specified supplies elsewhere, and charge the increase in price and cost of handling, if any, to the vendor. No substitutions nor cancellations permitted without prior approval of the Purchasing Services Dept. of Texas A&M.

IN ACCORDANCE WITH YOUR BID, SUPPLIES/EQUIPMENT MUST BE PLACED IN THE DEPARTMENT RECEIVING ROOM BY

The State of Texas is exempt from all Federal Excise Taxes.

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Chapter 20, Title 122A, Revised Civil Statutes of Texas, for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT



PURCHASING AGENT FOR

TEXAS ENGINEERING EXTENSION SERVICE

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 02

ORDER DATE: 06/21/2007

PO NUMBER: M890005

VENDOR: 17416093062

NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
PKP	<p>THE DELIVERY, CHANGES IN WRK, AND PROOFS WILL BE AS PER SECTION 2 OF THE PROPOSAL.</p> <p>THIS AGREEMENT IS IN EFFECT FROM SEPTEMBER 1, 2007 THROUGH AUGUST 31, 2008. ALL PRICES TO BE HELD FIRM THROUGH AUGUST 31, 2008</p> <p>RENEWAL:</p> <p>THIS AGREEMENT HAS AN OPTION TO RENEW FOR UP TO ONE ADDITIONAL YEAR BY MUTUAL AGREEMENT PROVIDED ALL TERMS AND CONDITIONS REMAIN THE SAME. ESCALATION OF PRICING FOR YEAR 5 IS NOT TO EXCEED 4% PER YEAR AS PER THE BEST AND FINAL OFFER FROM NEWMAN DATED 11/12/2004.</p> <p>DEFAULT:</p> <p>IN THE EVENT THAT THE SELLER FAILS TO CARRY OUT OR COMPLY WITH ANY OF THE TERMS AND CONDITIONS OF THE AGREEMENT WITH TEXAS A&M, TEXAS A&M MAY NOTIFY THE SELLER OF SUCH FAILURE OR DEFAULT IN WRITING AND DEMAND THAT THE FAILURE OR DEFAULT BE REMEDIED WITHIN TEN (10) DAYS; AND IN THE EVENT THAT THE SELLER FAILS TO REMEDY SUCH FAILURE OR DEFAULT WITHIN THE TEN (10) DAY PERIOD, TEXAS A&M SHALL HAVE THE RIGHT TO CANCEL THE AGREEMENT UPON THIRTY (30) DAYS WRITTEN NOTICE.</p> <p>THE CANCELLATION OF THE AGREEMENT, UNDER ANY CIRCUMSTANCES WHATSOEVER, SHALL NOT EFFECT OR RELIEVE SELLER FROM ANY OBLIGATION OR LIABILITY THAT MAY HAVE BEEN INCURRED OR WILL BE INCURRED PURSUANT TO THE AGREEMENT AND SUCH CANCELLATION BY TEXAS A&M SHALL NOT LIMIT ANY OTHER RIGHT OR REMEDY AVAILABLE TO TEXAS A&M AT LAW OR IN EQUITY.</p> <p>TERMINATION:</p> <ul style="list-style-type: none"> - FOR CONVENIENCE: THE AGREEMENT MAY BE TERMINATED, WITHOUT PENALTY, BY TEXAS A&M WITHOUT CAUSE BY GIVING SIXTY (60) DAYS WRITTEN NOTICE OF SUCH TERMINATION TO THE SELLER. - UPON AWARD, THE AGREEMENT IS SUBJECT TO TERMINATION, WITHOUT PENALTY, EITHER IN WHOLE OR IN PART, IF FUNDS ARE NOT APPROPRIATED. - UNACCEPTABLE PERFORMANCE BY THE VENDOR MAY BE CAUSE FOR CANCELLATION IF DEEMED NECESSARY BY THE PURCHASING SERVICES DEPARTMENT. - IN NO EVENT SHALL SUCH TERMINATION BY TEXAS A&M AS PROVIDED FOR UNDER 				

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 03

ORDER DATE: 06/21/2007
 M890005
 PO NUMBER:
 VENDOR: 17416093062
 NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
1	<p>THIS SECTION GIVE RISE TO ANY LIABILITY ON THE PART OF TEXAS A&M INCLUDING, BUT NOT LIMITED TO, CLAIMS OF SELLER FOR COMPENSATION FOR ANTICIPATED PROFITS, UNABSORBED OVERHEAD, OR INTEREST ON BORROWING. TEXAS A&M'S SOLE OBLIGATION HEREUNDER IS TO PAY SELLER FOR POLICY OR SERVICES AND RECEIVED PRIOR TO THE DATE OF TERMINATION.</p> <p>INSURANCE:</p> <ul style="list-style-type: none"> - THE CONTRACTOR SHALL NOT COMMENCE WORK UNTIL ALL OF THE INSURANCE SPECIFIED ON ATTACHMENT A HAS BEEN OBTAINED AND CERTIFICATES OF SUCH INSURANCE IN FORCE HAVE BEEN FILED WITH AND ACCEPTED BY TEXAS A&M. INSURANCE COVERAGE SHALL PROVIDE FOR A THIRTY (30) DAY NOTICE OF CANCELLATION OR MATERIAL CHANGE TO THE POLICY COVERAGE AND/OR LIMITS AND THE CERTIFICATE OF INSURANCE IN FORCE MUST INCLUDE A NOTICE THAT THE POLICY OR POLICIES DO CONTAIN THESE PROVISIONS. ACCEPTANCE OF INSURANCE CERTIFICATES BY TEXAS A&M SHALL NOT RELIEVE OR DECREASE THE LIABILITY OF THE CONTRACTOR. - UNLESS OTHER WISE SPECIFIED, THE CONTRACTOR SHALL PROVIDE AND MAINTAIN, UNTIL THE WORK INCLUDED IN THIS PROPOSAL IS COMPLETED AND ACCEPTED BY TEXAS A&M, THE MINIMUM INSURANCE OUTLINE ON ATTACHMENT A. - CERTIFICATES OF INSURANCE MUST BE DELIVERED OR MAILED TO: STRATEGIC SOURCING & PURCHASING SRVS TEXAS A&M UNIVERSITY ATTN: PAM PANTEL P.O. BOX 30013 COLLEGE STATION, TX 77842-0013 <p>Copying Services as per Attachment E, items 1 - 7</p> <p>PHONE: 979-779-7700</p> <p>CC FY ACCOUNT NO. DEPT. --- --- ----- ---</p> <p>DOCUMENT DATE: 05/31/2007</p>				

PKP

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 04

ORDER DATE: 06/21/2007

FO NUMBER: M890005

VENDOR: 17416093062

NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
PK?	DEPT. CONTACT: JASON COOK PHONE NO.: 979-458-6837 PCC CD: TYPE FUND: TYPE ORDER:				

Attachment E

Renewal 2 of 3 Pricing for Copying Services – M890005 (Newman Printing)

Description	Price	
	One Sided	Two Sided
1) Black-and-white copies on 8.5x11 sheet size:		
• White 20# bond.....	.0448	.0787
• White 70# offset.....	.0477	.0816
• Color 20# bond.....	.0466	.0805
• Color blank.....	.0068	
• 65# cardstock.....	.0522	.0861
• 65# cardstock blank.....	.0124	
• 110# cardstock.....	.0614	.0954
• 110# cardstock blank.....	.0215	
• NCR per sheet.....	.0605	.0944
2) Black-and-white copies on 11x17 sheet size:		
• White 20# bond.....	.0658	.1139
• White 70# offset.....	.0699	.1179
• Color 20# bond.....	.0696	.1176
• 65# cardstock.....	.0873	.1353
• 65# cardstock blank.....	.0329	
• 110# cardstock.....	.0976	.1456
• 110# cardstock blank.....	.0432	
3) Black-and-white copies on 5th-cut, 90# tabs, 3-hole punched:		
4) Color copies on 8.5x11 sheet size:		
• White 20# bond.....	.4633	.9133
• 65# cardstock.....	.4707	.9207
• 110# cardstock.....	.4801	.9301
5) Color copies on 11x17 sheet size:		
• White 20# bond.....	.5809	1.1419
• 65# cardstock.....	.6022	1.1631
6) Color copies on 5th-cut, 90# tabs, 3-hole punched:		
7) Finishing:		
• Coil Binding (per finished piece)		
• Less than 60 Sheets.....	.83	
• More than 60 Sheets.....	.99	
• Drilling (per sheet).....	.0044	
• Folding (machine per fold).....	.0354	
• Inserting.....	.04	
• Insert (binders).....	.52 per binder	
• Shrink Wrapping (per finished piece).....	.0021	
• Stapling.....	.02 per staple	
• Trim Booklets.....	No Charge	
• Perforate.....	.0780	
• Score.....	.0780	

TEXAS ENGINEERING EXTENSION SERVICE

FILE COPY

COLLEGE STATION, TX 77843-1477

08/16/2007

PURCHASE ORDER

Page 01

Include PO Number on all correspondence and packages
M890C18

VENDOR GUARANTEES MERCHANDISE DELIVERED ON THIS ORDER WILL MEET OR EXCEED SPECIFICATIONS IN THE BID INVITATION.

INVOICE (IN QUADRUPPLICATE) TO AGENCY BELOW

TEXAS ENG. EXTENSION SERVICE
TEEX-ADMINISTRATIVE OFFICE
MS 8000
ATTN: JASON COOK
COLLEGE STATION TX 77843

VENDOR
17416093062
NEWMAN PRINTING COMPANY INC
1300 E 29TH ST
BRYAN, TX 77802

ALL TERMS AND CONDITIONS SET FORTH IN OUR BID INVITATION BECOME A PART OF THIS ORDER.

Ship to:

TEXAS ENG. EXTENSION SERVICE
TEEX WAREHOUSE
TAMU RIVERSIDE CAMPUS
3100 HWY 47, BLDG #7240
BRYAN TX 77807

ANY EXCEPTIONS TO PRICING OR DESCRIPTION CONTAINED HEREIN MUST BE APPROVED BY THE TAMU PURCHASING SERVICES DEPARTMENT PRIOR TO SHIPPING.

PLEASE NOTE: IF YOUR INVOICE IS NOT ADDRESSED AS INSTRUCTED PAYMENT WILL BE DELAYED.

Item	Description	Quantity	UCM	Unit Price	Ext Price
PKP	<p>USER REF: -</p> <p>***** THIS IS NOT AN ORDER. IT IS AN INFORMATIONAL COPY ONLY. ORDERS WILL BE PLACED INDIVIDUALLY ON AN AS NEEDED BASIS. *****</p> <p>VENDOR CONTACT: LOUIS NEWMAN 979-779-7700 FAX: 979-779-1589</p> <p>RENEWAL 2 OF 3. REFER TO M790028. ORIGINAL M590015</p> <p>THIS MASTER ORDER IS BEING ESTABLISHED TO FACILITATE OFFSET PRINTING SERVICES FOR THE TEXAS ENGINEERING EXTENSION SERVICE. THE AGREEMENT FOR THE MASTER ORDER IS BASED ON THE REQUEST FOR PROPOSAL RFP TEEX 04-0018, ADDENDA 1, 2 & 3, LETTERS OF CLARIFICATION, AND THE RESPONSE FROM NEWMAN PRINTING TO THE REQUEST FOR BEST AND FINAL OFFER. COPIES OF THOSE DOCUMENTS ARE ATTACHED.</p> <p>NEWMAN WAS SELECTED TO BE IN THE POOL FOR OFFSET PRINTING SERVICES AND WAS NOTIFIED ON 12/13/2004. PRICING, TERMS, AND CONDITIONS ARE BASED ON THE PROPOSAL AND RESPONSES FROM NEWMAN. ON AN AS NEEDED BASES, QUOTES MAY BE REQUESTED THAT WILL PROVIDE THE PRICING (AS PER RESPONSE- ATTACHMENT C) BASED ON THE SPECIFIC JOB REQUIREMENTS.</p> <p>THE DELIVERY, CHANGES IN WORK, AND PROOFS</p>				

FOB: DESTINATION FRT INCLUDED

Texas A&M University cannot accept collect freight shipments.

Terms:

N 30

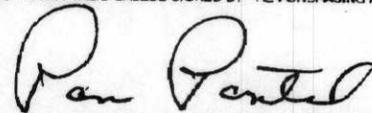
FAILURE TO DELIVER - If the vendor fails to deliver these supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications, the State reserves the right to purchase specified supplies elsewhere, and charge the increase in price and cost of handling, if any, to the vendor. No substitutions or cancellations permitted without prior approval of the Purchasing Services Dept. of Texas A&M.

IN ACCORDANCE WITH YOUR BID, SUPPLIES/EQUIPMENT MUST BE PLACED IN THE DEPARTMENT RECEIVING ROOM BY

The State of Texas is exempt from all Federal Excise Taxes.

STATE AND CITY SALES TAX EXEMPTION CERTIFICATE: The undersigned claims an exemption from taxes under Chapter 20, Title 122A, Revised Civil Statutes of Texas, for purchase of tangible personal property described in this numbered order, purchased from contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas.

THIS ORDER IS NOT VALID UNLESS SIGNED BY THE PURCHASING AGENT.



PURCHASING AGENT FOR

TEXAS ENGINEERING EXTENSION SERVICE

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 02

ORDER DATE: 08/16/2007

PO NUMBER: M890018

VENDOR: 17416093062

NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
	<p>WILL BE AS PER SECTION 2 OF THE PROPOSAL.</p> <p>THIS AGREEMENT IS IN EFFECT FROM SEPTEMBER 1, 2007 THROUGH AUGUST 31, 2008. ALL PRICES TO BE HELD FIRM THROUGH AUGUST 31, 2008</p> <p>RENEWAL:</p> <p>THIS AGREEMENT HAS AN OPTION TO RENEW FOR UP TO ONE ADDITIONAL YEAR BY MUTUAL AGREEMENT PROVIDED ALL TERMS AND CONDITIONS REMAIN THE SAME. ESCALATION OF PRICING FOR YEAR 5 IS NOT TO EXCEED 4% PER YEAR AS PER THE BEST AND FINAL OFFER FROM NEWMAN DATED 11/12/2004.</p> <p>DEFAULT:</p> <p>IN THE EVENT THAT THE SELLER FAILS TO CARRY OUT OR COMPLY WITH ANY OF THE TERMS AND CONDITIONS OF THE AGREEMENT WITH TEXAS A&M, TEXAS A&M MAY NOTIFY THE SELLER OF SUCH FAILURE OR DEFAULT IN WRITING AND DEMAND THAT THE FAILURE OR DEFAULT BE REMEDIED WITHIN TEN (10) DAYS; AND IN THE EVENT THAT THE SELLER FAILS TO REMEDY SUCH FAILURE OR DEFAULT WITHIN THE TEN (10) DAY PERIOD, TEXAS A&M SHALL HAVE THE RIGHT TO CANCEL THE AGREEMENT UPON THIRTY (30) DAYS WRITTEN NOTICE.</p> <p>THE CANCELLATION OF THE AGREEMENT, UNDER ANY CIRCUMSTANCES WHATSOEVER, SHALL NOT EFFECT OR RELIEVE SELLER FROM ANY OBLIGATION OR LIABILITY THAT MAY HAVE BEEN INCURRED OR WILL BE INCURRED PURSUANT TO THE AGREEMENT AND SUCH CANCELLATION BY TEXAS A&M SHALL NOT LIMIT ANY OTHER RIGHT OR REMEDY AVAILABLE TO TEXAS A&M AT LAW OR IN EQUITY.</p> <p>TERMINATION:</p> <ul style="list-style-type: none"> - FOR CONVENIENCE: THE AGREEMENT MAY BE TERMINATED, WITHOUT PENALTY, BY TEXAS A&M WITHOUT CAUSE BY GIVING SIXTY (60) DAYS WRITTEN NOTICE OF SUCH TERMINATION TO THE SELLER. - UPON AWARD, THE AGREEMENT IS SUBJECT TO TERMINATION, WITHOUT PENALTY, EITHER IN WHOLE OR IN PART, IF FUNDS ARE NOT APPROPRIATED. - UNACCEPTABLE PERFORMANCE BY THE <p>VENDOR MAY BE CAUSE FOR CANCELLATION IF DEEMED NECESSARY BY THE PURCHASING SERVICES DEPARTMENT.</p> <ul style="list-style-type: none"> - IN NO EVENT SHALL SUCH TERMINATION BY TEXAS A&M AS PROVIDED FOR UNDER THIS SECTION GIVE RISE TO ANY LIABILITY ON THE PART OF TEXAS A&M INCLUDING, BUT NOT LIMITED TO, CLAIMS OF SELLER FOR COMPENSATION FOR ANTICIPATED PROFITS, 				

PKP

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 03

ORDER DATE: 08/16/2007

PO NUMBER: M890018

VENDOR: 17416093062

NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
1	<p>UNABSORBED OVERHEAD, OR INTEREST ON BORROWING. TEXAS A&M'S SOLE OBLIGATION HEREUNDER IS TO PAY SELLER FOR POLICY OR SERVICES AND RECEIVED PRIOR TO THE DATE OF TERMINATION.</p> <p>INSURANCE:</p> <ul style="list-style-type: none"> - THE CONTRACTOR SHALL NOT COMMENCE WORK UNTIL ALL OF THE INSURANCE SPECIFIED ON ATTACHMENT A HAS BEEN OBTAINED AND CERTIFICATES OF SUCH INSURANCE IN FORCE HAVE BEEN FILED WITH AND ACCEPTED BY TEXAS A&M. INSURANCE COVERAGE SHALL PROVIDE FOR A THIRTY (30) DAY NOTICE OF CANCELLATION OR MATERIAL CHANGE TO THE POLICY COVERAGE AND/OR LIMITS AND THE CERTIFICATE OF INSURANCE IN FORCE MUST INCLUDE A NOTICE THAT THE POLICY OR POLICIES DO CONTAIN THESE PROVISIONS. ACCEPTANCE OF INSURANCE CERTIFICATES BY TEXAS A&M SHALL NOT RELIEVE OR DECREASE THE LIABILITY OF THE CONTRACTOR. - UNLESS OTHER WISE SPECIFIED, THE CONTRACTOR SHALL PROVIDE AND MAINTAIN, UNTIL THE WORK INCLUDED IN THIS PROPOSAL IS COMPLETED AND ACCEPTED BY TEXAS A&M, THE MINIMUM INSURANCE OUTLINE ON ATTACHMENT A. - CERTIFICATES OF INSURANCE MUST BE DELIVERED OR MAILED TO: STRATEGIC SOURCING & PURCHASING SRVS TEXAS A&M UNIVERSITY ATTN: PAM PANTEL P.O. BOX 30013 COLLEGE STATION, TX 77842-0013 <p>Offset Printing Services as per Attachment C, items 1 - 29.</p> <p>PHONE: 979-779-7700</p> <p>CC FY ACCOUCT NO. DEPT. --- --- ----- -----</p> <p>DOCUMENT DATE: 07/23/2007</p> <p>DEPT. CONTACT: JASON COOK PHONE NO.: 979-458-6837</p> <p>PCC CD:</p>	1	LOT		

PKP

TEXAS ENGINEERING EXTENSION SERVICE

PURCHASE ORDER

FILE COPY

Page 04

ORDER DATE: 08/16/2007

PO NUMBER: M890018

VENDOR: 17416093062

NEWMAN PRINTING COMPANY INC

Item	Description	Quantity	UOM	Unit Price	Ext Price
FKP	TYPE FUND: TYPE ORDER:				

Attachment C

Renewal 2 of 3

Pricing for Offset Printing – M890018 (Newman Printing)

Description	Price
1) Letterhead	
8.5x11, 2 PMS, 24# Strathmore Writing Script, Ultimate White, Smooth Finish, with watermark,, no bleeds, boxed in 500s quantities -	
500.....	<u>\$80.08</u>
1000.....	<u>\$102.96</u>
1500.....	<u>\$124.80</u>
2) #10 Envelopes	
2 PMS, , 24# Strathmore Writing Script, Ultimate White, Smooth Finish, no bleeds, boxed in 500s quantities -	
500.....	<u>\$136.24</u>
1000.....	<u>\$160.16</u>
1500.....	<u>\$173.68</u>
3) Business cards	
3.5x2, 2 PMS, 80# Strathmore Premium Opaque White Cover, Smooth Finish, no bleeds, boxed in 500s quantities -	
250.....	<u>\$26.00</u>
500.....	<u>\$28.08</u>
1000.....	<u>\$33.28</u>
4) Certificates	
8.5x11, blk+PMS, parchment certificate, no bleeds quantities -	
250.....	<u>\$101.92</u>
500.....	<u>\$112.32</u>
750.....	<u>\$122.72</u>
1000.....	<u>\$132.08</u>
1250.....	<u>\$143.52</u>
1500.....	<u>\$153.92</u>
2000.....	<u>\$169.52</u>
2500.....	<u>\$186.16</u>
3000.....	<u>\$205.92</u>
5) TEEX an newsletter	
8.5x12, 2-color, 100# Productolith text dull, bleeds Price as 8pp, 12 pp and 16pp saddle-stitched quantities -	
8pp 750.....	<u>\$639.60</u>
8pp 850.....	<u>\$660.40</u>
8pp 1000.....	<u>\$686.40</u>
12pp 750.....	<u>\$944.32</u>
12pp 850.....	<u>\$977.60</u>
12pp 1000.....	<u>\$1025.44</u>
16pp 750.....	<u>\$966.16</u>
16pp 850.....	<u>\$1000.48</u>
16pp 1000.....	<u>\$1073.92</u>
6) 8pp 4/c booklet:	
8.5x11, 4-color, 80# gloss text, saddle-stitched, bleeds quantities - two signature pages included	
250.....	<u>\$949.52</u>
500.....	<u>\$995.28</u>
750.....	<u>\$1038.96</u>
1000.....	<u>\$1150.24</u>
1250.....	<u>\$1183.52</u>
1500.....	<u>\$1216.80</u>
2000.....	<u>\$1320.80</u>
2500.....	<u>\$1417.52</u>
7) 16pp 4/c booklet	

