



**Mayor**  
Ben White  
**Mayor Pro Tem**  
Lynn McIlhaney  
**City Manager**  
Glenn Brown

**Councilmembers**  
John Crompton  
James Massey  
Dennis Maloney  
Lawrence Stewart  
David Ruesink

**Agenda**  
**College Station City Council**  
**Regular Meeting**  
**Thursday, April 23, 2009 at 7:00 PM**  
**City Hall Council Chamber, 1101 Texas Avenue**  
**College Station, Texas**

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

**Presentation and recognition of College Station Utilities earning Reliable Public Power Provider (RP3) status from the American Public Power Association**

Hear Visitors: A citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 6:30 pm. Please limit remarks to three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining to conclude your remarks. The City Council will receive the information, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concerns shall be directed to the City Manager.

**Consent Agenda**

Individuals who wish to address the City Council on a consent or regular agenda item not posted as a public hearing shall register with the City Secretary prior to the Mayor's reading of the agenda item. Registration forms are available in the lobby and at the desk of the City Secretary. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will 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.

2. Presentation, possible action and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.

a. Presentation, possible action, and discussion on approval of minutes for City Council Workshop and Regular Meeting April 9, 2009.

b. Presentation, possible action and discussion regarding the approval of a resolution supporting the adoption of Senate Bill 1570 and authorizing and approving the formation of a local government corporation, to facilitate the forming of a high speed passenger railway service.

c. Presentation, possible action, and discussion regarding action to ratify a change order for Construction Contract 07-185 with Knife River for the construction of the Arrington Road-Decatur Drive Roadway Extension, Project No. ST-0606, in the amount of \$42,646.78.

- d. Presentation, possible action, and discussion regarding Change Order No. 2 to the construction contract with Brazos Valley Services (Contract No. 09-038) in the amount of \$52,747.14 for the William D. Fitch Widening Phase II project.
- e. Presentation, possible action, and discussion of a user agreement between Texas A&M University and the City of College Station authorizing Texas A&M University to provide the University Services Building parking lot area and ingress/egress roads for a term of five (5) years to the Brazos Valley Solid Waste Management Agency for the spring Household Hazardous Waste & Computer Collection event.
- f. Presentation, possible action, and discussion regarding approval of a Settlement Agreement and Release between the City and David and Jennifer Weber compensating the Webers for the condemnation of easements necessary for the completion of the Parallel Water Transmission Phase III.
- g. Presentation, possible action, and discussion approving an ordinance amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.
- h. Presentation, possible action, and discussion approving a resolution for adoption of an updated Water Conservation Plan, including goals required by TCEQ.
- i. Presentation, possible action and discussion regarding a resolution to purchase 11.5 Wetland Mitigation Credits from Mitigation Solutions USA LLC in the amount of \$201,250.00.
- j. Presentation, possible action, and discussion regarding Change order No. 2 to purchase order No. 09-0308 to Martin Apparatus and Equipment, in the amount of \$29,684 for the purchase of two (2) 2009 Pierce Velocity Pumpers and one (1) 2009 Pierce / Peterbilt 340-3000 Gal Pumper / Tanker.
- k. Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for Neighborhood Park Improvement projects.
- l. Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for the Water Reclamation project.
- m. Presentation, possible action, and discussion on an amendment to the Affiliate funding agreement between the City of College Station and the Arts Council of Brazos Valley to change the date and location of a performance by the Brazos Valley Symphony Orchestra specified in Section 3.5 of the agreement.
- n. Presentation, possible action, and discussion on the award of Bid#09-42 for purchasing of roadway traffic signs, post and pavement markings material. The total cost of this Bid #09-42 is \$145,505.62.
- o. Presentation, possible action and discussion regarding an Interlocal Agreement (ILA) in the amount of \$31,248 between the Cities of College Station and Bryan for design costs for a traffic signal at the intersection of University Drive and Copperfield.

p.Presentation, possible action and discussion of a resolution approving a contract with Mitchell and Morgan LLP in the amount of \$59,500.00 for design services for the Holleman Drive Extension project. (Project #ST 0913)

q.Presentation, possible action, and discussion on consideration of an ordinance amending Chapter 10, "Traffic Code," to change the posted speed limit on sections of SH 40 (William D. Fitch Parkway).

### **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 of design options for the Tauber & Stasney Street Rehabilitation Project.
2. Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance Section 7.4.E "Exempt Signs," Section 7.4.X "Signs for Permitted Non-residential Uses in Residential or Agricultural Districts" and Section 11.2 "Defined Terms."
3. Public hearing, presentation, possible action, and discussion regarding an amendment of Chapter 12, Unified Development Ordinance, Section 4.2, Official Zoning Map, of the Code of Ordinances of the City of College Station, Texas by rezoning 2.47 acres from A-O, Agricultural-Open, to C-1, General Commercial at 4074 State Highway 6 and more generally located south of Bridle Gate Drive.
4. Public hearing, presentation, possible action, and discussion on consideration of the updated land use assumptions and capital improvements plan, and the imposition of updated water and wastewater impact fees in Steeplechase-Wellborn Sewer Impact Fee Service Areas 03-02.
5. Adjourn.

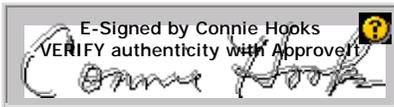
If litigation issues arise to the posted subject matter of this Council Meeting an executive session will be held.

*On Behalf of the Citizens of College Station, Home of Texas A&M University, We will continue to Promote and Advance the Community's Quality of Life*

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

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, April 23, 2009 at 7:00 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 20<sup>th</sup> day of April, 2009 at 2:00 p.m.



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

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](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 April 20, 2009 at 2:00 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

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

Dated this \_\_\_\_ day of \_\_\_\_\_, 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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John Crompton  
James Massey  
Dennis Maloney  
Lawrence Stewart  
David Ruesink

**Draft Minutes**  
**City Council Workshop & Regular Meeting**  
**Thursday, April 9, 2009 3:00 & 7:00 p.m.**  
**City Hall Council Chambers, 1101 Texas Avenue**  
**College Station, Texas**

**COUNCIL PRESENT:** Mayor White, Mayor ProTem McIlhaney, Council members Crompton, Maloney, Massey, Ruesink, 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

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

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

Council member Maloney inquired about Consent item 2c – allocation of funds to law enforcement agencies in Brazos County.

Mayor ProTem McIlhaney stated she shall abstain from Consent item 2g, contract renewal with Blue Cross and Blue Shield.

**Workshop Agenda Item No. 2 -- Presentation, possible action, and discussion relating to receiving the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2008.**

Introduced by Jeff Kersten, Chief Financial Officer. Mr. Kersten introduced Tom Wallis of Ingram, Wallis & Associates, C.P.A. Mr. Wallis presented the results of fiscal year 2008 audit and conditions outlined in the management letter.

Council member Stewart moved to approve the Annual Audit Report and the Comprehensive Annual Financial Report (CAFR) for fiscal year ended September 30, 2008. Council member Massey seconded the motion, which carried 7-0.

FOR: Mayor White, Mayor ProTem McIlhaney, Crompton, Massey, Maloney, Stewart and Ruesink

AGAINST: None

**Workshop Agenda Item No. 3 -- Presentation, possible action, and discussion of design options for the Tauber & Stasney Street Rehabilitation Project.**

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Chuck Gilman, Director of Capital Projects presented an overview of the stakeholder meeting with property owners or their designated representative(s) in the area surrounded by the rehab project. Staff developed several design alternatives to accomplish the goals of the project, and made attempts to meet the needs of the property owners, to the extent possible. A brief summary of the alternatives is listed below:

**Option 1:** Remove all the on-street parking, provide 8-foot wide sidewalks with street trees, new concrete pavement (width will vary since ROW width varies), replace/rehabilitate the utilities and allow for two-way traffic. Option does not require an amendment to the UDO. This option will require a small amount of additional ROW and/or an access easement along Tauber near Cherry Street. This option will result in the loss of approximately 202 parking spaces along Tauber and Stasney.

**Option 2:** Mill the old pavement and overlay with a new asphalt surface. Replace/rehabilitate the utilities. Address the pavement grade issues along Tauber between Cross and Cherry. Do not construct new sidewalks or install street trees. All head-in parking and parallel parking will remain. Maintain two-way traffic along Tauber and Stasney. This option will require a clarification to the definition of a rehabilitation project in the UDO. Option does not require additional ROW, and will not result in the loss of any parking spaces along Tauber or Stasney.

**Option 3:** Remove head-in parking along Tauber and Stasney, replace/keep parallel parking where possible along Tauber and Stasney as permitted by the UDO. Amend the Northgate Parking Plan to allow for on-street parking in NG-3 along one side of Tauber and one side of Stasney, provide 8-foot wide sidewalks with street trees, new concrete pavement, replace/rehabilitate the utilities and allow for two-way traffic. Maintain two-way traffic along Tauber and Stasney. This option does not require an amendment to the UDO. This option will require a small amount of additional ROW and/or an access easement along Tauber near Cherry Street. This option will result in the loss of approximately 137 parking spaces along Tauber and Stasney.

Bob Cowell, ACIP, Director of Planning and Development Services spoke about the parking and parallel parking.

Staff created these alternatives to assist the Council in determining the potential negative and positive impact of considering City funded capital projects, initiated to improve safety and the reliability of city services, as a rehabilitation project as defined in the UDO. Staff recommended that the Tauber and Stasney Street Rehabilitation Project proceed according to Option 3.

Fire Marshall Eric Hurt explained the purpose for one way streets, one side of street parking, and sidewalk accessibility.

Council member Maloney made a motion to approve option 3 and amend Northgate parking plan. Council member Stewart seconded the motion. Council member Crompton abstained from the vote.

Mayor ProTem McIlhaney, and Council members Massey, Ruesink and Crompton expressed concerns of voting in workshop session. Also, would like to see more input from citizens in a public hearing.

Council member Maloney withdrew motion and Council member Stewart withdrew his second.

Council directed staff to bring back as a regular agenda item for a public hearing on the April 23' 2009 meeting.

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**Workshop Agenda Item No. 5 -- Presentation, possible action, and discussion on the application and acceptance of a U.S. Department of Justice, 2009 COPS Hiring Recovery Program (CHRP) Grant.**

Scott McCollum, Assistant Chief of Police presented an overview 2009 COPS Hiring Recovery Program (CHRP) Grant. Up to \$1 billion in grant funding will be available for the hiring and rehiring of additional career law enforcement officers. There is no local match requirement for CHRP, but grant funding will only be provided for current entry-level salary and benefits. Therefore, any other associated costs will be the responsibility of the grantee agency. CHRP grants will provide 100 percent funding for approved entry-level salaries and benefits for 3 years (36 months) for newly-hired, full-time sworn officer positions (including filling existing unfunded vacancies) or for rehired officers who have been laid off, or are scheduled to be laid off on a future date, as a result of local budget cuts. At the conclusion of federal funding, grantees must retain all sworn officer positions awarded under the CHRP grant for a period of at least 12 months beyond the time the funding expires for a given position. The College Station Police Department will be applying to fund 12 full time entry level police officers identified as staffing needs in the "Blueprint for the Future" but have not yet been funded. Staff requested Council's approval.

Council member Massey moved to approve **Resolution No. 04-09-09-05** on the submittal of application and acceptance of the 2009 COPS Hiring Program (CHRP) Grant. Council member Maloney seconded the motion, which carried 7-0.

FOR: Mayor White, Mayor ProTem McIlhane, Crompton, Massey, Maloney, Stewart and Ruesink  
AGAINST: None

At 4:25 p.m. Mayor White announced that the City Council would convene into executive session pursuant to Section 551.071 of the Open Meetings Act to seek the advice of our city attorney.

**Workshop Agenda Item No. 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
- c. Water CCN permit requests
- 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

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- 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. Barron Road Widening Project Land Acquisition
- m. City of College Station v. David Allen Weber et al

**Workshop Agenda Item No. 10 -- Action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting will be discussed in tonight's Regular Meeting if necessary.**

Council recessed from the executive session at 6:11 pm. No formal action was taken.

**Workshop Agenda Item No. 4 -- Presentation, possible action, and discussion regarding ranking the large number of future workshop items and how to address.**

City Manager Glenn Brown presented Council ranking of the items for planning purposes. Staff requested Council provide direction as to the ranking of the items.

Council directed staff to schedule several workshop meetings for the next six weeks to address the numerous workshop items. He advised staff to prepare written reports on less urgent items.

Mayor ProTem McIlhaney met with Northgate merchant association members on redevelopment issues in the area. She asked Council for their willingness to meet with the merchants in a workshop meeting. City Manager Brown concurred.

**Workshop Agenda Item No. 6 -- Council Calendar**

Council reviewed activity calendar.

**Workshop Agenda Item No. 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 future agenda items.

**Workshop Agenda Item No. 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, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, 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).**

Council member Ruesink requested the Mayors' of College Station and Bryan send a personal invitation to invite guests from Kazan, Russia, a sister city of B-CS. He also mentioned that the young adults from Griefswald, Germany were expected to arrive in College Station in the next few days.

Council member Stewart reported on the TML Region X meeting held April 2 at Creedmore Ranch.

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Mayor ProTem McIlhaney was named the Chairman of the Brazos Valley Council of Governments Transportation Committee. She mentioned the creation of youth summer program as a recipient of federal stimulus monies.

**Workshop Agenda Item No. 11 – Adjourn.**

The workshop meeting concluded at 6:55p.m.

**Minutes of Regular Meeting**

**Regular Agenda Item No. 1 -- Pledge of Allegiance, Invocation, Consider absence request.**

Mayor White called the meeting to order at 7:04 pm with all Council members present. Mayor White led the audience in the Pledge of Allegiance. Chief R.B. Alley provided the invocation.

**Hear Visitors:**

Jim Maness 1733 Arrington Road, President of Nantucket Homeowners Association introduced Jim Ash.

Jim Ash 804 Prestwick, addressed his concerns on Red Light Cameras in the City of College Station.

Doug Tremau, 715 University Drive announced an upcoming event in the community, Brazos Valley Senior Games.

**Regular Agenda Item No. 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 Workshop and Regular Meeting March 26, 2009.
- b. Approved **Resolution No. 04-09-09-2b** authorizing implementation of an Identity Theft Program for Utility Customer Services.
- c. Approved inter-local agreement with Brazos County and the City of Bryan for the purpose of application and acceptance of a U.S. Department of Justice, 2009 Justice Assistance Grant (JAG).
- d. Approved **Resolution No. 04-09-09-2d** for a Strong & Sustainable Neighborhoods Grant Program.
- e. Approved Change Order No. 1 to Professional Services Contract 09-025 with Malcolm Pirnie, Inc., in the amount of \$38,488 for the design of the Groundwater Well No. 8.
- f. Approved Change Order No. 1 to Professional Services Contract 07-086 with Malcolm Pirnie, Inc., in the amount of \$32,455 for the design of the Parallel Wellfield Collection Line.
- g. Approved the medical and dental Administrative Services Agreement contract renewal with Blue Cross and Blue Shield for claims administration for the calendar year 2009, in the amount of \$415,531.
- h. Approved the renewal of an annual price agreement with Vulcan Materials Company in an amount not to exceed \$217,500 at \$43.50 per ton for cover stone, trap rock for the maintenance of streets.

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i. Approved **Resolution No. 04-09-09-2i** to appoint election workers for the May 9, 2009 general municipal election, general school officer election, and special school bond election.

j. Approved supplement to the Inter Local Government Agreement between the City of College Station and College Station Independent School District for the purpose of adding two newly created precincts to the Notice of Election for joint election on Saturday May 9, 2009.

k. Approved the Wickson Creek Special Utility District Water Service Application for the BVSWM Twin Oaks Landfill in Grimes County.

Council member Massey moved to approve consent agenda items 2a thru 2k. Council member Stewart seconded the motion, which carried 7-0. Mayor ProTem abstained from consent item 2g.

FOR: Mayor White, Mayor ProTem McIlhane, Crompton, Massey, Maloney, Stewart and Ruesink

AGAINST: None

ABSTAINED from consent item 2g: Mayor ProTem McIlhane

**Regular Agenda Item No. 1 -- Public hearing, presentation, possible action, and discussion regarding an ordinance vacating and abandoning a 0.26 acre, 20 foot wide Public Utility Easement, which is located on Lot 9R of Block 1 of the Gateway Phase 1 Subdivision according to the plat recorded in Volume 7945, Page 172, of the Deed Records of Brazos County, Texas.**

Alan Gibbs, City Engineer presented the application for abandonment of 0.26 acre, twenty foot wide public utility easement and right-of-way, located on Lot 9R of Block 1 of the Gateway Phase 1 Subdivision. Staff requested Council approval.

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

Council member Massey moved to approve **Ordinance No. 3176** to vacate and abandon a 0.26 acre, 20 foot wide Public Utility Easement, located on Lot 9R of Block 1 of the Gateway Phase 1 Subdivision. Mayor ProTem McIlhane seconded the motion, which carried 7-0.

FOR: Mayor White, Mayor ProTem McIlhane, Crompton, Massey, Maloney, Stewart and Ruesink

AGAINST: None

**Regular Agenda Item No. 2 -- Presentation, possible action and discussion regarding a resolution adopting a Regional Watershed Storm water Education Strategy.**

Alan Gibbs, City Engineer reported that the City of College Station is in the second fiscal year of the five year Storm Water Management Program (SWMP) implementation to eliminate pollution. This program was mandated by the State in 2007 and regulates several local entities including the Cities of College Station and Bryan, Brazos County, Texas Department of Transportation, and Texas A&M University. The noted local entities of the Cities of College Station and Bryan, Brazos County, Texas Department of Transportation, and Texas A&M University have met and expressed interest to form the Brazos Basin Stormwater Education Committee. The merit of the joint committee would be to combine resources and to provide a unified message as each entity satisfies its respective SWMP. The resolution under consideration would formally support the City of College Station joining the committee.

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Mayor ProTem McIlhaney moved to approve **Resolution No. 04-09-09-02** supporting the City of College Station joining the Brazos Basin Stormwater Education Committee. Council member Ruesink seconded the motion, which carried 7-0.

FOR: Mayor White, Mayor ProTem McIlhaney, Crompton, Massey, Maloney, Stewart and Ruesink  
AGAINST: None

**Regular Agenda Item No. 3 -- Presentation, possible action, and discussion to expand the proposed milling and overlaying of streets within the project boundaries of the College Park – Breezy Heights utility and street rehabilitation project.**

Chuck Gilman, Director of Capital Projects presented details on expanding the proposed milling and overlaying program within the project boundaries of the College Park – Breezy Heights utility and street rehabilitation project and the needs of the neighborhood. Staff requested approval of expanding this project.

Council member Maloney made a motion to approve expanding the milling and overlaying program within the project boundaries. Council member Massey seconded the motion, which carried 7-0.

FOR: Mayor White, Mayor ProTem McIlhaney, Crompton, Massey, Maloney, Stewart and Ruesink  
AGAINST: None

**Regular Agenda Item No. 4 -- Adjourn.**

Hearing no objections, Mayor White adjourned the meetings at 7:46 p.m. on Thursday, April 9, 2009.

PASSED AND APPROVED this 23<sup>rd</sup> day of April, 2009.

APPROVED

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

ATTEST:

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

**April 23, 2009**  
**Consent Agenda Item 2b**  
**Texas High Speed Rail & Transportation Corporation Resolution**

**To:** Glenn Brown, City Manager

**From:** City Manager's Office

**Agenda Caption:** Presentation, possible action and discussion regarding the approval of a Resolution supporting the adoption of Senate Bill 1570 and authorizing and approving the formation of a local government corporation, to facilitate the forming of a high speed passenger railway service.

**Recommendation(s):** Staff recommends participation and approval of the Resolution urging support of Senate Bill 1570 and formation of a local government corporation.

**Summary:** The City of College Station has been an active member of the Texas High Speed Rail and Transportation Corporation for many years. College Station is strategically positioned between the Gulf Coast High-Speed Rail Corridor and the South Central High-Speed Rail Corridor.

Senate Bill 1570 authorizes the State of Texas to contract with a local government corporation to seek federal and state funding for high-speed passenger rail service and coordinate efforts with the State and its agencies. This bill helps expedite the building of high speed passenger rail services.

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

**Attachments:**

1. Resolution
2. Senate Bill 1570
3. Draft Articles of Incorporation
4. Notes on Background and Purpose
5. Texas High Speed Rail and Transportation Next Steps
6. City of Temple Council Items Memorandum – April 16

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING SUPPORTING THE ADOPTION OF SENATE BILL 1570 ANTHORIZING THE STATE OF TEXAS TO CONTRACT WITH A LOCAL GOVERNMENT CORPORATION AND AUTHORIZING THE CITY OF COLLEGE STATION TO FORM A LOCAL GOVERNMENT CORPORATION TO FACILITATE, ANALYZE, AND IMPLEMENT THE DEVELOPMENT OF HIGH SPEED PASSENGER RAIL SERVICE WITHIN THE SOUTH CENTRAL HIGH-SPEED RAIL CORRIDOR AND THE GULF COAST HIGH-SPEED RAIL CORRIDOR.

WHEREAS, the City of College Station has been an active member of the Texas High Speed Rail and Transportation Corporation (THSRTC) a coalition of cities, counties and other entities promoting high speed passenger rail service in Texas;

WHEREAS, the Mayor of College Station currently serves on the board of directors of the THSRTC;

WHEREAS, College Station is strategically located between the Gulf Coast High-Speed Rail Corridor and the South Central High-Speed Rail Corridor;

WHEREAS, College Station has been asked to be among the local government entities serving as the original incorporators of a local government corporation organized under authority of Chapter 431, Subchapter D, of the Texas Transportation Code;

WHEREAS, the proposed name of the local government corporation will be the "South Central High-Speed Rail and Transportation Authority, Inc.;"

WHEREAS, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

PART 1: The City Council supports the adoption of Senate Bill 1570 by the Texas Legislature and further urges the Legislature to facilitate, analyze and implement high-speed passenger rail service to Texas.

PART 2: The City Council authorizes the City of College Station to take the necessary action to participate as an original incorporator of a local government corporation as authorized by Chapter 431, Subchapter D of the Texas Transportation Code to facilitate, analyze, and implement the development of high-speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

PART 3: The local government corporation shall have the following principle duties:

- to seek federal and state funding for high-speed passenger rail service;
- to seek interconnectivity of high-speed passenger rail systems in Texas with similar systems in other states;
- to seek interconnectivity of high-speed passenger rail systems with other existing and planned transportation systems within the state and adjacent states (e.g., airports, seaports, highways and other commuter rail);
- to ensure connectivity with Fort Hood, Texas, which is the largest military base in the United States;
- to contract with private companies of foreign governments for the design, construction, financing and operation of a high-speed passenger rail system; and
- to coordinate their efforts with the State and its agencies

ADOPTED this the 23<sup>rd</sup> day of April, A.D. 2009.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

A BILL TO BE ENTITLED

AN ACT

relating to the facilitation, analysis, and implementation of high-speed passenger rail in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Transportation Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. HIGH-SPEED PASSENGER RAIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.001. DEFINITIONS. In this chapter:

(1) "High-speed rail" means passenger rail service capable of operating at speeds greater than 200 miles per hour.

(2) "Corporation" means the South Central High Speed Rail Authority, Inc., a local government corporation organized under Sec. 431, Subchapter D, Transportation Code.

(3) "Federally-designated high-speed passenger rail corridor" means those corridors designated by the United States Secretary of Transportation prior to the passage of this ACT, pursuant to 23 U.S.C. Section 104(d)(2).

(4) "South Central High-Speed Rail Corridor" means that

federally-designated high-speed rail corridor designated by the Secretary on October 1, 2000 serving the states of Texas, Oklahoma, and Arkansas, including the expansion of that corridor referred to by Sec. 224 (c)(B), Passenger Rail Investment and Improvement Act of 2008.

(5) "Gulf Coast High-Speed Rail Corridor" means that federally-designated high-speed rail corridor designated by 23 U.S.C. Section 104(d)(2)(B)(iii).

[Sections 92.002-92.050 reserved for expansion]

SUBCHAPTER B. HIGH-SPEED PASSENGER RAIL FACILITATION, ANALYSIS, AND IMPLEMENTATION

Sec. 92.051. CONTRACT FOR FACILITATION, ANALYSIS, AND IMPLEMENTATION. (a) The commission shall contract with the corporation to negotiate on behalf of this State to facilitate, analyze, and implement the development of high-speed passenger rail within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor and any other corridors identified by the department, commission, or the corporation.

(b) The corporation shall be responsible for:

(1) soliciting federal, state, regional, local, and private funding to be allocated to the corporation for the purposes of this subchapter;

(2) coordinating with federal officials and representatives from adjacent states regarding the

interconnectivity of high-speed passenger rail systems in this state with systems developed in federally designated high-speed passenger rail corridors in other states; and

(3) representing and negotiating on behalf of this state to ensure the interconnectivity of high-speed passenger rail with existing and planned transportation systems, including airports, seaports, transit systems, commuter rail systems, and highways in this state and adjacent states; and

(4) coordinating with federal transportation officials and officials at the United States Department of Defense to ensure the connectivity of high-speed passenger rail with the largest military installation in this state, as determined by land-area, and located entirely or partially within a county in which a federally-designated high-speed rail corridor is also located; and

(5) engaging, negotiating, and entering into contracts with representatives of private companies and foreign governments for the designing, construction, operation, and financing of the high-speed passenger rail system described by and called for in this chapter

(6) coordinating the fulfillment of this chapter with the department

Sec. 92.052. SYSTEM REQUIREMENTS. The high-speed passenger rail system developed under this subchapter must:

(1) provide high-speed passenger rail connectivity to

the state's two busiest airports, as determined by the number of commercial operations as of March 12, 2009, as determined by the Federal Aviation Administration; and

(2) enhance connectivity for and ease of passenger transport to and from the largest military installation by land area located in this state; and

(3) be developed in collaboration with high-speed passenger rail projects in other areas of the United States to ensure interconnectivity with other federally designated high-speed rail corridors; and

(4) use the narrowest right of way determined by the corporation to be necessary or convenient for the construction of the high-speed passenger rail system described by and called for in this chapter; and

(5) where deemed appropriate and possible by the corporation, be elevated and/or grade-separated.

Sec. 92.053. REPORTS. The corporation shall annually submit a report regarding its activities under this subchapter to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the senate finance committee;
- (5) the house committee on appropriations; and
- (6) the standing committee in the senate and the house

of representatives that has primary jurisdiction over rail transportation issues.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

ARTICLES OF INCORPORATION

OF

SOUTH CENTRAL HIGH SPEED RAIL AND TRANSPORTATION AUTHORITY, INC.

We the undersigned natural persons, all being residents of the State of Texas and above the age of 18 years, acting as incorporators of a corporation under Subchapter D, Texas Transportation Corporation Act, TEX TRANSP. CODE ANN. §431.101 *et seq.* (the "Act") and TEX. LOC. GOV'T. CODE ANN. §394.001 *et seq.* adopt the following Articles of Incorporation:

I.

The name of the corporation is the South Central High-Speed Rail and Transportation Authority, Inc.

II.

The Corporation is a public nonprofit corporation.

III.

The period of its duration is perpetual.

IV.

The Corporation is organized to aid and act on behalf of the sponsoring counties, municipalities and authorities, and all local governments in the State of Texas, in developing, managing, operating and maintaining high-speed rail and transportation facilities and related stations and developments. This purpose includes developing and implementing plans to link, with high-speed rail and other transportation systems communities in Texas and other states generally along the routes of the federally-designated high-speed rail corridors known as the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor and the expansion of these Corridors described in the Passenger Rail Investment and Improvement Act of 2008 and other corridors that may be designated in the national plan or other corridors and routes which will serve to link the communities of Texas together with an efficient rail and transportation system.

V.

The Corporation shall have no members.

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VI.

The Corporation shall have all rights, powers, privileges, authority and functions given under the Act and by the general laws of Texas to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act which are consistent with the Act.

VII.

The Corporation's budget, including any budget amendments, shall be subject to the approval by a majority of the sponsoring entities.

VIII.

These Articles of Incorporation and the Bylaws of the Corporation may be amended at any time by the Board of Directors of the Corporation with the approval of the sponsoring governmental entities or by the sponsoring governmental entities in their sole discretion.

IX.

The number of Directors constituting the initial Board of Directors is nine. A change in the number of directors may be made only by amendment to these Articles of Incorporation. The names and addresses of the persons who are to serve as the initial Board of Directors, each of whom resides in the one of the sponsoring governmental entities are:

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The sponsoring governmental entities shall appoint Directors for new terms and fill any vacancy in the Board of Directors. Each sponsoring governmental entity shall appoint one Director and the remaining Directors, if any, shall be appointed by a weighted majority vote of all sponsoring entities, each entity being entitled to one vote for Director per resident as determined by the most recent federal census. Members of the initial Board of Directors shall hold office for a term of two, four or six years. At the organizational meeting of the Board, the members shall draw lots to determine their terms, three of which shall be for two years, three of which shall be for four years and three of which shall be for six years. After the initial term, all Directors shall serve a term of six years. A term shall end on the anniversary of the initial appointment regardless of the date of the actual appointment to the board. A director may be removed at any time, with or without cause, by order of the appointing entity or entities. The Board shall select one of its members to serve as Chair of the Board of Directors.

X.

The name and street address of each incorporator, each of whom resides in a sponsoring governmental entity, is:

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XI.

No Director shall be liable to the Corporation for monetary damages for an act or omission in the director's capacity as a Director, except to the extent the Director is found to be liable: (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith that constitute a breach of duty or which involve intentional misconduct of the Director or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, weather or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of the Article shall be prospective only, and shall not adversely effect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes that further limits the liability of a Director.

XII.

In the event of the dissolution of the Corporation, its assets shall be applied and distributed as follows:

- A. All liabilities and obligations of the Corporation shall be paid, satisfied and discharged, as set forth in the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann. Art 1396-6.02 §A.(1)(Vernon 1997).
- B. Assets held by the Corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with those requirements.
- C. The remaining assets shall be distributed to the sponsoring governmental entities or to the State of Texas as agreed by the sponsoring governmental entities. If there is no agreement, the assets shall be distributed as follows: For physical assets, including real estate and personal property, first to the sponsoring governmental entity in which the asset is located and if the asset is located in more than one sponsoring governmental entity, to the entity with the largest total population with an elected governing body; for assets not located in a sponsoring governmental entity, to the nearest sponsoring governmental entity with connecting physical assets or, if there are no connecting physical assets, to the nearest sponsoring governmental entity. All remaining assets shall be distributed based on the value of the physical assets distributed to the sponsoring governmental entity or, if there are no physical assets, distributed proportionately based on the population of the sponsoring governmental entity according to the most recent federal census.

XIII.

A resolution approving this form of the Articles of Incorporation of the Corporation was adopted by the (governing body – Commissioners Court/City Council/etc.) of (county/city/authority) on the \_\_\_ day of \_\_\_ 2009.

IN WITNESS WHEREOF, we have hereunto set our hands as of this \_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The State of Texas §

County of \_\_\_\_\_ §

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
\_\_\_\_\_ and \_\_\_\_\_ whose names are subscribed to the foregoing instrument and,  
being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this the \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_

Name

Notary Public in and for

The State of Texas

## South Central High Speed Rail and Transportation Authority, Inc

### *Notes on Background and Purpose*

A 501(c)3 local government corporation (LGC) established under Chapter 431, Texas Transportation Code, Subchapter D, the South Central High Speed Rail and Transportation Authority (SCHSR TA) would unite cities, counties, rail districts, and navigation districts generally along the federally-designated South Central and Gulf Coast High Speed Rail Corridors to develop high-speed rail in these corridors. Per the provisions of existing Texas Code, this corporation will have the same authorities and powers as does its various members. This will be the entity that will have the authority to formally engage with the federal government, other state governments, and the private sector in regards to the design, construction, operation, and financing of the Texas T-Bone High-Speed Rail Corridor.

#### *Key facts:*

- ◆ Texas cities and counties own and operate various transit agencies, airports, and seaports, etc – many of which were established through agreements and partnerships such as this LGC.
- ◆ Developing high-speed rail through an LGC helps to ensure that the decisions regarding project financing, construction, facility location, performance standards, etc, are made with substantial input from the communities most directly impacted by these decisions.
- ◆ Federal high-speed rail statutes, currently being drafted, will require a designated liaison from each state/corridor. This LGC will be ideally positioned, especially following the passage of CSSB 1570, to actively pursue existing and future federal high-speed rail dollars.
- ◆ The LGC would work closely with MPOs along the high-speed rail corridors to ensure efficient, seamless connectivity among modes.
- ◆ Other than nominal filing fees, there is no obligation of funds required for participation in the LGC. The THSR TC implementation plan calls for funding for the initial studies, right-of-way purchase, and construction, etc to be secured from primarily private sector sources, along with available federal and state dollars.
- ◆ The THSR TC is a 501(c)6 corporation that would continue to function in an advocacy role to advance the goals and objectives of the LGC.

#### *How it would work:*

- ◆ Upon the creation of the LGC and the passage of CSSB 1570, cities, counties, seaports, and other political subdivisions of the State actively involved with the LGC will have the authority to negotiate on behalf of the State of Texas to develop high-speed rail along the Texas T-Bone High-Speed Rail Corridor.
- ◆ The LGC's Board of Directors would be comprised of representatives of the political entities serving as the incorporators of the LGC. For instance:
  - To create and join the LGC, cities, counties, etc, would be required to pass a resolution approving the LGC's articles of incorporation, and would nominate the appropriate number of representatives to serve on the Board. (Currently, the articles provide for a Board of nine. So, should three entities pass concurrent resolutions to create the LGC, each would provide three representatives to the Board.)
  - Once the resolution is passed by at least one entity, but most likely several cities and counties, the articles will be filed with the Secretary of State and the LGC will be formed.
  - Upon passage of CSSB 1570, the LGC will move aggressively to formally pursue federal funds, seek an MOU with a private sector consortium, and begin making decisions that would determine, for study purposes, the location of track infrastructure, rail stations, and ancillary facility locations.
- ◆ Through passage of the appropriate resolution to be included as an original incorporator of the South Central High Speed Rail and Transportation Authority, Inc, cities and counties will have substantial input on the creation and adoption of the LGC's by-laws and governance structure.

**From:** Lucy Taylor  
**To:** Cargill, Harvey; Migl, Hayden; Neeley, David; Powell, Mary Ann; Robi...  
**Date:** 4/16/2009 3:23 PM  
**Subject:** Fwd: Special Notice: Upcoming THSRTC Meetings

FYI

Lucy Taylor  
Council Administration Services Coordinator  
City of College Station  
City Secretary's Office  
P.O. Box 9960  
College Station, Texas 77842  
979-764-3516 phone  
979-764-6377 fax  
ltaylor@cstx.gov

>>> "Travis Kelly" <[TKelly@dean.net](mailto:TKelly@dean.net)> 4/16/2009 3:06 PM >>>  
\*\* High Priority \*\*

Dear THSRTC Members,

As we have been discussing, the Local Government Corporation is well on its way to being incorporated. Dallas County approved a resolution on Tuesday, the City of Temple's City Council will consider a similar resolution this evening, and I have heard from most of you regarding the dates already set for your courts and councils to consider resolutions as well. Following a number of productive meetings in Austin on Tuesday and Wednesday, we have quite a bit to discuss in regards to the local government corporation and the THSRTC-approved committee substitute for SB 1570.

Please plan on participating in a conference call tomorrow, Friday, April 17 at 1:00 PM. The call in number will be 1.800.416.8128. Please use meeting number 408159#.

During its Monday hearing, which begins at 8:00 AM, the Senate Transportation and Homeland Security Committee will consider SB 1570, the bill discussed during our conference call on Monday, April 6. This is easily the most important bill of the entire session for the Corporation, and we would encourage all THSRTC member representatives to make plans to attend the hearing.

In preparation for Monday's consideration of SB 1570 by the Senate Transportation and Homeland Security Committee, THSRTC members are encouraged to attend an informal briefing session in Austin on Sunday, April 19 from 4:00 - 6:00 PM in the Austin Suite at the Doubletree Hotel (303 West 15th Street). The attire will be casual, and we will go to dinner following the meeting.

I will look forward to hearing from you regarding your availability to participate in the conference call, the Sunday briefing, and the Committee hearing.

Thank you again for all of the hard work and valuable time and resources that each of you dedicate to this project. Next week will likely prove to be a definitive step in the effort to advance the Corporation's goals and objectives, and I look forward to working closely with each of you to help ensure that it is a success.

Best,

Travis



## COUNCIL AGENDA ITEM MEMORANDUM

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04/16/09  
Item #10  
Regular Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

### ITEM DESCRIPTION: Consider adopting resolutions:

(A) Supporting the adoption of Senate Bill 1570 by the Texas Legislature, which would authorize the State of Texas to contract with the "South Central High Speed Rail Corporation, Inc.," a local government corporation organized under Chapter 431 of the Transportation Code, to facilitate, analyze, and implement high speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

(B) Authorizing the City of Temple to form a local government corporation, to facilitate, analyze, and implement the development of high-speed passenger rail service within the South Central High-Speed Rail Corridor and the Gulf Coast High-Speed Rail Corridor.

STAFF RECOMMENDATION: Adopt resolutions presented in item description.

ITEM SUMMARY: **Support for the Adoption of SB 1570:** Senate Bill 1570, a bill currently under consideration by the Texas Senate, authorizes the State of Texas, acting through the Railroad Commission, to contract with a local government corporation (LGC) to facilitate, analyze and implement high-speed passenger rail service in Texas. A high-speed passenger rail service means service capable of operating in excess of 200 miles per hour. The primary focus for the LGC is what is defined as the "South Central High-Speed Rail Corridor," which is a federal designation for an area encompassing Texas, Oklahoma and Arkansas, and the "Gulf Coast High-Speed Rail Corridor," an area in Texas roughly corresponding to the DFW/Houston/San Antonio triangle.

SB 1570 authorizes the local government corporation, among other things, to: (1) seek federal and state funding for high-speed passenger rail service; (2) seek interconnectivity of high-speed passenger rail systems in Texas with similar systems in other states; (3) seek interconnectivity with of high-speed passenger rail system with other existing and planned transportation systems within the state and adjacent states (e.g., airports, seaports, highways and other commuter rail); (4) ensure connectivity with Fort Hood, Texas; (5) contract with private companies or foreign governments for the design, construction, financing and operation of a high-speed passenger rail system; and (6) to coordinate their efforts with the State and its agencies.

**Creation of the Local Government Corporation:** SB 1570, in its current form, authorizes the State to contract with a local government corporation, which it denotes as the “South Central High Speed Rail Corporation, Inc.” The South Central High Speed Rail Corporation has to be organized under Chapter 431, Subchapter D, of the Texas Transportation Code, and takes its name from the federal designation for a high-speed rail corridor that could serve Texas, Oklahoma and Arkansas.

The City of Temple has been an active participant in the Texas High Speed Rail and Transportation Corporation (THSRTC), a coalition of cities, counties and other entities promoting high speed rail in Texas, and the Mayor of Temple currently serves on its board of directors. Temple is at the central location within the Gulf Coast High-Speed Rail Corridor—at the “T” of a proposed intersection of a high-speed line passenger rail line running from DFW to San Antonio where it intersects a perpendicular high-speed line passenger rail line running from Houston to Temple.

