



Mayor
Ben White

Mayor Pro Tem

City Manager
Glenn Brown

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

Agenda
College Station City Council
Regular Meeting
Monday, August 17, 2009 at 7:00 PM
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

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

Presentation of Certificate of Appreciation to Chris Ford for meritorious actions in the face of medical emergency.

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 of minutes for Council meeting held on Tuesday, July 7, 2009 and Thursday, July 23, 2009.

b. Presentation, possible action, and discussion on consideration of an ordinance amending Chapter 10, Section 2F, of the College Station Code of Ordinances regarding the Traffic Control Device Inventory, Schedule V (School Zones).

- c. Presentation, possible action, and discussion regarding approval of a renewal of the annual price agreement with Crafcro Texas Inc. to provide crack sealant material and de-tack sealant material for the maintenance of streets in an amount not to exceed \$98,648.75 remaining the same as the current agreement.
- d. Presentation, possible action and discussion on calling a public hearing on the City of College Station 2009-2010 Proposed Budget for Thursday August 27, 2009.
- e. Presentation, possible action, and discussion on a resolution approving a third annual renewal of a five (5) year agreement for the lease of slant-top, front-end loading refuse containers for an annual estimated expenditure of \$183,780.00.
- f. Presentation, possible action and discussion regarding a resolution clarifying that George Bush Drive is named to honor the 41st President of the United States George H. W. Bush.
- g. Presentation, possible action, and discussion regarding an ordinance approving an increase in rates for Atmos Energy pursuant to the Rate Review Mechanism tariff approved in 2008.
- h. Presentation, possible action, and discussion regarding approval of a Resolution that will authorize City staff to negotiate for the purchase of easements needed for the Water Reclamation Project, the future development of a bicycle and pedestrian facility project, and the future installation of sanitary sewer lines.
- i. Presentation, possible action, and discussion regarding approval of a Resolution that will authorize the City Attorney to condemn a public water utility easement and a temporary construction easement needed for the relocation of existing College Station utilities to accommodate the Wellborn Widening Project.
- j. Presentation, possible action and discussion regarding the approval of an interlocal agreement with the Texas Department of Public Safety.
- k. Presentation, possible action, and discussion regarding approval of Inter- Local Agreement (ILA) with the College Station Independent School District (CSISD) regarding School Resource Officers (SRO).
- l. Presentation, possible action, and discussion on a certified rebuild through Mustang CAT for a Caterpillar Articulating Compactor utilized by the Brazos Valley Solid Waste Management Agency in the amount of \$373,948.64.
- m. Presentation, possible action, and discussion to approve a lease of College Station Independent School District (CSISD) property for the construction of the Creek View School Park Project.
- n. Presentation, possible action, and discussion to approve a lease of College Station Independent School District (CSISD) property for the construction of the Pebble Creek School Park Project.
- o. Presentation, possible action, and discussion to approve an Interlocal Agreement (ILA) for raising the height of the County owned radio tower located at 21550 Kathy Fleming Road, in the vicinity of the community of Millican, Texas between the City of College Station and Brazos County.
- p. Presentation, possible action, and discussion regarding participating on a state contract with RedMoon, Inc. of Plano, Texas for design, equipment, materials, supplies and services to install a wireless video surveillance pilot project in the Northgate Entertainment District for an amount not to exceed \$60,000.00.

q. Presentation, possible action, and discussion regarding approval of a contract with Sungard Public Sector (SPS), formerly Sungard HTE, for the purchase of the Click2Gov online application for the SPS Business Licenses module in an amount not to exceed \$15,240.00.

r. Presentation, possible action and discussion regarding rejection of the bid received in response to RFP #09-65 for maintenance and sanitation services to be provided at the Northgate Promenades, Surface Parking Lot, Northgate Parking Garage and Chimney Hill Shopping Center.

s. Presentation, possible action and discussion regarding changes to the City's traffic code concerning parking operations in the Northgate District.

t. Presentation, possible action, and discussion on a Construction Contract with Associated Construction Partners, Ltd, in the amount of \$1,221,700, for the construction of the Carters Creek Wastewater Treatment Plant Miscellaneous Improvements.

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. Presentation, possible action and discussion of City Secretary examination of petition submitted by College Station electors to repeal Ordinance No. 3017 amending the Chapter 10 of the City's Traffic Code on red light camera enforcement.
2. Public hearing, presentation, possible action, and discussion on petition proposing an ordinance repealing City Ordinance 3017, amending Chapter 10 of the Traffic Code regarding Automatic Traffic Signal Enforcement (Red light cameras within the City of College Station).
3. Public Hearing, presentation, possible action, and discussion on an ordinance Budget Amendment #3 amending ordinance number 3114 which will amend the budget for the 2008-2009 Fiscal Year results in a net reduction of overall expenditures in the amount of \$954,175.
4. Presentation, possible action and discussion on the 2009-2010 ad valorem tax rate; and on calling two public hearings on a proposed ad valorem tax rate for 2009-2010.

5. Presentation, possible action, and discussion regarding sunset review of Council Committees and selection of Council appointed representatives to fill vacancies on the following committees and boards.
Arts Council of the Brazos Valley
Audit Committee
Brazos County Health Department
BVWMA Policy Advisory Board
Intergovernmental Committee
Convention and Visitors Bureau Board of Directors
Research Valley Partnership Board of Directors
Sister Cities Association
Transportation Committee
Wolf Pen Creek Oversight Committee
City/CSISD Subcommittee
6. Presentation, possible action, and discussion of Mayor Pro Tem appointment.
7. Adjourn.

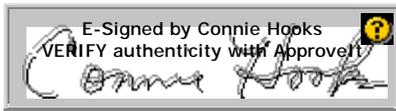
If litigation issues arise to the posted subject matter of this Council Meeting an executive session will be held.

APPROVED:

City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Monday, August 17, 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 14th day of August, 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. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on August 14, 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. Council meetings are broadcast live on Cable Access Channel 19.



Mayor
Ben White

Mayor ProTem

City Manager
Glenn Brown

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

DRAFT MINUTES
City Council Special Meeting
Tuesday, July 7, 2009 at 4:00 pm
Carter Creek Wastewater Treatment Plant
2200 N. Forest Parkway – Training Room
College Station, Texas

Mayor White called the special budget workshop meeting to order at 4:00 pm. All Council members present.

Jeff Kersten Chief Financial Officer made introductory comments about the time line for future scheduled budget meetings of the City Council. He emphasized that the proposed budget was prepared to reflect the City Council mission, strategic goals, financial forecast, and fiscal and budgetary policies.

This meeting was held for the purpose of presenting proposed options for FY2010 General Fund Budget. The options proposed below assume an \$800,000 reduction from the FY 10 General Fund Base Budget.

Option #1 – Base Budget – derived from the FY09 estimated year-end results, adjusted slightly for minimal growth in revenue and anticipated changes in costs.

Option #2 – begins with the Base Budget and builds in minimal Public Safety Service Level Adjustments, development fee increases and a 1.5 cent property tax rate increase.

Option #3 – starts with the Base Budget and builds in Service Level Adjustments and pay increases similar to prior year adjustments – requiring permit fee increases along with a 4.5 cent property tax rate increase. In this scenario the services drive the budget.

Mr. Kersten reported on the preliminary FY 10 general fund base budget of revenues and expenditures.

General Fund Revenue Assumptions \$53,316,486

Sales Tax: 1% over FY09 estimated year end revenue

Permit Revenue: 0.15% decrease from FY09 estimated revenues

Property Tax Revenues: Preliminary valuation \$5.56 Billion

Estimated Final Value: \$5.4 Billion

Current Tax Rate 43.94 cents

Debt Service Rate 24.6048 cents

General Fund rate 19.3352 cents

General Fund Expenditures Estimated \$53,415,339

2.89% decrease from FY09 Revised Budget

Includes removal of prior year one time SLA's totaling \$1.5 million

Brief discussion was held on rollback tax proceedings. Council asked staff to report back with information on rollback election.

Council members expressed consensus to discontinue funding over a three year period to outside service agencies that do not meet the CDBG requirements

Public hearings on tax rate scheduled for August 27 and September 1, and adoption of tax rate scheduled for September 10.

Discussion concluded.

Council began executive session at 6:05 pm.

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

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

- a. Electric Fund FY2009-2010 Preliminary Budget

Council concluded executive session at 6:50 pm. No action was taken.

Mayor White adjourned the meeting at 6:50 pm.

PASSED AND APPROVED this _____ day of August, 2009

APPROVED:

Mayor Ben White

ATTEST:

City Secretary Connie Hooks



Mayor
Ben White
Mayor Pro Tem

City Manager
Glenn Brown

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

Draft Minutes
College Station City Council
Regular Meeting
Thursday, July 23, 2009 at 7:00 PM
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

COUNCILMEMBERS PRESENT: Mayor White, Council members Ruesink, Stewart, Maloney, Lyles

COUNCILMEMBERS ABSENT: Crompton and Massey

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

1. Fire Chief R.B. Alley provided the invocation. Council member Ruesink made a motion to approve the absence requests of Massey and Crompton. Council member Maloney seconded the motion which carried unanimously, 5-0.

Mayor White, City Manager Brown and members of the Historic Preservation Committee presented the Historic Building Marker No. 9 to members of the Pleasant Grove Baptist Church.

Hear Visitors:

Gloria Lefner of 2109 Langford spoke about drainage ditch issues near Dexter Park and her home.

Brian Alg, 2003 Longmire Court expressed concern about the City leadership vision regarding future capital projects such as the Convention Center.

Consent Agenda

Motion made by Council member Ruesink to approve Consent Agenda Items No. 2a – 2u as presented. Seconded by Council member Stewart. Motion carried unanimously, 5-0.

2. a. Approved minutes for Council meetings held on Monday, July 6, 2009 and Thursday, July 9, 2009.
- b. Approved **Resolution No. 7-23-2009-2b** adopting the Economic and Community Development Department's proposed FY 2010 Action Plan and Budget.
- c. Approved Semi-Annual Report on Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02, and **Resolution No. 7-23-2009-2c** to support and execute a Compliance Certification Letter to the Attorney General.

- d. Approved the award of services contract for RFP 09-56 Outsourcing the Printing and Mailing of Utility Bills, late notices and inserts for an estimated annual expenditure of \$230,000 to Xpedient Mail.
- e. Approved ratification of a month-to-month renewal agreement and authorization of expenditures for Utility Bill Printing, Inserting and Mailing with Pinnacle Data Systems, LLC for \$20,000.00 per month.
- f. Approved award of Bid #09-71 for steel distribution poles (Group A) to Transamerican Power Products for \$116,815; self supporting steel distribution poles (Group B) to Transamerican for \$58,610; fiberglass composite distribution poles (Group C) to HD Supply for \$77,100; and self supporting fiberglass distribution poles (Group D) to Techline for \$9,675 for an estimated annual amount of \$262,200.
- g. Approved letter of agreement with Ingram, Wallis & Co., P.C. for Professional Auditing Services for one year period and option of four (4) one-year renewals. Estimated fee costs for the five years are:
FY 09 - \$94,750
FY10 - \$98,500
FY11 \$103,000
FY12 \$109,000
FY13 \$114,000
- h. Approved the award of Bid No. 09-54A for purchase of various items for the Dowling Road Substation project to J.H. Davidson & Assoc \$44,340, FAPCo, LLC \$61,050, Areva T&D \$107,282, and Wesco, Inc. \$245,149 for a total of \$457,821.
- i. Approved the award of Bid No. 09-54B for the purchase of circuit switchers for the Dowling Road Substation project to KBS Electric in the amount of \$167,237.40.
- j. Approved Change Order No. 1 to Contract No. 08-278 to Brazos Paving, Inc. Annual blanket purchase order for concrete curb/gutter & flatwork, used to maintain City infrastructure. This action increases the total amount of the contract from \$411,000 to \$513,750 an increase of \$102,750.
- k. Approved the ratification of month-to-month renewal agreement and authorization of expenditures with Shelby Building Maintenance dba Professional Floor Service for \$16,679.00 per month.
- l. **Approved Resolution No. 7-23-2009-2L** to name the Brazos Animal Shelter as the Local Rabies Control Authority for the City of College Station, replacing the Chief of Police as the Local Rabies Control Authority.
- m. Approved the purchase of copy machines from DocuMation in an amount not to exceed \$76,061.00. This purchase is made pursuant to our Interlocal Agreement with Purchasing Solution Alliance (a program of the Brazos Valley Council of Governments).
- n. Approved **Resolution No. 7-23-2009-2n** to award a professional services contract to HDR Engineers in the amount of \$49,671 to conduct a study to determine what amount is allowable under State Law, to be charged for City-wide impact fees for water and wastewater.

- o. Approved the amendment to Professional Services Contract #06-175 with Strong Surveying, Inc. for Twin Oaks Landfill Phase One Survey Support to include the City of Bryan on the contract in an amount not to exceed \$174,000.00.
- p. Approved the amendment to Professional Services Contract #05-033 with CSC Engineering and Environmental Consultants, Inc. for Program Management and Technical Services for the Development of the Twin Oaks Landfill Project to include the City of Bryan on this contract not to exceed \$1,127,500.00, and to amend the scope of services to remove the transition planning for the Rock Prairie Landfill to become a City of College Station park.
- q. Approved the authorization of funds for professional services from Coats, Rose, Yale, Ryman & Lee PC for litigation concerning the Brazos Valley Solid Waste Management Agency (BVSWMA) in the amount of \$90,000.00. Approved the ratification of \$56,808.46 expended and provide funds for additional legal costs associated with this project through September 30, 2009.
- r. Approved the authorization of funds for professional services from Bickerstaff, Heath, Delgado & Acosta, LLP. for litigation concerning the Brazos Valley Solid Waste Management Agency (BVSWMA) in the amount of \$45,000.00 for total funds of \$297,000.00. Funds used for additional legal costs associated with this project through September 30, 2009.
- s. Approved BVSWMA royalty payments to Grimes County for FY2009 in an amount not to exceed \$250,000, which amount includes ratification of a total of \$104,383.95 in royalty payments made to Grimes County in FY2009, and approval of \$31,349.50 in royalty payments to Grimes County to correct payments made from October 2006 to the present.
- t. Approved BVSWMA Twin Oaks Landfill Construction Contract #08-232 Change Order #3 with C. Watts & Sons Construction Co. Inc. in the amount of \$199,844.00.
- u. Approved **Ordinance No. 3192** amending the electric rate schedule to Chapter 11 "Utilities" of the Code of Ordinances of the City of College Station for small power production and cogeneration facilities less than or equal to 100 kW; and, (2) the addition of an electric rate schedule to Chapter 11 "Utilities" of the Code of Ordinances of the City of College Station for small renewable energy (SRE) customers connecting single phase distributed generation from renewable sources less than or equal to 20 kW. (Renewable energy technologies include those derived directly from the sun, wind, geothermal source, hydroelectric source, wave or tidal energy; or on biomass or biomass based waste products including landfill gas.)

Regular Agenda

1. Public Hearing, presentation, possible action, and discussion on consideration of an ordinance amending Chapter 10, "Traffic Code," to remove parking on both sides of Welsh Avenue beginning at the intersection with Holleman Drive and extending north 100 feet.

Troy Rother, Traffic Engineer presented this item. Staff recommended approval of the ordinance amendment to improve mobility in the area by removing parking on both sides of Welsh Avenue beginning with Holleman Drive and extending north 100 feet. The on-street parking on both sides of the street has caused problems with traffic moving through the signalized intersection at Holleman and Welsh.

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

Council member Lyles made a motion to approve **Ordinance No. 3193** amending Chapter 10, "Traffic Code" to remove parking on both sides of Welsh Avenue beginning at the intersection with Holleman Drive and extending north 100 feet. Motion seconded by Councilmember Stewart. Motion carried unanimously, 5-0.

FOR: White, Lyles, Maloney, Stewart, Ruesink

AGAINST: None

ABSENT: Crompton and Massey

2. Public hearing, presentation, possible action, and discussion regarding an Ordinance amending Chapter 12, the Unified Development Ordinance, Section 5.5 "Planned Districts (P-MUD and PDD)," of the Code of Ordinances, related to PDD Planned Development Districts.

Senior Planner Jennifer Prochaska presented this item. She stated that the Comprehensive Plan was adopted with a focus on community character and the creation of places of distinction. The city's existing zoning districts may no longer be the most relevant tools to implement the Comprehensive Plan and like that existing zoning districts will need to be amended and new zoning district created. During the interim, the Planned Development District may be an effective tool to help College Station realize the goals of the Comprehensive Plan. The UDO, Section 5.5 (Planned Districts (P-MUD and PDD)) includes restrictions that limit what elements can be included in a PDD. The current ordinance does not allow PDDs to guarantee specific building characteristics or apply additional development standards through the rezoning process. In order to use the PDD to implement the Comprehensive Plan, the restrictions should be removed. The Planning and Zoning Commission unanimously recommended approval at their July 2, 2009 meeting. Staff also recommended approval.

Mayor White opened the public hearing.

Brian Alg, 2003 Longmire Court, stated concern about the city's involvement in placing restrictions on infrastructure in private development.

Mayor White closed the public hearing.

Council member Maloney moved approval of **Ordinance No. 3194** amending Chapter 12, the Unified Development Ordinance, Section 5.5 "Planned Districts (P-MUD and)PDD," of the Code of Ordinances, related to PDD Planned Development Districts. Motion seconded by Council member Stewart. Motion carried unanimously, 5-0.

FOR: White, Maloney, Stewart, Ruesink, Lyles

AGAINST: None

ABSENT: Crompton and Massey

3. Presentation, possible action, and discussion to approve a resolution providing an exception to Policy to allow Mr. Thomas and Ms. Palasota to construct sewer infrastructure necessary to connect their homes to the City sewer system.

Dave Coleman, Director of Water Services explained that the staff recommended to City Council the approval of a resolution providing an exception to policy allowing Mr. Thomas and Ms. Palasota to construct sewer infrastructure necessary to connect their homes to the City sewer system. The homes

Thursday, July 23, 2009

are located along Cheyenne Drive and Buggy Lane in the area of Wellborn Road and Capstone, in the city's extraterritorial jurisdiction. The City does not hold the CCN for this area, and an exception to Policy is required.

Mayor White opened the floor to applicant, Ed Thomas of 14222 Bugey Lane. He requested Council support of his request. Mr. Thomas made special comments about Lance Simms, City's Building Official and his courteous service.

Motion made by Council member Maloney to approve **Resolution No. 7-23-2009-03** as presented providing an exception to policy to allow Ed Thomas and Carolyn Palasota to construct sewer infrastructure necessary to connect their homes to the City sewer system. Motion seconded by Council member Ruesink, which carried unanimously, 5-0.

FOR: White, Maloney, Ruesink, Stewart, Lyles

AGAINST: None

ABSENT: Crompton and Massey

4. Presentation, possible action, and discussion regarding sunset review of Council Committees and selection of Council appointed representatives to fill vacancies on the following committees and boards.

Arts Council of the Brazos Valley

Audit Committee

Brazos County Health Department

BVWMA Policy Advisory Board

Intergovernmental Committee

Convention and Visitors Bureau Board of Directors

Research Valley Partnership Board of Directors

Sister Cities Association

Transportation Committee

Wolf Pen Creek Oversight Committee

City/CSISD Subcommittee

This item was deferred to next regular council meeting, August 17, 2009.

5. Presentation, possible action, and discussion of City Council making appointments to citizen committees. These include:

Cemetery Committee

Construction Board of Adjustments and Appeals

Parks and Recreation Board

Historic Preservation

Research Valley Partnership Board

Convention and Visitors Bureau

Council member Lyles made the motion to appoint to the Cemetery Committee, Sarah Adams, Virginia Reese, Kathleen Ireland for two year term and Matthew Crowley one year term. Motion seconded by Council member Stewart, which carried unanimously, 5-0.