Description

Price

	8.5x11, 4-color, 80# gloss text, saddle-stitched, bleeds	
	quantities -	
	250.....	\$1786.72
	500.....	\$1870.96
	750.....	\$1973.92
	1000.....	\$2101.84
	1250.....	\$2163.20
	1500.....	\$2351.44
	2000.....	\$2537.60
	2500.....	\$2629.12
8) 48pp 4/c booklet	8.5x11, 4-color, 80# gloss text, saddle-stitched, bleeds	
	quantities -	
	1000.....	\$5342.00
	1250.....	\$5896.80
	1500.....	\$5972.72
	2000.....	\$6259.76
9) 16pp class schedule	8.5x11, blk+PMS, 70# offset, saddle-stitched, bleeds	
	quantities -	
	16,000.....	\$3930.16
	17,000.....	\$4124.64
	18,000.....	\$4323.28
10) 8pp class schedule	8.5x11 - folds to 8.5x5.5, blk+PMS, 70# offset, saddle-stitched, bleeds	
	quantities -	
	16,000.....	\$2710.24
	17,000.....	\$2850.64
	18,000.....	\$2988.96
11) Covers 1/c	8.5x11, PMS, 80# gloss cover, bleeds	
	quantities -	
	25.....	\$59.28
	100.....	\$78.00
	250.....	\$101.92
	500.....	\$126.88
	750.....	\$143.52
	1000.....	\$160.16
12) Covers 2/c	8.5x11, blk+PMS, 80# gloss cover, bleeds	
	quantities -	
	25.....	\$59.28
	100.....	\$79.04
	250.....	\$116.48
	500.....	\$150.80
	750.....	\$168.48
	1000.....	\$186.16
13) Covers 4/c	8.5x11, 4-color, 80# gloss cover, bleeds	
	quantities -	
	25.....	\$67.60
	100.....	\$93.60
	250.....	\$139.36
	500.....	\$215.28
	750.....	\$298.48
	1000.....	\$380.64
14) Flyers 4/c	8.5x11, 4-color, 2 sides, 80# gloss text, bleeds	
	quantities -	
	500.....	\$338.00
	1000.....	\$590.72
	2500.....	\$665.60

Description

Price

Description	Price
15) Flyers 2/c 8.5x11, 2-color, 2 sides, 80# gloss text, bleeds quantities - 500..... 1000..... 2500.....	 <u>\$174.72</u> <u>\$195.52</u> <u>\$256.88</u>
16) Flyers 4/c, folded 8.5x11 - folds to 8.5x3.75, 4-color, 2 sides, 80# gloss text, bleeds quantities - 500..... 1000..... 2500.....	 <u>\$410.80</u> <u>\$644.80</u> <u>\$711.36</u>
17) Flyers 2/c, folded 8.5x11 - folds to 8.5x3.75, 2-color, 2 sides, 80# gloss text, bleeds quantities - 500..... 1000..... 2500.....	 <u>\$218.40</u> <u>\$238.16</u> <u>\$303.68</u>
18) Tri-fold flyer 8.5x11 25.5x11 - folds to 8.5x11, 4-color, 2 sides, 80# gloss text, bleeds quantities - 750..... 1000..... 1500..... 2000.....	 <u>\$1010.88</u> <u>\$1035.84</u> <u>\$1092.00</u> <u>\$1135.68</u>
19) Bi-fold flyer 8.5x11 17x11 - folds to 8.5x11, 4-color, 2 sides, 80# gloss text, bleeds quantities - 750..... 1000..... 1500..... 2000.....	 <u>\$644.80</u> <u>\$659.36</u> <u>\$709.28</u> <u>\$739.44</u>
20) Bi-fold brochure 17x11 - score and fold to 8.5x11, 4-color, 2 sides, 80# gloss cover, bleeds quantities - 750..... 1000..... 1500..... 2000.....	 <u>\$773.64</u> <u>\$800.80</u> <u>\$870.48</u> <u>\$929.76</u>
21) Tri-fold brochure 8.5x11 - score and fold to 8.5x3.75, 4-color, 2 sides, 80# gloss cover, bleeds quantities - 750..... 1000..... 1500..... 2000.....	 <u>\$684.32</u> <u>\$707.20</u> <u>\$770.64</u> <u>\$815.36</u>
22) Pocket folders v.1 20.5x15.75 - folds to 9.5x11.75 w/2 4-inch pockets, bus card slit on right side 1/c metallic, 270# Beckett Ridge Duplex cover - blazer blue/white, no bleed quantities - 750..... 1000..... 2500..... 5000.....	 <u>\$534.40</u> <u>\$703.04</u> <u>\$1107.60</u> <u>\$1786.72</u>
23) Pocket folders v.2 20.5x15.75 - folds to 9.5x11.75 w/2 4-inch pockets, bus card slit on right side 2 PMS w/emboss underneath, 12pt Kromekote C1S, no bleed quantities - 1000..... 2500..... 5000.....	 <u>\$888.16</u> <u>\$1487.20</u> <u>\$2524.08</u>

Description

Price

24) Mailers	8.5x14, PMS, 2 sides, bleeds, 70# offset, shrink wrap in 500s and store	
	quantities -	
	20,000.....	<u>\$828.00</u>
	30,000.....	<u>\$1071.20</u>
	50,000.....	<u>\$1512.16</u>
	2nd run-imprint blk and fold to 8.5x3.5	
	quantities -	
	1000.....	<u>\$168.48</u>
	2500.....	<u>\$225.68</u>
	5000.....	<u>\$309.92</u>
25) Booklets	5.5x8.5, 20pp+cover, 4-color throughout, Cover is 80# gloss cover, text is 70#	
	gloss text, cover bleeds, saddle-stitched, 4pp insert (4-color over blk) on 80#	
	offset cover stitches in the middle - no bleed	
	quantities -	
	5000.....	<u>\$4408.56</u>
	10,000.....	<u>\$5640.96</u>
	15,000.....	<u>\$7024.16</u>
26) Marketing cards	10x3.5 - accordion folds to 2x3.5, 4-color, 2 sides, 80#gloss text, bleeds,	
	shrink wrap in 50s	
	quantities -	
	5000.....	<u>\$969.28</u>
	10,000.....	<u>\$1182.48</u>
	15,000.....	<u>\$1451.84</u>
27) Tent cards (small)	5.5x8.5 - folds to 5.5x4.25, 2PMS, 80# uncoated cover, score, no bleed	
	quantities -	
	250.....	<u>\$203.84</u>
	500.....	<u>\$217.36</u>
	1000.....	<u>\$245.44</u>
28) Tent cards (large)	11x8.5 - folds to 11x4.25, 2PMS, 80# uncoated cover, score, no bleed	
	quantities -	
	250.....	<u>\$208.00</u>
	500.....	<u>\$223.60</u>
	1000.....	<u>\$260.00</u>
29) Cost for inserting folded mailers into #10 envelopes	(per piece)	<u>.04</u>

September 27, 2007
Consent Item No. 2N
Funding Agreement with Research Valley Partnership

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on a funding agreement between the City of College Station and the Research Valley Partnership for FY08 in the amount of \$293,287.

Recommendation(s): Staff recommends approval of the funding agreement.

Summary: As part of the 2007-2008 budget process the City Council approved funding for the Research Valley Partnership in the amount of \$293,287. This funding is for the provision of economic development services for the area.

Budget & Financial Summary: The funds for this agreement are budgeted and available in the 2007-2008 General Fund and Economic Development Fund in the total amount of \$293,287. \$243,287 is to be used for the operations and maintenance of the Research Valley Partnership next year and is funded from the General Fund. \$50,000 is to be used for marketing efforts of the Research Valley Partnership and is funded from the Economic Development Fund.

Attachments:

Funding Agreement will be made available prior to the meeting.

September 27, 2007
Consent Agenda Item 20
Brazos Valley Convention and Visitors Bureau Budget and Funding Agreement

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on approving the budget of the Brazos Valley Convention and Visitors Bureau (CVB); and presentation, possible action and discussion on a funding agreement between the City of College Station and the Brazos Valley Convention and Visitors Bureau for FY08 in the amount of \$1,060,000.

Recommendation(s): Staff recommends approval of the CVB budget and the funding agreement for FY07.

Summary: As part of the 2007-2008 budget process the City Council approved funding for the Brazos Valley Convention and Visitors Bureau in the amount of \$1,060,000. This funding is for the provision of tourism related services.

Budget & Financial Summary: The funds for this agreement are budgeted and available in the 2006-2007 Hotel Tax Fund Budget. A total of \$1,060,000 is to be used for the operations of the Convention and Visitors Bureau next year.

State law requires that the City Council adopt the budget of any organization that is to be funded through the Hotel Tax Fund.

Attachments: The following documents will be made available prior to the meeting:

1. Brazos Valley Convention and Visitors Bureau Budget
2. Funding Agreement

September 27, 2007
Consent Agenda
Competitive Matters Resolution

To: Glenn Brown, City Manager

From: David Massey, Director of Electric Utilities

Agenda Caption: Presentation, possible action, and discussion regarding a competitive matters resolution relating to the College Station electric utility. The current resolution is being changed to allow Customer Service Representatives more flexibility in discussing account information with utility customers.

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

Summary: The attached resolution will replace the current Resolution No. 12-14-2000-13.10, approved on December 14, 2000, dealing with competitive matters for the Electric Utility. The wording has been changed from the original resolution to clarify information relating to "Wholesale energy and billing information" and to remove individual customer rate/billing/account information from being considered a competitive matter.

Budget & Financial Summary: N/A

Attachments:

1. Competitive Matters Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION DEFINING “COMPETITIVE MATTER” FOR THE PURPOSE OF PROTECTING THE COMPETITIVE POSITION OF THE CITY OF COLLEGE STATION ELECTRIC UTILITY DEPARTMENT.

WHEREAS, TEXAS GOVERNMENT CODE Section 552.131 provides for an exception to disclosure for public power utilities on competitive matters; and

WHEREAS, “competitive matter” is a utility-related matter that the public power utilities’ governing body in good faith determines by a majority vote is related to the public power utilities’ competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors; and

WHEREAS, the City of College Station, Texas, a home-rule municipal corporation in the State of Texas, owns and operates its municipal electric utility department; and

WHEREAS, the City Council wishes to amend and clarify the previous Resolution No. 12-14-2000-13.10, approved on December 14, 2000; and

WHEREAS, the City Council of the City of College Station, as the governing body of the municipally owned electric utility, desires to adopt this Resolution defining “competitive matter” for the purpose of protecting the competitive position of its electric utility; now, therefore,

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

PART 1: That the City Council of College Station, Texas, after review of the issues and Section 552.131 of the TEXAS GOVERNMENT CODE, hereby makes a good faith determination that the following categories of information are competitive matters, the disclosure of which would give advantage to competitors or potential competitors:

- A. Financial information, including but not limited to:
 - 1. Business and facilities plans.
 - 2. Capital improvement studies.
 - 3. Multi-year revenue and expense projections.
 - 4. Business forecasts.

5. Strategic Plans, studies and supporting documents.
 6. Cost of service studies.
 7. Rates and pricing strategies and targets.
 8. Internal business performance information.
 9. Wholesale energy and billing information.
 10. Internal cost assignment and allocation methodology.
 11. Financial planning, sensitivity and scenario analysis.
 12. Fuel pricing and usage.
 13. Fuel hedging/risk management strategies.
- B. Purchasing and Contract Information – Power Supply, including but not limited to:
1. Power supply pricing, proposals and contracts.
 2. Purchasing information, including bidders list, specifications, bids, proposals, contracts and bid results.
 3. Negotiations, modeling, data, correspondence, drafts and memoranda related to negotiations and considerations of the above contracts and pricing.
 4. Power sales pricing, proposals and contracts.
 5. Fuel contracts and proposals.
 6. Fuel pricing and usage.
 7. Power purchase contracts and proposals.
 8. Fuel transportation pricing and contracts.
- C. Business operations, including but not limited to:
1. Work management studies, system configuration and system data.
 2. Benchmarking data, surveys and reports.
 3. Market plans and studies.
 4. Competitive intelligence systems and information.
 5. Product design information.
 6. Cost of service studies.
 7. Internal business performance information.
 8. Wholesale energy and billing information.
 9. Internal cost assignments and allocation methodology.
 10. Financial planning, sensitivity and scenario analysis.
 11. Competitive intelligence systems and information.
 12. Product design information.

13. Forecast of sales and revenues.
14. Contracts or proposals for retail energy sales.
15. Sales incentive plans.
16. Strategies, plans, contracts, proposals and budgets regarding marketing research.
17. Strategies, plans, contracts, proposals and budgets regarding analysis, sales and marketing and promotion of retail products and services, or the development of same.
18. Research regarding energy loads.
19. Corporate business plans.
20. Assessments, plans or strategies related to acquisition of other utilities.
21. Strategies, plans or studies regarding debt allocation or refunding.
22. Internal audit reports.
23. Consulting reports.
24. Financial, accounting or statistical data submitted confidentially to industry groups or other third parties regarding competitive matters.
25. Alliance, and joint venture and aggregation of information for power generation.

D. Competitive Customer Information

1. Customer lists.

PART 2: Information or records of the City of College Station, in any media, that are reasonably related to a Competitive Matter as defined in PART 1 above are excepted from the disclosure requirements of Chapter 552 of the TEXAS GOVERNMENT CODE.

PART 3: The City Council of the City of College Station reserves the right to supplement or amend the list of Competitive Matters set out in this Resolution from time to time by addition or deletion or case-by-case determinations as may be appropriate and desirable in order to continue to operate and manage the City of College Station electric utility in a manner consistent with the interests of the City and its electric customers, and with the protections authorized by TEXAS GOVERNMENT CODE Section 552.131.

PART 4: Notwithstanding any enumeration otherwise, this Resolution shall not deem as Competitive Matter any matter excluded from the

RESOLUTION NO. _____

Page 4

definition of "competitive matter" described in Section 552.131(a)(3) (A-M) of the TEXAS GOVERNMENT CODE.

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

ADOPTED this the _____ day of _____, 2007.

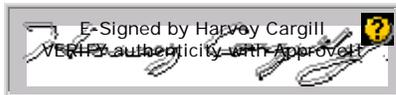
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

E-Signed by Harvey Cargill
VERIFY authenticity with Approvot

City Attorney

**September 27, 2007
Consent Agenda
Gateway Grant Revisions**

To: Glenn Brown, City Manager

From: Peggy Calliham, Community Relations Manager

Agenda Caption: Presentation, possible action, and discussion regarding minor revisions to the flow chart of the Gateway Grant Policy, approved May 24, 2007.

Recommendation(s): Staff is seeking approval of the revisions

Summary:

- New Gateway Policy was approved by City Council on May 24, 2007 and supersedes the policy that was written in 1999.
- Staff has since identified some minor procedural issues and responsibilities between departments.
- These have been addressed in this revised policy and do not change the basics of the policy other than some staff procedures.

Budget & Financial Summary: N/A

Attachments: Revised Gateway Policy
Resolution



CITY OF COLLEGE STATION
GATEWAY GRANT POLICIES
Proposed revisions 7/13/07

INTRODUCTION

College Station is committed to aiding registered neighborhood associations in developing attractive entrances into their neighborhoods, in order to promote the City and utilize citizen participation in making College Station a better place to live.

The improvement of these entrances or gateways should only serve to better enhance the aesthetic value of our community and strengthen its natural character.

DEFINITIONS

1. **Subdivision or Neighborhood Gateway** - A point of entrance or means of access into either a subdivision or neighborhood marked by plantings, signage and other decorative accents.
2. **Subdivision** - as defined in Chapter 9, Section 3, of the City of College Station Code of Ordinances. The division of a lot, tract, or parcel of land into two or more lots or sites for the purpose of sale, division of ownership or building development.
3. **Neighborhood** - an area of a community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as major highways and railroads or natural features, such as rivers.
4. **Association**- Homeowners Association or Neighborhood Association as defined below.
5. **Homeowners' Association (HOA)**- a homeowners association is an organization comprised of all owners of units, other than a condominium association, in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.
6. **Neighborhood Association (NA)** - an organization made up of residents and property owners within a self-defined boundary, having elected officers and operating under by-laws to fulfill a civic function.

7. **Private Improvement in the Public Right-of-way Permit (PIP)**
A PIP permit is required under Chapter 3, Section 2 of the City of College Station Code of Ordinances for any improvements, as defined by code, that are placed and maintained in the City's right-of-way by a private entity.
8. **Right-Of-Way** As set out by the City of College Station Code of Ordinances Chapter 3, Section 2-D a Right-of-way means the surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, alley, court, boulevard, parkway, drive, or other easement on or hereafter held by the City (including any street, as defined, which is acquired by eminent domain) for the purpose of public travel and shall include other easements or rights-of-way now or hereafter held by the City or in which the City has an interest (including any easements or rights-of-way acquired by eminent domain) which shall, with their proper use and meaning, entitle the City and a utility to use thereof for the purpose of installing facilities, and other property as may ordinarily be necessary and pertinent to a utility system

SECTION I: POLICIES

A. GATEWAY POLICY

The City of College Station is committed to developing attractive gateways, as funding allows, into the community as a whole and will work diligently with Homeowners' Associations and Neighborhood Associations interested in developing and maintaining gateways into their neighborhoods and/or subdivisions.

B. GENERAL PROVISIONS

1. Purpose

The following policies are principles and procedures to be followed by City of College Station staff in executing the gateway grant program. These policies are intended to establish consistency and coherence in the implementation of gateway development.

2. No Contract Created

- a. Neither this policy nor any application for City funds shall constitute a contract that prohibits or restricts the City's right to withhold funds for any gateway development.
- b. The policies and procedures contained within this document shall be available for review and inspection upon request.

3. Gateway Records

- a. Neighborhood and Community Relations staff will maintain all records relating to Gateway grant administration.
- b. Information contained in the files for the Gateway program is a matter of public record.

4. Amendment of Policies

The Policies contained within this document may be changed by the City Council. Changes to this document will be made available to the general public.

C. ELIGIBILITY

1. Eligibility Policy

Neighborhood and Community Relations (NCR) staff will be responsible for determining gateway grant eligibility. The Design Review Board will serve as the final point of review and the NCR staff will award the grants.

2. Homeowners' Associations and Neighborhood Associations

Any Association within the incorporated City Limits of College Station, Texas, which is registered in the City's Neighborhood Partnership Program, is eligible for gateway funding. Sixty percent (60%) of the members of the Association must sign the application form.

3. Developers

Developers are not eligible for funding.

D. FUNDING

1. City Council will determine the amount budgeted for the gateway grant program for each budget year. Once budgeted funds are depleted, applications not awarded will be held pending until the next fiscal year and will be given priority over new applicants.
2. The City of College Station will provide a 50%, monetary only, match of up to \$7,500 per application for use by the applicant in the development of their gateway or corridor. The award of grant money is contingent upon availability of funds. Applicants may apply no more than once in a five-year period.
3. The Neighborhood and Community Relations staff will be responsible for prioritization of applications for grant funds. Prioritization will take into consideration, but will not be limited to the following:
 - a. Date of Application,
 - b. Completeness of Application, and
 - c. Amount of funds requested.

E. LOCATION

1. Private Property

Gateway development will be allowed on Private Property. The development shall be clearly depicted on a layout plan which will be reviewed by City staff prior to approval of grant funds. In order for grant approval, the fee simple owner of said property must sign an agreement indemnifying the City.

2. City Right-of-Way

Gateway development will be allowed in the City Right-Of-Way subject to the requirements of Building Regulations Chapter 3, Section 2, of the City of College Station Code of Ordinances. If any portion of the proposed project is planned in the right-of-way, a Private Improvement in the Public Right-of-Way Permit must be issued before work begins and before the first dispersal of grant funds will be released.

F. MAINTENANCE

1. The Association shall have the responsibility to provide for the operation, repair and maintenance of the project funded by the grant whether the grant funds are expended on improvements on common property, private property, public right-of-way or easement.
2. The City shall have access at any time without liability when on official business. The City retains the right to remove any obstructions, failed landscaping, or objects in disrepair. In the event that the City must remove the material funded by the grant, the Association will be assessed all costs of removal.

G. GATEWAY MATERIAL

All materials used for gateway improvements must comply with the City of College Station's Code of Ordinances.

SECTION II: PROCEDURES

A. THE APPLICATION

For consideration of a gateway grant, a registered Association must submit to the Neighborhood and Community Relations Coordinator, all specific instruments cited below:

1. Completed application form containing sixty percent (60%) of the members of the Association's signatures.
2. Preliminary layout and design for the project, and
3. Estimated cost of the entire gateway project.

B. PRE-APPLICATION CONFERENCE

1. Any registered Association interested in applying for a gateway grant will attend a pre-application conference with Planning and Development staff. This meeting will be coordinated through the Neighborhood and Community Relations Coordinator. The purpose of pre-application conference is to:
 - a. Define the scope and responsibilities of the project
 - b. Clarify the application, review, and award process, and
 - c. Clarify the fund dispersal procedures upon approval.

