



**Mayor**  
Ben White  
**Mayor Pro Tem**  
Dave Ruesink  
**City Manager**  
Glenn Brown

**Council members**  
John Crompton  
James Massey  
Dennis Maloney  
Katy-Marie Lyles  
Lawrence Stewart

**Agenda**  
**College Station City Council**  
**Regular Meeting**  
**Monday, November 09, 2009 at 12:00 PM**  
**City Hall Council Chamber, 1101 Texas Avenue**  
**College Station, Texas**

1. Pledge of Allegiance, Invocation, Consider absence request.  
**Recognition of Connie Hooks, Faye Scott and Tasha Velasco as "Exemplary Five-Star" Local Registrars by the Texas Department of State Health Services.**
2. Hear Visitors.

**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 state their name and address for the record and allowed three minutes. A timer will sound at 2 1/2 minutes to signal thirty seconds remaining for remarks.

3. 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 minutes for City Council Workshop and Regular meeting, October 8, 2009 and October 19, 2009.
  - b. Presentation, possible action, and discussion regarding renewal of an annual price agreement with Ergon Asphalt & Emulsions to provide emulsified asphalt products for the maintenance of streets in an amount not to exceed \$478,104.
  - c. Presentation, possible action and discussion regarding the approval of a resolution accepting from the Governors Division of Emergency Management (GDEM) the 2009 Homeland Security Grant Program Sub-recipient of \$75,000, naming a City staff member as manager of those grant funds, and approving the 2009 City of College Station Equipment List for purchase.
  - d. Presentation, possible action, and discussion to approve a resolution increasing the food establishment health permit fee collected by the Brazos County Health Department to a flat fee of \$400 a year, beginning with the 2010 permit.

e. Presentation, possible action, and discussion on the purchase of a Roll-Off Truck from East Texas Mack Sales, LLC and B & C Body Company be used by the Brazos Valley Solid Waste Management Agency in the amount of \$145,432.00.

f. Presentation, possible action, and discussion on the purchase of a Ford F750 Truck from Philpott Ford to be used by the Brazos Valley Solid Waste Management Agency in the amount of \$119,734.00.

g. Presentation, possible action, and discussion requesting approval of a settlement agreement with Wellborn SUD and Main Street Homes, which is the third of three agreements that will allow the City to pursue TCEQ approval of our application to extend our sewer certificated area into parts of the ETJ.

h. Presentation, possible action, and discussion on a funding agreement between the City of College Station and the Arts Council of Brazos Valley for FY10 in the amount of \$181,000 for Affiliate funding.

i. Presentation, possible action and discussion to authorize the FY 10 expenditures for the Brazos County Appraisal District in the amount of \$236,692 pursuant to the Property Tax Code 6.06D.

j. Presentation, possible action, and discussion on approval of the 2009 Property Tax Roll in the amount of \$23,623,086.36.

k. Presentation, possible action, and discussion:

(1) an amendment to the Professional Services Contract 04-176 with Epsilon Engineering, Inc. for the purpose of foregoing transfer and novation of the contract to Jacobs Engineering Group Inc and also modifying the date for which all design work and other professional services provided under the Contract must be completed to July 30, 2012, and

(2) a change order to the Professional Services Contract 04-176 with Epsilon Engineering, Inc., now Jacobs Engineering Group, Inc., in the amount of \$60,870.40, for additional services to design improvements to the intersection of Barron Road and SH 40.

l. Presentation, possible action, and discussion to a change order to Contract #08-277 to Brazos Valley Services in the amount of \$233,373.70 for additional construction services related to the College Park/Breezy Heights Rehabilitation Project.

m. Presentation, possible action, and discussion regarding change order no. 1 to the Water Reclamation Project design contract in the amount of \$24,000.00 to Contract No. 09-147 with Lockwood, Andrews, & Newnam for design services to provide programming deliverables for control of the water reclamation system.

n. Presentation, possible action, and discussion to approve a change order to professional services contract #05-160 with McClure & Brown Engineering in the amount of \$211,397.50 related to revisions and updates to the Tauber and Stasney Streets Rehabilitation design.

o. Presentation, possible action, and discussion on a Professional Services Contract with Lockwood, Andrews, and Newnam, Inc. in the amount of \$225,477; for the design of the Carters Creek Wastewater Treatment Plant Lab and SCADA Building and approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

p. Presentation, possible action and discussion of an Interlocal Agreement between the cities of Bryan and College Station in an amount not to exceed \$60,000; for turn lanes and signals at the intersection of University Drive and Copperfield.

q. Presentation, possible action and discussion regarding a resolution to purchase 5.5 Wetland Mitigation Credits in the Steele Creek Mitigation Bank from OXBOW Investments Inc. in the amount of \$137,500.00.

r. Presentation, possible action, and discussion regarding execution of a Right-of-Way Easement Agreement with the Texas A&M University System (TAMUS), for the construction of Penberthy Road Extension.

### **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 at 2 1/2 minutes to signal thirty seconds remaining for 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 at 2 1/2 minutes to signal thirty seconds remaining to conclude 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 regarding a proposed amendment to the City's smoking ordinance.
2. Public Hearing, presentation, possible action, and discussion on an ordinance amending Chapter 12, "Unified Development Ordinance," Section 7.9, "Non-Residential Architectural Standards," of the Code of Ordinances of the City of College Station as it relates to parking lot screening.
3. Public Hearing, presentation, possible action and discussion regarding an Oil and Gas Operations Permit for the McCullough-Olden Unit, Well #1RE as requested by the operator, EnerVest Operating, LLC. of Houston, Texas.
4. Public Hearing, presentation, possible action and discussion regarding an Oil and Gas Operations Permit for the McCullough- McCullough Unit, Well #1RE as requested by the operator, EnerVest Operating, LLC. of Houston, Texas.
5. Public Hearing, presentation, possible action, and discussion approving an ordinance vacating and abandoning a 1,265 square foot, 20-foot wide public utility easement, which is located on Lot 3C of Block 1 of the Gateway Phase 3 Subdivision according to the plat recorded in Volume 9112, Page 138 of the Deed Records of Brazos County, Texas.

6. Presentation, possible action, and discussion on an update regarding the Bicycle, Pedestrian and Greenway Master Plan.
7. Presentation, possible action, and discussion regarding the extension of Holleman Drive from its intersection with FM 2818 and making a connection to the existing Jones-Butler roadway just east of the Dowling Road Pump Station.
8. Presentation, possible action, and discussion regarding an update on the convention center project.
9. Presentation, possible action, and discussion regarding the establishment of a Code Coordination Subcommittee of various Boards, Commissions, and Council involved in the implementation and enforcement of the Unified Development Ordinance and other development related regulations and standards and appointment of membership to the same.

10. Council Calendar

- Nov. 10-14 NLC Congress of Cities in San Antonio, TX, 8:00 a.m.
- Nov. 10 Preview Event St. Joseph Emergency Center & St. Joseph Imaging & Diagnostic Center at 4411 Hwy 6 South, College Station, 11:00 a.m.
- Nov. 12 Animal Control Ordinance Meeting – Public Input Session at Municipal Court, 6:30 p.m.
- Nov. 14 Brazos Valley Worldfest at Wolf Pen Creek Amphitheater, 10:00 a.m.
- Nov. 16 IGC Meeting at BVCOG, 12:00 p.m.
- Nov. 16 Canvass of Votes & Special Council Meeting in Council Chambers, 4:00 p.m.
- Nov. 16 Oakwood Neighborhood Mtg – Historic Preservation Mtg, CS Conf. Center, 6:00 p.m.
- Nov. 17 Council Transportation Committee Mtg in Council Chambers, 4:30 p.m.
- Nov. 18 Exploring History Lunch Lecture Series at CS Conf. Center Room 127, 11:30 a.m.
- Nov. 19 Animal Control Ordinance Subcommittee Mtg at CS Conf. Center Room 101, 2:00 p.m.
- Nov. 20 WTAW Radio Interview Spot at 8:10 a.m. in Crystal Park Plaza Bldg, 2700 Rudder Freeway, Suite 5000, 8:00 p.m.
- Nov. 23 Council Workshop/Regular Meeting in Council Chambers, 3:00 p.m. & 7:00 p.m.

11. 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.
12. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Committee, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, BVSWMMA, Signature Event Task Force, (Notice of Agendas posted on City Hall bulletin board).

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

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

- a. Application with TCEQ for permits in Westside/Highway 60 area, near Brushy Water Supply Corporation
- b. Sewer CCN permit requests for Brushy & Wellborn Services Areas
- c. Water CCN permit requests for Brushy & Wellborn Services Areas
- d. Bed & Banks Water Rights Discharge Permits for College Station and Bryan
- e. Legal aspects of Water Well, permits and possible purchase of or lease of water well sites
- f. Cliff A. Skiles, DVM & C.A. Skiles Family Partnership, Ltd. Water permit applications with the Brazos Valley Groundwater Conservation District
- g. TMPA v. PUC (College Station filed Intervention)
- h. City of Bryan suit filed against College Station, Legal issues and advise on Brazos Valley Solid Waste Management Agency contract, on proposed methane gas contract
- i. Update on legal proceedings for Grimes County Landfill site and contracts for development of Grimes County site
- j. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhane, and Ben White
- k. Chavers et al v. Tyrone Morrows, Michael Ikner, City of Bryan, City of College Station, et al
- l. Rogers Sheridan v. Barbara Schob & Greg Abbott
- m. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- n. Legal rights and obligations regarding ATS and the results of the election

Real Estate {Gov't Code Section 551.072}; possible action The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Possible Purchase or Exchange of Property near E. University and Tarrow

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

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

- a. Mayor & Council Self Evaluation

14. Action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting may be discussed in tonight's Regular Meeting if necessary.

15. Adjourn.

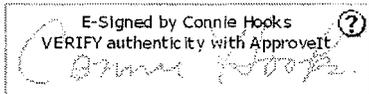
If litigation issues arise to the posted subject matter of this Council Meeting an executive session will be held.

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 Monday, November 09, 2009 at 12:00 PM at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda.

Posted this 6<sup>th</sup> day of November, 2009 at 12:00 p.m.



\_\_\_\_\_  
City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](http://www.cstx.gov). The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on November 6, 2009 at 12:00 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009 By \_\_\_\_\_

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
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](http://www.cstx.gov). Council meetings are broadcast live on Cable Access Channel 19.



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**Minutes**  
**City Council Regular Meeting**  
**Thursday, October 08, 2009 at 7:00 p.m.**  
**City Hall Council Chambers, 1101 Texas Avenue**  
**College Station, Texas**

**COUNCIL PRESENT:** Mayor Ben White, Mayor Pro Tem Ruesink, Council members Crompton, Massey, Maloney, Lyles, Stewart

**STAFF PRESENT:** City Manager Brown, Assistant City Manager Merrill, Assistant City Manager Neeley, City Attorney Cargill Jr., Deputy City Secretary McNutt, Management Team

**1. Pledge of Allegiance, Invocation, Consider absence request, Hear Visitors**

Mayor White called the meeting to order at 7:00 pm with all Council members present. Mayor White led the audience in the Pledge of Allegiance. Fire Chief R.B. Alley provided the invocation.

Hear Visitors:

Hugh Lindsay, 400 Walton Dr. – spoke on the topic of rental registration and a recent citation he received for non-payment of rental registration. He stated that he did not own rental property in College Station.

Brian Alg, TAMU student spoke on City's unnecessary spending regarding Red Light Camera pamphlets and the City's recent action to install surveillance cameras in Northgate and the construction of restrooms in Northgate.

**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. Approved minutes for City Council Special Meeting, September 1, 2009, workshop and regular meetings September 10, 2009 and Joint meeting with CSISD, September 22, 2009.
- b. Approved **Resolution No. 10-08-09-2b** for a Professional Services Contract with The Ground Crew, LLC, in the amount of \$149,865.93 for the completion of the Texas Avenue Streetscape project.
- c. Approved request for the City to serve as a co-sponsor and contribute \$2,500 to assist in

City Council Regular Minutes  
Thursday, October 08, 2009

underwriting the Fall of the Berlin Wall 20th Anniversary celebration.

- d. Approved bid awarding single purchase of electrical wire and cable maintained in inventory as follows: HD Supply \$357,900; TEC \$36,600 and Crawford Electric Supply \$61,082.75. Total expenditure, \$455,582.75.
- e. Approved budget of the Brazos Valley Convention and Visitors Bureau and funding agreement between the City of College Station and the Brazos Valley Convention and Visitors Bureau for FY10 in the amount of \$1,107,000.
- f. Approved funding agreement between the City of College Station and the Research Valley Partnership for FY10 in the amount of \$300,000.
- g. Approved budget of the Arts Council of Brazos Valley and the operations and maintenance funding agreements between the City of College Station and the Arts Council of Brazos Valley for FY10 totaling \$208,000.
- h. Approved **Resolution No. 10-08-09-2h** replacing Resolution No. 9-1-2009-03 for the purpose of revising a polling place location and to correct language in the Interlocal Government Agreement with Brazos County for the conduct and management of the Special Election.
- i. Approved **Resolution No. 10-08-09- 2i** awarding a Professional Services Contract (#09-209) with Clark Condon Associates in an amount not to exceed \$73,500.00, for the development of a master plan for the Wolf Pen Creek Water Feature and Festival Area Project (Project No. WP-0901).
- j. Approved an annual purchase order with Boundtree Medical L.L.C. for \$65,000.00 for EMS supplies.
- k. Approved rejection of Bid 09-79 annual agreement for electric meters that are maintained in Electrical Inventory.

Council member Maloney moved to approve consent items 2a thru 2k. Council member Lyles seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Protem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

1. **Presentation, possible action and discussion on a bid award for the annual agreement for various electrical items and electric meters to be stored in inventory as follows: Stuart C. Irby \$428,585.00; HD Supply \$488,054.00; KBS \$179,458.50; Techline \$225,808.90; Hill Country Electric Supply \$25,572.00; Priester Mell and Nicholson \$105,270.00; and \$17,620.00 to be determined by tie breaker procedures. Total estimated annual expenditure is \$1,452,748.40.** Cheryl Turney, Assistant Finance Director presented bids on annual various electrical items and electric meters. Staff recommended awarding to the lowest responsible bidder meeting

City Council Regular Minutes  
Thursday, October 08, 2009

specifications as shown below plus an additional \$17,620.00 to be determined by tie breaker (see below) for a total annual expenditure of \$1,452,748.40.

I.	Stuart C. Irby	\$ 428,585.00
II.	HD Supply	\$ 488,054.00
III.	KBS Electric	\$ 179,458.50
IV.	Techline	\$ 225,808.90
V.	Hill Country Electric Supply	\$ 25,572.00
VI.	Priester Mell and Nicholson	\$ 105,270.00
		\$1,452,748.40

**Tie Bids**

F-1 Brace Deadend 8' Fiberglass

**KBS Electric**

75x\$180=\$13,500

**Techline**

75x\$180=\$13,500

F-4 Brace Deadend 10'Fiberglass

**Priester Mell Nicholson**

20x\$206=\$ 4,120

**Techline**

20x@\$206=\$4,120

Troy Rother, Assistant City Engineer introduced two youth from the College Station Cub Scout Troop 1074 to draw for two (2) tie breakers between KBS Electric & Techline and Priester Mell Nicholson & Techline.

Blaze with Troop 1074 drew - **KBS Electric** for F-1 Brace Deadend 8' Fiberglass at 75x\$180=\$13,500  
Jasia with Troop 1074 drew - **Techline** for the F-4 Brace Deadend 10'Fiberglass20x@\$206=\$4,120

Council member Massey made a motion to award line item bids to Stuart C. Irby for \$428,585.00, HD Supply for \$488,054.00, KBS Electric for \$179,458.50, Techline for \$225,808.90, Hill County Electric Supply for \$25,572.00, Priester Mell and Nicholson for \$105,270.00 and award tie bids to KBS Electric for F-1 Brace Deadend 8' Fiberglass at \$13,500 and Techline for the F-4 Brace Deadend 10'Fiberglass at \$4,120. Council member Stewart seconded the motion, which carried 7-0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**2. Presentation, possible action, and discussion of City Policy regarding Street Lighting for Subdivisions in City Limits serviced by BTU.**

Mark Smith, Director of Public Works presented an interim policy that reimburses developers or Home Owners Associations a monthly billing cost for BTU streetlights in College Station City Limits. This provides equity for College Station citizens regardless of their electric provider and College Station Utilities currently pays the same street lighting costs for areas served by CSU.

The Reimbursement Agreement is proposed to be entered into by the developer or Home Owners Association. Upon proof of timely payment by Developer to BTU, and upon submittal of such proof to City, City shall reimburse Developer its regularly incurred monthly charges for electricity for

City Council Regular Minutes  
Thursday, October 08, 2009

lighting such street lights. Staff recommended approval of this policy and authorizing City Manager to enter Reimbursement Agreements with developers or Home Owners Associations.

Council member Maloney moved to approve policy and authorizing City Manager to enter Reimbursement Agreements with developers or Home Owners Association. Council member Lyles seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**3. Presentation, possible action, and discussion regarding a resolution awarding a Landscape Maintenance Service Contract for seventeen (17) municipal sites to Rainbow Gardens Nursery for an annual expenditure of \$152,168.00 and approval of a change order reducing the contract by \$30,285.00.**

David Schmitz, Assistant Director of Parks and Recreation presented two (2) resolutions for Landscape Maintenance Service Contracts and change order to reduce contact amounts for seventeen (17) municipal sites to Rainbow Gardens Nursery at \$121,833.00 and twenty-seven (27) municipal sites to Landscapes, USA at \$224,951.00.

Council member Crompton moved to approve **Resolution No. 10-08-09-03** for Landscape Maintenance Service Contracts and change order on (17) municipal sites to Rainbow Gardens Nursery. Council member Massey seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**4. Presentation, possible action, and discussion regarding a resolution awarding a Landscape Maintenance Service Contract for twenty-seven (27) municipal sites to Landscapes, USA for an annual expenditure of \$265,787.00 and approval of a change order reducing the contract by \$40,836.00.**

**Items 3 and 4 were presented together.**

Council member Crompton moved to approve **Resolution No. 10-08-09-04** for Landscape Maintenance Service Contracts and change order on (27) municipal sites to Landscapes, USA. Council member Massey seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**5. Presentation, possible action, and discussion regarding the City's appointment to the Brazos County Appraisal District.**

City Manager Glenn Brown provided information about an expired position on the Brazos County Appraisal District, which currently is Dr. Ronald Kaiser. Staff recommended reappointing Dr. Kaiser for another term as the City's representative on the Brazos County Appraisal District's Board of Directors.

City Council Regular Minutes  
Thursday, October 08, 2009

Council member Maloney moved to approve the reappointment of Dr. Ronald Kaiser to the Brazos County Appraisal District's Board of Directors. Mayor Pro tem Ruesink seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**6. Adjourn.**

Hearing no objections, Mayor White adjourned the meeting at 7:30 p.m. on Thursday, October 8, 2009.

PASSED AND APPROVED this November 9, 2009

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary Connie Hooks

\_\_\_\_\_  
Mayor Ben White



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**STAFF PRESENT:** City Manager Brown, Assistant City Manager Merrill, Assistant City Manager Neeley, City Attorney Cargill Jr., Deputy City Secretary McNutt, Management Team

**1. Presentation, possible action, and discussion on items listed on the consent agenda.**

**Item No. 2b** – Council member Ruesink inquired if any additional bids were submitted for the Texas Avenue Streetscape Construction Contract. Staff replied numerous bids were received.

**Item No. 2i** – Council member Maloney inquired on Wolf Pen Creek Water and Festival Area Professional Services Contract and what direction or proposal has Clark Condon Associates, Inc given on festival site.

**Item No. 2h** – Mayor White pulled item for discussion - Tanya McNutt, Deputy City Secretary explained ballot language changes due to software issues. Also, the purpose of revising resolution was to relocate polling place location of Precinct No. 80 to Christ United Methodist Church from Brazos Valley Bank. The ILA with Brazos County was amended to reflect this change.

**2. Presentation, possible action, and discussion concerning an alternative to address the administrative office space needs for city staff, the need for a larger city council chamber, and more public meeting space.**

City Manager Glenn Brown introduced the item with general comments.

Chuck Gilman, Director of Capital Projects identified an option that will help further centralize City operations; to improve City's efficiencies and lend itself favorable towards Council long term goal to consolidate city services along Krenek Tap Corridor and strategically allow for our growth as a City.

Mr. Gilman explained that the next step was to retain the services of an architect to conduct a feasibility study for this alternative plan. The scope of this study would include the following:

1. Facility program for the office and meeting space needs.
2. Evaluate the existing building to determine the feasibility of expanding the building:
  - Access/egress locations
  - Internal circulation
  - Lobby space

- Independent structure/single structure
  - Aesthetics
3. Preliminary floor plan for the building expansion.
  4. Opinion of probable construction cost for the expansion.

Staff recommended proceeding with a study to evaluate the feasibility of expanding the Municipal Courts Building, or receive alternative direction from Council.

Council directed staff to proceed with the understanding of keeping Council informed step by step.

**3. Presentation, possible action and discussion regarding Cell Phone Use in School Zones.**

Mark Smith, Director of Public Works presented an overview of the last Legislative Session, House Bill 55 that approved a new law making it an offense to use wireless communication devices while driving in a school zone. Staff recommended enforcement on recent amendments to the Transportation Code that prohibits the use of wireless communication devices by drivers in schools zones.

Council member Massey made a motion to prohibit wireless communication while driving in school zones. Council member Stewart seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro Tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**4. Presentation, possible action, and discussion regarding a proposed amendment to the City's smoking ordinance that would define tobacco/cigar bars in the City and add them as an exception.**

Hayden Migl, Assistant to the City Manager presented an overview of City's smoking ordinance passed on January 22 of this year prohibiting smoking in workplaces, bars and bar areas. Exceptions to the existing ordinance included specialty tobacco stores and actors or actresses participating in a theatrical performance. After the ordinance was passed, staff contacted bar owners to ensure that their businesses came into compliance and Police allowed a 30-day grace period in which the ordinance was enforced but no citations were issued.

Since that time an issue has come up regarding the Hookah Station located at Northgate. The Hookah Station is a bar that customers smoke flavored tobacco from hookahs, but they are also allowing other forms of smoking in the establishment. There have been complaints from other bar owners in the City that this is not equitable since the Hookah Station operates as a bar. The Hookah Station owners' argument is the ordinance allows their bar to currently operate as it is today because they are a tobacco specialty shop; however, City staff has pointed out that a majority of their revenue comes from the sale of alcohol which makes them a bar according to the ordinance. The owners of the Hookah Station have met with the City and requested an exception. This business is not currently in compliance with the ordinance, but enforcement action is not being taken at this location until direction is received from Council. Staff requested Council's direction on determining how to move

forward with an amendment that would define tobacco/cigar bars in the City and add them as an exception or leave present ordinance as is.

Davis Watson, Attorney for owner of Hookah Station requested Council's approval of proposed amendment to City's smoking ordinance

Council member Crompton made a motion to direct Assistant to the City Manager Hayden Migl and the Legal Department staff to return to Council with a definition of a tobacco specialty shop until further action is taken by Council. Council member Massey seconded the motion, which carried 6-1.

FOR: Mayor Ben White, Crompton, Mayor Pro Tem Ruesink, Massey, Maloney and Stewart  
AGAINST: Council member Lyles

**5. Presentation, possible actions and discussion regarding street maintenance operations for existing roadway infrastructure.**

Mark Smith, Director of Public Works presented information describing the management strategies toward existing roadway infrastructure, service levels and costs for future street maintenance operations.

Council directed staff to provide a detail report on proposed transportation user fees to fund these projects with input from the Transportation Committee. No formal action was taken.

**6. Council Calendar**

Council reviewed upcoming meetings and events.

**7. 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.**

No items were presented for future agendas.

**8. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Committee, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, BVSWMMA, Signature Event Task Force, (Notice of Agendas posted on City Hall bulletin board).**

Council member Ruesink reported on Sister Cities Committee meeting held this month. Topic related to the process of recruiting youth/9<sup>th</sup> or 10<sup>th</sup> grade to be considered for travel to Germany or Russia.

Council member Lyles reported on the Arts Council meeting held this month. Topic related to the success of celebrating the arts programs, approval of revised budget, the hiring of executive director and the discussion of future upcoming events.

Council member Massey reported on National Night Out that was held this month. Topic related to success of 47 neighborhood watch parties in the community.

Mayor White reported on Metropolitan Planning Organization meeting held this month. Topic related to an interesting project called Gulf Coast Strategic Interstate System. Also a team of four (4) Glenn Brown, Mayor White, John Crompton, Bob Cowell and the Chamber of Commerce met with group of five (5) developers and had a good dialog on homeowners associations and the future of College Station.

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At 5:15 pm, Mayor White announced that the City Council would convene into executive session pursuant to Sections 551.071 and 551.072 of the Open Meetings Act to seek the advice of our city attorney, and to consider the purchase of real property.

- 9. Executive Session will immediately follow the workshop meeting in the Administrative Conference Room.**
- Consultation with Attorney {Gov't Code Section 551.071}; possible action. The City Council may seek advice from its attorney regarding a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:**
- a. Application with TCEQ for permits in Westside/Highway 60 area, near Brushy Water Supply Corporation
  - b. Sewer CCN permit requests for Brushy & Wellborn Services Areas
  - c. Water CCN permit requests for Brushy & Wellborn Services Areas
  - d. Bed & Banks Water Rights Discharge Permits for College Station and Bryan
  - e. Legal aspects of Water Well, permits and possible purchase of or lease of water well sites
  - f. Cliff A. Skiles, DVM & C.A. Skiles Family Partnership, Ltd. Water permit applications with the Brazos Valley Groundwater Conservation District
  - g. TMPA v. PUC (College Station filed Intervention)
  - h. City of Bryan suit filed against College Station, Legal issues and advise on Brazos Valley Solid Waste Management Agency contract, on proposed methane gas contract
  - i. Update on legal proceedings for Grimes County Landfill site and contracts for development of Grimes County site
  - j. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White

- k. Chavers et al v. Tyrone Morrows, Michael Ikner, City of Bryan, City of College Station, et al
- l. Rogers Sheridan v. Barbara Schob & Greg Abbott
- m. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- n. Legal issues related to Economic Development Agreement between City of College Station & Sahara Realty
- o. Legal issues related to the real estate contract between City of College Station and CHSC, Ltd.

**Real Estate {Gov't Code Section 551.072}; possible action** The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Property located south of the intersection of George Bush Drive and Holleman Drive

- 10. Action on executive session or any workshop agenda item not completed or discussed in today's workshop meeting may be discussed in tonight's Regular Meeting if necessary.**  
Council returned to open session at 7:00 pm. No action was taken.

- 11. Adjourn.**  
The workshop meeting concluded at 7:00 p.m.

PASSED AND APPROVED this 9<sup>th</sup> day of November, 2009.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary Connie Hooks

\_\_\_\_\_  
Mayor Ben White

**Mayor**  
Ben White  
**Mayor Pro Tem**  
David Ruesink  
**City Manager**  
Glenn Brown



**Councilmembers**  
John Crompton  
James Massey  
Dennis Maloney  
Katy-Marie Lyles  
Lawrence Stewart

**Minutes**  
**City Council Workshop & Regular Meeting**  
**Monday, October 19, 2009 at 12:00 p.m.**  
**City Hall Council Chambers, 1101 Texas Avenue**  
**College Station, Texas**

**COUNCIL PRESENT:** Mayor Ben White, Mayor Pro Tem Ruesink, Council members Crompton, Massey, Maloney, Lyles, Stewart

**STAFF PRESENT:** City Manager Brown, Assistant City Manager Merrill, Assistant City Manager Neeley, City Attorney Cargill Jr., City Secretary Hooks, Deputy City Secretary McNutt, Management Team

**1. Pledge of Allegiance, Invocation, Consider absence request.**

Mayor White called the meeting to order at 12:00 pm with all Council members present. Mayor White led the audience in the Pledge of Allegiance and provided the invocation.

**2. Hear Visitors.**

Daniel Dick, liaison from TAMU Student Senate reported on the progress of involvement with the City as a non-voting member on the City Council.

**3. 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. Approved minutes for City Council Workshop and Regular meeting, September 24, 2009.
- b. Approved budget of the George Bush Presidential Library Foundation and funding agreement between the City of College Station and the George Bush Presidential Library Foundation for FY10 in the amount of \$50,000.
- c. Approved **Resolution No. 10-19-09-3c** stating that the City Council has reviewed and approved the City's Investment Policy, Broker-Dealer List and Investment Strategy.
- d. Approved funding agreement between the City of College Station and the Keep Brazos Beautiful for FY10 in the amount of \$60,240.

City Council Minutes  
Monday, October 19, 2009

- e. Approved Master Cash Management Service Agreement with the City's bank depository, Citibank Texas, N.A.
- f. Approved **Resolution No. 10-19-09-3f** authorizing expenditures for the Brazos Animal Shelter in the amount of \$71,214.
- g. Approved changes to the City's Homebuyer Down-Payment Assistance Program (DAP) Guidelines.
- h. Approved **Resolution No. 10-19-09-3h** awarding contract 09-306 to HDR Engineering Inc in the amount of \$209,500 for a Wastewater Collection System Planning Evaluation.
- i. Approved change order to the Design Contract 06-238 with Bleyl and Associates in the amount of \$5,350; for the Westminster Sanitary Sewer Line Extension Project to update the topographic survey and revise the design drawings to reflect current conditions.
- j. Approved **Resolution No. 10-19-09-3j** awarding bids for the installation of roadway traffic markings and traffic control to lowest responsible bidder Highway Technology of Austin, Texas in the amount of \$163,182.50 and, **Resolution No. 10-19-09-3j-a** on traffic control services to lowest responsible bidder N-Line Traffic Maintenance of Bryan, Texas in the amount of \$18,706.25.
- k. Approved request for release of lien on 150 Venture Lane currently held by the City.
- l. Approved authorizing the payment of an economic development incentive in the total amount of \$250,000 to Texas A&M University's Texas Institute for Preclinical Studies (TIPS).
- m. Approved an Interlocal Agreement between the Cities of College Station, Bryan, and Wickson Creek Special Utility District (WCSUD) in the amount of \$171,833.00 to extend water service to the BVSWMA Twin Oaks Landfill in Grimes County and a payment authorization in the amount of \$16,976.00 for easements assigned to WCSUD related to the water service extension project.
- n. Approved Service, Construction and Defined Corporate Easement Application/Agreements between the Cities of College Station, Bryan, and Mid-South Synergy in the total amount of \$54,142.54 to connect electric service to the BVSWMA Twin Oaks Landfill in Grimes County.
- o. Approved purchase of a D8T Dozer from Mustang Tractor & Equipment to be used by the Brazos Valley Solid Waste Management Agency in the amount of \$719,000.00.
- p. Approved increase in funds for professional services rendered in fiscal year 2009 from Coats, Rose, Yale, Ryman & Lee PC for litigation concerning the Brazos Valley Solid Waste Management Agency (BVSWMA) in the amount of \$33,284.46 for a total of \$123,284.46. Approval by the Council of this request will ratify \$33,284.46 expended for additional legal costs associated with this project through September 30, 2009.
- q. Approved agreement in an amount not to exceed \$60,000 with the legal firm of Nichols, Jackson, Dillard, Hager & Smith, L.L.P. to establish an entity, such as a local government corporation, to

City Council Minutes  
Monday, October 19, 2009

own and operate Brazos Valley Solid Waste Management Agency and authorization for the Mayor to execute the agreement. **(Pulled for separate vote 6-1 - Council member Maloney voted against.)**

- r. Presentation, possible action, and discussion regarding an amendment to the Economic Development, Drainage and Corridor Beautification Participation Agreement between the City of College Station and Sahara Realty. **(Language for motion is contingent on acquiring Mr. Scarmardo's signature)**

**Item No. 3b - Council member Maloney** inquired on funds for Library.

Council member Crompton moved to approve consent items 3a thru 3p and item 3r contingent upon Mr. Scarmardo's signature.

Council member Massey seconded the motion, which carried 7-0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

Council member Crompton moved to approve consent item 3q. Council member Massey seconded the motion, which carried 6 - 1.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Lyles and Stewart  
AGAINST: Council member Maloney

**4. Presentation, possible action, and discussion regarding construction on the campus of Texas A&M University and their current capital project program.**

Mr. Chuck Sippial, Vice President for Facilities at TAMU introduced Lt. General Joe Weber (Ret.), Vice President of Student Affairs and TAMU intern Richard Fox.

Mr. Sippial presented an update to the City Council on current projects occurring on TAMU campus totaling more than \$700 million.

Lt. General Joe Weber (Ret.), Vice President of Student Affairs updated Council on TAMU's master plan for future student housing projects in Hensel Park Area.

**9. Presentation, possible action, and discussion regarding the approval of a Real Estate Contract for the purchase of 204 - 220 Holleman Drive East.**

David Gwin, Director of Economic and Community Development presented a proposed real estate contract for nine lots totaling 6.1368 acres located at 204 - 220 Holleman Drive East. The intended use of these properties is to promote targeted development in this area of the community and provide additional housing and job opportunities to low to moderate income households. Staff recommended approval of the purchase contract for 204 - 220 Holleman Drive East.

Council member Crompton moved to approve real estate contract for the purchase of 204 - 220 Holleman Drive East. Council member Stewart seconded the motion, which carried 7-0.

City Council Minutes  
Monday, October 19, 2009

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**6. Presentation, possible action and discussion to approve a funding addendum that will authorize expenditures for the Brazos County Health Department in the amount of \$351,500.**

Jeff Kersten, Chief Financial Officer presented the purpose of a proposed funding addendum that will authorize expenditures for the Brazos County Health Department. Staff recommended approval of the funding addendum in the amount of \$351,500 to the Brazos County Health Department.

Council member Crompton requested Council to send back to Health Committee for a cost allocation before approving the ILA with the Health Department and at that time approve a six month budget for the Health Department instead of a year.

Council member Crompton moved to approve a six month budget instead of a twelve month budget for Brazos County Health Department. Council member Maloney seconded the motion.

Ken Bost, of the Brazos County Health Department briefly explained the complexity of a 3.3 million budget, which the City of College Station funds \$351,500 upon approval of budget. So, the ability to gather data Council is requesting will be challenging, due all the services that health department provides.

Council member Crompton expressed his appreciation to Ken's explanation of the complexity of gathering this data and would withdraw his motion with at least a time number and multiplied by visits and look at time instead of dollars to give Council some kind of feel for services being funded. Council member Crompton withdrew his motion and Council member Maloney withdrew his second.

Council member Massey moved to approve the funding addendum in the amount of \$351,500 to the Brazos County Health Department. Council member Lyles seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**5. Presentation, possible action, and discussion regarding the potential creation of a "Medical Corridor" in the southern portion of the City.**

David Gwin, Director of Economic and Community Development presented an outline of proposed parameter of a "Medical Corridor," in the southern portion of the City. A comprehensive study to better determine the corridor's exact size and scope, associated market analysis, economic impact forecasting and modeling, and initiative visioning exercise is being proposed as the first phase of this project and once completed is expected to position the City to implement this major economic development initiative. Further, staff recommended approval and has preliminarily identified several key corridor elements to be explored under the proposed study, including signage, landscaping, pedestrian amenities, roadway enhancements and distinct design standards. It is anticipated that this City-administered study will be conducted by Schrickel, Rollins and Associates (SRA) and take approximately eighteen months to complete. If approved, a partnership, as proposed with The Med, is the preferred method.

City Council Minutes  
Monday, October 19, 2009

Mayor Pro tem Ruesink moved to approve the College Station Medical Corridor project. Council member Lyles seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**7. Presentation, possible action, and discussion on a potential amendment to the Unified Development Ordinance related to architectural standards for municipal facilities that are industrial in nature.**

David Coleman, Director of Public Utilities presented proposed amendment that would exempt municipal facilities of an industrial nature from the Non-Residential Architectural (NRA) Standards contained in the City's Unified Development Ordinance (UDO). Currently the UDO includes an exemption for both public and private developments on industrial zoned properties. Because municipal facilities are permitted in all zoning districts, it is unusual that City-owned property carry an industrial zoning designation. The proposed amendment would allow municipal industrial facilities to comply with the same standards that are in place for privately developed industrial facilities. A current example of an industrial facility is a new building under design, to be constructed at the Carters Creek Wastewater Treatment Plant, which will house the Water Services Laboratory and computer servers. For the new Lab Building, approximately \$56,000 can be saved if it were exempt from the NRA standards, and designed to match the architecture of the main administrative building at the Carters Creek plant.

Examples of cost savings are:

- Exterior Building Materials – Use matching brick, which is less expensive.
- Landscaping – Use Xeriscape, which will not require irrigation.
- Building Mass & Design – Delete the delineating columns on the exterior walls

Staff requested Council to consider a UDO amendment to make architectural requirements for City industrial uses on parity with private industrial uses.

City Attorney Harvey Cargill recommended Council to make a motion for staff to develop language for proposed UDO amendment for future use.

Council member Lyles moved to approve staff to develop language proposed UDO amendment for future use. Council member Maloney seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**8. Presentation, possible action and discussion on a resolution approving a preliminary official statement, and related material; and on an ordinance authorizing the issuance and sale of City of College Station, Texas General Obligation Refunding Bonds, Series 2009; establishing parameters regarding the sale of the bonds; approving the execution of an escrow agreement; and ordaining other matters related thereto, including immediate effectiveness.**

Jeff Kersten, Chief Financial Officer introduced Drew Masterson, City's Financial Advisor with First Southwest Company.

City Council Minutes  
Monday, October 19, 2009

City's Financial Advisor Drew Masterson with First Southwest Company presented the City with an opportunity to issue refund bonds for several of our outstanding General Obligation Bond issues. Refunding is issuing new debt to replace and pay off existing debt. Refunding can be done for a number of reasons; however, most often are used to accrue a savings against the current debt.

The bonds that are proposed to be refunded are:

• General Obligation & Refunding Bonds, Series 1998	\$ 740,000
• General Obligation, Series 1999	\$3,100,000
• General Obligation Bonds, Series 2000	\$ 865,000
• Certificates of Obligation, Series 2000A (Parking Garage)	\$4,220,000
	<u>\$8,925,000</u>

Council member Maloney moved to approve **Resolution No. 10-19-09-08** approving the preliminary official statement, and related materials; and **Ordinance No. 3211** authorizing the issuance and sale of General Obligation Refunding Bonds, Series 2009; establishing parameters regarding the sale of the bonds; approving the execution of an escrow agreement; and ordaining other matters related thereto, including immediate effectiveness. Council member Massey seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**10. Presentation, possible action, and discussion regarding update to the existing ordinance regulating taxicabs operating within the city limits of College Station.**

Larry Johnson, Assistant Chief of Police updated Council on existing taxicab ordinance and regulations and the ordinance intention to provide for and promote adequate and efficient vehicles for hire in the City of College Station. But the current City ordinance does not regulate taxi fare rates and only requires fare rate be displayed in a "conspicuous place" inside the taxi. Staff recommended fares to be displayed both inside and outside of vehicle and taxi vehicle maximum age not more than five (5) years.

Council member Crompton moved to approve displaying fares both inside and outside of vehicle and refer remainder of issues, such as maximum age and flat fare rates to Transportation Committee. Council member Lyles seconded the motion, which carried 7 - 0.

FOR: Mayor Ben White, Mayor Pro tem Ruesink, Crompton, Massey, Maloney, Lyles and Stewart  
AGAINST: None

**11. Presentation, possible action, and discussion regarding video surveillance cameras recently installed in the Northgate Entertainment District.**

Ben Roper, Director of Information Technology reported and demonstrated the pilot video surveillance cameras in the Northgate Entertainment District which were installed the week of September 21st. Also, policy and procedures documents are being developed and finalized to govern use of the system.

No formal action was taken.

**12. Presentation, possible action and discussion regarding the College Station Storm Water**

City Council Minutes  
Monday, October 19, 2009

**Management Plan.**

Alan Gibbs, City Engineer presented brief annual report of the Storm Water Management Program and a five year period implementation of storm water program to eliminate pollution.

No formal action was taken.

**13. Council Calendar**

Council reviewed upcoming events.

**14. 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.**

Council member Maloney inquired on upcoming appointment to Code Development subcommittee.

**15. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Committee, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, BVSWMA, Signature Event Task Force, (Notice of Agendas posted on City Hall bulletin board).**

No discussion was held.

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At 3:30 pm, Mayor White announced that the City Council would convene into executive session pursuant to Sections 551.071, 551.072, and 551.087 of the Open Meetings Act to seek the advice of our city attorney, to consider the purchase of real property and economic development negotiations.

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

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

- a. Application with TCEQ for permits in Westside/Highway 60 area, near Brushy Water Supply Corporation
- b. Sewer CCN permit requests for Brushy & Wellborn Services Areas

## City Council Minutes

Monday, October 19, 2009

- c. Water CCN permit requests for Brushy & Wellborn Services Areas
- d. Bed & Banks Water Rights Discharge Permits for College Station and Bryan
- e. Legal aspects of Water Well, permits and possible purchase of or lease of water well sites
- f. Cliff A. Skiles, DVM & C.A. Skiles Family Partnership, Ltd. Water permit applications with the Brazos Valley Groundwater Conservation District
- g. TMPA v. PUC (College Station filed Intervention)
- h. City of Bryan suit filed against College Station, Legal issues and advise on Brazos Valley Solid Waste Management Agency contract, on proposed methane gas contract
- i. Update on legal proceedings for Grimes County Landfill site and contracts for development of Grimes County site
- j. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White
- k. Chavers et al v. Tyrone Morrows, Michael Ikner, City of Bryan, City of College Station, et al
- l. Rogers Sheridan v. Barbara Schob & Greg Abbott
- m. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- n. Legal issues related to the real estate contract between City of College Station and CHSC, Ltd.