Council member Maloney moved to appoint Earl Apgar as Chairman, Louis Hodges, James McGinnis, Anne Steen, Meredith Waller, and Ernie Wright for two year term, and Libby Vastano and Hillary Jessup for one year term. Motion seconded by Council member Lyles, which carried unanimously, 5-0.

Council member Lyles made a motion to appoint Richard Dabney, Mike Lane, and Oran Mikael for two year term on the Construction Board of Adjustments and Appeals. Motion seconded by Maloney, which carried unanimously, 5-0.

Council member Lyles made a motion to appoint Jody Ford to the Parks and Recreation Board for a one year term. Motion seconded by Stewart, which carried unanimously, 5-0.

Council members Crompton and Massey were absent from the meeting.

6. Presentation, possible action, and discussion of Mayor Pro Tem appointment.

This item was deferred to next regular council meeting, August 17, 2009.

7. Adjourn.
Being no further business, Mayor White closed the regular meeting at 7:40 p-m.

PASSED AND APPROVED this 17th day of August, 2009.

APPROVED:

Mayor Ben White

ATTEST:

City Secretary Connie Hooks

August 17, 2009
Consent Agenda Item No. 2b
Creekview Elementary School Speed Zones

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, Section 2F, of the College Station Code of Ordinances regarding the Traffic Control Device Inventory, Schedule V (School Zones).

Recommendation(s): Staff recommends approval of the ordinance amendment.

Summary: This item will amend Schedule V of the Traffic Control Device Inventory by adding a 20 mph school zone on Eagle Avenue at the Creekview Elementary School. Creekview Elementary is the new elementary school in CSISD and is planned to open this August. It is located on Eagle Ave adjacent to the intersection with New Port Ln. The school zone will extend from west of New Port to 385 feet east of the school property.

The attached revised Exhibit B (dated August 17, 2009) - Schedule V of the Traffic Control Device Inventory, indicates the proposed addition in bold italics, which are all under the section for Creekview Elementary.

The addition of these school zones will provide safer conditions for the school children.

Budget & Financial Summary: Funds for the addition of the appropriate "School Speed Limit" signs and assemblies as well as required striping are available in the Public Works Traffic Operation budget.

Attachments:

1. Ordinance with Exhibit A & B
2. Location Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1: That Chapter 10, "Traffic Code", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed 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 _____, 2009.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 10, "Traffic Code", Section 2.F, "SCHOOL ZONES", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by adopting the revised "Traffic Control Device Inventory – Schedule V", dated August 17, 2009, attached hereto as Exhibit "B", to replace the "Traffic Control Device Inventory – Schedule V", dated February 9, 2006.

TRAFFIC DEVICE INVENTORY

Schedule V – School Zones
Revised August 17, 2009

Location	Posted Hours	Posted Speed Limit	Operational Time (M - F)	Ord. No. / Date Adopted	BASE MAP NO.
College Hills Elementary					
1. Francis Drive, West of Ashburn Avenue - East of Williams Street.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1986 Nov. 12, 1992	1998-01
2. Francis Drive, West of Walton Drive - East of James Parkway.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1986 Nov. 12, 1992	1998-01
3. Gilchrist Avenue, West of Ashburn Avenue - East of Williams Street.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-01
4. Gilchrist Avenue, West of Williams Street - East of Walton Drive.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-01
5. Walton Drive, South of Nunn Street - North of Francis Drive.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1986 Nov. 12, 1992	1998-01
6. Walton Drive, South of Francis Drive - North of Bolton Avenue.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1986 Nov. 12, 1992	1998-01
South Knoll Elementary					
7. Southwest Parkway, East of Langford Street - West of Laura Lane.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
8. Southwest Parkway, East of Lawyer Place - West of Sabine Court.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
9. Langford Street, South of S. Ridgfield Court - North of Boswell Street.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
10. Langford Street, South of Boswell Street - North of Southwest Parkway.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
11. Boswell Street, East of Lawyer Street - West of Langford Street.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02

† - The operational time is a period in which the zone is enforceable. This time is variable and may change each semester/year depending on the actual school hours set by CSISD.

TRAFFIC CONTROL DEVICE INVENTORY

Schedule V – School Zones
Revised August 17, 2009

Location	Posted Hours	Posted Speed Limit	Operational Time (M - F)	Ord. No. / Date Adopted	BASE MAP NO.
Southwood Valley Elementary					
12. Deacon Drive, East of San Felipe Drive - West of Brothers Boulevard.	When Flashing	20 mph	7:20 - 8:05 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
13. Deacon Drive, East of Pierre Place - West of Celinda Circle.	When Flashing	20 mph	7:20 - 8:05 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
14. Brothers Boulevard, South of Todd Trail - North of Deacon Drive (intersection of Deacon and Brothers).	When Flashing	20 mph	7:20 - 8:05 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
15. Brothers Boulevard, South of Todd Trail - North of Deacon Drive (intersection of Todd Trail and Brothers).	When Flashing	20 mph	7:20 - 8:05 AM 2:45 - 3:30 PM	#1441 Aug. 11, 1983	1998-02
Oakwood Middle School / Willow Branch Intermediate School					
16. Holik Street, South of George Bush Drive - North of Anna Street (intersection of George Bush and Holik).	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#1441 Aug. 11, 1983	1998-03
17. Holik Street, North of Anna Street - South of George Bush Drive (intersection of Anna and Holik).	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#1441 Aug. 11, 1983	1998-03
18. Anderson Street, South of George Bush Drive - North of Wolf Run.	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#1441 Aug. 11, 1983	1998-03
19. Anderson Street, South of Wolf Run - North of Park Place.	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#1441 Aug. 11, 1983	1998-03
20. Timber Street, South of George Bush Drive and North of Anna Street (intersection of George Bush Dr. and Timbers).	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#2210 Sept. 26, 1996	1998-03
21. Timber Street, North of Anna Street - South of George Bush Drive.	When Flashing	20 mph	7:45 - 8:45 AM 3:15 - 4:00 PM	#2210 Sept. 26, 1996	1998-03

✦ - The operational time is a period in which the zone is enforceable. This time is variable and may change each semester/year depending on the actual school hours set by CSISD.

TRAFFIC CONTROL DEVICE INVENTORY

Schedule V – School Zones

Revised August 17, 2009

Location	Posted Hours	Posted Speed Limit	Operational Time (M - F)	Ord. No. / Date Adopted	BASE MAP NO.
Rock Prairie Elementary / College Station Middle School					
22. Welsh Avenue, North of Edelweiss Avenue - South of Willow Loop.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1941 Feb. 13, 1992	1998-04
23. Honeysuckle Lane, East of Welsh Avenue - West of Westchester Avenue.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1941 Feb. 13, 1992	1998-04
24. Canterbury Drive, East of Welsh Avenue - West of Westchester Avenue.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1941 Feb. 13, 1992	1998-04
25. Dover Drive, East of Welsh Avenue - West of Westchester Avenue.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1941 Feb. 13, 1992	1998-04
26. Abbey Lane, East of Victoria Avenue - West of Nottingham Drive.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1989 April 11, 1989	1998-04
27. Yorkshire Drive, East of Victoria Avenue - West of Nottingham Drive.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1989 April 11, 1989	1998-04
28. Victoria Avenue, South of Yorkshire Drive - North of Shire Drive.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1821 Sept. 14, 1989	1998-04
29. Rock Prairie Road, East of Rio Grande Boulevard - West of Bahia Drive.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1987 Nov. 12, 1987	1998-04
30. Rio Grande Boulevard, South of Capistrano Court - North of Rock Prairie Road.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1987 Nov. 12, 1987	1998-04
31. Westchester Avenue, South of Dover Street - North of Rock Prairie Road.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	#1874 Dec. 13, 1990	1998-04
32. Rock Prairie Road, East of Shire Drive - West of Victoria Avenue.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	# 2259 Aug. 28, 1997	1998-04
33. Edelweiss Avenue, East of Caterina Lane – West of Innsbruck Circle.	When Flashing	25 mph	7:15-8:45 AM 2:45-4:15 PM	# 2703 Mar. 11, 2004	N/A
34. Innsbruck Circle, North of western intersection of Edelweiss Avenue and Innsbruck Circle.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	# 2703 Mar. 11, 2004	N/A
35. Innsbruck Circle, North of eastern intersection of Edelweiss Avenue and Innsbruck Circle.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	# 2703 Mar. 11, 2004	N/A
36. Sunflower Trail, North of Edelweiss Avenue – South of Welsh Avenue.	7:15-8:45 AM 2:45-4:15 PM	25 mph	7:15-8:45 AM 2:45-4:15 PM	# 2703 Mar. 11, 2004	N/A

⚡ - The operational time is a period in which the zone is enforceable. This time is variable and may change each semester/year depending on the actual school hours set by CSISD.

TRAFFIC CONTROL DEVICE INVENTORY

Schedule V – School Zones

Revised August 17, 2009

Location	Posted Hours	Posted Speed Limit	Operational Time (M - F)	Ord. No. / Date Adopted	BASE MAP NO.
C.S. High School					
37. Welsh Avenue, South of Nueces Drive - North of FM 2818 (intersection of Welsh and Nueces).	7:30 AM - 4:00 PM	25 mph	7:30 AM - 4:00 PM	#1889 April 11, 1991	1998-02
38. Welsh Avenue, North of FM 2818 - South of Nueces Drive (intersection of Welsh and FM 2818).	7:30 AM - 4:00 PM	25 mph	7:30 AM - 4:00 PM	#1889 April 11, 1991	1998-02
39. Nueces Drive, South of Hondo Drive - North of Arboles Circle	7:30 AM - 4:00 PM	25 mph	7:30 AM - 4:00 PM	#2403 Aug. 12, 1999	1999-01
40. Nueces Drive, North of FM 2818 - South of Guadalupe Drive	7:30 AM - 4:00 PM	25 mph	7:30 AM - 4:00 PM	#2403 Aug. 12, 1999	1999-01
41. Guadalupe Drive, West of Langford Street - East of Nueces Drive	7:30 AM - 4:00 PM	25 mph	7:30 AM - 4:00 PM	#2403 Aug. 12, 1999	1999-01
Pebble Creek Elementary					
42. Parkview Drive, West of Bogey Court - East of Birdie Court.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2198 Aug. 29, 1996	1998-05
43. Venture Drive, West of Lakeway Drive - East of S.H. 6 East Frontage Road.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2198 Aug. 29, 1996	1998-05
44. Lakeway Drive, South of Greens Prairie Road - North of Parkview Drive.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2198 Aug. 29, 1996	1998-05
45. Lakeway Drive, North of Quality Circle - South of Venture Drive.	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2198 Aug. 29, 1996	1998-05
Cypress Grove Intermediate					
46. Graham Road, West of Schaffer Road - East of Victoria Avenue.	When Flashing	25 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2403 Aug. 12, 1999	1999-02
47. Graham Road, West of S.H. 6 West Frontage Road - East of Schaffer Road.	When Flashing	25 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2403 Aug. 12, 1999	1999-02
48. Schaffer Road, North of Graham Road - South of Hasselt Street.	When Flashing	25 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	#2403 Aug. 12, 1999	1999-02

⚡ - The operational time is a period in which the zone is enforceable. This time is variable and may change each semester/year depending on the actual school hours set by CSISD.

TRAFFIC CONTROL DEVICE INVENTORY

Schedule V – School Zones
Revised August 17, 2009

Location	Posted Hours	Posted Speed Limit	Operational Time (M - F)	Ord. No. / Date Adopted	BASE MAP NO.
Forest Ridge Elementary					
49. Greens Prairie Road, West of Arrington – East of Castlegate Drive.	When Flashing	25 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	# Feb. 9, 2006	N/A
Creekview Elementary					
50. Eagle Avenue, West of New Port Lane – 385 feet east of school property	When Flashing	20 mph	7:30 - 8:15 AM 2:45 - 3:30 PM	# Aug 17, 2009	N/A

⚡ - The operational time is a period in which the zone is enforceable. This time is variable and may change each semester/year depending on the actual school hours set by CSISD.



Creekview Elementary

Eagle Ave Extension Completed: July 2009

Proposed School Zone



Location Map Proposed School Zone



July 28, 2009

August 17, 2009
Consent Agenda Item No. 2c
Annual Price Agreement for Crack Sealant and De-tack Sealant Material

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding approval of a renewal of the annual price agreement with Crafcot Texas Inc. to provide crack sealant material and de-tack sealant material for the maintenance of streets in an amount not to exceed \$98,648.75 remaining the same as the current agreement.

Recommendation(s): Staff recommends approval.

Summary: Under this agreement the unit price for crack sealant, polyflex type III is \$0.48 per lb. The unit price for detack sealant is \$8.15 per gallon. The annual price agreement supports maintenance operations in the Street Maintenance Division.

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

Attachments:

1. Renewal letter

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew bid no. ^{W7}09-69, for cracked sealant/de-tack sealant in accordance with all terms and conditions previously agreed to and accepted.

I understand this renewal term will be for a one year period beginning June 30, 2009 through June 29, 2010, the total amount of the contract is \$98,648.00 (Ninety eight thousand six hundred forty eight and no/100 dollars).

CRAFCO TEXAS, INC.

Will T. Frenkel
AUTHORIZED REPRESENTATIVE

6-18-09
DATE

CITY OF COLLEGE STATION

Mayor

DATE

ATTEST:

City Secretary

DATE

APPROVED:

City Manager

DATE

Adam C. Fazio

City Attorney

DATE

Chief Financial Officer

DATE

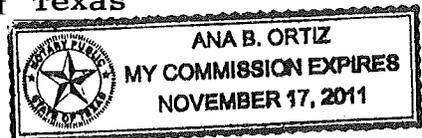
STATE OF TEXAS

CORPORATE ACKNOWLEDGMENT

COUNTY OF BEXAR

This instrument was acknowledged on the 18th day of June, 2009
by William T, Frerichs in his/her capacity as President of
Crafco Texas, Inc., a Texas Corporation, on behalf of said corporation.

Ana B. Ortiz
Notary Public in and for the
State of **Texas**



STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

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

Notary Public in and for the
State of Texas



June 17, 2009

Mr. William Frerichs
Crafco Texas Inc.
105 Tower Drive
San Antonio, TX 78232

**RE: Renewal Bid No. 08-69
Annual Agreement for Crack Sealant/De-Tack Sealant**

Dear Frerichs:

The City of College Station appreciates the services provided by Crafco Texas Inc. this past year. We would like to exercise our option to renew the above referenced contract with your under the same terms and conditions for the term of one year, June 30, 2009 through June 29, 2010 for the amount of \$98,648.00.

If this meets with your company's approval, please complete this renewal agreement (including notarization), and return it no later than Wednesday June 24, 2009.

Should you have any questions, please call me at (979) 764-3437.

Sincerely,

Cynthia Sciulli, C.P.M.
Buyer

Attachment



CITY OF COLLEGE STATION

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

**ANNUAL PRICE AGREEMENT
AND
SPECIFICATIONS
FOR STREET SEALANT MATERIAL
BID #08-69**

BID OPENING DATE: JUNE 4, 2008 @ 2:00 P.M. CST

Bids will be received at the City of College Station Purchasing Department, 1101 Texas Avenue, College Station, TX 77842, until June 4, 2008, at 2:00 p.m. CST, and publicly opened and read aloud at City Hall, 1101 Texas Avenue, College Station, TX. Any questions concerning the bid should be directed to Cynthia Sciulli, C.P.M., Buyer, Purchasing Services Division, (979) 764-3437. **Clearly mark return bid envelope with Bid # and Bid Opening Date.**

INTRODUCTION

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

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

DEFINITIONS, TERMS AND CONDITIONS

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

Communication

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

Confidentiality

Public agencies in Texas are subject to the Public Information Act.

Delivery

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

Electronic Documents

Bidders may be supplied with the original documents in electronic form to aid in the preparation of bid(s). By accepting these electronic documents, Bidders agree not to edit or change the language or format of these documents. Submission of a proposal by Bidder signifies full agreement with this requirement.

Exceptions

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

Extension of Contract

Upon completion of the term of the original contract and upon the mutual agreement of both parties, the original contract may be renewed for up to two (2) additional one (1) year terms [three (3) years total]. The renewal will be under the same terms and conditions as the original contract; provided, however, that the unit prices bid under the original contract may, by mutual agreement, be increased by no more than five percent (5%) of the original contract price. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

Financial Condition

Contractor must provide audited financial statements, if requested, to the City.

Fiscal Funding

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

Forms

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

Indemnification

The successful bidder agrees by entering into this contract, to defend, indemnify and hold Owner harmless from any and all causes of action or claims of damages arising out of or related to bidder's performance under this contract.

August 17, 2009
Consent Agenda Item No. 2d
Call Public Hearing on FY 09 - FY 10 Proposed Budget

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on calling a public hearing on the City of College Station 2009-2010 Proposed Budget for Thursday August 27, 2009 at 7:00 PM in the Council Chambers of College Station City Hall located at 1101 Texas Avenue College Station, Texas.

Recommendation(s): Staff recommends the City Council call a public hearing on the City of College Station 2009-2010 Proposed Budget for Thursday August 27, 2009 at 7:00 PM in the Council Chambers of College Station City Hall located at 1101 Texas Avenue College Station, Texas.

Summary: The City Charter says: "At the meeting at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published a notice of the hearing setting forth the time and place thereof at least five (5) days before the date of the hearing."

After the public hearing the Council may insert or delete items or may increase or decrease items so long as the total of any increases or insertions do not increase the total budget by 3% or more.

Budget & Financial Summary: The proposed budget will be available for review.

Attachments:
N/A

August 17, 2009
Consent Agenda Item No. 2e
Texas Commercial Waste Container Lease Agreement

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on a resolution approving a third annual renewal of a five (5) year agreement for the lease of slant-top, front-end loading refuse containers for an annual estimated expenditure of \$183,780.00.

Recommendation(s): Staff recommends approval of the renewal agreement with Texas Commercial Waste for an annual estimated expenditure of \$183,780.00.

Summary: BID #06-62 was opened on April 4, 2006 @2:00 P.M. Two (2) bids were received and opened. Texas Commercial Waste was the lowest responsible bidder. The monthly lease rate for 8 yard containers as bid is \$15.00 per month and the rate for 4 yard containers is \$7.50 per month. The price includes delivery, storage of inventory and maintenance of the containers.

The number of commercial leased containers has increased from 898 8 yard containers in 2008 to 946 8 yard containers in 2009. The number of 4 yard containers remains the same at 150. The lease is for a five year period in order for the vendor to amortize the capital costs of the containers, thus reducing lease costs.

Staff does review the possibility of city ownership and maintenance on a yearly basis, but has determined it is not cost effective due to onetime costs, ongoing costs, and inadequate available storage and maintenance space. The lease arrangement is preferable to the cost of the city purchasing and maintaining new containers. It is estimated that the City would pay \$965.00 to purchase individual 8 yard containers and \$659.00 for 4 yard containers. The onetime cost to purchase these containers would be approximately \$1,011,740. Additional costs would include a fulltime painter and welder at an estimated cost of \$64,000.00, paint and repair bay building at approximately \$12,000.00, and finally, equipment, materials, maintenance, and 5 percent yearly replacement costs are estimated at \$102,580.00.

The lease agreement was approved by council on May 25, 2006. (Contract No. 06-165)

Budget & Financial Summary: The Lease Agreement is effective July 2009, and funds are budgeted in the Sanitation Fund, Commercial Collection Division.

Attachments:

1. Renewal Agreement.

RENEWAL ACCEPTANCE

By signing herewith, I acknowledge and agree to renew contract #06-165 (Bid #06-62), for rental of front end loaders in accordance with all terms and conditions previously agreed to and accepted. This is the third renewal of a five year contract.