2. Upon completion of the Pre-Application Conference, required development applications with supporting materials must be submitted to the Neighborhood and Community Relations Coordinator.

C. REVIEW AND RECOMMENDATION

1. Staff

City Staff will review applications for completeness and against all applicable City of College Station codes and regulations.

2. Design Review Board

The Design Review Board will determine proposed gateway projects' compliance with the City of College Station's landscaping, streetscape, signage, and private improvement in the public right-of-way regulations as set forth by the Unified Development Ordinance. The Board will forward their decision for funding to the Neighborhood and Community Relations Coordinator.

After City staff and Design Review Board reviews have been completed and any necessary changes to the proposal approved, contractors may apply for necessary permits for construction.

D. REIMBURSEMENT OF FUNDS

At the completion of construction and final staff review of completed project, paid invoices must be submitted to the Neighborhood and Community Relations Coordinator in order for a reimbursement of gateway funds to be released to the Association.

E. APPEALS

1. All appeals of the application process and/or the Design Review Board's decisions shall be made to City Council.

EXHIBIT A
FLOW CHART FOR GATEWAY GRANT PROGRAM

1. Must be a neighborhood or homeowners association registered with the City of College Station's Neighborhood Partnership Program. Contact Neighborhood and Community Relations Coordinator (764-6262) for application materials.
2. Complete the Gateway Grant Application form.
3. Gather the printed names, addresses, and signatures of a minimum of 60% of the association's members.
4. Develop a preliminary design plan for the project with an estimated cost.
5. Return application form, signatures and preliminary plans and estimated costs to the Neighborhood and Community Relations Coordinator, who will then set up a Pre-Application Conference with the Planning and Development Services office for the purpose of:
 - Defining the scope and responsibilities of the project;
 - Clarifying the application, review, and award process; and
 - Clarifying the fund dispersal procedure upon approval.
6. Attend the Pre-Application Committee (PAC) meeting and get direction from city staff regarding continuing the process.
7. Submit to the Neighborhood and Community Relations Coordinator all required development applications (fees will apply) and materials for technical review and Design Review Board consideration:
 - A Design Review Board Gateway Application and, if applicable,
 - A Private Improvement in the Public Right-of-Way Permit (PIP) application (only if the project is in the city's right-of-way).
8. City staff will perform a technical review of the application(s) and present the proposal to the Design Review Board when all standards have been met. Applicant attendance at this meeting is highly encouraged.
9. Upon approval of the Design Review Board, the required development and/or building permits (e.g. development permit, sign, electrical, irrigation) may be applied for by the appropriate contractors to begin construction (fees will apply).
10. When construction/landscaping has been completed, City staff will make an inspection. The Neighborhood and Community Relations Coordinator will be notified when all work for a project has been accomplished according to approved plans and successfully completed a final inspection.
11. Grant fund dispersal may be made when a project has completed a successful final inspection and a copy of the paid invoice(s) is submitted to the Neighborhood and Community Relations Coordinator.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING REVISIONS TO THE GATEWAY GRANT POLICY.

WHEREAS, the City Council of the City of College Station, Texas, through its Neighborhood Partnership Program, is committed to providing opportunities for registered Neighborhood or Homeowners Associations, and

WHEREAS, the City of College Station's annual budget provides funding for approved gateways to those neighborhoods, and

WHEREAS, registered Neighborhood and Homeowners Associations may apply and receive approval for a match of up to 50% of their expenses, limited to \$7,500 per association; now, therefore,

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

PART 1: The the City Council hereby approves and adopts the revised Gateway Grant Policy,

PART 2: That the funding for this policy shall be as budgeted from the Neighborhood and Community Relations fund.

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

ADOPTED this 27th day of September, A.D. 2007.

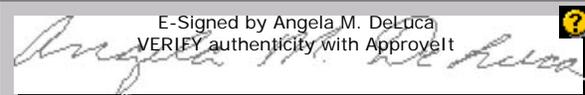
ATTEST:

APPROVED:

CITY SECRETARY

MAYOR

APPROVED:

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


CITY ATTORNEY

September 27, 2007
Consent Item No. 2r
Sonoma Subdivision, Phase 2 – Water Oversize Participation Request

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Public Hearing, presentation, possible action, and discussion for Oversize Participation (OP) for a water line improvement in the Sonoma Subdivision, Phase 2 being made per City Code of Ordinances, Chapter 9, Subdivision Regulations, Section 9, Responsibility for Payment for Installation Costs, 9-A Oversized Participation for a total requested City participation of \$153,605.50.

Recommendation(s): Staff recommends approval.

Summary: Associated with the development of Sonoma Subdivision, Phase 2, the City required the construction of a 24 inch water line for the larger City system. Subsequently, the developer's engineer demonstrated that an 8 inch water line was adequate for the developer's specific development. This oversized participation request is the construction cost difference for upsizing an 8 inch water line to a 24 inch water line for a 1,229 linear feet section along William D. Fitch Pkwy.

Budget & Financial Summary: Funds for this request are available.

Attachments:

1. Oversize Participation Agreement
2. Exhibit A - Vicinity Map
3. Exhibit B – Utility Location Map
4. Exhibit C – Final Plat
5. Exhibit D – Engineer's Estimate and Request Letter
6. Internal Utility OP Funding Form

OVERSIZE PARTICIPATION AGREEMENT

This Agreement is entered into this _____ day of _____, 200__, by and between the **City of College Station**, a Texas home rule municipal corporation (hereinafter "CITY"), and **BCS Development Company**, a Texas corporation (hereinafter "OWNER").

WHEREAS, OWNER owned, subdivided, platted and is developing property within the City of College Station, more particularly described as Sonoma Subdivision, Phase 2, College Station, Brazos County, Texas (hereinafter "Property") as depicted and described on the final plat approved by the Planning and Zoning Commission on August 2, 2007, a vicinity map of which is attached hereto as **Exhibit A**; and

WHEREAS, CHAPTER 9 of the CITY OF COLLEGE STATION CODE OF ORDINANCES requires that OWNER conform to CITY's standards and master plans for streets and utilities and pay for all costs of materials and installation of streets, alleys, sidewalks, drainage, and utilities except where CITY agrees to participate in the cost of oversize of such improvements; and

WHEREAS, CITY's Utility Master Plan requires a twentyfour-inch (24") water line; as depicted in **Exhibit B**; and

WHEREAS, the City Engineer has reviewed the data, reports and analysis provided by OWNER's engineers and determined that OWNER's request for utility participation qualifies for participation funding under the criteria established in CHAPTER 9, SECTION 9, CITY OF COLLEGE STATION CODE OF ORDINANCES;

NOW, THEREFORE, for and in consideration of the recitations above and the promises and covenants herein expressed, the parties hereby agree as follows:

I. DEFINITIONS

1.1 Approved Plans means the plans and specifications that meet the requirements of this Oversize Participation Agreement, the City of College Station Codes and Ordinances and any other applicable laws and that have been submitted to, reviewed and approved by the City of College Station Development Services Department, the City Engineer.

1.2 CITY or College Station means the City of College Station, a Texas home rule municipal corporation located at 1101 Texas Avenue, College Station, Texas 77840.

1.3 Certificate of Acceptance: A certificate issued by the City Engineer stating that the construction conforms to the plans, specifications and standards contained in or referred to in CHAPTER 9 of the CITY OF COLLEGE STATION CODE OF ORDINANCES.

Contract No. _____

1.4 Certificate of Completion/Compliance. As defined in Section 1702 of the INTERNATIONAL BUILDING CODE, 2000 Edition, as adopted and amended by the City Council of the City of College Station, a certificate stating that work was done in compliance with approved construction documents/Approved Plans.

1.5 Effective Date. The date on which this Agreement is signed by the last party whose signing makes the Agreement fully executed.

1.6 Final Completion. The term "Final Completion" means that all the work on the Project 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 all closeout documents have been executed and approved by the OWNER, Certificates of Completion and Acceptance have been issued for the Project, all Reports have been submitted and Reporting Requirements have been met, and DEVELOPER has fully performed any other requirements contained herein.

1.7 OWNER means BCS Development Company, a Texas corporation whose principal office is located at 4090 S Highway 6, College Station, Texas 77845.

1.8 Property means Sonoma Subdivision, Phase 2, College Station, Brazos County, Texas, as depicted and described on the final plat approved by the Planning and Zoning Commission on August 2, 2007, a copy of which is attached hereto as **Exhibit C**.

1.9 Project means the construction of the water improvements as detailed in **Exhibit D** attached hereto and incorporated herein by reference.

II. OVERSIZE COST PARTICIATION

2.1 CITY agrees to cost participate to oversize the improvements as follows:

1. The difference between the construction of a twentyfour-inch (24") water line and a eight-inch (8") water line for a 1,229 linear foot section.

2.2 The total cost of the project is EIGHT HUNDRED AND EIGHTY THOUSAND, SIX HUNDRED AND FORTY AND NO/100 DOLLARS (\$880,640.00). CITY agrees to cost participate with OWNER for the actual construction cost not to exceed 17.45% or ONE HUNDRED AND FIFTY-THREE THOUSAND, SIX HUNDRED AND FIVE AND 50/100 DOLLARS (\$153,605.50) of the specified improvements, whichever is less. If CITY's participation exceeds 30% of the Project, then the Project must be competitively bid under SECTION 252.002 et seq. of the TEXAS LOCAL GOVERNMENT CODE as amended. If CITY participation exceeds 30% of the Project, CITY shall be responsible for advertising and obtaining bids or negotiating proposals for the construction of the Project. OWNER shall pay for all costs associated with advertising, printing, and distributing plans and specifications for the Project.

2.3 OWNER's engineer's detailed cost estimate of the improvements is attached hereto and incorporated herein as **Exhibit D**.

2.4 This Agreement and payments made hereunder are contingent upon but not limited to each of following terms and conditions:

- (1) the Final Completion of the improvements in accordance with the Approved Plans;
- (2) issuance of Certificates of Completion and Acceptance;
- (3) OWNER's compliance with all CITY Codes, Ordinances and standards relating to the Property and its subdivision and development;
- (4) dedication of the land for the right-of-way either by plat or by general warranty deed;
- (5) a current title report as of the date of land dedication and updated within sixty (60) days of the date of this Agreement;
- (6) lien releases or subordinations from all lenders as required by CITY.

2.5 Oversize Participation Payment. OWNER shall submit the written application for oversize participation payment within thirty (30) days after Final Completion or OWNER shall be ineligible to receive the oversize participation payment specified in this Agreement and CITY's obligation to cost participate shall terminate without any liability. Applications may not be submitted prior to Final Completion.

2.6 CITY will pay oversize participation funds in one payment within thirty (30) days after receipt of a complete written application for oversize payment from OWNER.

2.7 Reports, books and other records. OWNER shall make its books and other records related to the project available for inspection by CITY. OWNER shall submit to CITY any and all information or reports requested to verify the expenditures submitted for oversize participation eligibility including but not limited to bid documents, payment applications, including any supporting information, cancelled checks, copies of construction and engineering documents, as determined by the City Engineer in his sole discretion, for the verification of the cost of the infrastructure detailed in **Exhibit D** of this Agreement. The submission of these reports and information shall be the responsibility of OWNER and shall be certified by OWNER's Licensed Professional Engineer at OWNER's expense and signed by an authorized official of the entity.

III. GOVERNMENTAL IMMUNITY, INDEMNIFICATION AND RELEASE

CITY is a political subdivision of the state and enjoys governmental immunity. By entering into this Agreement, CITY does not consent to suit, waive its governmental immunity, or the limitations as to damages under the Texas Tort Claims Act.

OWNER agrees to and shall indemnify, hold harmless, and defend CITY and 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, expert fees and attorney's fees, for injury to or death of any person, or for damage to any property, or for breach of contract, arising out of or in connection with the work done by OWNER under this Agreement, regardless of whether such injuries, death, damages or breach are caused in whole or in part by the negligence of CITY, any other party indemnified hereunder, or the OWNER.

OWNER shall indemnify and hold CITY harmless from any claims of suppliers or subcontractors of OWNER for improvements constructed or caused to be constructed by OWNER.

OWNER shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners resulting from or relating to their performance under this Agreement.

OWNER assumes full responsibility for the work to be performed hereunder, and releases, relinquishes and discharges CITY, its officers, agents and employees, from all claims, demands, and causes of action of every kind and character, including the cost of defense therefore, for any injury to or death of any persons and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with, OWNER's work to be performed hereunder. This release shall apply whether or not said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether or not said claims, demands, and causes of action were caused in whole or in part by the negligence of CITY, any other party released hereunder, or OWNER.

IV. PROJECT AND CONSTRUCTION

4.1 Right to Inspect the Work. CITY may inspect the improvements for compliance with the Approved Plans during construction. In the event that it is determined by CITY that any of the work or materials furnished is not in strict accordance with the Approved Plans, CITY may withhold funds until the nonconforming work conforms to the Approved Plans or terminate this Agreement at CITY's election without any further liability.

4.2 Independent Contractor. OWNER shall be solely responsible for selecting, supervising, and paying the construction contractor(s) or subcontractors and for complying with all applicable laws, including but not limited to all requirements concerning workers compensation and construction retainage.

The parties to this Agreement agree and understand that all employees, volunteers, personnel and materials furnished or used by OWNER in the installation of the specified improvements shall be the responsibility of OWNER and shall not be deemed employees or agents of CITY for any purpose.

4.3 Payment for materials and labor. OWNER shall be solely and exclusively responsible for compensating any of its contractors, employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and insuring that no claims or liens of any type will be filed against any property owned by CITY arising out of or incidental to the performance of any service performed pursuant to this Agreement. In the event a statutory lien notice is sent to CITY, OWNER shall, where no payment bond covers the work, upon written notice from the CITY, immediately obtain a bond at its expense and hold CITY harmless from any losses that may result from the filing or enforcement of any said lien notice.

4.4 Affidavit of bills paid. Prior to the issuance of a Certificate of Acceptance of the improvements, OWNER shall provide CITY 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 OWNER has been notified.

4.5 This Agreement does not alter, amend modify or replace any other requirements contained in the Code of Ordinances, Unified Development Code, or other applicable law.

V. GUARANTEE OF PERFORMANCE

5.1 OWNER shall execute a performance bond for the construction of the improvements to ensure completion of the project and payment of subcontractors. The bonds must be executed by a corporate surety in accordance with CHAPTER 2253, TEXAS GOVERNMENT CODE. The bonds shall be in the total amount of the contract price as approved by CITY.

VI. GENERAL PROVISIONS

6.1 Amendments. 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.

6.2 Choice of law and Venue. 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.

6.3 Authority to enter into Agreement. Each party represents that it has the full power and authority to enter into and perform this Agreement. The person executing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The person executing this Agreement on behalf of OWNER represents that he or she is authorized to sign on behalf of OWNER and agrees to provide proof of such authorization to the CITY upon request.

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

6.5 Notice. All notices and documents required herein shall be sent and provided to the parties at the addresses and telephone numbers listed below:

BCS DEVELOPMENT COMPANY
RANDY FRENCH - PRESIDENT
4090 SOUTH HIGHWAY 6
COLLEGE STATION, TX 77845

City of College Station
City Engineer
P.O. Box 9960
College Station, TX 77842

With copies to:
City Attorney and City Manager
1101 Texas Avenue
College Station, TX 77842

All notices and documents shall be deemed received when mailed with sufficient postage and deposited in a regular mailbox of the United States Post Office. The parties may change addresses upon thirty (30) days' written notice sent certified mail, return receipt requested.

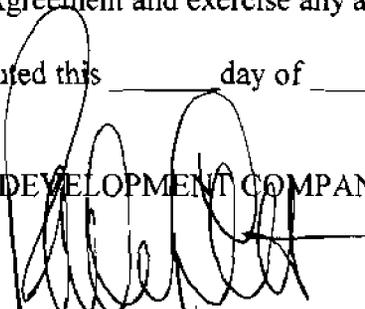
6.6 Assignment. This Agreement and the rights and obligations contained herein may not be assigned by OWNER without the prior written approval of the CITY.

6.7 Default. In the event of a breach of this Agreement by OWNER, CITY may terminate this Agreement and exercise any and all legal remedies available to it.

Executed this _____ day of _____, 200__.

BCS DEVELOPMENT COMPANY

CITY OF COLLEGE STATION

BY: 
Printed Name: RANDY FRENCH
Title: PRESIDENT

BY: _____
Mayor

ATTEST:

City Secretary

APPROVED:

City Manager

Angela M. DeLuca

City Attorney

Chief Financial Officer

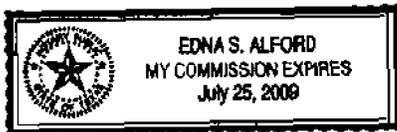
THE STATE OF TEXAS)
)
COUNTY OF BRAZOS) ACKNOWLEDGMENT

Before me, the undersigned authority, on this day personally appeared RANDY FRENCH as PRESIDENT of BCS DEVELOPMENT COMPANY, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 6th day of September, 2007.

Edna S. Alford

Notary Public in and for the State of Texas

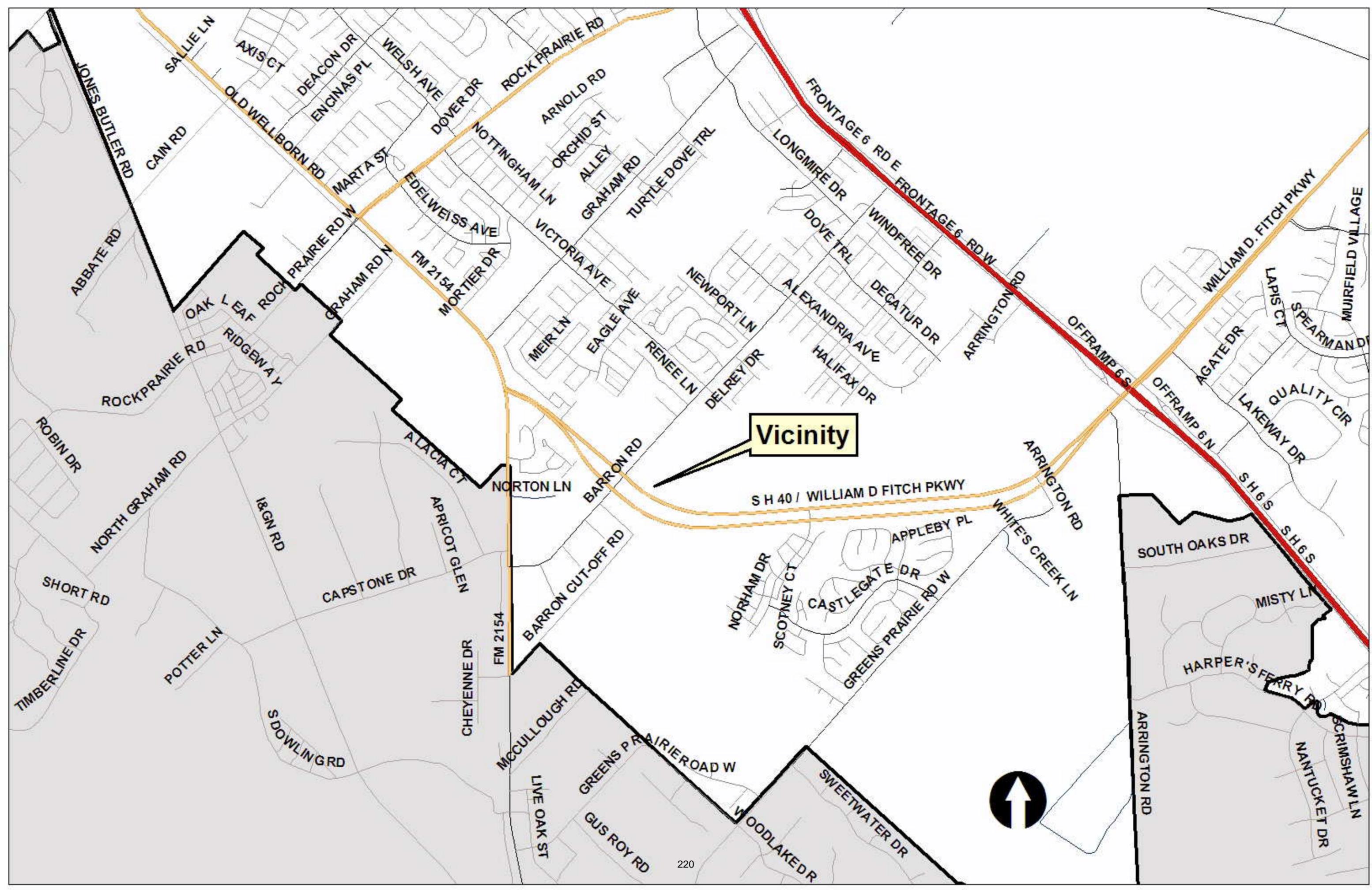


THE STATE OF TEXAS)
)
COUNTY OF BRAZOS) ACKNOWLEDGMENT

Before me, the undersigned authority, on this day personally appeared _____ as Mayor of the City of College Station, a Texas home-rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