**Real Estate {Gov't Code Section 551.072}; possible action** The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Possible Purchase or Exchange of Property near E. University and Tarrow

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

- a. Arctic Wolf Ice Center

**17. Action on executive session or any workshop agenda item not completed or discussed in today's workshop meeting may be discussed in tonight's Regular Meeting if necessary.**

No formal action was taken.

**18. Adjourn.**

Hearing no objections, Mayor White adjourned the meeting at 5:00 p.m. on Monday, October 19, 2009.

PASSED AND APPROVED this November 9, 2009

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary Connie Hooks

\_\_\_\_\_  
Mayor Ben White

**November 9, 2009**  
**Consent Agenda Item No. 3b**  
**Emulsified Asphalt Price Agreement**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion regarding renewal of an annual price agreement with Ergon Asphalt & Emulsions to provide emulsified asphalt products for the maintenance of streets in an amount not to exceed \$478,104.

**Recommendation(s):** Staff recommends approval of the renewal for one year to Ergon Asphalt & Emulsions.

**Summary:** Ergon Asphalt & Emulsions was the successful bidder for the FY2009 blanket purchase agreement. Emulsified asphalt is used for the seal coat process, pothole repair and maintenance of streets in the City. This renewal is the first of two optional annual renewals of the current contract. The contract supports maintenance operations in the Street Maintenance Division.

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

**Attachments:** Renewal letter

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**RENEWAL ACCEPTANCE**

By signing herewith, I acknowledge and agree to renew Bid No. 08-89, for various emulsified asphalt products, 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, 2009 thru September 30, 2010.

**EROGON ASPHALT & EMULSIONS INC.**

  
\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
OCTOBER 8, 2009  
DATE

**CITY OF COLLEGE STATION**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
DATE

**ATTEST:**

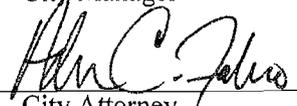
\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
DATE

**APPROVED:**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
DATE

STATE OF TEXAS

CORPORATE ACKNOWLEDGMENT

COUNTY OF TRAVIS

This instrument was acknowledged on the 8th day of October, 2009,  
by R. M. McKemie in his/her capacity as Vice President of  
Ergon Asphalt & Emulsions, a TEXAS Corporation, on behalf of said corporation.



Elizabeth K. Roe  
Notary Public in and for the  
State of Texas

MY COMMISSION EXPIRES: December 5, 2011

STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged on the \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
by \_\_\_\_\_, in his capacity as Mayor of the City of College Station, a Texas  
home-rule municipality, on behalf of said municipality.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

\*\*\*\*\*



CITY OF COLLEGE STATION

*City of College Station  
1101 Texas Avenue  
College Station, TX 77840  
www.cstx.gov*

**PRICE AGREEMENT  
AND  
SPECIFICATIONS FOR  
EMULSIFIED ASPHALT PRODUCTS  
BID #08-89**

**BID OPENING DATE: AUGUST 22, 2008 @2:00 P.M. CST**

Bids will be received at the City of College Station Purchasing Department, 1101 Texas Avenue, College Station, TX 77842, until August 22, 2008, at 2:00 p.m. CST, and publicly opened and read aloud at City Hall, 1101 Texas Avenue, College Station, TX. Any questions concerning the bid should be directed to Cynthia Sciulli, C.P.M., Buyer, Purchasing Services Division, (979) 764-3437. **Clearly mark return bid envelope with Bid # and Bid Opening Date.**

**INTRODUCTION**

Bids are solicited for various emulsified asphalt products with the following definitions, term and conditions of bidding. Should this bid contain the City's standard contract terms, conditions and insurance requirements, they will be attached as Exhibit A.

**NOTE: Bid opportunities are posted on our website at [www.cstx.gov](http://www.cstx.gov). Some bids, but not all, are conducive to receipt of bids via the City of College Station's On-Line Bidding System. These bids are encrypted and remain effectively locked until the due date and time. If you are interested in submitting your bid on-line, you must be registered with the City of College Station. See On-Line Bidding at [www.cstx.gov](http://www.cstx.gov) for more information.**

**DEFINITIONS, TERMS AND CONDITIONS**

The following instructions apply to all bids and become a part of terms and conditions of any bid submitted to the City of College Station Purchasing Services Division, unless otherwise specified elsewhere in this bid request. All bidders are required to be informed of these Terms and Conditions and will be held responsible for having done so:

**Certification**

Bids must be completed and submitted on the form included within the specifications of this bid. Certification of Bid must be fully completed.

**Collusion**

Advanced disclosures of any information to any particular bidder which gives that particular bidder any advantage over any other interested bidder in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the governing body or an employee or representative thereof, will cause to void all proposals of that particular bid solicitation or request.

**Communication**

The City shall not be responsible for any verbal communication between any employee of the City and potential bidder(s). Only written specifications and price quotations will be considered.

**Delivery**

All prices quoted shall be F.O.B. City of College Station. No freight or delivery charges will be accepted unless shown on bid.

**Exceptions**

The bidder will note any exceptions to the conditions of this bid. If no exceptions are stated, it will be understood that all general and specific conditions will be complied with, without exception.

**Extension of Contract**

Upon completion of the term of the original contract and upon the mutual agreement of both parties, the original contract may be renewed for up to two (2) additional years [three (3) years total]. The renewal will be under the same terms and conditions as the original contract; provided, however, that the unit prices bid under the original contract may, by mutual agreement, be increased by no more than eight percent (8%) of the original contract price. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

**Fiscal Funding**

This contract includes fiscal funding provisions. If, for any reason, funds are not appropriated to continue this contract, said contract shall become null and void.

**Forms**

Bid proposals will be submitted on the forms provided by Owner. All figures must be written in ink or typewritten. However, mistakes may be crossed out, corrections inserted adjacent thereto and initiated in ink by the person signing the proposal. When discrepancies occur between words and figures, the words shall govern.

**November 9, 2009**  
**Consent Agenda Item No. 3c**  
**Homeland Security Grant Program**

**To:** Glenn Brown, City Manager

**From:** Robert Alley, Fire Chief

**Agenda Caption:** Presentation, possible action and discussion regarding the approval of a resolution accepting from the Governors Division of Emergency Management (GDEM) the 2009 Homeland Security Grant Program Sub-recipient of \$75,000, naming a City staff member as manager of those grant funds, and approving the 2009 City of College Station Equipment List for purchase.

**Recommendation(s):** Staff recommends acceptance of the grant from Governors Division of Emergency Management (GDEM), and recommends the emergency management coordinator be designated as the "Grant Manager" for administration of this grant. It is also recommended that the attached 2009 City of College Station Equipment List be approved for purchase.

**Summary:** The City of College Station has been awarded the Homeland Security program grant of **\$75,000** through GDEM. The funding will be used by city departments to purchase equipment that will enhance our response capabilities to terrorist threats or catastrophic events. Attached is the equipment list for the 2009 Homeland Security Grant Program which funds are to be expended. The period of performance of this agreement shall end on January 15, 2012.

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

**Attachments:**

Resolution

2009 Homeland Security Letter to Mayor White

2009 Homeland Security Grant Program Notice of Sub-recipient Award – 08-SR 15976-01 –

a Copy is on file in the City Secretary's Office.

2009 City of College Station Equipment List

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ACCEPTING THE 2009 HOMELAND SECURITY GRANT PROGRAM SUB-RECIPIENT AWARD FOR THE PURCHASE OF RESPONSE EQUIPMENT AND AUTHORIZING A CONTACT PERSON FOR THE CITY.

WHEREAS, the Office for Domestic Preparedness, a component of the U.S. Department of Homeland Security, has awarded the Governor's Division of Emergency Management (GDEM) the 2009 Homeland Security Grant Program; and

WHEREAS, the Governor's Division of Emergency Management (GDEM) has served the City of College Station with a Notice of Sub-recipient Award for the 2009 Homeland Security Grant Program in the amount of \$75,000 to be used in this performance period ending on January 15, 2012; and

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

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

- PART 1: That the City Council hereby accepts the Sub-recipient Award for the 2009 Homeland Security Grant Program in the amount of \$75,000 from the Governor's Division of Emergency Management (GDEM).
- PART 2: That the City Council hereby approves the 2009 City of College Station Equipment List for purchase to aid in the City's ability to enhance its capacity to prevent, respond to and recover from acts of terrorism and natural disasters.
- PART 3: That the City Council hereby authorizes the Emergency Management Coordinator to serve as the Grant Manager for the City of College Station to sign agreements with the Governor's Division of Emergency Management and hereby designates said position to receive this award on behalf of the City of College Station.
- PART 4: That this resolution shall take effect immediately from and after its passage.

RESOLUTION NO. \_\_\_\_\_

Page 2

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009.

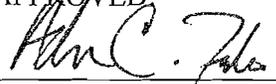
ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

  
\_\_\_\_\_  
City Attorney



TEXAS DIVISION OF EMERGENCY MANAGEMENT  
TEXAS DEPARTMENT OF PUBLIC SAFETY  
WWW.TXDPS.STATE.TX.US/DEM

ASSISTANT DIRECTOR / CHIEF  
JACK COLLEY

October 1, 2009

RECEIVED

OCT - 5 2009

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

Dear Mayor White:

Your jurisdiction is being awarded a sub-grant for the Fiscal Year (FY) 2009 Homeland Security Grant Program (HSGP) to carry out homeland security projects that will significantly improve local and regional terrorism prevention, preparedness, response, and recover capabilities. Proposed local, regional, and urban area projects were grouped into investments that were submitted to U. S. Department of Homeland Security (DHS) for review and approval. Grant funds must be used for projects which support the investments approved by DHS, which are identified in *Enclosure 1*.

The following additional grant-related documents are enclosed:

- Notice of Sub-recipient Award (SRA) - *Enclosure 2*

The *Notice of Sub-recipient Award* for the 2009 HSGP must be signed by the chief elected official of your jurisdiction unless that authority has been delegated. Other signatures will require an accompanying statement from the chief elected official authorizing the individual to sign for the jurisdiction.

- Direct Deposit Authorization - *Enclosure 3*

A. TDEM must have a current *Direct Deposit Authorization* from your jurisdiction in order to transfer grant funds electronically to a designated bank account to reimburse you for grant-funded expenses. Additional copies are available from the Texas State Comptroller's website at: <http://www.window.state.tx.us/taxinfo/taxforms/74-158.pdf>. An appropriate local official, typically your finance officer, must sign the *Direct Deposit Authorization*.

B. If you submitted a completed *Direct Deposit Authorization* form with prior Homeland Security Grant Program awards, you do not need to submit another unless your bank account information has changed.

The deadline for returning the signed *Notice of Sub-Recipient Award, Exhibit B and C of the Terms and Conditions, and Direct Deposit Authorization (if applicable)* is **November 18, 2009**. The offer of a homeland security sub-grant will be withdrawn if the required materials are not postmarked by the due date. Extensions to this date will not be granted. Please submit above documents to the following addresses:

Mail: PO Box 4087 Austin, Texas 78773 Courier: 5805 N. Lamar Blvd. Austin, Texas 78752  
Telephones: Main: 512-424-2138 \* 24 hour: 512-424-2208 \* Fax: 512-424-2444

**Mail:**

Division of Emergency Management  
Attention: SAA Section  
P.O. Box 4087  
Austin, TX 78773-0270

**Courier:**

Division of Emergency Management  
Attention: SAA Section  
5805 N. Lamar  
Austin, TX 78752

Please retain a copy of each form for your records.

If you have any program questions regarding HSGP, please contact Edwin Staples at the SAA at 512-377-0002 or 512-377-0000.

Sincerely,



Jack Colley  
Assistant Director/Chief

JC:es

**Enclosures:**

1. *DHS Approved Investments*
2. *2009 Notice of Sub-recipient Award*
3. *Direct Deposit Authorization*

copy: Brian Hilton  
Amy Zaragosa

## 2009 State Homeland Security Program Grant

Line	Qty	Item #	Description	Price	Total
1	3		Boat Repair Class	\$200.00	\$600.00
2	14	MDS575WR	Mustang Dry Suits	\$905.57	\$12,677.98
3	17	NRS 2783	Pelican Lights	\$27.00	\$459.00
4	24	NRS 2338	NRS Workboot	\$47.95	\$1,150.80
5	11	NRS 2439	NRS Rescue Gloves	\$32.95	\$362.45
6	5	NRS 2152	Bigwater 5 Lifejacket	\$77.50	\$387.50
7	5	BH-37PR	Blackhawk Radio Puoch	\$44.95	\$224.75
8	5	XTS 5000	Motorola 800 Handheld Radio	\$4,500.00	\$22,500.00
9	1	NRS 1570	RQ3 Hose Inflator	\$360.00	\$360.00
10	2	60 CSX	Garmin GPS	\$1,596.87	\$3,193.74
11	1	40 HP E-Tec	Evinrude 40HP E-Tec 2 stroke	\$6,058.33	\$6,058.33
12	3		Motorola XTS 2500	\$3,423.00	\$10,269.00
13	24	NRS	Princeton -Tec Aqua Strobe	\$26.95	\$646.80
14	24	NRS 2778	Princeton - Tec EOS Headlight	\$32.95	\$790.80
15	1	Unit	Rope Rescue Equipment	\$3,900.00	\$3,900.00
16	3		Lighting Detector	\$270.00	\$810.00
17	23		Rain Gear Blauer	\$202.50	\$4,657.50
18	1		Military Rrepair Kit	\$1,951.35	\$1,951.35
19	2		Viking Pro 1000 Turbo Dry Suit	\$2,000.00	\$4,000.00

**Total** **\$** **75,000.00**

**November 9, 2009**  
**Consent Agenda Item No. 3d**  
**Food Establishment Permit Fee**

**To:** Glenn Brown, City Manager

**From:** City Manager's Office

**Agenda Caption:** Presentation, possible action, and discussion to approve a resolution increasing the food establishment health permit fee collected by the Brazos County Health Department to a flat fee of \$400 a year, beginning with the 2010 permit.

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

**Summary:** The Brazos County Health Department has requested that the fee charged for food establishment health permits be increased to a flat fee of \$400 a year, beginning with the 2010 permit. The Health Department carries out a number of health related functions for the City by contract. The fees help to offset the costs to the City of those functions.

Chapter 7 "Health and Sanitation" of the College Station Code of Ordinances requires that this fee is set by a resolution of the City Council.

Mr. Don Plitt, Director of Environmental Health Services for the Brazos County Health Department, is scheduled to be at the Council meeting if there are any questions regarding this item.

**Budget & Financial Summary:** The food establishment health permit fee is currently \$300 and was last increased two years ago. This fee helps cover the Health Department's operational costs involved with food establishment health permits.

**Attachments:**

1. Resolution
2. Letter from Health Department
3. Chapter 7 "Health and Sanitation", Section 5: Food Establishments of the Code of Ordinances

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, INCREASING THE FOOD ESTABLISHMENT HEALTH PERMIT FEE TO A FLAT FEE OF FOUR HUNDRED DOLLARS (\$400) A YEAR, BEGINNING WITH THE 2010 PERMIT.

WHEREAS, The City Council of the City of College Station has the authority to set the health permit fees for food establishments under Chapter 7: Health and Sanitation of the Code of Ordinances, Section 5,B(2)(a); and

WHEREAS, The City Council of the City of College Station has received a request from the Director of Environmental Health Services of the Brazos County Health Department to increase the food establishment health permit fee to a flat fee of \$400 a year, beginning with the 2010 permit; and

WHEREAS, The Brazos County Health Department carries out a number of health related functions for the City by contract; and

WHEREAS, The fees help to offset the costs to the City of those functions; now, therefore,

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

PART 1: That the City Council hereby increases the food establishment health permit fee to a flat fee of four hundred dollars (\$400) a year, beginning with the 2010 permit.

PART 2: That this Resolution shall take effect immediately.

ADOPTED this 9<sup>th</sup> day of November, A.D. 2009.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

  
\_\_\_\_\_  
City Attorney



## BRAZOS COUNTY HEALTH DEPARTMENT

201 NORTH TEXAS AVENUE • BRYAN, TEXAS 77803-5317

(979) 361-4440 • Fax (979) 823-2275

E-mail: [healthdept@co.brazos.tx.us](mailto:healthdept@co.brazos.tx.us)

[www.co.brazos.tx.us/health](http://www.co.brazos.tx.us/health)

October 15, 2009

The Environmental Health Services of the Brazos County Health Department requests the College Station City Council to increase the food establishment health permit fee to a flat fee of \$400/year, beginning with the 2010 permit.

Sincerely,

A handwritten signature in black ink that reads "Don Plitt". The signature is written in a cursive style with a large initial "D".

Don Plitt

Director- Environmental Health Services

## SECTION 5: FOOD ESTABLISHMENTS

### A. TEXAS DEPARTMENT OF HEALTH, DIVISION OF FOOD AND DRUGS, "RULES ON TEXAS FOOD ESTABLISHMENTS 229.161 – 229.171 and 229.173 – 229.175" ADOPTED

The definitions; the inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of unsound or mislabeled food or drink; regulating the sale of food from mobile food units; and the enforcement of this ordinance shall be regulated in accordance with the Texas Department of Health, Division of Food and Drugs "Rules on Texas Food Establishments 229.161 – 229.171 and 229.173 – 229.175", which on this date are hereby adopted by reference, three certified copies of which shall be on file in the office of the City Secretary, and the guidelines provided by the Texas Department of Health for the regulation of mobile shrimp vendors in accordance with Chapter 431 "Texas Food, Drug and Cosmetic Act," Health and Safety Code which on this date is hereby adopted by reference: Provided, that the words "municipality of in said ordinance shall be understood to refer to the authority" shall be understood to refer to the City of College Station and the words "regulatory authority" shall be understood to refer to the City of College Station or its authorized representative. The authorized representative for enforcement of this ordinance shall be the Brazos County Health Department and the City.

### B. PERMITS, LICENSES, OR CERTIFICATES

#### (1) GENERAL

No person shall operate a food service establishment who does not have a valid permit, license, or certificate issued to him by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such a permit, license, or certificate. Permits, licenses, or certificates are not transferable. A valid permit, license, or certificate shall be posted in every food service establishment.

#### (2) ISSUANCE OF PERMIT

- (a) Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the City. Such application shall include the applicant's full name and post office address and whether such applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses shall be included; the location and type of the proposed food service establishment; and the signature of the applicant or applicants. If the application is for a temporary food service establishment, it shall also include the inclusive dates of the proposed operation. Permits shall be renewed annually on or before January 1st. At the time of renewal or in case of a new establishment, before business has begun, the applicant shall pay to the City of College Station, or its agent receiving same, a fee to be set by a resolution of the City Council. Upon receipt of such an application, the City of College Station, through the health authority, shall make an inspection of the food service establishment to determine compliance with the provisions of this section. When inspection reveals that the applicable requirements of this section have been met, a permit shall be issued to the applicant by the City of College Station as set by City Council resolution.
- (b) The application for a renewal permit and the accompanying fee must be received by the Brazos County Health Department, on or before February 1 of the calendar year for which the permit is sought. If such application and fee are not received by the date herein specified, Brazos County Health Department may charge the food service establishment up to an additional 20% of the fee due and owing as a late penalty for failure to comply with the requirements of subsection (a), above. The charging of such late fee will have no effect on the City's right to seek criminal penalties permitted by the enforcement provision of this ordinance.

**November 09, 2009**  
**Consent Agenda Item No. 3e**  
**BVSWMA Roll-Off Truck and Hoist/Tarper Purchase**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion on the purchase of a Roll-Off Truck from East Texas Mack Sales, LLC and B & C Body Company be used by the Brazos Valley Solid Waste Management Agency in the amount of \$145,432.00.

**Recommendation(s):** Staff recommends award to East Texas Mack Sales, LLC in the amount of \$109,250.00 and B & C Body Company in the amount of \$36,182.00 for the original total purchase price of \$145,432.00

**Summary:** This purchase is for a roll-off truck and hoist/tarper to be used by the Brazos Valley Solid Waste Management Agency. The truck and hoist/tarper will replace a 2000 roll-off and hoist/tarper in the BVSWMA equipment fleet. The truck is primarily used at the customer convenience area to service roll-off containers and to transport materials off-site to Bryan Iron and Metal. The new truck will serve the needs of BVSWMA for an estimated 12 to 15 years.

**Vendor**

East Texas Mack Sales, LLC  
B & C Body Company

**Base Bid**

\$109,250.00  
\$36,182.00

**Budget & Financial Summary:** This purchase is budgeted in the FY2009 BVSWMA Operating Fund as a service level adjustment. The service level adjustment was approved by the BVSWMA Policy Advisory Board and both the College Station and Bryan City Councils during the FY2009 budget approval process. The quotes on this unit was acquired by East Texas Mack Sales, LLC and B & C Body Company utilizing HGAC Contract Pricing. As BVSWMA is funded through an inter-local agreement, both the Cities of Bryan and College Station are sharing the cost of this purchase. **As this purchase is in excess of \$50,000, it will require the approval of the Bryan City Council.**

**Attachments:**

1. East Texas Mack Sales, LLC Quote
2. B & C Body Company Quote



## CONTRACT PRICING WORKSHEET

*(The Following Details MUST be provided with any purchase order submitted to H-GAC by End User)*

<b>End User:</b> CITY OF COLLEGE STATION/CITY OF BRYAN LANDFILL	<b>Date Prepared:</b> 10/29/2009																																																																					
<b>Prepared By:</b> DAVID CARROUM/EAST TEXAS MACK SALES, LLC	<b>Contract No.:</b> HT11-07																																																																					
<b>Phone No.:</b> 214-232-6669	<b>Item Product Code:</b> KE																																																																					
<b>Description:</b> GRANITE CAB & CHASSIS FOR A ROLL OFF HOIST																																																																						
<b>A Item Base Unit Price, Per H-GAC Contract:</b>	<b>A:</b> \$ 54,450.00																																																																					
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**(Please Print Legibly)**





**November 9 , 2009**  
**Consent Agenda Item No. 3f**  
**BVSWMA Mechanic Truck Purchase**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion on the purchase of a Ford F750 Truck from Philpott Ford to be used by the Brazos Valley Solid Waste Management Agency in the amount of \$119,734.00

**Recommendation(s):** Staff recommends award to Philpott Ford for the original purchase price of \$119,734.00

**Summary:** This purchase is for a Ford F750 Heavy Equipment Mechanic Service Truck and Utility Bed to be used by the Brazos Valley Solid Waste Management Agency. The new truck and bed is a scheduled replacement of the 2000 F450 cab and chassis and 1993 utility bed that is undersized and overloaded. The F750 cab and chassis is sufficient in size to support the utility bed which will be equipped with a 600 gallon diesel fuel tank, (4) 60 gallon product tanks, (2) 30 gallon tanks for antifreeze, (1) 200 gallon tank for waste oil, 8 product pumps, reels, hydraulic air compressor, and various tool compartments. In addition, the truck will be equipped with an emergency cut off valve and access key to deter unauthorized users. The Heavy Equipment Service Truck and Utility Bed will serve the BVSWMA's equipment maintenance needs for an estimated 12+ years.

The cost of this service level adjustment was underestimated by \$19,734.00 due to the size of cab and chassis that would be needed to support the utility bed; however, sufficient funds are available in the BVSWMA Budget for this purchase. Four service level adjustments approved for the FY10 budget year came in under budget resulting in a cost savings total of \$100,420.78. The costs savings were from the purchase of a light plant, roll-off truck, D8 Dozer, and Compliance Officer truck.

<u>Vendor</u>	<u>Base Bid</u>
Philpott Ford	\$119,734.00

**Budget & Financial Summary:** This purchase is budgeted in the FY2010 BVSWMA Operating Fund as a service level adjustment and funds are available. The service level adjustment was approved by the BVSWMA Policy Advisory Board and both the College Station and Bryan City Councils during the FY2010 budget approval process. The quote on this unit was acquired by Philpott Ford utilizing HGAC Contract Pricing. **As this purchase is in excess of \$50,000, it will require the approval of the Bryan City Council.**

**Attachments:**

1. Philpott Ford Quote

**CUSTOMIZED PRODUCT PRICING SUMMARY BASED ON CONTRACT**

**VEHICLES**

**BUYBOARD #281-07**

End User: CITY OF COLLEGE STATION Philpott Rep: ALAN WILEY

Contact: HOWARD STOUGH Date: 30-Oct-09

Product Description: FORD F750

A. Bid Series: 23 A. Base Price: **\$ 33,130.00**

**B. Published Options [Itemize each below]**

Code	Options	Bid Price	Code	Options	Bid Price
	84"CA AC-HEAT AM-FM	STD	209SB	HD 2009 MODEL UPGRADE	\$ 8,442.00
	200HP DIESEL W/5-SPEED AUTO	STD		WITH REQUIRED 91B EXHAUST	INCL
	40% DRIVERS CAPTAIN CHAIR	STD		SYSTEM FOR 4X4 CONVERSION	INCL
	70% 2-PASSENGER BENCH	STD	120	120"CA MODIFICATION	\$ 1,200.00
76B	FRONT TOW HOOKS	\$ 68.00	212	212" WHEEL BASE	\$ 480.00
538	FRAME RAILS	\$ 686.00	67C	AIR BRAKES	\$ 1,257.00
47G	21,000# REAR AXLE 5.29 RATIO	STD	99C	240HP CUMMINS DIESEL	\$ 1,451.00
B.	AIR DRIVERS SEAT	\$ 434.00	FDT	FORD DEALER TRANSFER	\$ 1,500.00
59C	BODY BUILDER WIRING	\$ 126.00	EQS	FRONT WHEEL DRIVE	\$ 25,500.00
54C	CONVEX MIRRORS	\$ 40.00		CONVERSION INCLUDING	
TDB	11R22.5H FRONT TIRES	STD		TRANSPORATION COST	
Z35A	11R22.5H REAR TIRES	\$ 120.00		SPECIAL MOBILE VEHICLE	\$ 48,910.00
65R	45 GALLON FUEL TANK	STD		SEE DOWNGRADE BELOW	

**Total of B. Published Options: \$ 90,214.00**

**C. Unpublished Options [Itemize each below, not to exceed 25%] \$= -3.3 %**

Options	Bid Price	Options	Bid Price
LUBE AND FUEL BODY FROM EXPRESS	\$ (4,010.00)	NOTE: ONLY ABLE TO LOCATE ONE (1)	NOTE
MOTOR EXCHANGE OF BELLVILLE, TX	INCL	CHASSIS WITH THE REQUIRED 91B	NOTE
600 GALLON DIESEL TANK	INCL	EXHAUST SYSTEM. NOTE: THIS TRUCK	NOTE
FOUR 60 GALLONS PRODUCT	INCL	MAY OR MAY NOT BE AVAILABLE	NOTE
ONE 200 GALLON FOR WASTE OIL	INCL	WHEN WE RECEIVE YOUR PURCHASE	NOTE
PUMPS, REELS, ETC.	INCL	ORDER. IF AVAILABLE, EXPECT	NOTE
EMERGENCY CUTOFF, STROBE LIGHTS	INCL	DELIVERY WITH 4X4 CONVESION IN	NOTE
LOADING LIGHTS, & BACKUP ALARM	INCL	ABOUT 2-4 WEEKS. PLEASE ALLOW	NOTE
HYDRAULIC DRIVEN AIR COMPRESSOR	INCL	ADDITIONAL 30-60 DAYS FOR LUBE	NOTE
GORDON PENNY IS YOUR CONTACT	NOTE	TRUCK BODY INSTALLATION	NOTE
AT 979 865-2992	NOTE		

**Total of C. Unpublished Options: \$ (4,010.00)**

D. Contract Price Adjustment: \_\_\_\_\_

E. Delivery Charges: 0 miles @ \$.93/mile

F. Total of A + B + C + D + E = F **\$ 119,334.00**

G. Quantity Ordered 1 x F = **\$ 119,334.00**

H. BUYBOARD Administrative Fee **\$400.00 PER PURCHASE ORDER** **\$ 400.00**

I. Non-Equip Charges & Credits \_\_\_\_\_

J. TOTAL PURCHASE PRICE INCLUDING BUYBOARD FEE **\$ 119,734.00**

**November 9, 2009**  
**Consent Agenda Item No. 3g**  
**Sewer CCN Settlement Agreement 3**

**To:** Mr. Glenn Brown, City Manager

**From:** Mr. Dave Coleman, Director of Water Services Department

**Agenda Caption:** Presentation, possible action, and discussion requesting approval of a settlement agreement with Wellborn SUD and Main Street Homes, which is the third of three agreements that will allow the City to pursue TCEQ approval of our application to extend our sewer certificated area into parts of the ETJ.

**Recommendation:** Staff recommends approval of the settlement agreement.

**Summary:** In September 2005, the City applied to the Texas Commission on Environmental Quality (TCEQ) to extend our sewer Certificate of Public Convenience and Necessity (CCN) into the extra-territorial jurisdiction (ETJ). Three protests were filed, and the City reached settlement agreements on two of the protests in the Fall of 2006.

The third protest was filed by Wellborn Special Utilities District and Main Street Homes, regarding sewer service to the Meadow Creek development on Koppe Bridge Road. Wellborn is providing sewer service to this development, and their protest stated that College Station should only get the Sewer CCN for this area if the City takes over operation of the sewage treatment package plant servicing the neighborhood.

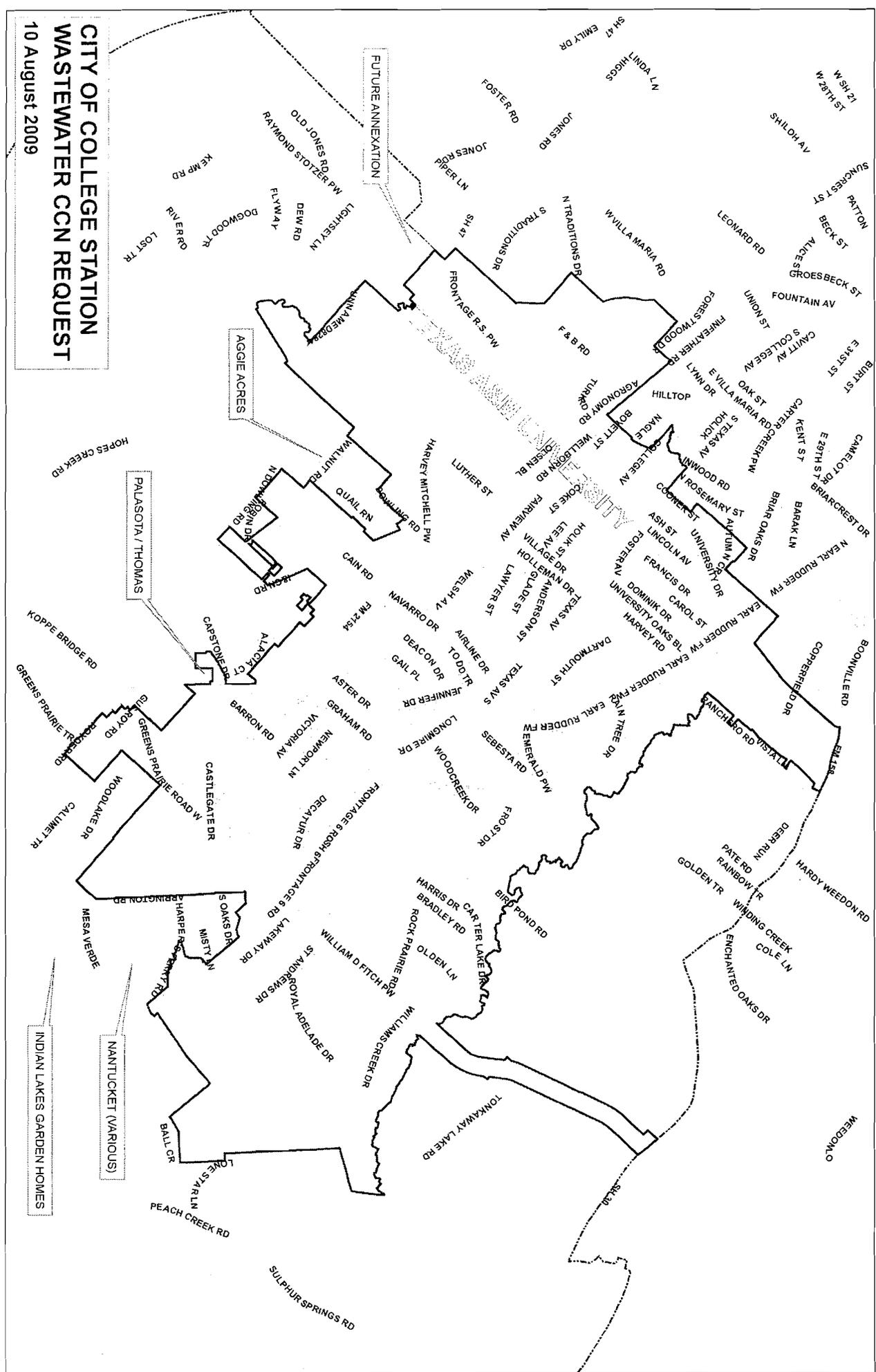
Since then, the City has decided to pull back the Sewer CCN request, so that the requested area does not include the Meadow Creek neighborhood, nor any of the surrounding area. Wellborn SUD and Main Street Homes are agreeable to this solution, and a settlement agreement has been reached. This agreement has been formally approved by the Wellborn SUD Board, and has been signed by the Main Street Homes principal. Staff has acted on City Council's direction to revise the Sewer CCN request and pursue this settlement; therefore staff recommends approval of this settlement agreement.

**Budget & Financial Summary:** None.

**Attachments:**

Agreement (on file with City Secretary)  
Revised CCN Map

**CITY OF COLLEGE STATION  
WASTEWATER CCN REQUEST**  
10 August 2009



**November 9, 2009**  
**Consent Agenda Item No. 3h**  
**Affiliate Funding Agreement 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 a funding agreement between the City of College Station and the Arts Council of Brazos Valley for FY10 in the amount of \$181,000 for Affiliate funding.

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

**Summary:** As part of the 2009-2010 budget process the City Council approved total funding for the Arts Council of Brazos Valley from the Hotel Tax Fund in the amount of \$289,000. Per Council direction, \$181,000 is to be used to fund Arts Council Affiliate grants. Funding includes \$162,000 for Affiliate Funding, \$9,500 for the Brazos Valley Symphony 4<sup>th</sup> of July concert, and \$9,500 for miscellaneous affiliate funding through the year. This funding must be approved by the City Manager before these funds are released.

As part of the 2009-2010 budget process the City Council approved \$100,000 from the General Fund and \$108,000 from the Hotel Tax fund for operations and maintenance of the Arts Council. These funding agreements were approved by Council on October 8, 2009.

State law requires that the City Council adopt the budget of any organization that is to be funded through Hotel Tax revenue. Council approved the FY10 budget of the Arts Council of Brazos Valley on October 8, 2009.

**Budget & Financial Summary:** The funds for this agreement are budgeted and available in the 2009-2010 Hotel Tax Fund Budget in the amount of \$181,000. The total of this amount is to be used to fund Arts Council Affiliates.

**Attachments:**

1. Arts Council of Brazos Valley Affiliate Funding Agreement (available in the City Secretary's Office)
2. Arts Council of Brazos Valley Budget (available in the City Secretary's Office)
3. Affiliate Funding

**Exhibit A**  
**Arts Council of Brazos Valley FY10 Affiliate Funding**

**Affiliate Funding**

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Armstrong / Bergeron Dance Company	\$2,000
Brazos Valley American Guild of Organists	\$1,000
Brazos Valley Chorale	\$8,000
Brazos Valley Museum of Natural History	\$17,000
Brazos Valley Symphony	\$27,000
Brazos Valley TROUPE	\$21,000
Downtown Bryan Economic Development Association First Fridays/ Art Walk	\$2,500
Friends of Chamber Music	\$3,000
KAMU-FM	\$25,000
KEOS-FM	\$7,500
MSC Forsyth Center Gallery	\$2,000
StageCenter	\$15,000
The Theatre Company of Bryan / College Station	\$27,000
University Summer Performance Series - TAMU	\$4,000

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**AFFILIATE SUBTOTAL** **\$162,000**

**Other Funding**

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4th of July Concert - Brazos Valley Symphony	\$9,500
Miscellaneous Affiliate Funding (to be approved by City Manager in advance)	\$9,500

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**OTHER FUNDING SUBTOTAL** **\$19,000**

**TOTAL AFFILIATE FUNDING** **\$181,000**

**November 9, 2009**  
**Consent Agenda Item No. 3i**  
**Authorize Brazos County Appraisal District Expenditures**

**To:** Glenn Brown, City Manager

**From:** Jeff Kersten, Chief Financial Officer

**Agenda Caption:** Presentation, possible action and discussion to authorize the FY 10 expenditures for the Brazos County Appraisal District in the amount of \$236,692 pursuant to the Property Tax Code 6.06D

**Recommendation(s):** Staff recommends approval of the expenditures in the amount of \$236,692 to the Brazos County Appraisal District.

**Summary:** Chapter 6.01 of the Property Tax Code calls for an appraisal district to be established in each county. The district is responsible for appraising property in the district for ad valorem taxes purposes of each taxing unit that imposes ad valorem taxes in the district. Chapter 6.06 (d) stipulates how the funding is allocated: "each taxing unit participating in the district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the unit for the tax year in which the budget proposals is prepared bears to the sum of the total amount of property taxes imposed in the district by each participating unit for that year."

**Budget & Financial Summary:** Funds are available and budgeted in the General Fund, Finance Administration Budget. Payments are made in four equal payments made at the end of each calendar quarter.

**Attachments:**

1. Brazos County Appraisal District 2010 Operating Budget (Available in City Secretary's Office)

**November 9, 2009**  
**Consent Agenda Item No. 3j**  
**Approval of the 2009 Property Tax Roll**

**To:** Glenn Brown, City Manager

**From:** Jeff Kersten, Chief Financial Officer

**Agenda Caption:** Presentation, possible action, and discussion on approval of the 2009 Property Tax Roll in the amount of \$23,623,086.36.

**Recommendation(s):** Staff recommends approval of the 2009 Property Tax Roll in the amount of \$23,623,086.36.

**Summary:** Section 26.09 (e) of the Texas Property Tax Code mandates formal approval of the Tax Roll by the City Council as the final step in the process of establishing the tax roll for the new year. The tax roll consists of the Maintenance and Operations levy and the Interest and Sinking fund levy.

The tax roll that will be generated by the tax rate of \$0.4394 per \$100 assessed valuation is \$23,623,086.36. This tax rate was adopted by the City Council on September 10, 2009.

**Budget & Financial Summary:** See above

**Attachments:**

1. Letter
2. 2009 Levy Totals

**Kristeen Roe, RTA, CTA**  
**Brazos County Tax Assessor/Collector**

300 E. Wm J Bryan Pkwy  
Bryan, TX 77803  
979-361-4470  
979-361-4487 - Fax



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October 20, 2009

Honorable Ben White  
Mayor  
City of College Station

RE: 2009 Tax Rolls

Dear Mayor White:

I am providing the 2009 tax roll total information for the City of College Station as required by the Texas Property Tax Code:

Sec. 26.09 (e) The assessor shall enter the amount of tax determined as provided by this section in the appraisal roll and submit it to the governing body of the unit for approval. The appraisal roll with amounts of tax entered as approved by the governing body constitutes the unit's tax roll.

The Brazos County Tax Office received seven supplemental value/ownership/exemption change files from the Brazos County Appraisal Review Board after the original 2009 value certification. The tax office accepted and balanced all of these changes prior to calculation of the 2009 tax rolls. A copy of the taxable values as well as the tax ceiling information for the City of College Station used for calculation is also provided.

Please contact me if you have any questions concerning these figures.

Respectfully,

A handwritten signature in cursive script that reads "Kristeen Roe".

Kristeen Roe, RTA, CTA  
Tax Assessor/Collector  
Brazos County

**2009 LEVY TOTALS**

C2 - CITY OF COLL. STAT.  
Grand Totals

Property Count: 27,670

10/12/2009 11:19:04AM

Land	Value			
Homesite:	555,791,937			
Non Homesite:	879,145,555			
Ag Market:	100,265,811			
Timber Market:	0	<b>Total Land</b>	(+)	1,535,203,303

Improvement	Value			
Homesite:	2,358,537,606			
Non Homesite:	1,925,755,442	<b>Total Improvements</b>	(+)	4,284,293,048

Non Real	Count	Value		
Personal Property:	2,856	421,451,299		
Mineral Property:	2,334	6,100,566		
Autos:	0	0		
			<b>Total Non Real</b>	(+) 427,551,865
			<b>Market Value</b>	= 6,247,048,216

Ag	Non Exempt	Exempt		
Total Productivity Market:	100,265,811	0		
Ag Use:	624,971	0	<b>Productivity Loss</b>	(-) 99,640,840
Timber Use:	0	0	<b>Appraised Value</b>	= 6,147,407,376
Productivity Loss:	99,640,840	0		
			<b>Homestead Cap</b>	(-) 11,566,068
			<b>Assessed Value</b>	= 6,135,841,308

Exemption	Count	Local	State	Total		
AB	6	9,168,088	0	9,168,088		
DP	80	0	0	0		
DV1	122	0	1,023,000	1,023,000		
DV1S	7	0	35,000	35,000		
DV2	54	0	535,500	535,500		
DV3	49	0	526,000	526,000		
DV3S	1	0	10,000	10,000		
DV4	50	0	480,000	480,000		
DV4S	14	0	168,000	168,000		
DVHS	21	0	3,925,770	3,925,770		
EX	518	0	654,642,624	654,642,624		
EX(Prorated)	2	0	26,755	26,755		
EX366	1,788	0	129,077	129,077		
FR	5	10,478,991	0	10,478,991		
OV65	2,139	63,661,502	0	63,661,502		
OV65S	8	240,000	0	240,000	<b>Total Exemptions</b>	(-) 745,050,307
					<b>Net Taxable</b>	= 5,390,791,001

Freeze	Assessed	Taxable	Actual Tax	Ceiling	Count		
DP	11,645,305	10,773,635	45,212.23	48,515.68	72		
OV65	394,095,447	333,427,815	1,403,131.98	1,411,362.46	1,938		
<b>Total</b>	<b>405,740,752</b>	<b>344,201,450</b>	<b>1,448,344.21</b>	<b>1,459,878.14</b>	<b>2,010</b>	<b>Freeze Taxable</b>	(-) 344,201,450
Tax Rate	0.439400						
						<b>Freeze Adjusted Taxable</b>	= 5,046,589,551

**2009 LEVY TOTALS**

C2 - CITY OF COLL. STAT.  
Grand Totals

Property Count: 27,670

10/12/2009 11:19:04AM

**Levy Info**

M&O Rate:	0.209967	M&O Tax:	11,288,261.78		
I&S Rate:	0.229433	I&S Tax:	12,334,796.61		
Protected I&S Rate:	0.000000	Protected I&S Tax:	0.00		
		Ag Penalty:	27.97		
				<b>Total Levy</b>	<b>23,623,086.36</b>
Tax Increment Finance Value:			0		
Tax Increment Finance Levy:			0.00		

**November 9, 2009**  
**Consent Agenda Item No. 3k**  
**Project Number ST-0409/ST-1026**  
**Barron Road Capacity Improvements**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion on:

- (1) an amendment to the Professional Services Contract 04-176 with Epsilon Engineering, Inc. for the purpose of foregoing transfer and novation of the contract to Jacobs Engineering Group Inc and also modifying the date for which all design work and other professional services provided under the Contract must be completed to July 30, 2012, and
- (2) a change order to the Professional Services Contract 04-176 with Epsilon Engineering, Inc., now Jacobs Engineering Group, Inc., in the amount of \$60,870.40, for additional services to design improvements to the intersection of Barron Road and SH 40.