Given our role within THSRTC and our geographical location within the Gulf Coast High Speed Rail Corridor, Temple has been asked to be the local government entity that forms the South Central High Speed Rail Corporation, Inc. (An alternative name of the proposed local government corporation is the “South Central High-Speed Rail and Transportation Authority, Inc.”)

The proposed resolution authorizes the City Attorney to proceed with the filing of articles of incorporation with the Secretary of State’s office to create this local government corporation. The structure of the proposed South Central High Speed Rail Corporation, Inc., allows other municipalities, counties and other local government entities to participate in the board of directors for the corporation.

**FISCAL IMPACT:** There is a nominal filing fee for filing the articles of incorporation for the South Central High Speed Rail Corporation, Inc. There may be additional nominal fees for filing for tax exempt status with the Internal Revenue Service.

**ATTACHMENTS:**

Copy of S.B. 1570  
Draft Articles of Incorporation  
Resolution

**April 23, 2009**  
**Consent Agenda Item No. 2c**  
**Change Order #4 for the Arrington Road Decatur Drive**  
**Infrastructure Improvements Project**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding action to ratify a change order for Construction Contract 07-185 with Knife River for the construction of the Arrington Road-Decatur Drive Roadway Extension, Project No. ST-0606, in the amount of \$42,646.78.

**Recommendation(s):** Staff recommends approval of the change order for \$42,646.78 to Knife River on the Arrington Road-Decatur Drive Roadway Extension Project No. ST0606.

**Summary:** The City Council approved a construction contract to Knife River for the Arrington Road and Decatur Drive Infrastructure Improvements. The construction contract for \$4,085,307.35 was approved by City Council 06-14-07. Construction was substantially complete on November 26, 2008. This change order is one of the final steps in the project closeout process, and is intended to finalize all quantities in the contract - provide payment for all the work and materials provided during construction, apply a credit for all the work materials not provided during construction, and allow for payment of the final invoice for the construction contractor.

The following change order is for the following: grade adjustments to the roundabout to improve drainage; additional sidewalk curb leading to the bridge; modifications to the Arrington Road tie-in to State Highway 40 to accommodate TxDOT; remove and replace two ramp landings to meet new ADA requirements; raised pavement markers; and add Bridge cover plates to the bridge which were not shown on drawings. Also, this is the final change order and all quantities on the original bid were balanced out unless the quantities were exact. This change order also includes \$12,000 in liquidation damages to be paid by the construction contractor for not meeting the project schedule included in the contract.

**Budget & Financial Summary:** Funds in the amount of \$4,205,568 are currently budgeted for the Streets portion of this project in the Streets Capital Improvement Projects Fund. Funds in the amount of \$4,204,684.23 have been expended or committed to date, leaving a balance of \$883.77. It is proposed that \$44,432 be transferred from the Dartmouth Extension project to cover this change order and any remaining expenses on the project. The Dartmouth Extension project is complete and came in under budget. The revised budget for the Streets portion of the Arrington/Decatur Extension project will be \$4,250,000.

**Attachments:**

1. Change Order No. 4
2. Location Map

**OWNER:**  
City of College Station  
P.O. Box 9860  
College Station, Texas 77842

**CONTRACTOR:**  
Knife River  
P.O. Box 674  
Bryan, TX 77806

Ph: (979) 361-2900  
Fax: (979) 361-2920

**PURPOSE OF THIS CHANGE ORDER #4:**

- A1. Grade adjustments were made at the roundabout to ensure proper drainage. Since the work was in progress, the most cost effective solution was to use additional concrete to achieve the desired grades.
  - B1. Sidewalk curb leading to the bridge was added.
  - C1. The Tie-In to SH 40 was modified to accommodate TxDOT. Additional work included saw cutting, material haul off and final milling.
  - D1. Removal and replacement of two ramp landings to meet ADA requirements.
  - E1. Raised pavement markers were shown on the plans but no bid item was set up in the contract.
  - F1. Bridge cover plates meeting TxDOT specifications were added.
1. Time extension for items A1 through F1 is 9 calendar days.  
2. Time extension for item G1 is 40 calendar days.  
3. Time extension for items 5 through 80 is 92 calendar days.

ITEM NO.	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
CO4 - A1	LS	Grade adjustment at roundabout	\$ 2,782.00	0	1	\$ 2,782.00
CO4 - B1	LF	Sidewalk curb at bridge	\$ 7.00	0	150	\$ 1,050.00
CO4 - C1	LS	Additional work at SH 40	\$ 2,601.00	0	1	\$ 2,601.00
CO4 - D1	EA	Remove & replace landings	\$ 600.00	0	2	\$ 1,200.00
CO4 - E1	EA	Raised Pavement Markers	\$ 7.00	0	58	\$ 406.00
CO4 - F1	EA	Bridge Cover Plates	\$ 1,200.00	0	4	\$ 4,800.00
CO4-G1	EA	Liquidated Damages	\$ (300.00)	0	40	\$ (12,000.00)
5	CY	Roadway Excavation	\$ 2.60	21164	21180	\$ 41.60
9	TN	D-GR HMA (QCQA)TY-D PG70-22	\$ 210.00	30	8	\$ (4,605.30)
10	SY	8" Jointed Reinforced Portland Cement Concrete Pav	\$ 38.00	23000	24140.5	\$ 43,339.00
17	SY	Concrete Sidewalk	\$ 28.00	5460	5512	\$ 1,456.00
20	LF	Metal Beam Guard Fence (03A)	\$ 22.00	941	943.75	\$ 60.50
23	LF	Sidewalk w/Turn Down Wall	\$ 41.00	620	455	\$ (6,765.00)
25	LF	Trench excavation protection	\$ 1.00	4155	4141	\$ (14.00)
28	LF	18" RCP Pipe (CL III)	\$ 47.00	665	624	\$ (1,927.00)
29	LF	24" RCP Pipe (CL III)	\$ 58.00	70	81	\$ 816.00
30	LF	30" RCP Pipe (CL III)	\$ 69.00	85	103.5	\$ 1,276.50
32	LF	36" RCP Pipe (CL III)	\$ 99.00	15	20	\$ 495.00
33	LF	42" RCP Pipe (CL III)	\$ 110.00	1143	1397	\$ 27,940.00
34	LF	48" RCP Pipe (CL III)	\$ 127.00	849	848	\$ (127.00)
35	LF	54" RCP Pipe (CL III)	\$ 148.00	973	946	\$ (3,996.00)
36	LF	66" RCP Pipe (CL III)	\$ 208.00	519	489	\$ (6,240.00)
40	EA	Wingwall	\$ 7,800.00	2	1	\$ (7,800.00)
42	EA	Adjust Manhole	\$ 1,100.00	7	8	\$ 1,100.00
45	EA	Sanitary Manhole	\$ 3,700.00	6	7	\$ 3,700.00
48	LF	2" Conduit (PVC) (Schd 80)	\$ 10.00	1210	1370	\$ 1,600.00
50	LF	Prestressed Concrete Piling (12" sq)	\$ 46.00	240	223	\$ (805.00)
51	LF	Prestressed Concrete Piling (18" sq)	\$ 65.00	1080	1055	\$ (1,375.00)
61	AC	Cellulose Fiber Mulch Seeding (Perm)(Rural)(Sandy)	\$ 1,400.00	7	10	\$ 4,396.00
62	AC	Fertilizer	\$ 200.00	7	10	\$ 628.00
63	MG	Vegetative Watering (6 Appl)	\$ 12.00	315	235	\$ (960.00)
64	LF	Temp Sediment Control Fence (Install)	\$ 1.90	6750	5430	\$ (2,508.00)
66	LF	Temp Sediment Control Fence (Remove)	\$ 0.70	7300	5980	\$ (924.00)
69	SF	Flexible Growth Medium	\$ 0.16	42920	13058	\$ (4,776.32)
70	EA	Small Roadside Sign Assemblies (Installed)	\$ 410.00	49	43	\$ (2,460.00)
72	LF	Reflectorized Pavement Markings (Type I)(4" Yellow)	\$ 0.60	460	670	\$ 126.00
73	LF	Reflectorized Pavement Markings (Type I)(6" White)	\$ 0.80	7710	7225	\$ (388.00)
74	LF	Reflectorized Pavement Markings (Type I)(8" White)	\$ 1.10	985	989	\$ 4.40
75	LF	Reflectorized Pavement Markings (Type I)(12" White)	\$ 4.15	695	531	\$ (680.60)
76	LF	Reflectorized Pavement Markings (Type I)(24" White)	\$ 10.00	48	57	\$ 90.00
77	EA	Reflectorized Pavement Markings (Type I)(Word White)	\$ 150.00	7	10	\$ 450.00
80	EA	Reflectorized Pavement Markings (Type I)(Arrow)	\$ 140.00	13	19	\$ 840.00
<b>TOTAL =</b>						<b>\$ 42,646.78</b>

THE NET EFFECT OF THIS CHANGE ORDER IS A 1.04% INCREASE

ORIGINAL CONTRACT AMOUNT	\$ 4,085,307.35	
Change Order No. 1	\$ 8,000.00	0.20% CHANGE
Change Order No. 2	\$ 76,145.00	1.86%
Change Order No. 3	\$ 20,837.56	0.51%
Change Order No. 4	\$ 42,646.78	1.04%
REVISED CONTRACT AMOUNT	\$ 4,232,936.69	2.57% TOTAL CHANGE

ORIGINAL CONTRACT TIME	270	Days
Time Extension No. 1	4	Days
Time Extension No. 2	56	Days
Time Extension No. 3	28	Days
Time Extension No. 4	141	Days
Revised Contract Time	499	Days

SUBSTANTIAL COMPLETION DATE April 11, 2008  
Revised Substantial Completion Date November 26, 2008

APPROVED

*Carroll Dax* 4/16/09  
AVE CONTRACTOR Date

*John Fato* 3-28-2009  
CONSTRUCTION CONTRACTOR Date

*Orange* 4-2-09  
PROJECT MANAGER Date

N/A  
CITY ENGINEER Date

*Charles R. ...* 7-April-09  
DEPARTMENT DIRECTOR Date

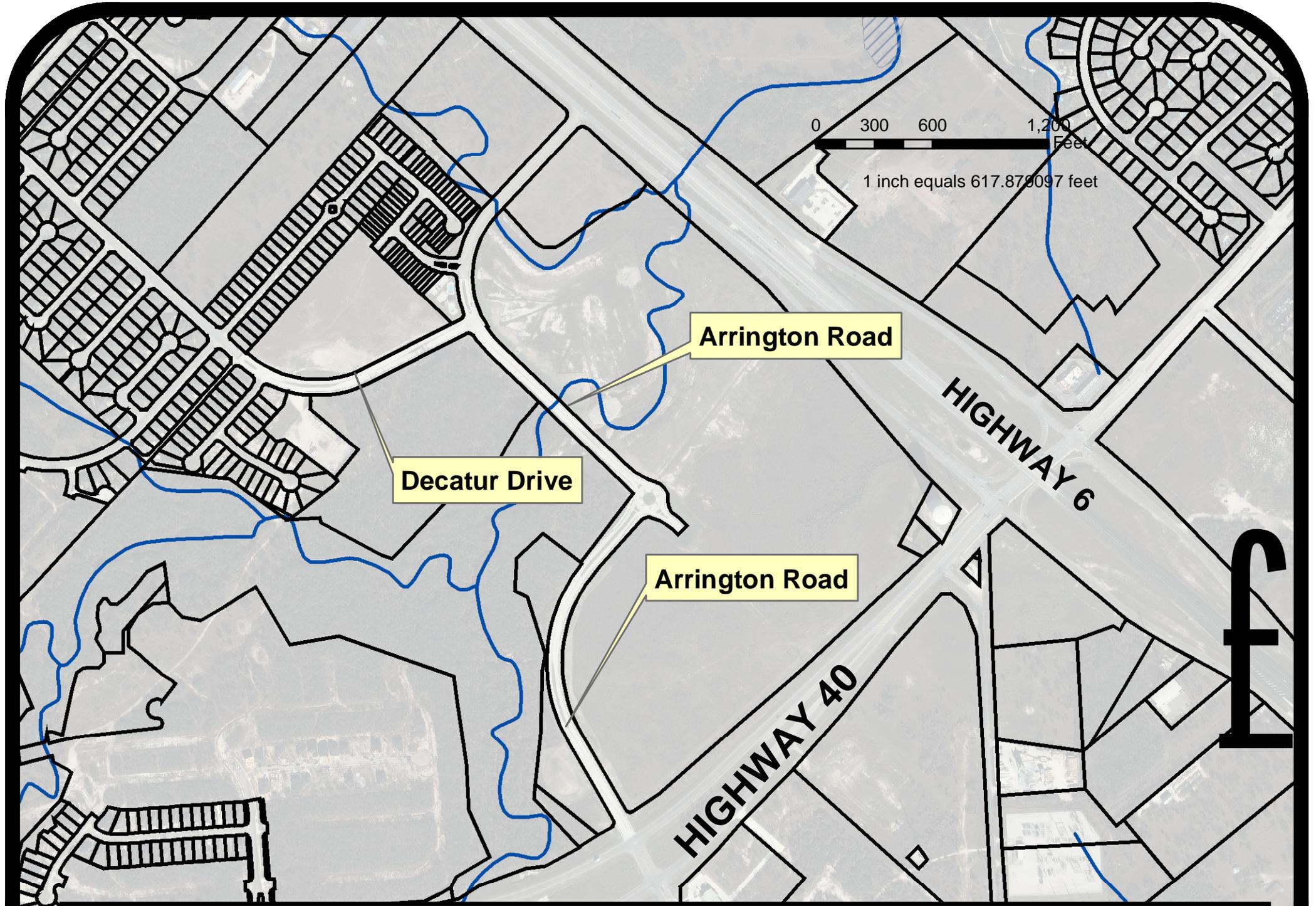
*John C. Fato*  
DIRECTOR OF FISCAL SERVICES Date

*...*  
CITY ATTORNEY Date

*...*  
MAYOR Date

*...*  
CITY SECRETARY Date

*...*  
CITY MANAGER Date



**LOCATION MAP OF ARRINGTON DECATUR PROJECT**

**April 23, 2009**  
**Consent Agenda Item No. 2d**  
**Change Order to Brazos Valley Services Contract**  
**for William D. Fitch Widening Phase II**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding Change Order No. 2 to the construction contract with Brazos Valley Services (Contract No. 09-038) in the amount of \$52,747.14 for the William D. Fitch Widening Phase II project.

**Recommendation(s):** Staff recommends approval of Change Order #2 to the Brazos Valley Services contract in the amount of \$52,747.14.

**Summary:** This change order is for quantity increases to the bid tab amount for bridge related items including sidewalks, monolithic curb, and bridge bent. Although these items were shown on the design drawings, the quantities listed on the bid form were inaccurate.

Additionally, this change order also includes quantity deductions resulting from a shift in the roadway alignment east of the intersection to avoid conflict with an gas pipeline.

**Budget & Financial Summary:** Change order #2 will result in a net increase of 1.41% of the original contract amount. Funds in the amount of \$4,530,000 are currently budgeted for this project in the Street Capital Projects Fund. Funds in the amount of \$4,153,807.97 have been expended or committed to date, leaving a balance of \$376,192.03.

**Attachments:**

1. Change Order #2
2. Project Location Map

CHANGE ORDER NO. 2 Contract No. 09-038 DATE: March 31, 2009  
P.O.# 090405 PROJECT: WD Fitch Pkwy Phase II Widening, ST-0520

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

**CONTRACTOR:**  
Brazos Valley Services  
P.O. Box 985 Ph: (979) 255-3977  
Bryan, TX 77805 Fax: (936) 399-7012

**PURPOSE OF THIS CHANGE ORDER:**

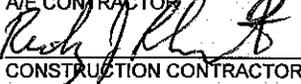
1. Install a concrete collar to connect the culvert pipe extension to the existing culvert at Sta. 91+11.54 due to different outside pipe diameters.
2. Revised quantity for existing bridge sidewalk addition.
3. Revised quantity for Type II Monolithic Curb to include curb on westbound bridge and approach slab.
4. Revised quantity for bridge bent.
5. To install a sidewalk on the westbound bridge. This item was left out of the original bid.
- 6-11. Roadway and earthwork quantity adjustments resulting from shifting the roadway alignment in order to avoid the Seminole gas line.
- 12-14. Pavement marking quantity adjustments as a result of the changed roadway alignment.
15. Additional layout and sub-grade rework for the changed roadway alignment.
16. One additional LF of 10x7 box culvert that was added under C.O. #1.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	LS	Install Concrete Collar to Extend Culvert at Sta. 91+11.54	\$750.00	0	1	\$750.00
2	SY	Item 2.01, Retrofit Sidewalk for Existing Eastbound Bridge	\$337.50	81	124	\$14,377.50
3	LF	Item 4.09, Install Type II Concrete Mono Curb	\$3.00	122	162	\$120.00
4	CY	Item 2.08, Furnish and Install Class C Concrete for Bridge Bent	\$2,561.63	21	38	\$43,803.87
5	SY	Install 6" Sidewalk for Westbound Bridge	\$88.75	0	124	\$10,969.50
6	CY	Roadway Excavation	\$4.00	4,624	4,426	(\$793.60)
7	CY	Furnish and Install Type A, Density Controlled Embankment	\$8.00	21,244	21,389	\$1,156.80
8	TON	Furnish Lime (Hydrated Lime Slurry, Commercial Lime Slurry, Quicklime Slur	\$136.00	816	808	(\$1,088.00)
9	SY	Construct 8" Lime Treated Subgrade (est. 6% by wt.)	\$1.80	36,064	35,574	(\$882.00)
10	TON	Furnish and Install Type B, PG64-22 Dense-Graded Hot-Mix Asphalt	\$85.36	2,790	2,601	(\$16,133.04)
11	TON	Furnish and Install Type D, PG70-22 Dense-Graded Hot Mix Asphalt	\$89.32	760	706	(\$4,823.28)
12	EA	Furnish and Install Reflective Pavement Marker Type II-C-R	\$6.19	438	435	(\$18.57)
13	LF	Furnish and Install Type I, 4" Broken White Reflective Pavement Marker	\$0.40	4,280	4,250	(\$12.00)
14	LF	Furnish and Install Type I, 24" Solid Yellow Reflective Pavement Marking	\$5.07	564	492	(\$365.04)
15	LS	Additional Layout and Rework Sub-Grade	\$5,000.00	0	1	\$5,000.00
16	LF	Furnish and Install 10x7 Reinforced Concrete Box Culvert under C.O. #1	\$685.00	23	24	\$685.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
					TOTAL	\$52,747.14

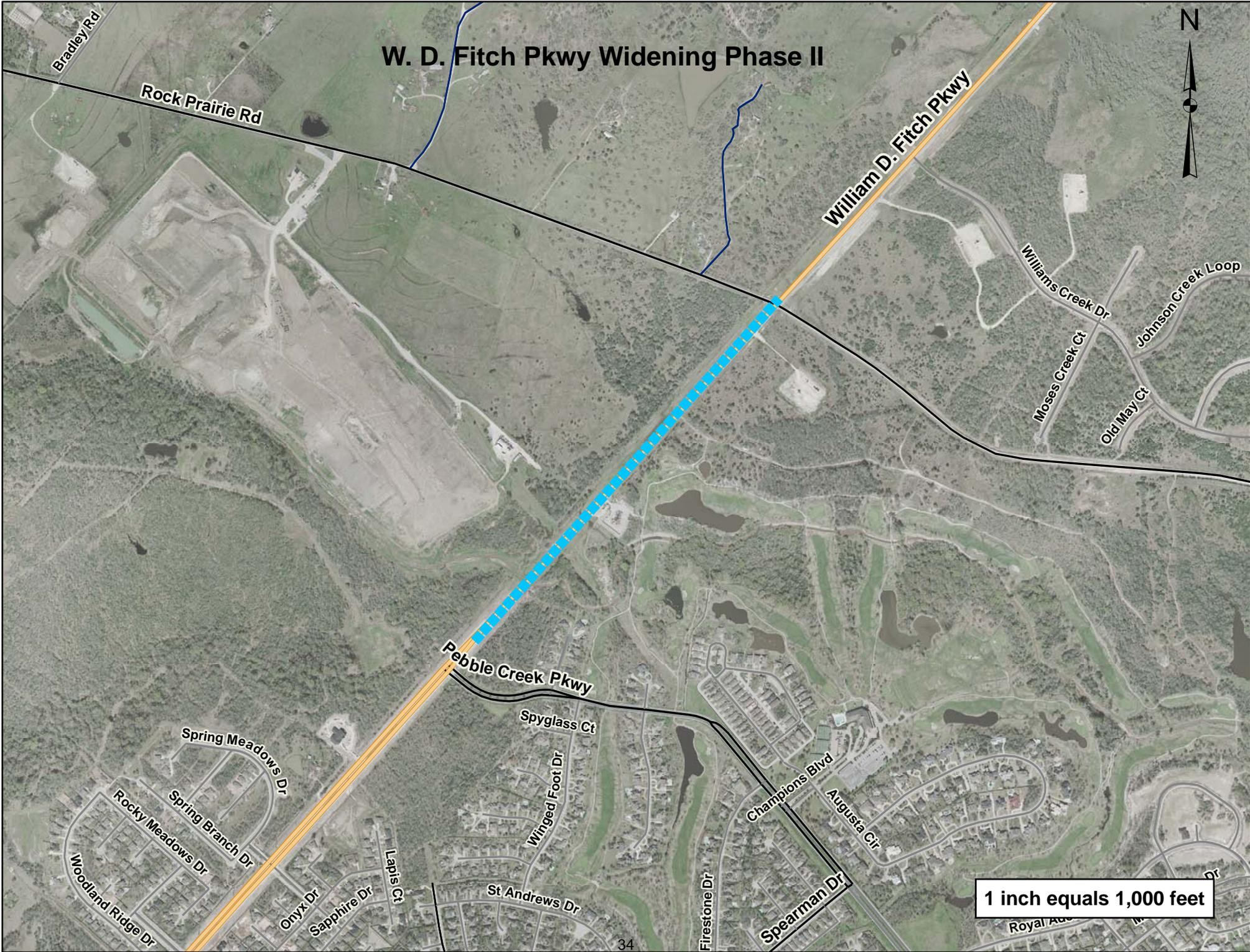
THE NET AFFECT OF THIS CHANGE ORDER IS 1.41% INCREASE.

ORIGINAL CONTRACT AMOUNT	\$3,749,256.38		
Change Order No. 1	\$2,645.00	0.07%	
Change Order No. 2	\$52,747.14	1.41%	CHANGE
REVISED CONTRACT AMOUNT	\$3,804,648.52	1.48%	TOTAL CHANGE
ORIGINAL CONTRACT TIME	365 Days		
Time Extension No. 1	0 Days		
Revised Contract Time	365 Days		

APPROVED

 A/E CONTRACTOR	4-7-2009 Date	 CITY ATTORNEY	Date
 CONSTRUCTION CONTRACTOR	4/7/09 Date	_____ DIRECTOR OF FISCAL SERVICES	Date
_____ PROJECT MANAGER	Date	_____ MAYOR	Date
_____ DEPARTMENT DIRECTOR	Date	_____ CITY SECRETARY	Date
		_____ CITY MANAGER	Date

# W. D. Fitch Pkwy Widening Phase II



1 inch equals 1,000 feet

**April 23, 2009**  
**Consent Agenda Item No. 2e**  
**BVSWMA TAMU Household Hazardous Waste Collection Event User Agreement**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion of a user agreement between Texas A&M University and the Cities of College Station and Bryan authorizing Texas A&M University to provide the University Services Building parking lot area and ingress/egress roads for a term of five (5) years to the Brazos Valley Solid Waste Management Agency for the spring Household Hazardous Waste & Computer Collection event.

**Recommendation(s):** Staff recommends approval of the user agreement authorizing Texas A&M University to provide the University Services Building parking lot area, and ingress/egress roads a term of five (5) years to the Brazos Valley Solid Waste Management Agency for the fall Household Hazardous Waste & Computer Collection Event.

**Summary:** The Brazos Valley Solid Waste Management Agency has a semi-annual regional Household Hazardous Waste & Computer Collection Event for the safe disposal and recycling of household hazardous waste. The Brazos Valley Solid Waste Management Agency will be able to provide a safe environment for the disposal of hazardous waste and decrease the amount of traffic congestion due to the increased space at the University Services Building. After the user agreement has been executed by all parties, BVSWMA staff will give a 45 day notice for the event as required from the Texas Commission on Environmental Quality. Staff estimated that the event will be held in mid to late June, 2009. This item will also require the approval of the Bryan City Council.

**Budget & Financial Summary:** None.

**Attachments:**

1. User Agreement
2. Location Map

## Site Use Agreement

This Site Use Agreement is entered into by and between Texas A&M University, a component of the Texas A&M University System, an agency of the State of Texas ("University") and **City of College Station, a Texas home rule municipal corporation and the City of Bryan, a Texas home rule municipal corporation** (hereinafter referred to as the ("CITIES"))

**Whereas**, the CITIES operating jointly through an interlocal agreement labeled First Amended Brazos Valley Solid Waste Management Agency, entered into on the 29<sup>th</sup> day of May 2003, conducts, on a semi-annual basis, its Household Hazardous Waste and Computer Collection Event ("Event") for the benefit of the citizens of Brazos and surrounding counties, and

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

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

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

**Therefore**, in consideration of the mutual premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the University and the CITIES agree as follows:

1. The term of this Agreement is from March, 2009 through December, 2014. On an annual basis during the term of this Agreement, subject to prior written approval by the TAMU Vice President for Facilities, the CITIES will be permitted to conduct no more than two (2) Events at the Site. The City of College Station will provide, by the earlier of January 15 of each year or no later than sixty (60) days prior to the first Event of the year, an annual Event calendar as agreed upon by the CITIES. This Event calendar will reflect the specific dates and times for each Event to include a schedule for Event set up, conduct of the Event itself and post Event clean up. The Event calendar, along with the CITIES request for written approval will be sent to the following:

Texas A&M University  
Vice President for Facilities  
218 Williams Administration Bldg  
1247 TAMU  
College Station, TX 77843-1247

w/ a copy to: Texas A&M University  
Facilities Coordination  
750 Agronomy Rd, Suite 1001  
1369 TAMU  
College Station, TX 77843-1369

Additionally, the CITIES will provide, to both addresses above, an Event confirmation notice no later than thirty (30) days prior to each Event.

2. The CITIES will be solely responsible, at its sole cost and expense, for arranging personnel including, but not limited to, hazardous waste collection contractors, employees volunteers and

sufficient law enforcement personnel to assist with traffic control, and all equipment necessary for the conduct of Event.

3. The CITIES will be responsible for applying herbicide and cleaning of access asphalt road from Site to Harvey Rd. The University and the CITIES will evaluate the asphalt road at the conclusion of the event to determine if the level of traffic necessitates repair to the road. In the event repairs are needed, the CITIES and University will enter into a separate written agreement to establish the terms and conditions for such repairs.
4. The CITIES will be responsible for Event advertising, Event set up, including all coordination with and direction of contractors, employees, volunteers at the Site, conduct of the Event, including the installation of electronic traffic signs and hiring of sufficient law enforcement personnel to assist with traffic flow/direction, and all Event clean up activities.
5. The CITIES will be solely responsible for cleaning all debris, refuse or any waste produced as a result of event and shall return University's premises to original condition as found prior to the CITIES use of premises. Should University incur any costs or otherwise be obligated to clean or restore the area to its original condition, the CITIES, through the BVSWMMA fund, shall reimburse University for all such costs upon the City of College Station's receipt of invoice from University, with a "cc" of the invoice to Public Works Director, City of Bryan, P.O. Box 1000, Bryan Texas 77805.
6. The University may direct any and all questions or concerns regarding the CITIES' performance under this Agreement to the City of College Station, at BVSWMMA, City of College Station, P.O. Box 9960, College Station, Texas 77842 with a "cc" to Public Works Director, City of Bryan, P.O. Box 1000, Bryan Texas 77805
7. SUBJECT TO THE LIMITATION AS TO DAMAGES IN THE TEXAS TORT CLAIMS ACT, THE CITIES WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS UNIVERSITY AND ANY OF ITS COMPONENTS, OFFICERS OR EMPLOYEES FROM ANY CLAIM, DEMAND OR SUIT WHATSOEVER, WHETHER BASED UPON PERSONAL INJURY, INCLUDING DEATH, OR PROPERTY DAMAGE, OR OTHERWISE, WHICH RELATES IN ANY WAY TO THE USE OF UNIVERSITY PROPERTY BY THE CITIES FOR THE EVENT AS SET FORTH HEREIN CAUSED BY THE CITIES' NEGLIGENCE. BY ENTERING INTO THIS AGREEMENT, NEITHER CITY CONSENTS TO SUIT OR WAIVES THEIR RESPECTIVE GOVERNMENTAL IMMUNITY.
8. The CITIES will be responsible for assuring the CITIES employees and guests are made aware of and comply with appropriate University rules and regulations and shall be held responsible for their conduct while occupying University property.
9. The CITIES, as host of the event, is responsible for defraying all costs associated with the Event either through sponsorship or direct payment with the CITIES funds.
10. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, diagrams or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist.
11. Either University or the CITIES may terminate this Agreement at any time by providing written notice to the other of its intent to terminate. However, if termination of this Agreement is

contemplated by either party in advance of an approved, scheduled event, any notice to terminate must be provided forty-five (45) days in advance of any scheduled Event. the CITIES may submit its written notice to the TAMU addresses noted in Section 1 above; TAMU may submit its written notice to the following address:

City of College Station  
Brazos Valley Solid Waste Management Agency  
300 Krenek Tap Rd  
College Station, TX 77842

with a "cc" to  
Public Works Director,  
City of Bryan,  
P.O. Box 1000,  
Bryan Texas 77805

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

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by University and the CITIES.

**TEXAS A&M UNIVERSITY**

**CITY OF COLLEGE STATION**

\_\_\_\_\_  
**Terry Pankratz**  
Vice President and Chief Financial Officer

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

**RECOMMENDED APPROVAL:**

**ATTEST:**

\_\_\_\_\_  
**Charles A. Sippial**  
Vice President for Facilities

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

**APPROVED:**

\_\_\_\_\_  
**Phillip A. Ray**  
University Contracts Officer

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

*Carla A Robinson*  
\_\_\_\_\_  
**City Attorney**

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

**CITY OF BRYAN**

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

MAYOR

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

ATTEST:

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

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

APPROVED:

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

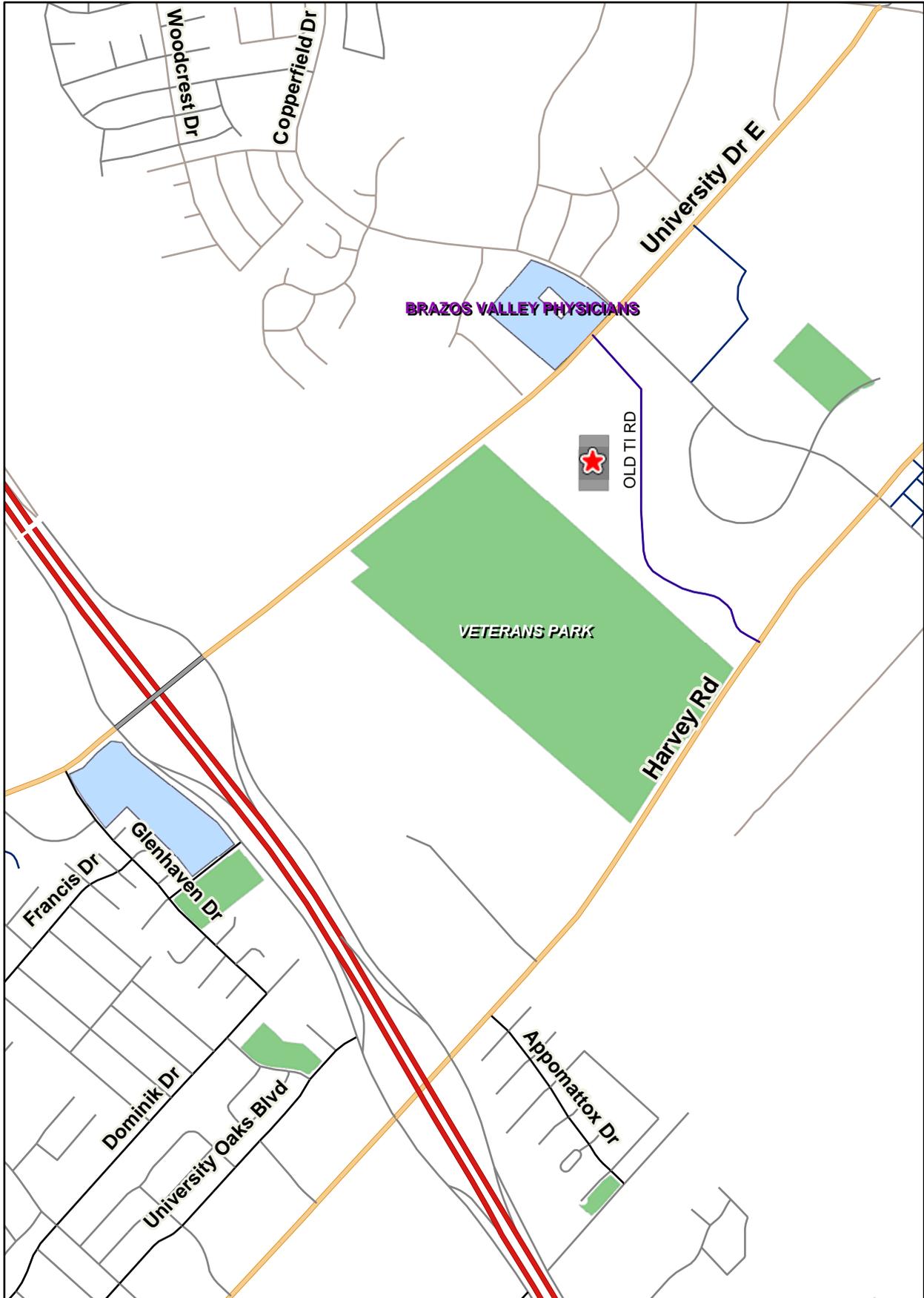
Date: \_\_\_\_\_

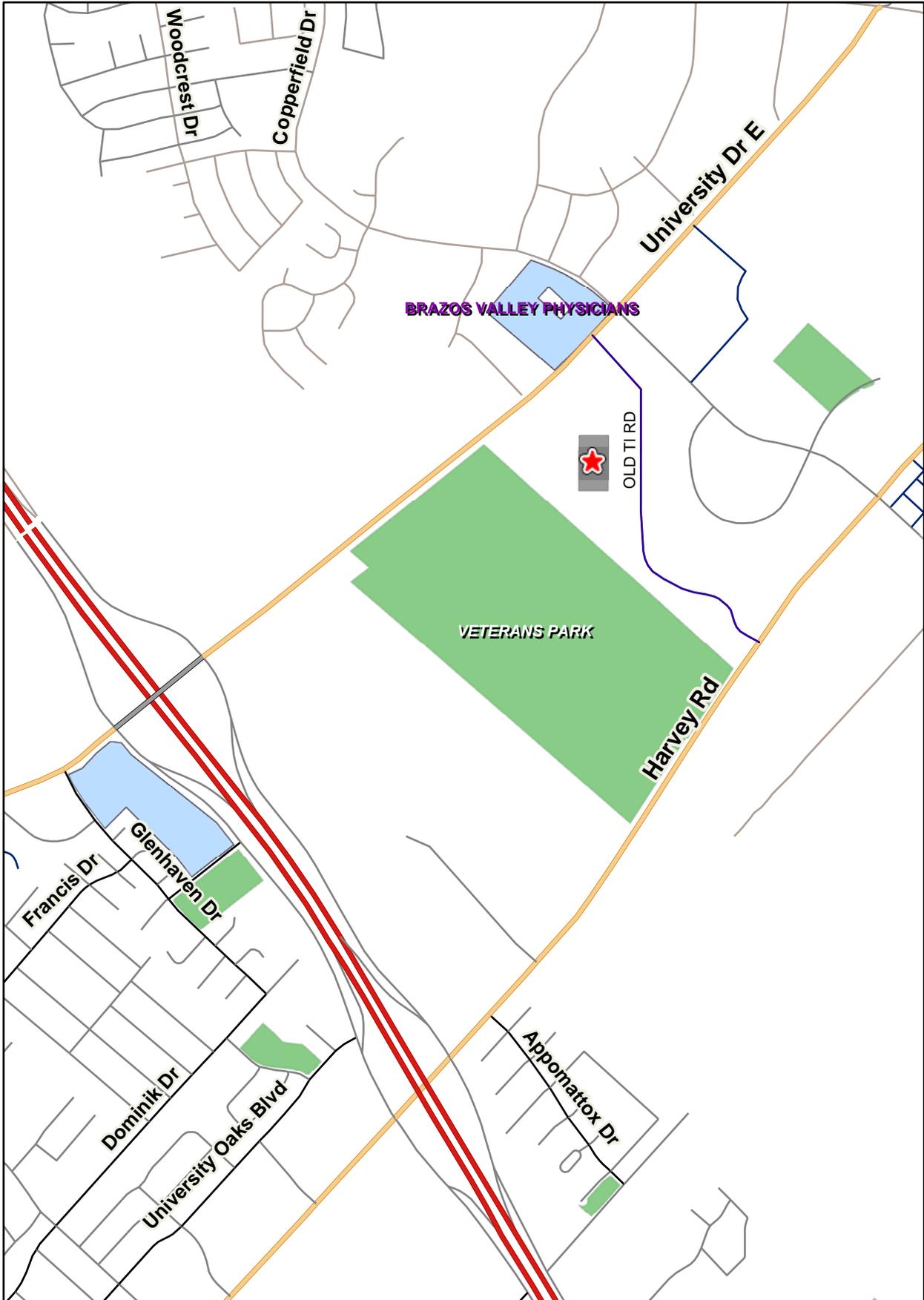
APPROVED AS TO FORM:

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

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

EXHIBIT A





**April 23, 2009**  
**Consent Agenda Item No. 2f**  
**Final Settlement with Mr. and Mrs. David and Jennifer Weber**

**To:** Glenn Brown, City Manager

**From:** David Coleman, Director of Water Services.

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a Settlement Agreement and Release between the City and David and Jennifer Weber compensating the Webers for the condemnation of easements necessary for the completion of the Parallel Water Transmission Phase III.