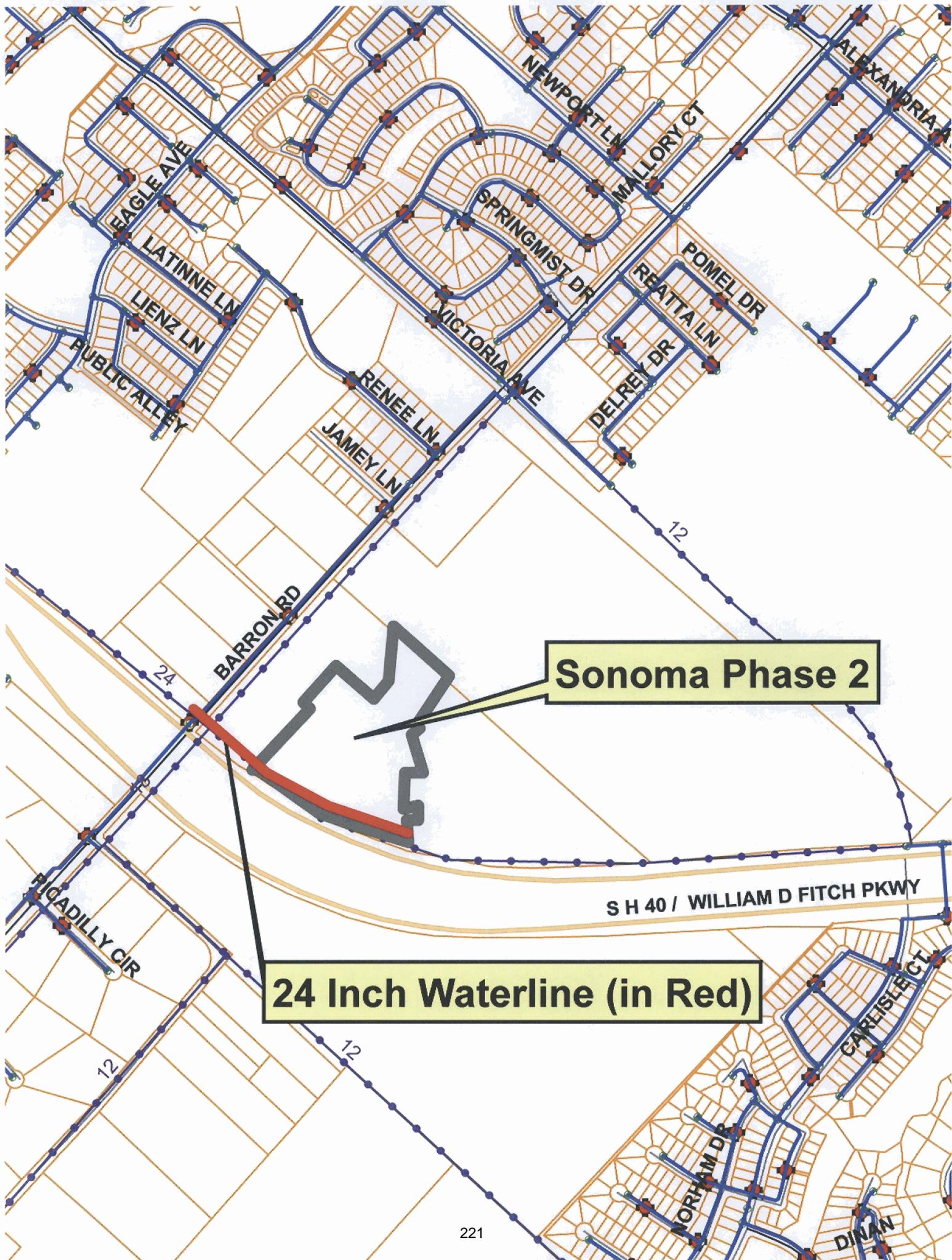
Given under my hand and seal of office on this the ____ day of _____, 200__.

Notary Public in and for the State of Texas



Vicinity





Sonoma Phase 2

24 Inch Waterline (in Red)



McCLURE & BROWNE ENGINEERING/SURVEYING, INC.

1006 Woodcreek Drive, Suite 103 • College Station, Texas 77845
(979) 693-3838 • Fax: (979) 693-2554 • Email: McClureBrowne@Verizon.net

July 24, 2007

Mr. Alan Gibbs, P.E.
Senior Assistant City Engineer
City of College Station
Post Office Box 9960
College Station, Texas 77842

Re: Sonoma Subdivision, Phase 2 – Oversize Participation Request

Dear Alan:

On behalf of the owner, BCS Development Co., I wish to request Oversize Participation by the City of College Station for costs associated with the development of Sonoma Subdivision, Phase 2. The City's Master Utility Plan shows a 24" water line to be extended along the east side of William D. Fitch Parkway. This letter is to request oversize participation from the City for the cost difference between the 24" water line and an 8" water line which would normally be required for this development.

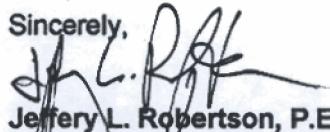
Accompanying this letter are two exhibits. Exhibit A is a copy of the output file from a KYPIPES computer model of the Sonoma Subdivision. It is the same model as submitted with the Water Report for the subdivision except a segment of the water line along William D. Fitch Parkway is changed from a 24" to an 8" diameter (Pipe No 22). The model shows that the lowest pressure in the system with the 8" line is 78 psi under fire flow conditions. This exceeds the minimum pressure of 20 psi required by TCEQ. This proves that the system performs adequately with the 8" line.

Exhibit B is a worksheet that computes the differential cost between the 24" and the 8" water line. That difference is \$153,605.50. This number is value of the oversize participation the owner is requesting from the City. We recognize that the following items will be required as well:

- Performance Bond
- Copy of Corporate Resolution
- Copy of Current Deed
- Copy of Title Policy

If you need additional information, please contact me at your convenience.

Sincerely,



Jeffery L. Robertson, P.E.
Vice President - Engineering

xc: Mr. Randy French, BCS Development Co.

attachments



McCLURE & BROWNE ENGINEERING/SURVEYING, INC.

1008 Woodcreek Drive, Suite 103 • College Station, Texas 77845
(979) 693-3838 • Fax: (979) 693-2554 • Email: McClureBrowne@Verizon.net

EXHIBIT B

**SONOMA SUBDIVISION
OFFSITE 24" WATER LINE
ESTIMATE FOR OVERSIZE PARTICIPATION**

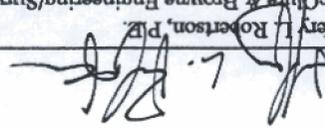
July 24, 2007
MBESI NO. 10530005

Item No.	Description	Estimated Quantity	Estimated Unit Cost	Estimated Total Cost
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1.00	WATER LINE IMPROVEMENTS			
1.01	Mobilization and Stormwater Pollution Prevention Plan (includes installation and maintenance of erosion control structures throughout the entire project)	1.00	\$5,000.00	\$5,000.00
1.02	24" ANS/AWWA C151/A21.5, CL 200 DIP Water Line (includes installation, testing, and clean-up)	1,229	\$95.00	\$116,755.00
1.03	36" Steel Encasement w/Dry Bore Construction (3/8" thick) (includes painting, casing spacers, and end seals)	70	\$575.00	\$40,250.00
1.04	36" Steel Encasement (3/8" thick), Str. Backfill	75	\$250.00	\$18,750.00
1.05	24" Butterfly Valve	1	\$7,500.00	\$7,500.00
1.06	24"x22.5 deg Bend	4	\$1,000.00	\$4,000.00
1.07	24"x11.25 deg Bend	1	\$1,000.00	\$1,000.00
1.08	24"x8" Tee	1	\$1,250.00	\$1,250.00
1.09	6" Blow-off Assembly	1	\$1,250.00	\$1,250.00
1.10	Connect to Existing Water Line	1	\$1,000.00	\$1,000.00
Subtotal Item 1.00:				\$196,755.00

2.00	MISCELLANEOUS			
2.01	Silt Fence	1,100	\$2.50	\$2,750.00
2.02	Hydro Seeding with Fiber Mulch	2,444	\$0.75	\$1,833.00
Subtotal Item 2.00:				\$4,583.00
CONSTRUCTION COST:				\$201,338.00

The above construction estimate is based on the engineer's opinion of probable construction costs. This estimate constitutes our best judgment at this time. Please note that the engineer does not have any control over contractor or supplier workloads and the degree to which inflation may affect project costs between now and the bid date. During design and construction, additional features may become apparent as the work progresses, which will result in an increase or decrease in cost.

Prepared by:  Jeffrey L. Robertson, P.E.
McClure & Browne Engineering/Surveying, Inc.

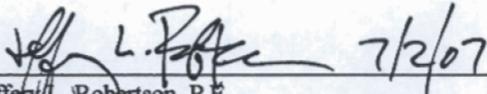


**SONOMA SUBDIVISION
OFFSITE 8" WATER LINE
ESTIMATE FOR OVERSIZE PARTICIPATION
July 2, 2007
MBESI NO. 10530005**

Item No.	Description	Estimated Quantity		Estimated Unit Cost	Estimated Total Cost
1.00	WATER LINE IMPROVEMENTS				
1.01	Mobilization and Stormwater Pollution Prevention Plan (includes installation and maintenance of erosion control structures throughout the entire project)	1.00	LS	\$5,000.00	\$5,000.00
1.02	8" AWWA C909, CL 200 PVC Water Line (includes installation, testing, and clean-up)	1,229	LF	\$15.50	\$19,049.50
1.03	16" Steel Encasement w/Wet Bore Construction (3/8" thick) (includes painting, casing spacers, and end seals)	60	LF	\$250.00	\$15,000.00
1.04	8" Gate Valve	1	EA	\$950.00	\$950.00
1.05	8"x45 deg Bend	2	EA	\$300.00	\$600.00
1.06	8"x22.5 deg Bend	1	EA	\$300.00	\$300.00
1.07	8"x8" Tee	1	EA	\$400.00	\$400.00
1.08	2" Blow-off Assembly	1	EA	\$850.00	\$850.00
1.09	Connect to Existing Water Line	1	EA	\$1,000.00	\$1,000.00
				Subtotal Item 1.00:	\$43,149.50
2.00	MISCELLANEOUS				
2.01	Silt Fence	1,100	LF	\$2.50	\$2,750.00
2.02	Hydro Seeding with Fiber Mulch	2,444	SY	\$0.75	\$1,833.00
				Subtotal Item 2.00:	\$4,583.00

CONSTRUCTION COST: \$47,732.50

The above construction estimate is based on the engineer's opinion of probable construction costs. This estimate constitutes our best judgment at this time. Please note that the engineer does not have any control over contractor or supplier workloads and the degree to which inflation may affect project costs between now and the bid date. During design and construction, additional features may become apparent as the work progresses, which will result in an increase or decrease in cost.

Prepared by:  7/2/07
 Jeffrey L. Robertson, P.E.
 McClure & Browne Engineering/Surveying, Inc.



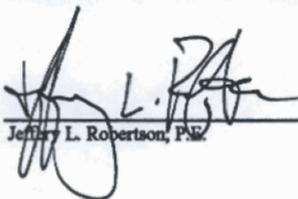
SONOMA, PHASE 2
MBESI PROJ #: 1053-0005
Engineer's Estimate of Construction Costs
July 24, 2007

Item #	Description	Unit	Quantity	Unit Price	Total
Paving Construction					
1	Clearing and Grubbing	Ac.	10	1,500.00	15,600
2	Earthwork	C.Y.	3,861	5.00	19,305
3	6" Lime Stabilized Subgrade (6% by weight)	S.Y.	9,021	3.5	31,574
4	6" Crushed Limestone Base	S.Y.	5,456	8.00	43,648
5	8" Crushed Limestone Base	S.Y.	486	12.00	5,832
6	2" HMA Surface Course (including prime coat)	S.Y.	5,942	10.00	59,420
7	Concrete Curb and Gutter (all types)	L.F.	3,862	9.85	38,041
8	6" Reinforced Concrete Pavement	S.Y.	1,039	36.00	37,404
9	4" Reinforced Concrete Sidewalk	S.F.	9,789	3.00	29,367
10	Colored Sidewalk Ramps	EACH	8	500.00	4,000
11	End/Road Markers	EACH	6	200.00	1,200
12	4" PVC Conduit for Irrigation	L.F.	489	8.00	3,912
13	Underdrain system for Median	EACH	1	5,000.00	5,000
Paving Subtotal					\$294,302
Drainage System Construction					
14	18" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	991	37.00	36,667
15	24" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	117	46.00	5,382
16	24" RCP Pipe, (ASTM C-76, CL III)	L.F.	256	50.00	12,800
17	30" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	1,049	53.00	55,597
18	36" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	136	58.00	7,888
19	4:1 Sloped End Treatment for 36" HDPE	EACH	1	1,500.00	1,500
20	4:1 Sloped End Treatment for 30" HDPE	EACH	1	1,000.00	1,000
21	6:1 Sloped End Treatment for 24" RCP	EACH	4	850.00	3,400
22	Standard 10' Recessed Inlet	EACH	7	3,000.00	21,000
23	Standard 5' Recessed Inlet	EACH	7	2,500.00	17,500
24	Standard Junction Box	EACH	7	2,000.00	14,000
25	Rock Rip-Rap Channel Lining, on Filter Fabric	S.Y.	75	50.00	3,750
Drainage System Subtotal					\$180,484
Water System Construction					
26	8" PVC, C909 Cl 200, Water Line, Str. Backfill	L.F.	213	23.60	5,027
27	8" PVC, C909 Cl 200, Water Line, Non-Str. Backfill	L.F.	381	15.50	5,898
28	6" PVC, C909 Cl 200 Water Line, Str. Backfill	L.F.	1,019	20.25	20,635
29	6" PVC, C909 Cl 200 Water Line, Non-Str. Backfill	L.F.	582	7.00	4,074
30	24" ANSI/AWWA C151/A21.5, CL 200 DIP Water Line, Non-Str. Backfill	L.F.	1,229	95.00	116,755
31	36" Steel Encasement w/Dry Bore Construction (3/8" thick) includes painting, casing spacers, and end seals)	L.F.	70	500.00	35,000
32	36" Steel Encasement	L.F.	75	250.00	18,750
31	Fire Hydrant Assembly	EACH	2	2,600.00	5,200
32	24"x8" Tee	EACH	1	1,250.00	1,250
33	8"x6" M.J. Tee	EACH	2	350.00	700
34	8"x8" M.J. Tee	EACH	1	500.00	500
35	6"x6" M.J. Tee	EACH	1	350.00	350
36	8"x6" M.J. Reducer	EACH	1	250.00	250
37	8" M.J. Gate Valve	EACH	5	925.00	4,625
38	6" M.J. Gate Valve	EACH	4	675.00	2,700
39	24" Butterfly Valve	EACH	1	7,500.00	7,500
40	24"x13" M.J. Anchor Coupling	EACH	1	500.00	500
41	8"x13" M.J. Anchor Coupling	EACH	7	200.00	1,400

SONOMA, PHASE 2
MBESI PROJ #: 1053-0005
Engineer's Estimate of Construction Costs
July 24, 2007

Item #	Description	Unit	Quantity	Unit Price	Total
42	6"x13" M.J. Anchor Coupling	EACH	7	150.00	1,050
43	8"x6" Reducer	EACH	1	250.00	250
44	24"x22.5 deg. Bend	EACH	4	1,000.00	4,000
45	24"x11.25 deg. Bend	EACH	2	1,000.00	2,000
46	6"x45 deg. Bend	EACH	5	225.00	1,125
47	6"x22.5 deg. Bend	EACH	2	225.00	450
48	6"x11.25 deg. Bend	EACH	1	225.00	225
49	6" Blow Off Valve Assembly	EACH	1	1,250.00	1,250
50	2" Blow Off Valve Assembly	EACH	3	850.00	2,550
51	Water Service, 1.5" type K Copper, short side (< 20')	EACH	8	864.00	6,912
52	Water Service, 1" type K Copper, short side (< 20')	EACH	5	575.00	2,875
53	Water Service, 1.5" type K Copper, long side (> 20')	EACH	15	1,600.00	24,000
54	Water Service, 1" type K Copper, long side (> 20')	EACH	7	1,350.00	9,450
Water System Subtotal					\$287,251
Sewer System Construction					
55	6" PVC, D-3034 SDR 26	L.F.	2,151	5.52	11,874
56	Str. Backfill (5'-8' Depth)	L.F.	75	24.30	1,823
57	Str. Backfill (8'-10' Depth)	L.F.	504	28.35	14,288
58	Non-Str. Backfill (5'-8' Depth)	L.F.	456	14.07	6,416
59	Non-Str. Backfill (8'-10' Depth)	L.F.	1,045	14.07	14,703
60	Non-Str. Backfill (10'-12' Depth)	L.F.	72	17.00	1,224
61	Standard Manhole, 0-6 ft. deep	EACH	10	2,000.00	20,000
62	Extra Depth (> 6')	EACH	19.7	250.00	4,925
63	Short Side 4" Sewer Service (< 20')	EACH	25	450.00	11,250
64	Long Side 4" Sewer Service (> 20')	EACH	11	1,450.00	15,950
65	Trench Safety (sewer)	L.F.	2,151	1.00	2,151
Sewer System Subtotal					\$104,603
Erosion Control Construction					
66	Erosion Control Plan & Sedimentation Control (per Item 106) (includes silt fencing, construction exits, straw bale barriers, inlet protection, grass seeding, and any other sedimentation control devices)	S.Y.	1	14,000.00	14,000
Erosion Control Subtotal					\$14,000
Total Construction Cost					\$880,640

The above construction estimate is based on the engineer's preliminary opinion of probable construction costs. This estimate constitutes our best judgment at this time. Please note that the engineer does not have any control over contractor or supplier workloads and the degree to which inflation may affect project costs between now and the bid date. During construction, additional features may become apparent as the work progresses, which will result in an increase in cost.


 Jeffrey L. Robertson, P.E.

7/24/07
 Date



**OVERSIZE PARTICIPATION REQUEST
OP REQUEST # WT07-01**

WF0934457/001



CITY OF COLLEGE STATION

Planning and Development Services

Project Name:	Sonoma Phase 2 - 24" Waterline Oversized Participation
Subdivision:	Sonoma Subdivision, Phase 2
Developer:	BCS Development Co. (Randy French)
Engineer/ Firm:	McClure & Browne (Jeff Robertson)
Project Description:	Upsize an 8" Waterline to a 24" Waterline
Total Cost Estimate:	\$880,640.00
City Contribution Requested:	\$153,605.50
Construction Schedule:	Summer 2007
Comments:	The 24" Waterline along north ROW of SH40 per the Master Plan.
P/DS Engineer Signature/ Date	<i>Alan Smith</i> 7-24-07

College Station Utilities

Engineer Approval:

[Signature] 7/25/07

Division Manager Approval:

Director Approval:

D. Leman 25 July 07

Comments:

FUNDING: FY 07 Water OP Budget Amount Available:	\$	200,000.00	
Current Request:	\$	153,605.50	167,050.00
Remaining Amount Available:	\$	46,394.50	32,950.00

Finance

Funding Source: FY 07 Water OP Budget

Approval (Signature & Date):

Jeff Robertson 8-19-07

Note: Attach location map and sealed engineer's estimate.

September 27, 2007
Regular Agenda Item No. 1
Dove Crossing Parking Restrictions

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Public Hearing, presentation, discussion, and possible action on consideration of an ordinance amending Chapter 10, "Traffic Code," to restrict parking on Crystal Dove Avenue, Dove Crossing Lane, Dove Landing Avenue, Turtle Dove Trail, and Whitewing Lane.

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will amend Chapter 10, "Traffic Code," by restricting parking on the north side of Crystal Dove Avenue, the west side of Dove Crossing Lane, the north side of Dove Landing Avenue, the north side of Turtle Dove Trail, and the south side of Whitewing Lane.