I understand this renewal term will be for the period beginning July 17, 2009 through July 26, 2010. _____

Texas Commercial Waste



AUTHORIZED REPRESENTATIVE

7-23-09

DATE

CITY OF COLLEGE STATION

Mayor

DATE

ATTEST:

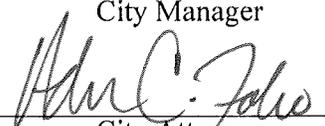
City Secretary

DATE

APPROVED:

City Manager

DATE



City Attorney

DATE

Chief Financial Officer

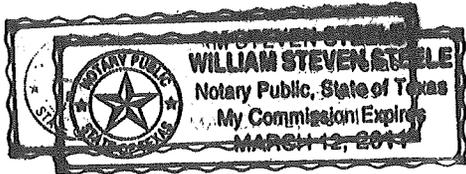
DATE

STATE OF TEXAS

CORPORATE ACKNOWLEDGMENT

COUNTY OF Brazos

This instrument was acknowledged on the 23rd day of July, 2008,
by RONALD SCUMMER in his/her capacity as CEO, MGR, of
TEXAS COMMERCIAL WASTE a TEXAS Corporation, on behalf of said corporation.



William Steble
Notary Public in and for the
State of Texas

STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged on the 23rd day of July, 2008,
by _____, in his capacity as Mayor of the City of College Station, a Texas
home-rule municipality, on behalf of said municipality.



William Steble
Notary Public in and for the
State of Texas



CITY OF COLLEGE STATION

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

**ANNUAL PRICE AGREEMENT
AND
SPECIFICATIONS FOR
RENTAL OF FRONT-END LOADING REFUSE CONTAINERS**

BID #06-62

BID OPENING DATE: APRIL 4, 2006 @2:00 P.M. CST

Bids will be received at the City of College Station Purchasing Department, 1101 Texas Avenue, College Station, TX 77842, until April 4, 2006, at 2:00 p.m. CST, and publicly opened and read aloud at City Hall, 1101 Texas Avenue, College Station, TX. Any questions concerning the bid should be directed to Cynthia Sciulli, C.P.M., Buyer, Purchasing Services Division, (979) 764-3437. **Clearly mark return bid envelope with Bid # and Bid Opening Date.**

INTRODUCTION

Bids are solicited for the leasing of front end loading refuse containers with the following definitions, term and conditions of bidding. Should this bid contain the City's standard contract terms, conditions and insurance requirements, they will be attached as Exhibit A.

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

DEFINITIONS, TERMS AND CONDITIONS

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

Exceptions

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

Extension of Contract

Upon completion of the term of the original contract and upon the mutual agreement of both parties, the original contract may be renewed for up to four (4) additional one (1) year terms [five (5) years total]. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

Financial Condition

Contractor must provide audited financial statements, if requested, to the City.

Fiscal Funding

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

Forms

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

Indemnification

The successful bidder agrees by entering into this contract, to defend, indemnify and hold Owner harmless from any and all causes of action or claims of damages arising out of or related to bidder's performance under this contract.

Independent Contractor

Nothing in this bid is intended nor shall be construed to create an employer/employee relationship between the contracting parties.

Interlocal Agreement

Successful bidder agrees to extend prices and terms to all entities who have entered or will enter into joint purchasing interlocal cooperation agreement(s) with the City of College Station.

Notification

The City of College Station uses multiple channels for the notification and dissemination of all invitations to bid. Approved methods of dissemination include: City of College Station website or the City of College Station Purchasing office. The receipt of solicitations through any other means may result in the receipt of incomplete specifications or addenda which could ultimately render your bid non-compliant. City of College Station accepts no responsibility for the receipt or notifications of solicitations through any other source.

August 17, 2009
Consent Agenda Item No. 2f
George Bush Drive Naming Clarification

To: Glenn Brown, City Manager

From: City Manager's Office

Agenda Caption: Presentation, possible action and discussion regarding a resolution clarifying that George Bush Drive is named to honor the 41st President of the United States George H. W. Bush.

Recommendation(s): N/A

Summary: This item was previously requested by the City Council.

The College Station City Council renamed Jersey Street to George Bush Drive in 1989 in order to honor George H. W. Bush and as a symbol of community support for the effort to place the George Bush Presidential Library on the TAMU campus.

The street is originally named to honor the 41st president as his Presidential Library is located within the city and this resolution makes that clarification.

If approved, no addresses or street signs would be changed.

Budget & Financial Summary: N/A

Attachments:

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, CLARIFYING THAT GEORGE BUSH DRIVE IS NAMED TO HONOR THE 41ST PRESIDENT OF THE UNITED STATES GEORGE H. W. BUSH.

WHEREAS, Texas A&M University requested in 1989 that Jersey Street be renamed as George Bush Drive, as a symbol of community support for the effort to place the George Bush Presidential Library on the TAMU campus; and,

WHEREAS, the City Council renamed the street in order to honor George H. W. Bush in 1989; and,

WHEREAS, the street is originally named to honor the 41st president as his Presidential Library is located within the city; and,

WHEREAS, all citizens of this area have benefitted from the outstanding addition of the George Bush Presidential Library on the Texas A&M University campus; now, therefore,

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

PART 1: That the Mayor and College Station City Council members wish to clarify that George Bush Drive is named to honor the 41st President of the United States George H. W. Bush.

PART 2: That this Resolution is effective upon adoption.

ADOPTED this _____ day of _____, A.D. 2009.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

Ben White, Mayor

APPROVED:



City Attorney

August 17, 2009
Consent Agenda Item No. 2g
2009 Atmos Rate Review Mechanism Increase

To: Glenn Brown, City Manager
From: Hayden Migl, Assistant to the City Manager

Agenda Caption: Presentation, possible action, and discussion regarding an ordinance approving an increase in rates for Atmos Energy pursuant to the Rate Review Mechanism tariff approved in 2008.

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

Summary: The City of College Station, along with 150 other cities served by Atmos Energy Mid-Tex Division ("Atmos" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). On March 6, 2009, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff approved by the City as part of the settlement of the Atmos Mid-Tex 2007 Statement of Intent to increase rates.

The Atmos Mid-Tex March RRM filing sought a \$20.2 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and attached RRM tariff are the result of negotiation between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of ACSC's RRM filing. The Ordinance and RRM tariffs approve rates that will increase the Company's revenues by \$2.6 million effective for bills rendered on or after August 1, 2009.

The RRM tariff was approved by cities as part of the settlement agreement to resolve Atmos' 2007 rate increase case. Atmos' rate request represents the second filing pursuant to the three-year trial project known as the RRM process. The RRM process was created collaboratively by the Steering Committee and Atmos as an alternative to the GRIP surcharge process. The RRM process allows for a more comprehensive rate review and annual adjustment that will function as a substitute for future GRIP filings during the three-year trial period specified by the tariff.

Budget & Financial Summary: The monthly bill impact for the average residential customer will be a \$0.15 increase (about a 0.22% increase in the total bill).

Attachments:

1. Ordinance
2. Tariffs "Attachment A"
3. Proof of Revenue "Attachment B"
4. Model Staff Report
5. Rate Review Mechanism Fact Sheet
6. Memorandum from Rate Case Consultants Lloyd Gosselink Attorneys at Law

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

WHEREAS, the City of College Station, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"), a coalition of more than 150 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop the Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three year experiment by ACSC Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and

WHEREAS, the 2008 Settlement Agreement contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications; and

WHEREAS, on or about March 6, 2009, Atmos Mid-Tex filed with the City its second application pursuant to the RRM tariff to increase natural gas rates by approximately \$20.2 million, such increase to be effective in every municipality that has adopted the RRM tariff within its Mid-Tex Division; and

WHEREAS, ACSC Cities coordinated its review of Atmos' RRM filing and designated a Settlement Committee made up of ACSC representatives and assisted by ACSC attorneys and consultants to resolve issues identified by ACSC in the Company's RRM filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos Mid-Tex is able to justify a slight rate increase over current rates; and

WHEREAS, the Steering Committee has advocated in other proceedings that Atmos Mid-Tex hedge natural gas futures in order to mitigate the volatility of natural gas prices, which are a flow through to customers; and

WHEREAS, the ACSC Executive Committee, as well as ACSC lawyers and consultants, recommend that ACSC members approve the attached rate tariffs ("Attachment A" to this Ordinance), which will increase the Company's revenue requirement by \$2.6 million; and

WHEREAS, the attached tariffs implementing new rates and Atmos' Proof of Revenues ("Attachment B" to this Ordinance) are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest; and

WHEREAS, it is the intention of the parties that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City; and

WHEREAS, the negotiated resolution of the Company's RRM filing and the resulting rates are, as a whole, in the public interest.

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

Section 1. That the findings set forth in this Ordinance are hereby in all things approved.

Section 2. That the City Council finds that the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs and Atmos' Proof of Revenues, which are attached hereto and incorporated herein as Attachments A and B, are just and reasonable and are hereby adopted.

Section 3. That Atmos Mid-Tex shall reimburse the reasonable rate making expenses of the ACSC Cities in processing the Company's rate application.

Section 4. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 5. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 6. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 7. That if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

Section 8. That the Company's Gas Cost Recovery tariff is revised to permit recovery of certain costs associated with hedging natural gas futures.

Section 9. That this Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for bills rendered on or after August 1, 2009.

Section 10. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this 17th day of August, 2009.

Mayor

ATTEST;

City Secretary

APPROVED AS TO FORM:



City Attorney

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 29

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 7.00 per month
Commodity Charge – All Mcf	\$2.2707 per Mcf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	All Cities designated as "Group A" on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 30

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 3,000 Mcf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 13.50 per month
Commodity Charge - All Mcf	\$ 0.9877 per Mcf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 31

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 425.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2583 per MMBtu
Next 3,500 MMBtu	\$ 0.1884 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0404 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailement Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

REVISION NO: 0

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 32

Replacement Index

In the event the “midpoint” or “common” price for the Katy point listed in *Platts Gas Daily* in the table entitled “Daily Price Survey” is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company’s Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 33

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer’s agent at one Point of Delivery for use in Customer’s facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer’s bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 425.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2583 per MMBtu
Next 3,500 MMBtu	\$ 0.1884 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0404 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 34

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest “midpoint” price for the Katy point listed in *Platts Gas Daily* in the table entitled “Daily Price Survey” during such month, for the MMBtu of Customer’s monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer’s receipt quantities for the month.

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer’s deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled “Daily Price Survey.”

Replacement Index

In the event the “midpoint” or “common” price for the Katy point listed in *Platts Gas Daily* in the table entitled “Daily Price Survey” is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company’s Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 45

Provisions for Adjustment

The base rate per Mcf (1,000,000 Btu) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential, and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Mcf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Mcf
- R_i = base rate of temperature sensitive sales for the i^{th} schedule or classification approved by the entity exercising original jurisdiction.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification calculated as the slope of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification and weather station as part of the RRM filing.
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL_i = base load sales for the i^{th} schedule or classification calculated as the y-intercept of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification and weather station as part of the RRM filing.

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

Issued By: David J. Park Vice President, Rates and Regulatory Affairs
Date Issued:

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 46

$$WNA_i = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

Filings with Entities Exercising Original Jurisdiction

As part of its annual RRM filing the Company will file (a) a copy of each computation of the Weather Normalization Adjustment Factor, (b) a schedule showing the effective date of each such Weather Normalization Adjustment, (c) a schedule showing the factors of values used in calculating such Weather Normalization Adjustment and (d) a random sample and audit of thirty (30) actual customer bills, with customer information deleted, for each rate schedule or classification to which the WNA was applied in the preceding 12 month period. To the extent that source data is needed to audit the WNA application, such data will be provided by the Company as part of the annual RRM filing.

If the RRM is discontinued, as provided in the Rider RRM tariff, the information required herein to be filed with the entities exercising original jurisdiction shall be filed on March 1 of each year.

Base Use/Heat Use Factors

<u>Weather Station</u>	<u>Residential</u>		<u>Commercial</u>	
	<u>Base use Mcf</u>	<u>Heat use Mcf/HDD</u>	<u>Base use Mcf</u>	<u>Heat use Mcf/HDD</u>
Abilene	0.98	.0140	9.64	.0629
Austin	1.30	.0161	20.00	.0815
Dallas	1.60	.0212	20.12	.1018
Waco	1.12	.0139	11.69	.0608
Wichita Falls	1.12	.0159	11.67	.0649

Sample WNAF_i Calculation:

$$.3393 \text{ per Mcf} = 2.2707 \times \frac{(.0140 \times (30-17))}{(0.98 + (.0140 \times 17))}$$

Where

i = Residential Single Block Rate Schedule

R_i = 2.2707 per MCF

HSF_i = .0140 (Residential - Abilene Area)

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	All Cities designated as “Group A” on the Cities Served List	
EFFECTIVE DATE:	Bills Rendered on or after 08/01/2009	PAGE: 47

NDD = 30 HDD (Simple ten-year average of Actual HDD for Abilene Area – 9/15/06 – 10/14/06)

ADD = 17 HDD (Actual HDD for Abilene Area – 9/15/06 – 10/14/06)

Bl_i = 0.98 Mcf (Residential - Abilene Area)

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	All Cities Except Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 8/1/2009	PAGE: 68

Applicable to Rate R, Rate C, and Rate I for all gas sales made by Company, and applicable to Rate R, Rate C, Rate I, and Rate T for recovery of Pipeline System costs. The total gas cost recovery amount due is determined by adding the gas cost calculated in Section (a) below and the pipeline cost calculated in Section (b) below.

The amount due for gas cost (Section (a)) is determined by multiplying the Gas Cost Recovery Factor (GCRF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on a Mcf basis. For Customers receiving service under Rate I, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual gas costs.

The amount due for pipeline cost (Section (b)) is determined by multiplying the Pipeline Cost Factor (PCF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on an Mcf basis. For Customers receiving service under Rate I and Rate T, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual gas costs.

(a) Gas Cost

Method of Calculation

The monthly gas cost adjustment is calculated by the application of a Gas Cost Recovery Factor (GCRF), as determined with the following formula:

$$\text{GCRF} = \text{Estimated Gas Cost Factor (EGCF)} + \text{Reconciliation Factor (RF)} + \text{Taxes (TXS)}$$

EGCF = Estimated cost of gas, including lost and unaccounted for gas attributed to residential, commercial, and industrial sales, and any reconciliation balance of unrecovered gas costs, divided by the estimated total residential, commercial, and industrial sales. Lost and unaccounted for gas is limited to 5%.

RF = Calculated by dividing the difference between the Actual Gas Cost Incurred, inclusive of interest over the preceding twelve-month period ended June 30 and the Actual Gas Cost Billed over that same twelve-month period by the estimated total residential, commercial, and industrial sales for the succeeding October through June billing months. The interest rate to be used is the annual interest rate on overcharges and under charges by a utility as published by the Public Utility Commission each December. The interest rate for calendar year 2009 is 2.09%.

Actual Gas Cost Incurred = The sum of the costs booked in Atmos Energy Corp., Mid-Tex Division account numbers 800 through 813 and 858 of the FERC Uniform System of Accounts, including the net impact of injecting and withdrawing gas from storage. Also includes a credit or debit for any out-of-period adjustments or unusual or nonrecurring costs typically considered gas costs and a credit for amounts received as Imbalance Fees or Curtailment Overpull Fees. Also includes any

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	All Cities Except Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 8/1/2009	PAGE: 69

prudently incurred transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments that are executed by the Company for the purpose of price volatility mitigation.

Actual Gas Cost Billed = EGCF multiplied by the monthly volumes billed to Residential, Commercial and Industrial Sales customers, less the total amount of gas cost determined to have been uncollectible and written off which remain unpaid for each month of the reconciliation period.

Any amount remaining in the reconciliation balance after the conclusion of the period of amortization will be maintained in the reconciliation balance and included in the collection of the next RF.

Atmos Energy shall file annual reports with the Commission, providing by month the following amounts: Gas Cost Written Off, Margin Written Off, Tax and Other Written Off, Total Written Off, Gas Cost Collected and Margin Collected.

TXS = Any statutorily imposed assessments or taxes applicable to the purchase of gas divided by the estimated total residential, commercial, and industrial sales.

ADJ = Any surcharge or refund ordered by a regulatory authority, inclusive of interest, divided by the estimated total residential, commercial, and industrial sales is to be included as a separate line item surcharge.

(b) Pipeline Cost

Method of Calculation

Each month, a Pipeline Cost Factor (PCF) is calculated separately for each Pipeline Cost Rate Class listed below. The formula for the PCF is:

$PCF = PP / S$, where:

$PP = (P - A) \times D$, where:

P = Estimated monthly cost of pipeline service calculated pursuant to Rate CGS

D = Pipeline service allocation factor for the rate class as approved in the Company's most recent rate case, as follows:

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	GCR – GAS COST RECOVERY	
APPLICABLE TO:	All Cities Except Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 8/1/2009	PAGE: 70

Pipeline Cost Rate Class	Allocation Factor (D)
Rate R - Residential Service	.634698
Rate C - Commercial Service	.302824
Rate I - Industrial Service and Rate T - Transportation Service	.062478

A = Adjustment applied in the current month to correct for the difference between the actual and estimated pipeline cost revenue of the second preceding month, calculated by the formula:

$A = R - (C - A2)$, where:

R = Actual revenue received from the application of the PP component in the second preceding month.

C = Actual pipeline costs for the second preceding month.

A2 = The adjustment (A) applied to the PP component in the second preceding month.

S = Estimated Mcf or MMBtu for the rate class for the current billing month.

The PCF is calculated to the nearest 0.0001 cent.

The Pipeline Cost to be billed is determined by multiplying the Mcf or MMBtu used by the appropriate PCF. The Pipeline Cost is determined to the nearest whole cent.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	CEE – CONSERVATION & ENERGY EFFICIENCY	
APPLICABLE TO:	All Cities except Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 8/1/2009	PAGE: 84

Purpose

Atmos Energy Mid-Tex is proposing to institute a complete Conservation & Energy Efficiency program which will offer assistance to qualified customer segments in reducing energy consumption and lowering energy utility bills. The proposal is one where Atmos Energy shareholders will fund a percentage of the allowable expenses incurred annually, with a customer rate component providing the remainder of the funding. Following is a high-level, concept summary of the proposal. Atmos Energy Mid-Tex Division proposes to work with the communities it serves to develop the details of a new tariff and programs addressing conservation and energy efficiency.

Synopsis:

Voucher system to provide free energy savings materials and supplies to qualifying customers of Atmos Mid-Tex. Qualified Customers will receive up to one thousand five hundred dollars (\$1,500.00) worth of caulking, weather-stripping, sheathing, sealing, water heater blankets, related gas plumbing, and like materials, other energy saving devices such as clock-thermostats, set-back devices ("covered items") from approved suppliers / retailers including necessary labor. Company will undertake efforts to enlist support from community groups, including its own Employee Action Program, to assist customers with installation. If it is determined that professional installation capabilities are necessary, the parties will agree on labor assistance amounts.

Eligibility

Low Income – Low-income rate-payers that qualify for heating bill assistance through LIHEAP and other government energy efficiency program agencies and all agencies that distribute Atmos "Share the Warmth" funds. Agencies that allocate assistance funds denote customer as Low Income, a status that lasts for one year.

Senior Citizen – Primary account holder can request eligibility through ATM call center or web-site. Customer provides primary SSN which is verified through Social Security Administration. And account holder that is or turns 65 years old in that year becomes eligible.

Funding

Initial annual program funding will be at two million dollars (\$2,000,000). Atmos Energy shareholders will contribute one million dollars (\$1,000,000.00) to this initiative annually with ratepayers providing one million dollars (\$1,000,000.00) per year. It is proposed that the program operate on an October 1 through September 30 year, with regulatory asset/liability accounting employed by Atmos to track the difference between program funding and qualifying program expenditures. No Atmos employee labor will be charged as a program expenditure.

Administration:

A third-party administrator will coordinate qualification of customers, voucher distribution, subsequent verification and reimbursement of eligible expenditures and general program administration. Program administration expenses will be funded from the annual approved budget.