**Recommendation(s):** Staff recommends approval of the amendment to professional services contract and change order.

**Summary:** The original Professional Services Contract 04-176 between the City of College Station and Epsilon Engineering, Inc. for the design of the Barron Road Improvements was approved by Council on October 21, 2004. The original contract described three phases of design and construction for Barron Road from SH 6 to Wellborn Road. A previous change order dated July 9, 2009 revised the phasing to: SH 6 to Victoria (Phase 1), and Victoria to Wellborn Road (Phase 2). Due to an unresolved issue with BTU, the phases were revised again to: SH 6 to Decatur Drive (Phase 1) and Decatur Drive to William D. Fitch Parkway (Fitch). Since that time, Epsilon Engineering, Inc. was acquired by Edwards and Kelcey. Edwards and Kelcey was subsequently acquired by Jacobs Engineering Group, Inc. Furthermore, the original Professional Services Contract set December 31, 2007, as the date for which all design work and other professional services must be completed. This contract amendment modifies the completion date to July 30, 2012, and names Jacobs Engineering Group Inc as the engineer.

College Station Independent School District recently announced plans for a new high school near the intersection of Barron Road and Victoria Drive. The traffic generated by this new facility will require improvements to the intersection of Barron Road and Fitch – sidewalks across Fitch, improved pedestrian safety, widening the crossover between the northbound and southbound frontage roads of Fitch, transitioning Barron Road from four lanes of traffic, back to the existing two lanes of traffic on the west side of Fitch, a deceleration lane and dedicated right turn lane from Fitch onto Barron, drainage improvements, etc. Additionally, a recent traffic study of the intersection of Barron Road and Fitch determined that a traffic signal is warranted for this intersection. In an effort to coordinate the design and installation of the traffic signal and the Barron/Fitch intersection improvements in the Fitch right-of-way which is owned by the Texas Department of Transportation, it was decided to include intersection improvements and traffic signal into Phase II of the Barron Road Widening

Project. This change order increases the amount of the design contract to compensate the engineer for the additional design work.

**Budget & Financial Summary:** The contract amendment will not affect the budget for this project. Change Order No. 2 will increase the contract amount by \$60,870.40 for a revised contract total of \$900,752.60. Funds in the amount of \$14,665,000 are currently budgeted for this project in the Street Capital Improvement Projects Fund. Also, \$100,000 is budgeted in the Wastewater Capital Improvement Projects Fund, and \$100,000 is budgeted in the Water Capital Improvement Projects Fund for water and wastewater components of this project. Funds in the amount of \$2,643,220.48 have been expended to date, leaving a balance of \$12,231,079.52 which will cover this change order.

**Attachments:**

- 1.) Amendment to Professional Services Contract
- 2.) Change Order No. 2
- 3.) Project Location Map

**AMENDMENT TO CITY OF COLLEGE STATION'S  
PROFESSIONAL SERVICES CONTRACT**

This amendment ("Amendment") to the Professional Service Contract for the Barron Road Capacity Improvements (the "Agreement") is entered into as of this \_\_\_\_\_ day of 2009 by and between Epsilon Engineering Inc. ("Epsilon") and the City of College Station, Texas (the "City").

**Recitals**

Whereas Epsilon and the City entered into the Agreement with Contract Number 04-176 executed on November 8, 2004;

Whereas Epsilon and the City now desire to amend and modify the Agreement as hereinafter provided;

Now therefore in consideration of the mutual covenants, representations, warranties and agreements contained herein, and for other valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

**Section I  
Transfer of Parties**

- A. Epsilon Engineering, Inc. is a corporation duly organized and existing under the laws of Texas and Jacobs Engineering Group Inc. ("Contractor"), is a corporation duly organized and existing under the laws of Delaware.
- B. The City desires that Contractor now perform all obligations under the Agreement.
- C. Contractor agrees to be bound by and to perform the Agreement in accordance with the conditions contained therein. Contractor also assumes all obligations and liabilities of, and all claims against, Epsilon Engineering, Inc. under the contracts as if the Contractor were the original party to the contracts. The Agreement includes all change orders, task orders or any other modifications or additions to such contracts that were mutually agreed to by City and Transferor.
- D. Contractor ratifies all previous actions taken by Epsilon Engineering, Inc. with respect to the Agreement, with the same force and effect as if the action had been taken by Contractor.
- E. The City recognizes Contractor as Epsilon Engineering, Inc.'s successor in interest in and to Agreement. Contractor by this Agreement becomes entitled to all rights, titles, and interests of Epsilon Engineering, Inc. in and to Agreement as if Contractor were the original party to the Agreement.
- F. All payments and reimbursements previously made by the City to Epsilon Engineering, Inc., and all other previous actions taken by the City under the Agreement, shall be

considered to have discharged those parts of the City's obligations under the Agreement. All payments and reimbursements made by the City after the date of this Agreement should be made in the name of Contractor, under the same remittance instructions as were applicable for Epsilon Engineering, Inc.

- G. In consideration of the terms and conditions of this Amendment, the City hereby consents to the foregoing transfer and novation of the Agreement to Jacobs Engineering Group Inc.

**Section II**  
**Time of Performance**

- A. Section 3.02 of the Agreement is modified as follows: All design work and other professional services provided under this Contract must be completed by the following date: July 30, 2012.

**Section III**  
**Miscellaneous**

- A. The Agreement shall remain in full force and effect, except as modified by this Amendment. Each party has executed this Amendment as of the day and year first above written.

**EPSILON ENGINEERING INC.**

By: [Signature]

Title: President

Date: 11-2-09

**JACOBS ENGINEERING GROUP INC.**

By: [Signature]

Title: Corporate President

Date: 10/20/09

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_

Mayor

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

City Secretary

Date: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

[Signature]  
\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

\_\_\_\_\_  
Chief Financial Officer

Date: \_\_\_\_\_

CHANGE ORDER NO. 2

Contract No. 04-176

DATE: 10/26/2009

P.O.# 050184

PROJECT: Barron Road Capacity Improvements

Project No. ST 0409/ST-1026

**OWNER:**

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

**CONTRACTOR:**

Jacobs Engineering Group, Inc.  
526 E. University Dr. Ste. 201A  
College Station, Texas 77840  
Ph: (979) 764-9119  
Fax: (979) 764-9229

**PURPOSE OF THIS CHANGE ORDER:**

- A. Revise scope, phasing, and schedule of design, and revise company name of design firm.
- B. Obtain additional topo survey, and obtain descriptions for additional ROW and easements associated with additional scope.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	LS	Additional design necessary for intersection capacity improvements, drainage improvements and signalization at Barron Road and SH 40.	\$55,770.40	0	1	\$55,770.40
2	LS	Obtain additional topo associated with revised scope, and descriptions and exhibits for additional ROW and esmts.	\$8,500.00	0	1	\$8,500.00
3	LS	Omission of Landscaping and Irrigation design for streetscape	(\$3,400.00)	0	1	(\$3,400.00)
					TOTAL	\$60,870.40

THE NET AFFECT OF THIS CHANGE ORDER IS AN 8.97% INCREASE.

ORIGINAL CONTRACT AMOUNT	\$678,313.00	
Change Order No. 1	\$161,569.20	23.82% CHANGE
Change Order No. 2	\$60,870.40	8.97% CHANGE
REVISED CONTRACT AMOUNT	\$900,752.60	32.79% TOTAL CHANGE

ORIGINAL CONTRACT DESIGN TIME	1,146 days
Change Order No. 1	669 days
Change Order No. 2	1,003 days
Revised Contract Design Time	2,819 Days

ORIGINAL COMPLETION DATE	December 31, 2007
REVISED COMPLETION DATE	July 30, 2012

APPROVED

*Michael Perry* 10-30-09  
A/E CONTRACTOR

*Alan C. Jones*  
CITY ATTORNEY

CONSTRUCTION CONTRACTOR  
*Daniel Beamon* Oct 27, 2009  
PROJECT MANAGER

DIRECTOR OF FISCAL SERVICES  
MAYOR

CITY ENGINEER  
*Donna* 10/28/09  
DEPARTMENT DIRECTOR FOR CRE

CITY SECRETARY  
CITY MANAGER



**November 9, 2009**  
**Consent Agenda Item No. 3L**  
**College Park-Breezy Heights Rehabilitation Project**  
**Close-out Change Order**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion to a change order to Contract #08-277 to Brazos Valley Services in the amount of \$233,373.70 for additional construction services related to the College Park/Breezy Heights Rehabilitation Project.

**Recommendation(s):** Staff recommends approval of this change order. \*

**Summary:** The construction work to rehabilitate streets and utility lines in the College Park and Breezy Heights areas is complete, and this change order is the final action to close out the construction contract. This change order will make the final adjustments to the quantities of specific utility improvements such as water service connections, sewer service connections, lengths of pipe, pavement repair and backfill, valve quantities and number of manholes installed.

Many of the quantity changes are inherent to utility rehabilitation in historic neighborhoods, as the many of the plans for the construction of the original infrastructure are no longer available, and the area has been modified and improved over time as a result of on-going operation and maintenance. Once the utility work began the contractor found utility lines that were shown in record drawings and service connections that could not be located by the surveyor or the design team.

Additional, once work began to replace a predetermine quantity of deteriorating sanitary sewer pipe by pipe bursting (a method of replacing existing pipe by trenchless methods that does not require the excavation of a utility trench), other segments of sewer line in poor conditions were discovered. Therefore, these lines were also replaced by the less intrusive pipe bursting method to ensure the City can continue to provide reliable sewer services to the neighborhood without unnecessarily disturbing the yards of the residents in the neighborhood.

**Budget & Financial Summary:** The original contract for construction services was \$4,116,581.28. Change order 1 increased the contract by 10.4% to a total of \$4,545,519.78. Change order 2 increased the contract by 2.77% to a total of \$4,659,432.72. This Change Order will increase the contract by an additional \$233,373.70. The current budget for the College Park-Breezy Heights Rehabilitation project is \$5,843,045. Funds in the amount of \$5,337,412 have been expended or committed to date, leaving a balance of \$505,633 for this change order and future expenses. The funding sources for this project include the Streets, Drainage, Water and Wastewater Capital Improvement Projects Funds. A portion of this change order, in the amount of \$107,961, will be applied to the portion of the project funded by the Water Capital Fund, which has a balance of \$126,278.67. A portion of this change order, in the amount of \$135,229.40, will be applied to the portion of the project funded by the Wastewater Capital Fund, which has a balance of \$159,644.52. This change order also includes a credit to the Drainage Capital Fund in the amount of \$9,816.70.

**Attachments:**

1. Change Order Number 3
2. Location Map of the College Park Breezy Heights Rehabilitation Project

CHANGE ORDER NO. 3 Contract No. 08-277 DATE: 15 October 2009  
P.O.# 081170 PROJECT: College Park/Breezy Heights Rehabilitation

OWNER: City of College Station P.O. Box 9960 College Station, Texas 77842  
CONTRACTOR: Brazos Valley Services PO Box 985 Bryan, TX 77805  
Ph: (979) 255-3977 Fax: (936) 399-7012

PURPOSE OF THIS CHANGE ORDER:  
**A. Project Close Out change Order:** This change order for the College Park/Breezy Heights Rehabilitation Project serves to adjust quantities of various line items to account for overruns and underruns encountered during the project that have not been previously addressed in prior change orders. This change order updates the contract and associated Purchase Order in order to successfully close out the project. Items in this change order primarily are for wastewater and water utilities and drainage utility items.

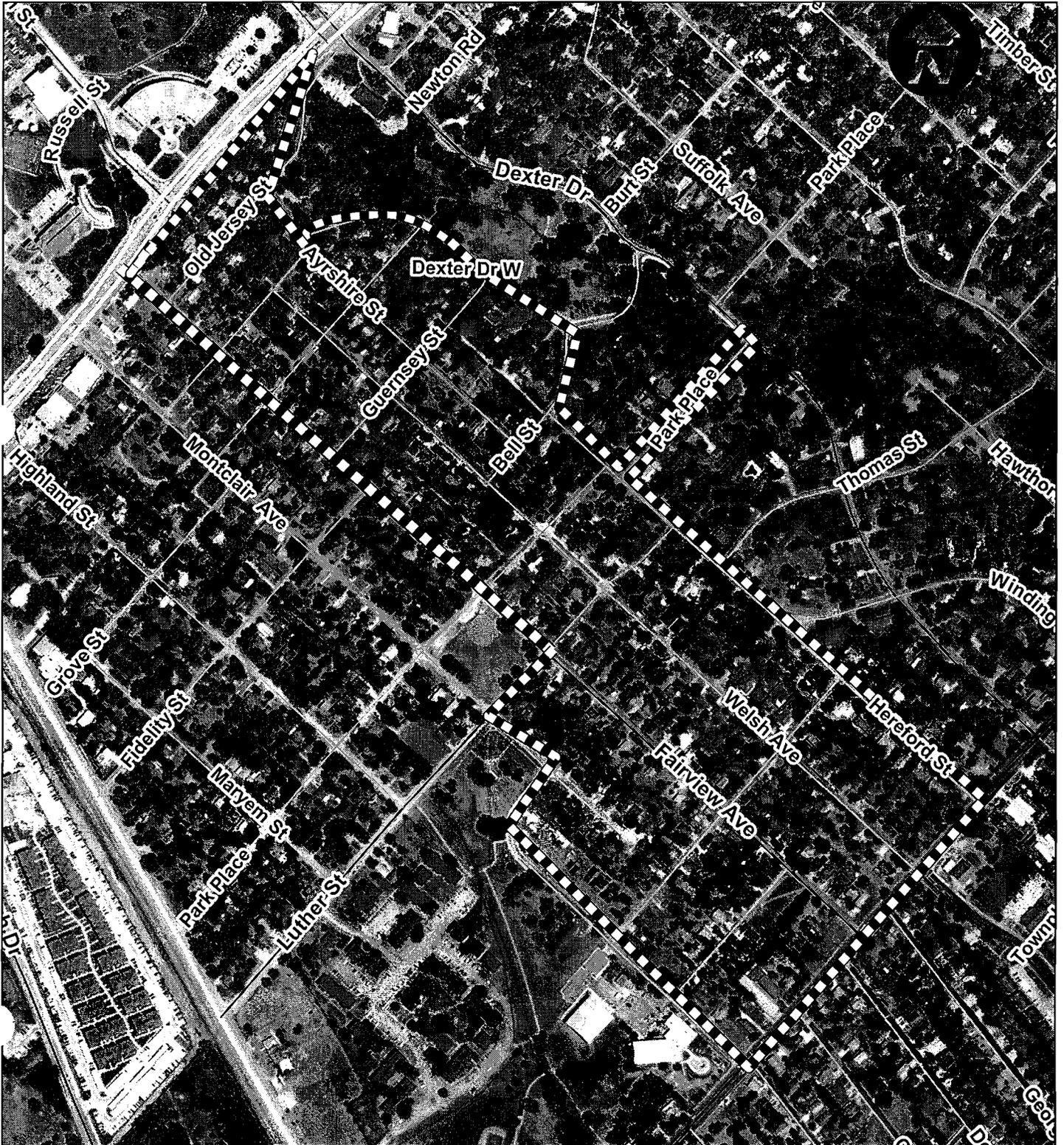
ITEM NO.	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
19	SY	6" reinforced concrete paving, including related items and appurtenances, complete in place	\$38.00	2116	2758	\$24,396.00
20	LF	6" dowel on curb including related items and appurtenances, complete in place	\$5.00	5139	5355	\$1,078.50
21	SY	4" reinforced 6' concrete sidewalk paving including ADA handicap ramps and sub grade compaction to 98% standard proctor density @ optimum moisture content, including related items and appurtenances, complete in place	\$36.00	1594	1950	\$12,816.00
22	SY	Residential reinforced concrete driveway turnout (widths vary) including related items and appurtenances, complete in place	\$40.00	608	543	(\$2,603.20)
23	EA	Remove and dispose of existing head and wing wall including related items and appurtenances, complete in place	\$1,000.00	1	2	\$1,000.00
26	LF	Remove and dispose of existing RCP pipe, including related items and appurtenances, complete in place	\$20.00	247	162	(\$1,700.00)
28A	LF	18" HDPE storm sewer including related items & appurtenances, complete in place	\$63.00	410	152	(\$16,254.00)
29A	LF	24" HDPE storm sewer including related items & appurtenances, complete in place	\$77.00	281	229	(\$4,004.00)
30A	LF	30" HDPE storm sewer including related items & appurtenances, complete in place	\$110.00	553	413	(\$15,400.00)
32	EA	Connect proposed RCP storm sewer to existing inlet box, including related items & appurtenances, complete in place	\$1,000.00	13	9	(\$4,000.00)
33	LF	Asphalt pavement repair for storm sewer related items with full depth cement stabilized backfill including related items, complete in place	\$40.00	136	266	\$5,200.00
43	EA	Remove existing storm sewer manhole and replace with 6'x6' junction box, complete in place	\$3,500.00	1	0	(\$3,500.00)
44	EA	Construct 5' extension on end of existing curb inlet, complete in place	\$1,500.00	1	3	\$3,000.00
45	LF	Concrete curb and gutter repair including related appurtenances, complete in place	\$30.00	30	515	\$14,550.00
46	LF	Lower existing waterline on Hereford Street, including related items and appurtenances, complete and in place	\$100.00	30	0	(\$3,000.00)
52	LF	4" C-900 PVC waterline including related items and appurtenances, complete in place	\$32.00	513	713	\$6,400.00
54	EA	8" gate valve and box, including marker and related items and appurtenances, complete in place	\$1,025.00	8	9	\$1,025.00
55	EA	6" gate valve and box, including marker and related items and appurtenances, complete in place	\$760.00	37	38	\$760.00
58	LF	12" C-900 Certa-Lok PVC waterline installed by directional boring, complete in place	\$90.00	2860	2895	\$3,150.00
61	LF	4" Yellowline SDR 19 waterline installed by directional boring including related items and appurtenances, complete in place	\$35.00	898	900	\$70.00

63	EA	Relocate & reconnect existing water meter including related items and appurtenances, complete in place	\$300.00	88	105	\$5,100.00
64	EA	Long water service transfer including 1" schedule 40 PVC, related fittings, ball valves, connection to existing meter & related appurtenances, complete in place	\$1,100.00	78	95	\$18,700.00
65	EA	Long dual water service transfer including 1.5" schedule 40 PVC, related fittings, ball valves, connection to existing meter & related appurtenances, complete in place	\$1,420.00	16	12	(\$5,680.00)
66	EA	Short dual water service transfer including 1.5" schedule 40 PVC, related fittings, ball valves, connection to existing meter & related appurtenances, complete in place	\$800.00	6	11	\$4,000.00
67	EA	Short water service transfer including 1" schedule 40 PVC, related fittings, ball valves, connection to existing meter & related appurtenances, complete in place	\$500.00	78	84	\$3,000.00
72	EA	Interconnected proposed 12" PVC waterline to existing 6" waterline, including related fitting and appurtenances, complete in place	\$1,500.00	1	2	\$1,500.00
82	EA	Relocate & reconnect existing water meter including related items and appurtenances, complete in place	\$400.00	19	31	\$4,800.00
83	LF	1" schedule 40 PVC water service line from relocated meter to existing resident & plumbing including connection by licensed plumber including related items and appurtenances, complete in place	\$15.00	1245	3521	\$34,140.00
87	LF	Concrete pavement repair for water related items w/full depth cement stabilized backfill including related items & appurtenances, complete in place	\$35.00	170	290	\$4,200.00
89	EA	Curb & gutter repair for water related crossing w/full depth cement stabilized backfill including related items and appurtenances, complete in place	\$150.00	122	129	\$1,050.00
95	EA	Remove and reset existing mailboxes, including related items and appurtenances, complete in place	\$100.00	5	16	\$1,100.00
98	LF	6" SDR 26 PVC(ASTM D3034) Sanitary sewer line, including fittings, related items & appurtenances, complete in place	\$30.00	5348	5570	\$6,660.00
99	LF	6" SDR 26 PVC(ASTM D3034) Sanitary sewer line installed by dry bore, including fittings, related items & appurtenances, complete in place	\$185.00	60	80	\$3,700.00
101	EA	Construct standard concrete manhole on existing sewer line w/lid, rim, sealant, including related items & appurtenances, complete in place	\$3,000.00	5	6	\$3,000.00
103	EA	Precast concrete drop manholes w/lid, rim, sealant, including related items & appurtenances, complete in place	\$3,500.00	4	3	(\$3,500.00)
105	EA	Standard 5" cleanout assembly, including related items & appurtenances, complete in place	\$800.00	7	9	\$1,600.00
106	EA	Short sewer service transfer, including service line, related fittings, items & appurtenances, complete in place	\$400.00	50	58	\$3,200.00
107	EA	Long sewer service transfer, including service line, related fittings, items & appurtenances, complete in place	\$1,300.00	38	47	\$11,700.00
110	LF	Asphalt pavement repair for sewer related items w/full depth cement stabilized backfill including related items & appurtenances, complete in place	\$30.00	926	1126	\$6,000.00
115	EA	Remove & dispose of existing manhole, complete in place	\$500.00	11	13	\$1,000.00



P.O. Line Item	Accounting Information	Original Contract	Change Order #1	Change Order #2	Change Order #3	Contract
1	ST0507 139-9111-971.30-10	\$1,531,588	\$428,939	\$113,913	\$0	\$2,074,439.72
2	SD0601 912-9111-975.30-10	\$200,000	\$0	0	-9,816.70	\$190,183.30
3	WTWOC 212-9111-973.55-02	\$1,372,815		0	107,961.00	\$1,480,776.00
4	SCWOC 213-9111-974.55-01	\$1,012,178	\$0	0	135,229.40	\$1,147,407.40
<b>TOTAL:</b>		<b>\$4,116,581.28</b>	<b>\$428,938.50</b>	<b>\$113,912.94</b>	<b>\$233,373.70</b>	<b>\$4,892,805.42</b>

# College Park/Breezy Heights Rehabilitation Project Location Map



**November 9, 2009**  
**Consent Agenda Item No. 3m**  
**Water Reclamation Project Design Contract Change Order No. 1**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion regarding change order no. 1 to the Water Reclamation Project design contract in the amount of \$24,000.00 to contract no. 09-147 with Lockwood, Andrews, & Newnam for design services to provide programming deliverables for control of the water reclamation system.

**Recommendation(s):** Staff recommends approval of change order no. 1.

**Summary:** This project will extend treated effluent from the Carters Creek Wastewater Treatment Plant to Veteran's Athletic Complex, where it will be used for irrigation purposes in the park. The project includes a pump station at the treatment plant, pipeline and ground storage tanks at the park.

Programming for the controls associated with the water reclamation system was to be accomplished in-house. However, due to the existing workload of the SCADA technicians and limited resources in the division, Water Services is now requesting that this function be included in the scope of work of the engineering consultant.

**Budget & Financial Summary:** Funds in the amount of \$3,606,730.00 are budgeted in the Water Capital Projects Fund. Funds in the amount of \$518,507.00 have been expended or committed to date, leaving a balance of \$3,088,222.10 for this change order and future expenses.

**Attachments:**

1. Change Order No. 1
2. Project Location Map

CHANGE ORDER NO. 1 Contract No. 09-147 DATE: 09/18/2009  
P.O.# 090744 PROJECT: Water Reclamation Project

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

**CONTRACTOR:** Lockwood, Andrews & Newnam  
2925 Briarpark Drive  
Houston, Texas 77042

Ph: (713) 266 - 6900  
Fax: (713) 266 - 7191

**PURPOSE OF THIS CHANGE ORDER:**  
A. Change in scope of services to include PLC and HMI Programming

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	LS	Revise scope of services to include PLC and HMI Programming including items 2-12 listed below:	\$24,000.00	0	1	\$24,000.00
2		Engineer to configure two (2) PanelView HMIs; one (1) serving the Carters Creek WWTP site and one (1) serving the Veterans Park site	\$0.00	0	1	\$0.00
3		Engineer to program a single Allen Bradley Controllogix or CompactLogix PLC, to be located at the Carters Creek WWTP site, with one (1) remote Input/Output (I/O) rack to be located at Veteran's Park, and linked to the processor via an Ethernet/IP network	\$0.00	0	1	\$0.00
4		Engineer programming to include pump control logic for transfer and irrigation pump stations, analog input scaling of level and flow instruments, HMI interface logic, I/O configuration, and communications configuration	\$0.00	0	1	\$0.00
5		Engineer to coordinate programming with currently on-going mechanical, electrical and instrumentation design for proposed Phase I Reclaimed Water System project	\$0.00	0	1	\$0.00
6		Engineer to conduct Quality Control (QC) review of programming deliverables prior to Owner submission	\$0.00	0	1	\$0.00
7		Engineer to coordinate with the selected construction contractor to accomplish programming for proposed Phase I Reclaimed Water System project	\$0.00	0	1	\$0.00
8		Engineer representative to attend programming workshop/meeting with Owner representative(s) prior to Engineer initiating programming work. Workshop will involve Engineer presenting/describing proposed programming plan to Owner, Owner subsequently providing comments/input, and the Owner/Engineer ultimately coming to a consensus regarding the programming plan to be implemented	\$0.00	0	1	\$0.00
9		Engineer to conduct in-office testing of programming via PLC upload and/or software simulation, prior to field installation	\$0.00	0	1	\$0.00

10	Engineer representative to participate in system start-up activities, in conjunction with selected construction contractor, to verify programming operation/function; Scope of Services assumes that selected construction contractor will install all equipment, have all equipment functioning, and have completed, tested and verified all field wiring, prior to initiation of Engineer's start-up activity participation	\$0.00	0	1	\$0.00
11	Engineer representative to conduct four (4), two (2) hour, field training sessions to instruct Owner operations and maintenance personnel regarding system operation	\$0.00	0	1	\$0.00
12	Engineer to provide Owner with single electronic copy of final installed program via FTP site upload or CD ROM and ten (10) hard copies of training reference material (programming narrative)	\$0.00	0	1	\$0.00
				TOTAL	\$24,000.00

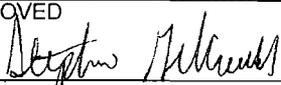
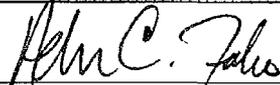
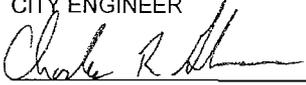
THE NET AFFECT OF THIS CHANGE ORDER IS A 5.57% INCREASE.

ORIGINAL CONTRACT AMOUNT	\$431,000.00	
Change Order No. 1	\$24,000.00	5.57% CHANGE
REVISED CONTRACT AMOUNT	\$455,000.00	5.57% TOTAL CHANGE

ORIGINAL CONTRACT DESIGN TIME	180 Days
Change Order No. 1	60 Days
Revised Contract Design Time	240 Days

SUBSTANTIAL COMPLETION DATE	N/A
Revised Substantial Completion Date	N/A

APPROVED

 AVE CONTRACTOR	10/15/09	 CITY ATTORNEY
<u>N/A</u>	<u>N/A</u>	
CONSTRUCTION CONTRACTOR		DIRECTOR OF FISCAL SERVICES
 PROJECT MANAGER	10/20/09	MAYOR
<u>N/A</u>	<u>N/A</u>	
CITY ENGINEER		CITY SECRETARY
 DEPARTMENT DIRECTOR	20-Oct-09	CITY MANAGER



Veterans Park and  
Athletic Complex

Carfers Creek  
Wastewater Treatment Plant

**November 9, 2009**  
**Consent Agenda Item No. 3n**  
**Tauber and Stasney Streets Rehabilitation Project**  
**Professional Services Change Order**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion to approve a change order to professional services contract #05-160 with McClure & Brown Engineering in the amount of \$211,397.50 related to revisions and updates to the Tauber and Stasney Streets Rehabilitation design.

**Recommendation(s):** Staff recommends approval of the requested change order.

**Summary:** In May 2005 the City Council approved a design contract for the design of improvements and rehabilitation of Tauber and Stasney. Since 2005, the scope of this project has changed significantly as a result of the Northgate Design Guidelines in the Unified Development Ordinance, and input from the adjacent property owners and stakeholders in the Northgate District. This item is for the approval of a professional services change order to McClure & Browne Engineering/Surveying, Inc. for changes related to the change in scope of their contract in the amount of \$211,397.50.

This change order will compensate the consulting engineer for the following:

- Additional topographic and boundary surveys for access easements being dedicated by some of the adjacent property owners.
- Additional topographic surveying to supplement and update the survey data collected in 2005 to include new improvements along both Tauber and Stasney (e.g. improvements to Church Street, improvements constructed with The Factory and Warehouse, etc).
- Revisions to the drawings to reflect the changes to the horizontal alignment of the roadway and parking as a result of the public engagement process, including the plan and profile sheets of the roadway, the traffic control plans and the storm water pollution preventions plans.
- Revisions to the drawings to reflect the changes to the utilities as a result of the public engagement process.
- Revisions to the drawings and specifications to ensure the design meet the requirements of the Northgate Design Guidelines in the Unified Development Ordinance.
- Development of a tree protection and preservation plan by a certified arborist (not included in the original scope of work).
- Construction material testing by a local certified testing laboratory (not included in the original scope of work). Testing will include sub grade soils for the pavement and sidewalks, backfill material for all utility replacement associated with the project and on cast-in-place concrete.
- Preconstruction site visits be performed a geotechnical and structural engineer to document existing distress conditions within certain buildings near the construction zone and that observations of other structures be made from the right-of-way (not included in the original scope of work).
- Vibration monitoring and settlement monitoring at certain buildings and other structures (e.g. retaining walls) during construction to monitor vibrations measured

during construction activities and to monitor existing structures to ensure movement is not occurring.

The time of construction is fourteen (14) months. It is expected that construction will begin this summer, once the design documents are revised and updated.

**Budget & Financial Summary:** The current budget for the Tauber and Stasney Street Rehabilitation project is \$3,100,899. Included in this budget are funds for street rehabilitation as well as water and wastewater utility rehabilitation. A total of \$609,025.60 has been expended or committed to date, leaving a balance of \$2,491,873.40 for this change order and future expenses.

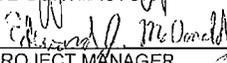
**Attachments:**

1. Change Order #4
2. Location Map of the Tauber and Stasney Streets Rehabilitation Project.



APPROVED

  
\_\_\_\_\_  
A/E CONTRACTOR      10/28/09  
Date

  
\_\_\_\_\_  
PROJECT MANAGER      10/28/09  
Date

  
\_\_\_\_\_  
DEPARTMENT DIRECTOR *2009*      10/28/09  
Date

\_\_\_\_\_  
DIRECTOR OF FISCAL SERVICES      Date

  
\_\_\_\_\_  
CITY ATTORNEY      Date

\_\_\_\_\_  
MAYOR      Date

\_\_\_\_\_  
CITY SECRETARY      Date

\_\_\_\_\_  
CITY MANAGER      Date

P.O Line Item	Accounting Information	Original Contract	Change Order #1	Change Order #2	Change Order #3	Change Order #4	Total Revised Contract
1	ST0505 139-9111-971.30-10	\$160,000.00	\$6,000.00	\$5,500.00	\$2,500.00	\$211,397.50	\$385,397.50
	<b>TOTAL</b>	<b>\$160,000.00</b>	<b>\$6,000.00</b>	<b>\$5,500.00</b>	<b>\$2,500.00</b>	<b>\$211,397.50</b>	<b>\$385,397.50</b>

# Tauber and Stasney Street Rehabilitation Project Location Map



**November 9, 2009**  
**Consent Agenda Item No. 3o**  
**Project Number WF1129844**  
**Carters Creek Wastewater Treatment Plant Lab & SCADA Building and a**  
**Resolution Declaring Intention to Reimburse Certain**  
**Expenditures with Proceeds From Debt**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion on a Professional Services Contract with Lockwood, Andrews, and Newnam, Inc. in the amount of \$225,477; for the design of the Carters Creek Wastewater Treatment Plant Lab and SCADA Building and approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

**Recommendation(s):** Staff recommends approval of the professional services contract and recommends approval of the resolution declaring intention to reimburse certain expenditures with proceeds from debt.

**Summary:** At the Council Meeting on October 19, 2009, the Council expressed a willingness to consider an amendment to the Unified Development Ordinance that would exempt certain City facilities with an industrial use from all of the requirements in the Ordinance. During that meeting the Council requested that staff draft the proposed amendments and develop a review process whereby each design project to modify, expand or build an industrial facility can be reviewed. Staff recognizes that this process is still being developed. However, staff would propose to move forward with the design of the Carters Creek Wastewater Treatment Plant Lab and SCADA Building on the premise that the exterior match the existing administration building at the Wastewater Treatment Plant – split face block exterior to with a metal roof at a single elevation to match the existing building. Once the design is complete on the Lab and SCADA Building, staff will send this project through the review process ultimately adopted by the Council to allow these variances.

The Carters Creek Wastewater Treatment Plant Lab and SCADA Building is a funded project in the FY 2010 Capital Plan. The scope of this project includes the design and construction of the new building facility to replace the existing aging antiquated laboratory, and centralize our SCADA equipment and hardware into a centralized, environmentally controlled, weather resistant building. Lockwood, Andrews, and Newnam, Inc. (LAN) was selected as the most highly qualified firm based on their statement of qualifications submitted in response of RFQ 08-95. LAN and City Staff have completed the programming phase of this project where current and future needs were thoroughly evaluated and analyzed. With a design budget of \$225,477.00, we are prepared to move into detailed design.

**Budget & Financial Summary:** The budget for this project is currently \$940,000.00. The P.O. for the project design is \$225,477.00. To date, \$19,087.36 has been expended or committed for this project, leaving a balance of \$920,912.64 for this contract and future expenses. This item replaces the standard terms, conditions and specifications that were

attached to the P.O. with those in the Professional Services Contract and requires no additional funds. The "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is necessary for this item because the long term debt has not been issued for the project. The debt for the project is scheduled to be issued later this fiscal year.

**Attachments:**

- 1.) Resolution
- 2.) Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, SELECTING A PROFESSIONAL CONTRACTOR, APPROVING A PROFESSIONAL SERVICES CONTRACT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE CARTERS CREEK WASTEWATER TREATMENT PLANT LAB AND SCADA BUILDING PROJECT.**

WHEREAS, the City of College Station, Texas, solicited proposals for the design and construction phase services; and

WHEREAS, the selection of Lockwood, Andrews, & Newnam, Inc. is being recommended as the most highly qualified provider of the design and construction phase services; 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 Lockwood, Andrews, & Newnam, Inc. is the most highly qualified provider of the design and construction phase services for Carters Creek Wastewater Treatment Plant Lab and SCADA Building Project on the basis of demonstrated competence and qualifications.

PART 2: That the City Council hereby approves the contract with Lockwood, Andrews, & Newnam, Inc. for an amount not to exceed \$225,477.00 for the design and construction phase services related to the Carters Creek Wastewater Treatment Plant Lab and SCADA Building Project.

PART 3: That the funding for this Contract shall be as budgeted from the Water Services Fund in the amount of \$225,477.00.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
MAYOR

APPROVED:

  
\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH  
PROCEEDS FROM DEBT

WHEREAS, the City of College Station, Texas (the "City") is a home-rule municipality and political subdivision of the State of Texas;

WHEREAS, the City expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described on Exhibit "A" hereto (collectively, the "Project") prior to the issuance of obligations by the City in connection with the financing of the Project from available funds;

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

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

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed \$940,000, 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 9th DAY OF NOVEMBER, 2009.

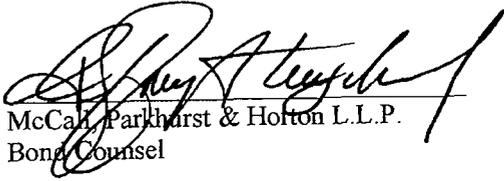
\_\_\_\_\_  
Ben White, Mayor

ATTEST:

\_\_\_\_\_  
Connie Hooks, City Secretary

(Seal)

APPROVED:



Robert A. Taylor

McCain, Parkhurst & Horton L.L.P.  
Bond Counsel

Exhibit "A"

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

Carters Creek Wastewater Treatment Plant Lab and SCADA Building

**November 9, 2009**  
**Consent Agenda Item No. 3p**  
**Copperfield/FM 60 Signal ILA**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action and discussion of an Interlocal Agreement between the cities of Bryan and College Station in an amount not to exceed \$60,000 for turn lanes and signals at the intersection of University Drive and Copperfield.

**Recommendation(s):** Staff recommends approval of the ILA

**Summary:** The ILA provides for College Station and Bryan to share in the cost of constructing the new signal. Bryan will enter into an Advance Funding Agreement with TxDOT to provide the complete design plans, specifications and estimate (PS&E) for the construction of a protected left-turn lane and traffic signals at the intersection of FM 60 and Copperfield Drive. Bryan will fund 100 percent of the actual construction cost of the traffic signal work and pavement work on Copperfield Drive. College Station will reimburse Bryan for one-half of the actual cost of the traffic signal construction, in an amount initially estimated not to exceed \$60,000.00. Payment will be made as the work progresses and within 30 days of invoice.

**Budget & Financial Summary:** Funds for this signal are available and budgeted in the street capital improvements fund.

**Attachments:**

1. Interlocal Agreement
2. Cost estimate

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF COLLEGE STATION  
AND THE CITY OF BRYAN  
FOR TURN LANES AND SIGNALS ON FM 60 AT COPPERFIELD**

This Interlocal Agreement (Agreement) between the City of College Station, Texas (College Station) and the City of Bryan, Texas (Bryan) is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes local governments to contract with each other to perform functions or services that each party to the contract is authorized to perform individually; and

WHEREAS, the parties are seeking to enhance safety and improve the traffic flow through the intersection of FM 60 (University Drive) and Copperfield Drive along the city limits of the Cities of Bryan and College Station; and

WHEREAS, the parties desire to provide interim improvements to the intersection in advance of a future widening of FM 60 to include pavement widening on the southeast side of FM 60, traffic signals on all approaches, drainage structure relocation, and signing and pavement marking improvements; and

WHEREAS, the parties agree to equally share in the costs not paid by TxDOT for the said improvements at the intersection of FM 60 and Copperfield Drive;

NOW, THEREFORE, the parties agree as follows:

- 1. Advance Funding Agreement with TxDOT.** Bryan will enter into an Advance Funding Agreement with TxDOT to provide the complete design plans, specifications and estimate (PS&E) for the construction of a protected left-turn lane and traffic signals at the intersection of FM 60 and Copperfield Drive. Additional design for construction of pavement improvements to Copperfield Drive will be included in the PS&E. Bryan will fund 100 percent of the actual construction cost of the traffic signal work and pavement work on Copperfield Drive.
- 2. Reimbursement.** College Station will reimburse Bryan for one-half of the actual cost of the traffic signal construction, in an amount initially estimated not to exceed \$60,000.00. Payment will be made as the work progresses and within 30 days of invoice. A portion of College Station's reimbursement to Bryan may consist of materials provided for the project as listed in Attachment A. The cost of the materials may count toward College Station's reimbursement contribution when invoice/receipts are provided.
- 3. Additional Expenses.** Unexpected expenses or change orders resulting in an increased traffic signal construction cost will be shared equally between the two parties.
- 4. Available Funds.** All expenditures under this Agreement by either party will be from current available revenues in accordance with Texas Government Code §791.011(d)(3).

5. **Notices.** Notices will be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and are deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of Bryan  
Attn: City Manager  
P.O. Box 1000  
Bryan, Texas 77805

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

6. **Venue.** This agreement is governed by and construed under and in accordance with the laws of the State of Texas. Jurisdiction and venue for any matter arising out of this Agreement is in a court of competent jurisdiction in Brazos County, Texas.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties respecting the subject matter hereof and supersedes any prior understanding or written or verbal agreements concerning the same. The terms and conditions of this Agreement may be modified at any time by the mutual consent of both parties, but only in writing, signed by the governing bodies of both entities.