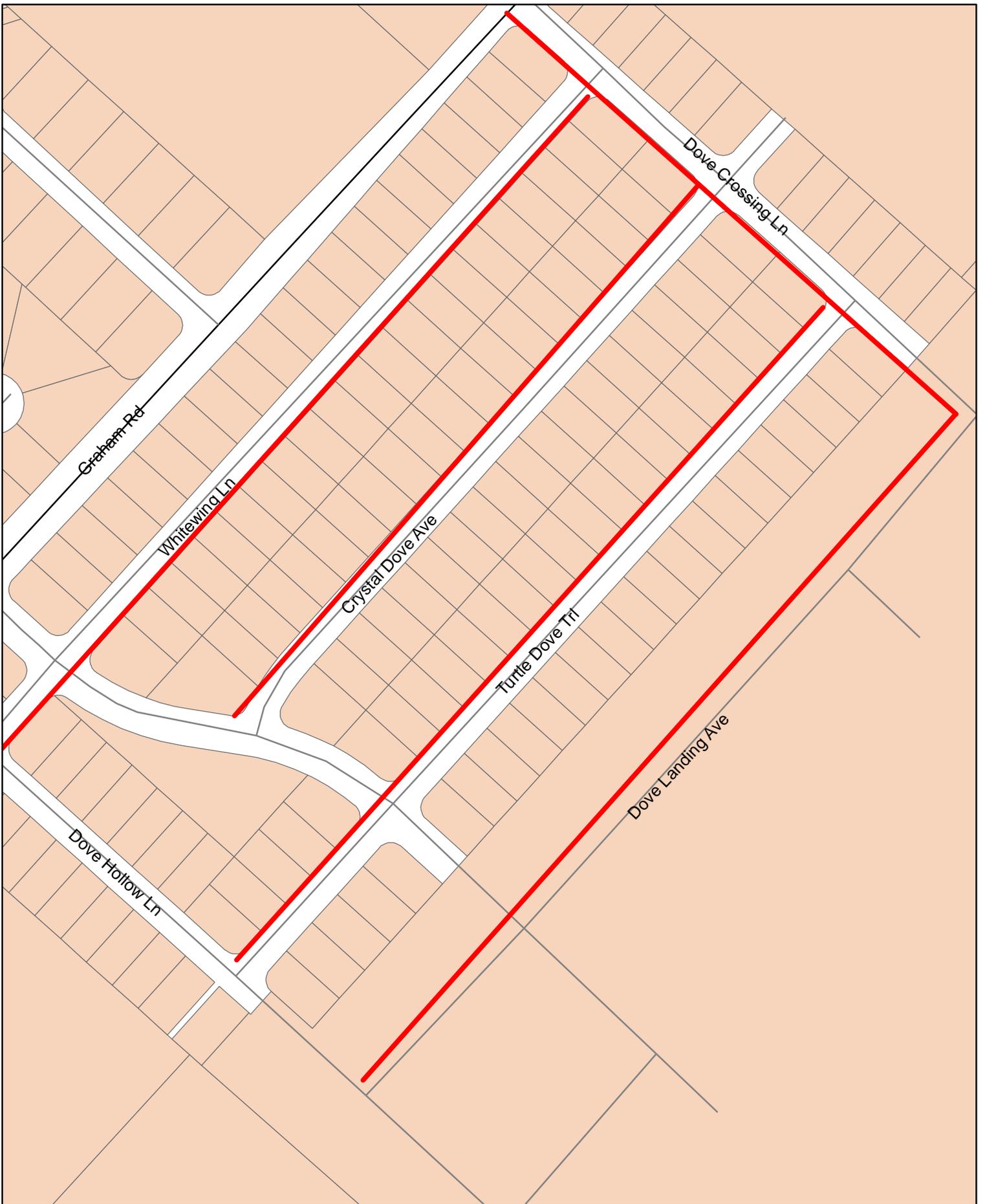
The Fire Department received several calls regarding cars parked along these streets making them difficult for residents, much less an emergency vehicle, to drive down. Upon inspection, the Fire Department confirmed that emergency vehicle access was restricted by the parked cars. This request was discussed at the August meeting of the Traffic Management Team, and the team recommended that the parking be removed from the fire hydrant side of the street.

A letter was sent to the impacted property owners notifying them of the proposed ordinance and when it would be presented to the City Council. Staff has received several calls and emails both in support of and opposition to the proposal to remove parking from one side of these streets.

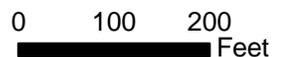
Budget & Financial Summary: The "No Parking" signs are planned operation and maintenance expenses accounted for in the Public Works Traffic Operation budget.

Attachments:

1. Ordinance
2. Location Map



Dove Crossing Subdivision
No Parking



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SCHEDULE XII AS REFERENCED IN SUBSECTION E.2 OF SECTION 4 THEREOF; PROHIBITING PARKING ALONG CERTAIN PORTIONS OF STREETS WITHIN THE DOVE CROSSING SUBDIVISION; 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 by amending schedule XII as referenced in subsection E.2 of Section 4 thereof 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 Five Hundred Dollars (\$500.00). Said Ordinance becomes effective ten (10) days after 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.

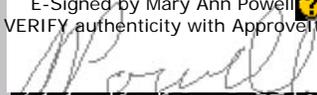
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

E-Signed by Mary Ann Powell
VERIFY authenticity with ApproveIt


City Attorney

EXHIBIT “A”

That the Traffic Control Device Inventory - Schedule XII as referenced in Chapter 10, “Traffic Code”, Section 4, “Administrative Adjudication of Parking Violations,” Sub-section E is hereby amended to include the following:

“Crystal Dove Avenue – No Parking on the north side of Crystal Dove Avenue between Dove Crossing Lane and Alexandria Avenue.

Dove Crossing Lane – No Parking on the west side of Dove Crossing Lane between Graham Road and Dove Landing Avenue.

Dove Landing Avenue – No Parking on the north side of Crystal Dove Avenue between Dove Crossing Lane and Dove Hollow Lane.

Turtle Dove Trail – No Parking on the north side of Crystal Dove Avenue between Dove Crossing Lane and Dove Hollow Lane.

Whitewing Lane – No Parking on the south side of Crystal Dove Avenue between Dove Crossing Lane and Dove Hollow Lane.”

September 27, 2007
Regular Agenda Item 2
Richards and Sterling Streets – Right of Way Abandonment

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Public Hearing, presentation, possible action, and discussion regarding two ordinances vacating and abandoning a portion of the right-of-way of Richards Street and a portion of the right-of-way of Sterling Street, said portions being part of the Richards Addition, according to the plat recorded in Volume 137, Page 25, of the Deed Records of Brazos County, Texas.

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

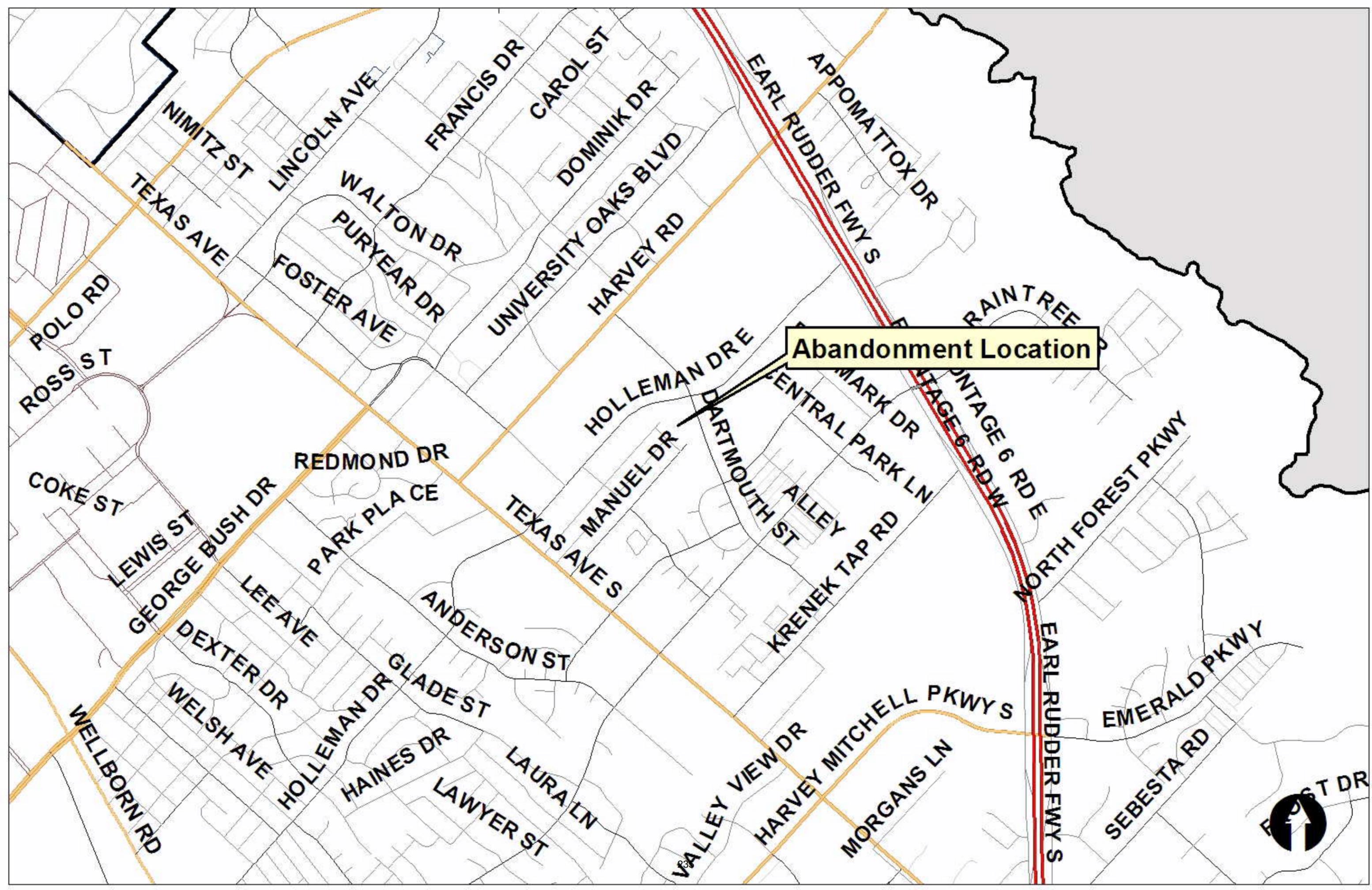
Summary: The Richards Right of Way proposed to be abandoned is a 3210 square foot portion of a fifty (50) foot wide Richards Street Right of Way, said portion lying along Lots 27 & 54, Block 1, of the Richards Addition. There is no existing infrastructure in the subject Right of Way to be abandoned, nor is there a foreseeable public need for the subject Right of Way.

The Sterling Right of Way proposed to be abandoned is a 1748 square foot portion of a twenty-five (25) foot wide Sterling Street Right of Way, said portion lying along Lots 60 & 66, Block 1, Richards Addition. There is no existing infrastructure in the subject Right of Way to be abandoned, nor is there a foreseeable public need for the subject Right of Way.

Budget & Financial Summary: N/A

Attachments:

1. Vicinity Map
2. Richards Abandonment Location
3. Sterling Abandonment Location
4. Richards Ordinance
5. Richards Legal Description
6. Sterling Ordinance
7. Sterling Legal Description
8. Application for Abandonment



Abandonment Location

Map labels include: NIMITZ ST, LINCOLN AVE, FRANCIS DR, CAROL ST, DOMINIK DR, WALTON DR, PURYEAR DR, UNIVERSITY OAKS BLVD, HARVEY RD, EARL RUDDER FWY S, APPOMATTOX DR, TEXAS AVE, FOSTER AVE, POLO RD, ROSS ST, COKE ST, LEWIS ST, GEORGE BUSH DR, REDMOND DR, PARK PLACE, TEXAS AVE S, MANUEL DR, HOLLEMAN DRE, HARTMOUTH ST, CENTRAL PARK LN, MARK DR, STAGE 6 RD W, RAIN TREE, MONTAGE 6 RD E, NORTH FOREST PKWY, EMERALD PKWY, SEBESTA RD, EARL RUDDER FWY S, VALLEY VIEW DR, HARVEY MITCHELL PKWY S, MORGANS LN, WELSH AVE, HOLLOWMAN DR, GLADE ST, ANDERSON ST, ALLEY, KRENEK TAP RD, WELLSBORN RD, DEXTER DR, LEE AVE, HAINES DR, LAWYER ST, LAURA LN, WELSH AVE, HOLLOWMAN DR, GLADE ST, ANDERSON ST, ALLEY, KRENEK TAP RD, VALLEY VIEW DR, HARVEY MITCHELL PKWY S, MORGANS LN, WELLSBORN RD, DEXTER DR, LEE AVE, HAINES DR, LAWYER ST, LAURA LN.



HOLLEMAN DR E

Richards Abandonment

DARTMOUTH ST

RICHARDS ST

CREST ST

STERLING ST

MANUEL DR



HOLLEMAN DR E

Sterling Abandonment

DARTMOUTH ST

CREST ST

RICHARDS ST

STERLING ST

MANUEL DR



ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 3210 SQUARE FOOT PORTION OF THE FIFTY (50) FOOT WIDTH RIGHT OF WAY, SAID PORTION LYING ALONG LOTS 27 & 54, BLOCK 1, OF THE RICHARDS ADDITION, ACCORDING TO THE PLAT RECORDED IN VOLUME 137, PAGE 25, 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 fifty (50) foot Width Right-of-Way, said portion lying along Lots 27 & 54, Block 1, of the Richards Addition, according to the plat recorded in Volume 137, Page 25, of the Official Records of Brazos County, Texas, as described in Exhibit "A" attached hereto (such portion hereinafter referred to as the "Right-of-Way"); and

WHEREAS, in order for the Right-of-Way 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 Right-of-Way described in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Right-of-Way 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 Right-of-Way.
3. There is no anticipated future public need or use for the Right-of-Way.
4. Abandonment of the Right-of-Way will not impact access for all public utilities to serve current and future customers.

PART 2: That the Right-of-Way as described in Exhibit "A" be abandoned and vacated by the City.

ORDINANCE NO. _____

Page 2

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

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

City Attorney

**METES AND BOUNDS DESCRIPTION
OF A
0.70 ACRE TRACT
PORTION OF RICHARDS STREET RIGHT-OF-WAY
RICHARDS ADDITION
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF RICHARDS STREET RIGHT-OF-WAY ACCORDING TO THE PLAT OF RICHARDS ADDITION RECORDED IN VOLUME 137, PAGE 25 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND ON THE NORTHWEST LINE OF RICHARDS STREET (50' R.O.W.) MARKING THE EAST CORNER OF LOT 3R, HOLLEMAN PLACE, ACCORDING TO THE PLAT RECORDED IN VOLUME 5852, PAGE 230 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, AND A SOUTHWESTERLY CORNER OF A CALLED 6.26 ACRE TRACT AS DESCRIBED BY A DEED TO GRID PROJECT 105, LTD. RECORDED IN VOLUME 5879, PAGE 163 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 41° 24' 25" E ALONG THE NORTHWEST LINE OF RICHARDS STREET, SAME BEING A SOUTHEAST LINE OF SAID 6.26 ACRE TRACT, FOR A DISTANCE OF 63.55 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE NORTH CORNER OF THIS HEREIN DESCRIBED TRACT;

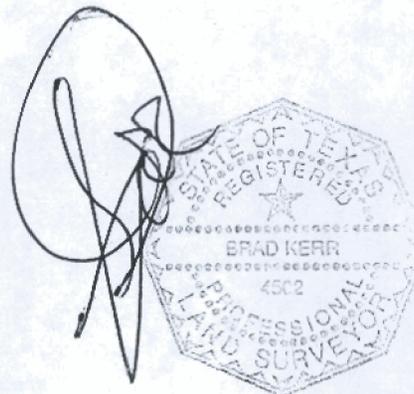
THENCE: S 49° 37' 45" E ALONG THE PLATTED NORTHEAST LINE OF RICHARDS STREET, SAME BEING A SOUTHWEST LINE OF SAID 6.26 ACRE TRACT, FOR A DISTANCE OF 50.11 FEET TO A 5/8 INCH IRON ROD FOUND MARKING THE EAST CORNER OF THIS HEREIN DESCRIBED TRACT;

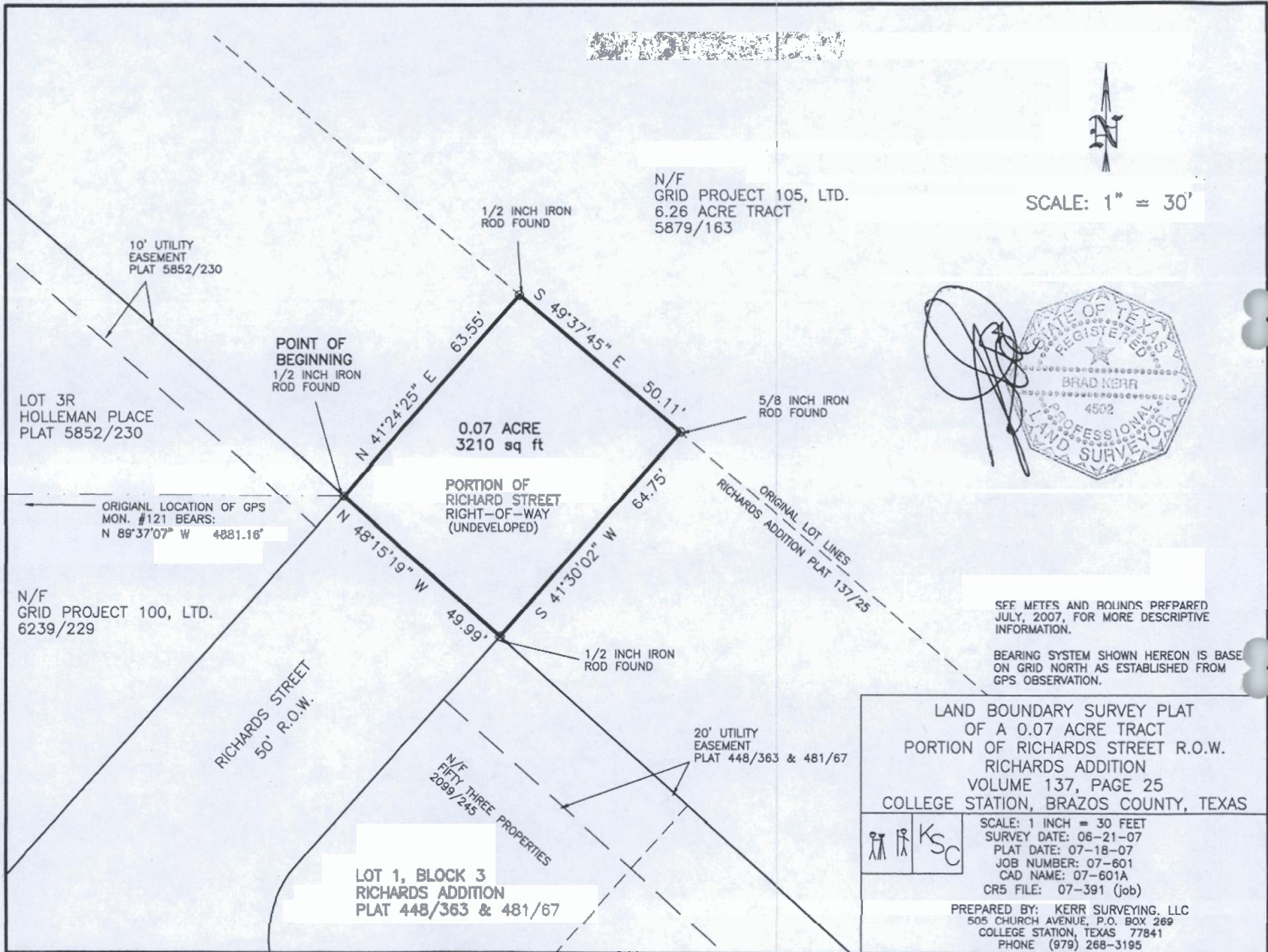
THENCE: S 41° 30' 02" W ALONG THE SOUTHEAST LINE OF RICHARDS STREET, SAME BEING A NORTHWEST LINE OF SAID 6.26 ACRE TRACT, FOR A DISTANCE OF 64.75 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE NORTH CORNER OF BLOCK 3, RICHARDS ADDITION, ACCORDING TO THE PLAT RECORDED IN VOLUME 448, PAGE 363 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, AND RECORDED IN VOLUME 481, PAGE 67 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 48° 15' 19" W THROUGH THE RIGHT-OF-WAY OF RICHARDS STREET FOR A DISTANCE OF 49.99 FEET TO THE POINT OF BEGINNING CONTAINING 0.70 OF AN ACRE OF LAND, MORE OF LESS, AS SURVEYED ON THE GROUND JULY, 2007. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

D:/WORK/MAB/07-601A.MAB





N/F
 GRID PROJECT 105, LTD.
 6.26 ACRE TRACT
 5879/163


 SCALE: 1" = 30'



SEE METES AND BOUNDS PREPARED
 JULY, 2007, FOR MORE DESCRIPTIVE
 INFORMATION.

BEARING SYSTEM SHOWN HEREON IS BASED
 ON GRID NORTH AS ESTABLISHED FROM
 GPS OBSERVATION.

LAND BOUNDARY SURVEY PLAT
 OF A 0.07 ACRE TRACT
 PORTION OF RICHARDS STREET R.O.W.
 RICHARDS ADDITION
 VOLUME 137, PAGE 25
 COLLEGE STATION, BRAZOS COUNTY, TEXAS



SCALE: 1 INCH = 30 FEET
 SURVEY DATE: 06-21-07
 PLAT DATE: 07-18-07
 JOB NUMBER: 07-601
 CAD NAME: 07-601A
 CR5 FILE: 07-391 (job)

PREPARED BY: KERR SURVEYING, LLC
 505 CHURCH AVENUE, P.O. BOX 269
 COLLEGE STATION, TEXAS 77841
 PHONE (979) 268-3195

07-184 08-03-07 8:00 AC

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 1748 SQUARE FOOT PORTION OF THE TWENTY-FIVE (25) FOOT WIDTH RIGHT OF WAY, SAID PORTION LYING ALONG LOTS 60 & 66, BLOCK 1, OF THE RICHARDS ADDITION, ACCORDING TO THE PLAT RECORDED IN VOLUME 137, PAGE 25, 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-five (25) foot Width Right-of-Way, said portion lying along Lots 60 & 66, Block 1, of the Richards Addition, according to the plat recorded in Volume 137, Page 25, of the Official Records of Brazos County, Texas, as described in Exhibit "A" attached hereto (such portion hereinafter referred to as the "Right-of-Way"); and

WHEREAS, in order for the Right-of-Way 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 Right-of-Way described in Exhibit "A" attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Right-of-Way 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 Right-of-Way.
3. There is no anticipated future public need or use for the Right-of-Way.
4. Abandonment of the Right-of-Way will not impact access for all public utilities to serve current and future customers.

PART 2: That the Right-of-Way as described in Exhibit "A" be abandoned and vacated by the City.

ORDINANCE NO. _____

Page 2

PASSED, ADOPTED and APPROVED this _____ day of _____, 2007.