Issued By: David J. Park Vice President, Rates and Regulatory Affairs
Date Issued:

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

REVISION NO: 0

RIDER:	CEE – CONSERVATION & ENERGY EFFICIENCY	
APPLICABLE TO:	All Cities except Dallas	
EFFECTIVE DATE:	Bills Rendered on or after 8/1/2009	PAGE: 85

Audits will be provided all interested parties within 120 days of the end of each program year to determine effectiveness.

Report

Atmos shall file an annual report detailing cost to administer the program including the amounts paid out of the program for energy conversation assistance. The report shall also detail the number of applicants and expenditures by geographic location, including the numbers of applications rejected and accepted and reason if rejected. The report shall be filed with the Director of the Gas Services Division of the Railroad Commission within 120 days of the end of each program year and with counsel of record for municipalities served by the Mid-Tex Division.

Issued By: David J. Park
Date Issued:

Vice President, Rates and Regulatory Affairs

**ATMOS ENERGY CORP., MID-TEX DIVISION
PROOF OF REVENUES
TEST YEAR ENDING DECEMBER 31, 2008
(2009 RRM SETTLEMENT PROPOSAL)**

Line No.	Description	Prospective Rate Increase	2008 True-up	Total change from current rates
	(a)	(b)	(c)	(d)
1	Rate R			
2	Consumption Charge per MCF			
3	Change from Current Rate	\$0.1047	\$0.0060	\$0.0297
4	Billing Units for Specified Period	82,321,960	82,321,960	82,321,960
5	Total Change in Base Revenue	\$8,619,109	\$493,932	\$2,444,962
6	Associated Revenue Taxes	<u>\$532,144</u>	<u>\$30,495</u>	<u>\$150,952</u>
7	Total Rate Impact	\$9,151,253	\$524,427	\$2,595,914
8	Number of Bills for Specified Period	17,244,058	17,244,058	17,244,058
9	Average Impact per Bill	\$0.53	\$0.03	\$0.15
10	Rate C			
11	Consumption Charge per MCF			
12	Change from Current Rate	\$0.0383	\$0.0052	\$0.0068
13	Billing Units for Specified Period	52,439,100	52,439,100	52,439,100
14	Total Change in Base Revenue	\$2,008,418	\$272,683	\$356,586
15	Associated Revenue Taxes	<u>\$124,000</u>	<u>\$16,835</u>	<u>\$22,016</u>
16	Total Rate Impact	\$2,132,417	\$289,519	\$378,601
17	Number of Bills for Specified Period	1,452,943	1,452,943	1,452,943
18	Average Impact per Bill	\$1.47	\$0.20	\$0.26
19	Rates I&T - 1st block			
20	Consumption Charge per MCF			
21	Change from Current Rate	\$0.0144	\$0.0087	(\$0.0150)
22	Billing Units for Specified Period	9,681,181	9,681,181	9,681,181
23	Total Change in Base Revenue	\$139,409	\$84,226	(\$145,218)
24	Associated Revenue Taxes	<u>\$8,607</u>	<u>\$5,200</u>	<u>(\$8,966)</u>
25	Total Rate Impact	\$148,016	\$89,426	(\$154,183)
26	Rates I&T - 2nd block			
27	Consumption Charge per MCF			
28	Change from Current Rate	\$0.0105	\$0.0064	(\$0.0109)
29	Billing Units for Specified Period	10,782,882	10,782,882	10,782,882
30	Total Change in Base Revenue	\$113,220	\$69,010	(\$117,533)
31	Associated Revenue Taxes	<u>\$6,990</u>	<u>\$4,261</u>	<u>(\$7,257)</u>
32	Total Rate Impact	\$120,210	\$73,271	(\$124,790)
33	Rates I&T - 3rd block			
34	Consumption Charge per MCF			
35	Change from Current Rate	\$0.0023	\$0.0014	(\$0.0023)
36	Billing Units for Specified Period	19,798,632	19,798,632	19,798,632
37	Total Change in Base Revenue	\$45,537	\$27,718	(\$45,537)
38	Associated Revenue Taxes	<u>\$2,811</u>	<u>\$1,711</u>	<u>(\$2,811)</u>
39	Total Rate Impact	\$48,348	\$29,429	(\$48,348)
40	Rates I&T - Total			
41	Total Rate Impact	\$316,575	\$192,127	(\$327,322)
42	Number of Bills for Specified Period	11,571	11,571	11,571
43	Average Impact per Bill	\$12.79	\$7.73	(\$13.32)
44				
45	Total Change in Base Revenue	\$10,925,693	\$947,570	\$2,493,260
46	Total Rate Impact (Inc. Rev. Taxes)	\$11,600,245	\$1,006,073	\$2,647,194

MODEL STAFF REPORT

The City, along with 150 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). On March 6, 2009, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff approved by the City as part of the settlement of the Atmos Mid-Tex 2007 Statement of Intent to increase rates.

The Atmos Mid-Tex March RRM filing sought a \$20.2 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and attached RRM tariff are the result of negotiation between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of ACSC's RRM filing. The Ordinance and RRM tariffs approve rates that will increase the Company's revenues by \$2.6 million effective for bills rendered on or after August 1, 2009. The monthly bill impact for the average residential customer will be a \$0.15 increase (about a 0.22% increase in the total bill).

Please note that current rates contain a true-up component (\$9 million to be collected over twelve months) from the first RRM in 2008. Collection of the 2008 true-up amount is scheduled to end on November 1, 2009. The rate impact of that 2008 true-up amount for the period August 1 – October 31, 2009 is \$1,006,073. To simplify the process and to reduce rate fluctuations, the parties have agreed to eliminate collection of the 2008 true-up on August 1, 2009 rather than November 1, 2009. The remaining \$1,006,073 that is still owed from the 2008 true-up will be recovered as part of the 2009 true-up over 12 months rather than 3 months. This change related to the 2008 true-up amount is revenue and rate impact neutral.

The ACSC Executive Committee recommends that all ACSC Cities adopt the Ordinance implementing the rate change.

RRM Background:

The RRM tariff was approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 rate increase case. Atmos Mid-Tex's current action represents the second filing pursuant to the three-year trial project known as the RRM process. The RRM process was created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the GRIP surcharge process. The RRM process allows for a more comprehensive rate review and annual adjustment that will function as a substitute for future GRIP filings during the three-year trial period specified by the tariff.

There are two components to the RRM adjustment. The prospective component adjusts rates for known and measurable changes in O&M and net plant investment. Atmos Mid-Tex and ACSC agreed to cap changes to expenses and invested capital at no more than 5%. The true-up component evaluates whether the Company has over or underrecovered its earnings for the previous year. For purposes of the RRM true-up component, the Atmos Mid-Tex rate of return on equity and its capital structure are frozen to avoid the parent company from manipulating the overall rate of return. Costs expressly prohibited from recovery through the RRM include first-

class air fare, travel, meals or entertainment for an employee's spouse, alcohol, sports events, entertainment, arts and cultural events, sponsorship of sports, arts or cultural events, and social club membership dues.

Purpose of the Ordinance:

The purpose of the Ordinance is to approve rate tariffs (“Attachment A”) and Proof of Revenues (“Attachment B”) that reflect the negotiated rate change pursuant to the RRM process. In addition to the RRM tariffs, the Ordinance also approves a revision to the Atmos Mid-Tex current Gas Cost Recovery ("GCR") tariff to allow the Company to recover certain hedging costs associated with natural gas futures through the GCR tariff.

As a result of the negotiations, ACSC was able to reduce the Company's requested \$20.2 million RRM increase by more than 70%. Approval of the Ordinance will result in rates that implement a \$2.6 million increase in Atmos' revenues effective August 1, 2009.

Reasons Justifying Approval of the Negotiated Resolution:

During the time that the City has retained original jurisdiction in this case, consultants working on behalf of ACSC cities have investigated the support for the Company's requested rate increase. While the evidence does not support the \$20.2 million increase requested by the Company, ACSC consultants agree that the Company can justify a slight increase in revenues. The agreement on \$2.6 million is a compromise between the positions of the parties.

The alternative to a settlement of the RRM filing would be a contested case proceeding before the Railroad Commission of Texas (“RRC”) on the Company's current application, would take several months and cost ratepayers millions of dollars in rate case expenses and would not likely produce a result more favorable than that to be produced by the settlement. The ACSC Executive Committee recommends that ACSC members take action to approve the Ordinance authorizing new rate tariffs.

With regard to the revision to the GCR tariff, ACSC has advocated that the Company use hedging as a risk management tool to help mitigate volatile natural gas prices. The tariff change is consistent with ACSC's prior position.

Explanation of "Be It Ordained" Paragraphs:

1. This paragraph approves all findings in the Ordinance.
2. This section adopts the attached tariffs (“Attachment A”) and the Company's Proof of Revenues (“Attachment B”) in all respects and finds the rates set pursuant to the attached tariffs to be just, reasonable and in the public interest. Note that only new tariffs or existing tariffs being revised are attached to the Ordinance. Existing tariffs not being changed in any way are not attached to the Ordinance.
3. This section requires the Company to reimburse ACSC for reasonable rate making costs associated with reviewing and processing the RRM application.

4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.

5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

6. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.

7. This section is a "Most Favored Nations" clause, which protects the City by mandating that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

8. This section allows the Company to recover certain costs associated with natural gas hedging through the GCR tariff.

9. This section provides for an effective date upon passage.

10. This paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

Rate Review Mechanism Fact Sheet

*The Rate Review Mechanism (RRM) was created in 2008 as part of a collaborative agreement between ACSC and Atmos. It replaces the unworkable and contentious Gas Reliability Infrastructure Program (GRIP) surcharge process.

*The RRM authorizes cities to meaningfully review and dispute the company's annual rate filings in an expedited rate proceeding at the city level. This authority was lacking under the GRIP process.

*The RRM is a substitute for GRIP filings during the three-year trial period (2008 – 2010).

*The RRM permits the Company to seek an annual review of its revenues, estimated cost of operations, and capital investments. In most cases, the company cannot seek rate adjustments greater than 5 percent. The Company must provide evidence as part of the annual review process that cities can assess and, if necessary, challenge.

*The RRM process allows Atmos to seek a surcharge from ratepayers if its anticipated expenses exceed its anticipated revenues for a 12 month period. However, if the Company's revenues exceed its authorized rate of return, it must issue refunds.

Costs Expressly Prohibited from Recovery Under the RRM:

First class airfare, travel, meals or entertainment for an employee's spouse, alcohol, sports events, entertainment, arts and cultural events, sponsorship of sports, arts or cultural events, and social club membership dues.

The RRM is applicable only to the Company's base rates - the cost of delivering natural gas to customers. The commodity price of natural gas is a pass-through cost to customers that can change monthly based upon the price of natural gas.

RRM Bill Impacts:

Pursuant to the negotiated agreement between Atmos and the Steering Committee, the tariffs implementing the RRM will increase rates by \$2.6 million. The average monthly customer impact by class will be:

Residential (4.7 Mcf/month) - \$0.15/month increase (0.22% overall increase)

Commercial (36.1 Mcf/month) - \$0.26/month increase (0.06% overall increase)

Industrial (3480 MMBtu/month) - \$46.80/month decrease (1.96% overall decrease)



Ms. Doyle's Direct Line: (512) 322-5820
Email: kdoyle@lglawfirm.com

MEMORANDUM

TO: Atmos City Steering Committee (ACSC) Members

FROM: Geoffrey Gay
Kristen Doyle

DATE: July 8, 2009

RE: **Atmos RRM Settlement - FINAL ACTION NEEDED BY AUGUST 31, 2009**

The ACSC Settlement Committee (Jay Doegey – Arlington, Danny Reed – Fort Worth, Mark Israelson – Plano, Phil Boyd – Lewisville, Odis Dolton - Abilene), with the advice and input of ACSC consultants and lawyers, has worked to resolve the Company's pending \$20.2 million Rate Review Mechanism ("RRM") rate increase request without the necessity of a protracted and costly contested case proceeding. The attached tariff that reflects rates that will increase Atmos' revenues by \$2.6 million. The negotiated result reduces Atmos' requested rate increase by more than 85%. The monthly bill impact for an average residential customers will be \$0.15. The ACSC Executive Committee recommends approval of the negotiated resolution because it represents an outcome that is equal to or better than the outcome expected from a lengthy contested case proceeding, and maintains cities' role as a regulator of natural gas rates.

Please schedule consideration of the Ordinance at your next available council meeting. Final council action to approve the Ordinance must take place by August 31, 2009. To assist you, several documents are attached:

- An ordinance setting new rates. The approved Ordinance should include the attached Tariffs ("Attachment A" to the Ordinance) and Proof of Revenues ("Attachment B")
- A model staff report
- A RRM fact sheet with customer impacts by class

Please contact Kristen (512/322-5820, kdoyle@lglawfirm.com) immediately if your city is unable to meet the August 31st deadline for final action. Once final action has been taken by your city, please forward a copy of the Ordinance to Atmos Mid-Tex and to our paralegal, Barbara Kimmell (fax number: 512/472-0532, bkimmell@lglawfirm.com).

August 17, 2009
Consent Agenda Item No. 2h
Resolution Determining Need (Easement Acquisition)

To: Glenn Brown, City Manager

From: Chuck Gilman, PE, Director of Capital Projects

Agenda Caption: Presentation, possible action, and discussion regarding approval of a Resolution that will authorize City staff to negotiate for the purchase of easements needed for the Water Reclamation Project, the future development of a bicycle and pedestrian facility project, and the future installation of sanitary sewer lines.

Recommendation(s): Staff recommends Council approval of the Resolution.

Summary: The City Council previously approved a Resolution on March 26, 2009 that authorized the City to acquire easements necessary for the construction, maintenance and operation of the Water Reclamation Project and the construction, maintenance and operation of a bicycle and pedestrian facility project generally in the area described in the attached Project Map. The staff has now identified a need to install sanitary sewer lines in the easements. This Resolution authorizes the City to acquire the easements for all of the above-referenced public uses.

Budget & Financial Summary: This project is funded by Utility Revenue Bonds in the amount of \$3,606,730. Funds for this project are budgeted and available.

Attachments:

1. Resolution Determining Need
2. Project Map – Attachment to Resolution
3. Project Vicinity Map

RESOLUTION NO. _____

RESOLUTION DETERMINING NEED

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, RELATING TO: (1) THE AUTHORITY OF THE CITY TO INITIATE, COMPLETE, AND ACQUIRE, BY PURCHASE OR CONDEMNATION, RIGHT-OF-WAY AND EASEMENT INTEREST IN CERTAIN PROPERTY FOR AN AUTHORIZED PUBLIC PURPOSE AND USE, SAME BEING THE CONSTRUCTION, MAINTENANCE AND OPERATION OF THE WATER RECLAMATION PROJECT, THE INSTALLATION OF SANITARY SEWER LINES, AND THE CONSTRUCTION, MAINTENANCE AND OPERATION OF PEDESTRIAN AND BIKE WAYS; (2) A DECLARATION THAT PUBLIC NECESSITY EXISTS FOR THE CITY TO ACQUIRE SUCH INTEREST, THROUGH PURCHASE OR CONDEMNATION; AND (3) ESTABLISHING PROCEDURES FOR THE ACQUISITION OF SUCH INTEREST IN THE PROPERTY.

WHEREAS, the City of College Station, Texas ("City") is a home rule municipality duly incorporated and chartered under the Constitution and laws of Texas; and

WHEREAS, the City owns, operates, constructs, repairs and maintains a city water and wastewater system as a public service; and

WHEREAS, the City owns, operates, constructs, repairs and maintains a system of pedestrian ways and bikeways as a public service; and

WHEREAS, the City's ownership, operation, construction, repair, and maintenance of the city water and wastewater system and the pedestrian and bikeway system is a benefit to the public; and

WHEREAS, the City, through a condemnation proceeding, may exercise the power of eminent domain to acquire property in order to carry out the ownership, operation, construction, repair, and maintenance of its water and wastewater system and its pedestrian and bikeway system pursuant to Chapter 251 of the Texas Local Government Code, Chapter 21 of the Texas Property Code, and Article II of the City's Charter; and

WHEREAS, the City is engaged in the following project regarding installation and improvements to an irrigation water system between Carters Creek Wastewater Treatment Plant and Veterans Park, including the construction, maintenance and operation of a reclaimed water irrigation line and related water utility infrastructure, facilities, and improvements and other public utilities, Water Reclamation Project (referred to collectively with pedestrian and bikeways system described hereinbelow as the "Project"); and

WHEREAS, the City is engaged in the development of a pedestrian and bikeway system pursuant to it adopted 2004 Pedestrian and Bikeways Plan, including the construction, maintenance and operation pedestrian ways and bikeways and associated facilities; and

WHEREAS, The City has determined through water and waste water master planning the need for sanitary sewer improvements; and

WHEREAS, the City determines that the best interests and needs of the public, including the health, safety and welfare of the public, require that the City complete the Project, through the City's acquisition, by purchase or condemnation proceeding, of the right-of-way and easements as provided in Exhibit A, attached hereto and incorporated herein by reference for all purposes (the "Right-of-Way and Easements"); now, therefore;

BE IT RESOLVED by the City Council of the City of College Station, Texas:

- PART 1: That the City Council of the City of College Station, Texas, hereby officially determines that there is a public necessity for the Right-of-Way and Easements, and the public welfare and convenience will be served by the acquisition of the Right-of-Way and Easements.
- PART 2: That the City Manager is hereby authorized to contract, on behalf of the City of College Station, with a professional appraiser for the appraisal services, with a professional real estate agent to act as a Land Agent for the City and with attorneys for preparation of title opinions needed by the City from time to time in connection with acquisition of the Right-of-Way and Easements.
- PART 3: That the City's Land Agent or other staff appraiser is hereby authorized and directed to examine the independent appraisal reports as they are submitted to the City to determine whether said appraisal reports are supported by sufficient data. Based upon such examination of said appraisal reports, the Land Agent or other staff appraiser shall make a recommendation to the City Manager as to the establishment and approval of the amount of the just compensation for the Right-of-Way and Easements.
- PART 4: After consideration of said recommendation, the City Manager shall establish and approve the amount determined for acquisition of the Right-of-Way and Easements.
- PART 5: Upon establishment and approval by the City Manager of the amount of just compensation for the acquisition of the Right-of-Way and Easements, the City's Land Agent or other staff appraiser is authorized to communicate a written offer to the property owners for the acquisition of

such interest at the full amount determined and established to be just compensation therefore and to negotiate with said owners on behalf of the City.

PART 6: That the Mayor after approval by City Council, or the City Manager as delegated, is hereby authorized to execute all documents necessary to acquire said Right-of-Way and Easements for the Project, on behalf of the City of College Station.

PART 7: That, if necessary, and should a property owner fail to accept a bona fide, good faith offer from the City to purchase the required Right-of-Way and Easements, City representatives shall have the authority to initiate and complete condemnation proceedings against said owner, in order to acquire through condemnation all required property interests and title regarding such property.

PART 8: That the City Manager be and is hereby authorized to sell any such surplus improvements, or order the demolition thereof, if any, located on the real property acquired in connection with this Project.

PART 9: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2009.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:



City Attorney

EXHIBIT "A" TO RESOLUTION DETERMINING NEED

Being a fifty foot (50') wide strip of Permanent Public Utility Easements extending along and across the following tracts of land, the alignment of said easements being generally depicted by the attached project map.