**Recommendation:** Staff recommends Council approve the Settlement Agreement and Release.

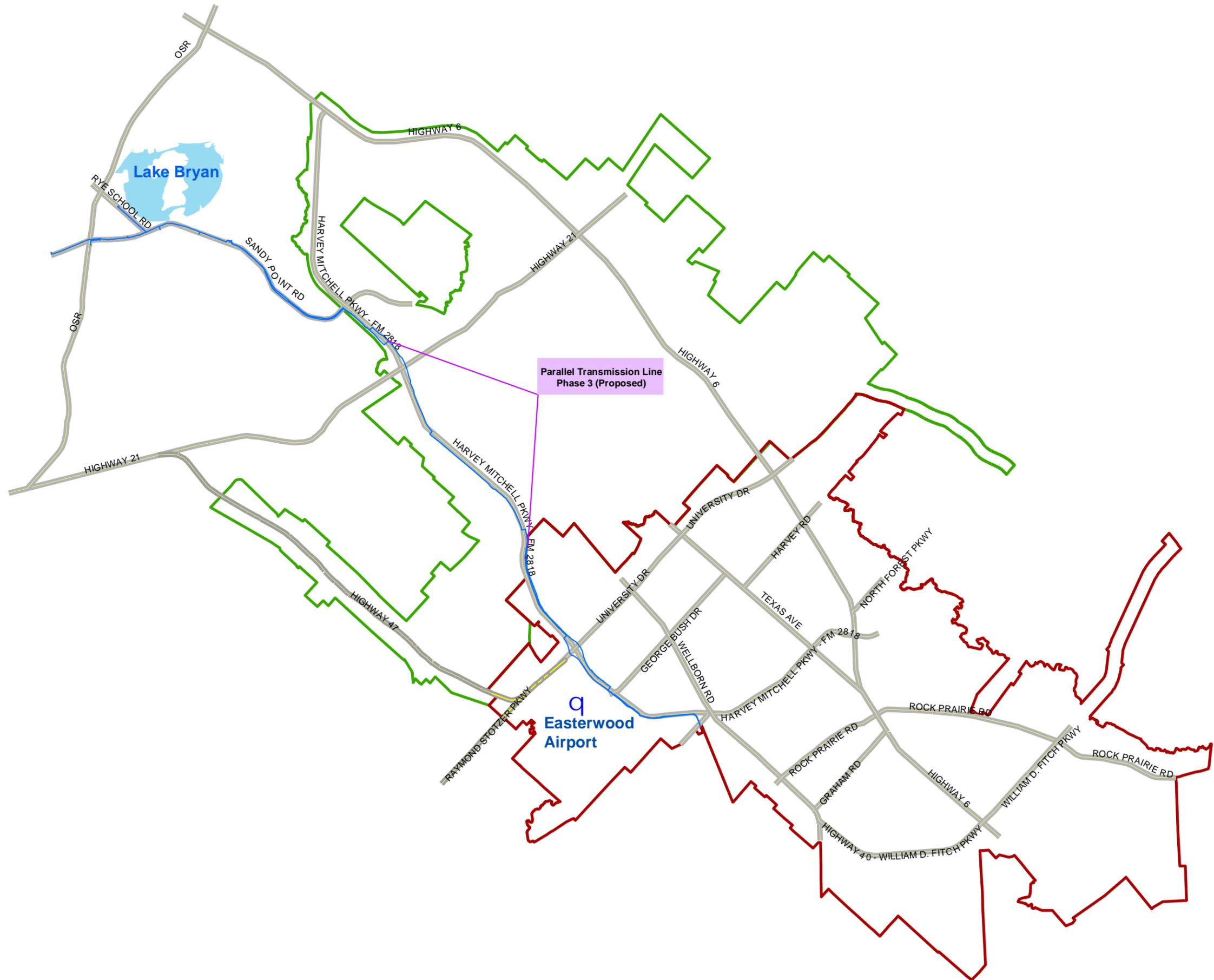
**Summary:** The final construction phase of the parallel water transmission line is complete. The City now has enough capacity to move water from the well field to the City to last for the foreseeable future. The construction project included some easement condemnations along the pipeline route, including Mr. and Mrs. David and Jennifer Weber, owners of Machine Works, Inc.

On March 27, 2008, City Council approved a Mediated Settlement Agreement, whereby the Council approved \$310,749.00 to bore under trees and driveways on the Webers' property, as well as a total of \$38,000.00 to compensate the Webers for the easements and damages, and \$3,000.00 to compensate KBS Electrical Distributors, Inc., a tenant on the Webers' property for damages resulting from the condemnation. Under the approved Mediated Settlement Agreement, the parties agreed that additional compensation may be due the Webers following completion of construction for any damages resulting from the construction. Consequently, Mr Weber and the City have negotiated an additional payment of \$16,000.00 to the Webers to compensate them for the death of a large oak tree. The total amount to be paid to the Webers under the proposed Settlement Agreement and Release is \$54,000.00. Staff recommends approval of the Settlement Agreement and Release.

**Budget & Financial Summary:** \$18,000.00 has already been paid to the Webers following the condemnation hearing. Additional funds in the amount of \$39,000.00 are budgeted and available in the Water CIP Fund. This amount is the original \$20,000.00 to the Webers before construction, the \$3,000.00 to be paid to the Webers' tenant, and the additional damage claim of \$16,000.00.

**Attachments:**

Settlement Agreement and Release  
Agreed Final Condemnation Judgement  
Map



## SETTLEMENT AGREEMENT AND RELEASE

### I. PRELIMINARY RECITALS

1.1 Unless otherwise designated, the following terms have the meanings described below:

(a) “Settling Parties” or “parties” mean: the City of College Station, Texas (“City”), a home rule municipality located in Brazos County, Texas; David Allen Weber and wife Jennifer Weber (collectively “Weber”), being individuals and residents of Brazos County, Texas; and Compass Bank, a lending institution located and doing business in Brazos County, Texas. All settling party names or identifying terms described in this paragraph shall also refer to the elected officials, appointed officials, officers, directors, partners, members, managers, employees, or representatives of a settling party, as the case may be, and shall refer to similarly titled individuals of a subsidiary of a settling party, if any.

(b) “Settlement Agreement” or “agreement” means this entire Settlement Agreement and Release, all documents attached as the appendix, and all provisions contained therein.

(c) “Settlement payment” and “total compensation” have the meanings described in paragraph 2.1 of this agreement.

(d) “Claim” means all actual, accrued, or potential claims, causes of action, damages, liabilities, monetary or non-monetary recoveries or relief (including injunctive or mandamus relief), defenses, or matters of avoidance, existing at law or in equity, now or in

the future, including but not limited to the following: (1) condemnation or inverse condemnation recoveries, damages, or relief under Chapter 21 of the Texas Property Code, the Fifth Amendment of the United States Constitution, Article I, Section 17 of the Texas Constitution, or other authority; (2) recoveries, damages, or relief for the taking, damaging, or destruction of property, either real, personal, or mixed property; and (3) recoveries, damages, or relief for trespass, negligence, lost business profits, lost business opportunity, loss of business access to property, actual damages, exemplary damages, attorney's fees, and the costs and expenses of litigation (including expert fees and expenses, pre-judgment interest, and post-judgment interest).

(e) "Subject property" means the real property and proposed permanent and temporary easements described in: (1) the City's Original Condemnation Petition in Cause No. 485-CC-CCL1, styled *City of College Station v. David Allen Weber, et al*, in the County Court at Law No. 1 of Brazos County, Texas ("lawsuit" or "suit"), a copy of which is attached as Exhibit A of the appendix; and (2) the Mediated Settlement Agreement ("MSA") dated March 27, 2008 in the suit, executed between the City, David Allen Weber, Jennifer Weber, and Compass Bank, a copy of which is attached as Exhibit B of the appendix.

(f) "Dispute" means all facts, allegations, and actual, accrued, or potential claims that: (1) are described in the suit; (2) are described in the MSA; (3) relate to or arise from the facts described in the suit or MSA; or (4) relate to or arise from the City's construction, operation, maintenance, repair, or removal of its water transmission line project on the subject property.

1.2 Singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, where necessary for a correct understanding of this agreement.

1.3 By this agreement, the Settling Parties now desire and intend to settle all claims arising from the dispute in order to avoid the risk and expense associated with litigation.

## **II. TERMS AND PROVISIONS**

**NOW, THEREFORE**, for and in consideration of the terms, covenants, release, promises and representations herein made, including the above recitals and the settlement payment hereafter described, the sufficiency of which being hereby expressly agreed, confessed, and acknowledged, the Settling Parties agree as follows:

2.1 The parties agree that \$54,000.00 ("total compensation") is the total amount of compensation to which David Allen Weber and Jennifer Weber shall be entitled to receive in the settlement of the suit and dispute, and that Compass Bank shall not be entitled to receive any compensation regarding the settlement of the suit and dispute. The total compensation is the just and reasonable compensation for the taking of the subject property, and for all actual, accrued, or potential condemnation, compensation, or other claims or damages related to or arising from the suit and dispute. The City shall receive an \$18,000.00 credit on the total compensation amount for the Special Commissioners award it previously deposited in the Court registry in the suit, which was later withdrawn by David Allen Weber and Jennifer Weber. The remaining unpaid amount of \$36,000.00 ("settlement payment"), shall be paid by the City directly to David Allen Weber and Jennifer Weber, by and through

their attorney of record through a City check made payable to David Allen Weber and Jennifer Weber, in the amount of \$36,000.00 and delivered to said attorney of record at his business address described in this agreement, within seven business days of the execution of this agreement by the last signing party.

2.2 Effective on the execution of this agreement by all parties, the timely delivery in full of the settlement payment, and the signing by the Court in the suit of an Agreed Final Condemnation Judgment, but except as provided in paragraph 2.11 herein, David Allen Weber, Jennifer Weber, and Compass Bank, hereby release and forever discharge, waive and relinquish all claims against the City regarding or relating to the dispute.

2.3 The parties mutually represent and warrant to each other that:

- (a) They have carefully reviewed this agreement.
- (b) They have consulted with their respective attorneys concerning this agreement, or have chosen to enter this agreement without the advice of counsel.
- (c) Any questions that they may have pertaining to this agreement have been fully answered and fully explained by their respective attorneys, if any.
- (d) The decision to execute this agreement was not based upon any statement or representation either written or orally made by the other party, other than those contained in this agreement.
- (e) There are no oral understandings, statements, promises, or inducements contrary to the terms of this agreement.
- (f) This agreement supersedes any and all prior agreements, arrangements,

or understandings between the parties relating to the subject matter hereof.

(g) This agreement may not be modified or amended except by a written, further settlement agreement being executed by the parties.

(h) This agreement, when executed and effective, including all attached documents, constitutes the entire Settlement Agreement and complete understanding between the parties regarding the matters that are the subject of this agreement.

2.4 This agreement is entered into by the parties as a compromise of disputed claims. None of the parties admit any liability, fault or wrongdoing. Accordingly, the execution of this agreement by a party does not constitute, and shall not be construed as, an admission of liability by that party for any purpose. The parties agree that neither this agreement, nor any evidence relating thereto, will ever be admissible as evidence of an admission of any liability or responsibility in any suit, claim, or proceeding of any nature, except to enforce the terms and obligations of this agreement, or as may be required by a government agency or court of competent jurisdiction.

2.5 The parties acknowledge, warrant and represent to each other that:

(a) They have full authority to enter into this agreement.

(b) They are the sole owners and holders of all claims and rights they have released by means of this agreement.

(c) They have not previously assigned or conveyed such claims or rights.

(d) They are disposing of all such claims and rights by means of this agreement.

2.6 This agreement is the result of substantial negotiation between the parties and their attorneys or representatives. Accordingly, the fact that the attorney for one party or the other may have drafted this agreement is immaterial, and any ambiguities, internal conflicts, or irreconcilable provisions in this agreement shall not be strictly construed against any party.

2.7 This agreement may be executed in multiple duplicate counterparts, each of which shall be deemed an original for all purposes, and all of which together shall constitute one and the same instrument. This agreement shall not be effective until it has been fully executed by the parties. Each of the parties, through its signatory representative, is fully authorized to execute this agreement and to bind the party for which he or she has executed this agreement.

2.8 This agreement is governed by and shall be construed in accordance with the law of the State of Texas. If any provision of this agreement is or may be held by a court of competent jurisdiction to be void or unenforceable, the remaining provisions shall survive and continue in full force and effect, without being impaired or invalidated in any way.

2.9 This agreement, and all the terms, covenants, conditions, provisions, obligations, undertakings, rights and benefits hereof, shall be binding on, and shall inure to the benefit of, the parties, as well as the executors, administrators, representatives, predecessors, successors, agents and assigns, if any, of said parties. However, this agreement is not assignable without the express, written consent of the parties.

2.10 The parties expressly agree that this agreement shall be performed wholly in Brazos County, Texas. Should suit be filed regarding this agreement, the parties agree that

venue regarding any such suit shall be and lie exclusively in a court of competent jurisdiction in Brazos County, Texas.

2.11 Notwithstanding anything to the contrary contained herein, the parties further agree to the following:

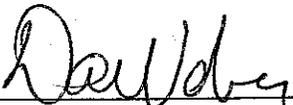
(a) Any release contained in this agreement does not become effective and does not activate until this agreement is fully executed, the total settlement payment is timely delivered, and the Agreed Final Condemnation Judgment is signed by the Court in the suit.

(b) Any release contained in this agreement does not release a party from the respective obligations of that party under this agreement.

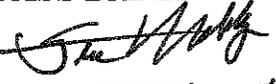
2.12 All preliminary recitals of this agreement and all attached documents of the appendix are incorporated by reference for all purposes.

### **III. SIGNATURES OF SETTLING PARTIES**

**EXECUTED** on the date of the last signing Settling Party, as shown by the signatures and dates appearing below.

  
\_\_\_\_\_  
**DAVID ALLEN WEBER**  
Date: 4/16/09, 2009

  
\_\_\_\_\_  
**JENNIFER WEBER**  
Date: 4 April 09, 2009

**COMPASS BANK**  
BY:   
\_\_\_\_\_  
Printed Name: Steve Mobley  
Title: City President  
Date: April 8, 2009

**CITY OF COLLEGE STATION, TEXAS**

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009

**ATTEST:**

\_\_\_\_\_  
City Secretary, City of College Station, Texas

**APPROVED:**

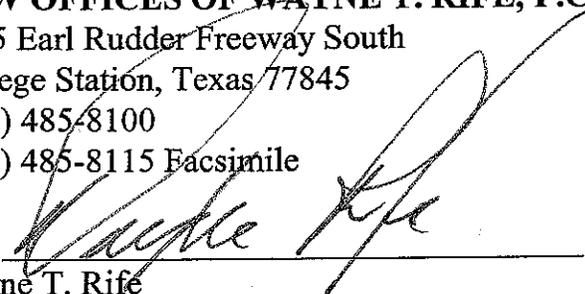
**LAW OFFICES OF WAYNE T. RIFE, P.C.**

3205 Earl Rudder Freeway South

College Station, Texas 77845

(979) 485-8100

(979) 485-8115 Facsimile

BY:  \_\_\_\_\_

Wayne T. Rife

State Bar No. 16915850

**ATTORNEYS FOR DEFENDANTS,**

**DAVID ALLEN WEBER AND JENNIFER WEBER**

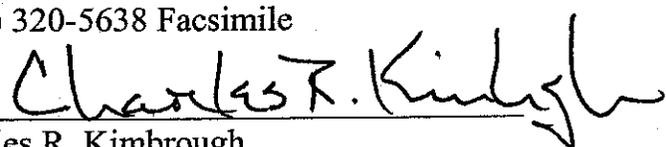
**BICKERSTAFF HEATH DELGADO ACOSTA LLP**

816 Congress Avenue, Suite 1700

Austin, Texas 78701

(512) 472-8021

(512) 320-5638 Facsimile

BY:  \_\_\_\_\_

Charles R. Kimbrough

State Bar No. 11424700

**OFFICE OF THE CITY ATTORNEY**

**CITY OF COLLEGE STATION, TEXAS**

P. O. Box 9960

College Station, Texas 77842

(979) 764-3507

(979) 764-3481 Facsimile

BY: Carla A. Robinson

Carla Robinson

First Assistant City Attorney

State Bar No. 00794543

**ATTORNEYS FOR PLAINTIFF,  
CITY OF COLLEGE STATION, TEXAS**

**APPENDIX**

**SETTLEMENT AGREEMENT AND RELEASE:**

**EXHIBIT A**

CAUSE NO. 485-CC

CITY OF COLLEGE STATION,  
Plaintiff  
v.  
DAVID ALLEN WEBER, JENNIFER  
WEBER, AND COMPASS BANK,  
Defendants

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IN THE COUNTY COURT  
BRAZOS COUNTY  
AT LAW NO. 1  
BRAZOS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL CONDEMNATION PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the City of College Station, Texas ("College Station" or "City"), Plaintiff and  
Condemnor in this suit, and files this Original Condemnation Petition, and would respectfully show  
the following:

**INTRODUCTION, JURISDICTION, AND VENUE**

I.

1.1 This is a condemnation suit. It is requested that discovery be conducted under  
Discovery Level 2. TEX. R. CIV. PRO. 190.1, 190.3.

1.2 Pursuant to its eminent domain authority and the need to improve and expand its  
municipal, public water utility system, College Station seeks to acquire a permanent public utility  
easement and right of way, and a related temporary construction easement, regarding certain real  
property located in Brazos County, Texas ("subject property"):

**PERMANENT PUBLIC UTILITY EASEMENT AND RIGHT  
OF WAY TRACT:** All that certain tract or parcel of land, being and  
situated in Brazos County, Texas, a part of the Stephen F. Austin  
League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas,  
containing 0.60 acres of land, more or less, and being a part of Lot 1,

COPY

Block 1, of the Newsco Addition to the City of Bryan, according to the plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, said 0.60 acre permanent public utility easement tract being more particularly described by metes and bounds and survey plat in Exhibit A, which is attached hereto and incorporated by reference for all purposes ("permanent public utility easement").

**TEMPORARY CONSTRUCTION EASEMENT TRACT:** All that certain tract or parcel of land, being and situated in Brazos County, Texas, a part of the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, containing 0.63 acres of land, more or less, and being a part of Lot 1, Block 1, of the Newsco Addition to the City of Bryan, according to the plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, said 0.63 acre temporary construction easement tract being more particularly described by metes and bounds and survey plat in Exhibit B, which is attached hereto and incorporated by reference for all purposes ("temporary construction easement").

1.3 Pursuant to a declared public purpose, necessity, and convenience, College Station has authorized the acquisition by condemnation of the permanent public utility easement described in Exhibit A, and the related temporary construction easement described in Exhibit B, on, in, over, above, along, under, across, and through the subject property.

1.4 The Court has jurisdiction of this suit. TEX. GOV'T CODE §§ 25.0003, 25.0231, 25.0232; TEX. PROP. CODE §§ 21.001, 21.011, 21.013. David Allen Weber and Jennifer Weber, Defendants, are the apparent owners of the fee title to the subject property, and they are residents of Brazos County, Texas. The subject property is located in Brazos County, Texas. Venue for this suit is appropriate in Brazos County, Texas. TEX. PROP. CODE § 21.013.

## PARTIES

### II.

2.1 College Station, Plaintiff, is home-rule municipality located in Brazos County, Texas.

College Station is duly incorporated and chartered under the constitution and laws of Texas.

2.2 David Allen Weber, Defendant, is an individual and resident of Brazos County, Texas. For the purpose of notice and citation, David Allen Weber, Defendant, may be served at the following address: 810 South Rosemary Drive, Bryan, Brazos County, Texas 77802-4335.

2.3 Jennifer Weber, Defendant, is an individual and resident of Brazos County, Texas. For the purpose of notice and citation, Jennifer Weber, Defendant, may be served at the following address: 810 South Rosemary Drive, Bryan, Brazos County, Texas 77802-4335.

2.4 Compass Bank, Defendant, is a lending institution doing business in Brazos County, Texas. Said Defendant is the owner of an apparent real property security interest regarding the subject property, through a deed of trust or mortgage instrument filed of record. For the purpose of notice and citation, Compass Bank may be served through its President or Vice President at the following address: 1200 Briarcrest Drive, Bryan, Brazos County, Texas 77802, said location being a principal business office of said Defendant.

### **CAUSE OF ACTION: CONDEMNATION**

#### III.

#### **Description Of Property**

3.1 All documents attached to this pleading are incorporated by reference. All allegations of this pleading are incorporated by reference.

3.2 The property to be condemned is more particularly described in Exhibits A and B. Exhibit A describes the permanent public utility easement to be condemned, containing 0.60 acres more or less. Exhibit B describes the related temporary construction easement to be condemned, containing 0.63 acres more or less.

### Intended Public Purpose And Use

3.3 College Station owns, operates, constructs, repairs, and maintains a water utility system as a public service, in order to provide water utility service to the public and the City, now and in the future. College Station is engaged in the following project regarding the improvement and expansion of its water utility system: the Water Transmission Line Project, also referred to as the Water Project ("project"). College Station may exercise the authority of eminent domain to acquire property inside or outside the municipality for a declared public purpose, necessity, or convenience pursuant to appropriate authority, including but not limited to the following authority which is incorporated by reference: Chapters 251 and 402 of the Texas Local Government Code; Chapter 21 of the Texas Property Code; and articles I and II of the Charter of the City of College Station, Texas.

3.4 College Station intends to acquire and use the permanent public utility easement and temporary construction easement regarding subject property for the following, previously declared, public purposes and uses:

(a) the construction, installation, inspection, placement and removal of water lines, water pipelines, and related water utility infrastructure, facilities, and improvements by the City, on, in, over, above, along, under, across, and through said property, including but not limited to water transmission lines, connecting water pipelines, access facilities, attachment structures and equipment, and communication lines specifically related thereto, in order to improve, expand, and maintain the source, transmission, and distribution of water within the City's water utility system, now and in the future, for the benefit of the public and the City; and

(b) the permanent ownership, operation, construction, repair, inspection,

placement, removal, and maintenance of the water utility system at the location of said permanent utility easement, including all utility infrastructure, facilities, or improvements placed on, in, over, above, along, under, across, and through said property, as described herein, in order to improve, expand, and maintain the source, transmission, and distribution of water within the City's water utility system, now and in the future, for the benefit of the public and the City.

3.5 Regarding the permanent public utility easement and temporary construction easement made the basis of this suit, as described herein, College Station previously declared and determined the following:

(a) A public necessity and convenience exists for the City to acquire said easements through a condemnation proceeding for the public uses and purposes stated herein.

(b) The City's acquisition of said easements through a condemnation proceeding is necessary and convenient to accomplish, achieve, and advance the public uses and purposes stated herein.

3.6 Regarding the property described in Exhibit A, College Station seeks to acquire through this suit an exclusive permanent public utility easement and right-of-way, containing 0.60 acres more or less, on, in, over, above, along, under, across, and through said property, the same to be paid for by College Station according to law, with said permanent public utility easement vesting in College Station for the purposes described herein.

3.7 Regarding the permanent public utility easement sought through this suit, College Station seeks the right and authority to construct, operate and maintain said easement, and all utility infrastructure, facilities, or improvements placed on, in, over, above, along, under, across, and through said easement property, in order to do what is necessary for the full use and enjoyment of

the rights acquired by College Station, including but not limited to:

(a) the right to select the exact location for the placement or removal of said utility infrastructure, facilities, or improvements;

(b) the right to construct, reconstruct, install, replace, protect, renew, operate, maintain, inspect, alter, repair, remove, rebuild, manage, enlarge, or reduce said utility infrastructure, facilities, or improvements;

(c) the right of ingress and egress on, in, over, above, along, under, across, and through said easement property for the purposes described herein; and

(d) the right to trim, cut, or remove trees, brush, and shrubbery, and the right to remove any possible hazard (including houses, buildings, structures, or obstructions), on, in, over, above, along, under, across, and through said easement property, which in the sole judgment of the City may endanger or interfere with the efficient, safe, or convenient use by the City of said easement property for the purposes described herein.

3.8 Upon the acquisition of the permanent public utility easement sought in this suit, College Station shall allow the owner of the subject property to use all or any part of the easement acquired for any purpose that does not damage, destroy, injure, or interfere with the City's efficient, safe, or convenient use of the easement acquired; however:

(a) said owner shall not be allowed to lay-out, dedicate, construct, maintain, or use any house, structure, obstruction, or reservoir, or to permit same to be accomplished, on, over, under, through, or within said easement, except as provided herein; but

(b) said owner shall be allowed to lay-out, dedicate, construct, maintain, or use roads, streets, alleys, and driveways, on, over, or within said easement, and to use said easement for

the purpose of ingress and egress, provided that said use does not change the grade over the land of said easement without the prior written consent of the City.

3.9 Regarding the property described in Exhibit B, College Station seeks to acquire through this suit a related temporary construction easement, containing 0.63 acres more or less, on, in, over, above, along, under, across, and through said easement property, the same to be paid for by College Station according to law, with said temporary construction easement vesting in College Station for the purposes described herein. Upon acquisition of said temporary construction easement, said easement shall exist only for such period of time as is required for the construction, installation, completion and inspection of all utility infrastructure, facilities, or improvements placed on, in, over, above, along, under, across, and through the subject property, as described herein, after which time said temporary construction easement shall cease to operate or be effective.

**Identity Of Owners And Interested Parties**

3.10 The apparent owners of the subject property are as follows:

(a) David Allen Weber and Jennifer Weber, Defendants, are the apparent dominant owners of the fee title to the subject property. Said Defendants are also the apparent owners of a servient interest or estate in a portion of the subject property, same being that portion of said property relating to the land of the temporary construction easement, due to a certain easement or easements now existing thereon.

(b) Compass Bank, Defendant, is the owner of an apparent real property security interest regarding the subject property, through a deed of trust or mortgage instrument filed of record.

3.11 College Station reserves the right to join additional parties, if any, whose interests

may subsequently appear or be determined, or to pursue condemnation against said parties by subsequent action, whether joined with the instant suit or otherwise.

**Unable To Agree On Damages**

3.12 College Station, Plaintiff, and David Allen Weber, Jennifer Weber, and Compass Bank, Defendants, are unable to agree on the damages. A bona fide, good faith offer for the purchase of the easements described herein was made by College Station and rejected, or not accepted, by said Defendants prior to the filing of this suit.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, the City of College Station, Plaintiff and Condemnor, prays that Special Commissioners be appointed by the Court in this suit as provided by law, that the Special Commissioners assess the compensation due and costs according to law, that the Special Commissioners file their written decision as provided by law, and that Plaintiff be awarded and recover a final judgment and decree of condemnation, and a writ of possession, regarding the permanent public utility easement and related temporary construction easement sought regarding the subject property in this suit, thereby vesting in Plaintiff the easements, interests, and rights to the subject property as requested herein, and further, that Plaintiff have and recover all costs of suit and proceeding, and all prejudgment and postjudgment interest allowed by law, and for such other and further relief, at law or equity, that Plaintiff may be justly entitled to receive.

Respectfully submitted,

BICKERSTAFF, HEATH, POLLAN  
& CAROOM, L.L.P.  
816 Congress Avenue, Suite 1700  
Austin, Texas 78701  
(512) 472-8021  
(512) 320-5638 FACSIMILE

BY: Charles R. Kimbrough

Charles R. Kimbrough  
State Bar No. 11424700  
Attorney in Charge

OFFICE OF THE CITY ATTORNEY  
CITY OF COLLEGE STATION, TEXAS  
P. O. Box 9960  
College Station, Texas 77842  
(979) 764-3507  
(979) 764-3481 FACSIMILE

Harvey Cargill, Jr.  
City Attorney  
State Bar No. 03793000

ATTORNEYS FOR PLAINTIFF,  
CITY OF COLLEGE STATION

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

Proposed Easement  
Nowasco Addition  
Stephen F. Austin League No. 9  
Bryan, Brazos County, Texas  
September 21, 2004

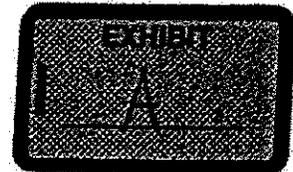
All that certain tract of parcel of land lying and being situated in the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, being a part of Lot 1 Block 1 of the Nowasco addition to the City of Bryan according to plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, lying along and adjoining the northeast line of the existing Lone Star Gas Company easement as described by said plat and amendment recorded in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set in the line between the said Nowasco addition and the Amtex Subdivision Phase I according to plat of record in Volume 495, Page 449 of the Deed Records of Brazos County, Texas, from which a concrete right-of-way monument was found S 67° 01' 21" W - 30.0 feet at the common corner of the said Nowasco addition and the said Amtex Subdivision in the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818).

Thence N 22° 53' 41" W - 508.54 feet along the northeast line of the said Lone Star Gas Company easement 30 feet from and parallel to the northeast right-of-way line of F.M. 2818 to a hole drilled in concrete at an angle point;

Thence N 4° 00' 23" E - 198.92 feet along the east line of the amended TXU easement described in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set at an angle point;

Thence N 22° 53' 41" W - 139.86 feet along the northeast line of the platted Lone Star Gas Company easement 30' from and parallel to the northeast right-of-way line of F.M. 2818 to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set in the northwest line of the said Nowasco addition and the southeast line of the Union Pacific Railroad 0.64 acre tract as described by deed recorded in Volume 311, Page 27 of the Deed Records of Brazos County, Texas from which a concrete right-of-way marker was found S 58° 57' 02" W - 30.31 feet;



Thence N 58° 57' 02" E - 30.31 feet along the line between the said Nowaco addition and the said Union Pacific Railroad tract to the most northerly corner of this tract;

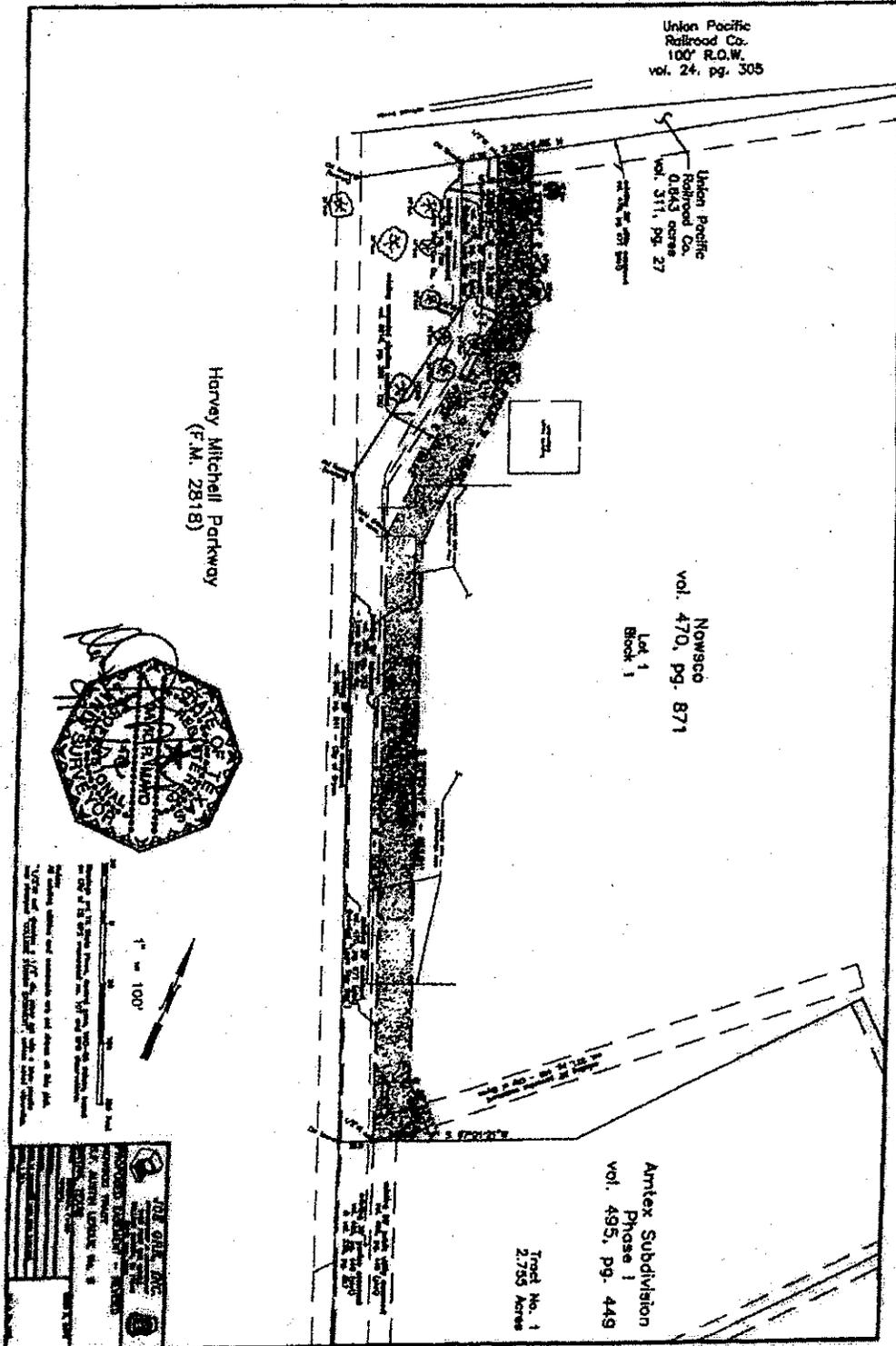
Thence through the said Nowaco addition as follows;

S 22° 53' 41" E - 151.33 feet to an angle point;  
S 4° 00' 23" W - 198.92 feet to an angle point;  
S 22° 53' 41" E - 453.01 feet to an angle point;  
S 45° 23' 41" E - 52.26 feet to the line between the said Nowaco addition and the said Amtex Subdivision;

Thence S 67° 01' 21" W - 50.00 feet along the line between the said Nowaco addition and the said Amtex Subdivision to the Point of Beginning and containing 0.60 acres of land more or less.

Bearings are TX State Plane, central zone, NAD-83 datum, based on City of College Station monument no. 107 and GPS observations.





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

Proposed Temporary Easement  
Nowasco Addition  
Stephen F. Austin League No. 9  
Bryan, Brazos County, Texas  
March 16, 2006

All that certain tract of parcel of land lying and being situated in the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, being a part of Lot 1 Block 1 of the Nowasco addition to the City of Bryan according to plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, lying between the northeast line of the existing Lone Star Gas Company easement as described by said plat and amendment recorded in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, and the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818) and being more particularly described as follows:

Beginning at a concrete right-of-way monument found at the common corner of the said Nowasco addition and the Amtex Subdivision Phase I according to plat of record in Volume 495, Page 449 of the Deed Records of Brazos County, Texas, in the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818).

Thence N 67° 01' 21" E - 30.00 feet along the line between the said Nowasco addition and the said Amtex Subdivision to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set for the most easterly corner of this tract;

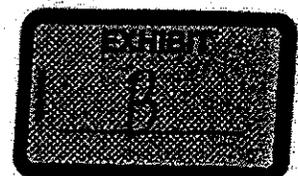
Thence N 22° 53' 41" W - 508.54 feet along the northeast line of the said platted Lone Star Gas Company easement 30 feet from and parallel to the northeast right-of-way line of F.M. 2818 to a hole drilled in concrete at an angle point;

Thence N 4° 00' 23" E - 198.92 feet along the east line of the amended TXU easement described in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set at an angle point;

Thence N 22° 53' 41" W - 139.86 feet along the northeast line of the platted Lone Star Gas Company easement 30' from and parallel to the northeast right-of-way line of F.M. 2818 to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set in the northwest line of the said Nowasco addition and the southeast line of the Union Pacific Railroad 0.64 acre tract as described by deed recorded in Volume 311, Page 27 of the Deed Records of Brazos County, Texas;

Nowasco Temporary Easement

Page 1 of 2



Thence S 58° 57' 02" W - 30.31 feet along the line between the said Nowasco addition and the said Union Pacific Railroad tract to a concrete right-of-way marker found in the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818) at the most westerly corner of this tract;

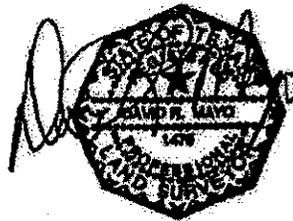
Thence along said right-of-way line as follows;

S 22° 53' 41" E - 125.04 feet to an angle point from which a 3/8" iron rod was found S 68" W - 0.7;

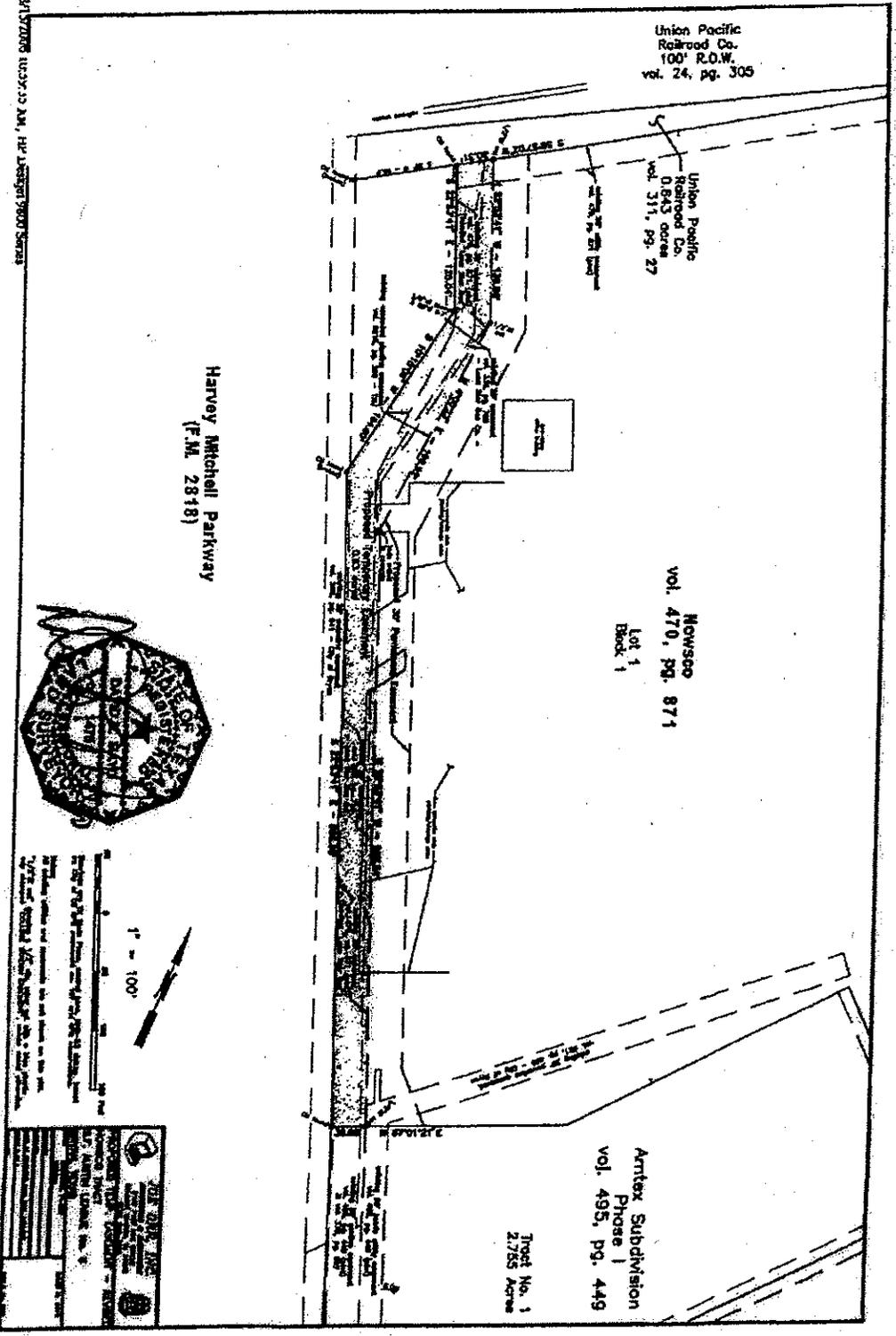
S 10° 15' 09" W - 164.60 feet to a concrete right-of-way marker at an angle point

S 22° 53' 41" E - 558.68 feet along said right-of-way line to the Point of Beginning and containing 0.63 acres of land more or less.