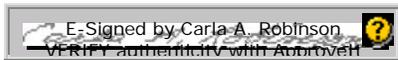
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

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

City Attorney

**METES AND BOUNDS DESCRIPTION
OF A
0.40 ACRE TRACT
PORTION OF STERLING STREET RIGHT-OF-WAY
RICHARDS ADDITION
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF STERLING STREET RIGHT-OF-WAY ACCORDING TO THE PLAT OF RICHARDS ADDITION RECORDED IN VOLUME 137, PAGE 25 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF A CALLED 6.26 ACRE TRACT AS DESCRIBED BY A DEED TO GRID PROJECT 105, LTD. RECORDED IN VOLUME 5879, PAGE 163 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, AND THE EAST CORNER OF BLOCK 3, RICHARDS ADDITION, ACCORDING TO THE PLAT RECORDED IN VOLUME 481, PAGE 67 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, AND RE-RECORDED IN VOLUME 448, PAGE 363 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 48° 15' 19" E ALONG THE COMMON LINE OF SAID 6.26 ACRE TRACT AND SAID BLOCK 3 FOR A DISTANCE OF 113.11 FEET TO A 5/8 INCH IRON ROD FOUND MARKING THE POINT OF BEGINNING OF THIS HEREIN DESCRIBED TRACT;

THENCE: N 48° 15' 19" W ALONG THE NORTHEAST LINE OF SAID BLOCK 3 AND THROUGH THE ORIGINAL RIGHT-OF-WAY OF STERLING STREET FOR A DISTANCE OF 24.98 FEET TO A 5/8 INCH IRON ROD FOUND MARKING THE WEST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: ALONG THE COMMON LINE OF SAID 6.26 ACRE TRACT AND SAID PORTION OF STERLING STREET RIGHT-OF-WAY FOR THE FOLLOWING CALLS:

N 41° 37' 07" E FOR A DISTANCE OF 69.62 FEET TO A 3/8 INCH IRON ROD FOUND;

S 49° 30' 35" E FOR A DISTANCE OF 25.06 FEET TO A 3/8 INCH IRON ROD FOUND;

S 41° 40' 49" W FOR A DISTANCE OF 70.13 FEET TO THE POINT OF BEGINNING CONTAINING 0.40 OF AN ACRE OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JULY, 2007. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

D:/WORK/MAB/07-601B.MAB





SCALE: 1" = 30'

N/F
GRID PROJECT 105, LTD.
6.26 ACRE TRACT
5879/163

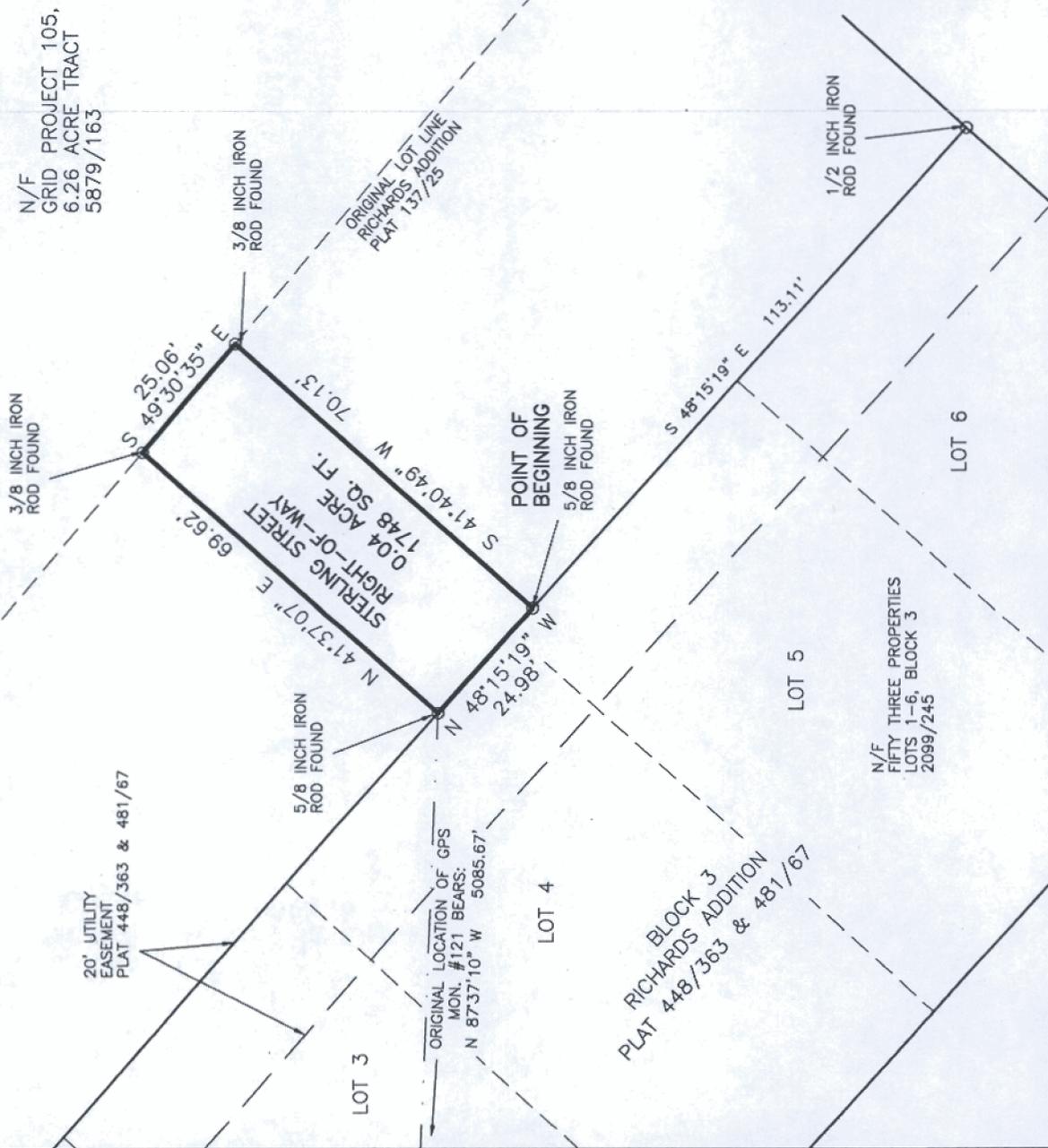


SEE METES AND BOUNDS PREPARED JULY
2007 FOR MORE DESCRIPTIVE INFORMATION.
BEARING SYSTEM SHOWN HEREON IS BASED ON
GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

LAND BOUNDARY SURVEY PLAT
OF A 0.04 ACRE TRACT
PORTION OF STERLING STREET R.O.W.
RICHARDS ADDITION
VOLUME 137, PAGE 25
COLLEGE STATION, BRAZOS COUNTY, TEXAS

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 06-21-07
PLAT DATE: 07-18-07
JOB NUMBER: 07-601
CAD NAME: 07-601B
CR5 FILE: 07-391 (job)

PREPARED BY: KERR SURVEYING, LLC
505 CHURCH AVENUE, P.O. BOX 269
COLLEGE STATION, TEXAS 77841
PHONE (979) 268-3195



07-184 08-03-07 8:00 AC



For Office Use Only
 P&Z Case No. 07-184
 Date Submitted: 08-03-07

8:00
AC

ABANDONMENT OF PUBLIC ROW-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS

AC

- \$300 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 The Lofts, Wolf Pen Creek

LEGAL DESCRIPTION Remainder 6.26 acre tract of Woodstock Phase I filed October 17, 1979 in volume 430, page 481 of the Official Records of Brazos County, Texas.

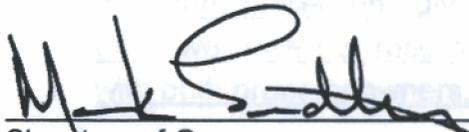
APPLICANT (Primary Contact for the Project):

Name Natalie Ruiz, AICP E-Mail Natalie@ipsgroup.us
 Street Address 511 University Drive East, Suite 205
 City College Station State Texas Zip Code 77840
 Phone Number (979) 846-9259 Fax Number 979-846-9259

PROPERTY OWNER'S INFORMATION (if different from above):

Name Mark Lindley, Asset Plus Corporation E-Mail mlindley@assetpluscorp.com
 Street Address 5151 San Felipe, Suite 2050
 City Houston State Texas Zip Code 77056
 Phone Number 713-268-5122 Fax Number _____

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct.



 Signature of Owner

July 19, 2007

 Date

**APPLICATION FOR
THE ABANDONMENT OF A
PUBLIC RIGHT-OF-WAY/EASEMENT**

Date: July 12, 2007

Location of Right-of-Way/Easement to be Abandoned: Undeveloped portions of the rights-of-way for Sterling Street

Property Owner's Name & Address & Phone Number: See page 1 of application.

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)

Doug Pederson, Fifty-Three Properties, Ltd. and Bill Mather, Grid Project 100, Ltd. were notified of the right-of-way abandonment request via a letter (see attached) mailed on July 19, 2007. _____ date, we have not received a response; however, we will continue to follow-up with both property owners.

07-184
08-03-07
8:00
AE

7. Such public right-of-way should be abandoned because:

The right-of-way is undeveloped and no extension of Sterling Street is

8. Such public right-of-way/easement has been and is being used as follows:

Currently vacant with no utilities.

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: [Handwritten Signature]

Owner's Name: Mark Lindley

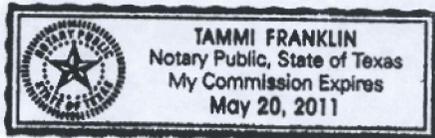
Owner's Address: 5151 San Felipe Suite 2050
Houston, Texas 77056

Owner's Phone Number (713) 782-5800

STATE OF TEXAS }
COUNTY OF HARRIS }

ACKNOWLEDGMENT

Subscribed and sworn to before me, a Notary Public, this 19th day of July, 2007, by Mark Lindley.



[Handwritten Signature]
Notary Public in and for the State of Texas

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

EXHIBIT NO. 1

Attached are two sealed copies of the metes and bounds description of the public right-of-way/easement situated in Woodstock Section I Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.

**METES AND BOUNDS DESCRIPTION
OF A
0.40 ACRE TRACT
PORTION OF STERLING STREET RIGHT-OF-WAY
RICHARDS ADDITION
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF STERLING STREET RIGHT-OF-WAY ACCORDING TO THE PLAT OF RICHARDS ADDITION RECORDED IN VOLUME 137, PAGE 25 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

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S 49° 30' 35" E FOR A DISTANCE OF 25.06 FEET TO A 3/8 INCH IRON ROD FOUND;

S 41° 40' 49" W FOR A DISTANCE OF 70.13 FEET TO THE POINT OF BEGINNING CONTAINING 0.40 OF AN ACRE OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JULY, 2007. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

**BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502**

D:/WORK/MAB/07-601B.MAB



**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

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.



SCALE: 1" = 30'

N/F
GRID PROJECT 105, LTD.
6.26 ACRE TRACT
5879/163

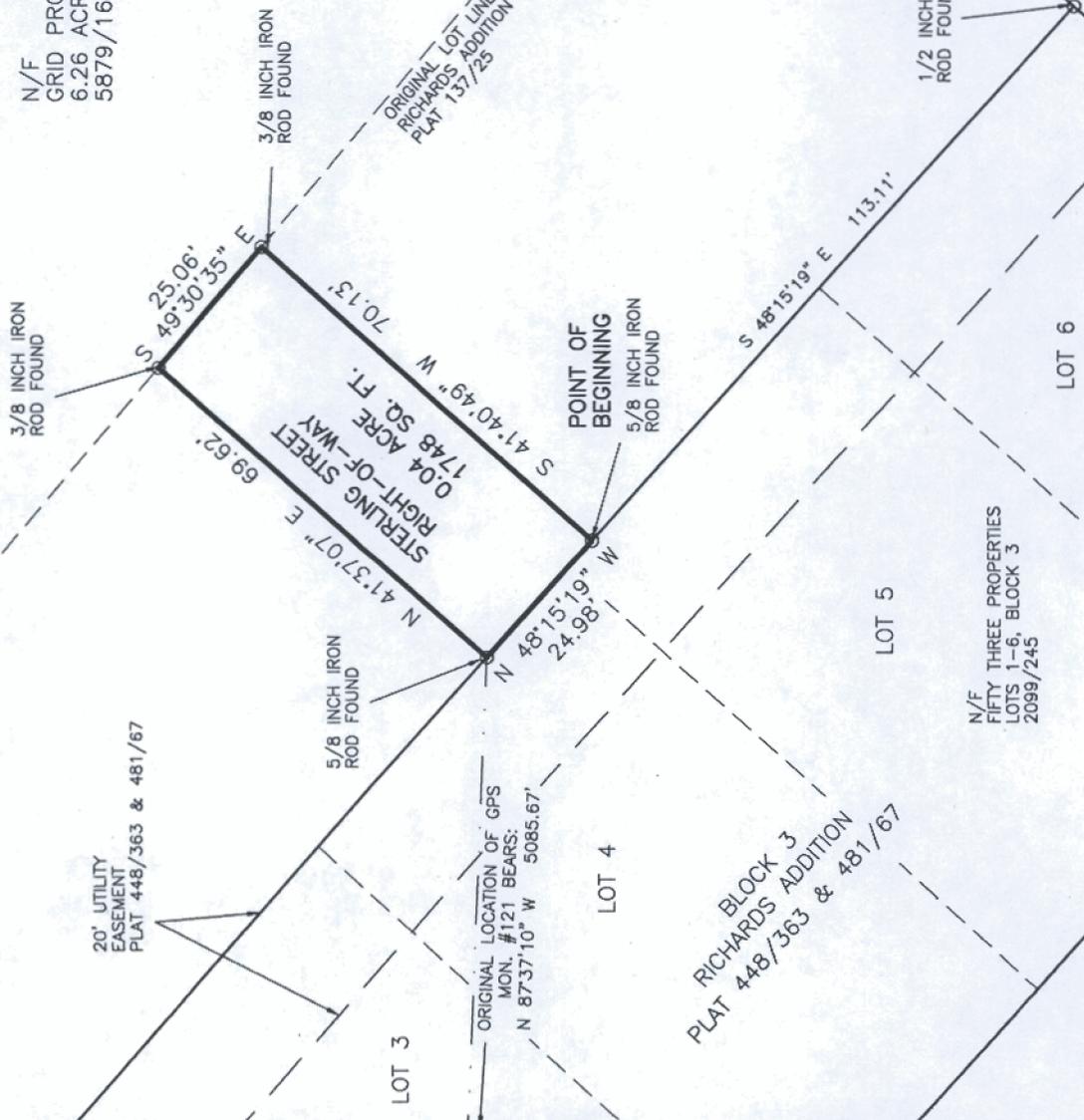
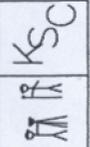


SEE METES AND BOUNDS PREPARED JULY 2007 FOR MORE DESCRIPTIVE INFORMATION.
BEARING SYSTEM SHOWN HEREON IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

LAND BOUNDARY SURVEY PLAT
OF A 0.04 ACRE TRACT
PORTION OF STERLING STREET R.O.W.
RICHARDS ADDITION
VOLUME 137, PAGE 25
COLLEGE STATION, BRAZOS COUNTY, TEXAS

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SURVEY DATE: 06-21-07
PLAT DATE: 07-18-07
JOB NUMBER: 07-601
CAD NAME: 07-601B
CR5 FILE: 07-391 (job)

PREPARED BY: KERR SURVEYING, LLC
505 CHURCH AVENUE, P.O. BOX 269
COLLEGE STATION, TEXAS 77841
PHONE (979) 268-3195



07-184 08-03-07 8:00 AC

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

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 ENERGY

BY: [Signature]
Title Engineer

VERIZON TELEPHONE COMPANY

BY: _____
Title _____

SUDDENLINK COMMUNICATIONS

BY: _____
Title _____

BRYAN TEXAS UTILITIES

BY: _____
Title _____

Application for Abandonment of
a Public Right-of-Way/Easement

Located at The Lofts, Wolf Pen Creek

EXHIBIT NO. 3

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ATMOS ENERGY

BY: _____
Title _____

VERIZON TELEPHONE COMPANY

BY: Brenda L. Vaidak
Title Network Engr. Supervisor

SUDDENLINK COMMUNICATIONS

BY: _____
Title _____

BRYAN TEXAS UTILITIES

BY: _____
Title _____

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

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 ENERGY

BY: _____

Title _____

VERIZON TELEPHONE COMPANY

BY: _____

Title _____

SUDDENLINK COMMUNICATIONS

BY: Michael D. [Signature] 7-17-07

Title Plant Manager

BRYAN TEXAS UTILITIES

BY: _____

Title _____

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

EXHIBIT NO. 3

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ATMOS ENERGY

BY: _____
Title _____

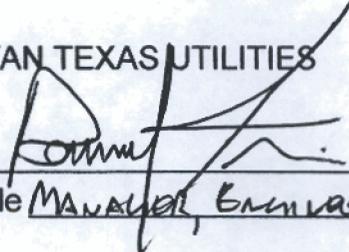
VERIZON TELEPHONE COMPANY

BY: _____
Title _____

SUDDENLINK COMMUNICATIONS

BY: _____
Title _____

BRYAN TEXAS UTILITIES

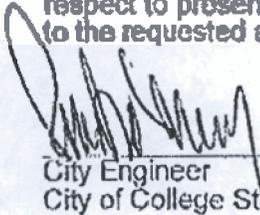
BY:  _____
Title MANAGER, ENGINEERING DEPARTMENT

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

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

Water Services Department
City of College Station

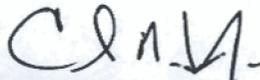
Application for Abandonment of
a Public Right-of-Way/Easement

Located at The Lofts, Wolf Pen Creek

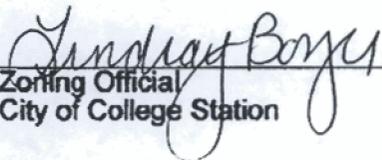
EXHIBIT NO. 4

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.

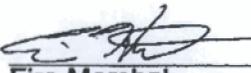
City Engineer
City of College Station



Building Official
City of College Station



Zoning Official
City of College Station



Fire Marshal
City of College Station

Electric Department
City of College Station

Water Services Department
City of College Station

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

EXHIBIT NO. 4

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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 Michalaky

Electric Department
City of College Station
8/6/07

Water Services Department
City of College Station

Post-it® Fax Note	7671	Date	8-6-07	# of pages	2
To	Mardi A	From	Tony M		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

EXHIBIT NO. 4

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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

Shelton 5 Sep 07

Water Services Department
City of College Station

**Application for Abandonment of
a Public Right-of-Way/Easement**

Located at The Lofts, Wolf Pen Creek

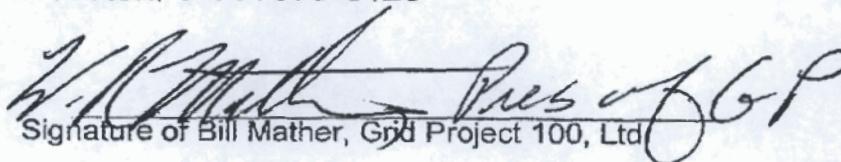
EXHIBIT NO. 5

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.

Bill Mather, Grid Project 100, Ltd.

13127 Kimberley Lane

Houston, TX 77079-6128

A handwritten signature in black ink, appearing to read "Bill Mather", with a long horizontal flourish extending to the right. The signature is written over a horizontal line.

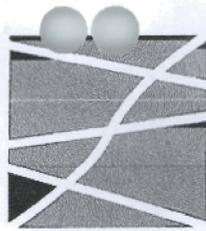
Signature of Bill Mather, Grid Project 100, Ltd

Doug Pederson, Fifty-Tree Properties, Ltd.

1507 South College Avenue

Bryan, TX 77801-1214

Signature of Doug Pederson, Fifty-Three Properties, Ltd.



IPS Group
Planning Solutions

July 19, 2007

Bill Mather
Grid Project 100, Ltd.
13127 Kimberley Lane
Houston, TX 77079-6128

RE: The Lofts, Wolf Pen Creek development in College Station, Texas

Hey Bill,

I'm representing Asset Plus, who is developing a new multi-family and retail development at the corner of Dartmouth and Holleman – sound familiar? Anyway, as part of the development, we need to abandon two sections of undeveloped right-of-way for Richards and Sterling Streets.

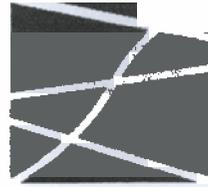
We've prepared the necessary paperwork through the City of College Station and worked with local utility companies to ensure that abandoning the rights-of-way will not impact adjacent property owners. The rights-of-way are wholly contained within Asset Plus's property. As part of the abandonment process to release the right-of-way, the City of College Station requests that we contact abutting property owners to make them aware of our proposal and ask you to sign the abandonment application. Attached is a copy of an "Abandonment of Easement/Right-of-Way" application from the City of College Station that we would like for you to sign agreeing to release the rights-of-way.

If you agree, please sign the application and send the original to me at the address on the letterhead. You should also receive a notice from the City of College Station soon inviting you to a public hearing on this issue. Please let me know if you have any questions or need additional information. Thank you for your help!