Tax ID	Property Owner (current of former)	Legal Description & Deed Reference (Brazos County Official Records)
R13277	Guseman, Lawrence F, III	15.679 acres, Morgan Rector League, A-46 Volume 8617 Page 87
R303883	Guseman, Grant A	5.013 acres, Morgan Rector League, A-46 Volume 8617 Page 69
	City of College Station Carters Crossing Park	7.34 acres, Morgan Rector League, A-46 Volume 8179 Page 114
R13187	Martell Childrens Trust	20.69 acres, Morgan Rector League, A-46 Volume 591 Page 18
	City of College Station Raintree Park	13 acres, Morgan Rector League, A-46 Volume 527 Pages 80 & 83
R38596	Carpenter, H Dale and Linda S	3.05 acres, Raintree #5, Block 1, Lot 1 (Replat) Volume 1206 Page 811
R13203	Cashion, Shelley J, Trustee	12.39 acres, Morgan Rector League, A-46 Volume 3559 Page 269
R13271	Ruffino, LJ & Kittl	34.29 acres, Morgan Rector League, A-46 Volume 508 Page 418
R98351	Kolbe, C Carl & Jeanne	23.75 acres, Morgan Rector League, A-46 Volume 2558 Page 133 Volume 3213 Page 335

R118599	Jones, Charles B et al	12.47 acres, Morgan Rector League, A-46 Volume 8488 Page 248
R13188	Smith, Richard A	77.62 acres, Morgan Rector League, A-46 Volume 328 Page 75 Volume 360 Pages 336 & 338

Being a thirty foot (30') wide strip of Permanent Public Utility Easements extending along and across the following tracts of land, the alignment of said easements being generally depicted by the attached project map.

R13188	Smith, Richard A	77.62 acres, Morgan Rector League, A-46 Volume 328 Page 75 Volume 360 Pages 336 & 338
R10568	Highway 30 Partnership Alfred A Martin & Sudhir D. Patel	23.961 acres, Morgan Rector League, A-46 Volume 2108 Page 150
R10548	Regency Parkway Inc	58.59 acres, Richard Carter League, A-8 Volume 1219 Page 287
R10551	The Summit Crossing, LLC	17.2 acres, Richard Carter League, A-8 Volume 8491, Page 52



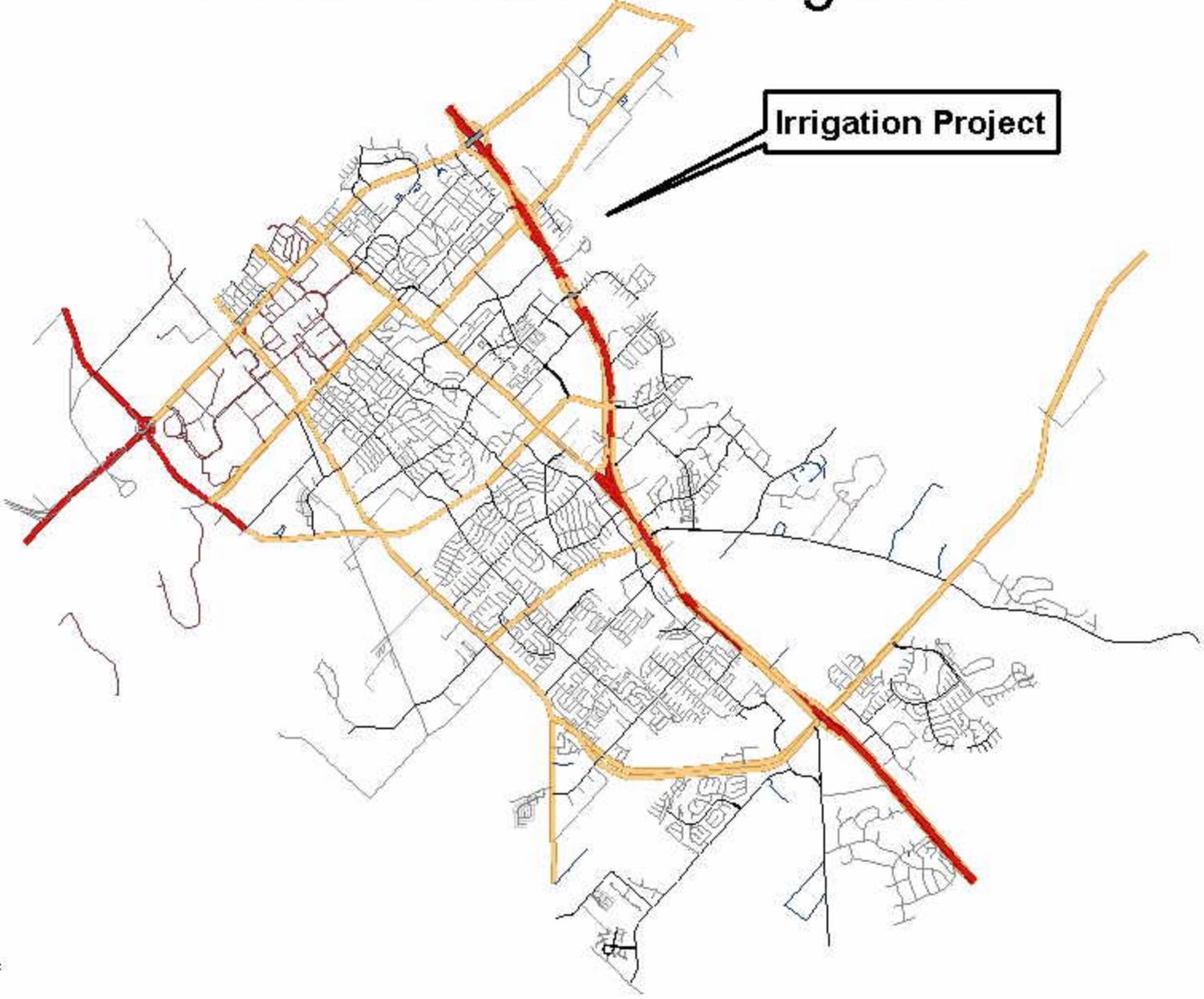
Veterans Park and Athletic Complex

Carters Creek
Wastewater Treatment Plant

0 500 1,000 Feet



Water Reclaimed - Irrigation



August 17, 2009
Consent Agenda Item No. 2i
Resolution to Condemn a Public Water Utility Easement
and a Temporary Construction Easement for the
Wellborn Widening Project
(Water Line Relocation)

To: Glenn Brown, City Manager

From: Chuck Gilman, Director of Capital Projects

Agenda Caption: Presentation, possible action, and discussion regarding approval of a Resolution that will authorize the City Attorney to condemn a public water utility easement and a temporary construction easement needed for the relocation of existing College Station utilities to accommodate the Wellborn Widening Project.

Recommendation(s): Staff recommends approval of the Resolution which will authorize the City Attorney to acquire the easements through condemnation.

Summary: TxDOT's widening of Wellborn Road, from 2818 to SH 40, necessitated the removal and replacement of a major water line formerly located along the east side of Wellborn Road. The water line is needed to transport potable water from Dowling Road Pump Station to Greens Prairie Elevated Storage Tank and serve developing areas in south College Station. A portion of the line has already been replaced, but the final section remains incomplete. In 2004, staff had plans to lay the pipe in the railroad right of way. Before construction, however, the adjoining property owners filed an adverse possession claim against the railroad, which prevented the City from installing the line. It was subsequently decided to move the line onto private land and Council authorized staff to negotiate for the purchase of the easements by approving a Needs Resolution on November 24, 2008.

Staff has negotiated in good faith for the purchase of the last easements needed for the project. The required property includes a thirty foot (30') wide permanent public water utility easement and thirty foot (30') wide temporary construction easement along the west side of Wellborn Road and the Union Pacific Railroad, south of Rock Prairie Road. The easements extend along the north and east boundary of the 200 acre tract owned by Betty Sue Ellington Schuette Hill, et al. To date, the City and landowners have been unable to finalize an agreement for the purchase.

Budget & Financial Summary: Although the easements have been appraised for \$51,793.00, the award will be unknown until the Special Commissioners' hearing is complete. There will also be additional expenditures required for outside counsel, appraisal testimony, court fees, filing fees, title insurance and closing costs. Funds in the amount of \$4,250,000 are for currently budgeted for this project in the Water Capital Improvement Projects Fund as part of the Wellborn Widening Project. \$3,459,355 has been expended or committed to date, leaving a balance of \$790,645.

Attachments: Project Map
Resolution with Exhibits

Wellborn Widening Project Water Line Relocation



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS RELATING TO: (1) THE AUTHORITY OF THE CITY TO INITIATE, COMPLETE, AND ACQUIRE BY CONDEMNATION AN EXCLUSIVE, PERMANENT PUBLIC WATER UTILITY EASEMENT REGARDING 3.676 ACRES OF LAND MORE OR LESS, AND A RELATED TEMPORARY CONSTRUCTION EASEMENT REGARDING 3.680 ACRES OF LAND MORE OR LESS, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, A PART OF THE ROBERT STEVENSON LEAGUE ABSTRACT NO. 54; (2) A DECLARATION THAT A PUBLIC NECESSITY EXISTS FOR THE CITY TO ACQUIRE SAID EASEMENTS BY CONDEMNATION IN ORDER TO ACCOMPLISH AN AUTHORIZED AND DECLARED PUBLIC USE AND PURPOSE; (3) THE RATIFICATION OF ALL PRIOR CITY ACTS AND RESOLUTIONS; AND (4) THE ESTABLISHMENT OF AN EFFECTIVE DATE AND COMPLIANCE WITH THE OPEN MEETING STATUTES.

WHEREAS, the City of College Station, Texas (“City”) is a home rule municipality which is duly incorporated and chartered under the constitution and laws of Texas; and

WHEREAS, the City owns, operates, constructs, repairs, and maintains a municipal water utility system (“water utility system”) as a public service, in order to provide water service to the public and the City, now and in the future; and

WHEREAS, the City’s ownership, operation, construction, repair, and maintenance of the water utility system is a benefit to the public, because the system currently provides, and will provide in the future, an important source of water to the public and the City. Therefore, the water utility system, including the City’s ownership, operation, construction, repair, and maintenance of the system, now and in the future, are hereby declared to be worthwhile public uses and purposes; and

WHEREAS, the City, through a condemnation proceeding, may exercise the power of eminent domain to acquire property, inside or outside the municipality, in order to efficiently carry out the ownership, operation, construction, repair, and maintenance of its water utility system pursuant to the following, non-exclusive authority, the contents of which are 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 City Charter; and

WHEREAS, the City is engaged in the following project regarding the improvement and expansion of its water utility system related water system facilities, waterlines, water pipelines, valves, fiber optic cables, infrastructure, improvements and related appurtenances known as the Wellborn Widening Project also referred to as the Water Project (“project”). This project will benefit the public and the City because its completion and operation will enhance and improve the transportation and distribution of water related water system facilities, waterlines, water pipelines, valves, fiber optic cables, infrastructure, improvements and related appurtenances available to the community at large. Therefore, this project, which includes the acquisition of the easements herein described, is hereby declared to be a worthwhile public use and purpose; and

WHEREAS, the City determines that the best interests and needs of the public, including the health, safety, and welfare of the public, require and necessitate that the City's water utility system and related water system facilities, waterlines, water pipelines, valves, fiber optic cables, infrastructure, improvements and related appurtenances should be improved and expanded through the City's acquisition, by a condemnation proceeding, of the following easements: (a) an exclusive, permanent water system utility easement and right of way ("permanent public utility easement") regarding the project, on, in, over, along, under, across, and through a certain tract or parcel of land, being and situated in College Station, Brazos County, Texas, containing 3.676 acres more or less, a part of the Robert Stevenson League, Abstract No. 54, and for the payment of reasonable, adequate, and just compensation by the City to the owner or owners thereof, as required by law, said property being more particularly described by metes and bounds and survey plat in Exhibit A, which is attached hereto and incorporated by reference for water system facilities, water lines, water pipelines, valves, fiber optic cables, infrastructure, improvements and related appurtenances; and (b) a related temporary construction easement ("temporary construction easement") regarding the project, on, in, over, along, under, across, and through a certain tract or parcel of land, being and situated in College Station, Brazos County, Texas, containing 3.680 acres more or less, a part of the Robert Stevenson League, Abstract No. 54, and for the payment of reasonable, adequate, and just compensation by the City to the owner or owners thereof, as required by law, said property being more particularly described by metes and bounds and survey plat in Exhibit B, which is attached hereto and incorporated by reference ("temporary construction easement"); and (c) said permanent easement and temporary construction easement being hereafter referred to as the subject property unless otherwise designated; and

WHEREAS, pursuant the authority stated herein, the City intends and seeks to acquire the aforementioned easements regarding the subject property for the following, declared public uses and purposes regarding the project:

(a) the construction, installation, inspection, placement and removal of water lines, water pipelines, valves, fiber optic cables, infrastructure, facilities, improvements and related appurtenances by the City, on, in, over, above, along, under, across, and through said property, 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, as described herein; 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 on the subject property, including all water lines, water pipelines, valves, fiber optic cables, infrastructure, facilities, improvements and/or related appurtenances placed on, in, over, above, along, under, across, and through said property, in order to improve, expand, and maintain the 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, as described herein; and

WHEREAS, pursuant to the project, a public necessity exists for the City to acquire by condemnation proceeding the permanent easement and the temporary construction easement regarding the subject property for the public uses and purposes described herein, and

WHEREAS, pursuant to the project, the City's acquisition of the permanent easement and the temporary construction easement regarding the subject property by a condemnation proceeding is necessary to accomplish, achieve, and advance the public uses and purposes described herein; and

WHEREAS, upon acquisition of the permanent 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, as described herein, including the specific use limitations of said owner as described herein;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of College Station, Texas:

1. Singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, where necessary for a correct meaning of this resolution.
2. All prior resolutions or orders regarding the project, the permanent public utility easement, the temporary construction easement, and the subject property are hereby supplemented and incorporated by reference.
3. All prior acts of the City, including the acts of its elected officials, officers, employees, agents, or attorneys, regarding the project, the permanent public utility easement, the temporary construction easement, and the subject property are hereby authorized, ratified, approved, confirmed, and validated.
4. All statements made in the caption, preamble, preliminary recitals, and the documents attached to this resolution are true, correct, and incorporated by reference.
5. A public necessity exists and it is in the best interests and needs of the public, including the health, safety, and welfare of the public, pursuant to the utility project described above, require that the water utility system of the City be improved and expanded by the City's acquisition of the permanent easement and the temporary construction easement regarding the subject property, as described herein.
6. The permanent easement and the temporary construction easement regarding the subject property, pursuant to the project and as described herein, is sought and shall be acquired by the City for the following public uses and purposes:
 - a. the construction, installation, inspection, placement and removal of water lines, water pipelines, valves, fiber optic cables, and related water utility infrastructure, facilities, improvements and related appurtenances 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 easement, including all utility infrastructure, facilities, improvements or appurtenances 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.
7. All public uses and purposes described in this resolution are hereby declared to be worthwhile, convenient, and a public necessity to justify and support the acquisition of the permanent easement and the temporary construction easement by the City through a condemnation proceeding.
8. Regarding the permanent easement, temporary construction easement, and subject property described in this resolution, and pursuant to the project, the City hereby declares the following:
- a. The City made a bona fide, good faith offer to purchase said easements from the owner of the subject property. Said offer was rejected or not accepted by the owner. Thus, the City and said owner are unable to agree on the issue of damages or compensation. Therefore, a public necessity and convenience exists for the City to acquire said easements through a condemnation proceeding for the public uses and purposes stated in this resolution.
 - 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 in this resolution.
9. Pursuant to the project, the City's elected officials, officers, employees, agents, representatives, and attorneys are hereby authorized to engage in the following conduct regarding the permanent easement, the temporary construction easement, and the subject property:

- a. Said representatives shall have the authority to lay-out or map the exact location of the land needed regarding the subject property.
 - b. Said representatives shall have the authority to hire, engage, or direct such City staff, engineers, surveyors, appraisers, title companies, architects, attorneys, or other persons or entities needed to effect: the mapping or design of the necessary water lines, pipelines, valves, fiber optic cables, infrastructure, facilities, improvements or related appurtenances on the subject property; the establishment and acquisition of the necessary title to the subject property; and the construction, operation, inspection, and maintenance of the necessary water utility infrastructure, facilities, or improvements on the subject property.
 - c. Said representatives shall have the authority, with the consent of the property owner or through a court order, to enter upon the subject property for the purpose of: surveying and establishing title; determining reasonable, adequate, and just compensation; conducting tests; or negotiating with the owner for the purchase of the required property interests.
 - d. Said representatives shall have the authority, after determining reasonable, adequate, and just compensation for said easements, to negotiate with the property owner for the purpose of acquiring for the City the required property interests by purchase.
 - e. Said representatives shall have the authority to initiate and complete condemnation proceedings against said owner, in order to acquire through condemnation all required property interests and title regarding the subject property.
 - f. Said representatives shall have the authority to initiate and complete all other actions deemed necessary and appropriate to effect the accomplishment of the public uses and purposes described herein.
10. Upon acquisition of the permanent 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, 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, provided that said use does not

change the grade over the land of said easement without the prior written consent of the City.

- 11. Upon acquisition of the 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 water lines, pipelines, valves, fiber optic cables, infrastructure, facilities, improvements or related appurtenances 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.
- 12. This resolution and order shall take effect immediately from and after its passage.
- 13. This resolution was considered and passed at a meeting held in compliance with Chapter 551 of the Texas Government Code, the Texas Open Meetings Act.

ADOPTED this 17th day of August, A.D. 2009.

ATTEST:

APPROVED:

CONNIE HOOKS, City Secretary

BEN WHITE, Mayor

APPROVED:

Carla A. Robinson
City Attorney

Exhibit "A" and Exhibit "B"

Property Descriptions and Diagrams Follow this Page

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

Proposed 30' Easement
Ellington and Hill Tract
Robert Stevenson League A-54
College Station, Texas
11 August, 2008

All that certain tract or parcel of land lying and being situated in the Robert Stevenson League, Abstract no. 54, in College Station, Brazos County, Texas, being a part of that tract conveyed to Verna T. Ellington and Betty Sue Ellington Hill by deeds recorded in Volume 3082, Page 5 and Volume 7464, Page 275 of the Official Records of Brazos County, Texas, being an easement thirty feet (30') in width lying along and adjoining the westerly right-of-way line of the Union Pacific Railroad extending from the southeast line of North Graham Road to the northwest line of that 4.301 acre tract conveyed to Wellborn Water Supply Corporation by deed recorded in Volume 2700, Page 114 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at the intersection of the west right-of-way line of the Union Pacific Railroad (200' width) as recorded in Volume U, Page 387 of the Deed Records of Brazos County, Texas and the northwest line of the said Wellborn Water Supply Corporation tract at a point located S 43° 08' 52" W – 74.80 feet from a ½" iron rod found (1996) at a fence corner marking the north corner of the said Wellborn Water tract, a ¾" pipe found (1996) at a cross-tie fence corner post at the west corner of the said Wellborn Water tract bears S 43° 08' 52" W – 517.34 feet, and from where the City of College Station 1994 GPS monument no. 117 bears N 61° 49' 43" W – 6053.6 feet.

Thence S 43° 08' 52" W – 43.36 feet along the northwest line of the said Wellborn Water Supply Corporation tract;

Thence N 0° 37' 47" W – 1215.40 feet parallel to and 130' from the centerline of said railroad right-of-way to the beginning of a tangent curve to the left (R=2711.26 feet);

Thence along the arc of said curve through a central angle of 46° 25' 42", the chord of which bears N 23° 50' 38" W – 2137.39', to the end of said curve;

Thence N 47° 03' 29" W – 1928.21 feet continuing parallel and 130 feet from the centerline of said railroad right-of-way to the southeast line of North Graham Road from where a tree at the fenced west corner of the said Ellington and Hill tract bears S 41° 08' 39" W – 2049.5 feet;

Thence N 41° 08' 39" E – 30.01 feet along the southeast line of North Graham Road to the southwest right-of-way line of said railroad;

Thence along the southwest right-of-way line of said railroad as follows;

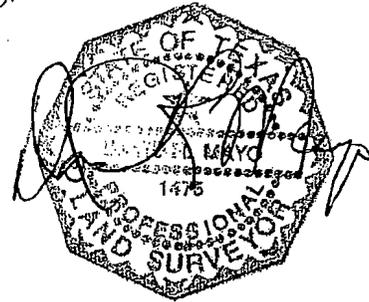
S 47° 03' 29" E – 1929.15 feet to the beginning of a tangent curve to the right (R=2741.26');

Along the arc of said curve through a central angle of 46° 25' 42", the chord of which bears S 23° 50' 38" E – 2161.04', to the end of said curve;

S 0° 37' 47" E – 1184.09 feet to the Point of Beginning and containing 3.676 acres of land more or less.