SIGNED this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF BRYAN

CITY OF COLLEGE STATION

BY: \_\_\_\_\_  
Mark Conlee, Mayor

BY: \_\_\_\_\_  
Ben White, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Connie Hooks, City Secretary

APPROVED:

APPROVED:

\_\_\_\_\_  
David Watkins, City Manager

\_\_\_\_\_  
Glenn Brown, City Manager

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Janis Hampton, City Attorney



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City Attorney

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Charles Cryan, Chief Financial Officer

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Jeff Kersten, Chief Financial Officer

ATTACHMENT A

College Station's Estimated Material Costs\*

Equipment	Cost
Controller	\$ 2,500
Cabinet	\$ 6,500
Emergency Vehicle Preemption	\$ 4,500
Video Imaging Vehicle Detection (VIVD) System	\$10,270
Confirmation Enforcement Lights	\$ 1,000
<b>TOTAL</b>	<b>\$ 24, 770</b>

\*Invoice/receipt to be provided upon material delivery.

## Estimate FM60COPPERFIELD

Estimated Cost: \$107,959.87

Contingency: 0.00%

**Estimated Total: \$107,959.87**

*0506-01-097 - SIGNAL*

Base Date: 05/18/09

Spec Year: 04

Unit System: E

Work Type:

Highway Type: FLEXIBLE (BASE AND ACP) PAVE.

Urban/Rural Type: RURAL

Season:

County: BRAZOS

Midpoint of Latitude:

Midpoint of Longitude:

District: BRYAN

Federal/State Project Number: 0506-01-097

*Prepared by System Administrator*

<u>Line #</u>	<u>Item Number</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Extension</u>
<u>Description</u>					
<u>Supplemental Description</u>					
Group 0007: SIGNS (0506-01-097)					
0060	06442004	2.000	EA	\$450.00000	\$900.00
INS SM RD SN SUP&AM TY 10BWG(1) SA(T)					
0091	06442060	3.000	EA	\$70.00000	\$210.00
REMOVE SM RD SN SUP & AM					
				Group Alternate Code: SGN	
				Total for Group 0007: \$1,110.00	
Group 0008: SIGNAL (0506-01-097)					
0061	04162032	60.000	LF	\$210.00000	\$12,600.00
DRILL SHAFT (TRF SIG POLE) (36 IN)					
0062	06182018	44.000	LF	\$5.50000	\$242.00
CONDT (PVC) (SCHD 40) ( 2IN)					
0063	06182022	257.000	LF	\$9.00000	\$2,313.00
CONDT (PVC) (SCHD 40) (3IN)					
0064	06182024	25.000	LF	\$7.50000	\$187.50
CONDT (PVC) (SCHD 40) (4IN)					
0065	06202007	242.000	LF	\$1.50000	\$363.00
ELEC CONDR (NO. 4) BARE					
0066	06202008	484.000	LF	\$2.00000	\$968.00
ELEC CONDR (NO. 4) INSULATED					
0067	06202011	469.000	LF	\$1.00000	\$469.00
ELEC CONDR (NO. 8) BARE					
0068	06202012	1,408.000	LF	\$1.15000	\$1,619.20
ELEC CONDR (NO. 8) INSULATED					
0069	06242012	3.000	EA	\$1,000.00000	\$3,000.00
GROUND BOX TY C (162911) W/APRON					
0070	06282164	1.000	EA	\$5,000.00000	\$5,000.00
ELC SRV TY D 120/240 070 (NS)AL(E)PS(U)					
0071	06802002	1.000	EA	\$15,000.00000	\$15,000.00
INSTALL HWY TRF SIG (ISOLATED). SP FOR CS TO PROVIDE MATERIAL					
0072	06822001	8.000	EA	\$80.00000	\$640.00
BACK PLATE (12 IN) (3 SEC)					
0073	06822003	4.000	EA	\$120.00000	\$480.00
BACK PLATE (12 IN) (5 SEC)					
0074	06822012	1.000	EA	\$175.00000	\$175.00
LOUVER (12 IN) (ADJUSTABLE)					
0075	06822022	4.000	EA	\$225.00000	\$900.00
VEH SIG SEC (12 IN) LED (GRN ARW)					
0076	06822023	12.000	EA	\$225.00000	\$2,700.00
VEH SIG SEC (12 IN) LED (GRN)					
0077	06822024	4.000	EA	\$225.00000	\$900.00
VEH SIG SEC (12 IN) LED (YEL ARW)					
0078	06822025	12.000	EA	\$225.00000	\$2,700.00
VEH SIG SEC (12 IN) LED (YEL)					
0079	06822027	12.000	EA	\$225.00000	\$2,700.00
VEH SIG SEC (12 IN) LED (RED)					
0080	06842010	769.000	LF	\$3.00000	\$2,307.00
TRF SIG CBL (TY A) (12 AWG) ( 5 CONDR)					
0081	06842012	1,315.000	LF	\$2.25000	\$2,958.75
TRF SIG CBL (TY A) (12 AWG) ( 7 CONDR)					
0082	06862018	4.000	EA	\$4,200.00000	\$16,800.00
INS TRF SIG PL AM(S) STR (TY D) LUM					
0083	06882001	4.000	EA	\$200.00000	\$800.00
PED DETECT (2 INCH PUSH BTN)					

Estimate: FM60COPPERFIELD

<u>Line #</u>	<u>Item Number</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Extension</u>
	<u>Description</u>				
	<u>Supplemental Description</u>				
0084	62662011	1.000	EA	\$3,500.00000	\$3,500.00
	VIVDS CAMERA SYSTEM (INSTALLATION ONLY)				
0085	62662003	1.000	EA	\$810.00000	\$810.00
	VIVDS SET-UP SYSTEM				
0087	68342001	30.000	DAY	\$95.00000	\$2,850.00
	PORTABLE CHANGEABLE MESSAGE SIGN				
0088	81682001	4.000	EA	\$3,000.00000	\$12,000.00
	LED COUNTDOWN PEDESTRIAN MODULE				

Group Alternate Code: SIG  
Total for Group 0008: \$94,982.45

Group 0009:

0089		1.000		\$4,804.62000	\$4,804.62
	MISC (5%)				
0090	05002001	1.000	LS	\$7,062.80000	\$7,062.80
	MOBILIZATION				
	7% OF TOTAL				

Total for Group 0009: \$11,867.42

**November 9, 2009**  
**Consent Agenda Item No. 3q**  
**Holleman Extension Wetlands Mitigation Credit Purchase**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action and discussion regarding a resolution to purchase 5.5 Wetland Mitigation Credits in the Steele Creek Mitigation Bank from OXBOW Investments Inc. in the amount of \$137,500.00.

**Recommendation(s):** Staff recommends approval of the resolution approving the purchase of 5.5 mitigation credits from OXBOW Investments Inc.

**Summary:** This credit purchase is necessary to meet federal agency mitigation requirements for wetlands that will be disturbed by the extension of Holleman Drive between Dowling Road and FM 2818. The total purchase price for the credits is \$137,500.00. The City is required by the U.S. Army Corps of Engineers to obtain approval of a compensatory mitigation plan under a Clean Water Act, Section 404 Individual Permit.

**Budget & Financial Summary:** Funding for this credit purchase is available in the Street Capital Improvements Fund.

**Attachments:**

1. Location Map
2. Resolution
3. Invoices

Jones Butler Road

FM 2818

Holleman Extension

Dowling Road

2818

2818

11-VA-105-2007 (Road Trk)  
Dated 10/19/2007

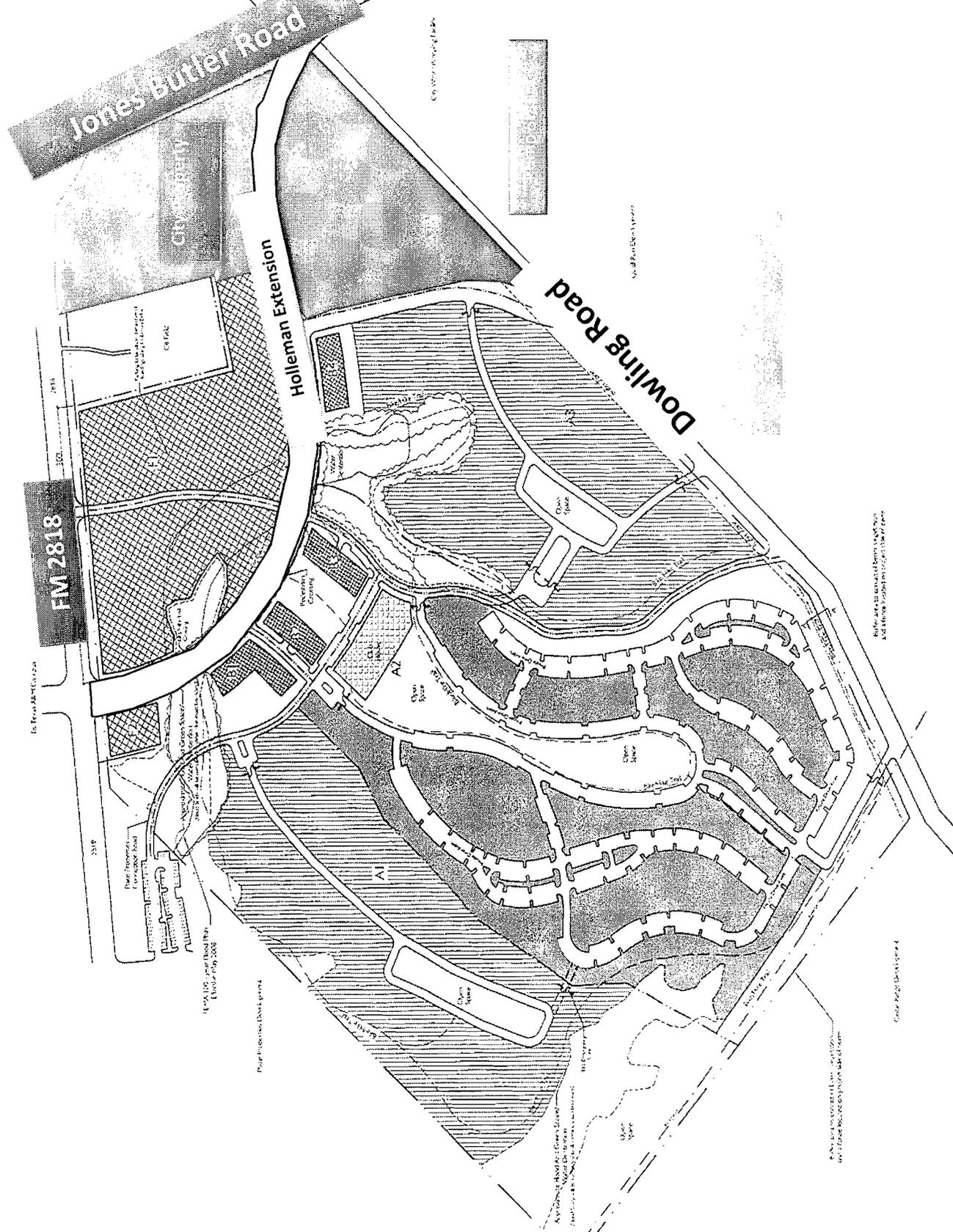
Proposed Road Work

As Shown in Middle of Green Street  
Major Driveway  
2007-08-15

As Shown in Middle of Green Street  
Major Driveway  
2007-08-15

Color Red/Blue/White

11-VA-105-2007 (Road Trk)  
Dated 10/19/2007



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE PURCHASE OF 5.5 MITIGATION CREDITS IN THE STEELE CREEK MITIGATION BANK, AS REQUIRED PURSUANT TO THE MITIGATION PLAN FOR UNITED STATES ARMY CORPS OF ENGINEERS PROJECT NO. 2009-00206.

WHEREAS, in April, 2009, the City Council approved an engineering contract with Mitchell and Morgan LLP for design services for Holleman Drive extension through the City of College Station property and a connection to the existing Jones-Butler roadway just east of the Dowling Road Pump Station.; and

WHEREAS, at the time construction is to proceed, a United States Army Corps of Engineers Section 404 Permit No. 2009-00206 is required; and

WHEREAS, the United States Army Corps of Engineers has approved and accepted the City's mitigation plan to buy 5.5 Mitigation Credits in the Steele Creek Mitigation Bank in Robertson County, Texas; 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 purchase of 5.5 Mitigation Credits in the Steele Creek Mitigation Bank in Robertson County, Texas, is the desired method of mitigation.

PART 2: That the City Council hereby approves the purchase of 5.5 Mitigation Credits in the Steele Creek Mitigation Bank in Robertson County, Texas, from OXBOW Investments Inc. as part of the Holleman Extension Project.

PART 3: That the City Council authorizes the Mitigation Payment of \$137,500.00 to OXBOW Investments Inc. for said 5.5 Mitigation Credits.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009.

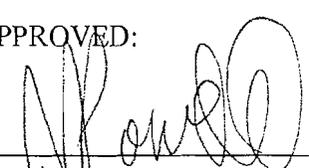
ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

  
\_\_\_\_\_  
City Attorney

# INVOICE

**Invoice Date:** 14 September 2009

**Invoice #**091409

**Terms:** *Payment due upon receipt*

**Sold To:** City of College Station

**Transaction Description:**

Wetland Mitigation Credits = 0.7 Credits for Holleman Drive  
Phase II

@ \$25,000 per whole Credit unit = \$17,500

**PLEASE PAY THIS AMOUNT: \$17,500**

**MAKE CHECK PAYABLE TO:**

*OXBOW Investments Inc.  
160 Lexington Sq  
Carrollton, Virginia 23314*

# INVOICE

**Invoice Date:** 23 October 2009

**Invoice #**102309

**Terms:** *Payment due upon receipt*

**Sold To:** City of College Station

**Transaction Description:**

Wetland Mitigation Credits = 4.8 Credits from the Steele Creek Mitigation Bank

@ \$25,000 per whole Credit unit = \$120,000

**PLEASE PAY THIS AMOUNT: \$120,000**

**MAKE CHECK PAYABLE TO:**

*OXBOW Investments Inc.  
160 Lexington Sq  
Carrollton, Virginia 23314*

**November 9, 2009**  
**Consent Agenda Item No. 3r**  
**Project Number ST0905**  
**Right-of-Way Easement Agreement**  
**Penberthy Road Extension**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion regarding execution of a Right-of-Way Easement Agreement with the Texas A&M University System (TAMUS), for the construction of Penberthy Road Extension.

**Recommendation(s):** Staff recommends Council approval of the Right-of-Way Easement.

**Summary:** The extension of Penberthy (AKA Jones Butler) from Luther Drive to George Bush Drive was a project included in the 2008 Bond Program. This will allow direct access to the West Campus of Texas A&M University for College Station residents who live south of campus and west of Wellborn Road. This connectivity will be especially important in the future as the Texas Department of Transportation (TxDOT) is designing a grade separation at George Bush and Wellborn road, which will make Marion Pugh a right-in/right-out onto George Bush once construction is complete. Once Marion Pugh is a right-in/right-out onto George Bush, there will no longer be direct and easy access to the West Campus of Texas A&M University without backtracking to FM 2818 or Holeman.

City staff has been working closely with the University for the past two years on the alignment and functional classification of the roadway, and the layout of the George Bush/Penberthy layout. The design of this roadway extension is scheduled to begin this fiscal year. This easement agreement will allow the City to construct, operate, and maintain this important new roadway that will extend across the campus of Texas A&M University.

**Budget & Financial Summary:** This project is funded by General Obligation Bonds in the amount of \$3,283,500. Funds in the amount of \$7,809.22 have been expended or committed to date, leaving a balance of \$3,275,690.78 for future expenses. This item, however, has no budgetary impact at this time as the easement is being dedicated.

**Attachments:**

- 1.) Right-of-Way Easement Agreement
- 2.) Project Location Map

# RIGHT-OF-WAY EASEMENT

(City of College Station)

1. Grant of Easement. The **BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM** ("TAMUS"), acting by and through its duly authorized officer, under and in consideration of the mutual benefits to be derived by both parties, **GRANTS, BARGAINS, SELLS** and **CONVEYS** to the **CITY OF COLLEGE STATION** ("GRANTEE"), its successors and permitted assigns, a conditional road right-of-way easement (the "Easement") over, on, and across certain property of TAMUS (the "Property"), located in Brazos County, Texas, more particularly described in Exhibit "A" attached hereto and made a part of this agreement.

2. Purpose and Location of Easement. The Easement is granted solely for the purpose of constructing, operating and maintaining a public roadway extending from Penberthy Boulevard to Jones Butler Road (the "Road") located on the Property. A plat of the Property showing the surface area affected by the Easement and the location of GRANTEE's right-of-way is depicted on Exhibit "B" attached hereto and made a part of this Agreement.

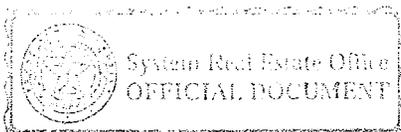
3. Right of Access. GRANTEE agrees to occupy the surface of the Property only to the extent and for the length of time necessary to construct, maintain, repair, replace, and rebuild the Road for public use.

4. Duties. If GRANTEE damages or destroys any roads, bridges, culverts, buildings, other structures or equipment on the Property, other than its own property, GRANTEE must, within a reasonable period of time, repair or replace such improvements to the extent it will, as nearly as practicable, be in like condition as before such damage or destruction. At the option of TAMUS, in lieu of repairing or replacing the improvements, money damages will be paid. Such damages include those caused by GRANTEE or its agents or employees entering, departing, or by reason of being present during construction and maintenance of the Road. If GRANTEE removes any materials or structures, it will fix and level as required by TAMUS the land affected so that the Property will be as nearly as possible in the same condition as it was before GRANTEE entered on the Property. GRANTEE must remove all surplus backfill material, felled trees and other debris caused by its activities on the Property.

GRANTEE agrees to notify TAMUS, in the manner set forth in Section 19, no later than three (3) business days after completion of any construction, repairs or replacements, and will cooperate with TAMUS personnel in conducting an onsite inspection to assess damages resulting from GRANTEE's activities. Prior to any subsequent alteration or additional construction, GRANTEE agrees to notify TAMUS, in the same manner as set forth above, five (5) business days prior to commencement of such activities.

5. No Fee Interest Granted. This is a grant of a non-exclusive easement only, and does not grant any fee interest to the surface, subsurface, or any interest in the minerals on or under the Property. The conveyance is made subject to any and all outstanding restrictions,

Prepared by Office of General Counsel  
TAMU Street Extensions/Improvements  
Legal Files 2007-0015924  
11/2/09-GMJ



reservations, covenants, conditions, easements and other encumbrances filed of record or apparent on the ground. **TAMUS** expressly retains all rights to grant, control and renew all easements, of every kind and character, on, over or under the Property.

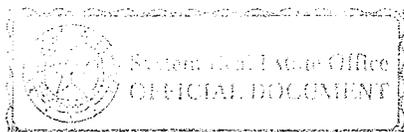
6. Duration of Easement. **TAMUS** and **GRANTEE** expressly agree that the conditional road right-of-way Easement will remain in force and effect only so long as the Property is used for a public right-of-way. If the Property ceases to be used as a public right-of-way, the Easement will automatically terminate. If required by **TAMUS**, **GRANTEE** shall remove all improvements within one (1) year following the date of termination or abandonment of the Easement. Notwithstanding the foregoing, **TAMUS** may demand removal of the improvements in writing at any time following termination or abandonment of the Easement, and if the improvements are not removed within sixty (60) days following such demand, **TAMUS** shall have the right to remove the improvements at the expense of **GRANTEE**. **GRANTEE** agrees to pay the actual costs incurred by **TAMUS** for removal of the improvements within sixty (60) days following written notice from **TAMUS** accompanied by reasonable supporting documentation. If any removal causes injury to the Property or adjacent property, **GRANTEE** will restore or pay for such damage within sixty (60) calendar days after completion of such removal.

7. Non-Exclusive Easement. The Easement is nonexclusive. **TAMUS** reserves for **TAMUS** and **TAMUS**' successors and assigns the right to full use and enjoyment of the Property and the right to convey the Property or other rights or easements to others, so long as such use or conveyance does not unduly interfere with **GRANTEE**'s use.

8. Hold Harmless. **GRANTEE** and **TAMUS**, to the extent allowed by the Constitution and Laws of the State of Texas, each agree to hold the other harmless from any and all claims, demands, liabilities, and causes of action for personal injury or death and/or damage to or destruction of property or improvements caused by, arising out of, or resulting from the exercise of each parties rights and obligations under this Agreement.

9. Hazardous Waste. **GRANTEE** will not commit or suffer to be committed waste upon the Property; will keep the Road in good working order and repair and in a clean, safe and healthful condition; and will comply with all state, federal and local laws, rules and regulations with regard to the use and condition of its improvements on the Property.

**GRANTEE** will not use the Property or permit it to be used so as to cause, suffer, or allow any contamination of soils, groundwater, surface water, or natural resources on or adjacent to the Property resulting from, but not limited to, spills or leaks of oil, gasoline, hazardous materials, hazardous wastes, or other chemical compounds. **GRANTEE** is solely responsible for cleanup of any contamination resulting from the violation of this provision.



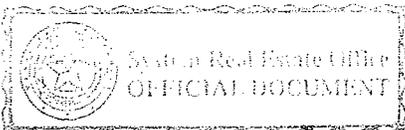
IF THE PRESENCE OF HAZARDOUS MATERIALS ON THE PROPERTY IS CAUSED OR PERMITTED BY GRANTEE AND SUCH MATERIALS RESULT IN CONTAMINATION OF THE PROPERTY OR IF CONTAMINATION OF THE PROPERTY BY HAZARDOUS MATERIAL OTHERWISE OCCURS AND IS RELATED TO GRANTEE'S USE, THEN GRANTEE WILL, TO THE EXTENT ALLOWED BY THE CONSTITUTION AND THE LAWS OF THE STATE OF TEXAS, INDEMNIFY, DEFEND AND HOLD TAMUS HARMLESS FROM ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES OR LOSSES (INCLUDING DIMINUTION IN VALUE OF THE PROPERTY, DAMAGES FOR THE LOSS OF OR RESTRICTION ON USE OF THE PROPERTY OR OF ANY AMENITY OF THE PROPERTY, AND SUMS PAID IN SETTLEMENT OF CLAIMS, ATTORNEYS' FEES AS MAY BE ALLOWED BY LAW, CONSULTANTS' FEES AND EXPERTS FEES) WHICH ARISE DURING OR AFTER THE EASEMENT TERM AS A RESULT OF SUCH CONTAMINATION.

10. Default and Termination. It is agreed upon default by GRANTEE of any of these covenants, conditions and agreements, that TAMUS has the right, and such right is expressly reserved, to declare the Easement forfeited, without prejudice to any claim TAMUS may have against GRANTEE; provided, however, TAMUS will give GRANTEE written notice of its intention to terminate the Easement and the reasons for termination, and GRANTEE will have thirty (30) calendar days after receipt of notice to rectify the default or violation. Upon timely correction, the Easement will remain in full force and effect. Termination or abandonment of the Easement for any cause will automatically revert to TAMUS all rights granted to GRANTEE in this agreement without the necessity of any further action or suit on the part of TAMUS. Upon termination or abandonment, GRANTEE agrees to file a Release of Easement in the Deed Records of the county in which the Property is located. Abandonment will be deemed to have occurred when the Easement is not used for the purposes granted for a continuous period of one calendar year.

11. Waiver. No waiver by TAMUS or GRANTEE of any default or breach of any term, condition, or covenant of this agreement will be a waiver of any other breach of any other term, condition, or covenant.

12. Privileges and Immunities. GRANTEE acknowledges TAMUS is an agency of the State of Texas and nothing in this agreement will be construed as a waiver or relinquishment by TAMUS of its right to claim all exemptions, privileges, and immunities as may be provided by law.

13. Governing Law and Venue. The validity of this agreement and all matters pertaining to this agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.



Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against **TAMUS** shall be in the county in which the primary office of the chief executive officer of **TAMUS** is located.

14. Grammatical Interpretation. When the singular number is used in the agreement, it also includes the plural, and the masculine gender includes the feminine and neuter gender.

15. Headings. Headings are for reference and will not be construed to limit or alter the meaning of the provisions of the agreement.

16. Parties Bound. This agreement is binding upon and inures to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors in interest or office, and assigns (but this Section does not constitute permission for an assignment).

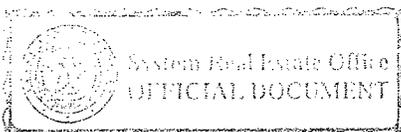
17. Saving Clause. Should any clause in this agreement be found invalid by a court of law, the remainder of this agreement will not be affected and all other provisions in the agreement remain valid and enforceable to the fullest extent permitted by law.

18. Assignment. **GRANTEE** may not sell, assign, encumber, or convey any rights under this agreement, without the prior written consent of **TAMUS**, and any attempt by **GRANTEE** to sell, assign, encumber, or convey any such rights without consent will cause this agreement to terminate.

19. Notices. Any notice required or permitted under this agreement must be in writing, and shall 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 set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. **TAMUS** and **GRANTEE** can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

If to **TAMUS**:            System Real Estate Office  
                                  A&M System Building, Suite 2079  
                                  200 Technology Way  
                                  College Station, Texas 77845-3424  
                                  Phone: (979) 458-6350  
                                  Fax: (979) 458-6359

If to **GRANTEE**:        City of College Station  
                                  1101 Texas Avenue  
                                  College Station, Texas 77840



20. Entire Agreement. This agreement constitutes the entire agreement between TAMUS and GRANTEE and will not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or agreements, either written or oral. This agreement may only be amended by a subsequent written instrument.

21. Effective Date. This Agreement is deemed to be in force as of the \_\_\_\_ day of \_\_\_\_\_, 2009.

**BOARD OF REGENTS OF THE TEXAS A&M  
UNIVERSITY SYSTEM**

By: \_\_\_\_\_  
**MICHAEL D. MCKINNEY**  
Chancellor  
The Texas A&M University System

**APPROVED AS TO FORM:**

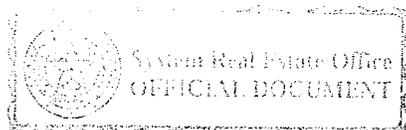
  
\_\_\_\_\_  
**GINA M. JOSEPH**  
Assistant General Counsel  
Office of General Counsel  
The Texas A&M University System

**ACKNOWLEDGEMENT**

STATE OF TEXAS           §  
                                          §  
COUNTY OF BRAZOS     §

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009 by **MICHAEL D. MCKINNEY**, Chancellor of The Texas A&M University System, an agency of the State of Texas, on behalf of the Board of Regents of The Texas A&M University System.

\_\_\_\_\_  
Notary Public, State of Texas



**TERMS AND CONDITIONS EXPRESSLY ACKNOWLEDGED AND ACCEPTED:**

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by **GRANTEE**.

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
**BEN WHITE**, Mayor

**ATTEST:**

\_\_\_\_\_  
**CONNIE HOOKS**  
City Secretary

**APPROVED AS TO FORM:**

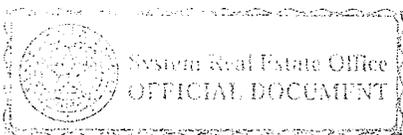
*Carla A Robinson*  
\_\_\_\_\_  
**HARVEY CARGILL, JR.**  
City Attorney

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**           §  
                                          §  
**COUNTY OF BRAZOS**       §

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009  
by **BEN WHITE**, Mayor of the City of College Station, and on its behalf.

\_\_\_\_\_  
Notary Public, State of Texas



# Exhibit A

**Joe Orr, Inc.**  
*Surveyors & Engineers*  
2167 Post Oak Circle  
College Station, TX 77845  
(979) 690-3378 / 693-2777

Proposed 80' Right-of-Way  
Jones-Butler Road / Penberthy Boulevard  
Texas A&M University Property  
Joseph E. Scott League A-50  
College Station, Texas  
13 July 2009

All that certain tract or parcel of land lying and being situated in the J.E. Scott League, Abstract no. 50, in College Station, Brazos County, Texas, being a part of that 104.8 acre tract conveyed to the Board of Directors of the Agricultural and Mechanical College of Texas, by deed recorded in Volume 49, Page 340 of the Deed Records of Brazos County, Texas, being an 80 feet wide strip of land extending from Luther Street West to George Bush Drive and being more particularly described as follows:

Beginning at a 5/8" iron rod found 70 feet right of TXDOT centerline station 55+00 of George Bush Drive (F.M. 2347) from which NGS monument "Texas A&M 1935" bears N 6° 27' 32" W - 4484.1 feet.

Thence N 42° 19' 33" E - 99.00 feet along the southeast right-of-way line of George Bush Drive to the most northerly corner of this tract, from where a 5/8" iron rod was found N 40° E - 0.71 feet;

Thence through the said Texas A&M tract as follows:

S 2° 40' 27" E - 70.71 feet to an angle point on the slope of a creek channel;

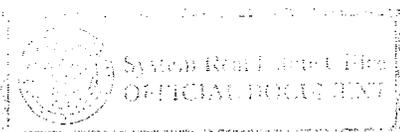
S 47° 40' 27" E - 484.17 feet to a 1/2" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the beginning of a tangent curve to the right (R= 1540.00');

Along the arc of said curve through a central angle of 15° 00' 00" to a 1/2" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the end of said curve;

S 32° 40' 27" E - 306.92 feet to a 1/2" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the beginning of a tangent curve to the left (R= 1460.00');

Along the arc of said curve through a central angle of 12° 47' 33" to a 1/2" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the end of said curve;

S 45° 28' 00" E - 395.95 feet to a 1/2" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set an angle point;



N 88° 00' 53" E – 68.81 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the northwest line of Luther Street West from where a ½" iron rod was found S 6° 57' 02" E – 80.18 feet at the west corner of Lot 1, Block 2 of Woodway West Phase 1 according to plat of record in Volume 705, Page 619 of the Official Records of Brazos County, Texas;

Thence S 41° 29' 46" W – 180.11 feet along the northwest line of Luther Street West to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the southwest corner of this tract;

Thence through the said Texas A&M tract as follows:

N 1° 59' 07" W – 72.56 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set an angle point;

N 45° 28' 00" W – 400.20 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set at the beginning of a tangent curve to the right (R= 1540.00');

Along the arc of said curve through a central angle of 12° 47' 33" to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the end of said curve;

N 32° 40' 27" W – 306.92 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set at the beginning of a tangent curve to the left (R= 1460.00');

Along the arc of said curve through a central angle of 15° 00' 00" to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set the end of said curve;

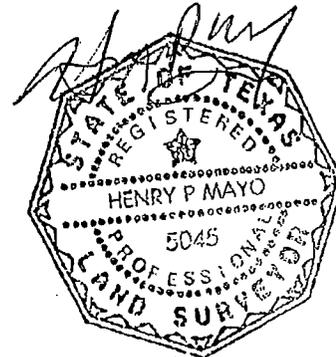
N 47° 40' 27" W – 487.27 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set an angle point;

N 89° 49' 08" W – 74.15 feet to a ½" iron rod with an orange plastic cap stamped "H.P. Mayo RPLS 5045" set in the southeast right-of-way line of George Bush Drive;

Thence N 48° 02' 11" E – 81.15 feet to the Point of Beginning and containing 3.820 acres of land more or less.

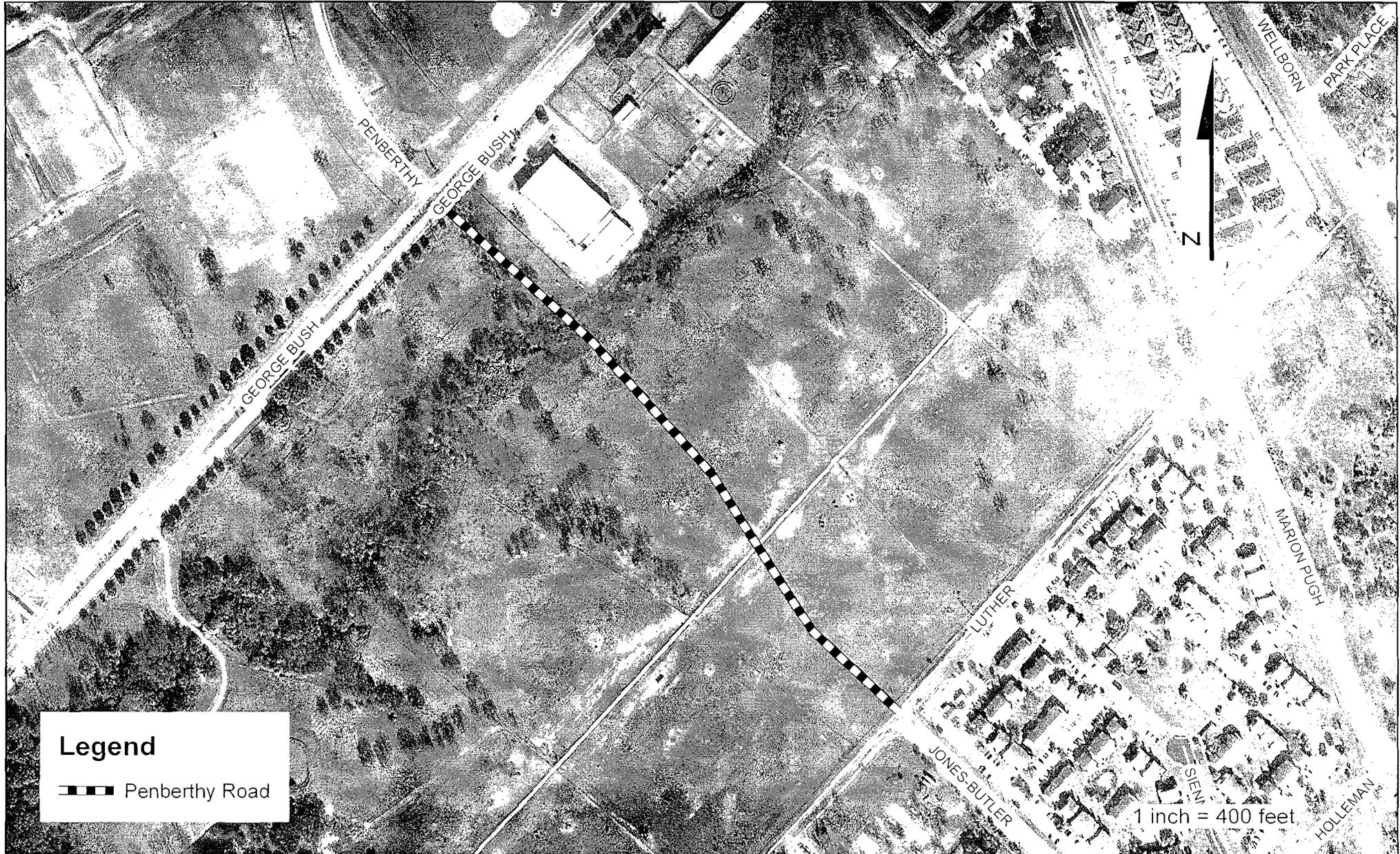
Bearings are Texas State Plane, NAD83 (1986) datum, based on City of College Station 1994 GPS monument no. 165 and NGS monument "Texas A&M 1935" (N 52° 36' 27" E).

See survey plat dated 21 May 2008  
Revised July 1, 2009.





# Penberthy Road Extension Project Location Map



## Legend

— Penberthy Road

1 inch = 400 feet

**November 9, 2009**  
**Regular Agenda Item No. 1**  
**Smoking Ordinance Amendment**

**To:** Glenn Brown, City Manager

**From:** Hayden Migl, Assistant to the City Manager

**Agenda Caption:** Public hearing, presentation, possible action, and discussion regarding a proposed amendment to the City's smoking ordinance.

**Recommendation(s):** Staff recommends approval of Option A.

**Summary:** The City Council directed staff at the October 8 Council meeting to define specialty tobacco shops within the City's current smoking ordinance.

The proposed amendment states that a tobacco specialty shop is "any establishment that is dedicated to the sale or rental of tobacco, tobacco-related products and accessories for consumption or use on or off the premises and more than 60% of the revenues must come from the sale or rental of tobacco and tobacco-related products."

The ordinance also clarifies that "Smoking is not allowed at any public meeting, in any public place, or in a workplace unless specifically permitted" as an exception. The only exceptions listed in the ordinance include actors or actresses in theatrical performance and specialty tobacco shops.

Staff has also included an Option B that defines hookah bars and adds them as an exception in addition to defining tobacco specialty shops. Hookah bars would be required to receive at least 30% of their revenues from the sale or rental of hookah tobacco products.

**Budget & Financial Summary:** N/A

**Attachments:**

1. Smoking ordinance Option A – Defining tobacco specialty shops
2. Smoking ordinance Option B – Same as Option A and defines hookah bars and adds them as an exception

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 7, "HEALTH AND SANITATION", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SECTION 9, "TOBACCO PRODUCTS AND SMOKING", 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 7, Section 9, 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 (\$2000.00). 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 9th day of November, 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED:

  
City Attorney

**EXHIBIT "A"**

**SECTION 9: TOBACCO PRODUCTS AND SMOKING**

A. Definitions

- (1) **Public Meeting** means a meeting required to be open to the public under TEX. GOVT. CODE, Chapter 551.
- (2) **Public Place** means an enclosed, indoor area to which the public has access and includes, but is not limited to the following:
  - (a) the common areas of a retail store, office, grocery store, or other commercial establishments;
  - (b) a restaurant or cafeteria;
  - (c) a public or private or secondary school;
  - (d) a public or private institution of higher education;
  - (e) a hospital or nursing home;
  - (f) an elevator;
  - (g) City and school buses;
  - (h) City building, owned or leased by the City and used for City purposes;
  - (i) an enclosed theater, auditorium, movie house, or arena;
  - (j) a courtroom or a jury waiting or deliberation room; or
  - (k) bar or bar area
- (3) **Smoke** or **smoking** includes:
  - (a) carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
  - (b) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or
  - (c) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (4) **Bar.** A bar is an establishment that is dedicated predominately to the serving of alcohol rather than food.

- (5) **Bar area.** A bar area is an area physically separated from a food serving area dedicated predominately to the serving of alcohol rather than food.
- (6) **Tobacco specialty shop** means any establishment that is dedicated to the sale or rental of tobacco, tobacco-related products and accessories for consumption or use on or off the premises and more than 60% of the revenues must come from the sale or rental of tobacco and tobacco-related products.
- (7) **Workplace** means an enclosed area in which employees work or have access during the course of their employment.

B. Offense; Penalty.

- (1) A person commits an offense if the person smokes at a public meeting, in a public place, in a workplace or in any other enclosed, indoor area in which “no smoking” signs are conspicuously posted by the person in charge, and the person is not in an area designated as a smoking area under Subsection C below.
- (2) It shall be an affirmative defense to the application of provision (1) of this subsection that the person is smoking:
- (a) as an actor or actress in a theatrical performance; or
  - (b) at a tobacco specialty shop.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Subsection C when smoking is permitted by Subsection B(2)a and B(2)b. Smoking is not allowed at any public meeting, in any public place, or in a workplace unless specifically permitted by Subsection B(2)a and B(2)b.

C. Designation of No Smoking and Smoking Areas

- (1) The person in charge shall designate the following areas as “non-smoking”:
- (a) food order areas, cashier areas, check-out lines for stores;
  - (b) City library;
  - (c) elevators;
  - (d) City and school buses, including associated terminals;
  - (e) restrooms;
  - (f) movie theaters, hospitals, and rest home facilities;
  - (g) all other public places including restaurants, cafeterias, bars, bar areas; and
  - (h) workplaces.

- (i) within a ten feet (10') radius of bars and bar areas entry ways;
  - (j) within a twenty feet (20') radius of the entry ways of all other public places or workplaces
- (2) Smoking areas shall not be designated to cover areas in provisions (1)(a) through (1)(i) of this subsection. It is not required that any smoking areas be designated.

D. Signs

- (1) The person in charge of a public place or workplace shall place signs visible at each entrance of the building to notify persons entering that smoking is prohibited or that smoking is prohibited except in areas designated as smoking areas.
- (2) The person in charge shall conspicuously post signs in areas designated as a smoking area that smoking is permitted in the area.

E. Facilities to Extinguish Smoking Material

All public places shall be equipped for extinguishments of smoking materials. Facilities for extinguishments of smoking materials that are located in areas of public places other than designated smoking areas shall be accompanied by clearly visible signs, stating "no smoking".

F. Owner/Operator Responsible

A person commits an offense if he is the owner, operator, manager or an employee of an establishment and he intentionally permits or fails to make a reasonable effort to prevent smoking in a "no smoking" area.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 7, "HEALTH AND SANITATION", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SECTION 9, "TOBACCO PRODUCTS AND SMOKING", 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 7, Section 9, 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 (\$2000.00). 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 9th day of November, 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"****SECTION 9: TOBACCO PRODUCTS AND SMOKING****A. Definitions**

- (1) **Public Meeting** means a meeting required to be open to the public under TEX. GOVT. CODE, Chapter 551.
- (2) **Public Place** means an enclosed, indoor area to which the public has access and includes, but is not limited to the following:
  - (a) the common areas of a retail store, office, grocery store, or other commercial establishments;
  - (b) a restaurant or cafeteria;
  - (c) a public or private or secondary school;
  - (d) a public or private institution of higher education;
  - (e) a hospital or nursing home;
  - (f) an elevator;
  - (g) City and school buses;
  - (h) City building, owned or leased by the City and used for City purposes;
  - (i) an enclosed theater, auditorium, movie house, or arena;
  - (j) a courtroom or a jury waiting or deliberation room; or
  - (k) bar or bar area
- (3) **Smoke** or **smoking** includes:
  - (a) carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
  - (b) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or
  - (c) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (4) **Bar.** A bar is an establishment that is dedicated predominately to the serving of alcohol rather than food.

- (5) **Bar area.** A bar area is an area physically separated from a food serving area dedicated predominately to the serving of alcohol rather than food.
- (6) **Tobacco specialty shop** means any establishment that is dedicated to the sale or rental of tobacco, tobacco-related products and accessories for consumption or use on or off the premises and more than 60% of the revenues must come from the sale or rental of tobacco and tobacco-related products.
- (7) **Workplace** means an enclosed area in which employees work or have access during the course of their employment.
- (8) **Hookah bar** means a bar in which the on-site sales or rentals of hookah tobacco products and smoking accessories for consumption or use on the premises exceeds 30% of gross revenues.