Sincerely,

Natalie Thomas Ruiz, AICP
Principal

Attachments: Abandonment of Easement/ROW Application



IPS Group
Planning Solutions

July 19, 2007

Doug Pederson
Fifty-Three Properties, Ltd.
1507 South College Avenue
Bryan, TX 77801-1214

RE: The Lofts, Wolf Pen Creek development in College Station, Texas

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We've prepared the necessary paperwork through the City of College Station and worked with local utility companies to ensure that abandoning the rights-of-way will not impact adjacent property owners. The rights-of-way are wholly contained within Asset Plus's property. As part of the abandonment process to release the right-of-way, the City of College Station requests that we contact abutting property owners to make them aware of our proposal and ask you to sign the abandonment application. Attached is a copy of an "Abandonment of Easement/Right-of-Way" application from the City of College Station that we would like for you to sign agreeing to release the rights-of-way.

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Sincerely,

Natalie Thomas Ruiz, AICP
Principal

Attachments: Abandonment of Easement/ROW Application

September 27, 2007
Regular Agenda Item No. 3
Unified Development Ordinance Amendment – Design Review Board

To: Glenn Brown, City Manager

From: Bob Cowell, Director of Planning & Development Services

Agenda Caption: Public hearing, presentation, possible action, and discussion regarding an ordinance amendment to Chapter 12 of the Code of Ordinances, Unified Development Ordinance Section 2.4 Design Review Board and Section 2.8 Summary of Review Authority.

Summary: The College Station Design Review Board is a review body established to hear and rule on sign, building, and site design issues, including architectural issues as specified in the Unified Development Ordinance, by bringing expertise from the community to bear on these issues in designated design districts. As development standards and expectations continue to evolve, Staff should continually evaluate our review bodies to insure that they have the ability to meet those needs. Staff has identified two elements of the Design Review Board for consideration and potential revision.

Gateway Grants

The Planning & Development Services department has coordinated with the Neighborhood and Community Relations staff to create a Gateway Grant program for registered neighborhood associations that wish to improve the entrances to their neighborhoods and enhance the aesthetics with signage, plantings, and other decorative accents.

This grant program will be funded by the City and applications will be processed and reviewed by the Neighborhood and Community Relations department. After the application has been reviewed by staff for completeness, it will be presented to the Design Review Board to determine compliance with City codes and regulations. The Unified Development Ordinance should be amended to reflect this new duty.

Board Membership

Currently, the Design Review Board consists of seven regular members and two alternate members, eight of which are appointed by the City Council. The members of the DRB include:

1. Registered architect
2. Business person
3. Landscape architect
4. Developer or land owner in a design district
5. Person knowledgeable in aesthetic judgment
6. Citizen-at-large
7. Chairman of the Planning & Zoning Commission, or his designee

Of those members, at least two must be owners of property or a business, a resident or an individual employed within a design district. The seventh regular member is the Chairman of the Planning & Zoning Commission, or his designee.

In recent years, there have been difficulties in filling many of these positions, resulting in the lack of a quorum for scheduled meetings. Staff is recommending an amendment to the requirements of board membership as described below:

Recommendation: Seven member board and two alternates, consisting of:

1. Person knowledgeable in aesthetic or architectural design issues
2. Business person
3. Landscape architect
4. Person with general knowledge of development codes and processes
5. Person knowledgeable in aesthetic judgment
6. Citizen-at-large
7. Chairman of the Planning & Zoning Commission, or his designee
 - Alternate – Person meeting one of the following criteria: knowledge in aesthetic or architectural design issues, business person, landscape architect, general knowledge of development codes and processes, knowledge in aesthetic judgment
 - Alternate – Citizen-at-large

The Planning & Zoning Commission heard these proposed amendments at their September 6, 2007 meeting and unanimously recommended approval.

Attachments:

1. Planning and Zoning Commission Meeting Minutes
2. Gateway Grant Policy
3. Ordinance



MINUTES
Regular Meeting
Planning and Zoning Commission
Thursday, September 6, 2007,
at 7:00 p.m.
Council Chambers
College Station City Hall
1101 Texas Avenue
College Station, Texas

COMMISSIONERS PRESENT: Chairman John Nichols, Derek Dictson, Harold Strong, Bill Davis, Glenn Schroeder, Marsha Sanford and Noel Bauman

COMMISSIONERS ABSENT: None

CITY COUNCIL MEMBERS PRESENT: None

CITY STAFF PRESENT: Senior Planners Jennifer Prochazka and Lindsay Boyer, Transportation Planner Ken Fogle, Graduate Civil Engineer Carol Cotter, Acting City Engineer Alan Gibbs, Assistant Director Lance Simms, Planning Administrator Molly Hitchcock, First Assistant City Attorney Carla Robinson, Information Services Representative Mandi Luedecke, Staff Assistants Brittany Korthauer and Nicole Menchaca.

1. Call meeting to order.

Chairman John Nichols called the meeting to order at 7:08 p.m.

2. Public hearing, presentation, possible action, and discussion regarding an ordinance amendment to Chapter 12 of the Code of Ordinances, Unified Development Ordinance Section 2.4 Design Review Board. **Case #07-500004 (MH)**

Molly Hitchcock, Planning Administrator, presented the first amendment stating that the Design Review Board may review Gateway Grants as per the Gateway Grant Program. She then presented the next amendment which would be an amendment to the requirements of board membership. Staff offered two options for the Commission:

Option 1: Seven member board and two alternates, consisting of:

1. Person knowledgeable in aesthetic or architectural design issues
2. Business Person
3. Landscape Architect
4. Person with general knowledge of development codes and processes
5. Person knowledgeable in aesthetic judgement

6. Citizen-at-large
7. Chairman of the Planning & Zoning Commission, or his designee
 - Alternate – Citizen-at-large
 - Alternate – Citizen-at-large

Option 2: Five Member board and two alternate members, consisting of:

1. Business Person
2. Landscape Architect
3. Person knowledgeable in aesthetic judgement
4. Citizen-at-large
5. Chairman of the Planning & Zoning Commission, or his designee
 - Alternate – Citizen-at-large
 - Alternate – Citizen-at-large

She answered questions from the Commission regarding the requirements of the board membership and stated that there have been difficulties in filling many positions, resulting in the lack of a quorum for meetings.

No one spoke at the public hearing.

Commissioner Davis motioned to accept Option 1A which would eliminate one Alternate – Citizen-at-large. Commissioner Schroeder seconded the motion.

Commissioner Sanford made a motion to amend the previous motion stating that one of the Alternates should have the qualifications of one of the 1st five board members (i.e., person knowledgeable in aesthetic or architectural design issues, business person, landscape architect, person with general knowledge of development codes and processes, or a person knowledgeable in aesthetic judgement). Commissioner Bauman seconded the motion, motion passed (5-2).

The amended motion passed (7-0).

Commissioner Schroeder motioned to include the Gateway Grants in the powers and duties of the Design Review Board. Commissioner Sanford seconded the motion, motion passed (7-0).

3. Adjourn.

Commissioner Davis motioned to adjourn. Commissioner Sanford seconded the motion, motion passed (7-0).

Meeting adjourned at 8:24 p.m.



INTRODUCTION

College Station is committed to aiding registered neighborhood associations in developing attractive entrances into their neighborhoods, in order to promote the City and utilize citizen participation in making College Station a better place to live.

The improvement of these entrances or gateways should only serve to better enhance the aesthetic value of our community and strengthen its natural character.

DEFINITIONS

1. **Subdivision or Neighborhood Gateway** - a point of entrance or means of access into either a subdivision or neighborhood marked by plantings, signage and other decorative accents.
2. **Subdivision** - as defined in Chapter 9, Section 3, of the City of College Station Code of Ordinances. The division of a lot, tract, or parcel of land into two or more lots or sites for the purpose of sale, division of ownership or building development.
3. **Neighborhood** - an area of a community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as major highways and railroads or natural features, such as rivers.
4. **Association**- Homeowners' Association or Neighborhood Association as defined below.
5. **Homeowners' Association (HOA)**- a homeowners' association is an organization comprised of all owners of units, other than a condominium association, in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.
6. **Neighborhood Association (NA)** - an organization made up of residents and property owners within a self-defined boundary, having elected officers and operating under by-laws to fulfill a civic function.
7. **Private Improvement in the Public Right-of-way Permit (PIP)** - A PIP permit is required under Chapter 3, Section 2 of the City of College Station Code of Ordinances for any

improvements, as defined by code, that are placed and maintained in the City's right-of-way by a private entity.

8. **Right-of-Way** - As set out by the City of College Station Code of Ordinances Chapter 3, Section 2-D a Right-of-Way means the surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, alley, court, boulevard, parkway, drive, or other easement on or hereafter held by the City (including any street, as defined, which is acquired by eminent domain) for the purpose of public travel and shall include other easements or rights-of-way now or hereafter held by the City or in which the City has an interest (including any easements or rights-of-way acquired by eminent domain) which shall, with their proper use and meaning, entitle the City and a utility to use thereof for the purpose of installing facilities, and other property as may ordinarily be necessary and pertinent to a utility system.

SECTION I: POLICIES

A. GATEWAY POLICY

The City of College Station is committed to developing attractive gateways, as funding allows, into the community as a whole and will work diligently with Homeowners' Associations and Neighborhood Associations interested in developing and maintaining gateways into their neighborhood and/or subdivision.

B. GENERAL PROVISIONS

1. Purpose

The following policies are principles to be followed by City of College Station staff in executing the Gateway Grant program. These policies are intended to establish consistency and coherence in the implementation of gateway development.

2. No Contract Created

- a. Neither this policy nor any application for City funds shall constitute a contract that prohibits or restricts the City's right to withhold funds for any gateway development.
- b. The policies and procedures contained within this document shall be available for review and inspection upon request.

3. Gateway Records

- a. Neighborhood and Community Relations staff will maintain all records relating to Gateway Grant administration.
- b. Information contained in the files for the Gateway program is a matter of public record.

4. Amendment of Policies

The Policies contained within this document may be changed by the City Council. Changes to this document will be made available to the general public.

C. ELIGIBILITY

1. Eligibility Policy

Neighborhood and Community Relations (NCR) staff will be responsible for determining Gateway Grant eligibility.

2. Homeowners' Associations and Neighborhood Associations

Any association within the incorporated City Limits of College Station, Texas, which is registered in the City's Neighborhood Partnership Program, is eligible for gateway funding. Sixty percent (60%) of the members of the Association must sign the application form.

3. Developers

Developers are not eligible for funding.

D. FUNDING

1. City Council will determine the amount budgeted for the Gateway Grant program for each budget year. Once budgeted funds are depleted, applications not awarded will be held until the next fiscal year and will be given priority for funding consideration over new applicants.
2. The City of College Station will provide a 50% match, monetary only, of up to \$7,500 per application for use by the applicant in the development of their gateway or corridor. Applicants may apply no more than once in a five-year period. This is contingent upon availability of funds.
3. The Neighborhood and Community Relations staff will be responsible for prioritization of applications for grant funds. Prioritization will take into consideration, but not be limited to the following:
 - a. Date of application,
 - b. Completeness of application, and
 - c. Amount of funds requested.

E. LOCATION

1. Private Property

Gateway development will be allowed on Private Property. The development shall be clearly depicted on a layout plan which will be reviewed by City staff prior to approval of grant funds. In order for grant approval, the fee simple owner of said property must grant an indemnity agreement.

2. City Right-of-Way

Gateway development will be allowed in the City Right-Of-Way subject to the requirements of Building Regulations Chapter 3, Section 2, of the City of College Station Code of Ordinances. If any portion of the proposed project is planned in the right-of-way, a Private Improvement in the Public Right-of-Way Permit must be

issued before work begins and before the first dispersal of grant funds will be released.

F. MAINTENANCE

1. The Association shall have the responsibility to provide for the operation, repair and maintenance of the project funded by the grant whether the grant funds are expended on improvements on common property, private property, public right-of-way or easement.
2. The City will be given written permission for practical access at any time without liability when on official business, as well as permission to remove visual and easement obstructions, failed landscaping, objects in disrepair upon non-compliance by the Association of any terms of this agreement. In the event that the City must remove the material funded by the grant, the Association will be assessed all costs of removal.

G. GATEWAY MATERIAL

All materials used for gateway improvements must comply with the City of College Station's Code of Ordinances.

SECTION II: PROCEDURES

A. THE APPLICATION

For consideration of a Gateway Grant, an association must submit to the Neighborhood and Community Relations Coordinator, all specific instruments cited below:

1. Application form with 60% of the associations' signatures;
2. Preliminary layout and design for the project; and
3. Estimated cost of the entire project.

B. PRE-APPLICATION CONFERENCE

1. Any registered Association interested in applying for a Gateway Grant will attend a pre-application conference with Planning and Development Services staff. This meeting will be coordinated through the Neighborhood and Community Relations Coordinator. The purpose of preliminary discussion is to:
 - a. Define the scope and responsibilities of the project;
 - b. Clarify the application, review, and award process; and
 - c. Clarify the fund dispersal procedures upon approval.
2. Upon completion of the Pre-Application Conference, required development applications with supporting materials must be submitted to the Neighborhood and Community Relations Coordinator.

C. REVIEW AND RECOMMENDATION

1. Staff

City Staff will review applications for completeness and against all applicable City of College Station codes and regulations.

2. Design Review Board

a. The Design Review Board will determine each proposed gateway projects' compliance with the City of College Station's landscape, streetscape, signage, and private improvement in the public right-of-way regulations as set forth by the Unified Development Ordinance, and evaluate proposals based on the following criteria:

1. Gateway developments shall have good scale and be in harmonious conformance with the neighborhood.
2. Materials shall be selected for harmony of the neighborhood.
3. Materials shall be selected for suitability to the gateway developments and the design in which they are used and shall be architecturally harmonious with the neighborhood.
4. Materials shall be of durable quality.
5. Gateway developments shall have good proportions and relationships to their surroundings.
6. Colors shall be harmonious with the neighborhood and shall use only compatible accents.
7. Plant material shall be selected for interest in its structure, texture, and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used.
8. Gateway developments shall not impede traffic, including pedestrian and bicycle traffic.

b. The Design Review Board will be responsible for evaluating proposals based upon stated criteria and make a recommendation to the NCR staff on whether funds shall be granted. After City staff and Design Review Board reviews have been completed and any necessary changes to the proposal approved, contractors may apply for necessary permits for construction.

D. DISBURSEMENT OF FUNDS

At the completion of construction and final staff review of the completed project, paid invoices must be submitted to the Neighborhood and Community Relations Coordinator in order for a disbursement of Gateway funds to be released to the Association.

E. APPEALS

1. All appeals of staff denial of funding will be to the Design Review Board.
2. All appeals of the application process and/or the Design Review Board's decisions shall be made to City Council.

EXHIBIT A
FLOW CHART FOR GATEWAY GRANT PROGRAM

1. Must be a neighborhood or homeowners' association registered with the City of College Station's Neighborhood Partnership Program. Contact Neighborhood and Community Relations Coordinator (764-6262) for application materials.
2. Complete the Gateway Grant Application.
3. Gather the printed names, addresses, and signatures of a minimum of 60% of the association's members.
4. Develop a preliminary design plan for the project with an estimated cost.
5. Submit application, signatures, preliminary plans and estimated costs to the Neighborhood and Community Relations Coordinator, who will then set up a Pre-Application Conference with the Planning and Development Services staff for the purpose of:
 - Defining the scope and responsibilities of the project;
 - Clarifying the application, review, and award process; and
 - Clarifying the fund dispersal procedure upon approval.
6. Attend the Pre-Application Conference (PAC) meeting and get direction from City staff regarding continuing the process.
7. Submit to the Neighborhood and Community Relations Coordinator all required development applications (fees will apply) and materials for technical review and Design Review Board consideration:
 - A Design Review Board Gateway Application and, if applicable,
 - A Private Improvement in the Public Right-of-Way Permit (PIP) application (only if the project is in the City's right-of-way).
8. City staff will perform a technical review of the application(s) and present the proposal to the Design Review Board when all standards have been met. Applicant attendance at this meeting is highly encouraged.
9. Upon approval by the Design Review Board, the required development and/or building permits (e.g. development permit, sign, electrical, irrigation) may be applied for by the appropriate contractors to begin construction (fees will apply).
10. When construction/landscaping has been completed, City staff will make an inspection. The Neighborhood and Community Relations Coordinator will be notified when all work for a project has been accomplished according to approved plans and successfully completed a final inspection.
11. Grant fund dispersal may be made when a project has completed a successful final inspection and a copy of the paid invoice(s) is submitted to the Neighborhood and Community Relations Coordinator.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," ARTICLE 2 "DEVELOPMENT REVIEW BODIES" 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 12, "Unified Development Ordinance," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 27th day of September, 2007.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Article 2, Sections 2.4.B, 2.4.D and 2.8 to read as set out in Appendix I attached hereto.

2.4 Design Review Board

A. Creation

A Design Review Board is hereby established by the City of College Station for the purpose of enhancing the City's ability to review sign, building, and site design issues, including architectural issues as specified in this UDO, by bringing expertise from the community to bear on these issues in designated design districts.

B. Membership and Terms

1. The Design Review Board shall consist of seven regular members and two alternate members. Six of the regular members and the two alternate members shall be appointed by the City Council. City Council shall appoint the following to the Design Review Board:

- a. Person knowledgeable in aesthetic or architectural design issues
- b. Business person
- c. Landscape architect
- d. Person with general knowledge of development codes and processes
- e. Person knowledgeable in aesthetic judgment
- f. Citizen-at-large
- Alternate – Person meeting one of the following criteria: knowledge in aesthetic or architectural design issues, business person, landscape architect, general knowledge of development codes and processes, knowledge in aesthetic judgment
- Alternate – Citizen-at-large

Of the members listed above, at least two shall be owners of property or a business within a design district, a resident within a design district, or an individual employed within a design district.

The seventh regular member shall be the Chairman of the Planning and Zoning Commission or his designee.

2. Members shall be appointed for two-year terms.

3. The Design Review Board is a governmental body and shall comply with the OPEN MEETINGS ACT.

C. Officers, Meetings, Quorum

1. Officers

A Chairperson shall be appointed annually by the City Council. The Board shall select a Vice-Chair from among its members as needed.

2. Meetings

Members of the Design Review Board shall meet regularly and the Chairperson shall designate the time and place of such meetings. All meetings of the Board where a quorum is present shall be open to the public.

3. Quorum

Four members shall constitute a quorum for the transaction of any business. Any recommendation or decision which does not receive a majority of positive votes from those members present shall be deemed a negative report.

4. Rules of Proceeding

The Design Review Board shall adopt its own rules of procedure.

5. Minutes

The Design Review Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Administrator and shall be a public record.

D. Powers and Duties

The Design Review Board has the following powers and duties:

1. Site Plans

The Design Review Board shall hear and take final action on design district site plans.
Per Ordinance No. 2981 (May 24, 2007)

2. Wolf Pen Creek District and Overlay District Review

The Design Review Board shall approve or deny any sign materials and colors in the Wolf Pen Creek District (WPC), and shall approve or deny all alternate building or fence materials and fence height in the Krenek Overlay District, as specified within this UDO.

3. Wolf Pen Creek Parking Waivers

The Design Review Board shall hear and decide requests to vary from the amount of required parking in the Wolf Pen Creek District (WPC).

4. Northgate District Standards Waivers

The Design Review Board shall hear and decide requests to vary from the standards to Section 5.6.B. Northgate Districts as listed in Section 5.6.B.14 Waivers.

5. Driveway Appeals

The Design Review Board shall hear appeals to decisions of the Development Engineer regarding driveway appeals.

6. Appeal of Requirement Based on Site Plan Review Criteria

The Design Review Board shall hear and decide appeals of the Administrator's application of site plan requirements to assure compliance with Section 3.5.E, Site Plan Review Criteria.

7. Buffer Appeals

The Design Review Board shall hear appeals of buffer requirements listed in Section 7.6, Buffer Requirements.

8. Non-Residential Architectural Standards Appeals

The Design Review Board shall hear and decide alternate building materials, colors, required screening, architectural relief elements, and parking lot concepts for non-residential structures, as specified in Section 7.9, Non-Residential Architectural Standards.

Per Ordinance No. 2881 (March 23, 2006)

9. Gateway Grants

The Design Review Board shall hear and decide proposals for subdivision and neighborhood gateways as described in the Gateway Grant policy.

E. Staff

The Administrator shall provide staff, as needed, to the Design Review Board.

2.8 Summary of Review Authority

The following table summarizes the authority of the various review bodies and staff.