Bearings are Texas State Plane, NAD83(1986) datum, based on 1994 City of College Station GPS monument nos. 117 and 134 (S 28° 54' 08" E).

See separate survey plat dated August 2008.



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

Proposed 30' Temporary Easement
Ellington and Hill Tract
Robert Stevenson League A-54
College Station, Texas
11 August, 2008

All that certain tract or parcel of land lying and being situated in the Robert Stevenson League, Abstract no. 54, in College Station, Brazos County, Texas, being a part of that tract conveyed to Verna T. Ellington and Betty Sue Ellington Hill by deeds recorded in Volume 3082, Page 5 and Volume 7464, Page 275 of the Official Records of Brazos County, Texas, being an easement thirty feet (30') in width lying along and adjoining the westerly right-of-way line of the Union Pacific Railroad extending from the southeast line of North Graham Road to the northwest line of that 4.301 acre tract conveyed to Wellborn Water Supply Corporation by deed recorded in Volume 2700, Page 114 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning in the northwest line of the said Wellborn Water Supply Corporation tract at a point located S 43° 08' 52" W – 118.15 feet from a ½" iron rod found (1996) at a fence corner marking the north corner of the said Wellborn Water tract, a ¾" pipe found (1996) at a cross-tie fence corner post at the west corner of the said Wellborn Water tract bears S 43° 08' 52" W – 517.34 feet, said point also being 130' measured perpendicular from the centerline of the Union Pacific Railroad (200' width) as recorded in Volume U, Page 387 of the Deed Records of Brazos County, Texas and.

Thence through the said Ellington tract as follows;

N 0° 37' 47" W – 1215.40 feet parallel to and 130' from the centerline of said railroad right-of-way to the beginning of a tangent curve to the left (R=2711.26 feet);

Along the arc of said curve through a central angle of 46° 25' 42", the chord of which bears N 23° 50' 38" W – 2137.39', to the end of said curve;

N 47° 03' 29" W – 1928.21 feet continuing parallel and 130' from the centerline of said railroad right-of-way to the southeast line of North Graham Road from where a tree at the fenced west corner of the said Ellington and Hill tract bears S 41° 08' 39" W – 2049.5 feet;

Thence S 41° 08' 39" W – 30.01 feet along the southeast line of North Graham Road to the northwest corner of this tract;

Thence through the said Ellington tract as follows;

S 47° 03' 29" E – 1927.26 feet to the beginning of a tangent curve to the right (R=2681.26');

Along the arc of said curve through a central angle of 46° 25' 42", the chord of which bears S 23° 50' 38" E – 2113.74' to the end of said curve;

S 0° 37' 47" E – 1246.71 feet to the northwest line of the Wellborn Water Supply Corporation tract;

Thence N 43° 08' 52" E – 43.36 feet along the northwest line of the said Wellborn Water Supply Corporation tract to the Point of Beginning and containing 3.680 acres of land more or less.

Bearings are Texas State Plane, NAD83(1986) datum, based on 1994 City of College Station GPS monument nos. 117 and 134 (S 28° 54' 08" E).

See separate survey plat dated December 2008.



August 17, 2009
Consent Agenda Item No. 2j
Department of Public Safety- Interlocal Agreement

To: Glenn Brown, City Manager

From: Jeff Capps, Interim Chief of Police

Agenda Caption: Presentation, possible action and discussion regarding the approval of an interlocal agreement with the Texas Department of Public Safety.

Recommendation(s): Staff recommends approval of the agreement

Summary: The Texas Department of Public Safety (DPS) stocks certain forms, manuals and supplies for the Intoxilyzer Breath Testing Program and the Laboratory Alcohol and Drug Testing Program for all Texas cities, counties and state Department of Public Safety operations. This is done to control uniformity of procedures, consistency of paperwork and supplies for these programs. DPS requires all participating agencies to enter into an interlocal agreement every two years. College Station Police Department participates in these programs and has historically ordered supplies from DPS. This interlocal agreement is a renewal and will allow us to continue this practice.

Budget & Financial Summary: N/A

Attachments:

1. Interlocal Agreement
2. Purchasing instruction manual

INTERLOCAL COOPERATION CONTRACT

THE STATE OF TEXAS

COUNTY OF TRAVIS

THIS CONTRACT is entered into by and between the Texas Department of Public Safety and the local governmental agency shown below as the Contract Parties, pursuant to the authority granted and in compliance with the provisions of "The Interlocal Cooperation Contract Act," Government Code, Chapter 791, and in furtherance of the responsibilities of the Texas Department of Public Safety as provided in Government Code, Chapter 411.

I. CONTRACTING PARTIES

The Receiving Agency: City of College Station, Texas

Complete Address: 1101 Texas Avenue, College Station, Texas, 77840

The Performing Agency: Texas Department of Public Safety

II. STATEMENT OF SERVICE TO BE PERFORMED:

The Texas Department of Public Safety will provide, in accordance with the procedures set forth in Department rules, certain forms, manuals, and supplies for the Receiving Agency to use in the Breath Testing and Laboratory Alcohol and Drug Testing Program. The purpose and objective of this Contract are to control and establish uniform procedures, paperwork and supplies used in the above mentioned programs.

III. BASIS FOR CALCULATING COSTS:

Cost shall be in accordance with the attached document (revised price sheet).

IV. PAYMENT FOR SUPPLIES:

Receiving Agency shall submit full payment to the Department of Public Safety at the time each order materials and supplies are submitted. Payment shall be made from the Receiving Agency's current revenues.

V. TERMS OF CONTRACT:

This Contract shall become effective September 1, 2009 and shall terminate on August 31, 2011.

THE UNDERSIGNED CONTRACTING PARTIES bind themselves to the faithful performances of this Contract. It is mutually understood that this Contract shall be effective if signed by a person authorized to do so according to the normal operating procedure of said party. If the governing body of a party is required to approve this Contract, it shall not become effective until approved by the governing body of that party. In that event, this contract shall be executed by the duly authorized official(s) of the party as expressed in the approving resolution or order of the governing body of said party, a copy of which shall be attached to this Contract.

RECEIVING AGENCY

PERFORMING AGENCY

CITY OF COLLEGE STATION

TEXAS DEPARTMENT OF PUBLIC SAFETY

By: _____
Mayor

By: _____
Authorized Signature

Title: _____

ATTEST

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____

Carla A Robinson

City Attorney
Date: _____

Chief Financial Officer
Date: _____

TEXAS DEPARTMENT OF PUBLIC SAFETY
INSTRUCTION MANUAL
FOR PURCHASING
BREATH TESTING SUPPLIES AND
PRINTED MATERIAL
FOR NON-DPS AGENCIES

INTRODUCTION

The Texas Department of Public Safety is stocking certain forms, manuals and supplies for the Intoxilyzer Breath Testing Program and the Laboratory Alcohol and Drug Testing Program for all Texas cities, counties and state Department of Public Safety operations. This is being done to control uniformity of procedures, consistency of paper work and supplies of the Breath Testing Program and the Laboratory Alcohol and Drug Testing Program thus strengthening our position in court should the need arise. We will also be able to take advantage of volume buying thus passing on the savings to you, the customer. Certain minimum quantities and packaging will be required in order to be as efficient as possible. The prices will differ between DPS and non-DPS users.

The non-DPS agencies will be charged a slightly higher price due to all administrative and handling expense and will be required by law to have an Inter-local Cooperation Contract on file with General Services Bureau for any supply item such as mouthpieces and alcohol blood tests kits. An Inter-local Contract is not required for printed materials. Instructions for DPS purchases will be contained in the DPS supply catalog.

We strongly urge that all purchases be discussed and coordinated with your local Breath Test Program Technical Supervisor and/or DPS Headquarters Laboratory Alcohol and Drug Testing Program personnel. These individuals are familiar with the ordering procedure and should be aware of any price changes. The Technical Supervisor or Laboratory Alcohol and Drug Testing personnel will also be in a position to advise the purchaser of the quantities of supplies that will be needed.

(1)

INSTRUCTIONS FOR THE PURCHASE OF
INTOXILYZER BREATH TESTING AND LABORATORY ALCOHOL/DRUG
TESTING SUPPLIES

1. Submit your request on your department letterhead as per sample letter on page 4.

This letter request must have an authorized signature and the name and phone number of a contact person.

Also, furnish exemption number if tax exempt. This letter should be addressed to DPS GENERAL SERVICES BUREAU, P.O.BOX 15999, AUSTIN, TEXAS 78761-5999.

2. See price list on page 3a dated 08-03-09. These prices will be subject to change on a periodic basis and includes shipping and administrative cost.
3. Check or money order should be attached to the letter made out to the Department of Public Safety and should cover any tax, if applicable.
4. Our minimum stock quantities for non DPS agencies of Intoxilyzer Breath Testing and Alcohol/Drug testing supplies and printed materials will be as listed on page 3a and 3b. Minimum quantities must be adhered to.
5. If you have any questions concerning this procedure, please contact Department of Public Safety, General Services Bureau, 512-424-5718 or TEX-AN- 225-5718.

(2)

**NON DPS AGENCIES
PRICE SHEET**

This is a **SAMPLE ORDER SHEET**. **USING YOUR LETTERHEAD**, please follow this format rather than a purchase order form. These items must be **PRE-PAID**.

<u>QUANTITY</u>	<u>STOCK NO.</u>	<u>DESCRIPTION</u>	<u>MINIMUM QUANTITY</u>	<u>PRICE</u>	<u>TOTAL AMOUNT</u>
_____	TLEBR07/0	TEST RECORDS	5pkgs. 100/pkg	\$ 5.00/pkg	_____
_____	TLEBR38/3	INTOXILYZER MANUAL	Each (Binder, Tabs & Contents)	7.00each	_____
_____	DIC023/3	PEACE OFFICER'S SWORN REPORT	Pad of 50 sets	2.50/pad	_____
_____	DIC023A/9	SPECIMEN ROUTING RPT.	Pad of 50 sets	2.50/pad	_____
_____	DIC024/1	DWI STATUTORY WARNING	Pad of 50 sets	2.50/pad	_____
_____	DIC025/8	NOTICE OF SUSPENSION	Pad of 50 sets	2.50/pad	_____
_____	DIC054/8	SWORN REPORT CMV	Pad of 50 sets	2.50/pad	_____
_____	DIC055/5	PEACE OFFICER STATUTORY WARNING FOR COMM. VEH.	Pad of 50 sets	2.50/pad	_____
_____	DIC056/3	BREATH TEST TECHNICAL SUPERVISOR AFFIDAVIT	Pad of 50 sets	2.50/pad	_____
_____	DIC057/1	DISQUALIFICATION NOTICE	Pad of 50 sets	2.50/pad	_____
_____	THP/1	OFFENSE REPORT	Pad of 100 sheets	1.50/pad	_____
_____	THP/1A	DWI SOBRIETY TEST	Pad of 100 sheets	1.50/pad	_____
_____	THP/51	BLOOD SPECIMEN	Pad of 100 sheets	1.50/pad	_____
_____	THP/51A	AFFIDAVIT OF PERSON WHO WITHDREW BLOOD	Pad of 100 sheets	1.50/pad	_____
.....					
_____	* 680-24-01045-3	MOUTHPIECES	1 Crtn. of 100 each	17.50/ctn	_____
_____	* 680-93-8050	ALCOHOL BLOOD TEST KIT	1 EACH	4.00/each	_____
_____	* 680-93-8060	URINE SPECIMEN TEST KIT	1 EACH	4.50/each	_____
_____	* 475-34-7920	SYRINGE TRANSPORT TUBES	1 EACH	3.50/each	_____
8.25% TAX (If Applicable)					_____
TOTAL AMOUNT ENCLOSED					_____

PRICES SUBJECT TO CHANGE WITHOUT NOTICE!

* Municipalities and Counties must have an Inter-local Contract on file to purchase these items.

Mail orders and payment to:

D P S GENERAL SERVICES BUREAU
P.O.BOX 15999
AUSTIN, TEXAS 78761-5999
512-424-5718

Revised (08-03-09)

(3a)

**NON DPS AGENCIES
PRICE SHEET**

This is a **SAMPLE ORDER SHEET** of the D.W.I. Forms that we have available in **SPANISH** **USING YOUR LETTERHEAD**, please follow this format rather than a purchase order form. These items must be **PRE-PAID**.

<u>QUANTITY</u>	<u>STOCK NO.</u>	<u>DESCRIPTION</u>	<u>MINIMUM QUANTITY</u>	<u>PRICE</u>	<u>TOTAL AMOUNT</u>
_____	DIC024S/6	DWI STATUTORY WARNING	Pad of 50 sets	\$ 2.50/pad	_____
_____	DIC025S/3	NOTICE OF SUSPENSION	Pad of 50 sets	2.50/pad	_____
_____	DIC055S/0	PEACE OFFICER STATUTORY WARNING FOR COMM. VEH.	Pad 100 sheets	2.50/pad	_____
_____	DIC057S/6	DISQUALIFICATION	Pad of 50 sets	2.50/pad	_____
				8.25%TAX (If Applicable)	_____
				TOTAL AMOUNT ENCLOSED	_____

PRICES SUBJECT TO CHANGE WITHOUT NOTICE.

Prices include shipping and handling.

Mail orders and payments to:

D P S GENERAL SERVICES BUREAU
P.O.BOX 15999
AUSTIN, TEXAS 78761-5999
(512) 424-5718

Revised (08-03-09)

(3b)

S - A - M - P - L - E

DEPARTMENT LETTERHEAD

DATE _____

DPS General Services Bureau
P.O.Box 15999
Austin, Texas 78761-5999

Gentlemen:

Please enter our purchase order for the following Intoxilyzer Breath Testing Publication and/or supplies:

<u>QUANTITY</u>	<u>STOCK NUMBER</u>	<u>DESCRIPTION</u>	<u>PRICE EACH</u>	<u>TOTAL AMOUNT</u>
5pkg	TLE BR07/0	TEST RECORDS	\$ 5.00/pkg.	\$ 25.00
1 ea.	TLEBR38/8	MANUALS	\$ 7.00/ea.	\$ 7.00
1 pad	DIC024/1	DWI STAT. WARNING	\$2.50/pad	\$ 2.50
1 pad	DIC025/8	NOTICE OF SUSPENSION	\$2.50/pad	\$ 2.50
1 pad	THP/1	OFFENSE REPORT	\$1.50/pad	\$ 1.50
6 crtn.	680-24-01045-3	MOUTH PIECES	\$17.50/ctn.	\$ 105.00
				<hr/>
TOTAL:				\$ 143.50

My tax exempt number is 1074-1950317-3. My check is enclosed.
The contact person is John Doe; Telephone number is (512) 465-8168.

Sincerely,

Joe Smith
Title _____

(4)

August 17, 2009
Consent Agenda Item No. 2k
School Resource Officer Inter-Local Agreement

To: Glenn Brown, City Manager

From: Jeff Capps, Interim Chief of Police

Agenda Caption: Presentation, possible action, and discussion regarding approval of Inter-Local Agreement (ILA) with the College Station Independent School District (CSISD) regarding School Resource Officers (SRO).

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

Summary: The purpose of this agreement is to work collaboratively with College Station Independent School District (CSISD) to assign Law Enforcement Officers to work with and aid the administration and student bodies of A&M Consolidated High School, A&M Consolidated Middle School, and College Station Middle School, to offer primary services as instructors, mentors, and problem-solvers, and work to reduce crime through education and the promotion of positive police/student relations.

College Station Police Department and CSISD have agreed upon a total of four School Resource Officers (SRO's). Two of the SRO's are assigned to A&M Consolidated High School, one at A&M Middle School, and one at College Station Middle School.

CSISD agrees to reimburse the City for 50% of the annual salaries, fringe benefits, overtime of the SRO's, provided, however, CSISD will reimburse the City for 75% of the SRO's salaries, benefits, and overtime for SRO's assigned to the middle schools during the 2009-2010 school year. CSISD and the City will each pay for one half of the purchase price of one fully equipped Patrol Vehicle.

College Station Police Department has provided officers in College Station Schools since 1994. This new agreement is for a term of three years.

Budget & Financial Summary: N/A

Attachments:

1. Inter-Local Agreement

SCHOOL RESOURCE OFFICER INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is hereby made and entered into by and between the **CITY OF COLLEGE STATION, TEXAS**, A Texas Home Rule Municipal Corporation (hereinafter "City"), and the **COLLEGE STATION INDEPENDENT SCHOOL DISTRICT**, a Texas Local Government (hereinafter "CSISD") each acting by and through its duly authorized agents (referred to collectively as the "Parties").

WHEREAS, Chapter 791 of the **TEXAS GOVERNMENT CODE**, also known as the **INTERLOCAL COOPERATION ACT**, authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested; and

WHEREAS, the Parties have sufficient funds available from current revenues to perform the functions contemplated by this agreement; and

WHEREAS, the City has established a School Resource Officer Program (hereinafter "SRO"), with law enforcement officers from College Station Police Department (hereinafter "CSPD") and

WHEREAS, the Parties recognize the outstanding benefits of the SRO Program to the citizens of the City and to the students of CSISD; and

WHEREAS, it is in the best interest of the Parties and the citizens of the City and students of CSISD to continue the SRO Program;

NOW, THEREFORE IN CONSIDERATION of the recitals and mutual covenants made herein by the City and CSISD to be respectively kept and performed, the Parties hereby mutually agree as follows:

ARTICLE I DEFINITIONS

The following terms shall have the following meanings when used in this Agreement:

1.1 The term "Chief of Police" means the Chief of Police of the City of College Station. This term also applies to any person designated by the Chief of Police to act on their behalf in regards to this Agreement.

1.2 The term "School Superintendent" means the School Superintendent of CSISD. This term also applies to any person designated by the Superintendent to act on their behalf in regards to this Agreement.

1.3 The term "Law Enforcement Officer" means any City of College Station Peace Officer who has been commissioned under the laws of this state.

1.4 The term "Law Enforcement Duties" means any duties performed by any Law Enforcement Officer.

1.5 The term "School Resource Officer" ("SRO") means any Law Enforcement Officer who works with and aids the administration and student bodies of A&M Consolidated Middle School, College Station Middle School, and A&M Consolidated High School as part of the SRO Program. The SRO meets with students in a non-confrontational setting, and interacts with them as mentors, and resource persons.

ARTICLE II MISSION AND PURPOSE

2.1 The mission of the SRO program is the reduction and prevention of school-related violence and crime committed by juveniles and young adults, the reduction of the fear of crime on school campuses, and building effective partnerships with the faculty and staff of CSISD. This is accomplished by assigning Law Enforcement Officers to school facilities. The SRO Program accomplishes this mission by creating and maintaining safe, secure and orderly learning environments for students, teachers, and staff.

2.2 The SRO's will establish a trusting channel of communication with students, parents, and teachers. SRO's will serve as a positive role model to instill in students good moral standards, good judgment and discretion, respect for other students, and a sincere concern for the school community. SRO's will promote citizen awareness of the law to enable students to become better informed and effective citizens, while empowering students with the knowledge of law enforcement efforts and obligations regarding enforcement as well as consequences for violations of the law.

2.3 SRO's will serve as a confidential source of counseling for students and parents concerning problems they face as well as providing information on community resources available to them. Goals and objectives are designed to develop and enhance rapport between youth, police officers, and school administrators.