B. Offense; Penalty.

- (1) A person commits an offense if the person smokes at a public meeting, in a public place, in a workplace or in any other enclosed, indoor area in which “no smoking” signs are conspicuously posted by the person in charge, and the person is not in an area designated as a smoking area under Subsection C below.
- (2) It shall be an affirmative defense to the application of provision (1) of this subsection that the person is smoking:
  - (a) as an actor or actress in a theatrical performance; or
  - (b) at a tobacco specialty shop; or
  - (c) at a hookah bar.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Subsection C when smoking is permitted by Subsection B(2)a and B(2)b. Smoking is not allowed at any public meeting, in any public place, or in a workplace unless specifically permitted by Subsection B(2)a and B(2)b and B(2)c.

C. Designation of No Smoking and Smoking Areas

- (1) The person in charge shall designate the following areas as “non-smoking”:
  - (a) food order areas, cashier areas, check-out lines for stores;
  - (b) City library;
  - (c) elevators;
  - (d) City and school buses, including associated terminals;
  - (e) restrooms;

- (f) movie theaters, hospitals, and rest home facilities;
  - and (g) all other public places including restaurants, cafeterias, bars, bar areas;
  - (h) workplaces.
  - (i) within a ten feet (10') radius of bars and bar areas entry ways;
  - (j) within a twenty feet (20') radius of the entry ways of all other public places or workplaces
- (2) Smoking areas shall not be designated to cover areas in provisions (1)(a) through (1)(j) of this subsection. It is not required that any smoking areas be designated.

D. Signs

- (1) The person in charge of a public place or workplace shall place signs visible at each entrance of the building to notify persons entering that smoking is prohibited or that smoking is prohibited except in areas designated as smoking areas.
- (2) The person in charge shall conspicuously post signs in areas designated as a smoking area that smoking is permitted in the area.

E. Facilities to Extinguish Smoking Material

All public places shall be equipped for extinguishments of smoking materials. Facilities for extinguishments of smoking materials that are located in areas of public places other than designated smoking areas shall be accompanied by clearly visible signs, stating "no smoking".

F. Owner/Operator Responsible

A person commits an offense if he is the owner, operator, manager or an employee of an establishment and he intentionally permits or fails to make a reasonable effort to prevent smoking in a "no smoking" area.

**November 9, 2009**  
**Regular Agenda Item No. 2**  
**UDO Amendment – Parking Lot Screening**

**To:** Glenn Brown, City Manager

**From:** Bob Cowell, AICP, Director of Planning & Development Services

**Agenda Caption:** Public hearing, presentation, possible action, and discussion on an ordinance amending Chapter 12, "Unified Development Ordinance," Section 7.9, "Non-Residential Architectural Standards," of the Code of Ordinances of the City of College Station as it relates to parking lot screening.

**Recommendation(s):** The Planning and Zoning Commission unanimously recommended approval of the amendment at their meeting on September 17, 2009. Staff also recommended approval.

**Summary:** The proposed ordinance amendments are intended to modify the requirements for parking lot screening required in conjunction with the Non-Residential Architectural Standards.

In 2008, the City Council requested information relating to the Non-Residential Architectural Standards. During that discussion, the Council directed Staff to develop requirements for the use of berms for parking lot screening. In July, 2009, Staff brought forward an amendment to the Planning and Zoning Commission for review that would require berms be used as parking screening for Non-Residential building plots with more than 20,000 s.f. of gross building area.

Although the original ordinance was recommended for approval, 5-1, by the Commission, a number of concerns were raised during the discussion about prohibiting other landscaped parking screening options. Staff revised the ordinance to add incentives to utilize berms over other methods, but took out restrictions from utilizing other parking screening methods when certified by a landscape professional to meet the screening requirement. Additionally, other alternatives may be considered when designed by a registered Landscape Architect.

The ordinance also contains provisions for flexibility in the design of berms by allowing half-berms with retaining walls, as well as flexibility for redeveloping sites or sites that utilize tree preservation. No changes were made to the requirement for building plots greater than 150,000 s.f. which requires a berm be used for parking screening without exception.

*Ordinance summary:*

1. Requires the use of berms for parking screening unless landscaping points are doubled, and method of screening is certified by a landscape professional to provide solid screening of parking
2. Allows the use of half-berms
3. Allows for alternative design of berms to preserve existing trees
4. Allows alternative design by registered Landscape Architect.

**Budget & Financial Summary:** N/A

**Attachments:**

1. Planning and Zoning Commission Meeting Minutes, September 17, 2009
2. Ordinance



**MINUTES**  
**PLANNING AND ZONING COMMISSION**  
**Regular Meeting**  
**September 17, 2009, 7:00 p.m.**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**College Station, Texas**

---

**COMMISSIONERS PRESENT:** Chairman John Nichols, Paul Greer, Mike Ashfield, and Hugh Stearns

**COMMISSIONERS ABSENT:** Scott Shafer and Tom Woodfin

**CITY COUNCIL MEMBERS PRESENT:** Katy-Marie Lyles

**CITY STAFF PRESENT:** Senior Planners Jennifer Prochazka and Lindsay Kramer, Staff Planners Lauren Hovde and Matthew Hilgemeier, Graduate Civil Engineer Erika Bridges, Senior Assistant City Engineer Carol Cotter, Greenways Program Manager Venessa Garza, Transportation Planning Coordinator Joe Guerra, Planning Administrator Molly Hitchcock, Assistant Director Lance Simms, Director Bob Cowell, First Assistant City Attorney Carla Robinson, Action Center Representative Carrie McHugh, and Staff Assistant Brittany Caldwell

1. Public hearing, presentation, possible action, and discussion on an amendment to the Unified Development Ordinance, Section 7.9, Non-Residential Architectural Standards related to parking lot screening. **Case #09-00500077 (LK)**

Lindsay Kramer, Senior Planner, presented the ordinance amendment to the Non-Residential Architectural Standards related to parking lot screening.

There was general discussion regarding the ordinance amendment.

Chairman Nichols opened the public hearing

No one spoke during the public hearing.

Chairman Nichols closed the public hearing.

**Commissioner Slack motioned to recommend approval of the ordinance amendment. Commissioner Greer seconded the motion, motion passed (5-0).**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 7.9, "NON-RESIDENTIAL ARCHITECTURAL STANDARDS," 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," Section 7.9, "Non-Residential Architectural Standards," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", "B", "C". and "D", 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 9<sup>th</sup> day of November, 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

That Chapter 12, "Unified Development Ordinance," Section 7.9.B, "Non-Residential Architectural Standards, Standards for all Non-Residential Structures," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending the NRA Summary Table to read as follows:

<b>NRA SUMMARY TABLE</b>								
<b>Gross Square Feet in Area of Building/Combination of Buildings</b>								
<b>Façade Standards</b>	<b>Under 20,000</b>		<b>20,000 to 49,000</b>		<b>50,000 to 149,999</b>		<b>150,000 +</b>	
	<b>Facing ROW</b>	<b>Other</b>	<b>Facing ROW</b>	<b>Other</b>	<b>Facing ROW</b>	<b>Other</b>	<b>Facing ROW</b>	<b>Other</b>
<b>BUILDING MASS &amp; DESIGN</b>								
2 elements of architectural relief every 45 feet	R		R		R, no more than 33% on same plane		R, no more than 33% on same plane	
2 elements of architectural relief every 60 feet		R		R		R		R
No more than 66% of roofline at same elevation	R		R		R		R	
<b>BUILDING MATERIALS</b>								
Brick, stone, marble, granite, tile or specified concrete product	10% R	10% R if visible from ROW	25% R	10% R if visible from ROW	25% R	10% required if visible from ROW	50% R	10% R if visible from ROW
Stucco, EIFS, specified concrete product	75% max; 100% allowed w/ 2 colors, if under 5, 000 s.f.		75% max					
Wood or cedar siding	30% max							
Smooth face, tinted concrete blocks	10% max							
Reflective glass	80% max	100%	80% max	100%	80% max	100%	80% max	100%
Stainless steel, chrome, standing seam metal, premium grade architectural metal	20% max							
Painted steel panel siding and galvanized steel	Rear of building only if not visible from ROW, parkland, greenway, or residences							

<b>NRA SUMMARY TABLE (cont.)</b>					
<b>BUILDING COLORS</b>					
Accent Colors per façade	15%	15%	10%	5%	
<b>PEDESTRIAN / BIKE FACILITIES</b>					
10' sidewalk along facade			R		R
Pedestrian walkways			R		R
Bicycle parking spaces	4 R	4 R	8 R		8 R
<b>PARKING LOTS</b>					
Parking Concept for more than 120 spaces	R				R, Additional Standards Apply
<b>OTHER REQUIREMENTS</b>					
Public space or plaza				R, 500 S.F. min.	
Landscape		Double pts***	Double pts		Double pts
Tree wells			R		R
Minimum tree size			2" caliper		2" caliper

R = Required

\* = A façade is considered to be "facing public right-of-way" when an imaginary plane could be extended unobstructed by a wall or structure from at least 25% of the façade into the public right-of-way adjacent to the building plot. For the purposes of this section, public rights-of-way shall include all forms of passageways (such as streets, sidewalks, and bike paths) dedicated or deeded to the public for public use.

\*\* = When a property does not have frontage on a public right-of-way, the primary entrance façade of the building(s) will meet the standards of a "façade facing a public right-of-way."

\*\*\* Required when berms are not used for parking lot screening.

**EXHIBIT "B"**

That Chapter 12, "Unified Development Ordinance," Section 7.9.D, "Non-Residential Architectural Standards, Additional Standards for 20,000 S.F. or Greater," of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**D. Additional Standards for 20,000 S.F. or Greater**

In addition to the standards set out in Section 7.9.B, the following shall apply to any single building or combinations of buildings of 20,000 gross square feet in area, whether connected or not, but determined to be a single building plot.

**1. Building Material**

Any façade facing a public right-of-way shall have a minimum of twenty-five percent (25%) (calculation shall be based on the area of the first two (2) stories of any single building(s) façade) brick, stone, marble, granite or a material fabricated to simulate brick or stone (not split-face concrete masonry).

**2. Parking Screening**

The following options are allowed as parking lot screening methods:

- a. Screening methods allowed in 7.5, Landscaping, except berms, provided that
  - 1) The minimum landscape points for a site shall be double (2 x minimum landscape points), and
  - 2) The screening method utilized will create a solid hedgerow or completely screen the parking to a height of 3-feet. If vegetated, the screening must be a minimum of 24-inches at planting and reach 36-inches within one (1) calendar year of planting, and such method is certified to meet these requirements by a registered Landscape Architect, landscape designer, or landscape contractor.
- b. Berms with a minimum height of 3-feet as measured from the parking lot pavement, and a maximum slope of 1:3. Berms may be designed around trees that are barricaded for tree preservation in accordance with 7.5, Landscaping. Where there will be gaps in berm screening for the preservation of existing trees, alternative screening methods shall be used in accordance with Section 7.5, Landscaping to meet the minimum 3-foot screening requirement.
- c. Half-berms with a minimum height of 3-feet as measured from the parking lot pavement, and a maximum allowable slope of 1:3. Retaining walls shall be designed to face the parking lot and sidewalks located between the retaining wall and right-of-way may not be closer than 3-feet to the top of a retaining wall.
- d. For redeveloping sites maintaining existing parking lot perimeters, the Administrator may authorize the use of masonry walls, or lower the minimum berm height to a height that may be safely maintained in the existing parking setback when additional parking lot screening is provided in accordance with Section 7.5, Landscaping. The cumulative height of plant material and berm shall be a minimum of 3-feet.
- e. Variations to the requirements of this Section may be approved if the landscape/streetscape plan is sealed by a registered Landscape Architect and approved by the Administrator. Such plans must show reasonable evidence that the requirements, as set forth in this Section and Section 7.5, Landscaping, were used as a guide.

**EXHIBIT “C”**

That Chapter 12, “Unified Development Ordinance,” Section 7.9.E, “Non-Residential Architectural Standards, Additional Standards for 50,000 S.F. or Greater,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Parking Screening to read as follows:

**5. Parking Screening**

- a.** The following options are allowed as parking lot screening methods:
- b.** Screening methods allowed in 7.5, Landscaping, except berms, provided that the screening method utilized will create a solid hedgerow or completely screen the parking to a height of 3-feet. If vegetated, the screening must be a minimum of 24-inches at planting and reach 36-inches within one (1) calendar year of planting, and such method is certified to meet these requirements by a registered Landscape Architect, landscape designer, or landscape contractor.
- c.** Berms with a minimum height of 3-feet as measured from the parking lot pavement, and a maximum slope of 1:3. Berms may be designed around trees that are barricaded for tree preservation in accordance with 7.5, Landscaping. Where there will be gaps in berm screening for the preservation of existing trees, alternative screening methods shall be used in accordance with Section 7.5, Landscaping to meet the minimum 3-foot screening requirement.
- d.** Half-berms with a minimum height of 3-feet as measured from the parking lot pavement, and a maximum allowable slope of 1:3. Retaining walls shall be designed to face the parking lot and sidewalks located between the retaining wall and right-of-way may not be closer than 3-feet to the top of a retaining wall.
- e.** For redeveloping sites maintaining existing parking lot perimeters, the Administrator may authorize the use of masonry walls, or lower the minimum berm height to a height that may be safely maintained in the existing parking setback when additional parking lot screening is provided in accordance with Section 7.5, Landscaping. The cumulative height of plant material and berm shall be a minimum of 3-feet.
- f.** Variations to the requirements of this Section may be approved if the landscape/streetscape plan is sealed by a registered Landscape Architect and approved by the Administrator. Such plans must show reasonable evidence that the requirements, as set forth in this Section and Section 7.5, Landscaping, were used as a guide.

**EXHIBIT "D"**

That Chapter 12, "Unified Development Ordinance," Section 7.9.F, "Non-Residential Architectural Standards, Additional Standards for 150,000 S.F. or Greater," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending 7.9.F.4 to read as follows:

4. All parking areas must be screened from the public right-of-way using berms without exception.

**November 9, 2009**  
**Regular Agenda item No. 3**  
**McCullough-Olden Unit, Well #1RE - Oil and Gas Operations Permit**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Public hearing, presentation, possible action and discussion regarding an Oil and Gas Operations Permit for the McCullough-Olden Unit, Well #1RE as requested by the operator, EnerVest Operating, LLC. of Houston, Texas.

**Recommendation(s):** The Project Review Committee, comprised of the Planning and Zoning Commission Chair, the City Engineer, and the Director of Planning and Development Services, met on October 5, 2009 and recommends denial of the permit.

**Summary:** The McCullough-Olden Unit Well #1RE is the re-entry of a pre-existing well bore is located at the corner of William D. Fitch and Williams Creek Drive. The original well was permitted in 1993 as a "Rural" classification well. Based on the encroachment by development the re-entry of this well is classified as "High Impact". High impact means any residential, administrative, professional, or commercial neighborhood zone where there is an existing residential, administrative, professional, or commercial neighborhood use in the area of the proposed oil or gas operation.

Access to the site during drilling operations will be from the existing private access drive coming off William D. Fitch. Access to the site during production will be from a proposed private access road off Williams Creek Drive.

The Project Review Committee concurred with the attached City Engineer's Report which detail the permit application deficiencies in regard to the associated requirements outlined in the Chapter 4: Business Regulations, Section: Oil and Gas Regulations.

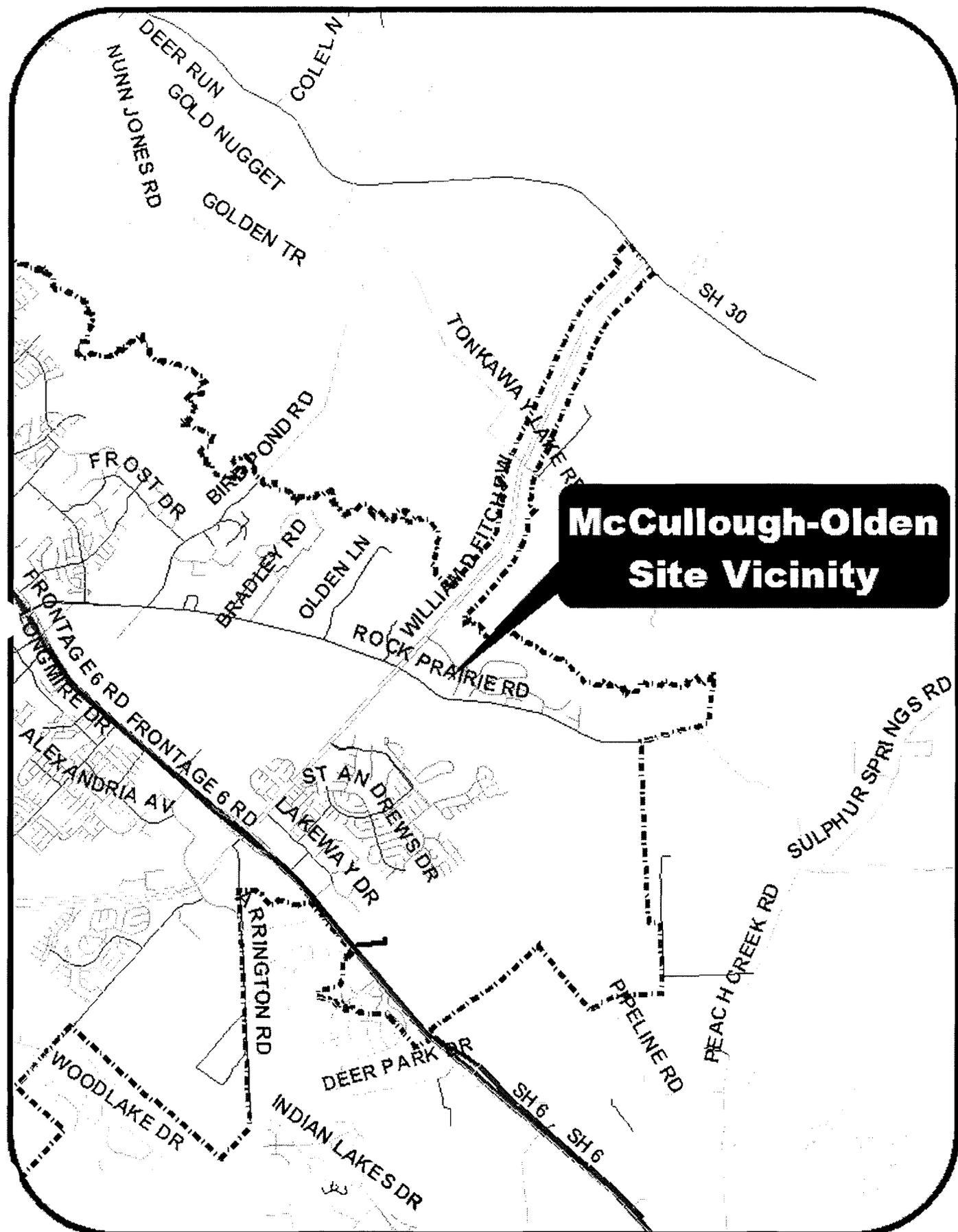
Per the ordinance, the City retained CSC Engineering & Environmental Consultants, Inc., a third party consultant, to evaluate the public impact of the proposed activity. The applicant is responsible for the consultant's fee of \$4,752.11 per the ordinance. The consultant's findings were provided to the applicant and incorporated into the City Engineer's Report to the Project Review Committee.

Note this item was originally scheduled for the October 19, 2009 City Council Meeting. However, due to a meeting time inaccuracy in the public notices this item was rescheduled for subject meeting.

**Budget & Financial Summary:** N/A

**Attachments:**

1. Vicinity Map
2. Resolution
3. Exhibit A – Application (available at City Engineer's Office)
4. Exhibit B – Location Map
5. Exhibit C – Indemnity Bond (available at City Engineer's Office)
6. City Engineer Report to Project Review Committee
7. Draft Permit
8. Report of Impact Assessment (available at City Engineer's Office)



**McCullough-Olden  
Site Vicinity**

1 inch = 5,000 feet

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS GRANTING AN OIL AND GAS HIGH IMPACT PERMIT FOR THE McCULLOUGH-OLDEN UNIT, WELL NO. 1-RE AT THE CORNER OF WILLIAM D. FITCH AND WILLIAMS CREEK DRIVE, AND LOCATED WITHIN THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of College Station, Texas, has reviewed an application for an Oil & Gas Rural Permit ("Permit") submitted by Enervest Operating, LLC for the McCullough-Olden Unit, Well No. 1-RE; and

WHEREAS, Council has reviewed the Project Review Committee report and other related information relating to the afore-described proposed rural gas well located at the corner of William D. Fitch and Williams Creek Drive within the City of College Station (the "City"); and

WHEREAS, pursuant to Chapter 4, Section 13.J Council is required to make certain findings and determinations in granting a permit for an oil and gas operations located within the City; and

WHEREAS, the City Council of the City of College Station, Texas, now desires to make such determinations and to grant such permit; now, therefore,

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

PART 1: That the City Council hereby acknowledges receipt of an application, Project Review Committee report and other related information relating to an Oil and Gas Rural Permit to Enervest Operating, LLC for the McCullough-Olden Unit, Well No. 1-RE located at the corner of William D. Fitch and Williams Creek Driven. A copy of such paperwork and the exact location of said proposed well are attached hereto as Exhibits "A" and "B", respectively.

PART 2: That the City Council hereby makes the following determinations with respect to said proposed Permit:

1. That the following amount and type of security instrument has been issued: a bond rider to an Indemnity Bond, on behalf of applicant, in favor of the City in a total amount of FOUR HUNDRED FIFTY THOUSAND AND N/100 DOLLARS (\$450,000.00) attached hereto as Exhibit "C";
2. That the operations proposed under the Permit are reasonable under the circumstances and conditions prevailing in the area;
3. That the operations proposed under the Permit are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the permit conditions to be imposed; and
4. That the impact upon adjacent property and the general public of operations conducted in compliance with the Permit conditions are reasonable and justified, balancing the following factors:

- (1) The right of the owner(s) of the mineral estate to explore, develop, and produce the minerals.
- (2) The availability of alternate drill sites, both presently and at other times during the lease term.
- (3) The date of acquisition by the various owners of the surface and mineral estates.

PART 3: That based upon the above the City Council hereby grants said Permit and authorizes the City Manager or his designee to take any and all reasonable action to issue same.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_

APPROVED:

  
\_\_\_\_\_  
City Attorney

09.400002



# EXHIBIT A

## APPLICATION FOR PERMIT

TO CONDUCT OPERATIONS FOR THE DISCOVERY AND PRODUCTION OF OIL, GAS, AND ASSOCIATED HYDROCARBONS WITHIN THE CITY OF COLLEGE STATION, TEXAS

(ORDINANCE NO. 1916, OCTOBER 10, 1991)

ORIGINAL \$2,000

RURAL	<input type="checkbox"/>
URBAN	<input type="checkbox"/>
HIGH IMPACT	<input checked="" type="checkbox"/>
SEISMIC	<input type="checkbox"/>

Please provide the following information for your permit request:

1. Applicant's name and address.  
**Enervest Operating, LLC**  
**1001 Fannin Street, Suite 800**  
**Houston, TX 77002-6707**
2. Name and address of drilling company.  
**Nabors Drilling USA LP**  
**515 West Greens Road, Suite 1000**  
**Houston, TX 77067**
3. Name and address of Operator.  
**Enervest Operating, LLC**  
**1001 Fannin Street, Suite 800**  
**Houston, TX 77002-6707**
4. Proposed name of well.  
**McCullough-Olden Unit Well No. 1-RE**
5. Proposed depth of well.  
**Enervest Operating, LLC intends to drill a re-entry well, the McCullough-Olden Unit Well No. 1-RE and drill a 4628' updip lateral (ST# 04) to depth of 12,500' in the Giddings Austin Chalk Gas Field.**
6. Location and description of all improvements and structures within one thousand (1000 ft) of the well.  
**Please refer to attached Exhibit "A".**
7. Site plan of proposed operation, showing location of all improvements and equipment. (13 copies)  
**Please refer to attached Exhibit "A" & "B".**
8. Area Map showing proposed transportation route and roads for equipment, chemicals, or waste products used or produced by the oil or gas operation, and all natural features of the site. (13 copies)  
**Please refer to attached Exhibit "C".**

## EXHIBIT A

9. Description of type, kind, size and amount of major equipment used before completion and re-working.  
**Please refer to attached Exhibit "D".**
10. Description of surface equipment after drilling and completion.  
**Please refer to attached Exhibit "A" & "E".**
11. Well surface casing and cementing program.  
**Please refer to attached Exhibit "F".**
12. Copies of Railroad Commission forms and drilling permit.  
**Please refer to attached Exhibit "G".**
13. Security instrument consisting of an irrevocable letter of credit, indemnity bond, or certificate of deposit, as required by this ordinance and in an amount determined by the City Council within 30 days after Council approval.  
**Enervest Operating LLC is committed to providing the required security instrument in the amount determined by the City Council within 30 days after Council approval of this permit application.**
14. Name of representative with supervisory authority over all oil or gas operation site activities and phone number where he can be reached twenty-four (24) hours a day.  
**Dean Broussard – Operations Superintendent  
6933 N. US Hwy 77  
La Grange, TX 78945  
979-255-3048**
15. Legal description of the property to be used for the oil or gas operation, the parcel, and the production unit (plat description or metes and bound bearings) and name of the geologic formation as used by the Railroad Commission. Property recorded by plat should reference subdivision, block and lot numbers.  
**Legal description: 62.37 acre tract – Parcel 1, Vol. 8479, Pg. 93, of the Official Records of Brazos County, Texas,, located in the Nathan Clampitt Survey, A-90 and in the S. W. Robertson Survey, A-202, College Station, Brazos County, Texas. Tax Parcel # R300813 (see site plan plat – Exhibit "A" for additional information).  
Giddings Austin Chalk Gas Field.**
16. Mineral Lessee name and address.  

<b>Carol McCullough Anderson 2504 River Forest Drive Bryan, TX 77802</b>	<b>Jean McCullough Stephen 2514 Memorial Drive Bryan, TX 77802</b>
----------------------------------------------------------------------------------	----------------------------------------------------------------------------
17. Surface owner name and address.  

<b>Carol McCullough Anderson and Fred G. Anderson 2504 River Forest Drive Bryan, TX 77802</b>	<b>Jean Stephen Family No. Two L.P. 2514 Memorial Drive Bryan, TX 77802</b>
-------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

**EXHIBIT A**

18. Name and address of an individual representing the owner/applicant designated to receive notice.

**Fred Deitsch  
615 E. Blue Bell Rd.  
Brenham, TX 77833**

19. Evidence of insurance information as required by Ordinance No. 1916.

- (a) Commercial General Liability \$500,000
- (b) Automobile Liability \$500,000
- (c) Worker's Compensation \$100,000

**Please refer to attached Exhibit "H".**

20. Survey of production unit at a scale of 1 per 300 or greater by a Texas certified surveyor including:

- (a) Lengths and bearings of all boundary lines for production.
- (b) Exact acreage of the production unit.
- (c) Exact location of the well within production unit with distances of a minimum of two adjacent boundary line of the production unit.
- (d) Length of maximum diagonal within the production unit.

**Please refer to attached Exhibit "I"(2 pages).**

21. Owner and address of each parcel of property within one thousand feet (1000') of the proposed drill site.

**Please refer to attached Exhibit "J".**

22. Copies of all reports required by the Department of Water Resources and Commission.

**Please refer to attached Exhibit "K".**

23. Statement under oath signed by applicant that the information submitted in the application is true and correct.

**"I, Lloyd Bruce, Operations Manager, Western Division, do hereby affirm that the information submitted in and attached to the Application for Permit to Conduct Operations for the Discovery and Production of Oil, Gas and Associated Hydrocarbons within the City of College Station, Texas, for the Application of Permit, is true and correct."**

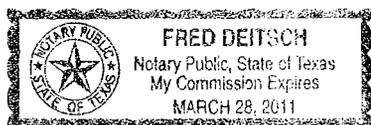
Date: 8/7/09

  
Lloyd Bruce Operations Manger  
Western Division

STATE OF TEXAS §

COUNTY OF HARRIS §

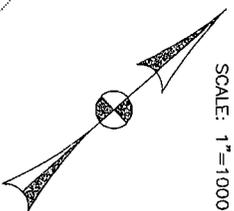
Sworn to and subscribed before me this 7th day of August, 2009, by the above named Lloyd Bruce, who is personally known to me.



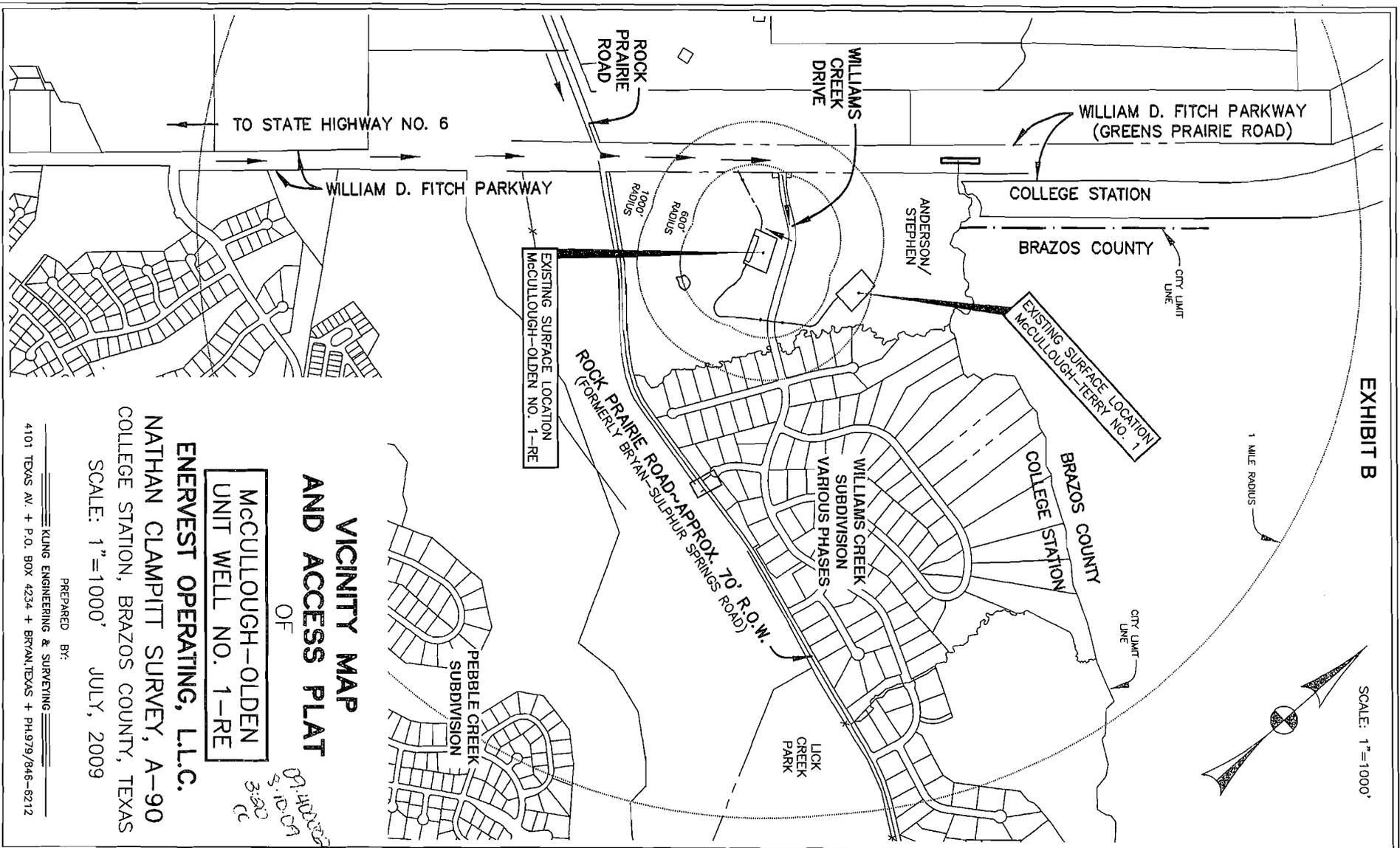
  
Fred Deitsch  
Notary Public in and for the State of Texas

**EXHIBIT B**

SCALE: 1"=1000'



1 MILE RADIUS



**VICINITY MAP  
AND ACCESS PLAT**  
OF  
**McCULLOUGH-OLDEN  
UNIT WELL NO. 1-RE**

**ENERVEST OPERATING, L.L.C.**  
NATHAN CLAMPITT SURVEY, A-90  
COLLEGE STATION, BRAZOS COUNTY, TEXAS  
SCALE: 1"=1000' JULY, 2009

PREPARED BY:  
KJLNG ENGINEERING & SURVEYING  
4101 TEXAS AV. + P.O. BOX 4234 + BRYAN, TEXAS + PH.979/846-8212

KJLNG ENGINEERING & SURVEYING  
BRYAN, TEXAS

*01/14/2009  
2:10:04  
3:30  
cc*

## EXHIBIT C

BOND RIDER NO. 2

Attaching to and forming part of Indemnity Bond No. RLB0011114, executed January 3, 2008, on behalf of EnerVest Operating, LLC as Principal, in favor of the City of College Station as Obligee, in the amount of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00).

It is understood and agreed that effective April 17, 2009, the following well list is amended as attached.

All other conditions and terms to remain as originally written or previously amended by rider.

Signed, sealed and dated this 17<sup>th</sup> day of April 2009.

EnerVest Operating, LLC

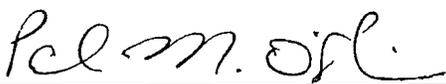
Principal

By: 

Mark Houser - President

RLI Insurance Company  
8 Greenway Plaza, Suite 400  
Houston, TX 77046

Surety

By: 

Paul M. O'Sullivan, Attorney-in-Fact



EXHIBIT C

RLB0011114

POWER OF ATTORNEY
RLI Insurance Company

RLI Surety
A division of RLI Insurance Company

Know All Men by These Presents:

That the RLI INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: PAUL M. O'SULLIVAN in the City of HOUSTON, State of TEXAS, as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of documents to-wit:

\$450,000.00

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; policies indemnifying employers against loss or damage caused by the misconduct of their employees; official, bail and surety and fidelity bonds. Indemnity in all cases where indemnity may be lawfully given; and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company, and to compromise and settle any and all claims or demands made or existing against said Company.

The RLI INSURANCE COMPANY further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers-of-Attorney, or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

(Blue shaded areas above indicate authenticity)

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its PRESIDENT with its corporate seal affixed this

ATTEST:

Jean M. Stephenson
CORPORATE SECRETARY



Michael J. Stone
PRESIDENT

State of Illinois )
) SS
County of Peoria )

On this 17 day of April 2009 before me, a Notary Public, personally appeared Michael J. Stone and Jean M. Stephenson, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as President and Corporate Secretary, respectively, of the said RLI INSURANCE COMPANY, and acknowledged said instrument to be the voluntary act and deed of said corporation.

Cherie L. Montgomery
Notary Public

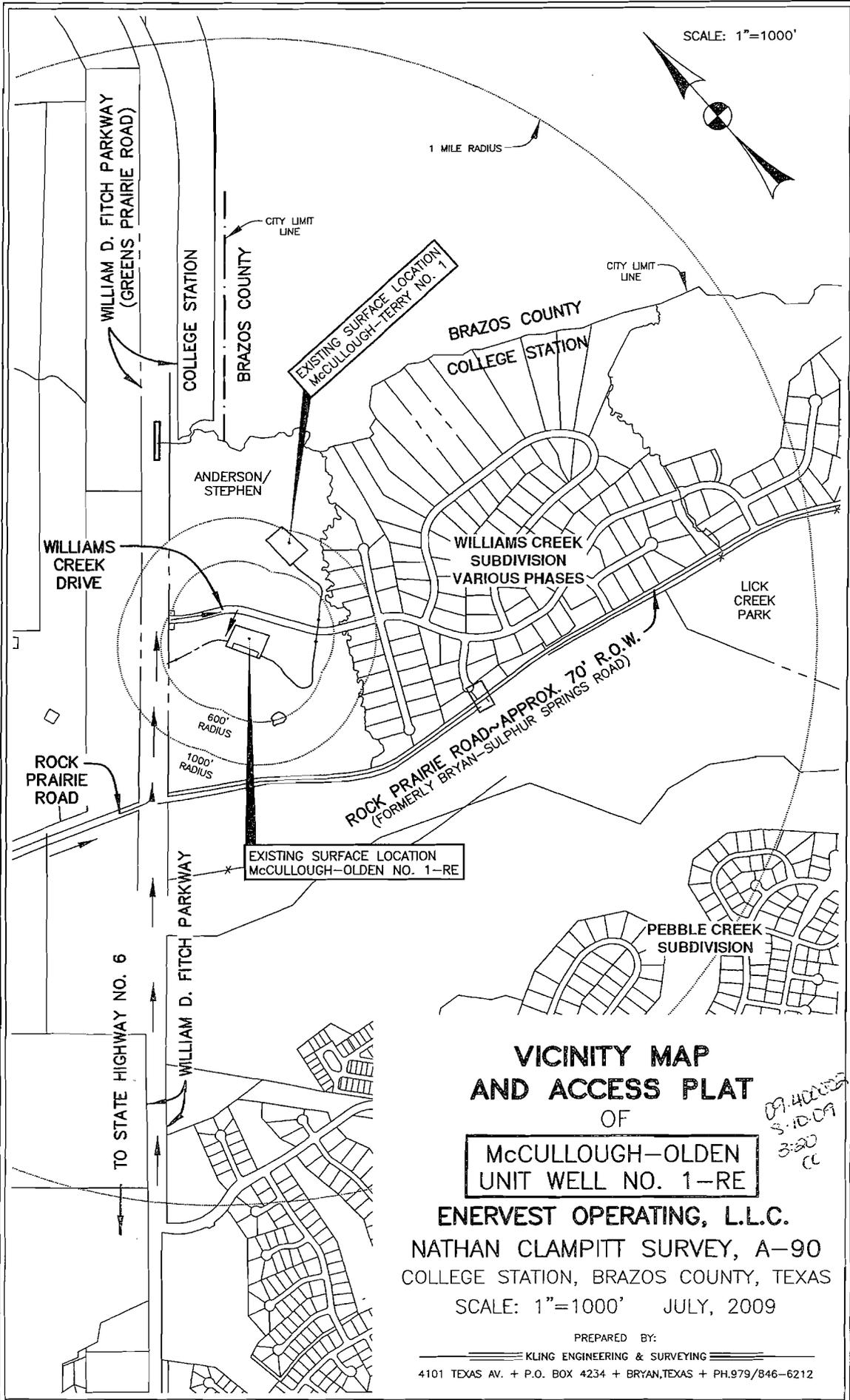


## EXHIBIT C

### Well List

Indemnity Bond – City of College Station (5/09 – 5/10)

	<u>API #</u>	<u>Permit #</u>
Akin-Foxfire 1	42-041-31795	94-0001
Akin, J.M. 1	42-041-30595	Not assigned
Boriskie-Diversified Unit 1	42-041-31606	93-806
Brazos Coal Ltd-Raceway Unit 1	42-041-31586	Not assigned
Brazos Coal Ltd-Terry "B" Unit 1RE	42-041-31729	99-807
Brazos Coal Ltd-Terry "C" Unit 1	42-041-31690	92-819
Felix "K" Unit 1	42-041-31714	93-801
Freeman-Creagor Unit 1	42-041-31791	93-826
Jones et al, Eugenia 1	42-041-31489	91-804
Kinman 1	42-041-31794	Not assigned
McCullough-McCullough Unit 1	42-041-31588	92-805
McCullough-Olden Unit 1	42-041-31700	93-804
McCullough-Terry Unit 1	42-041-31710	93-803
Olden-Olden Unit 1	42-041-31545	91-822
Olden-Paull Unit 1	42-041-31643	92-813
Ritchey, W.S. #1	42-041-31777	93-820
Terry Unit, H.L. 1	42-041-31548	93-809
Terry-Terry Unit 2	42-041-32007	08-400001
Thompson-Marsh Unit 1	42-041-31748	93-811
Waltman 1	42-041-31843	94OW05



### VICINITY MAP AND ACCESS PLAT

OF

**McCULLOUGH-OLDEN UNIT WELL NO. 1-RE**

**ENERVEST OPERATING, L.L.C.**

**NATHAN CLAMPITT SURVEY, A-90**  
COLLEGE STATION, BRAZOS COUNTY, TEXAS

SCALE: 1"=1000' JULY, 2009

PREPARED BY:

KLING ENGINEERING & SURVEYING

4101 TEXAS AV. + P.O. BOX 4234 + BRYAN, TEXAS + PH.979/846-6212

*09.400002*  
*5-10-09*  
*3-20*  
*CL*

XREF:

KLING ENGINEERING & SURVEYING  
BRYAN, TEXAS

**OIL & GAS OPERATIONS PERMIT APPLICATION**  
**CITY ENGINEER'S REPORT TO PLAN REVIEW COMMITTEE (PRC)**

**ADMINISTRATIVE INFORMATION**

**DATE:** 9/23/09  
**CASE FILE NO.** 09-40002  
**WELL NAME:** McCullough-Olden Well Unit #1RE  
**APPLICANT:** EnerVest Management Partner, Ltd., Houston, Texas  
**DRILLING COMPANY:** Nabors Drilling USA, LP, Houston, Texas  
**WELL CLASSIFICATION:** High Impact Classification, 1 each Vertical/Horizontal Wells  
**LOCATION:** Surface – corner of William D. Fitch and Williams Creek Drive  
**DEPTH:** ST#04, 4628' updip lateral to depth of 12,500'  
**ACCESS:** Drilling - From William D. Fitch on an existing 12' private access road  
Production - From Williams Creek Drive on proposed 20' private access road (proposed route)

<b>REQUIRED PERMITS ISSUED:</b>	<b>YES</b>	<b>NO</b>	<b>NOT REQUIRED</b>
Application Fee	<b>X</b>		
Legal Consultant			<b>X</b>
Technical Consultant	<b>X</b>		
Texas Railroad Commission (Drilling Permit)	<b>X</b>		
TCEQ (Ground Water to be Protected)	<b>X</b>		
FAA (Hazard to Aviation Determination)			<b>X</b>
Airport Zoning Board Height Variance			<b>X</b>
Drainage Development Permit			<b>X</b>
Driveway Access Permit		<b>X</b>	
Insurance Certificates	<b>X</b>		

**PRC REVIEW ITEMS**

**a. Alternate well location due to adjacent land uses.**

Not applicable due to well being a re-entry of an existing well. The well site is located on a currently permitted location. The drilling operation is the re-entry of an existing well bore. The well site is located within 1,000' of 7 private residences and 1 future residential site. The applicant proposes to increase the size of the well site from 1.8 acres to 2.45 acres. No provisions or options have been presented for relocation of the site.