PROCEDURE	City Council	P & Z Comm.	Zoning Bd. of Adj.	Design Rev. Bd.	Admini- strator	Building Official	Dev. Eng.
CITY COUNCIL							
Oversize Participation	D						R
Development Agreement	D				RR		R
Conditional Use permit	D	R			RR		
Zoning Map Amendment	D	R			RR		
PDD/P-MUD Concept Plan	D	R			RR		
Text Amendment	D	R			RR		
Comp. Plan Amendment	D	R			RR		
Impact Fee/CIP Priorities	D	R					
PLANNING & ZONING COMMISSION							
Master Plans		D			RR		R
Preliminary Plat		D			RR		R
Final Plat		D			RR		R
Development Plat		D			RR		R
Waiver of Subdivision Standard		D			RR		R
ZONING BOARD OF ADJUSTMENT							
Variance			D		RR	RR	RR
Administrative Appeal			D		R		
Zoning Map Interpretation			D		R		
DESIGN REVIEW BOARD							
Wolf Pen Creek District Site Plan		A		D	R		
Wolf Pen Creek District Building/Sign Review		A		D	R		
WPC Parking Waivers		A		D	R		
NG Waivers				D	R		
Non-Residential Architectural Standards Waiver				D	RR		
Gateway Grants	A			D	RR		
ADMINISTRATOR							
Interpretation		A**	A		D		
Sign Permit			A		D		
Site Plan		A		A*	D		
Administrative Adjustment			A		D		
Wolf Pen Creek District Building or Sign, Minor			A		D		
Minor or Amending Plat		A			D		R
PD Concept Plan Minor Amend.		A			D		
NG Roof Color Palette Amendment		A			D		
Alternative Parking Plans		A			D		R
BUILDING OFFICIAL							
Building Permit						D	
Certificate of Occupancy					R	D	
Certificate of Completion					R	D	R
DEVELOPMENT ENGINEER							
Development Permit							D
Driveway Application				A			D
Alternative Const. Material				A			D
*Section 3.5.E Site Plan Review Criteria and 3.6.E Wolf Pen Creek Design District General Site Plan Review Criteria only. **Subdivision Regulations only. KEY: A=Appeal D=Final Action/Decision R=Recommend RR=Review/Report							

Per Ordinance No. 2881 (March 23, 2006)

September 27, 2007
Regular Agenda Item #4
Public Hearing and Consideration of Budget Amendment #3
and Presentation, Possible Action and Discussion
on an Interfund Budget Transfer

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Public Hearing, possible action, and discussion on an ordinance Budget Amendment #3 amending ordinance number 2923 which will amend the budget for the 2006-2007 Fiscal Year and authorizing amended expenditures in the amount of \$167,485; and presentation, possible action, and discussion regarding an interfund budget transfer in the amount of \$32,000.

Recommendation(s): Staff recommends the City Council hold the public hearing on Budget Amendment #3, and approve the budget amendment ordinance and recommends approval of the interfund budget transfer.

Summary: The proposed budget amendment is to increase appropriations in the 2006-2007 budget by \$167,485. The charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover increased expenditures and after holding a public hearing on such budget amendment. A number of items have been identified that need to be considered in a budget amendment. Attached is a list of the items in the proposed budget amendment.

Also, the Fiscal Policies of the City require that interfund transfers be approved by City Council. This action is for a transfer of budget and funds between the Facilities and Technology Capital Improvement Projects Fund and the General Fund. \$32,000 is currently budgeted in the Facilities and Technology Capital Improvement Projects Fund for the installation of a generator at City Hall. This action will transfer the budget and the funds to the General Fund for appropriation and expenditure.

Budget & Financial Summary: The City has resources or can reasonably expect resources to cover each of the appropriations in the budget amendment.

The funds for the interfund transfer are already budgeted; this action will have no net financial impact on the budget.

Attachments:

1. Budget Amendment #3 and Interfund Transfer Detail List
2. Ordinance

Fiscal Year 2006-2007 Budget Amendment #3 and Budget Transfer Detail Listing

The proposed budget amendment is to increase the appropriations for the items listed below by \$167,485.

- 1. BVCOG Litter Abatement Grant - \$25,000:** On January 11, 2007, Council approved an interlocal agreement between the City of College Station and the Brazos Council of Governments (BVCOG) and a funding agreement between the City of College Station and Keep Brazos Beautiful (KBB) for a Texas Commission on Environmental Quality Regional Solid Waste Grant. The grant, in the amount of \$24,999.97 is to assist in funding a litter abatement education outreach program for the BVSWMA in partnership with KBB. A municipal partner was required by KBB to qualify for grant funding as the BVCOG will only distribute grants to cities and other public entities. The funding agreement allows KBB to administer the litter abatement education outreach program, and requires reporting to the City in order for the City to receive reimbursement of grant funds. This item provides the appropriation for expenditure by BVSWMA. The funds will be expended by BVSWMA and will be reimbursed by the BVCOG upon the completion of the funding requirements. The funds are available in the BVSWMA fund balance.
- 2. TxDOT Right of Way Payment - \$55,603:** On August 23, 2007 Council approved the payment of \$484,956.59 to TxDOT for the City's portion right-of-way costs on the State HW40 project, the Texas Avenue Widening project and the FM2154 project. A portion of this budget was approved as part of the FY07 budget amendment #2. This additional amount was requested by TxDOT after the approval of budget amendment #2. The balance, \$210,000, will be transferred from the Jones-Butler Street Extension project which came in under budget. The funds for this item are available in the Streets Capital Improvement Projects Fund and come from interest earnings in the Fund. TxDOT has indicated that the ROW acquisition is still on-going for the Texas Ave Widening project and FM2154 project, so additional funds may be requested by TxDOT in the future.
- 3. EMS Reporting - \$20,000:** This item will appropriate an additional \$20,000 to the Emergency Medical Services (EMS) Reporting project. This project is part of the CIP program and is currently budgeted at \$100,000. The updated system will provide better reports in a quicker time frame. Requests for proposals were solicited and proposals received indicate that the cost of the project will be approximately \$120,000. This item will appropriate the additional \$20,000. The funds for this item are available in the Facilities and Technology Capital Improvement Projects Fund and come from interest earnings in the Fund.
- 4. Cove of Nantucket Park - \$13,500:** This item is to appropriate to the Zone 12 Parkland Dedication Fund an additional \$13,500. Funds in the amount of \$34,000 are currently appropriated for FY07. However, the project is anticipated to begin sooner than expected and the total \$47,500 appropriation will be needed in FY07. These funds are currently available in the Zone 12 Parkland Dedication Fund.
- 5. Steeplechase Park - \$3,586:** This item is to appropriate \$3,586 to the Zone 5 Parkland Dedication Fund. Steeplechase Neighborhood Park is a 9-acre park located in Park Zone 5. The project was funded through certificates of obligation, Community Development Block Grant (CDBG) funds and Zone 5 Parkland Dedication Funds. The project is complete; however, additional expenses were incurred related to some concrete work done in an area prone to erosion. This item will appropriate \$3,586 of Zone 5 Parkland Dedication funds for this expenditure.
- 6. Fire Department Reimbursements - \$18,239:** The item will appropriate to the Fire Department budget funds in the amount of \$18,239. These funds are for expenses incurred by the Department in response to emergency situations throughout the State as part of the Texas Task Force 1 deployment. The City of College Station received reimbursements for this amount from TEEEX and the funds are available in the General Fund balance.
- 7. Police Department Reimbursements - \$27,362:** The item will appropriate to the Police Department budget funds in the amount of \$27,362. These funds are for expenses incurred and anticipated to be incurred by the Department for providing Police security and traffic enforcement at Texas A&M University football games. Reimbursements in the amount of \$22,801.47 have been received and it is anticipated that the balance will be received from Texas A&M University before the end of FY07. The funds are available in the General Fund balance.

8. **Police Seizure Funds - \$4,195:** This request will appropriate \$4,195 that is available in the Police Seizure Fund balance. Revenue received in this fund is from the sale of property seized during criminal investigations and can only be expended for criminal justice purposes. The Police Department identified a number of equipment items eligible for purchase with Police Seizure funds and this item appropriates those funds for expenditure.

The proposed budget transfer is to transfer \$32,000 from the Facilities and Technology Capital Improvement Projects Fund to the General Fund.

1. **City Hall Generator Installation -** Funds in the amount of \$32,000 for the installation of the generator at City Hall are currently budgeted for expenditure in the Facilities and Technology Capital Improvement Projects Fund. These funds were previously transferred from General Fund contingency. It has now been determined that it would be more appropriate to pay for the installation out of the Public Works departmental budget. This item will authorize the transfer of \$32,000 from the Facilities and Technology CIP Fund to the General Fund will appropriate the funds for expenditure within the Public Works Department budget. This transfer will not result in an increase in budget appropriations.

ORDINANCE NO. _____

AN ORDINANCE (BUDGET AMENDMENT 3) AMENDING ORDINANCE NUMBER 2923 WHICH WILL AMEND THE BUDGET FOR THE 2006-2007 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS THEREIN PROVIDED.

WHEREAS, the City Council of the City of College Station, Texas, approved its Budget Ordinance for the 2006-2007 Fiscal Year on September 14, 2006; and

WHEREAS, the City Council of the City of College Station, Texas, desires to amend the approved Budget Ordinance; and

WHEREAS, this amendment was prepared and presented to the City Council and a public hearing held thereon as prescribed by law and the Charter of the City of College Station, Texas, after notice of said hearing having been first duly given; now, therefore,

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

Part 1: That Part 1 of the Budget Ordinance for the 2006-2007 Fiscal Year is amended to read as follows:

"PART 1: That the proposed budget as amended by the City Council of the City of College Station, which is made a part hereof to the same extent as if set forth at length herein, is hereby adopted and approved, a copy of which is on file in the Office of the City Secretary in College Station Texas. Amended appropriations for fiscal year 2006-2007 for the General Fund are \$46,434,673, for the Police Seizure Fund are \$24,195, for the Streets Capital Improvement Projects Fund are \$10,222,422, for the Facilities and Technology Capital Improvement Project Fund are \$8,741,101, for the Brazos Valley Solid Waste Management Agency Fund are \$7,141,834, and for Parkland Dedication Funds are \$1,414,596. All other appropriations as originally adopted and amended by the City Council remain in full force and effect."

Part 2: That this ordinance shall become effective immediately after passage and approval.

PASSED and APPROVED this _____ day of _____ 2007.

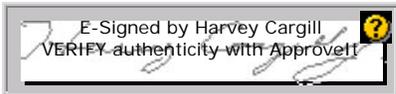
ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:



City Attorney

September 27, 2007
Regular Agenda Item No. 5
Amending Junk Motor Vehicle Ordinance

To: Glenn Brown, City Manager

From: Eric Hurt, Fire Marshal

Agenda Caption: Presentation, possible action, discussion on an ordinance amending Chapter 10, "Traffic Code", of the Code of Ordinances of the City of College Station, Texas by amending section 5: Junked Motor Vehicles.

Recommendation: Staff recommends the ordinance amendment be approved.

Summary: State laws have changed regarding junk, abandoned and antique vehicles. The changes in the law will affect the way we abate junk and abandoned vehicles as public nuisances. The new laws will allow the city to remove junk and abandoned vehicles after a hearing is conducted. This amendment will bring the city into compliance with state law.

Attachments:

1. Chapter 10, "Traffic Code" Section 5.
2. Ordinance

SECTION 5: JUNKED MOTOR VEHICLE REGULATIONS

A. DEFINITIONS

For the purposes of this Section, the following phrases, terms, words, and their derivations shall have their meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future. Words used in the plural number include the singular number. Words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) Antique Vehicle means a passenger car or truck that is at least twenty-five (25) years old.
- (2) Junked Motor Vehicle means any motor vehicle as defined in Texas Transportation Code Title 7, Chapter 683, as amended:
 - (a) that is self-propelled; and
 - (b) does not have lawfully affixed to it:
 - (1) an unexpired license plate; and
 - (2) a valid motor vehicle safety inspection certificate, and
 - (c) is:
 - (1) wrecked, dismantled, partially dismantled, or discarded; or
 - (2) inoperable and has remained inoperable for more than:
 - (i) 72 consecutive hours, if the vehicle is on public property; or
 - (ii) 30 consecutive days, if the vehicle is on private property
- (3) Motor Vehicle Collector means a person who owns one or more antique or special interest vehicles; and acquires, collects or disposes of an antique or special interest vehicle, or part of an antique or special interest vehicle, for personal use to restore and preserve an antique or special interest vehicle for historic interest.
- (4) Person means any individual, firm, corporation, partnership, association, company or organization of any kind.
- (5) Special Interest Vehicle means a motor vehicle of any age that has not been altered or modified from the original manufacturer's specifications, and because of its historic interest, is being preserved by hobbyists.

B. JUNKED MOTOR VEHICLES DECLARED PUBLIC NUISANCE

Junked motor vehicles or parts of junked motor vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tend to reduce the value of private property, invite vandalism, create fire hazards, constitute attractive nuisances creating a hazard to the health and safety of minors, and produce urban blight which is adverse to the maintenance and continuing development of the City of College Station, Texas. Because of this, they are public nuisances.

C. OFFENSE

A person commits an offense if the person maintains a public nuisance as described in this Section.

D. INAPPLICABILITY OF DECLARING JUNK MOTOR VEHICLES AS PUBLIC NUISANCES

Vehicles or parts of vehicles are not public nuisances if one or more of the following apply:

- (1) The motor vehicle or part thereof is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property;
- (2) The motor vehicle or part thereof is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (a) maintained in an orderly manner;
 - (b) not a health hazard; and
 - (c) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

E. NOTICE TO ABATE PUBLIC NUISANCE

(1) Not less than 10 days' notice of the nature of the nuisance will be given by personal delivery or sent by certified mail with a five-day return requested or delivered by the United States Postal Service with signature confirmation service to:

- (a) the last known registered owner of the nuisance;
 - (b) each lienholder of record of the nuisance; and
 - (c) the owner or occupant of:
 - (i) the property on which the nuisance is located; or
 - (ii) if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (2) The notice shall state that:
- (a) the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and
 - (b) any request for a hearing must be made before that 10-day period expires.
- (3) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- (4) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

F. PUBLIC HEARING

- (1) A public hearing shall be held on request of a person who receives notice as provided by this Section if the request is made not later than the date by which the nuisance must be abated and removed and shall be held no earlier than the 11th day after the date of the service of the notice. Such hearing shall be held before the City Manager or his designee. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (2) Upon a finding that a nuisance as described in this Section exists, the City Manager or his designee will order such owner or occupant to remove the junked motor vehicle or vehicle part within ten (10) days after the order is issued. The order shall include a description of the vehicle, the vehicle identification number and the license number, if the information is available.

G. REMOVAL WITH PERMISSION OF OWNER OR OCCUPANT

Within ten (10) days after receipt of notice to remove and abate the nuisance, as herein provided, the owner or occupant may give his written permission to the Chief of Police or his duly authorized agent for removal of the junked motor vehicle, or parts thereof, from the premises. The giving of such permission shall be considered compliance with the provisions of this Section. Cost of removal will be borne by the City. City may offset the cost of removal with any funds received as scrap value of the vehicle.

H. MUNICIPAL COURT

If the nuisance is not removed and abated within the time prescribed by order issued by the City Manager or his designee, or if a public hearing is not requested within the ten (10) day period as provided above, a complaint concerning this public nuisance may be filed in the Municipal Court of the City of College Station. Following a hearing and trial, upon a finding of guilty the defendant shall pay a fine in accordance with the penalty provision in this Section. On conviction, the Judge of the Municipal Court shall order abatement and removal of the nuisance within 10 days from the date the order is issued, the same being a reasonable time unless the Judge sets forth a different time period no shorter than 10 days as reasonable. If the defendant fails to attend the hearing where the order is issued, a College Station police officer will deliver or will cause to be delivered such order to the last known address of the defendant. If the defendant fails to remove and abate the nuisance within the period ordered by the Judge, the Judge may issue an order directing the Chief of Police to have the nuisance removed, and the Chief of Police or his duly authorized agent shall take possession of the junked motor vehicle or part thereof and remove it from the premises. The order shall include a description of the vehicle, the vehicle identification number and license number of the vehicle, if the information is available.

I. RECONSTRUCTION

A junked motor vehicle, shall not be reconstructed or made operable after it has been removed.

J. RELOCATION OF JUNKED VEHICLE

Relocation of a junked vehicle that is a public nuisance to another location within the City or county after a proceeding for the abatement and removal of such public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

K. DISPOSAL OF JUNKED MOTOR VEHICLES

- (1) A junked motor vehicle, or part thereof, may be removed to a scrap yard, a motor vehicle demolisher, or a suitable site operated by a city or county.
- (2) The City may operate a disposal site if the City Council determines that commercial channels of disposition are not available or are inadequate. The City may finally dispose of a junked vehicle or vehicle part, or transfer it to another disposal site if the disposal is scrap or salvage only.

L. NOTICE TO HIGHWAY DEPARTMENT

The City Manager or his delegee shall give notice to the Texas Department of Transportation not later than the fifth (5th) day after the date of removal of the junked motor vehicle or part thereof. Said notice shall identify the vehicle or vehicle part.

M. ADMINISTRATION

The administration of this Section shall be by regularly salaried, full-time employees of the City, except that any authorized person may remove the public nuisance.

N. AUTHORITY TO ENFORCE

The City Manager or his delegee authorized to administer this Section may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance. The Municipal Court Judge may issue orders necessary to enforce this subsection.

O. PENALTY

Anyone violating this Section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$200.00.

P. EFFECT OF ARTICLE

This article does not affect the law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

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; DECLARING JUNKED VEHICLES TO BE PUBLIC NUISANCES; PROVIDING REGULATIONS PERTAINING THERETO; 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 affect 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.

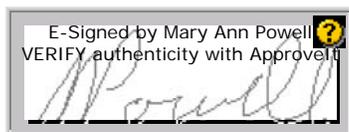
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 10, "Traffic Code", Section 5, "Junked Motor Vehicle Regulations" of the Code of Ordinances of the City of College Station, Texas, is hereby amended by replacing it in its entirety as set out hereafter to read as follows:

"SECTION 5: JUNKED MOTOR VEHICLE REGULATIONS**A. DEFINITIONS**

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O. PENALTY

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P. EFFECT OF ARTICLE

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September 27, 2007
Regular Agenda Item No. 6
Arts Council Budget and
Funding Agreements With Arts Council of Brazos Valley

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on approving the budget of the Arts Council of Brazos Valley; and presentation, possible action and discussion on two (2) funding agreements between the City of College Station and the Arts Council of Brazos Valley for FY07 totaling \$240,000.

Recommendation(s): Staff recommends approval of the Arts Council budget and approval of the funding agreements.

Summary: As part of the 2007-2008 budget process the City Council approved funding for the Arts Council of Brazos Valley in the amount of \$440,000.

Of this total, \$100,000 is from the General Fund for operations and maintenance of the Arts Council. \$140,000 is from the Hotel Tax fund for operations and maintenance associated with the administration of Hotel Tax funds. Finally, \$200,000 is from the Hotel Tax fund for affiliate grants.

This item is consideration of the operations and maintenance funding agreements. The affiliate funding agreement will be brought back in the near future.

State law requires that the City Council adopt the budget of any organization that is to be funded through the Hotel Tax.

The City Council may come back and make changes to this funding agreement once Council Subcommittee reviewing the Arts Council reports back to the City Council with any recommendations for change.

Budget & Financial Summary: The funds for this agreement are budgeted and available in the 2007-2008 General Fund in the amount of \$100,000 and the Hotel Tax Fund Budget in the amount of \$140,000.

Attachments: The following documents will be made available prior to the meeting:
Arts Council of Brazos Valley Budget
Arts Council of Brazos Valley General Fund Funding Agreement
Arts Council of Brazos Valley Hotel Tax Fund O&M Funding Agreement

27 September 2007
Regular Item No. 7
Banner Resolution for the Big State Music Festival

To: Glenn Brown, City Manager

From: Bob Cowell, Director of Planning & Development Services

Agenda Caption: Presentation, possible action and discussion on a resolution authorizing banners for the Big State Music Festival.

Recommendation(s): Staff recommends adopting the resolution as submitted.

Summary: In recognition of the Big State Music Festival, this resolution allows the installation and display of 36" x 96" (27 sq. ft.) banners on the east side of Texas Avenue between University Drive and Southwest Parkway and on both sides of University Drive from Earl Rudder Freeway to Texas Avenue. The banners will be attached to existing light standards and the installation cost will be borne by the festival promoter. The resolution also authorizes the banners to be installed from 3 October until 15 October.

Section 7.4.E.1 of the City of College Station Unified Development Ordinance (UDO) exempts banners from UDO regulations where there has been a resolution of the City Council that finds that the display of the signs (a) promotes a positive image for the City of College Station for the attraction of business or tourism; (b) depicts an accomplishment of an individual or group; or (c) creates a positive community spirit.

Budget & Financial Summary: N/A

Attachments:

1. Big State Music Festival Banner
2. Letter from the Applicant
3. Resolution

TEXAS PARKS & WILDLIFE
FOUNDATION PRESENTS

BIG
STATE
FESTIVAL

OCTOBER 13-14, 2007
TEXAS WORLD SPEEDWAY
BRYAN-COLLEGE STATION

2 DAYS

5 STAGES

50 ARTISTS

BBQ SHOWDOWN
STOCK CAR RACING
AND MUCH MORE!

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE DISPLAY OF SIGNS IN RECOGNITION OF THE BIG STATE MUSIC FESTIVAL.

WHEREAS, the promoters of the Big State Music Festival propose to erect and display signs on the east side of Texas Avenue from University Drive to Southwest Parkway and on both sides of University Drive from Earl Rudder Freeway to Texas Avenue; and

WHEREAS, the Big State Music Festival promotes a positive image for the City of College Station for the attraction of business or tourism and creates a positive community spirit; and

WHEREAS, Section 7.4.E of the City of College Station Unified Development Ordinance (UDO) exempts signs from UDO regulation where there has been a resolution of the City of College Station City Council that finds that the display of the signs (a) promotes a positive image for the City of College Station for the attraction of business or tourism; (b) depicts an accomplishment of an individual or group; or (c) creates a positive community spirit; now, therefore,

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

- PART 1: That the City Council hereby finds that the display of Big State Music Festival signs promotes a positive image for the City of College Station for the attraction of business or tourism, and creates a positive community spirit.
- PART 2: That the City Council hereby delegates City staff to approve the location of the signs.
- PART 3: That the City Council hereby allows the Big State Musical Festival signs to be displayed from October 3, 2007, to October 15, 2007.
- PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2007.

ATTEST:

APPROVED:

City Secretary

MAYOR



CITY ATTORNEY