Bearings are TX State Plane, central zone, NAD-83 datum, based on City of College Station monument no. 107 and GPS observations. See survey plat prepared with this written description.



Overseas, Inc., 3117000 100000 AM, H.P. 1000000000000000



**SETTLEMENT AGREEMENT AND RELEASE:**

**EXHIBIT B**

NO. 485-CC-CCLI

FILED

2000 MAR 28 PM 2:30

CITY OF COLLEGE STATION,  
Plaintiff

VS.

DAVID ALLEN WEBER, JENNIFER  
WEBER, and COMPASS BANK  
Defendants

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IN THE COUNTY COURT-AT-LAW

Beck  
NUMBER ONE

BRAZOS COUNTY, TEXAS

**MEDIATED SETTLEMENT AGREEMENT**

The undersigned parties (in person, or by an attorney having authority in the matter) have agreed to compromise and settle the claims and controversies between them in this suit. The parties wish to avoid potentially protracted and costly litigation, and agree that they have carefully considered all matters deemed important to them.

**A PARTY TO THIS AGREEMENT IS ENTITLED TO JUDGMENT ON THIS MEDIATED SETTLEMENT AGREEMENT**

1. The parties agree that the "just compensation" that should be paid by the CITY OF COLLEGE STATION ("the CITY") for the condemnation of the 0.60 acre and 0.63 acre tracts of land ("the tracts") that are the subject of this suit is the sum of \$38,000, in addition to the city's agreement herein to use the easement in a specific way. The CITY agrees to pay the cash sum of \$38,000 to Defendants, less a credit of \$18,000 for funds previously tendered in to court and withdrawn by Defendants, subject to approval by the City Council of the City of College Station in accordance with law. Defendants agree to accept said sum and the city's other agreements herein, in full settlement and satisfaction of all claims that were asserted or could have been asserted in this case. Expenses taxable as costs of court will be paid by the party incurring them.
2. The settlement payment shall be tendered to the attorney for the Weber defendants by not later than 30 days after City Council approval is given, and final settlement documents

*[Signature]*  
County Clerk  
Brazos County, Texas



STATE OF TEXAS  
COUNTY OF BRAZOS  
The foregoing is a true and correct copy as the same  
appears on file and recorded in the appropriate  
records of Brazos County, Texas

Thereby certify, on D.K. 3-28-08



*Karen McQueen*  
County Clerk  
Brazos County, Texas

have been signed. If payment is not tendered within such time, this settlement agreement may be declared null and void at the option of the Weber defendants. If City Council votes to reject this settlement agreement it shall be null and void.

3. The city agrees to perform the construction on the Weber tracts in compliance with the construction drawings attached and incorporated by reference as Exhibit A, and initialed by the parties, except as follows: The city will maintain the grade of the casing and pipeline 8' below the surface in the area of the trees from survey station 40+00 to 42+00 as described in Exhibit A.
4. The city will follow the same construction and boring guidelines/notes in Exhibit A for any future water pipelines that it may construct on the tracts as well as future easements acquired from the Webers, their heirs, successors, and assigns on the tracts. No defendant will be entitled to additional compensation for such future construction, but will be entitled only to compensation for failure, if any, to follow the construction and boring guidelines/notes described in Exhibit A.
5. The city will exercise its BEST EFFORTS to avoid the cutting, trimming or elimination of trees and shrubbery on the tracts. Trees and shrubbery will only be trimmed, cut or eliminated as required by regulatory authorities or when they may endanger or interfere with the efficiency, safety, or operation of the pipeline.
6. The city agrees to pay KBS Electrical Distributors, Inc., a tenant in possession, the sum of \$3000 for its past and future damages. This agreement may be voided at the option of the city if KBS declines to sign a document prepared by city that waives any further claims that KBS may have regarding this condemnation matter.
7. An agreed partial summary judgment in favor of the city will be entered in this suit regarding all elements of the condemnation cause of action alleged by the city, except the following: Cost to cure damages as specifically described hereafter. Defendants' sole additional compensation recoverable in this litigation will be cost to cure damages, if any, arising from the failure to construct the pipeline in accordance with Exhibit A., as modified herein. However, defendants shall not be entitled to additional compensation

STATE OF TEXAS  
COUNTY OF BRAZOS  
The foregoing is a true and correct copy as the same  
appears on file and recorded in the appropriate  
records of Brazos, County, Texas

Thereby certify, on B.K. 3.28.08



*Karen McQueen*  
County Clerk  
Brazos County, Texas

Charles R. Kumbrough  
3-10-08

Debra 10 Mar 08  
Plaintiff for Terry Childers Date  
Deputy City Manager

Carla A Robinson 03/10/08  
Attorney for Plaintiff Date

Jennifer Kueber 10 Mar 08  
Defendant Date

\_\_\_\_\_  
Attorney for Defendants Date

Debra 10 Mar 08  
Defendant Date

\_\_\_\_\_  
Attorney for Defendant Date

Stacy 3-14-08  
Defendant Compass Bank Date

CITY OF COLLEGE STATION

Shirley 3.27.08  
Mayor Date

Michael Kersten 3-27-08  
Chief Financial Officer Date  
City of College Station

ATTEST:

Sonyamemat 3/27/08  
City Secretary Date  
Deputy City Secretary

Debra Brown 3/27/08  
City Manager Date  
City of College Station

DRAFTING INSTRUCTIONS:

Settlement check(s) shall be payable to \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF BRAZOS

The foregoing is a true and correct copy as the same  
appears on file and recorded in the appropriate  
records of Brazos County, Texas

Thereby certify, on B.K. 3-28-08



Karen McLean  
County Clerk  
Brazos County, Texas



STATE OF TEXAS  
COUNTY OF BRAZOS

The foregoing is a true and correct copy as the same  
appears on file and recorded in the appropriate  
records of Brazos, County, Texas

Thereby certify, on B.C. 3-28-05



*Karen McQueen*  
County Clerk  
Brazos County, Texas

CITY OF COLLEGE STATION,

Plaintiff

v.

DAVID ALLEN WEBER, ET AL

Defendants

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IN THE COUNTY COURT

AT LAW NO. 1

BRAZOS COUNTY, TEXAS

**AGREED FINAL CONDEMNATION JUDGMENT**

On this the \_\_\_\_ day of \_\_\_\_\_, 2009, came on for consideration the proposed Agreed Final Condemnation Judgment submitted by the parties. After considering the merits of said proposal and the arguments of counsel thereon, the Court finds that said proposed judgment should be in all things granted, as requested.

Therefore, it is ORDERED, ADJUDGED AND DECREED that this Agreed Final Condemnation Judgment is hereby granted in favor of and awarded to the City of College Station, Texas, Plaintiff, against David Allen Weber, Jennifer Weber, and Compass Bank, Defendants, as follows, and regarding all elements of the condemnation cause of action alleged by Plaintiff in this suit:

1. The parties to this suit are: the City of College Station, Texas (“City” or “College Station”), Plaintiff; David Allen Weber and Jennifer Weber, Defendants, being the apparent dominant owners of the fee title to the subject property, and being the apparent owners of a servient interest or estate in a portion of the subject property, same being that portion of said property relating to the land of the requested temporary construction easement,

due to a certain easement or easements now existing thereon; and Compass Bank, Defendant, being the owner of an apparent real property security interest regarding the subject property, through a deed of trust or mortgage instrument previously filed of record.

2. The Court has jurisdiction of the subject matter and all parties in this suit.

3. All preliminary recitations and findings of this judgment, and all documents attached to this judgment as the appendix, are true, correct, and incorporated by reference.

4. All elements of the condemnation cause of action alleged by Plaintiff's pleadings in this suit have been established as a matter of law and by the agreement of the parties, and further, all facts and allegations in said pleadings are true, correct, and incorporated by reference.

5. Plaintiff, a home rule municipality, is entitled to condemn the easements made the basis of this suit. Plaintiff is hereby awarded a final, agreed, condemnation judgment against David Allen Weber, Jennifer Weber, and Compass Bank, Defendants, for fee simple title to and the acquisition of the permanent public utility easement and right of way, and the related temporary construction easement, as described in Plaintiff's pleadings, regarding the following real property located in Brazos County, Texas ("subject property"), to-wit:

**PERMANENT PUBLIC UTILITY EASEMENT AND RIGHT OF WAY TRACT:** All that certain tract or parcel of land, being and situated in Brazos County, Texas, a part of the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, containing 0.60 acres of land, more or less, and being a part of Lot 1, Block 1, of the Nowsco Addition to the City of Bryan, according to the plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, said 0.60 acre permanent public utility easement tract being more particularly described by metes and bounds and survey plat in

Exhibit A (“permanent public utility easement”).

**TEMPORARY CONSTRUCTION EASEMENT TRACT:**

All that certain tract or parcel of land, being and situated in Brazos County, Texas, a part of the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, containing 0.63 acres of land, more or less, and being a part of Lot 1, Block 1, of the Nowasco Addition to the City of Bryan, according to the plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, said 0.63 acre temporary construction easement tract being more particularly described by metes and bounds and survey plat in Exhibit B (“temporary construction easement”).

6. The property condemned is more particularly described in the following attached documents: Exhibit A, which describes the permanent public utility easement and right-of-way condemned, containing 0.60 acres more or less; Exhibit B, which describes the related temporary construction easement condemned, containing 0.63 acres more or less; and Exhibit C, a copy of the Settlement Agreement and Release executed by the parties. The following documents are made a part of this judgment pursuant to Rule 11 of the Texas Rules of Civil Procedure and Chapter 154 of the Texas Civil Practice and Remedies Code, and are incorporated by reference: the Mediated Settlement Agreement executed by the parties, a copy of which is attached as a part of the appendix; the Settlement Agreement and Release executed by the parties, a copy of which is attached as a part of the appendix; and the active pleading of Plaintiff, a copy of which is attached as a part of the appendix.

7. The City owns, operates, constructs, repairs, and maintains a water utility system as a public service, in order to provide water utility service to the public and the City, now and in the future. The City is engaged in the following project regarding the improvement and

expansion of its water utility system: the Water Transmission Line Project, also referred to as the Water Project (“project”). The City may exercise the authority of eminent domain to acquire property inside or outside the municipality for a declared public purpose, necessity, or convenience pursuant to appropriate authority, including but not limited to the following authority which is incorporated by reference: Chapters 251 and 402 of the Texas Local Government Code; Chapter 21 of the Texas Property Code; and the City Charter of the City of College Station, Texas.

8. The City is authorized by this judgment to acquire and use the permanent public utility easement and temporary construction easement regarding the subject property for the following, previously declared, public purposes and uses:

(a) the construction, installation, inspection, placement and removal of water lines, water pipelines, and related water utility infrastructure, facilities, and improvements by the City, on, in, over, above, along, under, across, and through said property, including but not limited to water transmission lines, connecting water pipelines, access facilities, attachment structures and equipment, and communication lines specifically related thereto, in order to improve, expand, and maintain the source, transmission, and distribution of water within the City’s water utility system, now and in the future, for the benefit of the public and the City; and

(b) the permanent ownership, operation, construction, repair, inspection, placement, removal, and maintenance of the water utility system at the location of said permanent utility easement, including all utility infrastructure, facilities, or improvements

placed on, in, over, above, along, under, across, and through said property, as described herein, in order to improve, expand, and maintain the source, transmission, and distribution of water within the City's water utility system, now and in the future, for the benefit of the public and the City.

9. Regarding the permanent public utility easement and temporary construction easement made the basis of this suit, as described herein, the City previously declared and determined the following, and specifically, the Court finds and orders the following:

(a) A public necessity and convenience exists for the City to acquire said easements through a condemnation proceeding for the public uses and purposes stated herein.

(b) The City's acquisition of said easements through a condemnation proceeding is necessary and convenient to accomplish, achieve, and advance the public uses and purposes stated herein.

10. Regarding the property described in Exhibit A, the City is authorized by this judgment to acquire and use the exclusive permanent public utility easement and right-of-way, containing 0.60 acres more or less, on, in, over, above, along, under, across, and through said property in accordance with the allegations of the City's pleadings in this suit and the documents attached to this judgment, with fee simple title thereto hereby vested in the City for the purposes described herein and in the City's pleadings.

11. Regarding said permanent public utility easement, the City shall have the right and authority to construct, operate and maintain said easement, and all utility infrastructure, facilities, or improvements placed on, in, over, above, along, under, across, and through said

easement property, in order to do what is necessary for the full use and enjoyment of the rights acquired by the City, including but not limited to:

(a) the right to select the exact location for the placement or removal of said utility infrastructure, facilities, or improvements;

(b) the right to construct, reconstruct, install, replace, protect, renew, operate, maintain, inspect, alter, repair, remove, rebuild, manage, enlarge, or reduce said utility infrastructure, facilities, or improvements;

(c) the right of ingress and egress on, in, over, above, along, under, across, and through said easement property for the purposes described herein;

(d) the right identified in paragraph 5 of the Mediated Settlement Agreement, which states: "The city will exercise its BEST EFFORTS to avoid the cutting, trimming or elimination of trees and shrubbery on the tracts. Trees and shrubbery will only be trimmed, cut or eliminated as required by regulatory authorities or when they may endanger or interfere with the efficiency, safety, or operation of the pipeline."; and

(e) subject to the provisions of the Mediated Settlement Agreement, the drawing attached as Exhibit A to the Mediated Settlement Agreement, and the above subparagraph (d), the right to remove a possible hazard (including houses, buildings, structures, or obstructions), on, in, over, above, along, under, across, and through said easement property, which in the sole judgment of the City may endanger or interfere with the efficient, safe, or convenient use by the City of said easement property for the purposes described herein.

12. Upon the acquisition of the permanent public utility easement, the City shall allow the owner of the subject property to use all or any part of the easement acquired for any purpose that does not damage, destroy, injure, or interfere with the City's efficient, safe, or convenient use of the easement acquired; however:

(a) said owner shall not be allowed to lay-out, dedicate, construct, maintain, or use any house, structure, obstruction, or reservoir, or to permit same to be accomplished, on, over, under, through, or within said easement, except as provided herein; but

(b) said owner shall be allowed to lay-out, dedicate, construct, maintain, or use roads, streets, alleys, and driveways, on, over, or within said easement, and to use said easement for the purpose of ingress and egress, provided that said use does not change the grade over the land of said easement without the prior written consent of the City.

13. Regarding the property described in Exhibit B, the City is authorized by this judgment to acquire and use the related temporary construction easement, containing 0.63 acres more or less, on, in, over, above, along, under, across, and through said easement property in accordance with the allegations of the City's pleadings in this suit and the documents attached to this judgment, with fee simple title thereto hereby vested in the City for the purposes described herein and in the City's pleadings. Upon acquisition of said temporary construction easement, said easement shall exist only for such period of time as is required for the construction, installation, completion and inspection of all utility infrastructure, facilities, or improvements placed on, in, over, above, along, under, across, and through the subject property, as described herein, after which time said temporary construction

easement shall cease to operate or be effective.

14. Prior to the filing of this suit, Plaintiff and Defendants were unable to agree on the damages. A bona fide, good faith offer for the purchase of the easements described herein was made by Plaintiff and rejected, or not accepted, by Defendants prior to the filing of this suit. However, all contested issues have now been resolved and settled by the parties.

15. The Court finds that the following procedural history has occurred in this suit: this suit was filed on August 1, 2006; the Special Commissioners were lawfully appointed and sworn; the Special Commissioners hearing was lawfully held on November 30, 2006; the \$18,000.00 award of the Special Commissioners was entered and filed with the Court on November 30, 2006, along with all papers connected with the suit; the award of \$18,000.00 was timely deposited by Plaintiff in the Court registry on December 6, 2006 and approved by the Court; David Allen Weber and Jennifer Weber, Defendants, timely filed objections to the award, which voided the award and initiated the adjudicative phase of this suit; David Allen Weber and Jennifer Weber, Defendants, withdrew the award from the Court registry with Court approval; mediation conferences occurred and the parties approved and signed a Mediated Settlement Agreement which was filed in this suit; all prior intervention claims, third-party claims, counterclaims, or matters of defense regarding Steven R. Sampson as Intervenor and Counter-Defendant, Barron & Adler, L.L.P. as Third-Party Defendant, and David Allen Weber and Jennifer Weber, as Counter-Plaintiffs and Third-Party Plaintiffs, have been settled and severed from this suit; the remaining parties, same being the City of College Station, Plaintiff, and David Allen Weber, Jennifer Weber, and Compass Bank, Defendants,

have executed a settlement agreement and release which resolves all contested issues and settles this suit; and the parties have agreed to the signing and entry of this agreed judgment.

16. Pursuant to the parties' agreement, the Court hereby orders and awards \$54,000.00 ("total compensation") as the total amount of compensation which David Allen Weber and Jennifer Weber, Defendants, shall receive regarding this suit and dispute. Pursuant to the parties' agreement, the Court hereby orders that Compass Bank, Defendant, is not awarded any compensation regarding this suit and dispute. The total compensation is the just and reasonable compensation for the taking of the subject property, and for all actual, accrued, or potential condemnation, compensation, or other claims or damages related to or arising from this suit and dispute. It is further ordered that Plaintiff receive an \$18,000.00 credit on the total compensation amount for the Special Commissioners award Plaintiff previously deposited in the Court registry in this suit, which was later withdrawn by David Allen Weber and Jennifer Weber, Defendants. The remaining unpaid amount of \$36,000.00 ("settlement payment"), shall be timely paid by Plaintiff directly to David Allen Weber and Jennifer Weber, Defendants through their attorney in compliance with the terms of the parties' agreement. Upon payment by Plaintiff of said settlement payment, Plaintiff shall stand released and discharged of its obligation to pay just compensation to Defendants for the property acquired in this condemnation suit.

17. A writ of possession shall issue in behalf of Plaintiff, at the request of Plaintiff and as often as may be necessary, for Plaintiff to acquire possession of the subject property in accordance with this judgment.

18. The costs of this proceeding are hereby assessed against, and shall be paid by, the party incurring same, for which execution may issue.

19. The County Clerk of Brazos County, Texas is ordered to record this judgment in the minutes of the Court.

20. All relief not expressly granted is denied.

21. This is a final, appealable judgment which disposes of all claims and parties.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

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

\_\_\_\_\_  
Presiding Judge

**APPROVED AND AGREED:**

**CITY OF COLLEGE STATION, TEXAS,  
PLAINTIFF**

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009

**ATTEST:**

\_\_\_\_\_  
City Secretary, City of College Station, Texas

*David Allen Weber*

**DAVID ALLEN WEBER, PLAINTIFF**

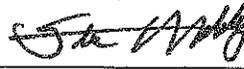
Date: April 6, 2009

*Jennifer R. Weber*

**JENNIFER WEBER, PLAINTIFF**

Date: 6 April, 2009

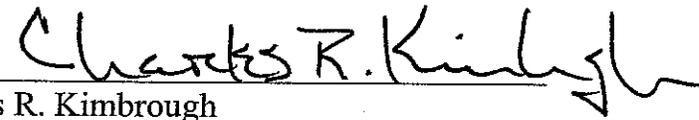
**COMPASS BANK, DEFENDANT**

BY:   
Printed Name: Steve W. Harty  
Title: City President  
Date: April 9, 2009

**APPROVED:**

**BICKERSTAFF HEATH DELGADO ACOSTA LLP**

816 Congress Avenue, Suite 1700  
Austin, Texas 78701-2443  
(512) 472-8021  
(512) 320-5638 Facsimile

BY:   
Charles R. Kimbrough  
State Bar No. 11424700

**OFFICE OF THE CITY ATTORNEY  
CITY OF COLLEGE STATION, TEXAS**

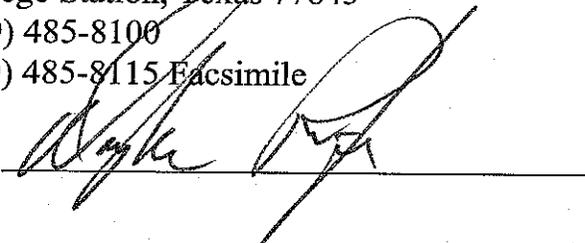
P. O. Box 9960  
College Station, Texas 77842  
(979) 764-3500  
(979) 764-3481 Facsimile

BY:   
Carla Robinson  
First Assistant City Attorney  
State Bar No. 16915850

**ATTORNEYS FOR PLAINTIFF,  
THE CITY OF COLLEGE STATION, TEXAS**

**LAW OFFICES OF WAYNE T. RIFE, P.C.**

3205 Earl Rudder Freeway South  
College Station, Texas 77845  
(979) 485-8100  
(979) 485-8115 Facsimile

BY: 

Wayne T. Rife  
State Bar No. 16915850

**ATTORNEYS FOR DEFENDANTS,  
DAVID ALLEN WEBER AND JENNIFER WEBER**

**APPENDIX**

**AGREED FINAL CONDEMNATION JUDGMENT:**

**EXHIBIT A**

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

Proposed Easement  
Nowseo Addition  
Stephen F. Austin League No. 9  
Bryan, Brazos County, Texas  
September 21, 2004

All that certain tract of parcel of land lying and being situated in the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, being a part of Lot 1 Block 1 of the Nowseo addition to the City of Bryan according to plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, lying along and adjoining the northeast line of the existing Lone Star Gas Company easement as described by said plat and amendment recorded in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a 1/4" iron rod with a blue plastic cap stamped "College Station Easement" set in the line between the said Nowseo addition and the Amtex Subdivision Phase I according to plat of record in Volume 495, Page 449 of the Deed Records of Brazos County, Texas, from which a concrete right-of-way monument was found S 67° 01' 21" W - 30.0 feet at the common corner of the said Nowseo addition and the said Amtex Subdivision in the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818).

Thence N 22° 53' 41" W - 508.54 feet along the northeast line of the said Lone Star Gas Company easement 30 feet from and parallel to the northeast right-of-way line of F.M. 2818 to a hole drilled in concrete at an angle point;

Thence N 4° 00' 23" E - 198.92 feet along the east line of the amended TXU easement described in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, to a 1/4" iron rod with a blue plastic cap stamped "College Station Easement" set at an angle point;

Thence N 22° 53' 41" W - 139.86 feet along the northeast line of the platted Lone Star Gas Company easement 30' from and parallel to the northeast right-of-way line of F.M. 2818 to a 1/4" iron rod with a blue plastic cap stamped "College Station Easement" set in the northwest line of the said Nowseo addition and the southeast line of the Union Pacific Railroad 0.64 acre tract as described by deed recorded in Volume 311, Page 27 of the Deed Records of Brazos County, Texas from which a concrete right-of-way marker was found S 58° 57' 02" W - 30.31 feet;

Nowseo Easement

Page 1 of 2



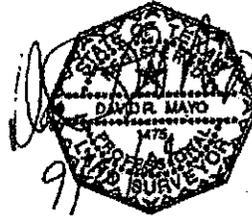
Thence N 58° 57' 02" E – 30.31 feet along the line between the said Nowasco addition and the said Union Pacific Railroad tract to the most northerly corner of this tract;

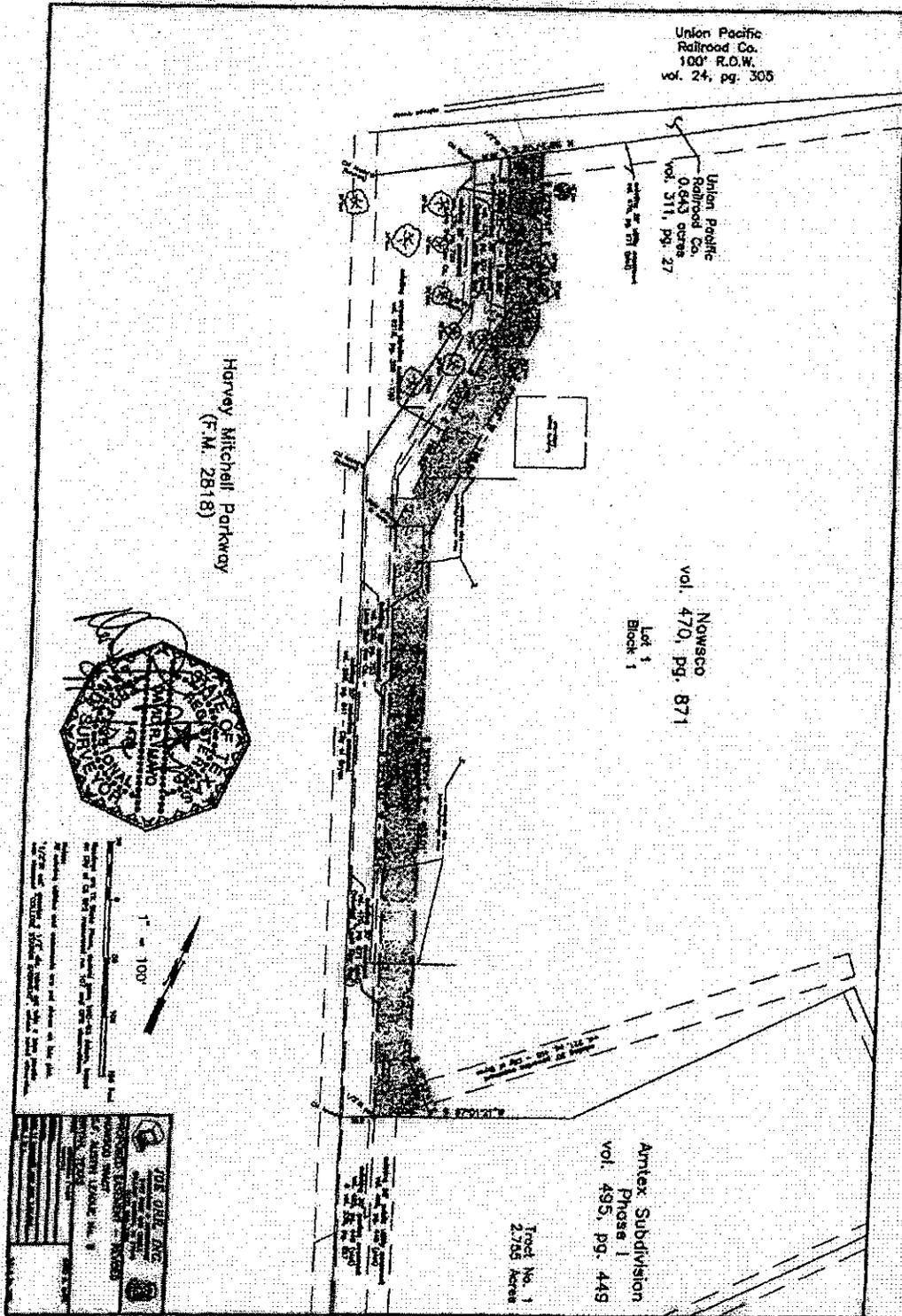
Thence through the said Nowasco addition as follows;

S 22° 53' 41" E – 151.33 feet to an angle point;  
S 4° 00' 23" W – 198.92 feet to an angle point;  
S 22° 53' 41" E – 453.01 feet to an angle point;  
S 45° 23' 41" E – 52.26 feet to the line between the said Nowasco addition and the said Amtex Subdivision;

Thence S 67° 01' 21" W – 50.00 feet along the line between the said Nowasco addition and the said Amtex Subdivision to the Point of Beginning and containing 0.60 acres of land more or less.

Bearings are TX State Plane, central zone, NAD-83 datum, based on City of College Station monument no. 107 and GPS observations.





**AGREED FINAL CONDEMNATION JUDGMENT:**

**EXHIBIT B**

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

Proposed Temporary Easement  
Newsco Addition  
Stephen F. Austin League No. 9  
Bryan, Brazos County, Texas  
March 16, 2006

All that certain tract of parcel of land lying and being situated in the Stephen F. Austin League No. 9, Abstract No. 62, in Bryan, Brazos County, Texas, being a part of Lot 1 Block 1 of the Newsco addition to the City of Bryan according to plat of record in Volume 470, Page 871 of the Deed Records of Brazos County, Texas, lying between the northeast line of the existing Lone Star Gas Company easement as described by said plat and amendment recorded in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, and the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818) and being more particularly described as follows:

Beginning at a concrete right-of-way monument found at the common corner of the said Newsco addition and the Amtex Subdivision Phase I according to plat of record in Volume 495, Page 449 of the Deed Records of Brazos County, Texas, in the northeast right-of-way line of Harvey Mitchell Parkway (F.M. 2818).

Thence N 67° 01' 21" E - 30.00 feet along the line between the said Newsco addition and the said Amtex Subdivision to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set for the most easterly corner of this tract;

Thence N 22° 53' 41" W - 508.54 feet along the northeast line of the said platted Lone Star Gas Company easement 30 feet from and parallel to the northeast right-of-way line of F.M. 2818 to a hole drilled in concrete at an angle point;

Thence N 4° 00' 23" E - 198.92 feet along the east line of the amended TXU easement described in Volume 6218, Page 209 of the Official Public Records of Brazos County, Texas, to a 1/2" iron rod with a blue plastic cap stamped "College Station Easement" set at an angle point;

Thence N 22° 53' 41" W - 139.86 feet along the northeast line of the platted Lone Star Gas Company easement 30 feet from and parallel to the northeast right-of-way line of F.M. 2818 to a 1/4" iron rod with a blue plastic cap stamped "College Station Easement" set in the northwest line of the said Newsco addition and the southeast line of the Union Pacific Railroad 0.64 acre tract as described by deed recorded in Volume 311, Page 27 of the Deed Records of Brazos County, Texas;





**AGREED FINAL CONDEMNATION JUDGMENT:**

**EXHIBIT C**

**April 23, 2009**  
**Consent Agenda Item No. 2g**  
**Renew Drought Contingency and Water Emergency Ordinance**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion approving an ordinance amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.

**Recommendation:** Staff recommends approval of the ordinance to amend the Drought Contingency and Water Emergency Plan.

**Summary:** Texas Commission on Environmental Quality (TCEQ) regulations require us to adopt a revised Drought Contingency Plan by May 1, 2009. Our plan was initially adopted in January 2000 and is titled the "Drought Contingency and Emergency Water Plan." This plan addresses the City's response to water shortages or emergencies, regardless the cause, and contains four stages of response actions, depending on the severity of the issue. The Plan was last revised 2005 to accommodate stakeholder feedback, changes in regulatory requirements, and to ensure that the Plan adequately addressed water use during normal and emergency operating conditions.

This ordinance has two purposes: First, to renew the City's commitment to prudent water management, and secondly, to implement one of the "Best Management Practices" that City Council approved in January 2008. This plan contains provisions that prohibit water waste, and allow the City to issue warnings and levy fines ranging from \$25 to \$500. The amendment also makes the water waste prohibitions applicable year-round and slightly changes the landscape watering hours and schedules.

Since these changes are consistent with previous Council direction, staff recommends approval.

**Budget & Financial Summary:** The Plan and its implementation should have minimal financial impact on the City's water production operations, administration, and enforcement of drought contingency measures.

**Attachments:**

Ordinance  
Drought Contingency and Water Emergency Plan

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

AN ORDINANCE AMENDING CHAPTER 11, "UTILITIES", 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 11, "UTILITIES", 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 Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective 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 23rd day of APRIL, 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

*Carla A. Robinson*  
\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

That Chapter 11, "UTILITIES", Section 9, "DROUGHT CONTINGENCY PLAN", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, in its entirety as set out hereafter to read as follows:

**SECTION 9: DROUGHT CONTINGENCY AND WATER EMERGENCY PLAN****A. INTRODUCTION**

Safe, high quality drinking water is a precious resource in the Bryan-College Station region. This Drought Contingency and Water Emergency Plan (the "Plan") requires that the available water resources of the City of College Station be put to the most beneficial use possible. The Plan also requires that the waste, unreasonable use, or unreasonable method of use of water be prevented, and that conservation of water be extended with a view to reasonable and beneficial use in the interests of public health and welfare of the College Station community. Emergency conditions resulting from equipment or system failures are also addressed in this Plan. This Plan has been coordinated with the Brazos Region (Region G) Water Planning Group. The Plan will be reviewed and updated as necessary at a minimum of every five (5) years.

**B. AUTHORIZATION**

The City Manager is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager shall have the authority to initiate or terminate drought stages or water supply emergency response measures as described in this Plan.

**C. PUBLIC EDUCATION**

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of press releases, utility bill inserts, public events, and similar methods.

**D. APPLICATION**

The provisions of this Plan shall apply to all customers obtaining water service from the City of College Station. Utilization of a water source other than City potable water is exempt from the provisions of this Plan.

**E. PERMANENT WATER RESTRICTIONS**

This section establishes permanent water conservation regulations and applies year-round regardless of Drought Stage.

- (1) Landscape irrigation using automatic in-ground or hose-end sprinkler systems is prohibited between the hours of 10:00 a.m. and 6:00 p.m.
- (2) The time restrictions do not apply to:
  - (a) The irrigation of commercial plant nurseries.

- (b) Irrigation using reclaimed water or other non-potable water sources.
  - (c) New landscape installation during planting and the first ten days after planting.
  - (d) The testing of new irrigation systems or existing irrigation systems being tested or under repair.
  - (e) Irrigation using a hand-held bucket or hose equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user,
  - (f) Irrigation by drip irrigation or soaker hoses
- (3) The following uses constitute a waste of water and are prohibited:
- (a) Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except to alleviate immediate health or safety hazards.
  - (b) Allowing water to run off a property or allowing water to pond in the street or parking lot.
  - (c) Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
  - (d) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
- (4) Ornamental fountains or ponds for aesthetic or scenic purposes must be equipped with a recirculation device. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water provided by sources other than the City.
- (5) Use of water for the irrigation of golf course greens, tees, and fairways is permitted only on designated watering days. Such irrigation shall only occur from 12:00 midnight to 10:00 am and from 6:00 pm to 12:00 midnight. These restrictions do not apply to the irrigation of any golf course that uses reclaimed water, or other non-potable water sources.

#### F. TRIGGER CONDITIONS

Daily water demand will be monitored for emergency conditions by the City. Trigger conditions will be based on an emergency situation caused by a natural disaster, equipment or system failure, or high daily average water demand. The City Manager, on recommendation of College Station Utilities, shall determine when conditions warrant initiation or termination of each stage of the Plan.

In the spirit of cooperation, various interconnections are in place between the City of College Station, City of Bryan and Texas A&M University that may be utilized to provide water in emergency conditions provided there is not an additional emergency situation created by any water transfer. These shared water resources shall be evaluated and/or implemented prior to initiation of each stage of the Plan.

The trigger conditions described below are based on the fact that the City of College Station uses groundwater as its water supply, and therefore, will likely be constrained by system capacity before shortage of supply.

##### **(1) Stage 1 – Voluntary Water Conservation**

- (a) Requirements for initiation – Customers may be requested to voluntarily conserve water and adhere to the water restrictions on non-essential water use, as outlined herein in Responses to Trigger Conditions, Stage 1, each year from May 1 through September 30.
- (b) Requirements for termination – Stage 1 of the Plan may be rescinded at any time by the City Manager.

**(2) Stage 2 – High Water Demand**

- (a) Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 2, when:
- (i) Average daily water consumption for three (3) consecutive days reaches 90% of production/distribution capacity of the City water system;
  - and
  - (ii) Consideration of weather conditions for drought classification determination includes predictions of dry periods.
  - or
  - (iii) Emergency water supplied to the City of College Station by contractual agreement through system interconnections with Texas A&M University or the City of Bryan is curtailed or interrupted.
- (b) Requirements for termination - Stage 2 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

**(3) Stage 3 – Severe Water Shortage**

- (a) Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 3, when:
- (i) The City average daily water consumption for three (3) consecutive days reaches 95% of production/distribution capacity of the system, or the City daily water consumption will not enable storage levels to be maintained.
- (b) Requirements for termination - Stage 3 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative as directed by the City Manager.

**(4) Stage 4 – Water Supply Emergency**

- (a) Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 4, when:
- (i) The City water system is contaminated whether accidentally or intentionally. A Water Supply Emergency condition is reached immediately upon detection.
  - or
  - (ii) The City water system fails for any reason. A Water Supply Emergency condition is reached immediately upon detection.
- (b) Requirements for termination - Stage 4 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist. Upon termination of Stage 4, the previously initiated stage becomes operative as directed by the City Manager.

**G. NOTIFICATION**

Public Meeting – This Plan has been presented to the public at a formal public meeting with a request for comments.

Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper widely circulated in College Station and public service announcements on local television and/or cable service. Additional methods of public notification may include signs posted in public places, utility bill inserts, and other means to be determined by the City.

When mandatory restrictions are enacted with the initiation of Stage 2, Stage 3, and/or Stage 4, the Executive Director of TCEQ will be notified, at a minimum via telephone, within five (5) business days. When any particular stage is rescinded, the Executive Director of TCEQ will again be notified, at a minimum via telephone, within five (5) business days.

#### H. RESPONSES TO TRIGGER CONDITIONS

The City shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth herein, shall determine that a voluntary, moderate or severe water shortage condition exists and shall implement the following actions upon notice as provided herein:

(1) **Stage 1 - Voluntary Water Conservation**

The goal for Stage 1 of the Plan is to raise public and customer awareness of water demand conditions.

(a) **Voluntary Water Use Measures:** Water customers are requested to voluntarily limit non-essential water use by practicing water conservation and reducing non-essential water uses, defined in Part E (5) of this Plan.

(2) **Stage 2 – High Water Demand - Water Demand Exceeds 90% of System Capacity**

The goal for Stage 2 of the Plan is to reduce and maintain average daily water demand at or below ninety percent (90%) of system capacity.

In the event that the City Manager enacts Stage 2 the following water use restrictions shall apply to all persons in addition to the Year-Round Water Use Restrictions in Paragraph (E):

(a) Water customers are required to participate in the Watering Schedule for non-essential water use. Non-essential water use shall only occur on a designated outdoor watering day(s), which will be no more than twice each week. The Watering Schedule will be determined and distributed each year by the City.

(b) Non-essential water use is permitted:

(i) From midnight to 10:00 AM and from 6:00 PM to midnight on a customer's designated watering day.

(ii) Anytime, by the use of hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user, by drip irrigation, by soaker hose, or by hand-held buckets.

(c) The time restrictions do not apply to:

(i) The irrigation of commercial plant nurseries.

(ii) Irrigation using reclaimed water.

(iii) New landscape installation during planting and the first ten days after planting.

(iv) The testing of new irrigation systems or existing irrigation systems being tested or under repair.

(d) The washing of automobiles, trucks, motorbikes, boats, trailers, airplanes or other vehicles is permitted:

(i) On designated watering days, from 12:00 midnight to 10:00 AM and from 6:00 PM to 12:00 midnight.