**b. Air pollution control devices.**

The drilling rig has industry standard air pollution control devices installed.

**c. Noise and light control.**

Noise continuation shall be provided, as necessary, to limit noise exposure at the nearest residence to 72dBA continuous.

Lights shall be orientated as to minimize the impact on residential areas.

Site development other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m.

**d. Type of pump engine.**

Electric

**e. Height of pump equipment.**

30 feet

**f. Fire control measures, as required by this Ordinance.**

Permittee shall erect and maintain signs which identify the well by name, the operator, his address and a 24 hr emergency contact phone number at the well site and at the intersection of the well site access road and the public street.

The College Station Fire Department will provide emergency response and limited fire fighting services.

**g. Fence and/or visual screening, as required by this Ordinance.**

If the drilling site is not occupied by the applicant or drilling company during the entire drilling period (24 hours/7days a week), security fencing will be required during drilling operations.

Provide six-foot solid screen fence around the perimeter of the site as per Chapter 4 of the Code of Ordinance, Section 13 Oil and Gas Well Regulations.

**h. Landscaping, as required by this Ordinance.**

Provide a landscape plan according to site area and requirements of Chapter 12 of the Code of Ordinances (Unified Development Ordinance), Section 7.5 Landscaping and Tree Protection. The plantings are to be disbursed around the perimeter of the site. Also in accordance with this Section, provide irrigation for the proposed landscaping.

**i. Proof of contractual responsibilities of pump site and storage site maintenance.**

Not addressed in the application

**j. Safety procedures.**

See Report of Impact Assessment for EnerVest's McCullough-McCullough Unit #1RE for additional safety requirements and procedures

**k. Spill reporting and record keeping.**

The operator will notify the City Engineer within 24 hours of an onsite crude oil spill exceeding 55 gallons or any spill into water that creates a sheen.

Crude oil spills on the ground equal to or greater than 210 gallons or any spill into water that creates a sheen must be reported to RRC.

The operator shall maintain a monthly inspection log which address on site spills. The copy of said log will be provided to the City prior to permit annual renewal or when requested by the City..

**l. Gas flaring.**

Operator shall comply with all Ordinances and Railroad Commission requirements pertaining to flaring gas. In no event shall the flaring of gas exceed ninety (90) calendar days after completion of the well.

Flare height shall be below treetop level.

Flares shall be placed so the existing trees or manmade structures obstruct the flare from the direct view of any residence.

**m. Location of storage facilities.**

Production and storage tanks shall be contained within earthen berms constructed in accordance with applicable oil field practice. Berms shall be constructed and maintained to retain not less than 133% of the capacity of the largest of such tanks.

**n. Traffic loads or patterns, proposed street development, as required by this Ordinance, and ingress/egress of vehicular traffic.**

The access drive apron must have and maintain at a minimum, an asphalt surface from the street to the right-of-way line that conforms to the minimum pavement design as described in the College Station Standard Specifications for Street Construction.

The remainder of the access drive shall be surfaced with crushed rock, gravel, ore, or oiled and maintained to prevent dust and mud.

During drilling ingress/egress will be via existing private access road off William D. Fitch.

During production ingress/egress will be via proposed private access road off Williams Creek Drive

Oil tanks shall not park or load/unload on or adjacent to a street.

**o. Water source used during drilling operation.**

Pre-existing on site water well. Water zones to be protected are from the surface to a depth of 1250' and from 2,000' to 2425'. Well surface casing from surface to 3,200'. Ground water is protected.

**p. Full line location and route between the well head and storage facilities.**

See Application Exhibit E – direct line from well bore to separator

**STAFF COMMENTS:**

Per the ordinance, this item can be scheduled for the next available Council Meeting which is October 19th. To make this date, the City must give notice to the local newspaper to run a public notice and mail notices to residences within 1500 feet no later than September 28th. Additionally, this report has been forwarded to the Project Review Committee (PRC), which is defined as the P&Z Commission Chair, Planning Director, and City Engineer. This committee will issue an updated report with recommendations to Council. This likely does not leave time for an application re-submittal and review to achieve a recommendation of support of the permit. Therefore, for this item to be on the Council October 19th agenda, the recommendation would currently be for denial due to the listed comments below.

The following Council Meeting is November 12th with a newspaper submittal and mailing deadline of October 22nd. Five to ten days should be allotted for application re-submittal review ahead of the notice deadline. Again, a report will follow the PRC meeting and action prior to the Council meeting.

Understanding the above, please re-submit your application and/or request a specific Council Meeting.

1. See: Report of Impact Assessment for included requirements and inclusions that apply
2. Require landowner notification be extended to a radius of 1,500'
3. Require waivers from the owner and occupant of all residence within 600' of the well site
4. Require operator to limit light levels near residences below 0.5 fc
5. Proposed production site access needs to be fully addressed, including driveway/culvert design and details, etc.; or under separate permit application
6. Proposed site is located within 50' of any street, right of way, alley or utility easement
7. Consultant, public notice, and landowner notification fees must be paid prior to the Public Hearing at Council

8. Provide six-foot solid screen fence around the perimeter of the site as per Chapter 4 of the Code of Ordinance, Section 13 Oil and Gas Well Regulations.
9. Provide a landscape plan according to site area and requirements of Chapter 12 of the Code of Ordinances (Unified Development Ordinance), Section 7.5 Landscaping and Tree Protection. The plantings are to be disbursed around the perimeter of the site. Also in accordance with this Section, provide irrigation for the proposed landscaping.
10. Need a description of fire control measures, as required by Ordinance
11. Need fencing and/or screening plan, as required by Ordinance
12. Need landscaping plan , as required by Ordinance
13. Need proof of contractual responsibility of pump site and storage site maintenance
14. Sight vehicle triangle per AASHTO needs to be determined and appropriate vegetation removed at access apron accordingly.

### **RECOMMEND SECURITY FOR COMPLIANCE WITH PERMIT TERMS AND ORDINANCE:**

A minimum of \$25,000 is required for security by the ordinance. A \$25,000 Indemnity Bond is on file for the site.

### **SCHEDULE FOR COUNCIL ACTION:**

City Council Regular Meeting:                      Publish according to High Impact Classification schedule for  
Public Hearing and Council Action October 22, 2009

**HIGH IMPACT  
OIL AND GAS PERMIT  
ISSUED BY THE CITY OF COLLEGE STATION, TEXAS**

**PERMITTEE:** EnerVest Management Partners, Ltd.  
1001 Fannin Street, Suite 800  
Houston, Texas 77002-6707

**EXPIRATION DATE:**

**WELL NAME:** McCullough-Olden Unit Well #1RE

**PERMIT NO:** 09-400002

**REGULATION:** The City Council of the City of College Station has determined that the testing and exploration for and development, production and storage of oil, gas, and mineral hydrocarbons (including enhanced or secondary recovery thereof) within the City limits is an activity which necessitates reasonable regulations in order that such activities will not cause injury or property damage to the citizens of the City, and that such activities should conform to the comprehensive plan and zoning ordinances of the City as far as practicable in order to preserve the integrity of said ordinances and regulations. The City recognizes that conflicting property rights exist in the carrying out of such activities, and further recognizes the rights of all property owners, minerals and otherwise, to the peaceable enjoyment of their property and the benefits and revenues therefrom.

**UNLAWFUL:** It shall be unlawful to engage in any activity not permitted by the terms of this permit and the applicable laws, or to fail to comply with any condition set forth in this permit.

**PERMIT TERMS:** This permit is issued in accordance with Ordinance No. 1916, Chapter 4 Section 13 of the Code of Ordinances of the City of College Station, Texas, and with applicable ordinances, rules, regulations and laws of the City of College Station, the State of Texas and of the United States of America and their respective agencies, commissions and regulatory bodies.

The City Engineer is authorized and directed to enforce this Ordinance. Whenever necessary to enforce any provision of this Ordinance, or whenever the City Engineer has reasonable cause to believe any condition exists upon any premise or in any building contrary to this Ordinance, he may enter such place at any reasonable time to inspect or perform any duty imposed by this Ordinance.

*EnerVest Management Partners, Ltd.* is hereby issued this Oil and Gas Permit, having posted a Security Instrument in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00), in the form of irrevocable letter of credit or indemnity bond, or certificate of deposit as set forth in Ordinance No. 1916, and required by action of the City Council.

Additional terms and conditions of the granting, issuance and continued effectiveness of this Oil and Gas Permit follow:

### **I. ADMINISTRATIVE REQUIREMENTS:**

Permittee shall comply with Permittee's Application for Permit to conduct operations for the Discovery and Production of Oil, Gas and Associated Hydrocarbons within the City of College Station, Texas except as modified by this permit.

Permittee shall comply will all applicable Ordinances, Rules, Regulations and Laws of the City of College Station, the State of Texas, and of the United States of America and their respective agencies, commissions, and regulatory bodies.

This permit is issued for a period of one (1) year. To continue oil and gas operations under this permit, the operator shall submit an application for renewal no later than thirty (30) days before the expiration of this permit.

The permittee shall maintain the security instrument and insurance required for issuance of this permit in effect for the terms of this permit.

### **II. SITE LOCATION:**

No oil or gas drill site may be located or oil and gas operation shall occur:

- a. Within fifty feet (50') of any street, right-of-way, alley, or utility easement.
- b. Within six hundred feet (600') of a cemetery, park, or residential unit, unless waived by the residential unit property owner and the party entitled to occupy the premises.
- c. Within one thousand feet (1,000') of any school or hospital.
- d. In any public park unless authorized by State law.
- e. In any City streets or alleys.

### **III. SITE DEVELOPMENT:**

Site development other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m.

Access to the site shall be via private access road off William D. Fitch.

The access drive apron must have at a minimum, an asphalt surface from the street to the right-of-way line that conforms to the minimum pavement design as described in the College Station Standard Specifications for Street Construction.

The remainder of the access drive shall be surfaced with crushed rock, gravel, ore, or oiled and maintained to prevent dust and mud. Drives shall be at least thirty feet (30) wide.

#### **IV. SCREENING AND LANDSCAPING:**

City Council has directed that the site be provided with screening as a condition of the permit approval. Council approved vegetation screening in lieu of wood fence screening. Upon completion of drilling operations the site will be screened with red tip photinea hedges, spaced at 5' intervals on all four sides of the site. Irrigation will be provided by the operator for a period of two (2) years after planting.

#### **V. DRILLING SITE REQUIREMENTS:**

No drilling shall occur within one hundred feet (100') of any oil storage tank, ignition source, or building.

If the drilling site is not occupied by the applicant or drilling company during the entire drilling period (24 hours/7days a week), security fencing will be required during drilling operations.

Permittee shall confine light and noise associated with exploration and production activities to the site to the maximum extent possible.

No drilling or re-working shall occur within one hundred (100) feet of any oil storage tank, ignition source or building.

Permittee shall comply with all Ordinances and Railroad Commission requirements pertaining to flaring gas. In no event shall the flaring of gas exceed ninety (90) calendar days after completion of the well. Further, Permittee shall install prior to entry into the target zone, a sufficient separating device or system(s) (at least two in series) to ensure that gas, oil, other fluids and solids are separated to a sufficient degree that in the event the flaring of gas is necessary in connection with the safe drilling and completion of the well (subject to the limitation set forth herein), such flare shall, to the maximum extent possible, be clean burning and emit neither noxious smoke nor odors. Permittee shall equip flare lines with smokeless flare ignition system. The flare shall be directed away from existing trees to the maximum extent possible.

At the conclusion of drilling, the drill site shall be cleaned within forty-eight (48) hours of all equipment and machinery that is not needed to produce the well.

At the conclusion of the drilling operation all equipment, materials and constructed items shall be removed from the area outside the production site. This area shall be returned to its original state within thirty (30) days of the completion of the drilling operation.

Drilling mud, cuttings, oil, or liquid hydrocarbons and all other oil field waste derived or resulting from or connected with the drilling, re-working, or deepening of any well shall be discharged into portable steel tanks or a earth pits.

Upon completion of drilling operations waste materials stored in portable steel tanks shall be removed from the site no later than thirty (30) days. Waste material stored in pits shall be removed from the site and the liner shall be removed to the maximum extent practicable and the pits shall be filled and leveled. Burning of sludge pits shall not be permitted.

## VI. PRODUCTION SITE REQUIREMENTS:

Within thirty (30) days after completion of drilling the site shall be screened by a fence enclosure constructed of any material compatible with surrounding uses which effectively screens the site and have landscaping.

Fencing shall be in the PRC's discretion based upon the impact to adjacent areas.

- b. Fencing may be required during the drilling operations and/or separate fencing may be required after completion of the drilling operations.
- c. A six foot (6') solid screen fence around the entire perimeter of the site may be required.
- d. Any fence should be at least one hundred feet (100') from any well, equipment, or structure within the site, but no closer than five hundred feet (500') to any residential property line.
- e. All fencing shall be of a solid neutral color compatible with surrounding uses and shall be maintained in a neat, orderly, secure condition. Neutral colors for fencing shall include unobtrusive shades of sand, grey, green, blue, brown, or other colors approved by the PRC.
- f. Upon completion of a well as a commercial producer, any apparatus used in the production of the well, including pump jacks, shall be enclosed as to prevent any entry by unauthorized persons and to prevent well equipment from being seen. The enclosure walls shall be solid and constructed with privacy fence materials and shall be high enough to restrict the view of any well equipment including the pump jack. The enclosure shall remain locked at all times unless the well is being serviced by the operator or its service companies.

The site shall at all times be kept free of debris, pools of oil, water or other liquids, weeds, brush, trash, or other waste material.

All discarded surplus materials, supplies, and refuse shall be removed from the operation site no later than thirty (30) days after completion of drilling operation.

Permittee shall erect and maintain signs which identify the well by name, the operator, his address and a 24 hr emergency contact telephone number at the well site and at the intersection of the well site access road with the public street.

A Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" shall be posted at the entrance of the well site and tank battery.

The production site shall be enclosed by a chain-link fence. It shall have a gate which shall be kept closed and locked except while occupied by Permittee, Permittee's personnel, Permittee's agents/representatives, City Engineer/designate or the Fire Department. The fence shall not be less than six (6) feet high and shall be topped with not less than three (3) strands of barbed wire. Corner posts shall be anchored in concrete. The City Engineer shall be provided the combination to the gate lock.

Only electric prime movers or motors shall be permitted for the purpose of pumping wells.

All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures. Permittee shall paint pumping units,

storage tanks, and vessels a neutral color, or such other color scheme as may be approved by the City Planner.

No person shall allow, cause, or permit gases vented into the atmosphere to be burned by open flame except as allowed by law or permitted by the Commission.

Production and storage tanks shall be contained within earthen berms constructed in accordance with applicable oil field practice. Berms shall be constructed and maintained to retain not less than 133% of the capacity of the largest of such tanks.

No street or alley may be blocked or obstructed by any drilling or producing operations unless prior consent is obtained by the operator in the form of a resolution adopted by the Council, except when necessary to protect life or property in connection with emergency operations being conducted.

No person shall place, deposit, discharge, cause, or permit to be placed, deposited, or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances, or any refuse, including wastewater or brine, from any oil and gas operation or the contents of any container used in connection with any oil operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary, drain or sewer, any body of water, or any private property in the City.

No drilling equipment, re-working equipment, other portable equipment or idle equipment which are not essential to the everyday operation of the activity located thereon shall be stored on the oil or gas operation site.

Lumber, pipes, tubing, and casing shall not be left on the site except when drilling or well servicing operations are being conducted.

No person, owner, or operator shall store or park any vehicle or item of machinery on any street, right-of-way, driveway, alley, or upon any oil or gas operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the maintenance of the site or for gathering or transportation of hydrocarbons from the site. The Fire Department shall be the entity which determines whether any equipment on the site shall constitute a fire hazard.

## **VII. WELL SERVICING AND SITE MAINTENANCE:**

No re-working shall occur within one hundred feet (100') of any oil storage tank, ignition source, or building.

After completion of well servicing or abandonment, owner shall repair all damage to public property caused by such servicing or abandonment operations.

At the conclusion of re-working operations, the drill site shall be cleaned within forty-eight (48) hours of all equipment and machinery that is not needed to produce the well.

Idle equipment will not be stored on the site. All well servicing equipment shall be removed from the site within fifteen (15) days after completion of a well servicing operation.

After completion of well servicing or abandonment, Operator shall repair all damage to public property caused by such servicing or abandonment operations.

All property on which an oil or gas operation occurs shall at all times be kept free of debris, pools of oil, water or other liquids, weeds, brush, trash, or other waste material.

### **VIII. ENVIRONMENTAL UPSETS:**

After any leak, spill, or malfunction, the permittee shall remove or cause to be removed to the satisfaction of the City Engineer, and Fire Department all oil and waste materials from property affected by such spill, leak or malfunction.

In the event of the loss of control of any well or other oil and gas operation, (i.e., blowout, etc.) the Operator shall immediately take all reasonable steps to regain control of such activity regardless of any other provisions of this Ordinance and shall notify the City Engineer as soon as practicable.

### **IX. EMERGENCY SERVICES:**

The permittee or his agent shall be responsible for providing primary fire fighting services.

The College Station Fire Department will provide emergency response and limited fire fighting services.

### **X. ACQUISITION AND TRANSFER OF EXISTING OPERATIONS**

Transfer of the site operations by Permittee or acquisition of operations at this site by another party does not constitute transfer of this permit. The transferring party and acquiring party shall notify the City Engineer in writing, within ten (10) days of the transfer or acquisition.

The notice shall contain the following:

- a. The name and address of the person acquiring such well, property or site involving an oil or gas operation.
- b. The name and location of the oil or gas operation.
- c. The date of acquisition.
- d. A description of the properties and equipment acquired, and the oil or gas operation.
- e. The name and address of any individual designated to receive service of notice in compliance with the notice provision requirements.

### **XI. SITE ABANDONMENT**

During abandonment, Operator shall comply with all applicable sections in this Ordinance

Abandonment shall be approved by the City Engineer after restoration of the drill site and the subsurface thereof has been accomplished in conformity with the following requirements:

- a. All tanks, towers, and other surface installations are removed from the site.
- b. All concrete, piping, wood, and other foreign materials regardless of depth, except surface casing, are removed from the site, unless otherwise directed by the Commission.
- c. All holes and depressions are filled with clean compatible soil.
- d. All oil, waste oil, refuse, or waste material is removed from the site.
- e. Operator pays an abandonment fee in an amount set by Council resolution.

## **XII. PERMIT SUSPENSION OR REVOCATION**

The City Engineer may, in writing, suspend or revoke any permit issued under the provisions of this article upon finding any of the following:

- a. Permittee failed, neglected, or refused to perform and comply with the conditions of this Permit.
- b. Permittee failed, neglected, or refused to comply with or abide by, or in any way violated any provision of this Ordinance or any regulation, law, rule, or order either directly or indirectly, by reason of or in connection with or incidental to the conduct of his oil or gas operation.
- c. Any of the Permittee's operations or the continuance thereof upon the premises covered by the permit is a menace or hazard to public or private property, or to any interest of the City, or to the lives or safety of persons.
- d. Any of the Permittee's operations or the continuance thereof upon the premises covered by the permit constitutes a public nuisance.
- e. Permittee made any willful misrepresentation of facts in any application for any such permit or in any report or record required by this Ordinance to be submitted to the City
- f. Permittee illegally burned or allowed to burn oil, gas, or other hydrocarbons in the City.

### **CHECK LIST FOR ISSUANCE**

The following items must have been received and on file with the City before this permit is issued:

Approved Drainage Development Permit: *Not Required*

Security instrument: \$25,000.00

Certified Postage re-imbusement:



**November 9, 2009**  
**Regular Agenda Item No. 4**  
**McCullough-McCullough Unit, Well #1RE - Oil and Gas Operations Permit**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Public hearing, presentation, possible action and discussion regarding an Oil and Gas Operations Permit for the McCullough- McCullough Unit, Well #1RE as requested by the operator, EnerVest Operating, LLC. of Houston, Texas.

**Recommendation(s):** The Project Review Committee, comprised of the Planning and Zoning Commission Chair, the City Engineer, and the Director of Planning and Development Services, met on October 5, 2009 and recommends denial of the permit.

**Summary:** The McCullough- McCullough Unit Well #1RE is the re-entry of a pre-existing well bore on a 193 acre tract located within the city limits. The location of the drilling site is 470' east of Ginger Court, then 1370' NNW of Rock Prairie Road. The original well was permitted in 1992 as a "Rural" classification well. Based on the encroachment by development the re-entry of this well is classified as "High Impact". High impact means any residential, administrative, professional, or commercial neighborhood zone where there is an existing residential, administrative, professional, or commercial neighborhood use in the area of the proposed oil or gas operation.

Access to the site during drill will be from the existing private access drive coming off Rock Prairie Road. Access to the site during production will be from a proposed private access drive coming off Rock Prairie Road.

The Project Review Committee concurred with the attached City Engineer's Report which detail the permit application deficiencies in regard to the associated requirements outlined in the Chapter 4: Business Regulations, Section: Oil and Gas Regulations.

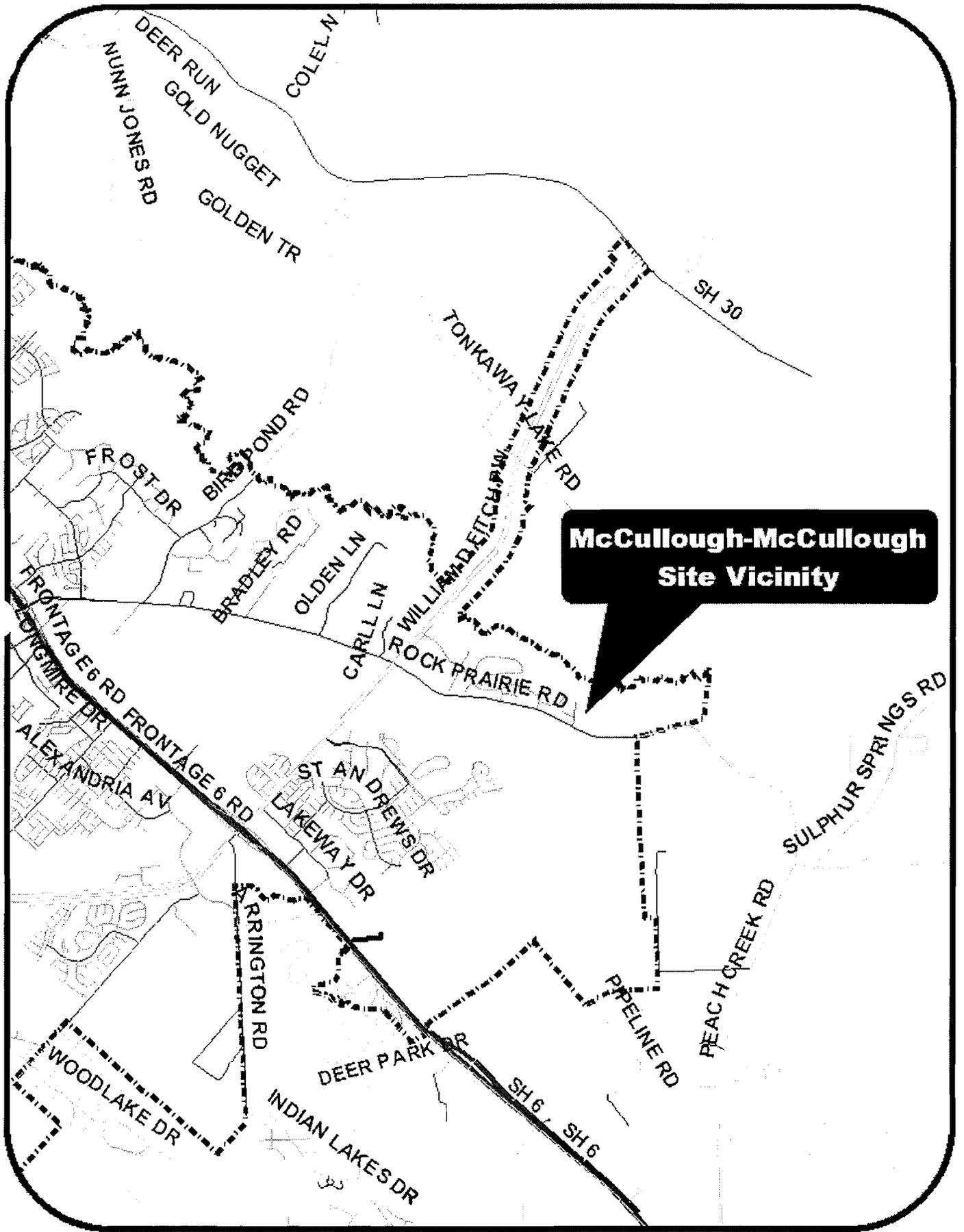
Per the ordinance, the City retained CSC Engineering & Environmental Consultants, Inc., a third party consultant, to evaluate the public impact of the proposed activity. The applicant is responsible for the consultant's fee of \$4,752.11 per the ordinance. The consultant's findings were provided to the applicant and incorporated into the City Engineer's Report to the Project Review Committee.

Note this item was originally scheduled for the October 19, 2009 City Council Meeting. However, due to a meeting time inaccuracy in the public notices this item was rescheduled for subject meeting.

**Budget & Financial Summary:** N/A

**Attachments:**

1. Vicinity Map
2. Resolution
3. Exhibit A – Application (available at City Engineer's Office)
4. Exhibit B – Location Map
5. Exhibit C – Indemnity Bond (available at City Engineer's Office)
6. City Engineer Report to Project Review Committee
7. Draft Permit
8. Report of Impact Assessment (available at City Engineer's Office)



**McCullough-McCullough  
Site Vicinity**

1 inch = 5,000 feet

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS GRANTING AN OIL AND GAS HIGH IMPACT PERMIT FOR THE McCULLOUGH-McCULLOUGH UNIT, WELL NO. 1-RE NEAR ROCK PRAIRIE ROAD APPROXIMATELY 1,370 FEET NORTH OF ROCK PRAIRIE ROAD, AND LOCATED WITHIN THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of College Station, Texas, has reviewed an application for an Oil & Gas Rural Permit ("Permit") submitted by Enervest Operating, LLC for the McCullough-McCullough Unit, Well No. 1-RE; and

WHEREAS, Council has reviewed the Project Review Committee report and other related information relating to the afore-described proposed rural gas well located near Rock Prairie Road approximately 1,370 feet north of Rock Prairie Road within the City of College Station (the "City"); and

WHEREAS, pursuant to Chapter 4, Section 13.J Council is required to make certain findings and determinations in granting a permit for an oil and gas operations located within the City; and

WHEREAS, the City Council of the City of College Station, Texas, now desires to make such determinations and to grant such permit; now, therefore,

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

PART 1: That the City Council hereby acknowledges receipt of an application, Project Review Committee report and other related information relating to an Oil and Gas Rural Permit to Enervest Operating, LLC for the McCullough-McCullough Unit, Well No. 1-RE located near Rock Prairie Road approximately 1,370 feet north of Rock Prairie Road. A copy of such paperwork and the exact location of said proposed well are attached hereto as Exhibits "A" and "B", respectively.

PART 2: That the City Council hereby makes the following determinations with respect to said proposed Permit:

1. That the following amount and type of security instrument has been issued: a bond rider to an Indemnity Bond, on behalf of applicant, in favor of the City in a total amount of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00) attached hereto as Exhibit "C";
2. That the operations proposed under the Permit are reasonable under the circumstances and conditions prevailing in the area;
3. That the operations proposed under the Permit are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the permit conditions to be imposed; and
4. That the impact upon adjacent property and the general public of operations conducted in compliance with the Permit conditions are reasonable and justified, balancing the following factors:

- (1) The right of the owner(s) of the mineral estate to explore, develop, and produce the minerals.
- (2) The availability of alternate drill sites, both presently and at other times during the lease term.
- (3) The date of acquisition by the various owners of the surface and mineral estates.

PART 3: That based upon the above the City Council hereby grants said Permit and authorizes the City Manager or his designee to take any and all reasonable action to issue same.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_

APPROVED:

  
\_\_\_\_\_  
City Attorney

09.400001



### EXHIBIT A

### APPLICATION FOR PERMIT

TO CONDUCT OPERATIONS FOR THE DISCOVERY AND PRODUCTION OF OIL, GAS, AND ASSOCIATED HYDROCARBONS WITHIN THE CITY OF COLLEGE STATION, TEXAS

(ORDINANCE NO. 1916, OCTOBER 10, 1991)

ORIGINAL \$2,000

RURAL	<input type="checkbox"/>
URBAN	<input type="checkbox"/>
HIGH IMPACT	<input checked="" type="checkbox"/>
SEISMIC	<input type="checkbox"/>

Please provide the following information for your permit request:

1. Applicant's name and address.  
**Enervest Operating, LLC  
1001 Fannin Street, Suite 800  
Houston, TX 77002-6707**
  
2. Name and address of drilling company.  
**Nabors Drilling USA LP  
515 West Greens Road, Suite 1000  
Houston, TX 77067**
  
3. Name and address of Operator.  
**Enervest Operating, LLC  
1001 Fannin Street, Suite 800  
Houston, TX 77002-6707**
  
4. Proposed name of well.  
**McCullough-McCullough Unit Well No. 1-RE**
  
5. Proposed depth of well.  
**Enervest Operating, LLC intends to drill a re-entry well, the McCullough-McCullough Unit Well No. 1-RE and drill a 4234' updip lateral (ST# 2) to depth of 12,500' in the Giddings Austin Chalk Gas Field.**
  
6. Location and description of all improvements and structures within one thousand (1000 ft) of the well.  
**Please refer to attached Exhibit "A".**
  
7. Site plan of proposed operation, showing location of all improvements and equipment. (13 copies)  
**Please refer to attached Exhibit "B".**
  
8. Area Map showing proposed transportation route and roads for equipment, chemicals, or waste products used or produced by the oil or gas operation, and all natural features of the site. (13 copies)  
**Please refer to attached Exhibit "C".**

## EXHIBIT A

9. Description of type, kind, size and amount of major equipment used before completion and re-working.  
**Please refer to attached Exhibit "D".**
10. Description of surface equipment after drilling and completion.  
**Please refer to attached Exhibit "A" & "E".**
11. Well surface casing and cementing program.  
**Please refer to attached Exhibit "F".**
12. Copies of Railroad Commission forms and drilling permit.  
**Please refer to attached Exhibit "G".**
13. Security instrument consisting of an irrevocable letter of credit, indemnity bond, or certificate of deposit, as required by this ordinance and in an amount determined by the City Council within 30 days after Council approval.  
**Enervest Operating LLC is committed to providing the required security instrument in the amount determined by the City Council within 30 days after Council approval of this permit application.**
14. Name of representative with supervisory authority over all oil or gas operation site activities and phone number where he can be reached twenty-four (24) hours a day.  
**Dean Broussard – Operations Superintendent  
6933 N. US Hwy 77  
La Grange, TX 78945  
979-255-3048**
15. Legal description of the property to be used for the oil or gas operation, the parcel, and the production unit (plat description or metes and bound bearings) and name of the geologic formation as used by the Railroad Commission. Property recorded by plat should reference subdivision, block and lot numbers.  
**Legal description: 192.97 acre (net) tract – Parcel 3, Vol. 8479, Pg. 93, of the Official Records of Brazos County, Texas,, located in the S. W. Robertson Survey, A-202, College Station, Brazos County, Texas. Tax Parcel # R15978 (see site plan plat - Exhibit "A", for additional information), Giddings Austin Chalk Gas Field.**
16. Mineral Lessee name and address.  

<b>Carol McCullough Anderson 2504 River Forest Drive Bryan, TX 77802</b>	<b>Jean McCullough Stephen 2514 Memorial Drive Bryan, TX 77802</b>
----------------------------------------------------------------------------------	----------------------------------------------------------------------------
17. Surface owner name and address.  

<b>Carol McCullough Anderson and Fred G. Anderson 2504 River Forest Drive Bryan, TX 77802</b>	<b>Jean Stephen Family No. Two L.P. 2514 Memorial Drive Bryan, TX 77802</b>
-------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

**EXHIBIT A**

18. Name and address of an individual representing the owner/applicant designated to receive notice.

**Fred Deitsch  
615 E. Blue Bell Rd.  
Brenham, TX 77833**

19. Evidence of insurance information as required by Ordinance No. 1916.

- (a) Commercial General Liability \$500,000
- (b) Automobile Liability \$500,000
- (c) Worker's Compensation \$100,000

**Please refer to attached Exhibit "H".**

20. Survey of production unit at a scale of 1 per 300 or greater by a Texas certified surveyor including:

- (a) Lengths and bearings of all boundary lines for production.
- (b) Exact acreage of the production unit.
- (c) Exact location of the well within production unit with distances of a minimum of two adjacent boundary line of the production unit.
- (d) Length of maximum diagonal within the production unit.

**Please refer to attached Exhibit "I" (2 pages).**

21. Owner and address of each parcel of property within one thousand feet (1000') of the proposed drill site.

**Please refer to attached Exhibit "J".**

22. Copies of all reports required by the Department of Water Resources and Commission.

**Please refer to attached Exhibit "K".**

23. Statement under oath signed by applicant that the information submitted in the application is true and correct.

**"I, Lloyd Bruce, Operations Manager, Western Division, do hereby affirm that the information submitted in and attached to the Application for Permit to Conduct Operations for the Discovery and Production of Oil, Gas and Associated Hydrocarbons within the City of College Station, Texas, for the Application of Permit, is true and correct."**

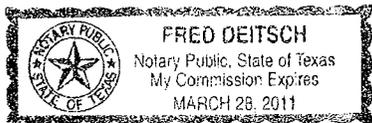
Date: 8/7/09

Lloyd Bruce  
Lloyd Bruce Operations Manger  
Western Division

STATE OF TEXAS §

COUNTY OF HARRIS §

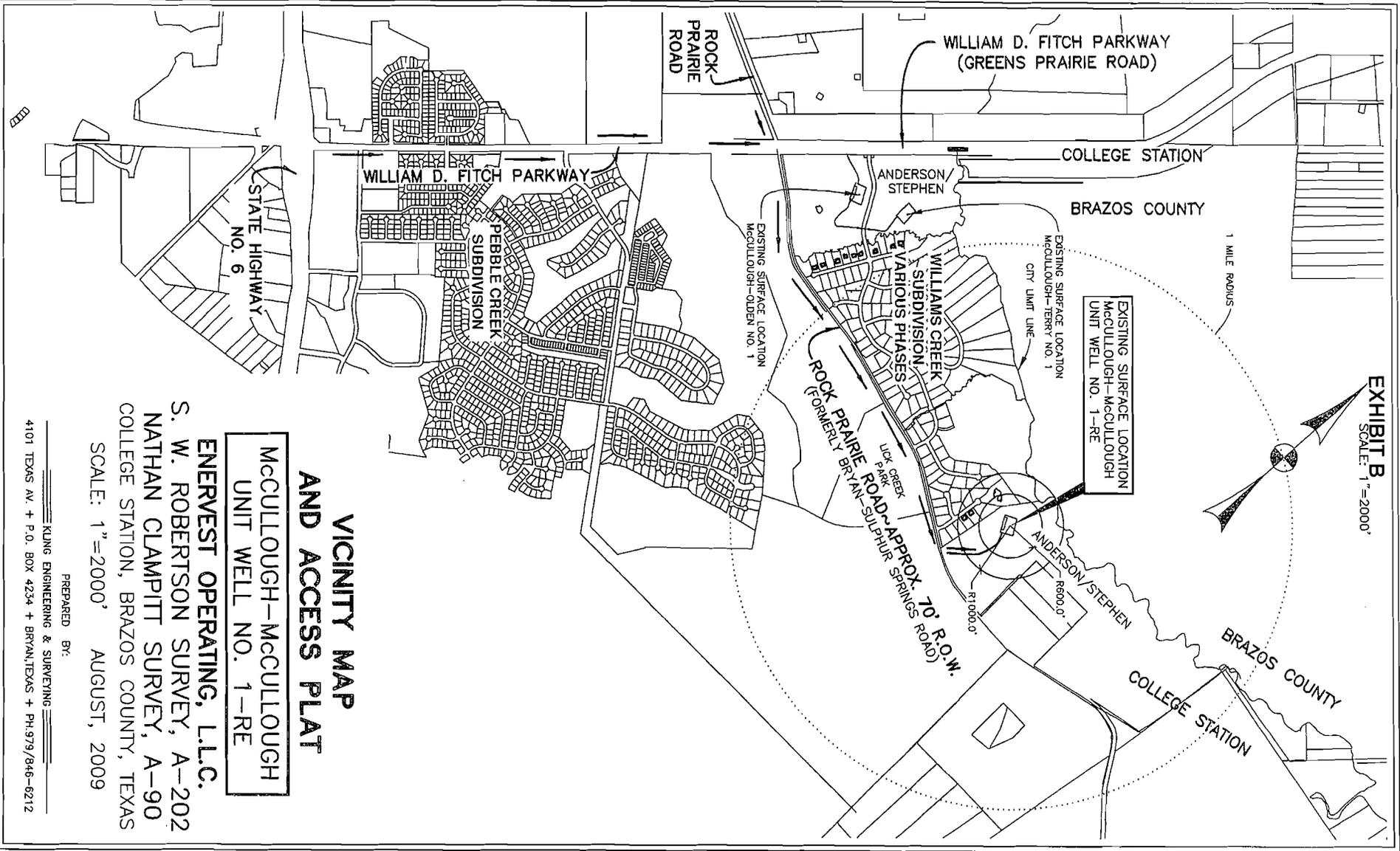
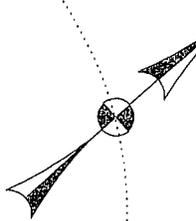
Sworn to and subscribed before me this 7<sup>th</sup> day of August, 2009, by the above named Lloyd Bruce, who is personally known to me.



Fred Deitsch  
Fred Deitsch  
Notary Public in and for the State of Texas

**EXHIBIT B**  
SCALE: 1"=2000'

1 MILE RADIUS



**VICINITY MAP  
AND ACCESS PLAT**  
**McCULLOUGH-McCULLOUGH  
UNIT WELL NO. 1-RE**

**ENERVEST OPERATING, L.L.C.**  
S. W. ROBERTSON SURVEY, A-202  
NATHAN CLAMPITT SURVEY, A-90  
COLLEGE STATION, BRAZOS COUNTY, TEXAS  
SCALE: 1"=2000' AUGUST, 2009

PREPARED BY:  
KILG ENGINEERING & SURVEYING  
4101 TEXAS AV. + P.O. BOX 4234 + BRYAN, TEXAS + PH. 979/846-6212

## EXHIBIT C

BOND RIDER NO. 2

Attaching to and forming part of Indemnity Bond No. RLB0011114, executed January 3, 2008, on behalf of EnerVest Operating, LLC as Principal, in favor of the City of College Station as Obligee, in the amount of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00).

It is understood and agreed that effective April 17, 2009, the following well list is amended as attached.

All other conditions and terms to remain as originally written or previously amended by rider.

Signed, sealed and dated this 17<sup>th</sup> day of April 2009.

EnerVest Operating, LLC  
Principal

By:   
Mark Houser - President

RLI Insurance Company  
8 Greenway Plaza, Suite 400  
Houston, TX 77046  
Surety

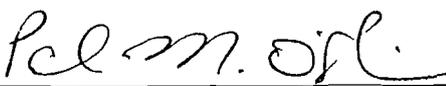
By:   
Paul M. O'Sullivan, Attorney-in-Fact



EXHIBIT C

RLB0011114

RLI Surety  
A division of RLI Insurance Company

POWER OF ATTORNEY  
RLI Insurance Company

**Know All Men by These Presents:**

That the RLI INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: PAUL M. O'SULLIVAN in the City of HOUSTON, State of TEXAS, as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of documents to-wit:

**\$450,000.00**

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; policies indemnifying employers against loss or damage caused by the misconduct of their employees; official, bail and surety and fidelity bonds. Indemnity in all cases where indemnity may be lawfully given; and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company, and to compromise and settle any and all claims or demands made or existing against said Company.

The RLI INSURANCE COMPANY further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers-of-Attorney, or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

(Blue shaded areas above indicate authenticity)

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its PRESIDENT with its corporate seal affixed this

ATTEST:

Jean M. Stephenson  
CORPORATE SECRETARY



Michael J. Stone  
PRESIDENT

State of Illinois )  
                          ) SS  
County of Peoria )

On this 17 day of April 2009 before me, a Notary Public, personally appeared Michael J. Stone and Jean M. Stephenson, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as President and Corporate Secretary, respectively, of the said RLI INSURANCE COMPANY, and acknowledged said instrument to be the voluntary act and deed of said corporation.