ARTICLE III TERM AND TERMINATION

3.1 The term of this agreement is for three (3) years. The Parties agree to assign Law Enforcement Officers to perform Law Enforcement duties at A&M Consolidated High School, A&M Consolidated Middle School, and College Station Middle School during the term of the Agreement.

3.2 Any Party to this agreement may terminate its participation in this agreement by providing ninety (90) days written notice. In the event of termination of this agreement, compensation will be made to the City for all SRO services performed to the date of termination. CSISD shall be entitled to a pro-rated refund for that period of time when SRO services are not provided because of termination of this agreement.

ARTICLE IV
SCHOOL ASSIGNMENTS

4.1 The Chief of Police shall assign SRO's to the following school campuses on a full time basis during Fall and Spring Semesters.

- a.** Two (2) SRO's at A&M Consolidated High School to primarily act as a law enforcement presence, mentors, problem-solvers, and provide positive police-student relations.
- b.** One (1) SRO at A&M Consolidated Middle School, to primarily act as a classroom instructor, mentor, problem-solver, and provide positive police-student relations.
- c.** One (1) SRO at College Station Middle School, to primarily act as a classroom instructor, mentor, problem-solver, and provide positive police-student relations.

4.2 The role of classroom instructors for the middle school SRO's will be for the 2009-2010 school year. At the start of the 2010-2011 school year, the role of the middle school SRO's will change to primarily serve as mentors, problem-solvers, and provide positive police-student relations.

ARTICLE V
SCHOOL RESOURCE OFFICER DUTIES AND RESPONSIBILITIES

5.1 **Administrative Duties**

- a.** SRO's will check in with designated school staff upon arriving on campus and will report with school staff prior to leaving campus, unless circumstances prevent the SRO from checking in or out.
- b.** The day-to-day operation and administrative control of the SRO Program will be the responsibility of the CSPD. Responsibility for the conduct of SRO personnel, both personally and professionally, shall remain with the CSPD. The College Station Police department will assign supervisory personnel to oversee the program. SRO's shall remain employees of the CSPD and shall not be employees of the CSISD.
- c.** All acts of commission shall conform to the guidelines of the CSPD's Policy and Procedure Manual.
- d.** SRO's will not enforce "school or house rules" SRO's are not school disciplinarians and will not assume that role. However, if the principal or other staff believes an incident involves a violation of the law, the principal or staff member may contact the SRO and the SRO will determine whether law enforcement action is appropriate.

5.2 Regular Hours, Vacation, Personal Leave, and Training Responsibilities

- a.** Each SRO shall be assigned on a full-time basis for eight (8) hours, on those days and during those hours that the school is in regular session.
- b.** The SRO hours and days of work are to be considered flexible and may be changed to meet the needs of the CSPD or at the direction of the Chief of Police.
- c.** Prior to taking any personal leave time, the school principal must be made aware of the SRO's absence. Each SRO will follow the CSPD leave policy; however, no officer may take personal leave/vacation time during the school year without prior approval from their CSPD supervisor.
- d.** When a SRO is temporarily absent from his or her assigned campus for training or other reasons on a day that the school is in session, the CSPD will make reasonable efforts to provide a police presence for that campus by assigning other SRO's or police officers. When a police officer is needed on campus at times when the SRO or other officer is not on campus, school personnel should call the CSPD dispatch at the non-emergency number 979-764-3600 or dial 9-1-1 in case of an emergency. At each middle school, during the 2009-2010 school year, when an SRO must be absent for personal leave or CSPD staff training, the school district will provide a substitute teacher.
- e.** SRO's are subject to current policy and procedures that are in effect for all CSPD officers, including attendance at all mandated training and testing to maintain state peace officer licensing and certification. This training and certification takes place throughout the year and may necessitate the temporary absence of the SRO from his or her assigned campus.

5.3 Law Enforcement Duties

- a.** Assist CSISD in maintaining lawful order on school property while in full CSPD uniform at all times or other apparel approved by the CSPD.
- b.** Enforce the laws of the State of Texas and City Ordinances of College Station and protect the students, teachers, staff, and public against criminal activity.
- c.** Take enforcement action on criminal matters according to CSPD policy. As soon as practical, the SRO shall make the principal of the school aware of such action. At the principal's request, the SRO shall take appropriate law enforcement action against intruders and unwanted guests who may appear at the school and school functions, to the extent that the SRO may do so under the authority of law.
- d.** Gather information regarding potential problems such as gang activity, criminal activity, and student unrest and handle initial police reports of crimes committed on campus.
- e.** Coordinate investigative procedures between police and school administrators that follow CSPD Policy.

5.4 Educational and Counseling Duties and Responsibilities

- a. Provide information about law enforcement topics to students and staff.
- b. Provide informational programs for CSISD staff, students, and parents on a variety of topics including, but not limited to issues related to alcohol and other drugs, criminal law, violence, gangs, safety and security.
- c. Refer students and their families to the appropriate agencies for assistance when the need is determined.
- d. Maintain good communication between CSPD and CSISD administration, principals, and staff.
- e. SRO's will not replace any school counselor nor are they to conduct or offer any formal psychological testing or counseling.
- f. SRO's will give advice to help resolve issues between students that involve matters that may result in a criminal violation, disturbances, and disruptions.
- g. SRO's should not go to the home of another student without another officer or school administrator. When a visit is warranted, it should be reported to the SRO supervisor as soon as practical.
- h. Student confidentiality should be maintained, unless the gravity of the situation dictates otherwise to the extent permitted under law.

ARTICLE VI **SELECTION, TRANSFER AND REMOVAL OF SRO**

6.1 Notice of SRO job openings will be made to all Law Enforcement Officers at CSPD through regular postings. CSPD policy at the time of the opening will be followed during the selection process for SRO's. The officer(s) will be interviewed by a board consisting of CSPD representatives as determined by the Chief of Police and representatives of the school for which the SRO will be assigned as determined by the school principal. The Chief of Police or his appointed designee will make the final decision on all appointments or assignments related to the SRO program.

6.2 The CSPD will maintain the responsibility, while receiving significant input from the CSISD, for the recruitment, interviewing, and overall evaluation of the SRO's.

6.3 A SRO may request to transfer to another school if the request meets the approval of the principals of each affected school and the Chief of Police or his appointed designee.

6.4 If the CSISD is dissatisfied with the performance of a SRO, the district will notify the SRO supervisor who will attempt to resolve the issue to the satisfaction of both the school

district and the police department. If the SRO supervisor cannot resolve the issue, he/she will refer the issue with a recommended course of action to the Chief of Police or his appointed designee.

6.5 The CSPD may take appropriate corrective or disciplinary action regarding any allegation of misconduct on the part of a SRO in accordance with CSPD policy and procedures.

6.6 The Chief of Police or his appointed designee may dismiss or reassign a SRO when it is in the best interest of the City or CSISD.

6.7 In the event of a resignation, retirement, dismissal, or reassignment of a SRO, or in case of long-term absences by a SRO, CSPD will provide a temporary replacement for the SRO within thirty (30) school days of receiving notice of such absence, dismissal, resignation, retirement, reassignment. As soon as practicable, an interview board shall convene and recommend a permanent replacement for the SRO position.

ARTICLE VII SCHOOL DISTRICT RESPONSIBILITIES

7.1 CSISD will provide the SRO with a portable two-way radio or program an existing radio to enable SRO's to communicate directly with the school administration.

7.2 CSISD will provide the SRO's with access to an office that allows for security and privacy. The office must include, but is not limited to, a telephone, desk with lockable drawers, chair, office supplies, filing cabinet, which can be properly locked and secured, and computer.

7.3 The opportunity for SRO's to address teachers and school administrators about the SRO program's goals and objectives and provide SRO's the opportunity to address teachers and school administrators about criminal justice problems relating to students during in-service workdays.

7.5 Seek input from SRO's regarding criminal justice problems relating to students.

7.6 **Police Vehicle**

a. The City will keep at A&M Consolidated High School one fully equipped CSPD Patrol Vehicle for SRO use in their duties at the high school and for emergency calls as needed. This vehicle will be used by SRO's for the safety and security of the faculty and students of the high school.

b. The City will own the Patrol Vehicle and it will not be property of CSISD nor will CSISD have a special right of access to the Patrol Vehicle.

c. The City will pay for all repairs, upkeep and other associated costs for the life of the Patrol Vehicle. The Patrol Vehicle will be on a six (6) year replacement schedule.

d. CSISD and the City will each pay for one half of the purchase price of one fully equipped Patrol Vehicle.

ARTICLE VIII
SALARY AND BENEFITS OF SRO

8.1 CSISD agrees to reimburse the City for 50% of the annual salaries, fringe benefits, overtime of the SRO's, provided, however, CSISD will reimburse the City for 75% of the SRO's salaries, benefits, and overtime for SRO's assigned to the middle schools during the 2009-2010 school year.

8.2 CSISD shall pay all expenses related to off-duty security performed by CSPD personnel including those off-duty securities performed by SRO's.

8.3 The City and CSISD will evenly share the cost of all SRO related training.

8.4 The City will invoice CSISD in April of each year for the total costs of CSISD's portion of the SRO's salaries, benefits, and overtime.

8.5 Salaries and benefits package includes: Total Wages, Certification Pay/Work, Longevity Pay, Training Specialist Pay, and Uniform Cleaning Allowance.

8.6 Total Additional Pays: Acc. Death & Dismemberment, Group Insurance – Employer Paid, Group Life Insurance (WB), Long Term Disability, Medicare Portion/Social Security, Social Security - Employer Paid, TMRS, Unemployment Compensation, and Worker's Compensation Insurance

ARTICLE IX
MISCELLANEOUS TERMS

9.1 **Interlocal Cooperation Act.** The Parties expressly acknowledge that each Party to this agreement is a local government as that term is defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquished by either Party of its right to claim such exemptions, privileges and immunities as may be provided by law.

9.2 **Amendment.** The terms and conditions of this agreement may be amended upon mutual consent of all Parties. Mutual consent will be demonstrated by approval of each governing body of each Party hereto. 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 all Parties.

9.3 **Effective.** This agreement shall become effective immediately upon execution by all Parties and shall continue in effect until terminated as provided herein.

9.4 **Indemnification.** Subject to the limitations as to damages and liability under the Texas Tort Claims Act, and without waiving its governmental immunity, each Party to this agreement agrees to hold harmless each other, its governing board, officers, agents, and

employees for any liability, loss, damages, claims, or causes of action caused, or asserted to be caused, directly or indirectly by any other Party to this agreement, or any of its officers, agents or employees as a result of its performance under this agreement.

9.5 Consent to Suit. Nothing in this agreement will be construed as a waiver or relinquishment by any Party of its right to claim such exemptions, privileges and immunities as may be provided by law.

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

9.7 Notices. Any notices, approval, consent, or communications by one Party to another must be in writing and be personally delivered or sent by registered or certified United States Mail, properly addressed to the respective Parties as follows:

COLLEGE STATION:	Additional Contact Information:
City Manager	Tel: (979) 764-2510
1101 Texas Avenue South	Fax: (979) 764-6377
College Station, TX 77840	
CSISD:	
Superintendent	Tel: (979) 764-5455
1812 Welsh Street	Fax: (979) 764-5492
College Station, TX 77840	

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

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

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

9.11 Authority to Contract. Each Party has the full power and authority to enter into and perform this agreement and the person signing this agreement on behalf of each Party has been properly authorized and empowered to enter into this agreement. The persons executing this agreement hereby represent that they have authorization to sign on behalf of their respective Governmental Bodies.

EXECUTED this the _____ day of _____, 2009 by the **COLLEGE STATION INDEPENDENT SCHOOL DISTRICT.**

COLLEGE STATION INDEPENDENT SCHOOL DISTRICT

By: _____
School Board President

STATE OF TEXAS

COUNTY OF BRAZOS

)
)
)

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2009, by _____ in his/her capacity as School Board President of College Station Independent School District, a Texas Local Government.

Notary Public, State of Texas
My Commission Expires: _____

August 17, 2009
Consent Agenda Item No. 2L.
BVSWMA Articulating Compactor Rebuild

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion on a certified rebuild through Mustang CAT for a Caterpillar Articulating Compactor utilized by the Brazos Valley Solid Waste Management Agency in the amount of \$373,948.64.

Recommendation(s): Staff recommends approval of the certified equipment rebuild through Mustang CAT for BVSWMA's Articulating Compactor (unit 73-70) in the amount of \$373,948.64.

Summary: This request is for the scheduled rebuild for (1) 2001 Caterpillar 836G Articulating Compactor (unit # 73-70). BVSWMA's fleet includes three compactors; unit 73-70 will serve as a back-up and will be rotated into operation when a compactor is down for maintenance and/or unscheduled repairs. BVSWMA's Site Operating Plan requires a minimum of two compactors operating based on the current waste acceptance rate of 1000+ tons/day. This unit has been utilized over 15500 hours and was scheduled for replacement; however, BVSWMA elected to rebuild the machine for less than half the cost of purchasing a new machine at \$1,000,000+ dollars. The certified rebuild of unit 73-70 will take approximately three months to complete. The rebuild and future availability of the machine is critical for maintaining optimum compaction rates, and for the upcoming transition to the Twin Oaks Facility in Grimes County. This purchase is exempt from competitive bidding statutes because it is available from only one source due to patents, copyrights, secret processes, or natural monopolies – LGC 252.022 (a)(7)(A).

Budget & Financial Summary: \$500,000 was budgeted for this certified rebuild and is available in the BVSWMA Fund. This purchase exceeds \$50,000, thus requiring approval by both College Station and Bryan City Councils as per the BVSWMA mediated settlement between the two cities.

Attachments:
Mustang CAT Rebuild Estimate



8212 Highway 21 West
Bryan, Texas 77807

ESTIMATE
page 1

Customer:
City of College Station

Contact:
Howard
764-3878
764-3534 fax

Estimate # : 04-22-09dws
 Customer # :
 Estimate Date: 4/22/2009
 Job # :
 P.O. # :
 Sales Rep. dws
 Machine Model # : 836G
 Serial # : 7MZ00292
 Hour Meter:
 Unit #:
 Date on Yard
 Expected Completion Date

Description	Parts	Labor	Extend Price
wash		500	500.00
remove and install blade		630	630.00
remove and install belly pans and guards	100	1560	1660.00
remove and install engine	150	5776	5926.00
remove and install radiator and hardnose	1037.22	1630	2667.22
remove and install transmission	250	6232	6482.00
remove and install torque convertor	150	3510	3660.00
remove and install wheels	200	4600	4800.00
remove and install front axle	250	4600	4850.00
remove and install rear axle	250	5200	5450.00
remove and install control valve steering & implement	50	1200	1250.00
remove and install cab	100	1800	1900.00
remove and install transmission pump	35	640	675.00
remove and install transmission oil cooler	2036.3	750	2786.30
remove and install hydraulic tank	50	624	674.00
remove and install hydraulic pump	24	468	492.00
remove and install lift cylinder	300	950	1250.00
remove and install steering cylinders	500	1480	1980.00
d & a machine	2488.69	5370	7858.69
rebuild engine	27858.09	4320	32178.09
replace cooler cores engine	3878.45	460	4338.45
rebuild radiator and hardnose	9226.88	1500	10726.88
rebuild transmission	15068.56	4400	19468.56
rebuild torque convertor	3922.88	2000	5922.88
rebuild front axle (differential & final drive)	23438.47	4800	28238.47
rebuild rear axle (differential, brakes & final drive)	27055.13	4800	31855.13
rebuild steering control pump	2748.49	560	3308.49
continued on page 2			0.00
Does not include tax, oil, supply, or environmental fees. Subject to additional parts and labor upon disassemble.		Total P&L	\$191,528.16

For questions concerning this estimate
 please contact Darrell Sharp
 pager (979) 228-0282
 fax (979) 775-2838
 office (979) 775-0639

Customer Acceptance:

THANK YOU FOR YOUR BUSINESS

August 17, 2009
Consent Agenda Item No. 2m
Lease of CSISD Property for Creek View School Park Project

To: Glenn Brown, City Manager

From: Marco A. Cisneros, Director, Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion to approve a lease of College Station Independent School District (CSISD) property for the construction of the Creek View School Park Project.

Recommendation(s): The Parks and Recreation Advisory Board and Staff recommend approval of the lease of CSISD property for the construction of the Creek View School Park Project.

Summary: The proposed lease of CSISD property will allow the City to build a portion of the Creek View School Park on CSISD property. The park would be similar in design and construction to the other school parks that have been built in other parts of the City such as Dorothy and Jack Miller and Pebble Creek School Parks. The use of this lease agreement allows both entities to provide services and programs for their customers in a cost effective manner for all parties.

The Parks and Recreation Advisory Board reviewed and considered this lease concept for the development of Creek View School Park at their June 9, 2009 regular board meeting. They voted unanimously to recommend that the City Council approve this lease.

Budget & Financial Summary: This project is funded out of the Bond 2008 Fund that provides funding for improvements and construction of a new neighborhood park.

Attachments:

1. Lease of CSISD Property for Creek View School Park
2. Minutes of June 9, 2009 Parks and Recreation Advisory Board Meeting

**LEASE BETWEEN
COLLEGE STATION INDEPENDENT SCHOOL DISTRICT
AND
THE CITY OF COLLEGE STATION, TEXAS**

THIS AGREEMENT OF LEASE is made and entered into by and between COLLEGE STATION INDEPENDENT SCHOOL DISTRICT, a Texas independent school district, (hereinafter referred to as "CSISD" or "Lessor"), and the CITY OF COLLEGE STATION, TEXAS (hereinafter referred to as the "City" or "Lessee"), a Texas Home Rule Municipal Corporation. (CSISD and the City may be referred to hereinafter either individually as the "Party" or "Agency" or collectively as the "Parties" or the "Agencies".)

WHEREAS, CSISD owns that certain piece of real property located on Eagle Avenue, College Station, Brazos County, Texas, which is more particularly described on the "Exhibit A", attached hereto and incorporated herein for all purposes ("Premises" or "Leased Premises"); and

WHEREAS, the City desires to construct, operate and maintain a park on the Premises; and

WHEREAS, Section 272.005 OF THE TEXAS LOCAL GOVERNMENT CODE, authorizes a political subdivision to lease property owned by the political subdivision to another political subdivision or agency of the state or federal government, for less than fair market value, so long as the lease will promote a public purpose; and

WHEREAS, SECTION 331.001 OF THE TEXAS LOCAL GOVERNMENT CODE, authorizes a municipality to improve land for park purposes and operate and maintain land for park purposes. The authority to improve the land includes the authority to construct buildings, lay out and pave driveways and walks, and construct ditches or lakes, and set out trees and shrubs; and

WHEREAS, the City is a Home-Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Lease pursuant to ARTICLE II, SECTION 5 OF ITS CITY CHARTER; and

WHEREAS, CSISD is an independent school district and is authorized to enter into this Lease pursuant to the approval of its board of trustees; and

WHEREAS, the governing body of CSISD has authorized this Lease and determined that the terms of this Lease will promote a public purpose; and

WHEREAS, the City and CSISD represent that each is independently authorized to perform the functions contemplated by this Lease; and

WHEREAS, the City and CSISD enter this Lease under the authority of the Texas Local Government Code and with the intent that the transaction contemplated by this Lease serve and promote a public purpose; and

WHEREAS, the authority to administer this Lease may be delegated by the City and CSISD to the City Manager and the Superintendent or their designees;

NOW THEREFORE, In consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, Lessor does hereby demise and lease to Lessee, and Lessee does hereby lease from Lessor the Premises.

ARTICLE I – TERM

1. **Initial Term.** This Lease shall be for a term of ten (10) years, referred to as the Lease Term, commencing on the date upon which the Lease is approved by both parties subject, however, to earlier termination as provided in this Lease.

2. **Renewal.** Thereafter, unless terminated as provided herein, this Lease shall be automatically renewed for successive one (1) year terms until the end of the thirtieth (30th) year following the effective date of this Lease.