- (ii) Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses.
  - (iii) The washing of individual vehicles may be done at any time on the immediate premises of a commercial car wash or commercial service station.
  - (iv) Further, this restriction does not apply to the washing of vehicles or any other type of mobile equipment (such as garbage trucks and vehicles to transport food and perishables) when the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing.
- (e) Charity car washes are prohibited.
- (f) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted only on designated watering days from 12:00 midnight to 10:00 AM and from 6:00 PM to 12:00 midnight.
- (g) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water sources other than the City.
- (h) Use of water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain public health, safety, and welfare. Use of water from designated fire hydrants for construction purposes may be allowed when a variance has been approved by the City Manager.
- (i) Use of water for the irrigation of golf course greens, tees, and fairways is permitted only on designated watering days. Such irrigation shall only occur from 12:00 midnight to 10:00 AM and from 6:00 PM to 12:00 midnight. These restrictions do not apply to the irrigation of any golf course that uses reclaimed water, or other non-potable water sources.
- (j) All restaurants are prohibited from serving water to their patrons except when requested.
- (k) The following uses constitute a waste of water and are prohibited:
- (i) Washing sidewalks, walkways, driveways, parking lots, tennis courts, patios or other hard-surfaced areas except to alleviate immediate health or safety hazards.
  - (ii) Use of water for dust control.
  - (iii) Allowing water to run off a property or allowing water to pond in the street or parking lot.
  - (iv) Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
  - (v) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
  - (vi) Washing an automobile, truck, trailer, boat, airplane, or other mobile equipment with a hand-held hose not equipped with a pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user.
- (3) Stage 3 – Severe Water Shortage - Water Demand Exceeds 95% of System Capacity**  
The goal for Stage 3 of the Plan is to reduce and maintain average daily water demand at or below ninety five percent (95%) of system capacity.
- In the event that the City Manager enacts Stage 3 the following water use restrictions shall apply to all persons:
- (a) Supply Management Measures – The City will cease the flushing of water mains except when necessary to maintain public health, safety, and welfare. All City departments will discontinue

irrigating public landscaped areas except when such areas are irrigated with reclaimed water, or water source other than that provided by the City.

- (b) **Water Use Restrictions** – All requirements of Stage 2 shall remain in effect during Stage 3, with these additional water use restrictions:
- (i) Non-essential water use is restricted to use of hand-held buckets, or hand-held hoses equipped with a positive pistol grip nozzle, or other device that automatically shuts off water flow when the hose is not being held by the water user. Such water use may occur only between the hours of 6:00 a.m. to 10:00 AM and 6:00 p.m. to 6:00 PM on designated non-essential water use days. The use of permanently installed irrigation systems, drip irrigation systems, and hose end irrigation is prohibited.
  - (ii) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment not occurring on the immediate premises of a commercial car wash or a commercial service station and not in the immediate interest of the public health, safety, and welfare are prohibited. The washing of such vehicles under public safety and health situations may only occur between 6 a.m. and 9 a.m.
  - (iii) Commercial plant nurseries may use only hand-held buckets, or hand-held hoses equipped with a positive pistol grip nozzle, or other device that automatically shuts off water flow when the hose is not being held by the water user.
  - (iv) The filling, refilling, or adding of potable water to swimming or wading pools is prohibited.
  - (v) No new landscapes of any type may be installed.
- (c) All variances granted under a previous stage shall be invalid during Stage 3. The use of water under variances granted by the City Manager is to be discontinued.

**(4) Stage 4 – Water Supply Emergency**

The goal for Stage 4, Water Supply Emergency, is to rectify the emergency and return to normal operating conditions as soon as possible.

In the event of an imminent or actual water supply emergency due to either loss of water supply source (including contamination) and/or system failure, the City Manager has the authority to initiate the following Water Supply Emergency Responses:

- (a) The City Manager may request assistance from the City of Bryan and Texas A&M University in maintaining distribution system volume and pressure during the emergency conditions.
- (b) Effective immediately upon initiation of Stage 4, all non-essential water use shall be discontinued, except for immediate health and safety purposes.
- (c) In the event that water shortage or water emergency conditions threaten public health, safety, and welfare, the City Manager, upon recommendation of College Station Utilities, may order water rationing and/or terminate service to selected users of the system in accordance with the following sequence:
  - (i) Recreational users,
  - (ii) Commercial users,
  - (iii) School users,
  - (iv) Residential users, and
  - (v) Hospitals, public health, and safety facilities.
- (d) **Public Notification:**  
In the event that minimum health and safety standards for drinking water are not met during emergency conditions, public service announcements on local television and radio stations will be utilized to notify the public of the emergency conditions and response measures. These

response measures may include notifying the public of the need to boil water, use bottled water, or use a designated alternate water source, as appropriate.

(e) Emergency Management Assistance:

The City may seek assistance through the local and/or State Emergency Management Program.

I. VARIANCES

The City Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance, or if one or more of the following conditions are met:

- (1) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (3) Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City. All petitions for variances shall be reviewed by the City Manager and shall include the following:
  - (a) Name and address of the petitioner(s),
  - (b) Purpose of water use,
  - (c) Specific provision(s) of the Plan from which the petitioner is requesting relief,
  - (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan,
  - (e) Description of the relief requested,
  - (f) Period of time for which the variance is sought,
  - (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date,
  - (h) Estimated water savings, as a percentage (%) of normal monthly water use, while operating under the variance requested, and
  - (i) Other information requested by the City.
- (4) Variances granted by the City Manager shall be subject to the following conditions, unless waived or modified:
- (5) Variances granted shall include a timetable for compliance, and
- (6) Variances granted in a particular stage shall expire upon advancing to a more restrictive stage of the Plan.
- (7) Petitioners shall prominently display the variance granted where it can be read by the general public at all location(s) for which the variance applies, and make said variance available to the public.
- (8) Variances granted may be revoked by the City Manager if the petitioner fails to meet specific requirements set forth in the variance.
- (9) No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

**J. WHOLESALE AGREEMENTS/CONTRACTS PROVISION**

In the event that the Trigger Conditions specified by Stage 3 – Severe Water Shortage, or Stage 4 – Water Supply Emergency, of this Plan have been met, the City Manager is hereby authorized to initiate allocation of water supplies to wholesale customers on a pro rata basis. This stipulation applies to all existing and future wholesale water supply contracts or agreements made with the City. The pro rata basis for water allocation to wholesale customers will be made in accordance with the Texas Water Code §11.039 and as specified in 30 Texas Administrative Code §288.22(a)(7).

**K. ENFORCEMENT**

- (1) No person shall allow potable water from the City to be used for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the stage in effect at the time pursuant to action taken by the City Manager in accordance with provisions of this Plan.
- (2) If a person is convicted of three or more distinct violations of this Plan, the City shall provide written notice to the person of possible termination of service. The notice shall apprise the person of the possible termination of service, the reasons for such possible termination, and afford the person an opportunity to present his/her objections to termination in a hearing before the City Manager. The person shall have not less than ten (10) days to present his/her objections. The notice shall also contain the notice requirements described in TCEQ Commission Rules located in the 30 Texas Administrative Code §291.88(a), as it currently exists or as amended from time to time. If after such hearing, the City Manager determines that service will be terminated, services discontinued under such circumstances shall be restored only upon payment of the reconnection charge, as established in Section 1 of this Chapter, and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager, that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.

**L. PRESUMPTIONS**

- (1) Any person, in apparent control of the property where a violation occurs or originates, shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation.
- (2) Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation.

**April 23, 2009**  
**Consent Agenda Item No. 2h**  
**Renew Water Conservation Plan**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion approving a resolution for adoption of an updated Water Conservation Plan, including goals required by TCEQ.

**Recommendation:** Staff recommends approval of the resolution.

**Summary:** In October 2006 the City Council approved a resolution updating its existing water conservation plan to include quantified 5 and 10 year conservation goals. This was done as a condition of the City's application to the Texas Commission on Environmental Quality (TCEQ) for a Bed and Banks permit. We are now required to submit a revised water conservation plan to TCEQ no later than May 1, 2009, and every five years after that.

The revised Water Conservation Plan for College Station updates the targets and goals in the 2006 plan and satisfies TCEQ requirements.

In summary, the goals for reduction of peak per-capita daily water consumption are:

- 2008: 284 gallons
- 2013: 270 gallons
- 2018: 256 gallons

Measures undertaken to achieve these reductions are:

- Use reclaimed water (treatment plant effluent) to irrigate Veteran's Park
- Routine audits of water system losses
- Implementation of inclined water rate structure
- Improve verification of water meter accuracy and make repairs
- Improve public education regarding irrigation practices and conservation

Since this Plan reinforces measures and goals already in place and approved by City Council, staff recommends approval.

**Budget & Financial Summary:** There is no cost to adopt this update to the Water Conservation Plan. Funds or Policy changes required to achieve any particular goal will be brought to Council individually for approval.

**Attachments:**

Resolution  
Water Conservation Plan

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AN AMENDED CITY OF COLLEGE STATION WATER CONSERVATION PLAN AS REQUIRED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ).

WHEREAS, the City Council of the City of College Station, Texas, adopted a Water Conservation Plan on June 27, 1996 and

WHEREAS, the City Council of the City of College Station, Texas, approved an updated Water Conservation Plan in October 2006 as a requirement for filing its application for a Bed and Banks permit with the TCEQ; and

WHEREAS, effective January 10, 2008, Water Conservation Plans are required to be reviewed and updated every five years to include specific quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day; now, therefore,

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

PART 1: That the City Council hereby approves an Amended Water Conservation Plan, a copy of which is attached hereto as Exhibit "A".

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

ADOPTED this 23rd day of April, A.D. 2009.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
MAYOR

APPROVED:

Carla A. Robinson  
City Attorney



CITY OF COLLEGE STATION

# Water Conservation Plan

## October 2009

Public Water Supply Identification Number: 0210002  
Brazos County

David M. Coleman, P.E., Water Services Director

P.O. Box 9960  
1601 Graham Road  
College Station, TX 77842  
979-764-3660  
<http://www.cstx.gov/utilities>



**College Station Utilities**

*Reliable, Affordable, Community Owned*

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## SECTION 1 – INTRODUCTION AND UTILITY PROFILE

### INTRODUCTION

In accordance with the guidelines of the Texas Water Development Board (TWDB), the City of College Station (hereafter referred to as "the City") adopted a Water Conservation Plan in 1996 and updated it in 1998. In order to meet requirements of the Texas Commission on Environmental Quality (TCEQ), the City has updated its water conservation plan for adoption as a City resolution.

The resolution of the City Council adopting the Water Conservation Plan shall authorize the City to implement, enforce, and administer the program.

### UTILITY PROFILE

#### Population and customer data

The City's Water Services Department manages a water distribution service area of 47 square miles and serves a population of over 80,000 residents. This population amount includes approximately 10,000 students attending and living on campus at Texas A&M University (TAMU) that are not actually served by the College Station water utility. Accounting for these students who reside in College Station, but are served by the TAMU water system, this leaves an actual water service population of over 70,000 residents. The City provides drinking water to its customers through a network of nearly 330 miles of transmission and distribution mains that provide service to over 36,400 water connections.

The official U.S. Census population count for the City in 2000 was 67,890, an increase of 29% from the 1990 Census. Population projections for College Station, described in 2006 Brazos Region G Regional Water Plan, forecast the City's population will reach 80,920 by 2010 and 94,526 by 2020. In comparison, the City's water consumption peak day demand is expected to increase to almost 25 MGD by 2010 and over 27 MGD by 2015.

#### Water use data

Table 1 below summarizes key water use statistics for 2003 – 2008. Average per person usage is given in gallons per capita per day (gpcd). Average and peak daily water demand is given in million gallons per day (MGD). . The peak day to average day ratio varies between 1.71 and 2.11, meaning that peak day demand is nearly twice the average demand.

The peak demand for the City is 22.9 MGD, reached in 2008. During high demand periods when large volumes of water are being pumped from the aquifer, the production capacity of the wells is reduced due to declining water levels of the aquifer. The City's water production and pumping system capacity is currently 23 MGD.

**Table 1. Municipal Water Demand 2004 – 2008**

Year	2004	2005	2006	2007	2008
Peak GPCD	268	286	276	215	284
Annual Average GPCD	127	155	149	126	137
Peak Day (MGD)	18.81	20.62	20.42	16.48	22.90
Average Day (MGD)	8.93	11.14	11.05	9.64	11.63
Peaking Factor	2.11	1.85	1.85	1.71	1.97

#### Water Production and Delivery System

The City utilizes ground water for its public water supply and since 1980 College Station has developed its own water production facilities. The City has eight groundwater wells, six of which withdraw groundwater from the Simsboro Sand formation of the Carrizo-Wilcox Aquifer, and two of which withdraw groundwater from the Carrizo and Sparta formations. The City's wellfield is located

northwest of Bryan in the vicinity of Sandy Point Road near Old San Antonio Road. Cooling towers located at the Sandy Point Pump Station cool the raw water from 118° F down to approximately 85°. The water is then pumped through a raw water transmission line to the Dowling Road Pump Station in College Station. Here the water is treated to meet Safe Drinking Water Act standards before being pumped to storage and distribution facilities. The City's water distribution system includes two ground storage reservoirs and two elevated storage tanks, providing a total storage capacity of 13 million gallons.

### **Wastewater Collection and Treatment System**

Raw wastewater in College Station travels through a network of over 260 miles of wastewater collection lines to one of two wastewater treatment plants, the Carter's Creek Wastewater Treatment Plant and the Lick Creek Wastewater Treatment Plant. The two wastewater treatment plants and numerous lift stations serve a population of over 70,000 people, with an average daily discharge of 6 to 7 MGD and maximum daily wastewater treatment capacity of 11.5 MGD.

## **SECTION 2 – CONSERVATION GOALS**

### **CONSERVATION GOALS**

The purpose of this water conservation plan is to reduce long-term demand on limited water resources by encouraging more efficient water use practices in College Station. Its primary goals are to reduce peak seasonal water demand and reduce the peaking factor on the water production and delivery system.

*Goal 1: Reduce peak daily water demand*

*Goal 2: Reduce peaking factor*

TCEQ rules require the City build capacity to meet escalating peak daily demands, which, as discussed in Section 1, can be up to twice the average demand. Thus, reducing those peak demands will enable the City to defer new capital expenditures for production facilities, and better use of available water resources.

The City aims to reduce peak demand through two methods: programs targeted at reducing peak per capita demand, and programs aimed at reducing the peaking factor. Table 2 outlines projected targets for reducing per capita demand and peaking factor. The State Water Conservation Implementation Task Force recommends that municipalities set goals of reducing per capita consumption by 1% per year. The goals proposed in this plan are structured so that consumption is reduced by 1% each year, meeting the ultimate goal within ten years.

**Table 2. Municipal per capita water use goals**

Year	2008	2013	2018
Peak GPCD	284	270	256
Annual Average GPCD	137	137	137
Peaking Factor	1.97	1.90	1.81

*Goal 3: Maintain unaccounted-for water at or below 10%*

**Table 3. Water Accountability**

Year	2006	2011	2016
Demand			
Unaccounted-for Water (Gallons)			
Unaccounted for Water (%)	10%	9%	8%

In any system, water loss may occur due to leaks, line breaks, meter inaccuracies, theft, and other issues. The City monitors water production and water billing on a monthly basis and tracks system

water loss on a percentage basis. The City has consistently maintained an average water accountability rating of 10%, meaning that water billed is greater than or equal to 90% of water produced. At a minimum, the City will continue to meet this target, and investigate ways to improve water accountability at or above 90%.

#### **Time frame for achieving conservation goals**

The three goals outlined above are designed to be achieved within 10 years of the date of adoption of this Plan. The City will periodically evaluate the plan in accordance with State and Federal regulations to determine the extent, if any, that the plan needs modification.

### **SECTION 3 – STRATEGIES TO ACHIEVE CONSERVATION GOALS**

#### **WATER RATE STRUCTURE**

The City utilizes an inclining water rate structure to encourage customers to reduce both peak and overall water usage, while fairly allocating cost of service to each customer class. Under an inclining rate structure, the rate per thousand gallons increases as the amount of water used increases. The City implemented this inclining water rate structure in Fiscal Year 2008. The current rate structure charges monthly service charges based on meter size, plus a uniform rate per thousand (1000) gallons up to 10,000 gallons. After 10,000 gallons, the rate per thousand increases \$0.60 per thousand gallons per 5000 gallon block up to 26,000 gallons. All residential usage above 26,000 gallons is billed at a uniform rate of \$4.86 per thousand (1000) gallons (City Ordinance No. 3116).

Currently, commercial rate structure charges monthly service charges based on meter size, plus a uniform water usage rate per thousand (1000) gallons. City Staff is currently researching the option of altering the commercial rate structure in order to meet conservation goals.

This rate structure will be reviewed on a regular basis to ensure that the rates adequately recover the cost of service and meet the goals of this water conservation plan.

#### **WASTEWATER REUSE**

The City has received authorization from the TCEQ to reuse its treated wastewater effluent as Type I reuse water, the highest quality of reuse water. The goal for the City's water reuse program is to reduce peak demand on the potable (drinking) water system by switching non-potable uses of water, such as athletic field irrigation, to reuse water. In 2006 the City has completed a feasibility study of providing reuse water for irrigation at City-owned parks and facilities.

The first part of this plan will include extending reclaimed water infrastructure to the City's two main parks: Veterans Park and Athletic Complex, and Central Park. The City hopes to complete the first phase of its water reuse program by 2011. When this system is fully implemented, it will provide nearly 1 million gallons per day of reclaimed water to the parks, reducing demand on the potable water system. In the future, the City plans to expand its water reuse program to include large volume commercial customers, such as shopping centers and business parks.

#### **WATER LOSS CONTROL MEASURES**

The goal of the City's water loss control program is to maintain unaccounted-for water (unbilled authorized and unbilled unauthorized usage) water at or below 10% of water produced, on a monthly basis. In order to meet this goal, the City has several programs in place, including routine water audits, a program of leak detection and repair, and meter testing and accuracy.

#### **Routine Audits of Water System**

The Water Services Department generates a monthly water loss report that compares metered production with metered consumption, as well as accounted-for and unaccounted-for water losses.

This report provides an effective tracking system of water loss. The City will also complete a detailed water system audit following Texas Water Development Board (TWDB) guidelines at least once each year. TWDB rules only require this audit to be submitted once every five years. The water system audit determines the volume of actual water loss, the identification of water loss sources, the status and condition of primary water meters, an analysis of water line breaks, an evaluation of underground leakage potential, and provides recommendations for meter replacement

### **Leak Detection and Repair**

The City administers a leak detection and repair program for its water distribution system. This program features a work order prioritization system for leaks needing repair and an inventory of equipment and materials needed to promptly repair all detected or reported leaks. The City's annual rehabilitation program to upgrade its water distribution system also addresses high volume leaks. The City also conducts an annual distribution system rehabilitation program that replaces the high water loss sections of the distribution system. This program is based on findings of monthly water loss reports and the leak detection program.

### **Universal Metering**

The ability to meter all water distribution and consumption uses allows the City to closely monitor actual water use, water losses, and prevent unauthorized use. All service connections in the City are metered. All production wells, pumping stations, interconnections, irrigation, swimming pools, parks, and municipal structures operated by the City are metered.

Meters at water production pump stations are calibrated and tested annually in accordance with American Water Works Association (AWWA) standards to provide a minimum accuracy of plus or minus five percent (5%).

The City will continue to provide a preventive maintenance program for its water meters, wherein regular scheduled testing, repairs, and replacement are performed in accordance with American Water Works Association (AWWA) standards.

## **RECORDS MANAGEMENT SYSTEM**

The City administers a comprehensive record management system that accounts for water use characteristics throughout the water system and allows for the separation of aggregate water sales and water usage characteristics into customer-specific categories. The system is configured to provide the following water use information:

- Water production
- Water sales
- Water consumption
- Water losses

## **PUBLIC EDUCATION PROGRAM**

The City's public education program typically makes at least 6,000 direct customer contacts each year through presentations, booths at community fairs, and plant tours. This figure does not include indirect contacts through utility bill inserts, newspaper and radio ads, and similar programs. The City promotes water conservation issues by informing the public in the following ways:

- Making water conservation information available to new customers
- Making residential water audits available to all customers
- Providing water conservation information to all customers upon request

- Coordinating educational presentations, lectures, and demonstrations for schools, civic groups, and the general public
- Providing exhibits at public events held throughout the year
- Publishing water conservation information on a regular basis in the City's utility bill insert or other written form
- Providing book covers with a water conservation message for College Station ISD students
- Participating in community environmental education activities with the City of Bryan and other local organizations to promote water conservation education
- Supporting annual events and demonstrations relating to water conservation and environmental issues that affect water supply and quality

## **WHOLESALE WATER SUPPLY CONTRACTS**

The City will, as part of contracts for sale of water to any other entity re-selling water, require that entity to adopt applicable provisions of the City's water conservation and drought contingency plan or have a plan in effect previously adopted and meeting the basic requirements of 30 TAC §288. These provisions will be through contractual agreement prior to the sale of any water to the water re-seller.

## **PLUMBING CODE AND RETROFIT PROGRAM**

The City has adopted the International Plumbing Code, which requires the use of water saving, Ultra Low Flow (ULF) fixtures to be installed in new construction and in the replacement of plumbing in existing structures.

The City educates the residents, plumbers, and contractors on the benefits of retrofitting existing facilities with water saving devices through its public education program. In addition, the City is evaluating the feasibility and cost effectiveness of implementing an Ultra-Low Flow (ULF) rebate program or similar incentive program that would offer cash rebates or other incentives to water customers that replace old toilets, showerheads, and other fixtures with new ULF models. The City is hopeful to have rebate programs enacted FY 09-10.

## **LANDSCAPE WATER MANAGEMENT**

The City provides information about the methods and benefits of water conserving landscaping practices and devices, through public education to homeowners, business owners, landscape architects and designers, and irrigation professionals. The following methods are encouraged:

- The use of Xeriscape™ and "Water Wise" landscaping techniques, including drought tolerant plants and grasses for landscaping new homes and commercial areas.
- The use of drip irrigation systems when possible or other water conserving irrigation systems that utilize efficient sprinklers and considerations given to prevailing winds. Additional point credits are given to commercial landscapes that employ water-efficient irrigation systems.
- Making sure that ornamental fountains and similar water features are designed to recycle water and use minimal amounts of water.
- Working with area landscape supply businesses and nurseries to encourage them to sell locally adapted, drought tolerant plants and grasses along with efficient irrigation systems, and to promote use of these materials through demonstrations and advertisements.

- The City is now offering landscape irrigation audits which include a system checkup, an efficiency check, and a general irrigation schedule.

## PERFORMANCE MEASURES AND REPORTING

The City will compile an annual report on the Water Conservation Plan, to include the following:

- Summary of public information issued in the previous year
- Report on meter testing program
- Summary of water loss control program
- Effectiveness of Water Conservation Plan in reducing peak and overall water consumption
- Per capita water consumption for the previous calendar year.
- Implementation progress and status of plan.

## COORDINATION

Recognizing that each City has similar water systems and customer bases, and similar needs for water conservation, the City of College Station and the City of Bryan worked together in developing similar water conservation plans.

Coordination with Drought Contingency and Water Emergency Plan: The Water Conservation Plan shall work in accordance with the related City of College Station Ordinance, Drought Contingency and Water Emergency Plan, first adopted in January 2000 and as it may be revised from time to time.

Coordination with Regional Water Planning Group: The City of College Station will provide this Water Conservation Plan to the Brazos Region (Region G) Water Planning Group, as designated by the TWDB.

Coordination with Groundwater Conservation District: The City of College Station will provide this Plan to the Brazos Valley Groundwater Conservation District.

**APPENDIX A: Resolution of the College Station City Council adopting Water Conservation Plan**

**APPENDIX B: Transmittal Letter to Brazos Region G Regional Water Planning Group**

**APPENDIX C: Transmittal Letter to Brazos Valley Groundwater Conservation District**

**April 23, 2009**  
**Consent Agenda Item No. 2i**  
**Twin Oaks Landfill 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 11.5 Wetland Mitigation Credits from Mitigation Solutions USA LLC in the amount of \$201,250.00.

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

**Summary:** This credit purchase is necessary to meet federal agency mitigation requirements for wetlands at the new landfill site on State Highway 30. The total purchase price for the credits is \$201,250.00, including a \$20,125.00 deposit payment. The Twin Oaks Landfill site is under construction south of SH 30 and Alum Creek in Grimes County, Texas. Because this site contains wetlands that will be disturbed during construction, BVSWMA 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.

On January 27, 2009, the Bryan City Council considered and denied a proposal to purchase a wetlands mitigation tract as outlined in the original 404 permitted mitigation plan. The action has resulted in the formulation of a contingency plan that will meet 404 permit requirements through credit purchase.

The contingency plan consists of the acquisition 11.5 Wetland Mitigation Credits to offset the disturbed areas that will be affected during current construction, and subsequent construction of disposal cells 2A, 2B, and 3A or approximately the next ten years of operations at the facility. Staff will then proceed with efforts to mitigate the rest of the disturbed areas through additional credit purchases, if credits are available. The BVSWMA Policy Advisory Board was briefed on the credit purchase and contingency plan on April 13, 2009.

The 11.5 Wetlands Mitigation Credits will be purchased from the XTO Steele Creek Mitigation Bank, located in Robertson County, through Mitigation Solutions USA LLC. A non-refundable deposit of \$20,125.00, due April 17, 2008, was paid on April 9, 2009. The remaining balance of \$181,125.00 will be paid upon approval of this expenditure authorization.

**Budget & Financial Summary:** Funding for this credit purchase is available in the BVSWMA Capital Improvements Fund. As BVSWMA is funded through an inter-local agreement, both the Cities of Bryan and College Station are sharing the cost of this project. This item will also require the approval of the Bryan City Council.

**Attachments:**

1. Resolution
2. Mitigation Solutions USA LLC Cover Letter – April 08, 2009
3. Mitigation Solutions USA LLC Invoice# MSUSA 009-05D – April 08, 2009

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE PURCHASE OF 11.5 MITIGATION CREDITS IN THE XTO STEELE CREEK MITIGATION BANK, ROBERTSON COUNTY, TEXAS, THROUGH MITIGATION SOLUTIONS USA LLC, AS REQUIRED PURSUANT TO THE MITIGATION PLAN FOR UNITED STATES ARMY CORPS OF ENGINEERS APPLICATION NO. 200100239 FOR THE TWIN OAKS LANDFILL PROJECT IN GRIMES COUNTY, TEXAS.

WHEREAS, in October, 2005, the City Council approved an engineering contract with HDR Engineering, Inc. for the final design of the Twin Oaks Landfill Project, and in October 2008, approved a construction contract with C. Watts and Sons Construction Co., Inc. for the construction of the Twin Oaks Landfill Project, Phase I in western Grimes County, Texas; and

WHEREAS, at the time construction was to proceed, a United States Army Corps of Engineers Section 404 Permit No. 200100239 was required including an approved mitigation plan requiring the acquisition and conveyance of a conservation easement; and

WHEREAS, the United States Army Corps of Engineers has approved and accepted the City's submitted revised mitigation plan to buy 11.5 Mitigation Credits in the XTO Steele Creek Mitigation Bank in Robertson County, Texas, in lieu of off-site mitigation through the acquisition and conveyance of a conservation easement; 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 11.5 Mitigation Credits in the XTO Steele Creek Mitigation Bank in Robertson County, Texas, is the only reasonable alternative to off-site mitigation through the acquisition and conveyance of a conservation easement.
- PART 2: That the City Council hereby approves the purchase of 11.5 Mitigation Credits in the XTO Steele Creek Mitigation Bank in Robertson County, Texas, through Mitigation Solutions USA LLC as part of the Twin Oaks Landfill Project.
- PART 3: That the City Council authorizes the Mitigation Payment of \$201,250.00 to Mitigation Solutions USA LLC for said 11.5 Mitigation Credits.
- PART 4: That the funding for the Mitigation Payment shall be budgeted from the Brazos Valley Solid Waste Management Agency Capital Improvement Projects Fund in the amount of \$201,250.00.
- PART 5: 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:

*Carla A Robinson*

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



**MITIGATION SOLUTIONS USA LLC**

ATTN: TERRY MCKENZIE  
ST-98 LAKE CHEROKEE  
HENDERSON, TX. 75652

**April 08, 2009**

**Attn: City of Bryan, Texas & City of College Station, Texas**

**FEE FOR THE PURCHASE OF 11.5 CREDITS FROM MITIGATION SOLUTIONS USA LLC REPRESENTING CREDITS FROM XTO STEELE CREEK MITIGATION BANK FOR USACE PROJECT NUMBER 200100239 TWIN OAKS LANDFILL, GRIMES COUNTY, TEXAS**

The Cities of Bryan and College Station, Texas agrees to purchase 11.5 mitigation credits from Mitigation Solutions USA LLC at \$17,500 per credit for a total of \$201,250. A ten percent (10%) non-refundable deposit of \$20,125 will be due April 17, 2008. The remaining 90% of the total, \$181,125 will be due and payable in 6-months or 30 days after the USACE project number 200100239 has been authorized by the USACE.

**Detail listing of payments and project credit users:**

10% non-refundable deposit	\$20,125
Twin Oaks Landfill, Grimes County Texas	\$181,125
Total:	\$201,250

Thank you,

A handwritten signature in black ink that reads "Terry McKenzie".

Terry McKenzie  
President  
Mitigation Solutions USA LLC

Cc: Pete Caler  
Mark Smith  
Linda Huff

MitigationSolutionsUSA.com

Work: 903.754.6139 Fax: 903.704.4627 Toll Free: 1.888.838.0881 E-mail: Terry@MitigationSolutionsUSA.com

**CITY OF COLLEGE STATION**

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

Mayor

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

**ATTEST:**

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

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

**APPROVED:**

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

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

*Carla A. Robinson*  
\_\_\_\_\_

City Attorney

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

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

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

**MITIGATION SOLUTIONS USA LLC**

ATTN: TERRY MCKENZIE  
ST-98 LAKE CHEROKEE  
HENDERSON, TX. 75652

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**TERRY MCKENZIE**  
PRESIDENT  
MITIGATION SOLUTIONS USA LLC  
EIN#26-2198213

(903) 754-6139 CELL  
(903) 643-3653 OFFICE  
(903) 704-4627 FAX  
[Terry@MitigationSolutionsUSA.com](mailto:Terry@MitigationSolutionsUSA.com)

INVOICE #  
MSUSA 009-05D

**April 08, 2009**

**Attn: City of Bryan, Texas & City of College Station, Texas**

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**FEE FOR THE PURCHASE OF 11.5 CREDITS FROM MITIGATION SOLUTIONS USA LLC REPRESENTING CREDITS FROM XTO STEELE CREEK MITIGATION BANK FOR USACE PROJECT NUMBER 200100239 TWIN OAKS LANDFILL, GRIMES, COUNTY TEXAS.**

1. MSUSA will provide 11.5 credits to the City of Bryan, Texas and the City of College Station, Texas at a price of \$17,500/credit, totaling \$201,250.
2. **To complete the 11.5 credits purchase, the remaining 90% payment of \$181,125 must be received in 6-months or 30 days after the USACE permit has been approved. Please make payment to MITIGATION SOLUTIONS USA LLC.**

**Return Payment to:**

**Terry McKenzie  
President  
Mitigation Solutions USA LLC  
ST-98 Lake Cherokee  
Henderson, TX. 75652**

**AMOUNT DUE 30 DAYS AFTER USACE  
PERMIT HAS BEEN APPROVED.**

**\$181,125**

**April 23, 2009**  
**Consent Agenda Item No. 2j**  
**Change Order No. 2 for Emergency Vehicle Purchase**

**To:** Glenn Brown, City Manager

**From:** R.B. Alley Fire Chief

**Agenda Caption:** Presentation, possible action, and discussion regarding Change order No. 2 to purchase order No. 09-0308 to Martin Apparatus and Equipment, in the amount of \$29,684 for the purchase of two (2) 2009 Pierce Velocity Pumpers and one (1) 2009 Pierce / Peterbilt 340-3000 Gal Pumper / Tanker.

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

**Summary:** One pumper and the pumper / tanker were approved in the 2009 fleet and equipment replacement schedule. The second pumper was approved by City Council on 12/11/2008. This Change Order increases line 1 of the Purchase order by \$21,522 and line 2 by \$8,162 and brings the Grand total of the purchase order to \$1,335,207.80. The new amount is still approximately \$25,000 less than the total amount approved for the purchase of these Emergency Vehicles. Change Order No. 2 represents an increase of 2.28% of the original purchase order, however since it exceeds the statutory limit of \$25,000 it must be taken to Council for ratification. The change order was approved by the Assistant Fire Chief after a February pre-construction visit to the factory to address safety and operational issues with the units, and to ensure the units place on the assembly line for a July delivery.

**Budget & Financial Summary:** Funds are available and budgeted in the Fleet and Equipment Replacement Fund.

**Attachments:**

Pierce Pre-Construction Change Order Forms.  
Purchase Order

PS 11070308



## Change Order #2 PRE- CONSTRUCTION CHANGE ORDER FORM



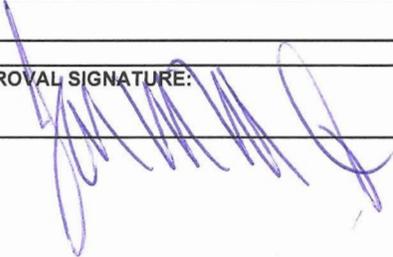
Date: **March 4, 2009**

<b>CUSTOMER:</b> College Station Fire Dept.	<b>JOB NO:</b> 22072	<b>DESCRIPTION:</b> 2009 Peterbilt Tanker	<b>ORIGINAL CONTRACT AMOUNT:</b> \$267,381.00
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#	DATE	ADDITION / DELETION DESCRIPTION	PRICE
1	3/4/09	Changed front zone warning lights to Red & Blue LEDs	\$14.00
2	3/4/09	Changed rear lower zone warning lights to Split Red/Blue LED	\$121.00
3	2/18/09	Added side scene light brackets to front side of tank	\$1,094.00
4	2/18/09	Added battery location to above pump	\$192.00
5	2/18/09	Added pike pole tube in hard suction hose compartment	\$141.00
6	2/18/09	Added location verbiage of hard suction hose trough	\$0.00
7	2/18/09	Changed pumping mode to stationary IPO pump in motion	\$0.00
8	3/4/09	Added notch in pump module for DPF.	\$0.00
9	2/18/09	Changed pump panel engine gauges and indicator lights to Class One Enfo 4	\$0.00
10	2/18/09	Changed location of siren head	\$74.00
11	2/18/09	Changed Whelen siren to remote head model	\$0.00
12	2/18/09	Added tire pressure monitoring valve caps	\$135.00
13	2/18/09	Changed to a Kussmaul Pump Plus Battery Charger / Air Pump System	\$1,171.00
14	2/18/09	Changed location of compartment partition	\$0.00
15	2/18/09	Changed location of shelf	\$0.00
16	2/18/09	Changed quantity of shelf tracks and locations	\$110.00
17	2/18/09	Changed tailboard length	\$0.00
18	2/18/09	Changed to a special height deluge outlet riser	\$159.00
19	2/18/09	Added a rear view camera	\$1,765.00
20	2/18/09	Added a slide-out platform under the driver side pump panel	\$975.00
21	2/18/09	Changed to a Hale QPAK 1000gpm pump	(\$1,094.00)
22	2/18/09	Changed Rear Scene Lights to Whelen M9 Series with new switching locations	\$1,406.00
23	3/4/09	Changed the Whelen lightbar configuration	-\$12.00
24	3/4/09	Changed side zone warning lights to Red LEDs & one Split Red/Blue LED at the rear	\$149.00
25	2/19/09	Added two pair of side scene lights and switching locations	\$1,716.00
26	2/19/09	Changed front and rear wheel verbiage to indicate aluminum	\$0.00
27	2/19/09	Changed Intercom Headset, crew cab mounting location, and interface cable provider notation	\$46.00
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<b>ADDITIONS / DELETIONS SUB TOTAL:</b>	<b>\$8,162.00</b>
<b>ORIGINAL CONTRACT PRICE:</b>	<b>\$267,381.00</b>
	<b>\$0.00</b>
	<b>\$0.00</b>
<b>NEW CONTRACT PRICE:</b>	<b>\$275,543.00</b>

<b>APPROVAL SIGNATURE:</b> 	<b>DATE:</b> 7/9/19
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MAI AWH 03-08



# Change Order #1 PRE- CONSTRUCTION CHANGE ORDER FORM



Date: **March 6, 2009**

<b>CUSTOMER:</b> College Station Fire Dept.	<b>JOB NO:</b> 22038 - 01	<b>DESCRIPTION:</b> 2009 Velocity Pumper	<b>ORIGINAL CONTRACT AMOUNT:</b> \$519,071.00
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#	DATE	ADDITION / DELETION DESCRIPTION	PRICE
1	2/17/09	Change to new wheelbase of 227 inches	\$0.00
2	2/17/09	Changed Jake Brake to High Medium and Low settings	\$0.00
3	2/17/09	Changed the location of the battery charger indicator to below the driver seat on a bracket	\$154.00
4	2/17/09	Changed notation for hard suction hose and strainers to be provided by FD	\$0.00
5	2/17/09	Added a roller guide assembly to in between the hose reel and the CAFS compressor	\$257.00
6	2/17/09	Changed to a Husky 12 Dual Agent System with Dual Refill/Draft Capabilities	\$2,893.00
7	2/17/09	Add a 20 gallon Foam Cell for Class A foam and dedicate 25 gal. cell for Class B foam	\$1,283.00
8	3/4/09	Change front zone warning lights to red & blue LEDs	\$41.00
9	3/4/09	Changed side zone warning lights to Red LEDs & one Split Red/Blue LED at the rear	\$149.00
10	3/4/09	Changed rear lower zone warning lights to Split Red/Blue LED	\$121.00
11	2/17/09	Changed mounting location of upper rear zone warning lights	\$0.00
12	2/17/09	Changed generator models to improve mounting location efficiency	\$267.00
13	2/17/09	Change to Grover Air Horns	\$310.00
14	2/17/09	Change to full height brushed stainless steel inner door panels	\$295.00
15	2/17/09	Add windows and window trim to side of cab between cab and crew cab doors	\$266.00
16	2/17/09	Change to Chrome, remote, no heat, Pierce One-Eleven Mirrors	(\$346.00)
17	2/17/09	Add tool tray with aluminum cover to front bumper	\$681.00
18	2/17/09	Add a grab handle to passenger side interior door post	\$168.00
19	2/17/09	Change to AMDOR compartment lights	(\$83.00)
20	2/17/09	Delete 1 helmet mount	(\$53.00)
21	2/17/09	Delete 1 radio antenna mount	(\$62.00)
22	2/17/09	Changed Intercom Headset, crew cab mounting location, and interface cable provider notation	\$46.00
23	2/17/09	Added spare wire circuit to center of overhead console and changed wire termination type	\$71.00
24	3/4/09	Deleted hose bed cover, Hose Restraint is already in order	-\$702.00
25	2/18/09	Changed Swing-out tool board location	\$0.00
26	2/18/09	Changed locations of shelves	\$0.00
27	2/18/09	Deleted one set of shelf tracks	-\$117.00
28	2/18/09	Changed mounting description of Little Giant Ladder	\$0.00
29	2/18/09	Changed height of deluge outlet	\$0.00
30	2/18/09	Added air horn control at pump panel	\$151.00
31	2/18/09	Added NFPA verbiage for hand lights provided by FD	\$0.00
32	2/18/09	Changed cab air horn control	\$114.00
33	2/18/09	Changed electric siren control	\$0.00
34	2/18/09	Changed electric siren speakers	-\$370.00
35	2/18/09	Changed airport warning light switch control verbiage	\$0.00