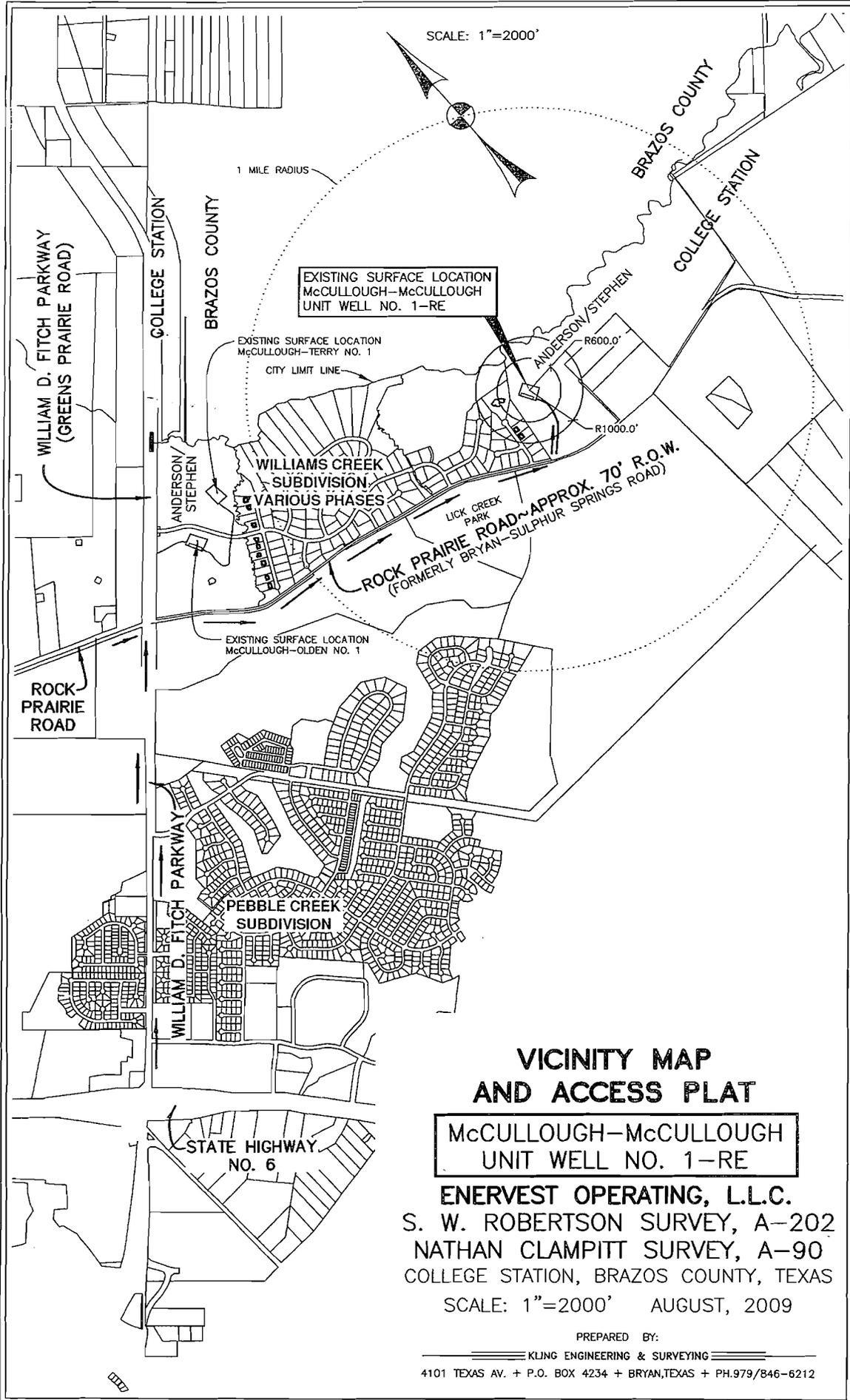
Cherie L. Montgomery  
Notary Public



## EXHIBIT C

### Well List Indemnity Bond – City of College Station (5/09 – 5/10)

	<u>API #</u>	<u>Permit #</u>
Akin-Foxfire 1	42-041-31795	94-0001
Akin, J.M. 1	42-041-30595	Not assigned
Boriskie-Diversified Unit 1	42-041-31606	93-806
Brazos Coal Ltd-Raceway Unit 1	42-041-31586	Not assigned
Brazos Coal Ltd-Terry "B" Unit 1RE	42-041-31729	99-807
Brazos Coal Ltd-Terry "C" Unit 1	42-041-31690	92-819
Felix "K" Unit 1	42-041-31714	93-801
Freeman-Creagor Unit 1	42-041-31791	93-826
Jones et al, Eugenia 1	42-041-31489	91-804
Kinman 1	42-041-31794	Not assigned
McCullough-McCullough Unit 1	42-041-31588	92-805
McCullough-Olden Unit 1	42-041-31700	93-804
McCullough-Terry Unit 1	42-041-31710	93-803
Olden-Olden Unit 1	42-041-31545	91-822
Olden-Paull Unit 1	42-041-31643	92-813
Ritchey, W.S. #1	42-041-31777	93-820
Terry Unit, H.L. 1	42-041-31548	93-809
Terry-Terry Unit 2	42-041-32007	08-400001
Thompson-Marsh Unit 1	42-041-31748	93-811
Waltman 1	42-041-31843	94OW05



**VICINITY MAP  
AND ACCESS PLAT**

**McCULLOUGH-McCULLOUGH  
UNIT WELL NO. 1-RE**

**ENERVEST OPERATING, L.L.C.**  
S. W. ROBERTSON SURVEY, A-202  
NATHAN CLAMPITT SURVEY, A-90  
COLLEGE STATION, BRAZOS COUNTY, TEXAS  
SCALE: 1"=2000' AUGUST, 2009

PREPARED BY:

KLING ENGINEERING & SURVEYING  
4101 TEXAS AV. + P.O. BOX 4234 + BRYAN, TEXAS + PH.979/846-6212

**OIL & GAS OPERATIONS PERMIT APPLICATION**  
**CITY ENGINEER'S REPORT TO PLAN REVIEW COMMITTEE (PRC)**

**ADMINISTRATIVE INFORMATION**

**DATE:** 9/23/09  
**CASE FILE NO.** 09-400001  
**WELL NAME:** McCullough-McCullough Well Unit #1RE  
**APPLICANT:** EnerVest Management Partner, Ltd., Houston, Texas  
**DRILLING COMPANY:** Nabors Drilling USA, LP, Houston, Texas  
**WELL CLASSIFICATION:** High Impact Classification, 1 each Vertical/Horizontal Wells  
**LOCATION:** Surface - 1370' NNW of Rock Prairie Road  
**DEPTH:** ST#02, 4234' updip lateral to depth of 12,500'  
**ACCESS:** Drilling - From Rock Prairie Road on an existing 12' access road.  
 Production - From Rock Prairie Road on proposed 40' road along western property line (proposed route)

<b>REQUIRED PERMITS ISSUED:</b>	<b>YES</b>	<b>NO</b>	<b>NOT REQUIRED</b>
Application Fee	<b>X</b>		
Legal Consultant			<b>X</b>
Technical Consultant	<b>X</b>		
Texas Railroad Commission (Drilling Permit)	<b>X</b>		
TCEQ (Ground Water to be Protected)	<b>X</b>		
FAA (Hazard to Aviation Determination)			<b>X</b>
Airport Zoning Board Height Variance			<b>X</b>
Drainage Development Permit			<b>X</b>
Driveway Access Permit		<b>X</b>	
Insurance Certificates	<b>X</b>		

**PRC REVIEW ITEMS**

**a. Alternate well location due to adjacent land uses.**

Not applicable due to well being a re-entry of an existing well. The well site is located on a currently permitted location. The drilling operation is the re-entry of an existing well bore. The well bore is located 497 feet from a one private residence and within 600 feet of a future residential site. The applicant proposes to increase the size of the well site from 1.83 acres to 4.75 acres. No provisions or options have been presented for relocation of the site.

**b. Air pollution control devices.**

The drilling rig has industry standard air pollution control devices installed.

**c. Noise and light control.**

Noise continuation shall be provided, as necessary, to limit noise exposure at the nearest residence to 72dBA continuous.

Lights shall be orientated as to minimize the impact on residential areas.

Site development other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m.

**d. Type of pump engine.**

Electric

**e. Height of pump equipment.**

30 feet

**f. Fire control measures, as required by this Ordinance.**

Permittee shall erect and maintain signs which identify the well by name, the operator, his address and a 24 hr emergency contact phone number at the well site and at the intersection of the well site access road and the public street.

The College Station Fire Department will provide emergency response and limited fire fighting services.

**g. Fence and/or visual screening, as required by this Ordinance.**

If the drilling site is not occupied by the applicant or drilling company during the entire drilling period (24 hours/7days a week), security fencing will be required during drilling operations.

Provide six-foot solid screen fence around the perimeter of the site as per Chapter 4 of the Code of Ordinance, Section 13 Oil and Gas Well Regulations.

**h. Landscaping, as required by this Ordinance.**

Provide a landscape plan according to site area and requirements of Chapter 12 of the Code of Ordinances (Unified Development Ordinance), Section 7.5 Landscaping and Tree Protection. The plantings are to be disbursed around the perimeter of the site. Also in accordance with this Section, provide irrigation for the proposed landscaping.

**i. Proof of contractual responsibilities of pump site and storage site maintenance.**

Not addressed in the application

**j. Safety procedures.**

See Report of Impact Assessment for EnerVest's McCullough-McCullough Unit #1RE for additional safety requirements and procedures

**k. Spill reporting and record keeping.**

The operator will notify the City Engineer within 24 hours of an onsite crude oil spill exceeding 55 gallons or any spill into water that creates a sheen.

Crude oil spills on the ground equal to or greater than 210 gallons or any spill into water that creates a sheen must be reported to RRC.

The operator shall maintain a monthly inspection log which address on site spills. The copy of said log will be provided to the City prior to permit annual renewal or when requested by the City..

**l. Gas flaring.**

Operator shall comply with all Ordinances and Railroad Commission requirements pertaining to flaring gas. In no event shall the flaring of gas exceed ninety (90) calendar days after completion of the well.

Flare height shall be below treetop level.

Flares shall be placed so the existing trees or manmade structures obstruct the flare from the direct view of any residence.

**m. Location of storage facilities.**

Production and storage tanks shall be contained within earthen berms constructed in accordance with applicable oil field practice. Berms shall be constructed and maintained to retain not less than 133% of the capacity of the largest of such tanks.

**n. Traffic loads or patterns, proposed street development, as required by this Ordinance, and ingress/egress of vehicular traffic.**

The access drive apron must have and maintain at a minimum, an asphalt surface from the street to the right-of-way line that conforms to the minimum pavement design as described in the College Station Standard Specifications for Street Construction.

The remainder of the access drive shall be surfaced with crushed rock, gravel, ore, or oiled and maintained to prevent dust and mud.

Ingress/egress during drilling operations will be via existing 12' wide gravel site access road off Rock Prairie Road.

Ingress/egress during production operation is via a proposed 40' wide gravel site access road along the western edge of the property line off Rock Prairie Road.

Oil tanks shall not park or load/unload on or adjacent to a street.

**o. Water source used during drilling operation.**

Pre-existing on site water well. Water zones to be protected are from the surface to a depth of 1300' and from 2350 feet to 2600'. Current well bore sketch indicates casing and cement from surface to 10,707'. Ground water is protected.

**p. Full line location and route between the well head and storage facilities.**

See Application Exhibit C – direct line from well bore to separator

**STAFF COMMENTS:**

Per the ordinance, this item can be scheduled for the next available Council Meeting which is October 19th. To make this date, the City must give notice to the local newspaper to run a public notice and mail notices to residences within 1500 feet no later than September 28th. Additionally, this report has been forwarded to the Project Review Committee (PRC), which is defined as the P&Z Commission Chair, Planning Director, and City Engineer. This committee will issue an updated report with recommendations to Council. This likely does not leave time for an application re-submittal and review to achieve a recommendation of support of the permit. Therefore, for this item to be on the Council October 19th agenda, the recommendation would currently be for denial due to the listed comments below.

The following Council Meeting is November 12th with a newspaper submittal and mailing deadline of October 22nd. Five to ten days should be allotted for application re-submittal review ahead of the notice deadline. Again, a report will follow the PRC meeting and action prior to the Council meeting.

Understanding the above, please re-submit your application and/or request a specific Council Meeting.

1. See: Report of Impact Assessment for included requirements and inclusions that apply
2. Require landowner notification be extended to a radius of 1,500'
3. Require waivers from the owner and occupant of all residence within 600' of the well site
4. Require operator to limit light levels near residences below 0.5 fc
5. Proposed production site access needs to be fully addressed, including driveway/culvert design and details, etc.; or under separate permit application
6. Proposed site is located within 50' of any street, right of way, alley or utility easement
7. Consultant, public notice, and landowner notification fees must be paid prior to the Public Hearing at Council

8. Provide six-foot solid screen fence around the perimeter of the site as per Chapter 4 of the Code of Ordinance, Section 13 Oil and Gas Well Regulations.
9. Provide a landscape plan according to site area and requirements of Chapter 12 of the Code of Ordinances (Unified Development Ordinance), Section 7.5 Landscaping and Tree Protection. The plantings are to be disbursed around the perimeter of the site. Also in accordance with this Section, provide irrigation for the proposed landscaping.
10. Need a description of fire control measures, as required by Ordinance
11. Need fencing and/or screening plan, as required by Ordinance
12. Need landscaping plan , as required by Ordinance
13. Need proof of contractual responsibility of pump site and storage site maintenance
14. Sight vehicle triangle per AASHTO needs to be determined and appropriate vegetation removed at access apron accordingly.

**RECOMMEND SECURITY FOR COMPLIANCE WITH PERMIT TERMS AND ORDINANCE:**

A minimum of \$25,000 is required for security by the ordinance. A \$25,000 Indemnity Bond is on file for the site.

**SCHEDULE FOR COUNCIL ACTION:**

City Council Regular Meeting:	Publish according to High Impact Classification schedule for Public Hearing and Council Action	2009
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**HIGH IMPACT  
OIL AND GAS PERMIT  
ISSUED BY THE CITY OF COLLEGE STATION, TEXAS**

**PERMITTEE:** EnerVest Management Partners, Ltd.  
1001 Fannin Street, Suite 800  
Houston, Texas 77002-6707

**EXPIRATION DATE:**

**WELL NAME:** McCullough-McCullough Unit Well #1RE

**PERMIT NO:** 09-400001

**REGULATION:** The City Council of the City of College Station has determined that the testing and exploration for and development, production and storage of oil, gas, and mineral hydrocarbons (including enhanced or secondary recovery thereof) within the City limits is an activity which necessitates reasonable regulations in order that such activities will not cause injury or property damage to the citizens of the City, and that such activities should conform to the comprehensive plan and zoning ordinances of the City as far as practicable in order to preserve the integrity of said ordinances and regulations. The City recognizes that conflicting property rights exist in the carrying out of such activities, and further recognizes the rights of all property owners, minerals and otherwise, to the peaceable enjoyment of their property and the benefits and revenues therefrom.

**UNLAWFUL:** It shall be unlawful to engage in any activity not permitted by the terms of this permit and the applicable laws, or to fail to comply with any condition set forth in this permit.

**PERMIT TERMS:** This permit is issued in accordance with Ordinance No. 1916, Chapter 4 Section 13 of the Code of Ordinances of the City of College Station, Texas, and with applicable ordinances, rules, regulations and laws of the City of College Station, the State of Texas and of the United States of America and their respective agencies, commissions and regulatory bodies.

The City Engineer is authorized and directed to enforce this Ordinance. Whenever necessary to enforce any provision of this Ordinance, or whenever the City Engineer has reasonable cause to believe any condition exists upon any premise or in any building contrary to this Ordinance, he may enter such place at any reasonable time to inspect or perform any duty imposed by this Ordinance.

*EnerVest Management Partners, Ltd.* is hereby issued this Oil and Gas Permit, having posted a Security Instrument in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00), in the form of irrevocable letter of credit or indemnity bond, or certificate of deposit as set forth in Ordinance No. 1916, and required by action of the City Council.

Additional terms and conditions of the granting, issuance and continued effectiveness of this Oil and Gas Permit follow:

### **I. ADMINISTRATIVE REQUIREMENTS:**

Permittee shall comply with Permittee's Application for Permit to conduct operations for the Discovery and Production of Oil, Gas and Associated Hydrocarbons within the City of College Station, Texas except as modified by this permit.

Permittee shall comply will all applicable Ordinances, Rules, Regulations and Laws of the City of College Station, the State of Texas, and of the United States of America and their respective agencies, commissions, and regulatory bodies.

This permit is issued for a period of one (1) year. To continue oil and gas operations under this permit, the operator shall submit an application for renewal no later than thirty (30) days before the expiration of this permit.

The permittee shall maintain the security instrument and insurance required for issuance of this permit in effect for the terms of this permit.

### **II. SITE LOCATION:**

No oil or gas drill site may be located or oil and gas operation shall occur:

- a. Within fifty feet (50') of any street, right-of-way, alley, or utility easement.
- b. Within six hundred feet (600') of a cemetery, park, or residential unit, unless waived by the residential unit property owner and the party entitled to occupy the premises.
- c. Within one thousand feet (1,000') of any school or hospital.
- d. In any public park unless authorized by State law.
- e. In any City streets or alleys.

### **III. SITE DEVELOPMENT:**

Site development other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m.

Access to the site shall be via private access road off William D. Fitch.

The access drive apron must have at a minimum, an asphalt surface from the street to the right-of-way line that conforms to the minimum pavement design as described in the College Station Standard Specifications for Street Construction.

The remainder of the access drive shall be surfaced with crushed rock, gravel, ore, or oiled and maintained to prevent dust and mud. Drives shall be at least thirty feet (30) wide.

#### **IV. SCREENING AND LANDSCAPING:**

City Council has directed that the site be provided with screening as a condition of the permit approval. Council approved vegetation screening in lieu of wood fence screening. Upon completion of drilling operations the site will be screened with red tip photinea hedges, spaced at 5' intervals on all four sides of the site. Irrigation will be provided by the operator for a period of two (2) years after planting.

#### **V. DRILLING SITE REQUIREMENTS:**

No drilling shall occur within one hundred feet (100') of any oil storage tank, ignition source, or building.

If the drilling site is not occupied by the applicant or drilling company during the entire drilling period (24 hours/7days a week), security fencing will be required during drilling operations.

Permittee shall confine light and noise associated with exploration and production activities to the site to the maximum extent possible.

No drilling or re-working shall occur within one hundred (100) feet of any oil storage tank, ignition source or building.

Permittee shall comply with all Ordinances and Railroad Commission requirements pertaining to flaring gas. In no event shall the flaring of gas exceed ninety (90) calendar days after completion of the well. Further, Permittee shall install prior to entry into the target zone, a sufficient separating device or system(s) (at least two in series) to ensure that gas, oil, other fluids and solids are separated to a sufficient degree that the in the event the flaring of gas is necessary in connection with the safe drilling and completion of the well (subject to the limitation set forth herein), such flare shall, to the maximum extent possible, be clean burning and emit neither noxious smoke nor odors. Permittee shall equip flare lines with smokeless flare ignition system. The flare shall be directed away from existing trees to the maximum extent possible.

At the conclusion of drilling, the drill site shall be cleaned within forty-eight (48) hours of all equipment and machinery that is not needed to produce the well.

At the conclusion of the drilling operation all equipment, materials and constructed items shall be removed from the area outside the production site. This area shall be returned to its original state within thirty (30) days of the completion of the drilling operation.

Drilling mud, cuttings, oil, or liquid hydrocarbons and all other oil field waste derived or resulting from or connected with the drilling, re-working, or deepening of any well shall be discharged into portable steel tanks or a earth pits.

Upon completion of drilling operations waste materials stored in portable steel tanks shall be removed from the site no later than thirty (30) days. Waste material stored in pits shall be removed from the site and the liner shall be removed to the maximum extent practicable and the pits shall be filled and leveled. Burning of sludge pits shall not be permitted.

## VI. PRODUCTION SITE REQUIREMENTS:

Within thirty (30) days after completion of drilling the site shall be screened by a fence enclosure constructed of any material compatible with surrounding uses which effectively screens the site and have landscaping.

Fencing shall be in the PRC's discretion based upon the impact to adjacent areas.

- b. Fencing may be required during the drilling operations and/or separate fencing may be required after completion of the drilling operations.
- c. A six foot (6') solid screen fence around the entire perimeter of the site may be required.
- d. Any fence should be at least one hundred feet (100') from any well, equipment, or structure within the site, but no closer than five hundred feet (500') to any residential property line.
- e. All fencing shall be of a solid neutral color compatible with surrounding uses and shall be maintained in a neat, orderly, secure condition. Neutral colors for fencing shall include unobtrusive shades of sand, grey, green, blue, brown, or other colors approved by the PRC.
- f. Upon completion of a well as a commercial producer, any apparatus used in the production of the well, including pump jacks, shall be enclosed as to prevent any entry by unauthorized persons and to prevent well equipment from being seen. The enclosure walls shall be solid and constructed with privacy fence materials and shall be high enough to restrict the view of any well equipment including the pump jack. The enclosure shall remain locked at all times unless the well is being serviced by the operator or its service companies.

The shall at all times be kept free of debris, pools of oil, water or other liquids, weeds, brush, trash, or other waste material.

All discarded surplus materials, supplies, and refuse shall be removed from the operation site no later than thirty (30) days after completion of drilling operation.

Permittee shall erect and maintain signs which identify the well by name, the operator, his address and a 24 hr emergency contact telephone number at the well site and at the intersection of the well site access road with the public street.

A Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" shall be posted at the entrance of the well site and tank battery.

The production site shall be enclosed by a chain-link fence. It shall have a gate which shall be kept closed and locked except while occupied by Permittee, Permittee's personnel, Permittee's agents/representatives, City Engineer/designate or the Fire Department. The fence shall not be less than six (6) feet high and shall be topped with not less than three (3) strands of barbed wire. Corner posts shall be anchored in concrete. The City Engineer shall be provided the combination to the gate lock.

Only electric prime movers or motors shall be permitted for the purpose of pumping wells.

All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures. Permittee shall paint pumping units,

storage tanks, and vessels a neutral color, or such other color scheme as may be approved by the City Planner.

No person shall allow, cause, or permit gases vented into the atmosphere to be burned by open flame except as allowed by law or permitted by the Commission.

Production and storage tanks shall be contained within earthen berms constructed in accordance with applicable oil field practice. Berms shall be constructed and maintained to retain not less than 133% of the capacity of the largest of such tanks.

No street or alley may be blocked or obstructed by any drilling or producing operations unless prior consent is obtained by the operator in the form of a resolution adopted by the Council, except when necessary to protect life or property in connection with emergency operations being conducted.

No person shall place, deposit, discharge, cause, or permit to be placed, deposited, or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances, or any refuse, including wastewater or brine, from any oil and gas operation or the contents of any container used in connection with any oil operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary, drain or sewer, any body of water, or any private property in the City.

No drilling equipment, re-working equipment, other portable equipment or idle equipment which are not essential to the everyday operation of the activity located thereon shall be stored on the oil or gas operation site.

Lumber, pipes, tubing, and casing shall not be left on the site except when drilling or well servicing operations are being conducted.

No person, owner, or operator shall store or park any vehicle or item of machinery on any street, right-of-way, driveway, alley, or upon any oil or gas operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the maintenance of the site or for gathering or transportation of hydrocarbons from the site. The Fire Department shall be the entity which determines whether any equipment on the site shall constitute a fire hazard.

## **VII. WELL SERVICING AND SITE MAINTENANCE:**

No re-working shall occur within one hundred feet (100') of any oil storage tank, ignition source, or building.

After completion of well servicing or abandonment, owner shall repair all damage to public property caused by such servicing or abandonment operations.

At the conclusion of re-working operations, the drill site shall be cleaned within forty-eight (48) hours of all equipment and machinery that is not needed to produce the well.

Idle equipment will not be stored on the site. All well servicing equipment shall be removed from the site within fifteen (15) days after completion of a well servicing operation.

After completion of well servicing or abandonment, Operator shall repair all damage to public property caused by such servicing or abandonment operations.

All property on which an oil or gas operation occurs shall at all times be kept free of debris, pools of oil, water or other liquids, weeds, brush, trash, or other waste material.

### **VIII. ENVIRONMENTAL UPSETS:**

After any leak, spill, or malfunction, the permittee shall remove or cause to be removed to the satisfaction of the City Engineer, and Fire Department all oil and waste materials from property affected by such spill, leak or malfunction.

In the event of the loss of control of any well or other oil and gas operation, (i.e., blowout, etc.) the Operator shall immediately take all reasonable steps to regain control of such activity regardless of any other provisions of this Ordinance and shall notify the City Engineer as soon as practicable.

### **IX. EMERGENCY SERVICES:**

The permittee or his agent shall be responsible for providing primary fire fighting services.

The College Station Fire Department will provide emergency response and limited fire fighting services.

### **X. ACQUISITION AND TRANSFER OF EXISTING OPERATIONS**

Transfer of the site operations by Permittee or acquisition of operations at this site by another party does not constitute transfer of this permit. The transferring party and acquiring party shall notify the City Engineer in writing, within ten (10) days of the transfer or acquisition.

The notice shall contain the following:

- a. The name and address of the person acquiring such well, property or site involving an oil or gas operation.
- b. The name and location of the oil or gas operation.
- c. The date of acquisition.
- d. A description of the properties and equipment acquired, and the oil or gas operation.
- e. The name and address of any individual designated to receive service of notice in compliance with the notice provision requirements.

### **XI. SITE ABANDONMENT**

During abandonment, Operator shall comply with all applicable sections in this Ordinance

Abandonment shall be approved by the City Engineer after restoration of the drill site and the subsurface thereof has been accomplished in conformity with the following requirements:

- a. All tanks, towers, and other surface installations are removed from the site.
- b. All concrete, piping, wood, and other foreign materials regardless of depth, except surface casing, are removed from the site, unless otherwise directed by the Commission.
- c. All holes and depressions are filled with clean compatible soil.
- d. All oil, waste oil, refuse, or waste material is removed from the site.
- e. Operator pays an abandonment fee in an amount set by Council resolution.

## **XII. PERMIT SUSPENSION OR REVOCATION**

The City Engineer may, in writing, suspend or revoke any permit issued under the provisions of this article upon finding any of the following:

- a. Permittee failed, neglected, or refused to perform and comply with the conditions of this Permit.
- b. Permittee failed, neglected, or refused to comply with or abide by, or in any way violated any provision of this Ordinance or any regulation, law, rule, or order either directly or indirectly, by reason of or in connection with or incidental to the conduct of his oil or gas operation.
- c. Any of the Permittee's operations or the continuance thereof upon the premises covered by the permit is a menace or hazard to public or private property, or to any interest of the City, or to the lives or safety of persons.
- d. Any of the Permittee's operations or the continuance thereof upon the premises covered by the permit constitutes a public nuisance.
- e. Permittee made any willful misrepresentation of facts in any application for any such permit or in any report or record required by this Ordinance to be submitted to the City
- f. Permittee illegally burned or allowed to burn oil, gas, or other hydrocarbons in the City.

### **CHECK LIST FOR ISSUANCE**

The following items must have been received and on file with the City before this permit is issued:

Approved Drainage Development Permit: *Not Required*

Security instrument: \$25,000.00

Certified Postage re-imbusement:



**November 9, 2009**  
**Regular Agenda Item No. 5**  
**1401 University Drive East – 20 ft Public Utility Easement Abandonment**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Public Hearing, presentation, possible action, and discussion approving an ordinance vacating and abandoning a 1,265 square foot, 20-foot wide public utility easement, which is located on Lot 3C of Block 1 of the Gateway Phase 3 Subdivision according to the plat recorded in Volume 9112, Page 138 of the Deed Records of Brazos County, Texas.

**Recommendation(s):** Staff recommends approval of the ordinance.

**Summary:** This easement abandonment accommodates the development of this subject tract as Staybridge Suites. There are no public or private utilities in the subject portion of easement to be abandoned.

The 1,265 square foot, 20-foot wide public utility easement to be abandoned is located on Lot 3C of Block 1 of the Gateway Phase 3 Subdivision according to the plat recorded in Volume 9112, Page 138 of the Deed Records of Brazos County, Texas.

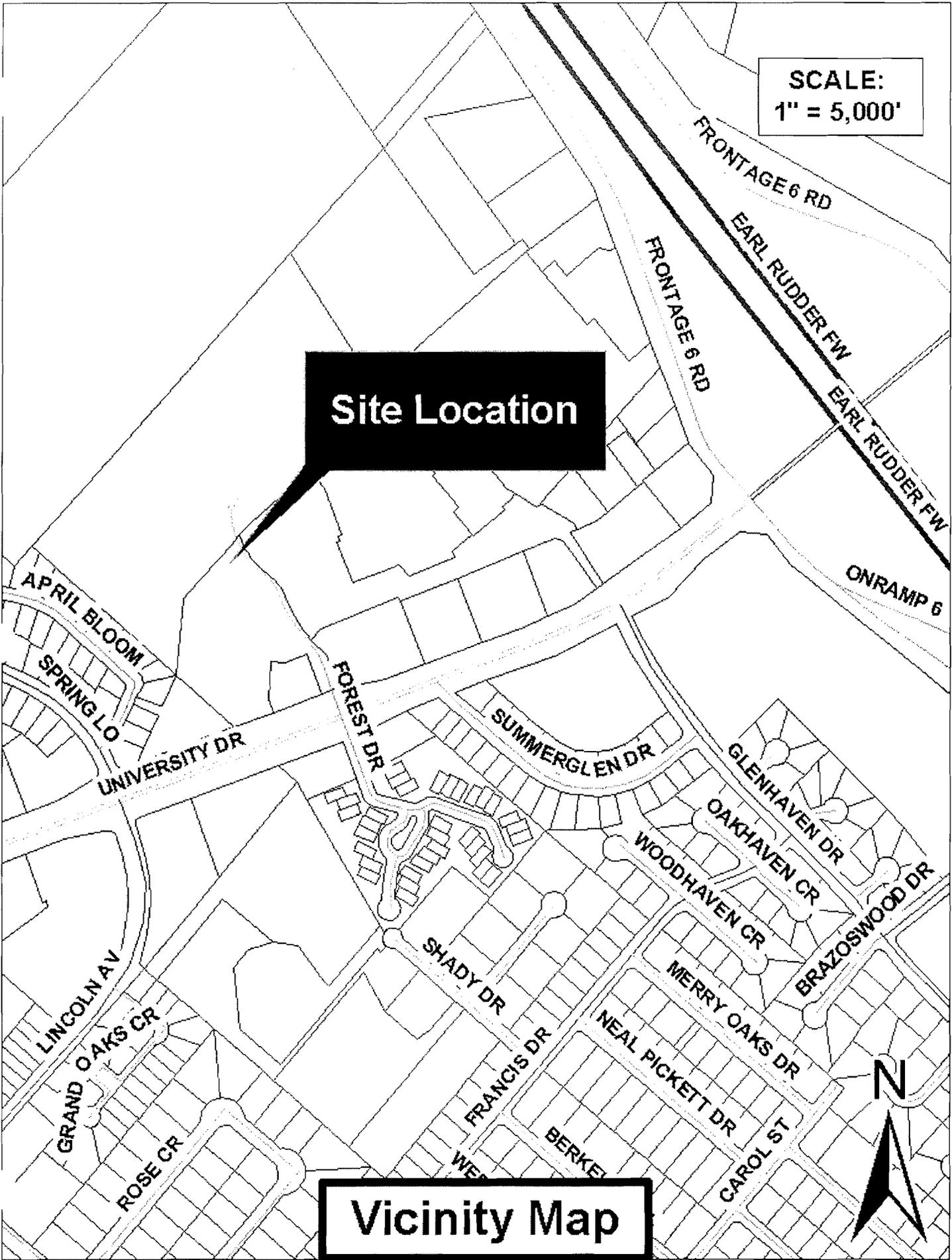
**Budget & Financial Summary:** N/A

**Attachments:**

1. Attachment 1 - Vicinity Map
2. Attachment 2 - Location Map
3. Attachment 3 - Ordinance
4. Attachment 4 - Ordinance Exhibit "A"
5. Attachment 5 - Application for Abandonment (On file with the City Secretary)

SCALE:  
1" = 5,000'

Site Location



Vicinity Map

SCALE:  
1" = 1,000'

Easement  
Abandonment

FOREST DR

UNIVERSITY DR



Location Map



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 1,265 SQUARE FOOT, 20-FOOT WIDE PUBLIC UTILITY EASEMENT, WHICH IS LOCATED ON LOT 3C OF BLOCK 1 OF THE GATEWAY PHASE 3 SUBDIVISION ACCORDING TO THE PLAT RECORDED IN VOLUME 9112, PAGE 138 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 1,265 square foot, 20-foot wide public utility easement, which is located on Lot 3C of Block 1 of the Gateway Phase 3 Subdivision according to the plat recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, as described in Exhibit "1" attached hereto (such portion hereinafter referred to as the "Easement"); and

WHEREAS, in order for the Easement to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the Easement described in Exhibit "1" attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Easement will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the Easement.
3. There is no anticipated future public need or use for the Easement.
4. Abandonment of the Easement will not impact access for all public utilities to serve current and future customers.

PART 2: That the Easement as described in Exhibit "1" be abandoned and vacated by the City.

ORDINANCE NO. \_\_\_\_\_

Page 2

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED:

*Carla A. Robinson*  
\_\_\_\_\_  
City Attorney

Easement Abandonment  
within  
Lot 3C, Block 1  
The Gateway, Phase 3  
Richard Carter Survey, A-8  
College Station, Brazos County, Texas

Field notes of a 20' wide strip or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Lot 3C, Block 1, 2.00 acres, according to the final plat of The Gateway Subdivision Lots 3A, 3B, 3C and 3D, Block 1, Phase 3, being a Replat of The Gateway Subdivision, Lot 1, Block 1, Phase 3, 6.21 acres recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, and said 20' strip being more particularly described as follows:

**COMMENCING** at an "x" found in a concrete sidewalk located in the northwest line of the beforementioned Lot 3C, Block 1, the said "x" also being at the north corner of a 20' wide public utility easement as described in Volume 6372, Page 138, of the Official Records of Brazos County, Texas, an "x" found in concrete marking the north corner of the said Lot 3C, bears N 41° 55' 26" E - 66.36 feet;

THENCE S 42° 00' 27" W along the common line between the beforementioned Lot 3C, Block 1 and Lot 1, Block 1, The Gateway Phase 2, according to the plat recorded in Volume 5809, Page 7, of the Official Records of Brazos County, Texas, for a distance of 20.00 feet to the **PLACE OF BEGINNING** of this description, in the southwest line of the beforementioned 20' wide public utility easement;

THENCE S 48° 04' 07" E along the southwest line of the beforementioned 20' public utility easement for a distance of 20.00 feet to a 60d nail set in the southeast line of a 20' wide public utility easement as created on the Replat and Final Plat of Block 1, Phases 1 and 3, Gateway Subdivision, according to the plat recorded in Volume 6372, Page 138, of the Official Records of Brazos County, Texas;

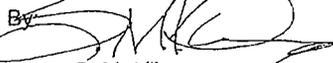
THENCE S 42° 00' 27" W along the southeast line of the beforementioned 20' wide public utility easement (6372/138) for a distance of 70.91 feet and corner in the west line of the beforementioned Lot 3C, Block 1;

THENCE N 10° 30' 15" W along the west line of the beforementioned Lot 3C, Block 1, for a distance of 25.21 feet and corner at the west corner of the beforementioned Lot 3C, Block 1;

THENCE N 42° 00' 27" E along the common line between the beforementioned Lot 3C, Block 1, and Lot 1, Block 1, The Gateway, Phase 2, for a distance of 55.54 feet to the **PLACE OF BEGINNING**, containing 1265 square feet of land, more or less.



Surveyed August 2009

By   
S. M. Kling  
R.P.L.S. No. 2003

Prepared 08/25/09  
kes09-dvdgateway ph 3 - 20' pue abandonment - 1265sqft.wpd

Easement Abandonment  
within  
Lot 3C, Block 1  
The Gateway, Phase 3  
Richard Carter Survey, A-8  
College Station, Brazos County, Texas

Field notes of a 20' wide strip or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Lot 3C, Block 1, 2.00 acres, according to the final plat of The Gateway Subdivision Lots 3A, 3B, 3C and 3D, Block 1, Phase 3, being a Replat of The Gateway Subdivision, Lot 1, Block 1, Phase 3, 6.21 acres recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, and said 20' strip being more particularly described as follows:

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THENCE N 10° 30' 15" W along the west line of the beforementioned Lot 3C, Block 1, for a distance of 25.21 feet and corner at the west corner of the beforementioned Lot 3C, Block 1;

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Surveyed August 2009

By

S. M. Kling  
R.P.L.S. No. 2003

Prepared 08/25/09  
kes09-dvd/gateway ph 3 - 20' pue abandonment - 1265sqft.wpd



For Office Use Only  
 P&Z Case No. 09-118  
 Date Submitted: 8-27-09

4.17 10

## ABANDONMENT OF PUBLIC ROW-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS	
<input checked="" type="checkbox"/>	\$300 Abandonment of Public Right-of-Way (ROW) / Easement application fee.
<input checked="" type="checkbox"/>	A completed copy of the attached Abandonment of Public ROW / Easement application.
<input checked="" type="checkbox"/>	All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
<input checked="" type="checkbox"/>	A copy of a recent (within 90 days) deed or title insurance policy showing the names of the owners, or, an older deed or title with a Nothing Further Certificate.
<input type="checkbox"/>	n/a For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
<input checked="" type="checkbox"/>	For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.
<input checked="" type="checkbox"/>	Corporate or partnership owners must furnish a copy of a corporate resolution or other proof of authority to sign on behalf of the corporation, partnership, or joint venture.

ADDRESS Forest Drive – 700' north of University Drive

LEGAL DESCRIPTION Lot 3C, Block 1, The Gateway Phase 3

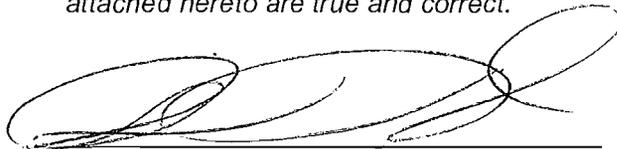
**APPLICANT (Primary Contact for the Project):**

Name Stewart Kling – Kling Engineering E-Mail stewart@klingeng.com  
 Street Address 4101 S. Texas Ave. Suite A  
 City Bryan State TX Zip Code 77802  
 Phone Number 979-846-6212 Fax Number 979-846-8252

**PROPERTY OWNER'S INFORMATION (if different from above):**

Name Salim Ismail, LLC E-Mail \_\_\_\_\_  
 Street Address \_\_\_\_\_ P.O. Box 2864  
 City Bryan State TX Zip Code 77805-2864  
 Phone Number 979-846-8700 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

8-26-09.

Date

**APPLICATION FOR  
THE ABANDONMENT OF A  
PUBLIC RIGHT-OF-WAY/EASEMENT**

Date: 8/27/09

Location of Right-of-Way/Easement to be Abandoned: \_\_\_\_\_

On the west side of Forest Dr. - 700' north of University Drive

Property Owner's Name & Address: Salim Ismail, LLC, P.O. Box 2864, Bryan, TX

77805

Property Owner's Phone Number: 979-846-8700

**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, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy 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)

none

7. Such public right-of-way/easement should be abandoned because:

The proposed Staybridge 100+ room hotel parking lot will encroach into  
a portion of the easement.

8. Such public right-of-way/easement has been and is being used as follows:

The only utility (either public or franchise) is a 12" water line.

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: \_\_\_\_\_



Owner's Name: Salim Ismail, LLC

Owner's Address: P.O. Box 2864

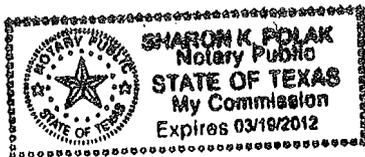
Bryan, TX 77805

Owner's Phone Number: 979-846-8700

STATE OF TEXAS )  
COUNTY OF BRAZOS )

ACKNOWLEDGMENT

Subscribed and sworn to before me, a Notary Public, this 26<sup>th</sup> day of August, 2009, by Salim Ismail.



Sharon K. Polak  
Notary Public in and for  
the State of Texas

Application for Abandonment of  
a Public Right-of-Way/Easement

Located: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 1**

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in The Gateway, Phase 3 Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.

Easement Abandonment  
within  
Lot 3C, Block 1  
The Gateway, Phase 3  
Richard Carter Survey, A-8  
College Station, Brazos County, Texas

Field notes of a 20' wide strip or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Lot 3C, Block 1, 2.00 acres, according to the final plat of The Gateway Subdivision Lots 3A, 3B, 3C and 3D, Block 1, Phase 3, being a Replat of The Gateway Subdivision, Lot 1, Block 1, Phase 3, 6.21 acres recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, and said 20' strip being more particularly described as follows:

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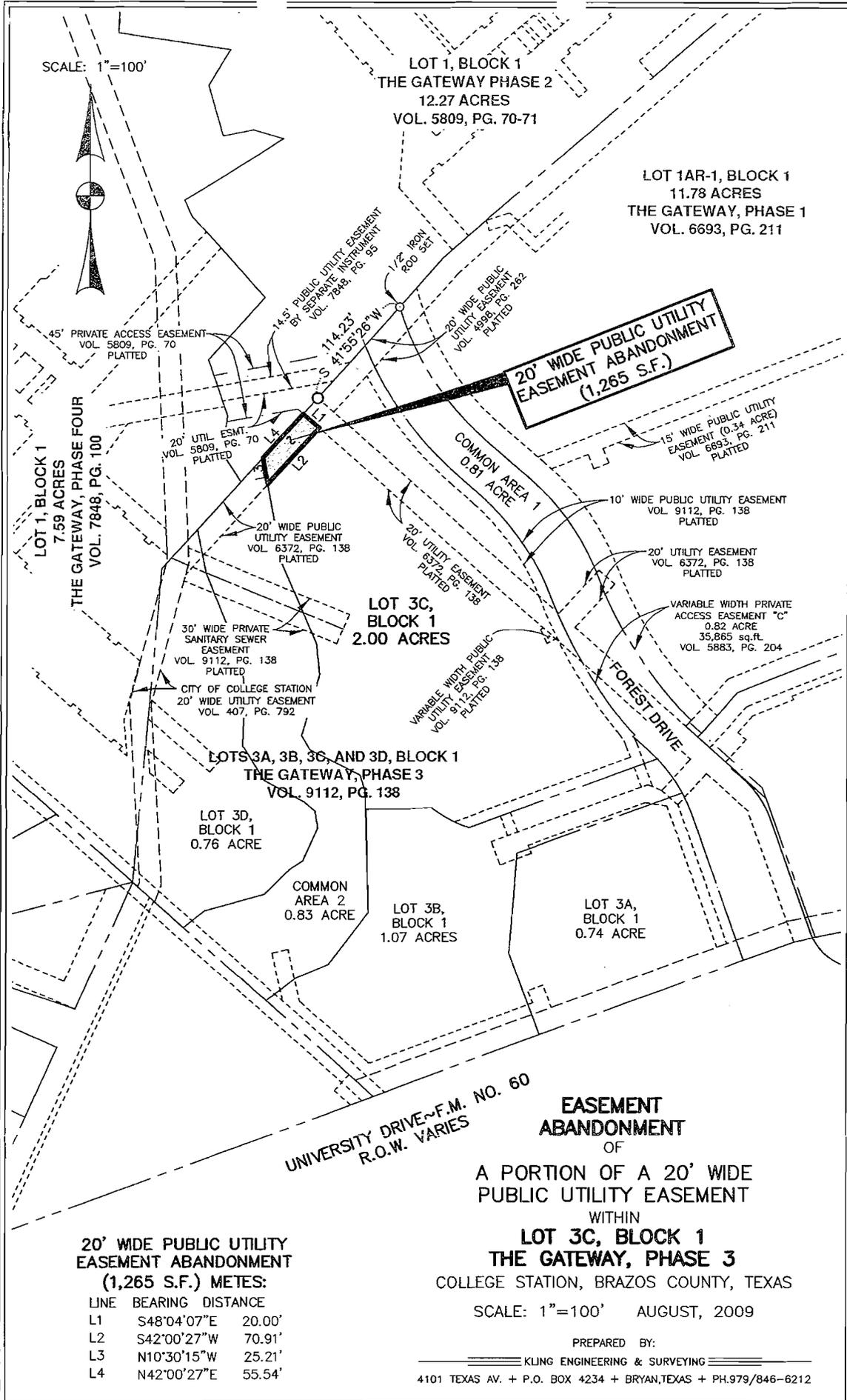


Surveyed August 2009

By

S. M. Kling  
R.P.L.S. No. 2003

Prepared 08/25/09  
kes09-dvd\gateway ph 3 - 20' pue abandonment - 1265sqft.wpd



SCALE: 1"=100'

LOT 1, BLOCK 1  
THE GATEWAY PHASE 2  
12.27 ACRES  
VOL. 5809, PG. 70-71

LOT 1AR-1, BLOCK 1  
11.78 ACRES  
THE GATEWAY, PHASE 1  
VOL. 6693, PG. 211

LOT 1, BLOCK 1  
7.59 ACRES  
THE GATEWAY, PHASE FOUR  
VOL. 7848, PG. 100

LOT 3C,  
BLOCK 1  
2.00 ACRES

LOTS 3A, 3B, 3C, AND 3D, BLOCK 1  
THE GATEWAY, PHASE 3  
VOL. 9112, PG. 138

LOT 3D,  
BLOCK 1  
0.76 ACRE

COMMON  
AREA 2  
0.83 ACRE

LOT 3B,  
BLOCK 1  
1.07 ACRES

LOT 3A,  
BLOCK 1  
0.74 ACRE

**20' WIDE PUBLIC UTILITY  
EASEMENT ABANDONMENT  
(1,265 S.F.)**

UNIVERSITY DRIVE ~ F.M. NO. 60  
R.O.W. VARIES

**EASEMENT  
ABANDONMENT  
OF**

**A PORTION OF A 20' WIDE  
PUBLIC UTILITY EASEMENT**

**WITHIN  
LOT 3C, BLOCK 1  
THE GATEWAY, PHASE 3  
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

SCALE: 1"=100' AUGUST, 2009

PREPARED BY:

KLING ENGINEERING & SURVEYING  
4101 TEXAS AV. + P.O. BOX 4234 + BRYAN, TEXAS + PH. 979/846-6212

**20' WIDE PUBLIC UTILITY  
EASEMENT ABANDONMENT  
(1,265 S.F.) METES:**

LINE	BEARING	DISTANCE
L1	S48°04'07"E	20.00'
L2	S42°00'27"W	70.91'
L3	N10°30'15"W	25.21'
L4	N42°00'27"E	55.54'

Application for Abandonment of  
a Public Right-of-Way/Easement

Located: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 2**

Attached is a copy 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.



Application for Abandonment of  
a Public Right-of-Way/Easement

Located: On the west side of Forest Dr. - 700' north of University Drive

**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 Sr. 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: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 3**

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ATMOS ENERGY

BY: \_\_\_\_\_  
Title \_\_\_\_\_

VERIZON TELEPHONE COMPANY

BY: B. S. Vajdak  
Title Superior - Network Eng.

SUDDENLINK COMMUNICATIONS

BY: \_\_\_\_\_  
Title \_\_\_\_\_

BRYAN TEXAS UTILITIES

BY: \_\_\_\_\_  
Title \_\_\_\_\_

Application for Abandonment of  
a Public Right-of-Way/Easement

Located: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 3**

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ATMOS ENERGY

BY: \_\_\_\_\_  
Title \_\_\_\_\_

VERIZON TELEPHONE COMPANY

BY: \_\_\_\_\_  
Title \_\_\_\_\_

SUDDENLINK COMMUNICATIONS

BY: *Matt [Signature]* 8-25-09  
Title *Plant Manager*

BRYAN TEXAS UTILITIES

BY: \_\_\_\_\_  
Title \_\_\_\_\_

Application for Abandonment of  
a Public Right-of-Way/Easement

Located: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 3**

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ATMOS ENERGY

BY: \_\_\_\_\_  
Title \_\_\_\_\_

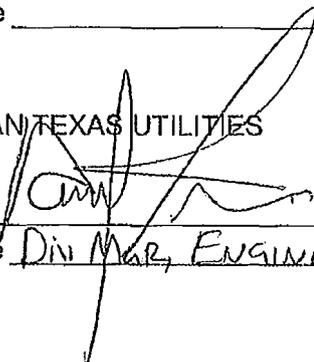
VERIZON TELEPHONE COMPANY

BY: \_\_\_\_\_  
Title \_\_\_\_\_

SUDDENLINK COMMUNICATIONS

BY: \_\_\_\_\_  
Title \_\_\_\_\_

BRYAN TEXAS UTILITIES

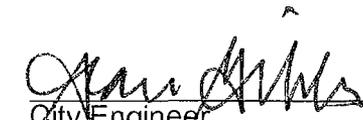
BY:  \_\_\_\_\_  
Title Dir. Mgr. ENGINEERING & SYSTEM PLANNING

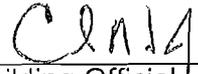
Application for Abandonment of  
a Public Right-of-Way/Easement

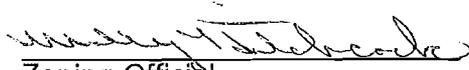
Located: On the west side of Forest Dr. - 700' north of University Drive

**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: On the west side of Forest Dr. - 700' north of University Drive

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

*Paul Sumner* 9-Sep-09  
\_\_\_\_\_  
Water Services Department  
City of College Station

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Electric Department  
City of College Station

\_\_\_\_\_  
Water Services Department  
City of College Station

Application for Abandonment of  
a Public Right-of-Way/Easement

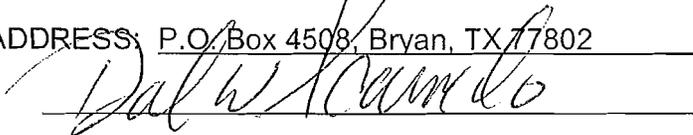
Located: On the west side of Forest Dr. - 700' north of University Drive

**EXHIBIT NO. 5**

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: Brazos Gateway Place Development, Ltd.

ADDRESS: P.O. Box 4508, Bryan, TX 77802



NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

**November 9, 2009**  
**Regular Agenda Item No. 6**  
**Bicycle, Pedestrian and Greenways Master Plan**

**To:** Glenn Brown, City Manager

**From:** Bob Cowell, AICP, Director of Planning and Development Services

**Agenda Caption:** Presentation, possible action, and discussion on an update regarding the Bicycle, Pedestrian and Greenway Master Plan.

**Recommendation(s):** N/A

**Summary:** The Bicycle, Pedestrian and Greenways Master Plan, a component of the College Station Comprehensive Plan is currently being updated. The planning process began in November 2008 with an inventory of existing bicycle, pedestrian and greenway facilities and the selection of a technical task force and staff resource team. Over the past year, staff has provided updates on the progress of the plan including a needs assessment and system recommendations. Citizen engagement has included two community meetings, an online survey and focus groups.

Staff will provide an update on the planning process including an update to the timeline (see attached) which has a new proposed completion date of early 2010. An overview of system management and design guideline recommendations will also be provided.

**Budget & Financial Summary:** N/A

**Attachments:**

Project Scope and Timeline

# Bicycle, Pedestrian and Greenways Master Plan

## Timeline/Scope

	Project Initiation Facility Inventory	Needs Assessment	Physical Improvement Recommendations	System Management Administration Programs Acquisition Maintenance	Implementation Design Guidelines	Plan Adoption
SCOPE						
TIMELINE	Nov 08 - Jan 09	Feb. - March	April - May	June - September	October - November	December - January
CITIZEN ENGAGEMENT		Online Survey Community Meeting Focus Groups	Online Survey Community Meeting Stakeholder Meetings		Community Meeting	Public Hearings Online Comments to Draft Plan

**November 9, 2009**  
**Regular Agenda Item No. 7**  
**Holleman Extension Update**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion regarding the extension of Holleman Drive from its intersection with FM 2818 and making a connection to the existing Jones-Butler roadway just east of the Dowling Road Pump Station.

**Summary:** Staff and TxDOT made a presentation to Council on February 12<sup>th</sup> where a planned grade separation at the intersection of Wellborn and FM 2818 was described. During that presentation it was pointed out that the intersection of Jones Butler and FM 2818 would be blocked by this construction project. Staff began working with the developer of the nearby Capstone development at that time to extend Holleman Drive so that through City participation there would be a connection to Jones Butler providing access to FM 2818 at the signalized intersection with Holleman. In April Council approved a contract with Mitchell & Morgan to design the portion of the roadway that will be contained on City property.

The developer's plans have been put on hold due to economic conditions and they are unable to construct the Holleman extension within a time frame desired by the City. Staff proposes that the City construct the roadway and recover the developer's share of construction cost through a paving assessment.

The key ingredient to making this project happen is that the necessary right-of-way and easements be dedicated by the developer. Staff is in the process of negotiating these dedications. Once the land is dedicated the project will be ready to bid. The bidding and construction process will take 6 to 8 months.

**Budget & Financial Summary:** Staff proposes to fund this project with street capital funds from the 2003 general obligation bond funds.

**Attachments:**

1. Project Map
2. Project Timeline
3. Cost and assessment estimate



Holleman Extension  
Estimated Project Time Line

Today

November 9, 2009

Task	Duration	Date
ROW Dedication	2 to 6 weeks	12/24/09
Bidding Process	4 to 6 weeks	1/8/10
Contract Award	2 to 4 weeks	1/29/10
Begin Construction		2/1/10
Project Completion	16 to 24 weeks	6/18/10

Item #	Description	Unit	Price	Quantity	Total	Assessment %	Assessment Amount
1	Mobilization	L.S.	\$ 100,000.00	1	\$ 100,000.00	90 %	\$ 90,000.00
2	Demolition	L.S.	\$ 44,000.00	1	\$ 44,000.00	90 %	\$ 39,600.00
3	Dewatering Existing Pond	L.S.	\$ 7,500.00	1	\$ 7,500.00	90 %	\$ 6,750.00
4	Construction Staking	L.S.	\$ 13,000.00	1	\$ 13,000.00	90 %	\$ 11,700.00
5	Replace Fence for Dowling Road Pump Station	L.S.	\$ 5,000.00	1	\$ 5,000.00	0 %	\$ -
6	Clearing and Grubbing	Ac.	\$ 1,500.00	8.7	\$ 13,050.00	90 %	\$ 11,745.00
7	Earthwork for Street Construction (+/- 3,750 CY) (includes removal/stockpiling topsoil)	C.Y.	\$ 42,800.00	1	\$ 42,800.00	90 %	\$ 38,520.00
8	Embankment within existing pond area (+/- 2,500 CY) (in accordance with Geotech Report)	C.Y.	\$ 22,500.00	1	\$ 22,500.00	90 %	\$ 20,250.00
9	8" Lime Stabilized Subgrade	S.Y.	\$ 5.00	25808	\$ 129,040.00	90 %	\$ 116,136.00
10	6" Crushed Limestone Base	S.Y.	\$ 9.00	328	\$ 2,952.00	90 %	\$ 2,656.80
11	8" Crushed Limestone Base	S.Y.	\$ 10.00	744	\$ 7,440.00	90 %	\$ 6,696.00
12	2" HMAC Surface Course (including prime coat)	S.Y.	\$ 10.00	1287	\$ 12,870.00	90 %	\$ 11,583.00
13	8" Reinforced Concrete Pavement (4,000 psi)	S.Y.	\$ 52.00	24432	\$ 1,270,464.00	90 %	\$ 1,143,417.60
14	Ditch Liner	L.F.	\$ 4.00	730	\$ 2,920.00	90 %	\$ 2,628.00
15	Sidewalk (4" Reinf. Concrete)	S.F.	\$ 4.00	13497	\$ 53,988.00	90 %	\$ 48,589.20
16	Hike/Bike Trail (4" Reinf. Concrete)	S.F.	\$ 4.00	27233	\$ 108,932.00	0 %	\$ -
17	Colored Sidewalk Ramps	EACH	\$ 615.00	16	\$ 9,840.00	90 %	\$ 8,856.00
18	Median Nose	EACH	\$ 800.00	10	\$ 8,000.00	90 %	\$ 7,200.00
19	Brick Pavers - Median	S.F.	\$ 5.00	1000	\$ 5,000.00	90 %	\$ 4,500.00
20	Traffic Control	L.S.	\$ 9,444.00	1	\$ 9,444.00	90 %	\$ 8,499.60
21	Landscaping/Screening	L.S.	\$ 27,500.00	1	\$ 27,500.00	0 %	\$ -
22	Solid Sod (St. Augustine)	S.F.	\$ 2.00	17284	\$ 34,568.00	0 %	\$ -
23	Street Lighting and Conduit	L.S.	\$ 56,600.00	1	\$ 56,600.00	90 %	\$ 50,940.00
24	Installation of Traffic Signal Head and Mast Arm	L.S.	\$ 9,000.00	1	\$ 9,000.00	0 %	\$ -
25	Adjust lightpoles along FM 2818	EACH	\$ 3,200.00	3	\$ 9,600.00	0 %	\$ -
26	Metal Beam Guard Fence (Timber Post)	L.F.	\$ 25.00	175	\$ 4,375.00	90 %	\$ 3,937.50
27	Single Guardrail Terminal (ET-2000 Plus)	EACH	\$ 2,500.00	1	\$ 2,500.00	90 %	\$ 2,250.00
28	Striping and Signing	L.S.	\$ 20,000.00	1	\$ 20,000.00	90 %	\$ 18,000.00
29	18" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	\$ 45.00	134	\$ 6,030.00	90 %	\$ 5,427.00
30	18" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	L.F.	\$ 52.00	308	\$ 16,016.00	90 %	\$ 14,414.40
31	21" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	L.F.	\$ 53.00	364	\$ 19,292.00	90 %	\$ 17,362.80
32	24" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	L.F.	\$ 53.00	218	\$ 11,554.00	90 %	\$ 10,398.60
33	30" HDPE Pipe, (ADS, N-12 or approved equal w/water-tight joints)	L.F.	\$ 75.00	590.35	\$ 44,276.25	90 %	\$ 39,848.63
34	30" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	L.F.	\$ 85.00	395	\$ 33,575.00	90 %	\$ 30,217.50

35	12" HDPE Pipe, (AD5, N-12 or approved equal w/water-tight joints)	L.F.	\$	45.00	28	\$	1,260.00	90	\$	1,134.00
36	7'x5' PreCast Reinf. Box Culvert (ASTM C1433)	L.F.	\$	400.00	174	\$	69,600.00	90	\$	62,640.00
37	7'x5' Headwall w/4:1 Sloped Wingwalls	EACH	\$	10,000.00	2	\$	20,000.00	90	\$	18,000.00
38	6'x5' PreCast Reinf. Box Culvert (ASTM C1433)	L.F.	\$	350.00	145	\$	50,750.00	90	\$	45,675.00
39	6'x5' Headwall w/4:1 Sloped Wingwalls	EACH	\$	8,500.00	2	\$	17,000.00	90	\$	15,300.00
40	6'x5' x 30 deg. Bend for Reinf. Box Culvert	EACH	\$	1,500.00	1	\$	1,500.00	90	\$	1,350.00
41	30" RCP 6:1 Sloped Headwall	EACH	\$	2,000.00	5	\$	10,000.00	90	\$	9,000.00
42	24" RCP 6:1 Sloped Headwall	EACH	\$	1,750.00	1	\$	1,750.00	90	\$	1,575.00
43	18" RCP 6:1 Sloped Headwall	EACH	\$	1,200.00	3	\$	3,600.00	90	\$	3,240.00
44	Standard 15' Recessed Inlet	EACH	\$	4,000.00	2	\$	8,000.00	90	\$	7,200.00
45	Standard 10' Recessed Inlet	EACH	\$	3,200.00	4	\$	12,800.00	90	\$	11,520.00
46	Standard 5' Recessed Inlet	EACH	\$	2,600.00	9	\$	23,400.00	90	\$	21,060.00
47	5' Recessed Inlet w/ Open Back	EACH	\$	3,000.00	1	\$	3,000.00	90	\$	2,700.00
48	Standard Junction Box	EACH	\$	2,400.00	3	\$	7,200.00	90	\$	6,480.00
49	Area Inlet	EACH	\$	3,500.00	1	\$	3,500.00	90	\$	3,150.00
50	Rock Rip-Rap Channel Lining, on Filter Fabric	S.Y.	\$	75.00	754	\$	56,550.00	90	\$	50,895.00
51	12" PVC, C909 CI 200, Water Line, Str. Backfill	L.F.	\$	40.00	1406	\$	56,240.00	0	\$	-
52	12" PVC, C909 CI 200, Water Line, NON-Str. Backfill	L.F.	\$	35.00	104	\$	3,640.00	0	\$	-
53	8" PVC, C909 CI 200, Water Line, 5tr. Backfill	L.F.	\$	32.00	53	\$	1,696.00	0	\$	-
54	6" PVC, C909 CI 200, Water Line, Non-Str. Backfill	L.F.	\$	20.00	10	\$	200.00	0	\$	-
55	20" Steel Encasement w/wet bore construction (3/8" thick) (includes painting, casing spacers, and end seals)	L.F.	\$	250.00	74	\$	18,500.00	0	\$	-
56	20" Steel Encasement (Open Cut) (3/8" thick) (includes painting, casing spacers, and end seals)	L.F.	\$	115.00	467	\$	53,705.00	0	\$	-
57	Fire Hydrant Assembly	EACH	\$	3,000.00	3	\$	9,000.00	0	\$	-
58	12"x24" M.J. Anchor Coupling	EACH	\$	450.00	2	\$	900.00	0	\$	-
59	12"x45 deg. Bend	EACH	\$	650.00	9	\$	5,850.00	0	\$	-
60	12"x22.5 deg. Bend	EACH	\$	650.00	1	\$	650.00	0	\$	-
61	12"x11.25 deg. Bend	EACH	\$	650.00	2	\$	1,300.00	0	\$	-
62	12" M.J. Gate Valve	EACH	\$	1,900.00	1	\$	1,900.00	0	\$	-
63	12"x8" M.J. Tee	EACH	\$	600.00	1	\$	600.00	0	\$	-
64	8"x8" M.J. Tee	EACH	\$	450.00	1	\$	450.00	0	\$	-
65	8" M.J. Gate Valve	EACH	\$	1,100.00	3	\$	3,300.00	0	\$	-
66	8"x24" M.J. Anchor Coupling	EACH	\$	250.00	5	\$	1,250.00	0	\$	-
67	12"x8" M.J. Reducer	EACH	\$	250.00	2	\$	500.00	0	\$	-
68	6"x6" Tee	EACH	\$	450.00	1	\$	450.00	0	\$	-
69	6" Gate Valve	EACH	\$	850.00	1	\$	850.00	0	\$	-
70	6"x90 deg. Bend	EACH	\$	250.00	1	\$	250.00	0	\$	-
71	6"x24" Anchor Coupling	EACH	\$	175.00	1	\$	175.00	0	\$	-
72	2" Blow Off Valve Assembly	EACH	\$	950.00	2	\$	1,900.00	0	\$	-

73

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)

L.S.	\$ 15,000.00	2	\$ 30,000.00	0	\$ -
Project Total				Assessable	
\$ 2,646,842.25				\$ 2,033,042.63	

<b>TOTAL FRONTAGE</b>		<b>ASSESSABLE COSTS</b>	<b>\$/FOOT</b>
5279.83		\$2,033,042.63	\$385.06

OWNER	FRONTAGE	ASSESSMENT	OTHER COSTS*	TOTAL
CAPSTONE	3042.96	\$1,171,717.15	\$0.00	\$1,171,717.15
COLLEGE STATION	2236.87	\$861,325.47	\$613,799.63	\$1,475,125.10
<b>TOTAL</b>	<b>5279.83</b>	<b>\$2,033,042.63</b>	<b>\$613,799.63</b>	<b>\$2,646,842.25</b>

\* Other costs include unassessed roadway expenses, and utility costs

**November 9, 2009**  
**Regular Agenda Item No. 8**  
**Convention Center Update**

**To:** Glenn Brown, City Manager

**From:** David Gwin, Director of Economic and Community Development

**Agenda Caption:** Presentation, possible action, and discussion regarding an update on the convention center project.

**Recommendation(s):** N/A

**Summary:** In March of 2009, staff released a Request for Qualifications (RFQ) for firms interested in the master planning and design of a new convention center facility for the City of College Station. In October of 2009, and in order to insert two additional steps into the project's planning process, the City rejected the referenced qualifications in order to pursue an RFQ that will now update the 2005 market study and feasibility analysis which supported the construction of the convention center and also engage major stakeholders in this assessment process. To date, staff has begun drafting the new RFQ and seeks Council input as to the current direction of this important project.

**Budget & Financial Summary:** N/A

**Attachments:**

Attachment 1 - 2005 Johnson Consulting Study Executive Summary

### Executive Summary

As contemplated, the proposed convention would feature exhibition, ballroom, and meeting space. The presence of the latter two facility elements will contribute to the use of the facility by area residents and companies in search of appropriately sized venues for functions that place a premium on quality and service such as banquets, awards dinners, and other social functions. This component will provide a new asset for the community by supporting and encouraging local use, as well as university-related conferences, etc.

In comparison, many of Bryan-College Station's peer markets - from Austin to Arlington and Corpus Christi to South Padre - have invested in public facilities of this nature and, as a result, are attracting use and visitation that might otherwise be interested in the Bryan-College Station market. Given the presence of Texas A&M, the geographic location in relation to Texas' major population centers, and all of the other resources in Bryan-College Station, it is not surprising that event planners and others continue to express an interest in the market. Yet, they currently have no appropriate options to host events.

With the relative affordability of the market and other advantages, including the exceptional emotional attachment toward Texas A&M, Bryan-College Station is a natural location for a convention, conference, and meetings facility. The addition of a multi-component convention facility in Bryan-College Station will allow the market to bring more, and larger, events into the area, as well as to penetrate the growing meetings market. Much of the expected demand at the convention center will be statewide or regional in nature, including rotating state association events. This is a marked departure from the existing events market in Brazos County which is dominated by smaller, consumer-focused shows that have a limited geographic reach. Further, there is also a need for new social and civic space in the market to host the considerable banquet and other activity that is currently occurring, but has no room to grow. With the addition of this space, these events could increase in size, and create new opportunities for the existing properties in the market.

Based on the updated market study, review of the regional and contemplated business opportunity, we have assumed the physical program shown in Table 2-1.

**Table 2-1**

<b>Bryan-College Station Convention Center Updated Building Program</b>		
	<b>Size or Units</b>	<b>% of Total</b>
<b>I. Enclosed Space</b>		
Exhibition Hall	20,000 SF	22%
Ballroom	12,500 SF	14%
Meeting Rooms	10,000 SF	11%
Service and Support	47,222 SF	53%
Total Enclosed Space	89,722 SF	100%
<i>Source: Johnson Consulting</i>		

The phase one program calls for 20,000 square feet of exhibit space, a 12,500 square foot ballroom, 10,000 square feet of breakout meeting rooms and support space of 47,000 square feet. The building should be designed in such a way that it can be expanded multiple times in the future. We

would expect an eventual ballroom size of 20,000 square feet and exhibit space of up to 90,000 square feet at full build-out over a period of 20 - 25 years.

In reflection of this business model and to provide proper support for the convention center, it is also recommended that at least 200 full-service hotel rooms be developed adjacent to the convention center. While it is recommended that the full-service hotel have its own function space, due to cost constraints, the first phase will have the convention center acting as the hotel's meeting component. Given this total program, approximately 500 parking spaces should also be contemplated, either on site or nearby.

Outside of ownership considerations, Johnson Consulting also suggests a private management firm be contemplated for the potential facility, as it will preclude any operating conflicts that may arise if the facility is publicly operated or controlled by a single body. Such a firm could be a hotel operator. Table 2-2 summarizes the projected event schedule for the facility by event type.

Table 2-2

Bryan-College Station Convention Center Projected Event Demand										
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Exhibit Event</b>										
Conventions/Trade Shows	8	10	11	12	13	13	13	13	13	13
Consumer Shows/Specialty Expos	10	12	14	16	18	18	18	18	18	18
Subtotal	18	22	25	28	31	31	31	31	31	31
<b>Non-Exhibit Events</b>										
Meeting and Seminars	60	64	68	72	76	76	76	76	76	76
Banquets	30	35	39	44	48	48	48	48	48	48
Concerts and Entertainment	5	6	6	6	6	6	6	6	6	6
Other/Civic Events	12	16	19	22	25	25	25	25	25	25
Subtotal	107	121	132	144	155	155	155	155	155	155
<b>Total Events</b>	125	143	157	172	186	186	186	186	186	186
<b>Total Event Days</b>	200	230	250	280	300	300	300	300	300	300
<b>Exhibit Hall Occupancy</b>	33%	42%	46%	52%	57%	57%	57%	57%	57%	57%

Source: Johnson Consulting

In the first year of operation, the convention center is projected to host 125 events. The exhibition hall is projected to host 18 events, including eight conventions or trade shows and ten consumer shows or specialty expos. Another 107 non-exhibit events are projected for the convention center's ballroom and meeting space. This includes a total of 60 meetings, 30 banquets, five concerts and entertainment events, and 12 "other" or civic events.

Table 2-3 summarizes the projected total annual attendance at the convention center by event type.

Table 2-3  
Bryan-College Station Convention Center  
Projected Attendance

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Exhibit Event</b>										
Conventions/Trade Shows	5,900	7,300	8,100	8,600	9,400	9,400	9,400	9,400	9,400	9,400
Consumer Shows/Specialty Expos	18,600	22,800	25,700	30,100	33,200	33,200	33,200	33,200	33,200	33,200
Subtotal	24,500	29,900	33,800	38,700	42,600	42,600	42,600	42,600	42,600	42,600
<b>Non-Exhibit Events</b>										
Meeting and Seminars	7,700	8,100	8,800	9,200	9,800	9,800	9,800	9,800	9,800	9,800
Banquets	8,100	9,500	10,600	11,900	13,000	13,000	13,000	13,000	13,000	13,000
Concerts and Entertainment	2,900	3,400	3,400	3,400	3,400	3,400	3,400	3,400	3,400	3,400
Other/Civic Events	5,300	7,400	8,600	9,900	11,400	11,400	11,400	11,400	11,400	11,400
Subtotal	24,000	28,400	31,400	34,400	37,600	37,600	37,600	37,600	37,600	37,600
<b>Total Events</b>	<b>48,500</b>	<b>58,300</b>	<b>65,200</b>	<b>73,100</b>	<b>80,200</b>	<b>80,200</b>	<b>80,200</b>	<b>80,200</b>	<b>80,200</b>	<b>80,200</b>

Source: Johnson Consulting

As the table shows, total attendance is projected to be approximately 48,500 in Year 1, including 24,500 attendees from the exhibit hall events and 24,000 from the non-exhibit events. In Year 5, attendance is projected to increase to 80,200.

Table 2-4 summarizes the projected annual number of room nights from the convention center's demand. The estimate is based on assumptions of length of stay and percentage of attendees who are from out of town and require lodging as shown in the first two columns of the table.

Table 2-4  
Bryan-College Station Convention Center  
Projected Number of Room Nights Generated

	Length of Stay*	% Non-Local**	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Exhibit Events</b>												
Conventions/Trade Shows	2.4	60%	9,500	11,100	12,000	12,100	13,200	13,200	13,200	13,200	13,200	13,200
Consumer Shows/Specialty Expos	0.6	3%	2,500	2,600	2,400	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Subtotal			12,000	13,700	14,400	14,600	15,700	15,700	15,700	15,700	15,700	15,700
<b>Non-Exhibit Events</b>												
Meeting and Seminars	1.4	57%	5,300	5,500	6,100	6,400	6,900	6,900	6,900	6,900	6,900	6,900
Banquets	1	7%	570	660	740	830	900	900	900	900	900	900
Concerts and Entertainment	1	4%	100	120	120	120	120	120	120	120	120	120
Other/Civic Events	1	9%	400	500	600	700	800	800	800	800	800	800
Subtotal			6,370	6,880	7,560	8,050	8,720	8,720	8,720	8,720	8,720	8,720
<b>Total</b>			<b>18,370</b>	<b>20,580</b>	<b>21,960</b>	<b>22,650</b>	<b>24,420</b>	<b>24,420</b>	<b>24,420</b>	<b>24,420</b>	<b>24,420</b>	<b>24,420</b>

\*In number of days  
 \*\*Indicates the percentage of event attendees who are from out of town AND require lodging and choose to stay in Bryan-College Station area.  
 Source: Johnson Consulting

As the table shows, a total of 18,370 room nights are projected in Year 1, and the majority of the room nights are attributable to exhibit hall events. In Year 5, the number of room nights is projected to increase to approximately 24,420.

Table 2-5 presents the projected operating statement for the facility's first ten years of operation.

Table 2-5

Bryan-College Station Convention Center Projected Operating Proforma (in \$000's, Inflated)										
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
<b>Revenues</b>										
Space Rental	\$268	\$321	\$365	\$407	\$457	\$469	\$481	\$493	\$505	\$518
Equipment Rental	156	189	216	242	272	179	286	293	300	308
Event Services	134	160	182	204	229	234	240	246	252	259
Food and Beverage Services (Net)	176	208	261	290	322	331	340	349	359	368
Advertising Revenues (Net)	51	52	54	55	56	58	59	61	62	64
Other	41	49	57	63	70	72	74	76	78	80
<b>Total Revenues</b>	<b>\$827</b>	<b>\$980</b>	<b>\$1,135</b>	<b>\$1,261</b>	<b>\$1,407</b>	<b>\$1,443</b>	<b>\$1,480</b>	<b>\$1,518</b>	<b>\$1,556</b>	<b>\$1,596</b>
<b>Operating Expenses</b>										
<b>Direct Expenses</b>										
Contract Services	\$78	\$100	\$114	\$130	\$147	\$151	\$155	\$158	\$162	\$166
Utilities	66	84	96	110	124	127	130	134	137	140
Building Maintenance and Repair	36	47	53	61	69	71	72	74	76	78
Supplies	10	12	14	16	18	19	19	20	20	21
Insurance	135	138	141	145	149	152	158	160	164	168
Other Direct Expenses	44	52	57	63	69	71	73	74	76	78
Subtotal	\$368	\$433	\$476	\$526	\$576	\$591	\$606	\$621	\$636	\$652
<b>Indirect Expenses</b>										
General and Administrative	\$126	\$131	\$134	\$137	\$141	\$144	\$148	\$152	\$155	\$159
Wages and Salaries	364	373	382	433	444	455	466	478	490	502
Employee Benefits	120	123	126	143	146	150	154	158	162	166
Advertising and Promotion	75	77	79	81	83	85	87	89	91	94
Other Expenses	60	61	63	69	71	73	74	76	78	80
Subtotal	\$745	\$765	\$784	\$863	\$884	\$907	\$929	\$953	\$976	\$1,001
<b>Total Operating Expenses</b>	<b>\$1,115</b>	<b>\$1,198</b>	<b>\$1,260</b>	<b>\$1,389</b>	<b>\$1,461</b>	<b>\$1,497</b>	<b>\$1,535</b>	<b>\$1,573</b>	<b>\$1,612</b>	<b>\$1,653</b>
<b>Net Operating Income (Deficit)</b>	<b>\$ (288)</b>	<b>\$ (219)</b>	<b>\$ (126)</b>	<b>\$ (128)</b>	<b>\$ (53)</b>	<b>\$ (54)</b>	<b>\$ (55)</b>	<b>\$ (56)</b>	<b>\$ (56)</b>	<b>\$ (57)</b>
<b>Management Fee</b>	<b>\$100</b>	<b>\$104</b>	<b>\$109</b>	<b>\$113</b>	<b>\$117</b>	<b>\$118</b>	<b>\$119</b>	<b>\$121</b>	<b>\$122</b>	<b>\$123</b>
<b>Reserve for Replacement</b>	<b>\$25</b>	<b>\$29</b>	<b>\$34</b>	<b>\$38</b>	<b>\$42</b>	<b>\$43</b>	<b>\$44</b>	<b>\$46</b>	<b>\$47</b>	<b>\$48</b>
<b>Net Income (Deficit) Before Other Charges</b>	<b>\$ (413)</b>	<b>\$ (352)</b>	<b>\$ (269)</b>	<b>\$ (279)</b>	<b>\$ (213)</b>	<b>\$ (216)</b>	<b>\$ (219)</b>	<b>\$ (222)</b>	<b>\$ (224)</b>	<b>\$ (228)</b>

Source: Johnson Consulting

As shown in the table, in the first year of operation, the convention center is projected to generate revenues of \$827,000 and incur approximately \$1.1 million in operating expenses. After management fee and reserve for replacement, the facility's net deficit is projected to be \$413,000 in Year 1. In Year 5, the facility's net deficit is projected to decrease to \$213,000.

Based on the building program summarized earlier in this section, a preliminary capital cost estimate was developed, as shown in Table 2-6.

Table 2-6

<b>Bryan-College Station Convention Center</b>			
<b>Estimated Development Budget - Phase I</b>			
	Size or Units	Unit Cost	Cost
<b>I. Enclosed Space</b>			
Exhibition Hall	20,000 SF	\$165/SF	\$3,300,000
Meetings and Banquet	22,500 SF	\$185/SF	4,162,500
Service and Support	47,222 SF	\$187/SF	8,830,556
Total Enclosed Space	89,722 SF		\$16,293,056
<b>II. Unenclosed Space</b>			
	20,485 SF	\$65/SF	\$1,331,532
<b>III. Surface Parking</b>			
	667 spaces	\$1,500/space	\$1,000,500
<b>IV. Landscaping and Site Amenities</b>			
			\$75,000
<b>Total Construction Cost</b>			<b>\$18,700,087</b>
<b>V. Soft Cost Allowances</b>			
		14.0% of constr. cost	\$2,618,000
Professional Services		10.0% of constr. cost	1,870,000
FF&E Allowance		10.0% of subtotal cost	2,318,800
Contingency			
<b>Potential Project Budget</b>			<b>\$25,506,887</b>
<i>Source: Johnson Consulting</i>			

As shown in the table, the convention facility of the proposed size, at the high end of the quality spectrum and incorporating all recommended program elements, will cost approximately \$18.7 million to construct. Including the soft costs (i.e., professional services, allowance for fixture, finishes, and equipment, and contingency), total development budget is \$25.5 million.

Table 2-7 shows the estimated economic impact of the proposed Bryan-College Station Convention Center events. Johnson Consulting utilized the IMPLAN input-output model to estimate indirect and induced impacts. IMPLAN is a nationally recognized model commonly used to estimate economic impacts. An input-output model analyzes the commodities and income that normally flow through the various sectors of the economy. The indirect and induced spending and employment effects represent the estimated changes in the flow of income and goods caused by the direct spending associated with the enhanced facilities.

Table 2-7

Bryan-College Station Convention Center					
	Economic Impact (\$Millions)				
	From Transfer Spending by Locals (a)	Net New to City (b)	Net New to County (c)	Net New to State (d)	Gross City Total (e)
<b>Convention Center</b>					
Direct Spending	\$3.4	\$5.3	\$4.6	\$1.2	\$8.7
Indirect Spending	0.9	0.7	0.7	0.3	1.6
Induced Spending	1.1	0.8	0.7	0.4	1.9
<b>Total</b>	<b>\$5.3</b>	<b>\$6.9</b>	<b>\$6.0</b>	<b>\$1.9</b>	<b>\$12.2</b>
Personal Income	\$0.7	\$0.5	\$0.5	\$0.2	\$1.2
Employment (in FTE)	38	28	24	6	66
<i>Notes:</i>					
<i>Column (a) represents economic impact from spending by City residents</i>					
<i>Column (b) represents economic impact from spending by all out-of-City visitors.</i>					
<i>Column (c) is a subset of Column (b). It expresses economic impact from spending by all visitors from outside Brazos County.</i>					
<i>Column (d) is a subset of Column (c). It expresses economic impact from spending by all out-of-state visitors.</i>					
<i>Column (e) represents total economic impact from spending by locals and non-locals.</i>					
<i>Column (e) = Column (a) + Column (b)</i>					
<i>Source: Johnson Consulting</i>					

As shown in the table, Johnson Consulting projects, that in their stabilized year of operation, the proposed Bryan-College Station Convention Center is estimated to generate approximately \$12.2 million in total direct, indirect, and induced spending, \$1.2 million in personal income, and 66 jobs, including impacts from both transfer spending and net new spending. Fiscal impacts are shown in the balance of this report.

While the cost and development of the facility represents a significant investment to for the community, the economic and fiscal impacts listed above articulate the value and contribution of this facility to Bryan-College Station, as well as Brazos County. Equally important to the ongoing consideration of this project is the direct link between its development and the creation of new business opportunity for the community. And, as these opportunities generate additional public resources, the development of this facility also represents a vehicle that makes effective use of public resources such as the venue tax because the activity in the building helps to spur growth in this fiscal resource resulting, in time, in a net gain to the community.

**November 9, 2009**  
**Regular Agenda Item No. 9**  
**Code Coordination Sub-Committee Formation and Appointments**

**To:** Glenn Brown, City Manager

**From:** Bob Cowell, AICP, Director of Planning & Development Services

**Agenda Caption:** Presentation, possible action, and discussion regarding the establishment of a Code Coordination Sub-Committee of various Boards, Commissions, and Council involved in the implementation and enforcement of the Unified Development Ordinance and other development related regulations and standards and appointment of membership to the same.

**Recommendation(s):** Staff recommends the Council form the sub-committee based on the criteria provided in the attached memo and that Council members and members from the other Boards and Commissions be appointed.

**Summary:** At their annual Council retreat, the Council prioritized the establishment of a "UDO Oversight Committee". At a recent Council meeting, the Council instructed staff to bring this item forward at a future Council meeting for discussion. Staff presented this item to Council in September at which time Council concurred with the staff proposals and asked that the item be brought back for formal ratification and sub-committee appointments.

The attached memo provides the form of the sub-committee, its charge, composition, etc.

It is anticipated that the first meeting of the sub-committee will be held in January 2010.

**Budget & Financial Summary:** NA

**Attachments:**

1. Staff Memo

**November 9, 2009**

**To: City Council**

**From: Bob Cowell, AICP, Director of Planning & Development Services**

**RE: Establishment of a Code Coordination Sub-Committee**

**Code Coordination Sub-Committee (CCC)**

**Purpose:** Facilitate coordination among the Council, Boards, and Commissions that use/implement City development codes and regulations resulting in an effort to keep the codes and regulations responsive to current needs and methods.

**Scope of Authority:** The Sub-committee is a coordination committee offering analysis and recommendation to the Council regarding adopted codes and regulations. The Sub-committee is not a decision-making body nor is it intended to review specific amendments to codes and regulations, which remain the purview of the P&Z Commission and City Council.

**Membership:** The Sub-committee shall consist of the following members:

- (2) City Council appointees – The Mayor and one other Council Member. The Sub-Committee shall be chaired by the Mayor or his appointee
- The Chair of the Planning & Zoning Commission or his/her designee
- The Chair of the Zoning Board of Adjustment or his/her designee
- The Chair of the Design Review Board or his/her designee
- The Chair of the Landmark Commission or his/her designee

**Meetings:** The Sub-committee shall meet as deemed necessary by the membership but not less than quarterly. One of the meetings shall be concurrent with the annual Comprehensive Plan and UDO reviews conducted by the P&Z Commission and City Council.

**Miscellaneous:** The Sub-Committee shall be supported by the staff of the Planning & Development Services and other City staff as deemed necessary. The Sub-Committee shall develop and maintain Rules of Procedure to govern their operations.