36	2/18/09	Changed NFPA verbiage for soft suction provided by FD	\$0.00
37	2/18/09	Changed 110volt receptacle in EMS cabinet mounting verbiage	\$0.00
38	2/18/09	Added 2 12volt power ports to rear of engine tunnel console	\$247.00
39	2/18/09	Changed EMS cabinet design verbiage and changed to AMDOR lights	\$273.00
40	2/18/09	Changed Rear Scene Lights to Whelen M9 Series with new switching locations	\$1,329.00
41	3/4/09	Added a Low Profile Slide-Out Tray in the DS Rear Compt.	\$887.00
42	2/24/09	Added a two-drawer assembly to the DS front compt.	\$1,348.00
43	2/24/09	Changed the main Whelen lightbar configuration	\$318.00
44	2/24/09	Changed the side Mini Whelen lightbar configurations	\$196.00
45	2/24/09	Added aluminum 3/16" plate on engine tunnel for mounting provision	\$332.00
46	2/24/09	Added aluminum 3/16" plate on rear of engine tunnel for mounting provision	\$297.00
49			
50			

<b>ADDITIONS / DELETIONS SUB TOTAL:</b>		\$10,761.00
<b>ORIGINAL CONTRACT PRICE:</b>		\$519,071.00
		\$0.00
		\$0.00
<b>NEW CONTRACT PRICE:</b>		\$529,832.00

<b>APPROVAL SIGNATURE:</b> 	<b>DATE:</b> 3/9/9
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MAI AWH 03-08



# Change Order #1 PRE- CONSTRUCTION CHANGE ORDER FORM



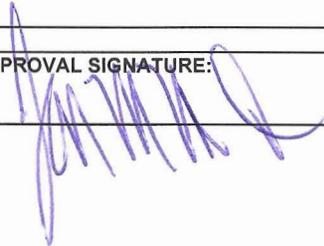
Date: **March 6, 2009**

<b>CUSTOMER:</b> College Station Fire Dept.	<b>JOB NO:</b> 22038 - 02	<b>DESCRIPTION:</b> 2009 Velocity Pumper	<b>ORIGINAL CONTRACT AMOUNT:</b> \$519,071.00
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#	DATE	ADDITION / DELETION DESCRIPTION	PRICE
1	2/17/09	Change to new wheelbase of 227 inches	\$0.00
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3	2/17/09	Changed the location of the battery charger indicator to below the driver seat on a bracket	\$154.00
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11	2/17/09	Changed mounting location of upper rear zone warning lights	\$0.00
12	2/17/09	Changed generator models to improve mounting location efficiency	\$267.00
13	2/17/09	Change to Grover Air Horns	\$310.00
14	2/17/09	Change to full height brushed stainless steel inner door panels	\$295.00
15	2/17/09	Add windows and window trim to side of cab between cab and crew cab doors	\$266.00
16	2/17/09	Change to Chrome, remote, no heat, Pierce One-Eleven Mirrors	( <del>\$346.00</del> )
17	2/17/09	Add tool tray with aluminum cover to front bumper	\$681.00
18	2/17/09	Add a grab handle to passenger side interior door post	\$168.00
19	2/17/09	Change to AMDOR compartment lights	( <del>\$83.00</del> )
20	2/17/09	Delete 1 helmet mount	( <del>\$53.00</del> )
21	2/17/09	Delete 1 radio antenna mount	( <del>\$62.00</del> )
22	2/17/09	Changed Intercom Headset, crew cab mounting location, and interface cable provider notation	\$46.00
23	2/17/09	Added spare wire circuit to center of overhead console and changed wire termination type	\$71.00
24	3/4/09	Deleted hose bed cover, Hose Restraint is already in order	- <del>\$702.00</del>
25	2/18/09	Changed Swing-out tool board location	\$0.00
26	2/18/09	Changed locations of shelves	\$0.00
27	2/18/09	Deleted one set of shelf tracks	- <del>\$117.00</del>
28	2/18/09	Changed mounting description of Little Giant Ladder	\$0.00
29	2/18/09	Changed height of deluge outlet	\$0.00
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32	2/18/09	Changed cab air horn control	\$114.00
33	2/18/09	Changed electric siren control	\$0.00
34	2/18/09	Changed electric siren speakers	- <del>\$370.00</del>
35	2/18/09	Changed airport warning light switch control verbiage	\$0.00

36	2/18/09	Changed NFPA verbiage for soft suction provided by FD	\$0.00
37	2/18/09	Changed 110volt receptacle in EMS cabinet mounting verbiage	\$0.00
38	2/18/09	Added 2 12volt power ports to rear of engine tunnel console	\$247.00
39	2/18/09	Changed EMS cabinet design verbiage and changed to AMDOR lights	\$273.00
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<b>ADDITIONS / DELETIONS SUB TOTAL:</b>		<b>\$10,761.00</b>
<b>ORIGINAL CONTRACT PRICE:</b>		<b>\$519,071.00</b>
		<b>\$0.00</b>
		<b>\$0.00</b>
<b>NEW CONTRACT PRICE:</b>		<b>\$529,832.00</b>

<b>APPROVAL SIGNATURE:</b> 	<b>DATE:</b> 3/9/9
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MAI AWH 03-08



# City of College Station Purchase Order

1101 Texas Avenue P O Box 9960  
College Station, Texas 77842-0960  
(979) 764-3555 Fax: (979) 764-3899  
www.cstx.gov

Purchase Order No.
090308
Above number must appear on all correspondence
Date
12/17/08

CHANGE #: 1

36007 DATE CHG: 03/24/09

<b>V E N D O R</b>	MARTIN APPAR. & EQUIPMENT 14233 INTERDRIVE WEST HOUSTON, TX 77032 TEL# (800) 784-6806
--	--

<b>S H I P T O</b>	CITY OF COLLEGE STATION FLEET SERVICES 2613 TEXAS AVENUE COLLEGE STATION, TX 77840
--	---

DELIVER BY	F.O.B.	TERMS	ACCOUNT NO.	PROJECT NO.	REQ. NO.	BID NO
09/17/09	DESTINATI	NET/30	22542515627120			
LINE	QUANTITY	UOM	DESCRIPTION		UNIT COST	EXTENSION
			***** * * * * *****			
			CHANGE ORDER			
1	2.00	EA	2009 PIERCE VELOCITY PUMPER		519071.0000	1038142.00
2	1.00	EA	2009 PIERCE/PETERBILT 340-3000 GAL PUMPER/TANKER		267381.8000	267381.80
REMARKS: »Buyboard contract #245-06 »The attached Buyboard quotes and specifications are hereby made part of this purchase order. »One (1)pumper and one (1) pumper/tanker was included in the approved 2009 Fleet and Equipment Replacement Schedule. The second pumper was approved by CC on 12/11/08, Item 2g. -Change Order 1 (line 2): Increased line 2 by \$3800.80 to accommodate changes and additions to the tanker specs. (LDD)						
<b>NOTICE TO VENDOR:</b> To insure prompt payment mail invoice in duplicate and copy of paid freight bill to be included if invoicing for prepaid freight. Mail invoice to Attn: Accounting Department, P. O. Box 9973, College Station, Texas 77842-0973. The City of College Station is exempt from Federal, State, and Local taxes. Federal No. is 1-74-6000534-5.					<b>GRAND TOTAL</b>	1305523.80



**April 23, 2009**  
**Consent Agenda Item No. 2k**  
**Reimbursement Resolution for Neighborhood**  
**Park Improvement Projects**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for Neighborhood Park Improvement projects.

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

**Summary:** The Neighborhood Park Improvements project was approved as part of the FY08 General Obligation Bond authorization. The budget for these improvements is a total of \$900,000 and funds are anticipated to be spent through FY11. Two projects are anticipated to be completed in FY09 for a total of \$290,000. The first project is the installation of shade covers at three neighborhood parks. These parks are Edelweiss Park, Brothers Pond Park, and Castlegate Park. The contract for the shade cover project was less than \$50,000 and has been approved by the City Manager. The second project will be the installation of a basketball pavilion at Pebble Creek Park. If funds remain following the completion of these projects, they will be used on other neighborhood park improvements.

Long term debt authorized in the November 2008 bond authorization will be issued for these projects. On projects for which the expenditures will occur prior to the debt issue, a resolution declaring intention to reimburse certain expenditures with proceeds from debt must be adopted within 60 days of expenditure on the project.

**Budget & Financial Summary:** 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. This debt is scheduled to be issued later this fiscal year.

**Attachments:**

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

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 \$290,000, 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 23rd DAY OF APRIL, 2009.

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

ATTEST:

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

(Seal)

APPROVED:

  
\_\_\_\_\_  
McCall, Parkhurst & Horton L.L.P.  
Bond Counsel

Exhibit "A"

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

Neighborhood Park Improvements: Shade Covers at Three Neighborhood Parks and Basketball Pavilion at Pebble Creek Park

**April 23, 2009**  
**Consent Agenda Item No. 2L**  
**Debt Reimbursement Resolution for Water Reclamation Project**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for the Water Reclamation project.

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

**Summary:** A professional services contract for the design of the Water Reclamation Project to Lockwood, Andrews & Newnam, Inc. in an amount not to exceed \$431,000.00 was approved by the City Council on March 26, 2009. The water reclamation project will take reclaimed water from the Carter's Creek Wastewater Treatment Plant and use it for irrigation purposes at Veteran's Park.

Long term debt will be issued for this project. On projects for which the expenditures will occur prior to the debt issue, a resolution declaring intention to reimburse certain expenditures with proceeds from debt must be adopted within 60 days of expenditure on the project. The resolution is typically adopted at the time the contract is awarded, but was inadvertently left off of the agenda when the contract was brought to Council.

**Budget & Financial Summary:** The "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is necessary for this item because a portion of the long term debt has not been issued for the project. This debt is scheduled to be issued later this fiscal year and in future fiscal years.

The current budget for this project is \$3,606,730.00.

**Attachments:**

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

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

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH  
PROCEEDS FROM DEBT

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

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

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

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

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed \$3,700,000, 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 23rd DAY OF APRIL, 2009.

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

ATTEST:

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

(Seal)

APPROVED:



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

Exhibit "A"

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

Water Reclamation Project

**April 23, 2009**  
**Consent Agenda Item No. 2m**  
**Arts Council of Brazos Valley Affiliate Funding Agreement Amendment**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion on an amendment to the Affiliate funding agreement between the City of College Station and the Arts Council of Brazos Valley to change the date and location of a performance by the Brazos Valley Symphony Orchestra specified in Section 3.5 of the agreement.

**Recommendation(s):** Staff recommends the City Council approves the funding agreement amendment requested by the Arts Council of Brazos Valley.

**Summary:** The request for an amendment to the Arts Council Affiliate funding agreement was made by the Arts Council of Brazos Valley. Included in the Affiliate funding agreement between the City of College Station and the Arts Council of Brazos Valley (ACBV) is \$11,000 in Hotel Tax funding for a performance by the Brazos Valley Symphony Orchestra (BVS0) at Wolf Pen Creek Amphitheatre in Spring 2009 as part of the Starlight Music Series. The ACBV, on behalf of the BVS0, has requested in writing that these funds be reallocated to help the BVS0 underwrite their July 4<sup>th</sup> concert at the George Bush Presidential Library and Museum and cancel the Wolf Pen Creek performance. The BVS0 performance tends to be one of the lower attended concerts as part of the Starlight Music Series.

The City currently has a funding agreement with the Noon Lions Club to fund the fireworks portion of the July 4<sup>th</sup> celebration at the George Bush Presidential Library and Museum. The ACBV and BVS0 believe that this reallocation of funds will enhance the July 4<sup>th</sup> performance by the BVS0 and help ensure the BVS0's financial stability in the current economic climate. In order to reallocate the funds for the July 4<sup>th</sup> BVS0 performance, the current funding Agreement must be amended to change the performance location and date specified in Section 3.5.

**Budget & Financial Summary:** This item will not have a budget impact. The \$11,000 in Hotel Tax funding for a BVS0 performance is included in the FY 2009 Budget. This item will amend the current funding agreement to change the date and location of the BVS0 performance the funding will be provided for.

**Attachments:**

1. Written request for reallocation of funding from Padraic Fisher, Executive Director of the ACBV
2. Arts Council of Brazos Valley Affiliate Funding Agreement Amendment

**2009 AMENDMENT TO THE FUNDING AGREEMENT PROVIDING FOR THE  
PAYMENT AND USE OF HOTEL TAX REVENUE BETWEEN THE CITY OF  
COLLEGE STATION AND THE ARTS COUNCIL OF BRAZOS VALLEY FOR  
OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009**

This amended agreement (“AGREEMENT”) is made by and between CITY OF COLLEGE STATION, a Home Rule Municipal Corporation incorporated under the State of Texas (herein after referred to as the “City”), and the Arts Council of Brazos Valley, a Texas Non-Profit Corporation (herein after referred to as the “Agency”), and this amendment shall be subject to the following terms and conditions:

**WHEREAS**, City and Agency entered into and executed an agreement on October 16, 2008 with the Contract Number of 09-001 (“Original Agreement”); and

**WHEREAS**, City and Agency desire to amend the original agreement by reallocating the funds from the Brazos Valley Symphony Orchestra concert at Wolf Pen Creek Amphitheatre in Spring 2009 to the July 4<sup>th</sup> Brazos Valley Symphony Orchestra concert at the George Bush Presidential Library and Museum, thus cancelling the funding for the Wolf Pen Creek performance; and

**WHEREAS**, City and Agency agree that all mutual covenants, agreements, terms and conditions, and valuable considerations from the original agreement will remain in effect and will apply to this amendment; and

**WHEREAS**, City and Agency agree that all mutual covenants, agreements, terms and conditions, and valuable consideration from the original agreement will remain in effect and will apply to this amendment; and

**WHEREAS**, the College Station City Council must approve this amendment and ratify original agreement; and

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

To amend the original agreement as follows:

1. Paragraph 3.5, Use of Funds

Agency agrees and understands that ELEVEN THOUSAND AND NO/100 DOLLARS (\$11,000.00) from the City’s Hotel Tax Revenue fund shall be used by Agency to provide funding for a July 4<sup>th</sup> Brazos Valley Symphony Orchestra concert at the George Bush Presidential Library and Museum at no additional cost to the City. Upon written approval and payment from City Manager or designee, Agency shall disburse funds to the Brazos Valley Symphony Orchestra for such concert.

2. All other terms and conditions of the original agreement shall remain unchanged and in full force and effect.

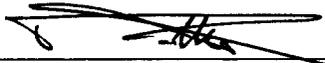
**City:** City of College Station  
1101 Texas Avenue  
College Station, Texas 77840

**Agency:** Arts Council of Brazos Valley  
2275 Dartmouth Street  
College Station, Texas 77840

EXECUTED THIS THE 15 DAY OF April, 2009.

**ARTS COUNCIL OF  
BRAZOS VALLEY**

**CITY OF COLLEGE STATION**

By: 

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

Printed Name: Patricia Foster

Mayor

Title: Executive Director

Date: April 15, 2009

ATTEST: \_\_\_\_\_

City Secretary

APPROVED:

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

STATE OF TEXAS )

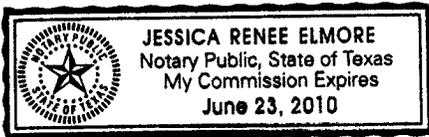
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ACKNOWLEDGMENT

COUNTY OF BRAZOS )

This instrument was acknowledged before me on the 15 day of April, 2009, by Padraic Fisher in his/her capacity as Executive Director of the Arts Council of Brazos Valley.

Jessica R. Elmore  
Notary Public in and for  
the State of Texas



STATE OF TEXAS )

)

ACKNOWLEDGMENT

COUNTY OF BRAZOS )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_ in his/her 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

**April 23, 2009**  
**Consent Agenda Item No. 2n**  
**Annual Blanket Purchase Order for Traffic Signs & Post**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion on the award of Bid#09-42 for purchasing of roadway traffic signs, post and pavement markings material. The total cost of this Bid #09-42 is \$145,505.62.

**Recommendation(s):** Staff recommends award of Bid #09-42 to lowest responsible bidders in three (3) categories. Category I prefabricated and signs blanks to Osburn Associates Inc. in the amount of \$28,183. Category II, to Vulcan Signs for signs hardware and post in the amount of \$26,089.50. Category III to Customs Products Corp for roll goods and pavement materials in the amount of \$91,233.12. The total cost of this Bid #09-42 is \$145,505.62. These traffic signs and materials are essential in guiding, warning and regulating vehicular and bicycle traffic throughout the City.

**Summary:** Bids for the Annual Blanket Purchase Order for purchase of roadway traffic signs and posts were received from seven (7) different vendors. Staff recommends award of Bid #09-42 to Osburn Associates, Vulcan Signs and Custom Products Corp.

**Budget & Financial Summary:** Funding for the Annual Blanket Purchase Order for the purchase of traffic signs and posts is provided from the Traffic Operations Budget.

**Attachments:**

1. Bid tabulation #09-42

ITB 09-42  
Annual Agreement for Street Signs and Posts  
Open Date: Tuesday, March 10, 2009 @ 2:00

Item No.	Qty (Estimate)	UOM	Description	Pathmark Traffic Products of Texas, Inc. (San Marcos, TX)		American Sign Brackets (Green Forest, AR)		Custom Products Corp. (Jackson, MS)		Rocal, Inc. (Frankfort, OH)		Vulcan Signs (Foley, AL)		Osburn Associates, Inc. (Logan, OH)		Allied Tube & Conduit (Harvey, IL)	
				Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
<b>CATEGORY I - Signs (Prefabricated)</b>																	
1	50	ea	R1-1 STOP signs, .080" X 24" X 24", 3M High Intensity Grade Prismatic Sheeting Series 3930 w/3M electrocut film	\$ 23.49	\$ 1,174.50	NO BID	NO BID	\$ 15.47	\$ 773.50	\$ 24.03	\$ 1,201.50	\$ 19.71	\$ 985.50	\$ 18.72	\$ 936.00	NO BID	NO BID
2	100	ea	R1-1 STOP signs, .080" X 30" X 30", 3M High Intensity Grade Prismatic Sheeting Series 3930 w/3M electrocut film	\$ 36.79	\$ 3,679.00	NO BID	NO BID	\$ 23.48	\$ 2,348.00	\$ 37.69	\$ 3,769.00	\$ 31.06	\$ 3,106.00	\$ 29.25	\$ 2,925.00	NO BID	NO BID
3	50	ea	All Series @ Custom Messages, .08 X 24" X 18" w/3M High Intensity Grade Prismatic Sheeting Series 3930 w/ 3M electrocut film	\$ 17.77	\$ 888.50	NO BID	NO BID	\$ 11.95	\$ 597.50	\$ 18.42	\$ 921.00	\$ 15.29	\$ 764.50	\$ 14.04	\$ 702.00	NO BID	NO BID
4	100	ea	All Series & Custom Messages, .080 X 12" X 6", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 4.29	\$ 429.00	NO BID	NO BID	\$ 2.70	\$ 270.00	\$ 3.30	\$ 330.00	\$ 2.61	\$ 261.00	\$ 1.81	\$ 181.00	NO BID	NO BID
5	200	ea	All Series & Custom Messages, .080 X 12" X 18", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 9.38	\$ 1,876.00	NO BID	NO BID	\$ 6.38	\$ 1,276.00	\$ 5.81	\$ 1,162.00	\$ 6.25	\$ 1,250.00	\$ 5.43	\$ 1,086.00	NO BID	NO BID
6	100	ea	All Series & Custom Messages, .080 X 12" X 24", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 12.49	\$ 1,249.00	NO BID	NO BID	\$ 8.51	\$ 851.00	\$ 7.74	\$ 774.00	\$ 8.19	\$ 819.00	\$ 7.24	\$ 724.00	NO BID	NO BID
7	100	ea	All Series & Custom Messages, .080 X 24" X 30", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 29.61	\$ 2,961.00	NO BID	NO BID	\$ 19.86	\$ 1,986.00	\$ 19.35	\$ 1,935.00	\$ 18.23	\$ 1,823.00	\$ 18.10	\$ 1,810.00	NO BID	NO BID
8	100	ea	All Series & Custom Messages, .080 X 30" X 30", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 36.98	\$ 3,698.00	NO BID	NO BID	\$ 24.34	\$ 2,434.00	\$ 24.19	\$ 2,419.00	\$ 23.51	\$ 2,351.00	\$ 22.62	\$ 2,262.00	NO BID	NO BID
9	50	ea	All Series & Custom Messages, .080 X 36" X 36", w/3M High Intensity Grade Prismatic Sheeting, Series 3930	\$ 53.39	\$ 2,669.50	NO BID	NO BID	\$ 34.69	\$ 1,734.50	\$ 34.83	\$ 1,741.50	\$ 33.87	\$ 1,693.50	\$ 33.12	\$ 1,656.00	NO BID	NO BID
10	100	ea	30" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 15.89	\$ 1,589.00	NO BID	NO BID	\$ 16.90	\$ 1,690.00	\$ 14.70	\$ 1,470.00	\$ 12.28	\$ 1,228.00	\$ 10.70	\$ 1,070.00	NO BID	NO BID
11	100	ea	36" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 18.98	\$ 1,898.00	NO BID	NO BID	\$ 20.27	\$ 2,027.00	\$ 17.64	\$ 1,764.00	\$ 14.74	\$ 1,474.00	\$ 12.84	\$ 1,284.00	NO BID	NO BID
12	100	ea	42" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 22.29	\$ 2,229.00	NO BID	NO BID	\$ 23.65	\$ 2,365.00	\$ 20.58	\$ 2,058.00	\$ 17.20	\$ 1,720.00	\$ 14.98	\$ 1,498.00	NO BID	NO BID
13	100	ea	48" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 25.49	\$ 2,549.00	NO BID	NO BID	\$ 26.91	\$ 2,691.00	\$ 23.52	\$ 2,352.00	\$ 19.65	\$ 1,965.00	\$ 17.12	\$ 1,712.00	NO BID	NO BID
14	50	ea	54" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 28.69	\$ 1,434.50	NO BID	NO BID	\$ 30.28	\$ 1,514.00	\$ 26.46	\$ 1,323.00	\$ 22.11	\$ 1,105.50	\$ 19.26	\$ 963.00	NO BID	NO BID
15	25	ea	60" x 9" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 37.69	\$ 942.25	NO BID	NO BID	\$ 33.64	\$ 841.00	\$ 29.40	\$ 735.00	\$ 24.57	\$ 614.25	\$ 21.40	\$ 535.00	NO BID	NO BID
16	200	ea	30" x 6" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 11.98	\$ 2,396.00	NO BID	NO BID	\$ 11.21	\$ 2,242.00	\$ 11.26	\$ 2,252.00	\$ 8.53	\$ 1,706.00	\$ 7.82	\$ 1,564.00	NO BID	NO BID

ITB 09-42  
Annual Agreement for Street Signs and Posts  
Open Date: Tuesday, March 10, 2009 @ 2:00

Item No.	Qty (Estimate)	UOM	Description	Pathmark Traffic Products of Texas, Inc. (San Marcos, TX)		American Sign Brackets (Green Forest, AR)		Custom Products Corp. (Jackson, MS)		Rocal, Inc. (Frankfort, OH)		Vulcan Signs (Foley, AL)		Osburn Associates, Inc. (Logan, OH)		Allied Tube & Conduit (Harvey, IL)	
				Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
17	200	ea	36" x 6" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 14.39	\$ 2,878.00	NO BID	NO BID	\$ 13.30	\$ 2,660.00	\$ 13.51	\$ 2,702.00	\$ 10.24	\$ 2,048.00	\$ 9.39	\$ 1,878.00	NO BID	NO BID
18	100	ea	42" x 6" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 16.79	\$ 1,679.00	NO BID	NO BID	\$ 15.52	\$ 1,552.00	\$ 15.76	\$ 1,576.00	\$ 11.95	\$ 1,195.00	\$ 10.95	\$ 1,095.00	NO BID	NO BID
19	100	ea	48" x 6" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 19.19	\$ 1,919.00	NO BID	NO BID	\$ 17.73	\$ 1,773.00	\$ 18.02	\$ 1,802.00	\$ 13.65	\$ 1,365.00	\$ 12.42	\$ 1,242.00	NO BID	NO BID
20	50	ea	54" x 6" Extruded Street Name Blades w/ 3M High Intensity Grade Prismatic Sheeting Series 3930/White on both sides	\$ 23.98	\$ 1,199.00	NO BID	NO BID	\$ 19.93	\$ 996.50	\$ 20.27	\$ 1,013.50	\$ 15.36	\$ 768.00	\$ 13.97	\$ 698.50	NO BID	NO BID
21	20	ea	.100 x 84" x 15" x .5" White Border w/3M High Intensity Prismatic Sheeting Series 3930/ 3937 Green	\$ 85.00	\$ 1,700.00	NO BID	NO BID	\$ 40.38	\$ 807.60	\$ 60.81	\$ 1,216.20	\$ 45.65	\$ 913.00	\$ 36.75	\$ 735.00	NO BID	NO BID
22	20	ea	.100 x 72" x 15" x .5" White Border w/3M High Intensity Prismatic Sheeting Series 3930/ 3937 Green	\$ 72.00	\$ 1,440.00	NO BID	NO BID	\$ 36.22	\$ 724.40	\$ 52.13	\$ 1,042.60	\$ 40.24	\$ 804.80	\$ 31.50	\$ 630.00	NO BID	NO BID
23	20	ea	.100 x60" x 15" x .5" White Border w/3M High Intensity Prismatic Sheeting Series 3930/ 3937 Green	\$ 60.00	\$ 1,200.00	NO BID	NO BID	\$ 33.23	\$ 664.60	\$ 43.44	\$ 868.80	\$ 34.83	\$ 696.60	\$ 26.25	\$ 525.00	NO BID	NO BID
<b>Sub-total - Signs (Prefabricated)</b>				\$ 43,677.25				\$ 34,818.60		\$ 36,428.10		\$ 30,656.65		\$ 27,711.50			
<b>CATEGORY I - Aluminum Blanks</b>																	
24	25	ea	.08" x 24" x 24" Aluminum Sign Blank	\$ 11.49	\$ 287.25	NO BID	NO BID	\$ 7.86	\$ 196.50	\$ 9.20	\$ 230.00	\$ 9.36	\$ 234.00	\$ 7.36	\$ 184.00	NO BID	NO BID
25	25	ea	.08" x 30" x 30" Aluminum Sign Blank	\$ 17.98	\$ 449.50	NO BID	NO BID	\$ 12.19	\$ 304.75	\$ 14.38	\$ 359.50	\$ 14.62	\$ 365.50	\$ 11.50	\$ 287.50	NO BID	NO BID
<b>Sub-total - Aluminum Blanks</b>				\$ 736.75				\$ 501.25		\$ 589.50		\$ 599.50		\$ 471.50			
<b>TOTAL - CATEGORY I</b>				<b>\$ 44,414.00</b>		<b>NO BID</b>		<b>\$ 35,319.85</b>		<b>\$ 37,017.60</b>		<b>\$ 31,256.15</b>		<b>\$ 28,183.00</b>		<b>NO BID</b>	
<b>CATEGORY II - Sign Hardware</b>																	
26	300	ea	Galvanized U-Bolt Sign Clamp For 2 3/8" OD Post. Must meet the Standards of Texas Department of Transportation	\$ 2.39	\$ 717.00	\$ 2.70	\$ 810.00	NO BID	NO BID	NO BID	NO BID	\$ 3.37	\$ 1,011.00	NO BID	NO BID	\$ 5.85	\$ 1,755.00
27	300	ea	Poz-Loc Socket 2 7/8" x 2 3/8 w/Poz-Loc Wedge	\$ 10.98	\$ 3,294.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 10.99	\$ 3,297.00	NO BID	NO BID	\$ 12.41	\$ 3,723.00
28	500	ea	Street Name Brackets, #922X Cap For 2 3/8 Round Post	\$ 3.53	\$ 1,765.00	\$ 4.30	\$ 2,150.00	NO BID	NO BID	NO BID	NO BID	\$ 3.88	\$ 1,940.00	\$ 3.25	\$ 1,625.00	\$ 4.56	\$ 2,280.00
29	400	ea	Street Name Brackets, #990X Cross for 2 3/8 Round Post	\$ 3.41	\$ 1,364.00	\$ 4.20	\$ 1,680.00	NO BID	NO BID	NO BID	NO BID	\$ 3.69	\$ 1,476.00	\$ 3.25	\$ 1,300.00	\$ 4.33	\$ 1,732.00
30	50	ea	#457 Universal Bracket for Extruded Street Names w/hardware	\$ 4.98	\$ 249.00	\$ 4.90	\$ 245.00	NO BID	NO BID	NO BID	NO BID	\$ 4.03	\$ 201.50	NO BID	NO BID	\$ 5.63	\$ 281.50
<b>Sub-total - Sign Hardware</b>				\$ 7,389.00		\$ 4,885.00						\$ 7,925.50		\$ 2,925.00		\$ 9,771.50	
<b>CATEGORY II - Posts</b>																	
31	400	ea	Post, 11' x 2 3/8" OD, 16 Gauge, w/Brown Powder Coat Finish	\$ 36.29	\$ 14,516.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 24.42	\$ 9,768.00	\$ 27.28	\$ 10,912.00	\$ 24.89	\$ 9,956.00
32	100	ea	Post, 12' x 2 3/8" OD, 16 Gauge, w/Brown Powder Coat Finish	\$ 39.58	\$ 3,958.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 26.64	\$ 2,664.00	\$ 29.76	\$ 2,976.00	\$ 27.43	\$ 2,743.00
33	200	ea	Brown 3'-2# per foot U-channel Post	\$ 17.50	\$ 3,500.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 6.07	\$ 1,214.00	\$ 4.50	\$ 900.00	\$ 10.02	\$ 2,004.00
34	100	ea	Brown 9'-2# per foot U-channel Post	\$ 39.40	\$ 3,940.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 13.67	\$ 1,367.00	\$ 13.50	\$ 1,350.00	\$ 22.58	\$ 2,258.00

ITB 09-42  
Annual Agreement for Street Signs and Posts  
Open Date: Tuesday, March 10, 2009 @ 2:00

Item No.	Qty (Estimate)	UOM	Description	Pathmark Traffic Products of Texas, Inc. (San Marcos, TX)		American Sign Brackets (Green Forest, AR)		Custom Products Corp. (Jackson, MS)		Rocal, Inc. (Frankfort, OH)		Vulcan Signs (Foley, AL)		Osburn Associates, Inc. (Logan, OH)		Allied Tube & Conduit (Harvey, IL)	
				Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
35	100	ea	Brown 10'-2# per foot U-channel Post	\$ 43.77	\$ 4,377.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 15.06	\$ 1,506.00	\$ 15.00	\$ 1,500.00	\$ 25.10	\$ 2,510.00
36	100	ea	Brown 11'-2# per foot U-channel Post	\$ 47.98	\$ 4,798.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$ 16.45	\$ 1,645.00	\$ 16.50	\$ 1,650.00	\$ 27.61	\$ 2,761.00
<b>Sub-total - Posts</b>				\$ 35,089.00								\$ 18,164.00		\$ 19,288.00		\$ 22,232.00	
<b>TOTAL - CATEGORY II</b>				<b>\$ 42,478.00</b>		<b>\$ 4,885.00</b>		<b>NO BID</b>		<b>NO BID</b>		<b>\$ 26,089.50</b>		<b>\$ 22,213.00</b>		<b>\$ 32,003.50</b>	
<b>CATEGORY III - Roll Goods</b>																	
37	25	ea	6" x 50 yds 3m High Intensity Prismatic Reflective Sheeting Series 3930 with Pressure Sensitive Adhesive	NO BID	NO BID	NO BID	NO BID	\$ 118.88	\$ 2,972.00	NO BID	NO BID	\$ 113.25	\$ 2,831.25	\$ 111.75	\$ 2,793.75	NO BID	NO BID
38	25	ea	9" x 50 yds 3m High Intensity Prismatic Reflective Sheeting Series 3930 with Pressure Sensitive Adhesive	NO BID	NO BID	NO BID	NO BID	\$ 178.32	\$ 4,458.00	NO BID	NO BID	\$ 169.88	\$ 4,247.00	\$ 167.63	\$ 4,190.75	NO BID	NO BID
39	25	ea	12" x 50 yds 3m High Intensity Prismatic Reflective Sheeting Series 3930 with Pressure Sensitive Adhesive	NO BID	NO BID	NO BID	NO BID	\$ 237.77	\$ 5,944.25	NO BID	NO BID	\$ 226.50	\$ 5,662.50	\$ 223.00	\$ 5,575.00	NO BID	NO BID
40	10	ea	24" x 50 yds 3m High Intensity Prismatic Reflective Sheeting Series 3930 with Pressure Sensitive Adhesive	NO BID	NO BID	NO BID	NO BID	\$ 475.53	\$ 4,755.30	NO BID	NO BID	\$ 453.00	\$ 4,530.00	\$ 447.00	\$ 4,470.00	NO BID	NO BID
41	10	ea	12" x 50 yds 3M Scotchcal Graphic Marking Film Series 3650-12 Black	NO BID	NO BID	NO BID	NO BID	\$ 156.86	\$ 1,568.60	NO BID	NO BID	\$ 137.57	\$ 1,375.70	\$ 223.00	\$ 2,230.00	NO BID	NO BID
42	20	ea	8" x 50 yds 3M ElectroCut Film (Green)	NO BID	NO BID	NO BID	NO BID	\$ 148.00	\$ 2,960.00	NO BID	NO BID	\$ 112.00	\$ 2,240.00	\$ 107.00	\$ 2,140.00	NO BID	NO BID
43	15	ea	12" x 50 yds 3M ElectroCut Film (Green)	NO BID	NO BID	NO BID	NO BID	\$ 185.39	\$ 2,780.85	NO BID	NO BID	\$ 168.00	\$ 2,520.00	\$ 160.00	\$ 2,400.00	NO BID	NO BID
44	10	ea	24" x 50 yds 3M Scotchcal Graphic Marking Film Series 3650-12 Black	NO BID	NO BID	NO BID	NO BID	\$ 285.21	\$ 2,852.10	NO BID	NO BID	\$ 244.87	\$ 2,448.70	\$ 232.00	\$ 2,320.00	NO BID	NO BID
45	25	ea	4" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 42.35	\$ 550.55	NO BID	NO BID	\$ 12.84	\$ 321.00	\$ 36.00	\$ 900.00	NO BID	NO BID
46	25	ea	6" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 63.53	\$ 825.89	NO BID	NO BID	\$ 17.62	\$ 440.50	\$ 54.00	\$ 1,350.00	NO BID	NO BID
47	25	ea	9" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 95.29	\$ 1,238.77	NO BID	NO BID	\$ 28.46	\$ 711.50	\$ 81.00	\$ 2,025.00	NO BID	NO BID
48	25	ea	18" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 190.59	\$ 2,477.67	NO BID	NO BID	\$ 49.97	\$ 1,249.25	\$ 162.00	\$ 4,050.00	NO BID	NO BID
49	25	ea	24" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 254.12	\$ 3,303.56	NO BID	NO BID	\$ 65.00	\$ 1,625.00	\$ 216.00	\$ 5,400.00	NO BID	NO BID
50	25	ea	30" x 50yds 3M TPM-5 Clear Transfer Tape	NO BID	NO BID	NO BID	NO BID	\$ 317.65	\$ 4,129.45	NO BID	NO BID	\$ 81.25	\$ 2,031.25	\$ 270.00	\$ 6,750.00	NO BID	NO BID
<b>Sub-total - Roll Goods</b>								\$ 40,816.99				\$ 32,233.65		\$ 46,594.50			
<b>CATEGORY III - Pavement Markings</b>																	
51	10	ea	24" x 30" yds. 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 514.29	\$ 6,171.48	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
52	30	ea	12" x 30" yds. 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 257.14	\$ 9,257.04	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
53	10	ea	12" x30" yds. 3M Stamark Tape Series 380ES	NO BID	NO BID	NO BID	NO BID	\$ 474.11	\$ 5,689.32	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
54	20	ea	8x 30" yds. 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 171.43	\$ 4,114.32	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
55	20	ea	4" x 30" yds. 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 85.71	\$ 2,057.04	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
56	10	ea	Left/Right Curve 96"x73" 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 523.81	\$ 1,571.43	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
57	10	ea	ONLY Legend 96" 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 416.67	\$ 2,083.35	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID

ITB 09-42  
Annual Agreement for Street Signs and Posts  
Open Date: Tuesday, March 10, 2009 @ 2:00

Item No.	Qty (Estimate)	UOM	Description	Pathmark Traffic Products of Texas, Inc. (San Marcos, TX)		American Sign Brackets (Green Forest, AR)		Custom Products Corp. (Jackson, MS)		Rocal, Inc. (Frankfort, OH)		Vulcan Signs (Foley, AL)		Osburn Associates, Inc. (Logan, OH)		Allied Tube & Conduit (Harvey, IL)	
				Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
58	10	ea	STOP/AHEAD Legend 96" 3M Stamark Tape Series 270 ES	NO BID	NO BID	NO BID	NO BID	\$ 309.52	\$ 3,095.20	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
59	20	ea	24" White 30 LNFT/PKG PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 166.43	\$ 3,328.60	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
60	25	ea	12" White 30 LNFT/PKG PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 166.64	\$ 4,166.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
61	10	ea	8" White 30 LNFT/PKG PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 203.18	\$ 2,031.80	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
62	25	ea	Left/Right Curve 8'2" x 6'3" PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 159.65	\$ 2,075.45	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
63	25	ea	Combi Arrow Standard Right/Left 13'1" x 7'4" PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 145.32	\$ 3,633.00	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
64	10	ea	ONLY Legend 96" PreMark by Flint	NO BID	NO BID	NO BID	NO BID	\$ 114.21	\$ 1,142.10	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID
<b>Sub-total - Pavement Markings</b>								\$ 50,416.13									
<b>TOTAL - CATEGORY III</b>				<b>NO BID</b>		<b>NO BID</b>		<b>\$ 91,233.12</b>		<b>NO BID</b>		<b>\$ 32,233.65</b>		<b>\$ 46,594.50</b>		<b>NO BID</b>	
<b>GRAND TOTAL - ALL CATEGORIES</b>				<b>\$ 86,892.00</b>		<b>\$ 4,885.00</b>		<b>\$ 126,552.97</b>		<b>\$ 37,017.60</b>		<b>\$ 89,579.30</b>		<b>\$ 96,990.50</b>		<b>\$ 32,003.50</b>	
<b>DELIVERY (Calendar Days)</b>				<b>21-42</b>		<b>45</b>		<b>30-35</b>		<b>30-40</b>		<b>30-45</b>		<b>30</b>		<b>30-45</b>	
<b>PROMPT PAYMENT DISCOUNT</b>				<b>0%</b>		<b>5%</b>		<b>0%</b>		<b>1%</b>		<b>0%</b>		<b>2%</b>		<b>1/2%</b>	

**NOTES**

Custom Products Corporation

- »Category III, Item 42: Unit bid price includes a \$25 slit fee. See exceptions below.
- »Category III, Items 45 - 50: Unit bid price and Bid Amount for these items are based on a quantity of 13 as their unit bid price is for 100 yard tape, not 50 yard tape. See exceptions below.
- »Category III, Items 51 and 53: Unit bid price and Bid Amount for these items are based on a quantity of 12 as their unit bid price is for 25 yard tape, not 30 yard tape. See exceptions below.
- »Category III, Item 52: Unit bid price and Bid Amount for this item is based on a quantity of 36 as their unit bid price is for 25 yard tape, not 30 yard tape. See exceptions below.
- »Category III, Items 54 and 55: Unit bid price and Bid Amount for these items are based on a quantity of 24 as their unit bid price is for 25 yard tape, not 30 yard tape. See exceptions below.
- »Category III, Item 56: Unit bid price and Bid Amount for this item is based on a quantity of 3 as their unit bid price is for a package of 4, not a quantity of 1. See exceptions below.
- »Category III, Item 62: Unit bid price and Bid Amount for this item is based on a quantity of 13 as their unit bid price is for a box of 2, not a quantity of 1. See exceptions below.

Custom Products Corporation - Exceptions submitted with their bid

- »Category I, Items 1-3: "Instead of electro cut film, Custom Products will be using the 3M matched component system"
- »Category III, Item 42: "There is a twenty-five dollar (\$25) slit fee per color and size per order. 8" is a non standard size in the 1170 series. To get total price, take unit price plus the slit fee."
- »Category III, Items 45-50: "TPM-5 only comes in rolls of one hundred (100) yards. The unit price quoted is for one hundred (100) yard rolls."
- »Category III, Items 51-52, 54-55: "Series 270 ES comes in twenty-five (25) yard rolls only. Thirty (30) yard rolls not available. Also, quoting non linerend rolls."
- »Category III, Item 53: "There is not a 380ES, but there is a 380IES. Therefore, I am quoting the 380IES 3M Stamark High Performance Tape non-linerend. Also, these rolls only are available in twenty-five (25) yard rolls only."
- »Category III, Item 56: "Left/Right Curves are four (4) per package. Unit price quoted is per package (not sold individually)."
- »Category III, Item 57: "Only" are two (2) per package. Unit price quoted is per package (not sold individually)."
- »Category III, Item 58: "Stop/Ahead" sold 1 per package."
- »Category III, 56-58: "Has liner."
- »Category III, Item 59-64: "Quoting Ennis Paint thermoplastics instead of Flint; Also, quoting ninety (.90) mil."
- »Category III, Item 62: "Quoting Ennis Paint 8'x7' "left/right curve" .90 mil. Sold (2) per box. Unit price of \$159.65 is for (2). Not sold separate."
- »Category III, Item 63: "Quoting Ennis Paint 12.75' Combi Arrow .90 mil, (1) per box."
- »"Freight carrier's deliver to your dock only, drivers do not unload."

**April 23, 2009**  
**Consent Agenda Item No. 2o**  
**FM 60 at Copperfield Signal ILA**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion regarding an Interlocal Agreement (ILA) in the amount of \$31,248 between the Cities of College Station and Bryan for design costs for a traffic signal at the intersection of University Drive and Copperfield.

**Recommendation(s):** Staff recommends approval of the ILA providing for College Station to share the cost of the signal design.

**Summary:** The ILA provides for the two cities to equally share in the cost of the design of a new traffic signal to be installed at the intersection of University Drive and Copperfield Drive. The City of Bryan will hire an engineering firm to do the design and College Station will pay one-half of the fees for this design.

The signal improvements as well as required widening to provide left turn lanes will be made by TxDOT. The City of Bryan will pay TxDOT for the signal construction as well as pavement work on the Bryan leg of Copperfield Drive. College Station will pay for one-half of the signal construction through a future ILA.

**Budget & Financial Summary:** Funds for the design and construction of this signal are budgeted and available in the Street CIP Fund. Funds for this project are from the 2003 GO Bond issue.

**Attachments:**

1. ILA
2. Location map

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

This **Interlocal Agreement** (“Agreement”) is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the City of College Station, a Texas Home Rule Municipal Corporation (hereinafter referred to as “**COLLEGE STATION**”) and the City of Bryan (hereinafter referred to as “**BRYAN**”) each acting herein by and through its City Council.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to perform 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 provided by TxDOT for the said improvements at the intersection of FM 60 and Copperfield Drive.

NOW, THEREFORE, the parties herein enter into this Agreement to outline the joint participation of **BRYAN** and **COLLEGE STATION** in the Project:

**1. BRYAN AND COLLEGE STATION agree to:**

- (a) **BRYAN** will contract with Jacobs Engineering Group Inc. to provide the following services;

The scope of work will include review of existing plans, studies, and electronic files, and field review of the site; preliminary engineering analysis of the intersection and approaches; and development of the intersection and traffic signal schematic layout. The scope will also include development of complete widening and intersection improvements design plans, specifications, and estimates; and bidding document development. The work will be completed within the existing right of way and no right of way or easements will be developed. Furthermore, the work will be based on topographic surveys and other electronic files developed and provided by TxDOT, so additional field surveys will not be included in this project.

The design plans will incorporate design requirements according to the October 2006 Texas Department of Transportation Roadway Design Manual or more updated version, if adopted prior to the end of Preliminary Engineering of this project. The plans will be presented at the end of the 90% Final Engineering phase for review by TxDOT and both cities. The scope also includes bidding documents. As existing drainage culverts are proposed to be relocated and re-used with new safety end treatments added, no hydraulic analysis will be prepared or submitted.

- (b) **COLLEGE STATION** will reimburse **BRYAN** for one-half of the actual total costs of the project design, not to exceed **Thirty-one thousand two hundred forty eight dollars (\$31,248.00)** as the work progresses within thirty (30) days of invoice.

**4. Invalidity**

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

**5. Written Notice**

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

**6. Entire Agreement**

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

**7. Amendment**

The terms and conditions of the 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. No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

**8. Texas Law**

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

**9. Place of Performance**

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

**10. Authority to Enter Contract**

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

**11. Waiver**

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

**12. Agreement Read**

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

**13. Multiple Originals**

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

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:

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

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

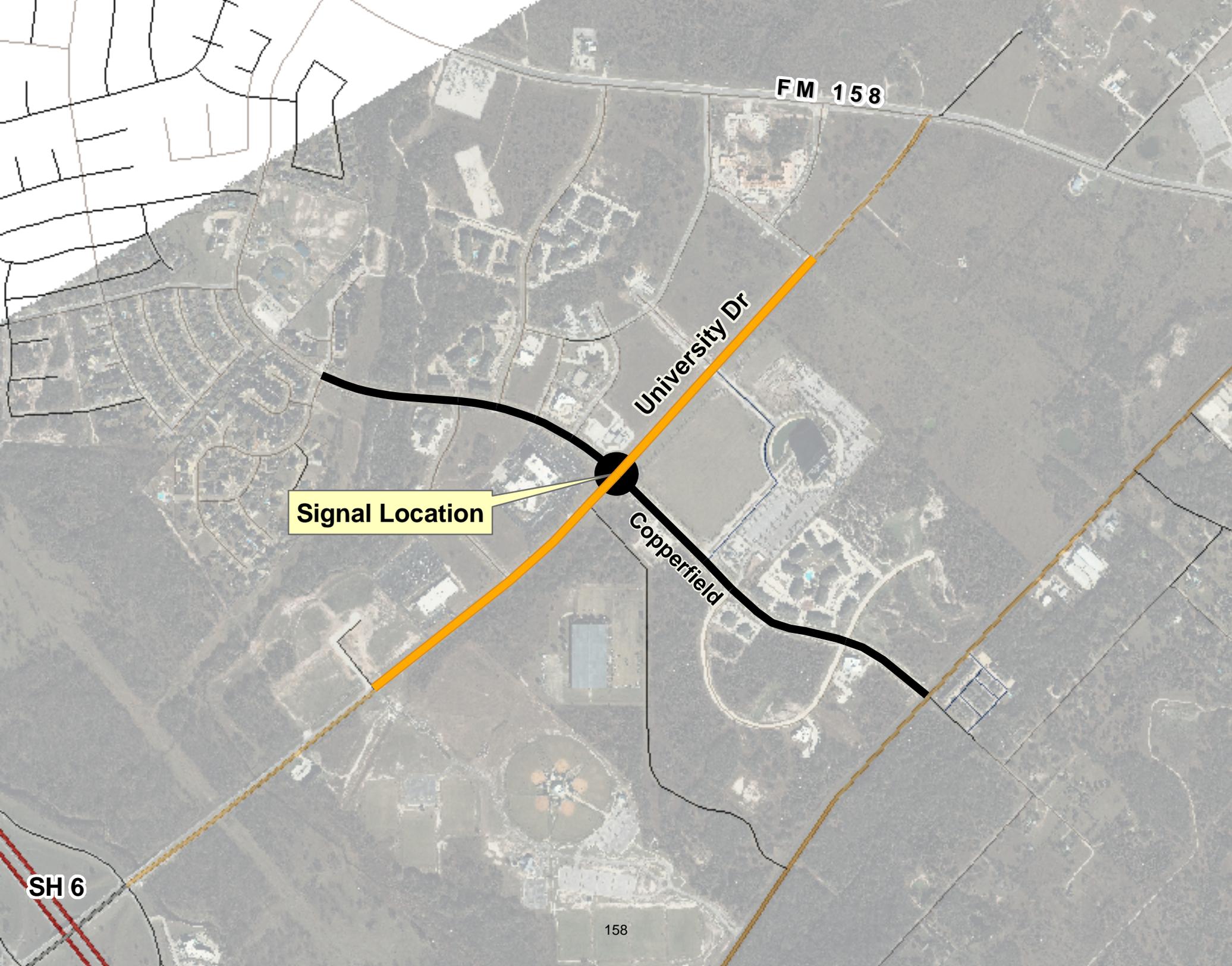
\_\_\_\_\_  
Charles Cryan, Chief Financial Officer

APPROVED:

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

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

\_\_\_\_\_  
Jeff Kersten, Chief Financial Officer



FM 158

University Dr

Copperfield

Signal Location

SH 6

158

**April 23, 2009**  
**Consent Agenda Item No. 2p**  
**Holleman Extension Design Contract**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion of a resolution approving a contract with Mitchell and Morgan LLP in the amount of \$59,500.00 for design services for the Holleman Drive Extension project. (Project #ST 0913)

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

**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 has been working with the developer of the nearby Capstone development to extend Holleman Drive so that there is a connection to Jones Butler providing access to FM 2818 at the signalized intersection with Holleman.

The contract under consideration hires Mitchell and Morgan, the developer's engineer, to design the extension across City owned property adjacent to the Capstone development. With the approval of this contract design can begin immediately and be complete in mid-June.

Construction of the extension will be done by the Capstone developer with City participation and is projected to be complete in December 2009.

**Budget & Financial Summary:**

Funding for the design in the amount of \$59,500 and the development participation in construction estimated at \$940,000 is in oversize participation funds from the 2003 GO Bond issue.

**Attachments:**

1. Resolution
2. Location Map

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 HOLLEMAN EXTENSION PROJECT.**

WHEREAS, the selection of Mitchell and Morgan LLP is being recommended as the most highly qualified provider of the 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. 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 Mitchell and Morgan LLP is the most highly qualified provider of the services for the Holleman Extension Project on the basis of demonstrated competence and qualifications.
- PART 2: That the City Council hereby approves the contract with Mitchell and Morgan LLP for an amount not to exceed \$59,500 for the design services related to the Holleman Extension Project.
- PART 3: That the funding for this Contract shall be as budgeted from the Streets Capital Fund Fund in the amount of \$59,500.
- PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 23rd day of April, A.D. 2009.

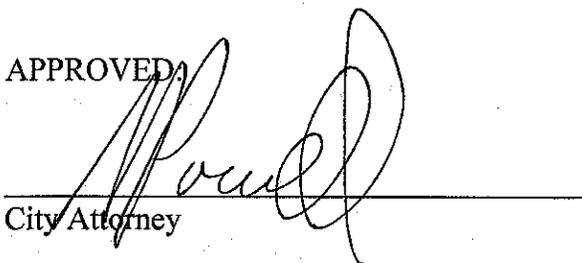
ATTEST:

APPROVED:

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City Secretary

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MAYOR

APPROVED

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

**Jones Butler Road**

**City Property**

**Pump Station**

**FM 2818**

**Holleman Extension**

**Dowling Road**

**Quail Run Development**

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## City of College Station

### Architects & Engineering Professional Services Contract

This Contract is between the **City of College Station**, a Texas home-rule municipal corporation, (the "City") and **Mitchell & Morgan, LLP**, a Texas corporation (the "Contractor"), whereby the Contractor agrees to provide the City with certain professional services as described herein and the City agrees to pay the Contractor for those services.

#### ARTICLE I Scope of Services

1.01 In consideration of the compensation stated in paragraph 2.01 herein below, the Contractor agrees to provide the City with the professional services as described in **Exhibit "A"**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: 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. (the "Project").

#### ARTICLE II Payment

2.01 In consideration of the Contractor's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Contractor according to the terms set forth in **Exhibit "B"**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed Fifty-nine thousand, five hundred and 0/100 Dollars (\$59,500.00).

#### ARTICLE III Time of Performance and Construction Cost

3.01 The Contractor shall complete the professional services within the times set forth below. The Contractor shall exercise a degree of care and diligence in the performance of all services under this Contractor in accordance with the professional standards prevailing among Contractors in the location in which Contractor practices or College Station, Texas, whichever is the higher standard, skilled in design for projects of similar scope, and all of the Contractor services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Work.

[Conceptual Design: 12 calendar days after the authorization to commence planning]

[Preliminary Project Design: 16 calendar days after authorization to commence PPD]

[Final Design: 17 calendar days after authorization to commence final design]

- 3.02 All design work and other professional services provided under this Contract must be completed by the following date: June 15, 2009.
- 3.03 **Time is of the essence of this Contract.** The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Contractor shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Contractor's services to meet the City's project milestone dates which are included in this Contract. The Contractor's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Contractor has control shall not be exceeded without written approval from the City.
- 3.04 The Contractor's services consist of all of the services required to be performed by Contractor, Contractor's employees and Contractor's consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Contractor shall contract and employ at his expense consultants necessary for the design of the Project, and such consultants shall be licensed as required by the State of Texas and approved in writing by the City.
- 3.05 The Contractor shall designate a principal of the firm reasonably satisfactory to the City who shall, so long as employed by Contractor and acceptable to the City, remain in charge of professional services through completion and be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.
- 3.06 Contractor shall be responsible for the coordination of all drawings and design documents relating to Contractor's design and used on the Project, regardless of whether such drawings and documents are prepared by Contractor. Contractor shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Contractor and for their compliance with all applicable codes, ordinances, regulations, laws and statutes.
- 3.07 Contractor's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Contractor's best judgment as a design professional familiar with the construction industry.
- 3.08 The construction budget for this Project, which is established as a condition of this Contract is \$1,000,000. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

**ARTICLE IV**  
**Conceptual Design**

- 4.01 Upon the Contractor's receipt from the City of a letter of authorization to commence planning, the Contractor shall meet with the City for the purpose of determining the nature of the Project. The Contractor shall inquire in writing as to the information he believes the City may have in its possession that is necessary for the Contractor's performance. The City shall provide the information within its possession that it can make available to the Contractor. The City shall designate a representative to act as the contact person on behalf of the City.
- 4.02 The Contractor shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal Projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Contractor shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Contractor shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Contractor shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Contractor shall confirm that the Project can be designed and constructed for the dollar amount of the project budget, if applicable.
- 4.03 The Contractor shall prepare a conceptual design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The conceptual design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Contractor shall meet with City staff and the City Council to make a presentation of his report.

**ARTICLE V**  
**Preliminary Design**

- 5.01 The City shall direct the Contractor to commence work on the Project design by sending to the Contractor a "letter of authorization" to begin work on the preliminary Project design pursuant to this Contract. Upon receipt of the Letter of Authorization to commence preliminary Project design, the Contractor shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.
- 5.02 The Contractor shall prepare the preliminary design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Contractor shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also

indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

- 5.03 Upon completion of the preliminary design of the Project, the Contractor shall so notify the City. Upon request the Contractor shall meet with the City staff and City Council to make a presentation of his preliminary design of the Project. The Contractor shall provide an explanation of the preliminary design and cost estimate and shall verify that, to the best of Contractor's belief, the Project requirements and construction can be completed within the project budget and schedule.

## ARTICLE VI Final Design

- 6.01 The City shall direct the Contractor to commence work on the final design of the Project by sending to the Contractor a "letter of authorization" to begin work on the final design phase of the Project. Upon receipt of the Letter of Authorization to proceed with final design of the Project, the Contractor shall immediately prepare the final design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The final design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.
- 6.02 Notwithstanding the City's approval of the final design, the Contractor warrants that the final design will be sufficient and adequate to fulfill the purposes of the Project.
- 6.03 **The Contractor shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the contractor. The Contractor hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.**
- 6.04 The Contractor shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the final design of the Project, with the submission of the complete contract documents, and upon request of the City, the Contractor shall meet with City Staff and the City Council to present the final design of the Project. The Contractor shall provide an explanation of the final design and cost estimate.

**ARTICLE VII**  
**Bid Preparations & Evaluation**

- 7.01 The Contractor shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Contractor shall meet with City Staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.
- 7.02 The Contractor shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Contractor shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the final design of the Project, then the Contractor, at his sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the final design of the Project.
- 7.03 Where substitutions are requested by a construction contractor, the Contractor shall review the substitution requested and approve or disapprove such substitutions.

**ARTICLE VIII**  
**Construction**

- 8.01 The Contractor shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Contractor shall have authority to act on behalf of the City only to the extent provided in this Agreement unless modified by written instrument.
- 8.02 The Contractor shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and his subcontractors and to determine if such work is proceeding in accordance with the contract documents. Contractor shall periodically review the as-built drawings for accuracy and completeness, and shall report his findings to the City.
- 8.03 The Contractor shall keep the City informed of the progress and quality of the work. The Contractor shall exercise the utmost care and diligence in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform with the contract documents.
- 8.04 The Contractor shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Contractor's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and

a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

- 8.05 The Contractor shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Contractor shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.
- 8.06 The Contractor shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Contractor shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Contractor shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the Work. Contractor shall receive no additional compensation for providing clarification of the Drawings and Specifications.
- 8.07 The Contractor shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Contractor's recommendation of payment, being based upon the Contractor's on-site inspections and his experience and qualifications as a design professional, shall constitute a recommendation by the Contractor to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Contractor's recommendation for payment.
- 8.08 Upon notification from the construction contractor that the Project is substantially complete, the Contractor shall conduct an inspection of the site to determine if the Project is substantially complete. The Contractor shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Contractor for completion have been completed, the Contractor shall inspect the Project to verify final completion.
- 8.09 The Contractor shall not be responsible for the work of the construction contractor or any of his subcontractors, except that the Contractor shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Contractor's negligent acts or omissions. This provision shall not alter the Contractor's duties to the City arising from the performance of the Contractor's obligations under this Contract.
- 8.10 The Contractor shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.
- 8.11 The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.

- 8.12 The Contractor shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.
- 8.13 The Contractor shall assist the construction contractor and City in obtaining an Occupancy Permit by accompanying governing officials during inspections of the Project if requested to do so by the City.

**ARTICLE IX**  
**Change Orders & Documents & Materials**

- 9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Contractor shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project.
- 9.02 Written change orders may be approved by the City Manager or his delegate provided that the change order does not increase the amount set forth in paragraph 2 of this Contract by more than **five percent (5%)**. Changes in excess of this amount must be approved by the City Council prior to commencement of the services or work. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.
- 9.03 The Contractor shall furnish the City three (3) sets of plans and specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Contractor shall provide the City zero (0) sets of reproducible, mylar-record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Contractor. The Contractor shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Contractor. The foregoing documentation, the Contractor's work product, and other information in the Contractor's possession concerning the Project shall be the property of the City from the time of preparation. The Contractor shall also furnish one set of digital files representing the final as-built project.

**ARTICLE X**  
**Warranty, Indemnification & Release**

- 10.01 As an experienced and qualified design professional, the Contractor warrants that the information provided by the Contractor reflects high professional and industry standards, procedures, and performances. The Contractor warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. The Contractor warrants that the Contractor will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Contractor, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Contractor, its employees, associates, agents, or subcontractors.
- 10.02 The Contractor shall promptly correct any defective designs or specifications furnished by the Contractor at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Contractor's services hereunder or of the Project itself shall in no way alter the Contractor's obligations or the City's rights hereunder.
- 10.03 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Contractor shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Contractor shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Contractor shall have ultimate control over the execution of the professional services. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors.
- 10.04 The Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Contractor, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- 10.05 Indemnity. The Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agents (separately and collectively referred to in this paragraph as "Indemnitee"), from and against any and all claims, losses,**

damages, causes of action, suits, judgments, settlements made by Indemnitee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Contractor, any of its subcontractors of any tier, or of any employee or invitee of Contractor or of any such subcontractors, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Contractor or by any such subcontractors of any tier, under this Contract.

**10.06** It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 10.05, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

**10.07** Release. The Contractor releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's work to be performed hereunder. Both the City and the Contractor expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Contractor or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Contractor, or any third party.

## **ARTICLE XI**

### **Insurance**

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

## **ARTICLE XII**

### **Use of Drawings, Specifications and Other Documents**

**12.01** The Drawings, Specifications and other documents prepared by the Contractor and Contractor's consultants for this Project shall become the property of the City whether the

Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Contractor's Drawings, Specifications and other documents.

- 12.02 The documents prepared by Contractor may be used as a prototype for other facilities by the City. The City may elect to use the Contractor to perform the site adaptation and other architectural services involved in reuse of the prototype. If so, the Contractor is obligated to perform the work for an additional compensation that will fairly compensate the Contractor and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect to perform the site adaptation and other architectural services involved in reuse of the prototype, that architect will be entitled to use Contractor's consultants on the same basis that Contractor would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Contractor will not be responsible for errors and omissions of a subsequent architect. The Contractor shall commit its consultants to the terms of this subparagraph.
- 12.03 In the event of termination of this Agreement for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.
- 12.04 Only the details of the drawings relating to this Project may be used by the Contractor on other projects, but they shall not be used as a whole without written authorization by the City. The City furnished forms, conditions, and other written documents shall not be used on other projects by the Contractor.

### ARTICLE XIII Termination

- 13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Contractor's receipt of such notice, the Contractor shall cease work immediately. The Contractor shall be compensated for the services satisfactorily performed prior to the termination date.
- 13.02 If, through any cause, the Contractor fails to fulfill its obligations under this Contract, or if the Contractor violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Contractor **five (5)** calendar days written notice to the Contractor. The Contractor will be compensated for the services satisfactorily performed before the termination date.
- 13.03 No term or provision of this Contract shall be construed to relieve the Contractor of liability to the City for damages sustained by the City because of any breach of contract

and/or negligence by the Contractor. The City may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due the City from the Contractor is determined and paid.

**ARTICLE XIV**  
**Miscellaneous Terms**

- 14.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- 14.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:
- City of College Station  
Attn: Mark Smith  
P.O. Box 9960  
College Station, Texas 77842
- Contractor:  
Veronica J.B. Morgan, P.E.  
Mitchell & Morgan, LLP  
511 University Dr. E  
Suite 204  
College Station, TX 77840
- 14.03 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- 14.04 This Contract represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- 14.05 This Contract and all rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of the City.
- 14.06 If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 14.07 The Contractor, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of College Station, and with all applicable rules and regulations promulgated by local, state, and

national boards, bureaus, and agencies. The Contractor must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

- 14.08 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.
- 14.09 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.
- 14.10 **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.

**Mitchell & Morgan LLP**

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

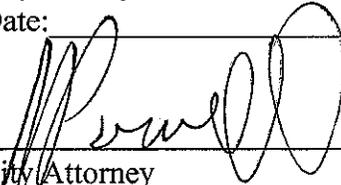
By: \_\_\_\_\_  
Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Secretary  
Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
City Attorney  
Date: \_\_\_\_\_

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

## **Exhibit A Scope of Services**

In anticipation of the work being performed by TxDOT on the FM2818M1ellbon Road Overpass project, the City of College Station would like to construct the realignment of Jones-Butler to Holleman Drive at FM2818 to ease traffic rerouting in the area. A portion of this Jones-Butler/Holleman Drive realignment project is being constructed by a private developer and it is the intent of this project to design that portion of this roadway that occurs on the City of College Station property and make the connection to the existing Jones-Butler roadway.

### ***Scope/Intent and Extent of Services Street Design***

The final design shall involve the completion of the plans for Holleman Drive Extension through the City of College Station property including the tie into the existing JonesButler Road. We will address and incorporate comments from the city staff and other public officials as directed by the City Project Manager. Deliverables shall include:

- Five (5) sets of complete construction plans based upon the preliminary design layout approved by the Client. Construction plans shall include the following:
  1. Street Plan & Profile drawings
  2. Storm Drain system Plan & Profile drawings
  3. Water Line Plan & Profile drawings
  4. Sidewalk and Hike/Bike path drawings
  5. Erosion Control Plan
  6. Traffic Control Plan
  7. Standard Details
  8. Drainage report
- One (1) set of bid documents that include construction drawings, specifications, special conditions and unit cost bid proposal sheets.
- Engineer's estimate based upon itemized list of quantities taken from the construction drawings

### ***Right-at-Way Plat or Dedication by Separate Instrument for Right-at-Way***

We will complete as part of this design work either a Final Plat for Right-of-Way dedication or a metes & bounds description and graphic of the new street right-of-way. We will discuss with staff the pros/cons of each of these methods to determine which will be chosen. If platting is preferred, we will attend all meetings and process the plat through the City review process. Filing will be completed by the City.

If a metes & bounds description is preferred we will prepare all necessary survey documents and fill out the appropriate easement dedication paperwork for City review. Once submitted and assurances are made that the submittal was complete and accurate, we will turn over all processing and filing to the City for completion.

### ***Traffic Control at Dowling Road/Jones-Butler Intersection***

We have assumed as part of this design that we will be allowed to close the intersection of Jones-Butler and Dowling Road for one week during construction. This will allow the contractor to

reconstruct the intersection with minimal disruption and reduced cost. The contractor will not be required to construct temporary bypass pavement or pour in only 1/2 sections. The major concern here is that in order to accommodate the traffic and the contractor in the same intersection will require at a very minimum temporary construction easements off the City property. This alone will add significant time to the project which the City would like to avoid. We will provide as part of this design all traffic control plans to reroute this traffic thru the first 2 streets (Quail Run and Saddle Lane) of the Quail Run Subdivision as well as the design of a new culvert and additional pavement at the end of Saddle Lane to provide this connection.

### ***Design Meetings***

During the Preliminary and Final Design Phase meetings will be held every week to facilitate input from the City Staff in the design. These meetings will be scheduled when the notice to proceed is issued. A meeting summary will be issued by M&M within 48 hours of the meeting to document progress.

### ***Bid Phase***

During the Bid Phase M&M shall attend all pre-bid meetings and prepare addenda as directed by the City Project Manager. We will provide technical assistance with questions that arise during bidding and provide analysis of bids and recommendation of the lowest, responsible bidder for award of the contract. All work completed during this phase shall be considered "construction phase" for billing purposes.

### ***Construction Meetings***

During the Construction Phase meetings will be held every two weeks to facilitate construction project management. These meetings will be scheduled when the notice to proceed is issued. A meeting summary will be issued by M&M within 48 hours of the meeting to document progress.

In addition the following items shall be included within this phase:

- Attendance at the Pre-Construction meeting
- Review of shop drawings and material submittal packages
- Provide technical interpretation of plans and specifications
- Assistance in negotiating and preparation of change orders
- Review of contractor payments
- Site visits as needed to address specific problems
- Preparation and submittal of one set of reproducible as-built drawings

### ***Services Not Included***

Environmental Assessment for the property

Traffic Impact Studies

On-site Construction Inspection Services

Land Title Survey

Retaining Wall Design

Construction Staking

Domestic Water or Fire Flow Analysis

New easement or right of way acquisition (not including that occurring on City of CS or Capstone properties)

## Exhibit B

### Payment Terms

Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Schedule of Payment for each phase:

Phase	Estimated Start Date*	Estimated Complete Date*	Fee
Conceptual Design Phase (Investigation)	27-Apr-09	06-May-09	\$11,900
Preliminary Design Phase	11-May-09	27-May-09	\$ 26,775
Final Design Phase	01-Jun-09	15-Jun-09	\$ 14,875
Construction Phase	30-Jun-09	30-Nov-09	\$ 5,950
<b>Total Fee</b>			<b>\$ 59,500</b>

\* All dates are contingent on a notice to proceed issued 24 Apr 09.

## Exhibit C

### Insurance Requirements

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

- I. Standard Insurance Policies Required:
  - A. Commercial General Liability
  - B. Business Automobile Liability
  - C. Workers' Compensation
  - D. Professional Liability
  
- II. For each of these policies, the Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.
  
- III. The Contractor shall include all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
  
- IV. General Requirements Applicable to All Policies
  - A. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
  - B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a "per occurrence" basis for property damage only.
  - C. "Claims made" policies will not be accepted, except for Professional Liability insurance.
  - D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested.
  - E. Upon request, certified copies of all insurance policies shall be furnished to the City.
  - F. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following

provisions and warranties:

1. that the insurance company is licensed and admitted to do business in the State of Texas
2. that the insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
3. all endorsements and coverages according to the requirements of this Contract
4. the form of notice of cancellation, termination, or change in coverage provisions
5. original endorsements affecting coverage required by this Contract.
6. The City of College Station, its officials, employees, and volunteers are named as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, employees, and volunteers.

V. Commercial (General) Liability requirements:

- A. Coverage shall be written by a carrier with an "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- C. Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall include but not be limited to: premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- F. The City shall be named as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

VI. Business Automobile Liability requirements:

- A. Coverage shall be written by a carrier with an "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- D. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.

VII. Workers Compensation Insurance requirements:

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. The worker's compensation insurance shall include the following terms:
1. Employer's Liability limits of \$1,000,000 for each accident is required.
  2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
  3. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- C. Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Agreement, the bid specifications, this Agreement, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

*"A. Definitions:*

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

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

*Persons providing services on the project ("subcontractors" in § 406.096*

*[of the Texas Labor Code] - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.*

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
  - (2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.**
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor*

*knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*

- H. *The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- I. *The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
- (1) *provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
  - (2) *provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
  - (3) *provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
  - (4) *obtain from each other person with whom it contracts, and provide to the Contractor:*
    - (a) *a certificate of coverage, prior to the other person beginning work on the project; and*
    - (b) *a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
  - (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
  - (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the*

*provision of coverage of any person providing services on the project; and*

*(7) contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

*J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*

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

**VIII. Professional Liability requirements:**

- A.** Coverage shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B.** Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of College Station when requested.
- C.** For "claims made" policies, a two-year extended reporting period shall be required.

**Exhibit "D"**

Certificate(s) of Insurance

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 HOLLEMAN EXTENSION PROJECT.**

WHEREAS, the selection of Mitchell and Morgan LLP is being recommended as the most highly qualified provider of the 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. 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 Mitchell and Morgan LLP is the most highly qualified provider of the services for the Holleman Extension Project on the basis of demonstrated competence and qualifications.
- PART 2: That the City Council hereby approves the contract with Mitchell and Morgan LLP for an amount not to exceed \$59,500 for the design services related to the Holleman Extension Project.
- PART 3: That the funding for this Contract shall be as budgeted from the Streets Capital Fund Fund in the amount of \$59,500.
- PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 23rd day of April, A.D. ~~2007~~ *2009 by changed*

ATTEST:

APPROVED:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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

April 23, 2007 *2009* *by changed*  
Consent Agenda  
Holleman Extension Design Contract

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion of a resolution approving a contract with Mitchell and Morgan LLP in the amount of \$59,500.00 for design services for the Holleman Drive Extension project.

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

**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 has been working with the developer of the nearby Capstone development to extend Holleman Drive so that there is a connection to Jones Butler providing access to FM 2818 at the signalized intersection with Holleman.

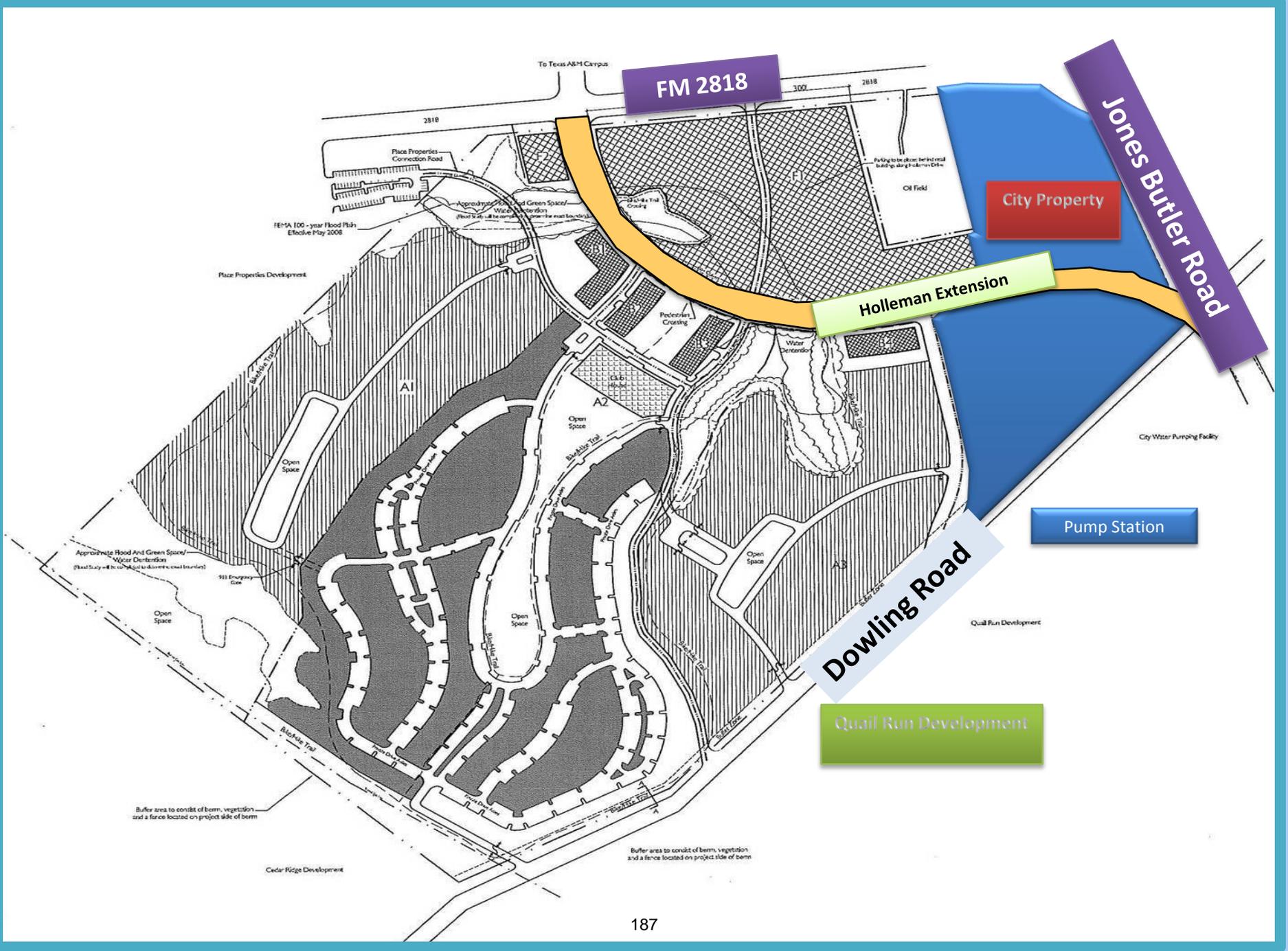
The contract under consideration hires Mitchell and Morgan, the developer's engineer, to design the extension across City owned property adjacent to the Capstone development. With the approval of this contract design can begin immediately and be complete in mid-June. Construction of the extension is projected to be complete in December 2010.

**Budget & Financial Summary:**

Funding for the design in the amount of \$59,500 and the development participation in construction estimated at \$940,000 is in oversize participation funds from the 2003 GO Bond issue.

**Attachments:**

1. Resolution
2. Location Map



**April 23, 2009**  
**Consent Agenda Item No. 2q**  
**SH 40 Speed Zone Ordinance**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion on consideration of an ordinance amending Chapter 10, "Traffic Code," to change the posted speed limit on sections of SH 40 (William D. Fitch Parkway).

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

**Summary:** At the City of College Station's request the Texas Department of Transportation conducted a speed study on SH 40 to determine the appropriate speed limit along the roadway. The speed study was completed in February of this year and resulted in reducing the section with a speed limit of 70 mph to 60 mph. The existing 50 mph speed zone will remain as it is currently posted.

**Budget & Financial Summary:** TxDOT is responsible for the installation and maintenance of speed limit signs along state roadways, so there will be no expenses to the city resulting from the passage of this ordinance.

**Attachments:**

1. Ordinance
2. Map

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

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 10, "TRAFFIC CODE", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

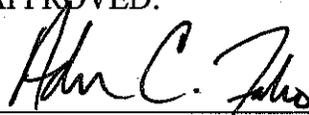
APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

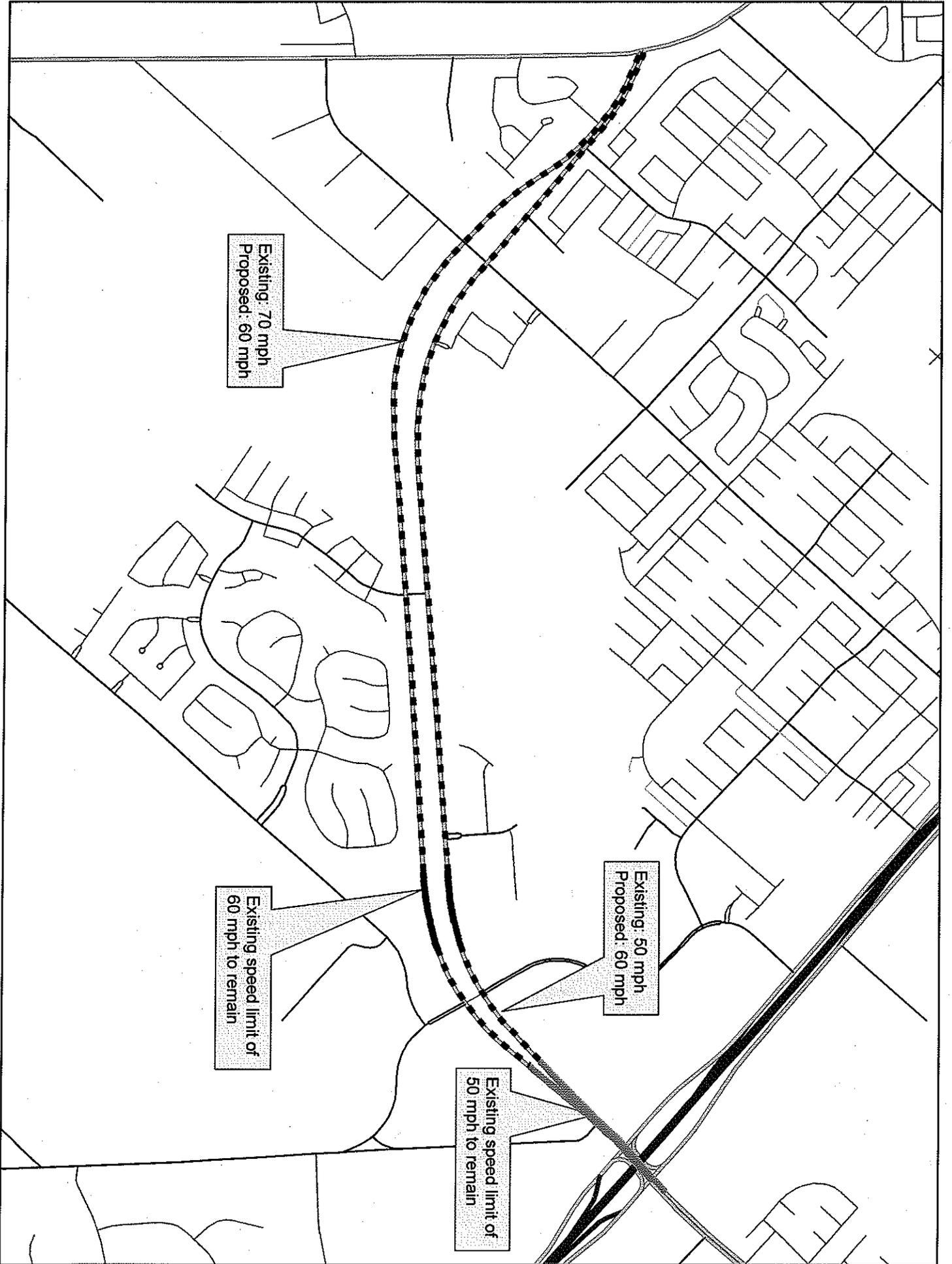
**EXHIBIT "A"**

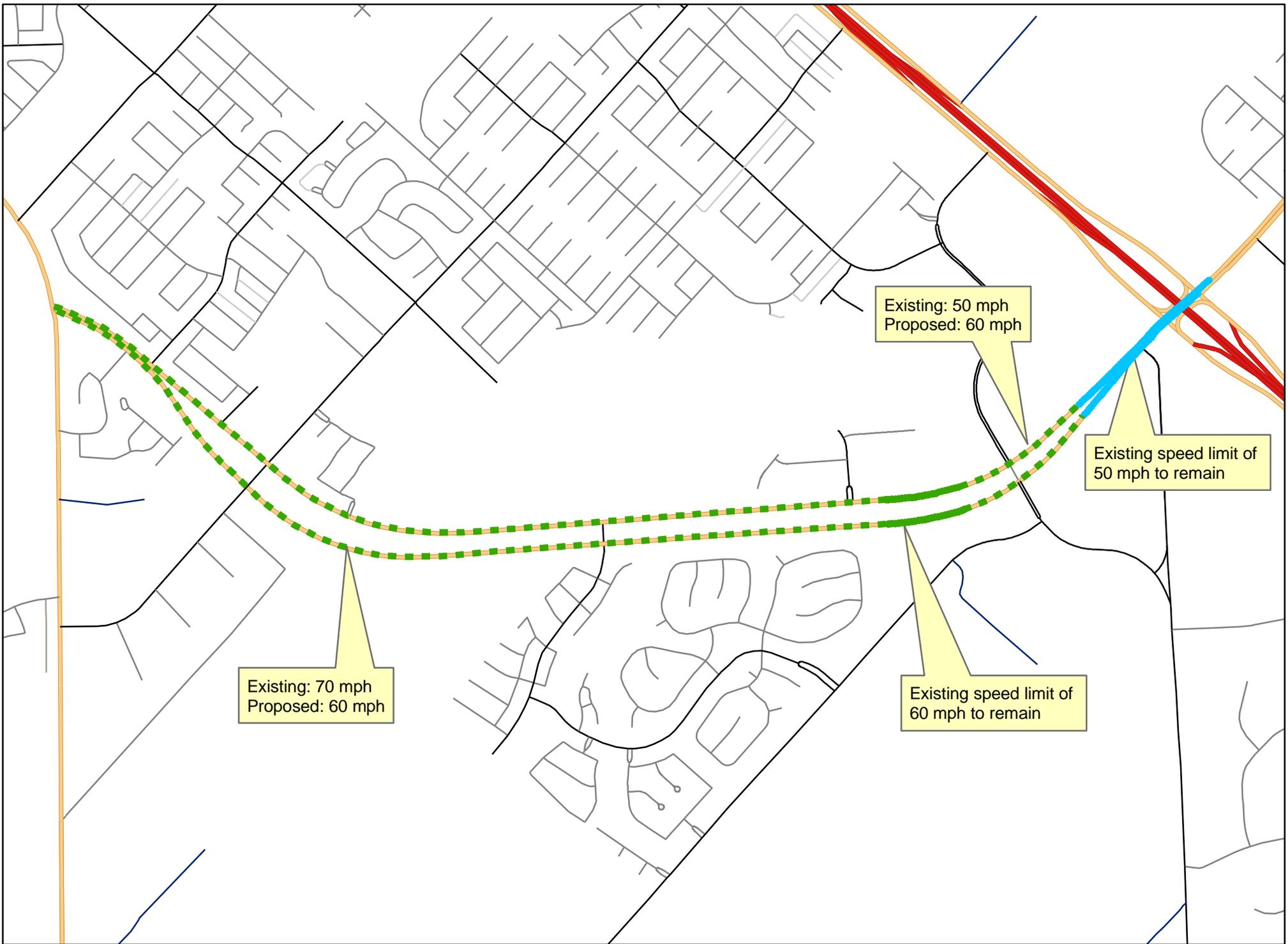
That Chapter 10, "Traffic Code", Section 3.E(2), of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by adding paragraph (j) as set out hereafter to read as follows:

- (j) SH 40 (William D. Fitch Parkway), for traffic moving in an easterly direction for the first 2.655 miles from FM 2154, the speed limit shall be sixty (60) miles per hour. For the next 0.356 miles to the intersection of the SH 6 EFR, the speed limit shall be fifty (50) miles per hour.

For traffic moving in a westerly direction for the first 0.356 miles from SH 6 EFR, the speed limit shall be fifty (50) miles per hour. For the next 2.655 miles to the intersection of FM 2154, the speed limit shall be sixty (60) miles per hour.

**Proposed Speed Limit Changes on W.D. Fitch**





**Proposed Speed Limit Changes on W.D. Fitch**

**April 23, 2009**  
**Regular Agenda Item No. 1**  
**Tauber and Stasney Streets Rehabilitation Project**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Public Hearing, presentation, possible action, and discussion of design options for the Tauber & Stasney Street Rehabilitation Project.

**Recommendation(s):** Staff is recommending that the Tauber and Stasney Street Rehabilitation Project proceed according to Option 3.

**Summary:** On April 9, 2009 the City Council requested that staff conduct a public hearing on this item in an effort to gain a better understanding of the positive and negative impacts of this project.

Section 5.6.B.5.a (page 5-16) of the Unified Development Ordinance (UDO) states "*Existing head-in parking that requires backing maneuvers into a right-of-way shall be removed with all proposed development, redevelopment, rehabilitation, and façade projects within any Northgate district*". The term rehabilitation is defined in the Ordinance, but it does not clearly identify whether City funded capital projects, initiated to improve safety and the reliability of city services, and are considered a rehabilitation project.

The Northgate Parking Plan, adopted by Council in March 2000, and referenced in the UDO, requires the removal of all on-street parking in residential areas in Northgate, which is the section of Northgate zoned NG-3. The segments along Tauber and Stasney between Cross and Cherry Street are zoned NG-3.

On December 11, 2008 staff came before Council seeking direction on the Tauber and Stasney Street Rehabilitation Project in regards to the question of whether or not this, and other City initiated rehabilitation project, should require the removal of existing parking. Council indicated that the UDO should apply to City funded capital projects. Staff then requested 90 days to engage landowners in Northgate who may be impacted by the project, to discuss the potential impacts and benefits of the project, and to gather their input.

After meeting with all the property owners or the designated representative(s) of the owner, staff has developed several design alternatives to accomplish the goals of the project, and attempt to meet the needs of the property owners, to the extent possible. A brief summary of the alternatives is listed below.

Option 1: Remove all the on-street parking, provide 8-foot wide sidewalks with street trees, new concrete pavement (width will vary since ROW width varies), replace/rehabilitate the utilities and allow for two-way traffic. Option does not require an amendment to the UDO. This option will require a small amount of additional ROW and/or an access easement along Tauber near Cherry Street. This option will result in the loss of approximately 202 parking spaces along Tauber and Stasney.

Option 2: Mill the old pavement and overlay with a new asphalt surface. Replace/rehabilitate the utilities. Address the pavement grade issues along Tauber

between Cross and Cherry. Do not construct new sidewalks or install street trees. All head-in parking and parallel parking will remain. Maintain two-way traffic along Tauber and Stasney. This option will require a clarification to the definition of a rehabilitation project in the UDO. Option does not require additional ROW, and will not result in the loss of any parking spaces along Tauber or Stasney.

Option 3: Remove head-in parking along Tauber and Stasney, replace/keep parallel parking where possible along Tauber and Stasney as permitted by the UDO. Amend the Northgate Parking Plan to allow for on-street parking in NG-3 along one side of Tauber and one side of Stasney, provide 8-foot wide sidewalks with street trees, new concrete pavement, replace/rehabilitate the utilities and allow for two-way traffic. Maintain two-way traffic along Tauber and Stasney. This option does not require an amendment to the UDO. This option will require a small amount of additional ROW and/or an access easement along Tauber near Cherry Street. This option will result in the loss of approximately 137 parking spaces along Tauber and Stasney.

Staff has created these alternatives to help the Council visualize the potential negative and positive impact of considering City funded capital projects, initiated to improve safety and the reliability of city services, as a rehabilitation project as defined in the UDO.

**Budget & Financial Summary:** The current project budget for the Tauber and Stasney Street Rehabilitation Project is \$3,058,128. Funds in the amount of \$572,840.70 have been expended or committed to date, leaving a balance of \$2,485,287.30 in the project budget.

**Attachments:**

1. Map

# Tauber and Stasney Street Rehabilitation Project Location Map



**April 23, 2009**  
**Regular Agenda Item No. 2**  
**Sign Ordinance Amendment**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance Section 7.4.E "Exempt Signs," Section 7.4.X "Signs for Permitted Non-residential Uses in Residential or Agricultural Districts" and Section 11.2 "Defined Terms."

**Recommendation(s):** The Planning and Zoning Commission heard this item at their April 16, 2009 meeting. The P&Z Commission unanimously recommended approval. Staff recommended approval.

**Summary:** Staff is aware that there are numerous un-permitted signs being posted to advertise real estate events such as open houses, the Parade of Homes tour, and recreational home tours within the City. This item is an amendment to several sections of the Unified Development Ordinance to provide a legal process for these types of signs. In addition, staff is proposing language to allow attached signage for government facilities in certain locations.

The proposed changes include the following:

- § Section 7.4.E Exempt Signs, is proposed to be amended to provide a regulatory process for real-estate event signs. The amendment includes language relating time limitations, sign removal, signage in the right-of-way, and permitting.
- § Section 7.4.X Signs for Permitted Non-residential Uses in Residential or Agricultural Districts, currently allows for the use of low profile signs. However, staff is proposing that government facilities in such zoning districts be allowed to utilize attached signage as well.
- § Section 11.2 Defined Terms, is proposed to be amended to include a definition for "Home Tour Events."

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

**Attachments:**

1. Ordinance



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

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", SECTION 7.4.E "EXEMPT SIGNS", SECTION 7.4.X "SIGNS FOR PERMITTED NON-RESIDENTIAL USES AND SIGNS FOR GOVERNMENT FACILITIES IN RESIDENTIAL OR AGRICULTURAL DISTRICTS", AND SECTION 11.2 "DEFINED TERMS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; 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 7.4 E. "Exempt Signs", Section 7.4.X "Signs for Permitted Non-residential uses and Signs for Government Facilities in Residential or Agricultural Districts", and Section 11.2 "Defined Terms", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 26<sup>th</sup> day of March, 2009.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED:

Carla A. Robinson  
City Attorney

**Exhibit "A"****Part I**

That Chapter 12, "Unified Development Ordinance," Section 7.4.E "Exempt Signs", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending sub-Section 7.4.E.13 to read as follows:

**K. Exempt Signs**

13. Temporary signs erected for a neighborhood event, sponsored by a neighborhood group that is registered with the City of College Station, or a Home Tour Event. Such signage shall:
  - a. Be in good repair;
  - b. Display the name of the neighborhood association or group sponsoring the event (if applicable);
  - c. Allowed up to fourteen (14) days prior to the event: except for,
    - 1) Home Tour event signs may be allowed up to seven (7) days prior to the event;
  - d. Be removed within twenty-four (24) hours of the event;
  - e. Comply with the following if located within a right-of-way:
    - 1) Located outside the visibility triangle of intersections as it is defined in Section 7.1.C of the Unified Development Ordinance.
    - 2) Permitted by the State Department of Highways and Public Transportation if located on any state highway or roadway.
    - 3) Be constructed of durable material and no sign shall be greater in size than 3' x 3'.

**Part II**

That Chapter 12, "Unified Development Ordinance," Section 7.4.X "Signs for Permitted Non-residential uses and Signs for Government Facilities in Residential or Agricultural Districts", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Section 7.4.X in its entirety to read as follows:

**X. Signs for Non-residential Permitted Uses and Signs for Government Facilities in Residential or Agricultural Districts**

"Signs for non-residential permitted uses in residential or agricultural zoning districts shall comply with Section 7.4.F, Sign Standards, "Low Profile Signs." Signs for government facilities in residential or agricultural zoning districts shall comply with Section 7.4.L, Sign Standards, "Attached Signs."

**Part III**

That Chapter 12, "Unified Development Ordinance," Section 11.2 "Defined Terms," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending said Section by adding the following term alphabetically to the Section:

- **"Home Tour Event:** Real estate events such as open houses and Parade of Homes, as well as the touring of occupied residences for the entertainment of a targeted audience such as the Women's Club Home and Garden Tour."

**April 23, 2009**  
**Regular Agenda Item No. 3**  
**4074 State Highway 6 SecurCare Storage- Rezoning**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Public hearing, presentation, possible action, and discussion regarding an amendment of Chapter 12, Unified Development Ordinance, Section 4.2, Official Zoning Map, of the Code of Ordinances of the City of College Station, Texas by rezoning 2.47 acres from A-O, Agricultural-Open, to C-1, General Commercial at 4074 State Highway 6 and more generally located south of Bridle Gate Drive.

**Recommendation(s):** The Planning and Zoning Commission recommended approval of the amendment by a vote of 7 to 0 at their April 2<sup>nd</sup>, meeting. The recommendation included the condition that the screening requirements of Section 7.6.F.3 and 7.6.F.4 of the Unified Development Ordinance on the south side of the property are met. Staff also recommended approval.

**Summary:**

**REVIEW CRITERIA**

1. **Consistency with the Comprehensive Plan:** The Comprehensive Land Use Plan was recently amended in February 2009 to change approximately 5.79 acres from Single Family Residential Medium Density to Retail Regional. This Comprehensive Plan Amendment included the adjacent 3.32 acres that is part of the Securecare Self Storage facility and that is currently zoned C-1, General Commercial. A C-1, General Commercial zoning district is considered appropriate for the subject property with the land use designation change to Retail Regional.
2. **Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:** The proposed rezoning is compatible with the adjacent C-1, General Commercial and A-P, Administrative Professional zoning districts. This zoning would serve to legitimize the existing use of a self-storage facility. The property to the north is currently developed as single-family residences with two separate zoning districts: R-1, Single-Family Residential and R-6, High Density Multi-Family. Since single-family homes are not a permitted use in an R-6 zoning district, the homes are not a conforming use. C-1, General Commercial uses are generally compatible with the uses permitted in a high-density multi-family zoning district. The area can be generally characterized as having commercial uses along the State Highway 6 frontage road with a residential subdivision (Bridlegate) located adjacent to and behind the commercial uses. The proposed rezoning would be a continuation of the existing commercial use to the east.
3. **Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment:** On February 12<sup>th</sup>, 2009 City Council approved a Comprehensive Plan Amendment to change the Land Use from Single Family Residential, Medium Density to Retail Regional. As such

a C-1, General Commercial zoning district is considered to be suitable for the subject property. Additionally, the property is currently being utilized as self storage facility, which is considered appropriate for a C-1, General Commercial zoning district.

4. **Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The subject property's current zoning district limits the potential for development to agricultural, low-intensity residential, or open space uses due to the property being zoned A-O, Agricultural Open. The subject property to be rezoned is part of a larger adjacent development to the east that is currently zoned C-1, General Commercial. Commercial land uses are generally dependent on good access to freeways and major arterials. Access to the subject property is off the State Highway 6 frontage road.
5. **Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The applicant is seeking to enhance the marketability of the property through the proposed zone change. The applicant intends to make paving improvements to the existing property.
6. **Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:** There are existing 6-inch and 24-inch water lines available to serve this property. A sanitary sewer main will need to be extended in order to provide service to the property. Drainage is mainly to the southeast within the Lick Creek basin. All utilities shall be designed in accordance with the BCS Unified Design Guidelines at the time of Platting and Site Development. Access to the property is available from the State Highway 6 South Frontage Rd.

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

**Attachments:**

1. Background Information
2. Aerial
3. Draft Planning and Zoning Commission Meeting Minutes, April 2, 2009
4. Ordinance

## BACKGROUND INFORMATION

### NOTIFICATIONS

Advertised Commission Hearing Date: April 2, 2009  
 Advertised Council Hearing Dates: April 23, 2009

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

Springbrook HOA  
 Bridlegate HOA

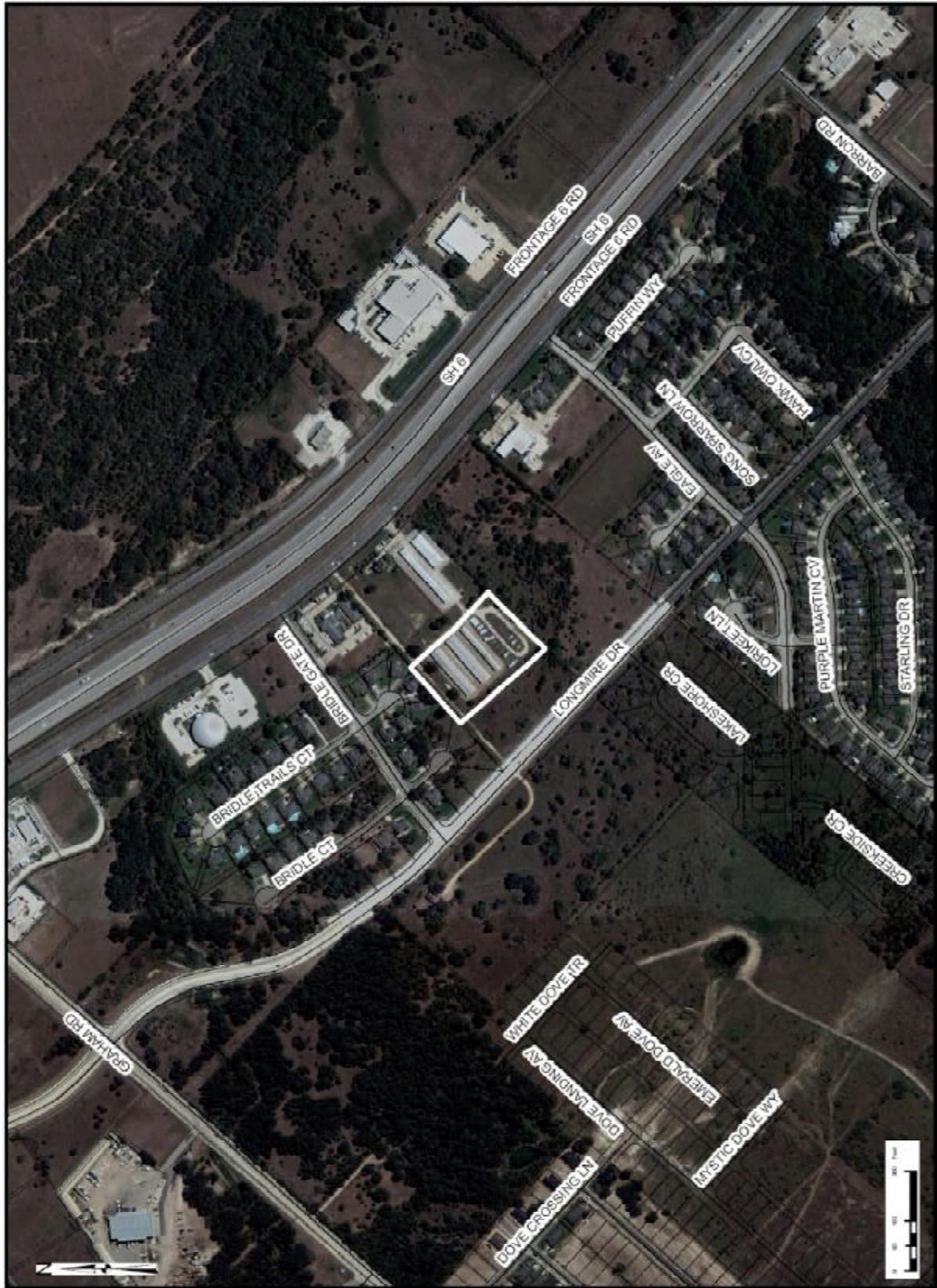
Property owner notices mailed: 18  
 Contacts in support: None at time of staff report  
 Contacts in opposition: None at time of staff report  
 Inquiry contacts: None

### ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Single-Family Residential Medium Density	R-6, High Density Multi-family	Single-Family residences, Bridlegate Subdivision
South	Single-Family Residential Medium Density	A-O, Agricultural Open	Undeveloped
East	Retail Regional	C-1, General Commercial, Freeway	Securcare Self Storage, State Highway 6
West	Office	A-P, Administrative Professional	Undeveloped

### DEVELOPMENT HISTORY

**Annexation:** 1983  
**Zoning:** A-O  
**Final Plat:** Unplatted  
**Site development:** Currently developed as a self-storage facility.



REZONING

Case: 09-48

SECURCARE SELF STORAGE

DEVELOPMENT REVIEW





**MINUTES**  
**PLANNING AND ZONING COMMISSION**  
**Regular Meeting**  
**Thursday, April 2, 2009,**  
**at 7:00 p.m.**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**College Station, Texas**

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**COMMISSIONERS PRESENT:** John Nichols, Noel Bauman, Doug Slack, Winnie Garner, Hugh Stearns, Thomas Woodfin, and Paul Greer

**COMMISSIONERS ABSENT:** None

**CITY COUNCIL MEMBERS PRESENT:** Dennis Maloney

**CITY STAFF PRESENT:** Senior Planner Jennifer Prochazka, Staff Planners Lauren Hovde, Jason Schubert, and Matt Robinson, Graduate Civil Engineer Erika Bridges, Assistant City Engineer Josh Norton, Senior Assistant City Engineer Carol Cotter, City Engineer Alan Gibbs, Transportation Planning Coordinator Joe Guerra, Planning Administrator Molly Hitchcock, Assistant Director Lance Simms, First Assistant City Attorney Carla Robinson, Action Center Representative Carrie McHugh, and Staff Assistant Nicole Padilla

1. Call Meeting to Order.

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

**Regular Agenda**

2. Public hearing, presentation, possible action, and discussion regarding a Rezoning of 2.47 acres from A-O, Agricultural-Open, to C-1, General Commercial at 4074 State Highway 6 and more generally located south of Bridle Gate Drive. **Case #09-00500048 (MR)**

Matt Robinson, Staff Planner, presented the rezoning and recommended approval. He stated that the applicant intended to make paving improvements

There was general discussion regarding the drainage in the area and whether the additional paving would increase drainage.

Jeff Robertson, McClure & Browne Engineering, addressed the Commissioners' concerns of drainage and stated that he did not believe it would increase drainage by much.

Dahlis Waller, 2707 Pinehurst, Bryan, TX, owner of adjacent property, addressed her concerns of buffer requirements and the need for such, drainage, and future ramifications for rezoning this property.

There was general discussion of buffer requirements and further discussion of the drainage issues.

**Commissioner Sterns motioned to approve the rezoning with the condition that the screening requirements of Section 7.6.f.3 and 7.6.f.4 of the UDO on the south side of the property are met. Commissioner Bauman seconded the motion; motion passed (7-0).**

6. Adjourn.

**Commissioner Woodfin motioned to adjourn the meeting. Commissioner Greer seconded the motion, motioned passed (7-0).**

**Meeting adjourned at 8:32 p.m.**

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

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", SECTION 4.2, "OFFICIAL ZONING MAP", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 12, "Unified Development Ordinance", Section 4.2, "Official Zoning Map", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT "A"**

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from A-O, Agricultural Open to C-1, General Commercial with the condition that screening meeting the Unified Development Ordinance requirements in Section 7.6.F.3 and Section 7.6.F.4 be placed along the southeast property line for a distance of 271 feet:

2.47 Acres  
Robert Stevenson Survey, A-54  
College Station, Brazos County, Texas

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE ROBERT STEVENSON SURVEY, ABSTRACT NO. 54 IN COLLEGE STATION, BRAZOS COUNTY, TEXAS AND BEING PART OF THE CALLED 5.79 ACRE TRACT DESCRIBED IN THE DEED FROM SECURCARE PROPERTIES X LTD. AND SECURCARE SELF STORAGE INC. GENERAL PARTNER TO SECURCARE PROPERTIES II, LLC. RECORDED IN VOLUME 8778, PAGE 21 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (O.R.B.C.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN EXHIBIT "B" AND GRAPHICALLY SHOWN IN EXHIBIT "C".

**EXHIBIT "B"**FIELD NOTES  
PROPOSED C-1 ZONE  
2.47 ACRES

Being all that certain tract or parcel of land lying and being situated in the ROBERT STEVENSON SURVEY, Abstract No. 54 in College Station, Brazos County, Texas and being part of the called 5.79 acre tract described in the deed from Securcare Properties X Ltd. and Securcare Self Storage Inc. General Partner to Securcare Properties II, LLC. recorded in Volume 8778, Page 21 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

COMMENCING: at a fence corner post marking the most easterly corner of the called 5.79 acre tract, the north corner of the called 22.8 acre Peyton Waller tract described in Volume 327, Page 90 of the Brazos County Deed Records (B.C.D.R.) and being in the southwest margin of the variable width State Highway No. 6 right-of-way (commonly known as Earl Rudder Freeway);

THENCE: S 44° 05' 11" W along the southeast line of the called 5.79 acre tract, said line also being the northwest line of the said 22.8 acre Peyton Waller tract for a distance of 402.32 feet to a found 1/2-inch iron rod for the POINT OF BEGINNING;

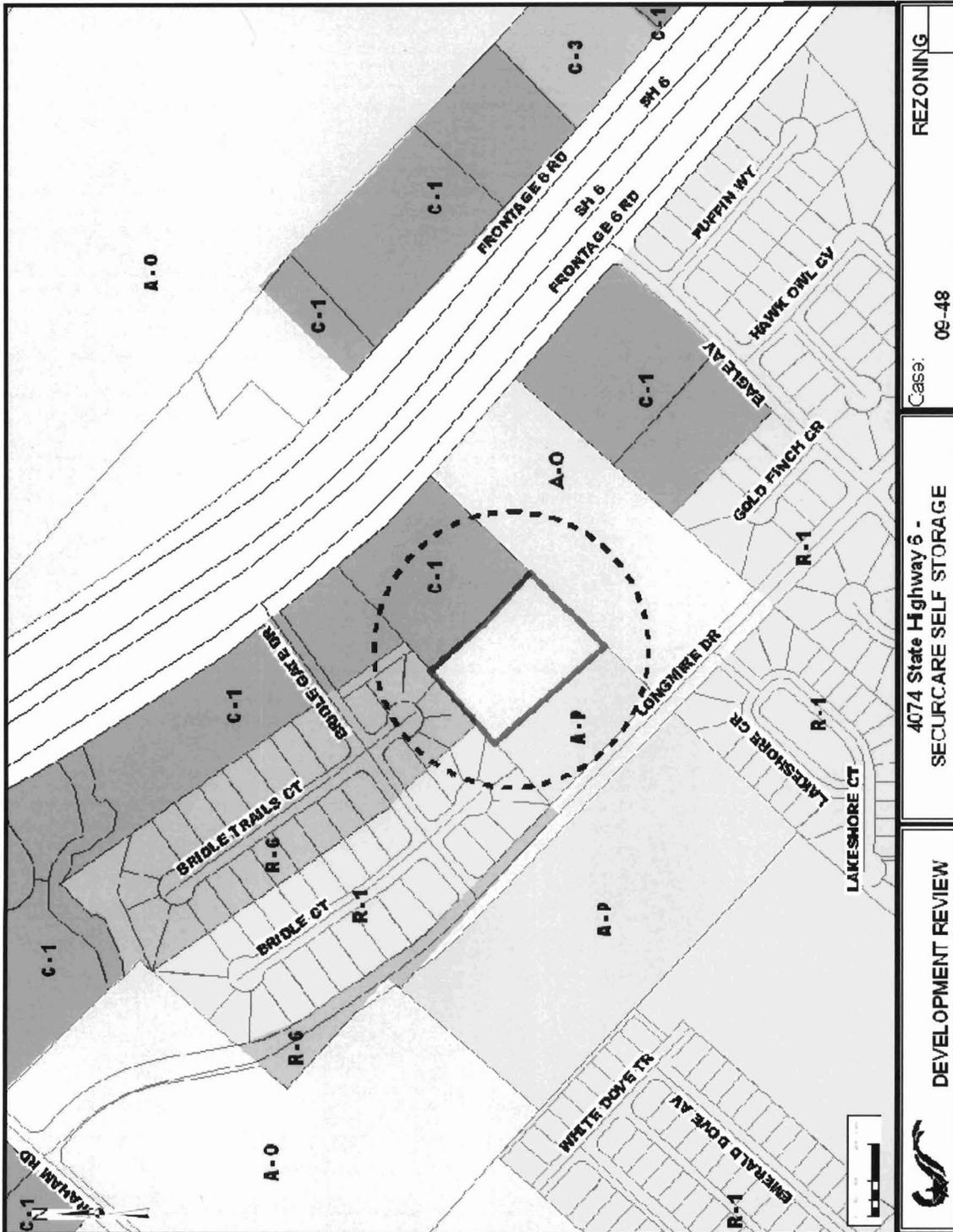
THENCE: S 44° 05' 11" W continuing along the before said common line for a distance of 271.00 feet to a found 1/2-inch iron rod for the most southerly corner of this tract, said iron rod also marking the east corner of the called 21.00 acre J.K. Development, LLP tract described in Volume 2539, Page 71 (O.R.B.C.);

THENCE: N 41° 37' 31" W along the common line of the called 5.79 acre tract and the called 21.00 acre tract for a distance of 407.00 feet to a found 1/2-inch iron rod for corner, said iron rod being in the southeast line of Lot 11, Block One, BRIDLE GATE ESTATES, PHASE TWO Subdivision as recorded in Volume 6130, Page 67 (O.R.B.C.);

THENCE: N 48° 11' 00" E along the said southeast line of said BRIDLE GATE ESTATES, PHASE TWO Subdivision and BRIDLE GATE ESTATES, PHASE ONE Subdivision as recorded in Volume 3744, Page 49 (O.R.B.C) for a distance of 271.02 feet to a found 1/2-inch iron rod for corner;

THENCE: S 41° 30' 38" E through the interior of the called 5.79 acre tract for a distance of 387.64 feet to the POINT OF BEGINNING and containing 2.47 acres of land, more or less.

EXHIBIT "C"



REZONING	Case: 06-48
4074 State Highway 6 - SECURCARE SELF STORAGE	
DEVELOPMENT REVIEW	

**April 23, 2009**  
**Regular Agenda Item No. 4**  
**Update of Steeplechase-Wellborn Sewer Impact Fee Area 03-02**

**To:** Glenn Brown, City Manager

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

**Agenda Caption:** Public hearing, presentation, possible action, and discussion on consideration of the updated land use assumptions and capital improvements plan, and the imposition of updated water and wastewater impact fees in Steeplechase-Wellborn Sewer Impact Fee Service Areas 03-02.

**Recommendation(s):** Staff recommends approval.

**Summary:** At the March 12, 2009 Council Meeting, the City Council approved a resolution to set a public hearing for this meeting to evaluate impact fees and a proposal to amend the associated land use assumptions and capital improvements plan as required by state law every 5 years. If approved, an item to amend Chapter 15, "Impact Fees," will be placed on the May 14, 2009 Council Meeting. The affected impact fee is Steeplechase-Wellborn Sewer Impact Fee Service Areas 03-02. The "Steeplechase Wastewater Impact Fees" Report was prepared by our consultant Rimrock Consulting Company. This report contains the technical data which is the basis for the 2008-2018 fee calculation: land use and planning data, unit usage statistics and capital improvements plan. Actual fee calculation is shown in Section 3.0 of the report, specifically note Tables 3-2. Current fees and proposed maximum fee calculated in the subject report are provided below.

	03-02 Steeplechase Wastewater
<b>Current Fee*</b>	\$300.00
<b>Proposed Fee*</b>	\$357.74

\* per Living Unit Equivalent (LUE)

A summary of the Wastewater Impact Fees Report is provided in the referenced 5-Year Update Report. Note the above "Proposed Fees" are the maximum fee allowed based on the updated analysis, however Council may chose to enact a fee less than the maximum. Also note that the Planning and Zoning Commission serves as the Impact Fee Advisory Committee as defined by ordinance. As attested to by the Chairman of the planning and Zoning Commission on the attached 5-year Update Report, on February 5, 2009 the Advisory Committee unanimously recommended the report be forwarded to City Council and supported the information in the report to update the impact fees.

**Budget & Financial Summary:** This update report justifies the maximum impact fee for Service Area 03-02 to be increased to \$357.74/LUE from the current fee of \$300.00/LUE. By state law the fees cannot be greater than the proposed fee. The future revenue possible to be recovered if the maximum fee is adopted is \$942,644.90, assuming 2,838 LUEs at full build-out less the 203 LUEs existing. This would increase the recovery \$152,144.90 from the current fee. To date only \$7,216.03 has been collected.

**Attachments:**

1. Steeplechase Wastewater Impact Fees Report (Available at City Engineer's Office)
2. 5-Year Update Report Memo – 03-02 Steeplechase Wastewater Impact Fee



CITY OF COLLEGE STATION

1101 Texas Avenue South, P.O. Box 9960  
College Station, Texas 77842  
Phone 979.764.3570 / Fax 979.764.3496

**MEMORANDUM**

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**DATE:** January 29, 2009  
**TO:** Planning and Zoning Commission  
**FROM:** Alan Gibbs, P.E., City Engineer  
**SUBJECT:** 5-Year Update Report – 03-02 Steeplechase Wastewater Impact Fee

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The City of College Station Ordinance Chapter 15, Impact Fees, designates the Planning and Zoning Commission as the Advisory Committee for review, advisement, and monitoring of proposed and existing impact fees. More specifically, the advisory committee is established to:

1. Advise and assist the City in adopting Land Use assumptions.
2. Review the Capital Improvements Plan and file written comments.
3. Monitor and evaluate implementation of the Capital Improvements Plan.
4. File semi-annual reports with respect to the progress of the Capital Improvements Plan.
5. Advise the City Council of the need to update or revise the Land Use Assumptions, Capital Improvements Plan, and Impact Fees.

Currently the City of College Station has five impact fees in existence of which all the associated construction is complete. As titled, this Update Report addresses 03-02 Steeplechase Wastewater Impact Fee. The remaining four impact fees 92-01, 97-01, 97-02B, and 99-01 underwent the 5-year update in 2008 where each of fees was likewise amended.

The following is a **current status** report for 03-02 Steeplechase Wastewater Impact fee:

03-02 Sanitary Sewer (Steeplechase) (715 acres) \$300.00/LUE  
This fee was initially implemented in June 2003 at \$300.00/LUE and has not been revised. This CIP was constructed in two phases of sanitary sewer line

construction in compliance with the proposed construction in the original report establishing the fee. Phase one crossed Wellborn Road and terminated at Old Wellborn Road consisting of 2,347 linear feet of 18 inch sewer line with a construction cost of \$296,642. Phase two continued the line along Old Wellborn Road and terminated across RPR West. Phase two consisted of 6,281 linear feet of 12 inch line and 2,062 linear feet of 18 inch line for a construction cost of \$529,088 and a land cost of \$87,133. The design cost for the combined phases was \$148,023. The total actual cost was \$1,091,886 which was less than the original report estimated at \$1,596,137. Fees collected over the last 6 months are \$606.38 for total collected amount of \$7,216.03 (per Account #253-0000-101.00-00).

Attached is the “Steeplechase Wastewater Impact Fee Study” report prepared by our consultant Rimrock Consulting Company. This report contains the technical data which is the basis for the 2008-2018 fee calculation: land use and planning data, unit usage statistics and capital improvements plan.

Note that this update proposes to increase the Steeplechase Impact Fee area 138 acres which includes Great Oaks Subdivision, Las Palomas Subdivision and remaining portion of Oakland Ridge Subdivision. The proposed service area is depicted in the report in Figure 2-1. The tracts of land proposed to be added to the service area were annexed into the city limits in 2008 and each are planned to be served by city sanitary in future.

Table 2-3 of the report provides densities in LUEs per acre that that the committee participated in revising in 2008. Staff has since analyzed data for the land uses to reflect how development has occurred in recent years to arrive at the proposed conversion of land uses to living units equivalents.

Actual fee calculation is shown in Section 3.0 of the report, specifically note Table 3-2. Current fee and proposed maximum fee calculated in the subject report are provided below.

	<b>03-02 Steeplechase Wastewater</b>
<b>Current Fee*</b>	\$300.00
<b>Proposed Fee*</b>	\$357.74

\* per Living Unit Equivalent (LUE)

To proceed with this 5-year fee update, the Advisory Committee needs to act on the following:

- 1) Notify and recommend to City Council in writing that the fees be updated in accordance with “Water and Wastewater Impact Fees” Report by Rimrock Consulting Co.

Should the Advisory act to perform the preceding item, the following actions are needed to complete this process:

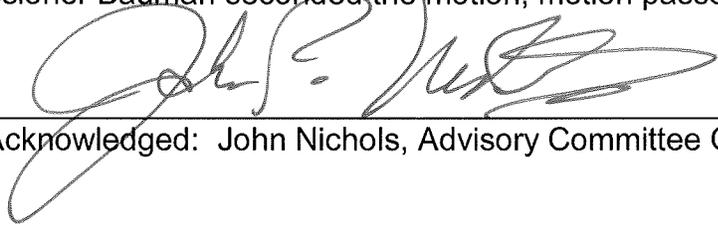
- 2) Staff prepares notices for the public hearing.
- 3) City Council conducts the public hearing and acts on the fee update by ordinance amendment.
- 4) Mayor sends compliance letter to the Attorney General.

Attachments:

- 1) Exhibit of Proposed Additional Areas to the Steeplechase Impact Fee Service Area
- 2) "Steeplechase Wastewater Impact Fees" Rimrock Consulting Co. January 2009 Report

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The above memo was presented by Alan Gibbs to the Advisory Committee at the Planning and Zoning Commission Meeting on February 5, 2009. Minutes from the meeting reflect, "Commissioner Greer motioned to recommend approval of the 5-Year Update Report and give the chairman authorization to sign the written certification. Commissioner Bauman seconded the motion, motion passed (7-0)."



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Acknowledged: John Nichols, Advisory Committee Chair