3. **Termination.** Unless earlier terminated as provided for elsewhere in this Lease, the Lease shall terminate and become null and void without further notice on the expiration of the term specified in this Article I, as automatically renewed from time to time, and any holding over by Lessee after the expiration of that term shall not constitute a renewal of the Lease or give Lessee any rights under the Lease in or to the Leased Premises.

ARTICLE II – RENT

1. **Rent.** Lessee agrees to pay to Lessor without any prior demand and without any deduction or set-off, as a fixed rent, the sum of \$1.00 per year, and all costs associated with the construction, maintenance and operation of the facilities necessary for the operation of a park.

2. **Place of Payment.** Lessee agrees to pay rent as provided in Article II, Paragraph 1 to Lessor by mailing such rent to Lessor at the below referenced address or other locations as Lessor shall from time to time designate by written notice to Lessee.

ARTICLE III – USE OF PREMISES

1. **Permitted Uses by Lessee.** Lessee shall construct on the Leased Premises park facilities to include athletic fields, basketball court, walking trails, and any other amenities typically associated with a neighborhood park, as more specifically described on "**Exhibit B**" attached hereto (the "Facilities") for the operation of a neighborhood park, and shall operate and maintain the Leased Premises for the purpose of a neighborhood park and shall use the Premises for no other purpose.

2. **Permitted Use by Lessor.** Lessor shall, for no consideration or payment, be entitled to access and utilize the Facilities, subject to the reasonable schedules of the City.

3. **Waste, Nuisance or Illegal Uses.** Lessee shall not use, or permit the use of, the Premises in any manner that results in waste of the Premises or constitutes a nuisance. Nor shall Lessee use, or permit the use of, the Premises for any illegal purpose. Lessee, at its expense, will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws and ordinances and with all applicable rules and regulations of governmental agencies, concerning the use of the Premises.

ARTICLE IV – MAINTENANCE AND SURRENDER

1. **Maintenance and Surrender by Lessee.** Lessee shall maintain the Leased Premises and keep them free from waste or nuisance throughout the Lease term and any extensions of that term. At the termination of the Lease, Lessee shall surrender and deliver the Lease Premises to Lessor in as good a state of repair and condition as they were in at the time Lessor delivered possession to Lessee, reasonable wear and tear and damage by fire, tornado, or other casualty excepted.

2. **Remedy for Failure to Maintain.** In the event Lessee fails to perform its obligation to repair or maintain as set forth in Article IV, Paragraph 1, above, after notice from the Lessor of the need for such repair or maintenance and the passage of a reasonable amount of time for performance after such notice but in no event less than thirty (30) calendar days, the Lessor may make such repairs or perform such maintenance, or cause such repairs to be made or maintenance to be performed at its own expense. If Lessor is required to make the repair or to perform the maintenance, Lessee shall reimburse Lessor for the reasonable expense of the repair or maintenance.

ARTICLE V – TAXES AND ASSESSMENTS

1. Lessor and Lessee are both governmental entities and as such neither entity is responsible for taxes.

ARTICLE VI – UTILITIES AND GARBAGE REMOVAL

1. **Utility Charges.** Lessee shall pay all utility charges for water, electricity, heat, gas, and telephone service used in and about the Leased Premises during the term of the Lease, all such charges to be paid by Lessee directly to the utility company or municipality furnishing the same before the same shall become delinquent.

2. **Garbage Removal.** Lessee shall pay for the removal of all garbage and rubbish from the Leased Premises during the term of the Lease.

ARTICLE VII – ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

1. **Consent of Lessor.** Lessee shall not make any substantial alterations, additions, or improvements to the Leased Premises other than those improvements described in Exhibit "B" without the prior written consent of Lessor; provided, however, that Lessee may maintain, repair, and make minor alterations or improvements to the Leased Premises without Lessor's prior written consent. Consent for alterations, additions, or improvements shall not be unreasonably withheld by Lessor.

2. **Property of Lessor.** All alterations, additions, or improvements made by Lessee may become the property of Lessor at the expiration of the Lease Term or the expiration of any renewal of the Lease Term as provided herein. At the termination of this Lease, at Lessor's option, Lessor may acquire the alterations, additions, or improvements for fair market value to be determined by an appraiser selected and mutually agreed upon by the parties. If Lessor elects to purchase the alterations, additions or improvements, the Lessee will pay for the costs associated with obtaining an appraisal. If Lessor does not elect to purchase the alterations, additions or improvements, Lessor may require that Lessee remove any or all alterations, additions, and improvements installed or made by Lessee, and any other property placed in the Premises by Lessee, upon termination of the Lease. In the event that Lessor requires Lessee to remove such alterations, additions, or improvements, Lessee shall repair any damage to the Premises caused by such removal.

ARTICLE VIII – DEFAULT

1. **Lessee's Default.** The occurrence of one or more of the following events shall constitute a default and breach of this Lease by Lessee:

- a. Any use of the Premises by the Lessee that does not promote a public purpose;
- b. Any use of the Premises by the Lessee that solely benefits a private entity or individual, and denies public use of the Facilities;
- c. Any action by Lessee which prevents Lessor from accessing the Premises, subject to Lessee's reasonable scheduling requirements;
- d. Any assigning or subletting by Lessee in violation of this Lease;
- e. Using the Lease for a purpose, other than operating a neighborhood park, unless with written consent of Lessor.

2. **Parties' Remedies Upon Default.** In the event of any default under or breach of this Lease by either party, the non-defaulting party may, after giving sixty (60) days written notice, specifying how the party has failed to perform such obligations and the acts required to cure the same; provided,

however, that if the nature of defaulting party's obligation is such that more than thirty (30) days are required for performance; that party shall not be in default if performance commence within such thirty (30) day period and thereafter diligently prosecutes the same to completion, exercise any of the following remedies:

- a. Continue this Lease in full force and effect upon the consent of both parties, and Lessor shall have the right to collect rent and other amounts when due,
 - b. Terminate the Lease and terminate the Lessee's use of the Premises.
 - c. In no event shall Lessee have the right to abate rent, exercise any self-help remedies, or offset damages against rent.
3. **Termination for Convenience.** This Lease may be terminated at any time and for any reason without liability to either party upon six (6) months advance written notice as provided herein.

ARTICLE IX – MECHANIC'S LIEN

1. **Bonds.** For any public work contract for the Facilities that exceeds \$25,000, the Lessee will require a payment bond.

ARTICLE X – INSURANCE AND INDEMNITY

1. **Property Insurance.** Lessee shall, at its own expense, during the term of this Lease, keep the Facilities insured against loss or damage by fire or theft, to include direct loss by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke, in the aggregate amounts of not less than the full fair insurable value of the Facilities.

2. **Liability Insurance.** Lessee is a public entity subject to the TEXAS TORT CLAIMS ACT, TEX. CIV. PRAC. & REM. CODE 101.001, and by entering into this Lease expressly does not agree to and does not waive its governmental immunity. However, the Licensee agrees to insure through self insurance or otherwise the limits of its statutory liability, if any, subject to the TEXAS TORT CLAIMS ACT.

3. **Hold Harmless.** The City and CSISD each individually agree to hold the other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, for damage to any property, arising out of or in connection the Lease.

- a. The Parties understand and agree that each Party is a "Governmental Unit" as that term is defined in Section 101.001(3) of the Texas Civil Practice Code.
- b. The Parties further understand and agree that they are entitled to the, rights, protections and limitations which Title 5 of the Texas Civil Practice and Remedies Code provides for Governmental Units, including the protections and limitations afforded under Chapter 101 of the Texas Civil Practice and Remedies Code.
- c. The Parties agree to indemnify and hold the other Party and its officers, trustees, directors, employees, and agents harmless from claims, demands, causes of action, suits, damages, costs, and attorney fees, in favor of any third party, subject to the following: (a) the Party's obligation to indemnify extends only to those claims, demands, suits, causes of action, damages, costs, or attorney fees, which arise out of or are connected with their own acts or negligence; and (b) the Party's obligation to indemnify is subject to Title 5 of the Texas Civil Practice and Remedies Code.

- d. Notwithstanding anything which may be construed to the contrary herein, the Party's liability to indemnify will only exist to the extent and to the limits that it would itself otherwise be exposed to liability under Title 5 of the Texas Civil Practice and Remedies Code.

ARTICLE XI – DAMAGE OR DESTRUCTION OF PREMISES

1. **Notice to Lessor.** If the Facilities should be damaged or destroyed by fire, tornado, or other casualty, Lessee shall give immediate written notice of the damage or destruction to Lessor, including a description of the damage and, as far as known to Lessee, the cause of the damage.

2. **Total Destruction.** If the Facilities should be totally destroyed by fire, tornado, or other casualty not the fault of Lessee or any person in or about the Leased Premises with the express or implied consent of Lessee, or if it should be so damaged that rebuilding or repairs cannot reasonably be completed within 360 working days, this Lease shall terminate, and rent shall be abated for the unexpired portion of this Lease, effective as of the date of written notification as provided in Article XI, Paragraph 1 .

3. **Partial Destruction.** If the Facilities should be damaged by fire, tornado, or other casualty not the fault of Lessee or any person in or about the Leased Premises with the express or implied consent of Lessee, but not to such an extent that rebuilding or repairs cannot reasonably be completed within ninety (90) working days, this Lease shall not terminate.

ARTICLE XII –MISCELLANEOUS

1. **Inspection by Lessor.** Lessee shall permit Lessor and Lessor's agents, representatives, and employees to enter into and on the Leased Premises at all reasonable times for the purpose of inspection, maintenance, making repairs or alterations to the Premises or any other purpose necessary to protect Lessor's interest in the Leased Premises or to perform Lessor's duties under this Lease.

2. **Parties Bound.** This agreement shall be binding upon, and inure to the benefit of, the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement.

3. **Attorney's Fees and Costs.** If, as a result of a breach of this agreement by either party, the other party employs an attorney or attorneys to enforce its rights under this Lease, then the breaching party agrees to pay the other party the reasonable attorney's fees and costs incurred to enforce the Lease.

4. **Force Majeure.** Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

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

6. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

College Station Independent School District
1812 Welsh
College Station, Texas 77840
Attn: Superintendent of Schools

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

7. **Entire Lease.** It is understood that this Lease 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 Lease exist. This Lease cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the Parties, either before or after the execution of this Lease, shall affect or modify any of the terms or obligations hereunder.

8. **Amendment.** No amendment to this Lease shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of each party.

9. **Texas Law.** This Lease has been made under and shall be governed by the laws of the State of Texas.

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

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

12. **Waiver.** Failure of either Party, at any time, to enforce a provision of this Lease, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Lease, any part hereof, or the right of the Parties thereafter to enforce each and every provision hereof. No term of this Lease 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.

13. **Lease Read.** The Parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Lease.

14. **No Assignment.** This Lease and the rights and obligations contained herein may not be assigned by either Party without the prior written approval of the other Party.

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

16. **Exhibits.** The Exhibits attached to this Lease and incorporated by references herein are as follows:

Exhibit "A" – Legal description of property owned by CSISD.

Exhibit "B" – Description of park facilities to be constructed by the City.

This Lease shall be effective for all purposes as of the _____ day of _____, 2009, which shall be the effective date of this Lease.

COLLEGE STATION INDEPENDENT SCHOOL DISTRICT

By: _____

Charlotte Slack, Board President
College Station Independent School District

CITY OF COLLEGE STATION

By: _____

Mayor
City of College Station

Attest: _____

City Secretary

APPROVED:

City Manager

Date

Carla A Robinson

City Attorney

Date

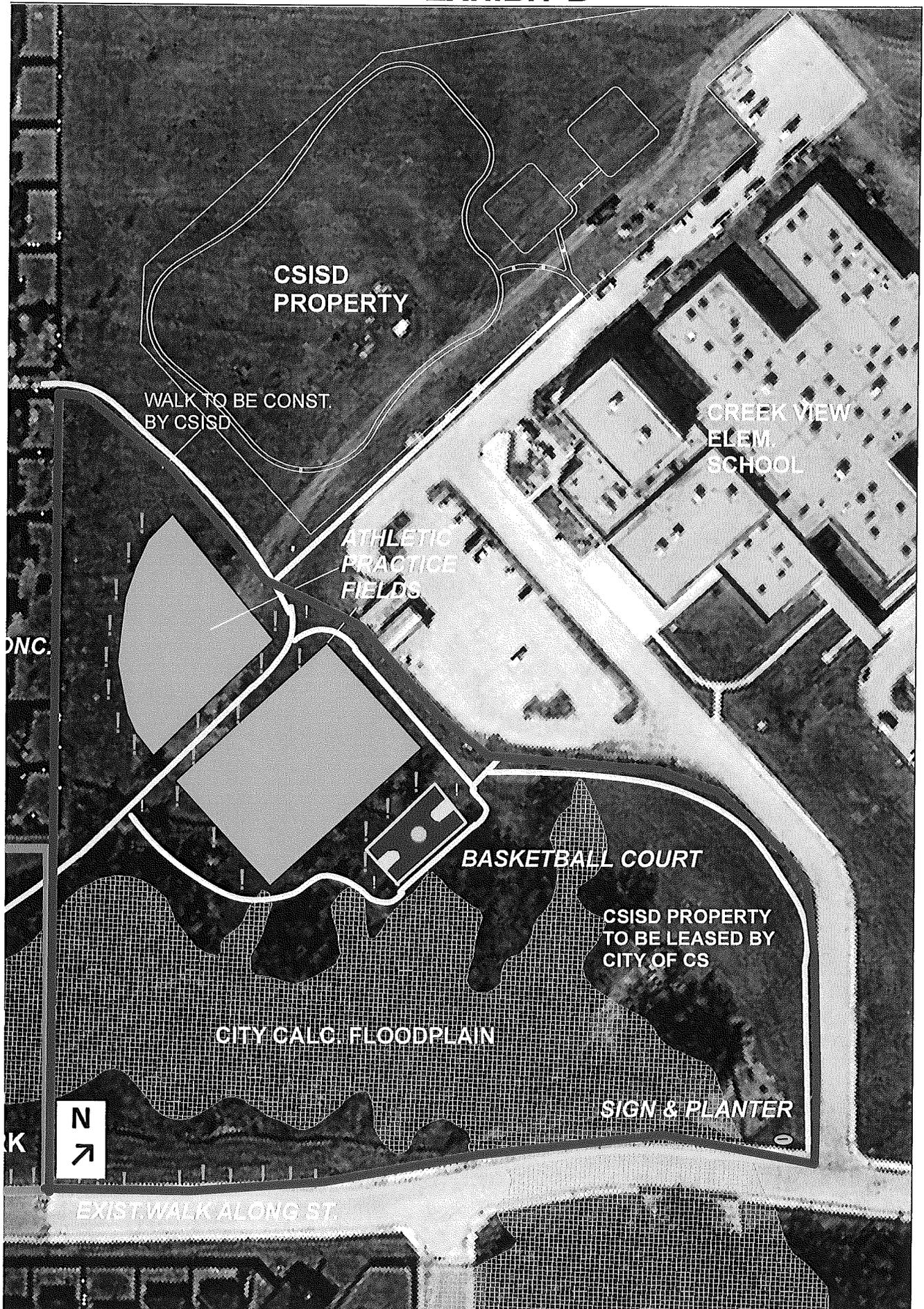
Chief Financial Officer

Date

Exhibit "A"
Legal description of property owned by CSISD.

Exhibit "B"
Description of park facilities to be constructed by the City.

EXHIBIT B



1. **Call to order:** The meeting was called to order with a quorum present at 7:00 p.m.
2. **Administering the Oath of Office and Swearing in of new and reappointed Board members:** New board member, Donald Williams, and reappointed member, Jody Ford, were duly sworn in. Hearing no further discussion, this item was closed.
3. **Pardon and possible action concerning requests for absences of members:** Douglas Becker sent in a request for absence. George Jessup made a motion to approve the absence request submitted, and Gerard Kyle seconded the motion. The vote was called. All were in favor, and the motion passed unanimously.
4. **Hear visitors:**

Anne Hazen, 1309 Wilshire Court – reported on the Seniors thoughts regarding the Senior Center. She urged that Seniors are in deep need of a Senior Center, and that Seniors always seem to be the last in line. She said at the current facilities that they meet at, she cannot drink coffee or have fellowship with her friends because someone else is waiting for the space for their meetings. They would like to have a comfortable place with less crowds, and a calm environment. She asked that the Board urge City Council in this definite need for Seniors.

5. **Consideration, possible approval, and discussion of minutes from the meeting of July 14, 2009:** David Scott made a motion to approve the minutes as submitted, and Glenn Schroeder seconded the motion. The vote was called. All were in favor, and the motion passed unanimously.
6. **Presentation, possible action, and discussion concerning the Rio Brazos Audubon Society State of Texas Grant Award for an Entry Kiosk/Chimney Tower Project for Lick Creek Park:** David Gwin reported on the Rio Brazos Audubon Society State of Texas Grant Award for an Entry Kiosk. David Gwin presented detailed information Chimney Swifts, a mysterious bird that is now listed as an endangered species. He explained that the Chimney Swifts live in dead, hollow trees that are being cut down at a fast rate. He also explained that Chimney Swifts shelter in chimneys that are also becoming less popular. The Chimney Swifts are losing their shelters, and that this has become a big issue. He asked for the Board's approval in placing a structure / tower for the birds to seek shelter at Lick Creek Park. He explained that they would work with staff on the best location possible for the tower to be placed. He explained that he would like the structure in a visual area that is easily accessible (handicap accessible). He also explained that since this would be in a visual area that they would like to make it an attractive piece that adds to the park's beauty. Mr. Gwin said that he anticipates the structure to be built by December 2009 to February 2010. David Scott made a motion that the Board work closely with the Rio Brazos Audubon Society in the arrangements for the structure, and Gerard Kyle seconded. The vote was called. All were in favor, and the motion passed unanimously.



7. **Public hearing, presentation, possible action and discussion and possible action concerning Proposed Creek View School Park:** Pete Vanecek, Senior Park Planner, showed an aerial map of Creek View School park, including the proposal for design layout.

Blake Jennings, 1302 Baywood Lane: Is there going to be a cover over the playground?

- We plan to have a cover on the playground eventually, however a lot of our covers receive vandalism. If there is a need for the cover, then we will have a cover.



Joe and Jennifer Garcia, 3701 Night Rain: *What kinds of trees are going to be in the park?*

- Elms, Oaks, and some décor trees (Crape Myrtles)

Sabrina Heaton, 3706 Springfield: *Are you going to have a walkway at the culdesak into the park?*

- Yes we are going to add a walk.

Amber Arseneaux, 918 Eagle: *Will there be bike lanes on each side of the park? What is the parking going to be like?*

We see that the bike lanes cease, when there is entry into the park. Also in neighborhood park parking, typically we do not do much parking because it is designed for the neighborhood. The citizens usually walk from their homes to the park. There will be an open parking lot for the citizens after school hours at Creek View School.

Billy Hart, 3908 Tranquil Path (President of the subdivision): *What is going to happen regarding traffic issues on Eagle Avenue with the school going in and the traffic with the park, etc? What is the time frame of construction with the park? Are there going to be any road closures when construction begins?*

Construction will start early Spring of 2010, and it is a 4 to 5 month project. There will be no road closures during this period.

Discussion followed.

Glenn Schroeder made a motion that the Board recommend that Staff move forward with the conceptual plan and further development with park, and George Jessup seconded the motion. The vote was called. All were in favor, and the motion carried unanimously.

8. **Presentation, possible action and discussion concerning proposed College Station Independent School District lease of property for Pebble Creek School Park:** David Scott made a motion approving the CSISD lease of property for Pebble Creek School Park, and Jody Ford seconded. Discussion followed. The vote was called. All were in favor, and the motion passed unanimously.

9. **Presentation, possible action, and discussion concerning Proposed Skate Park project, location and usage operations:** Marco A. Cisneros explained that this item was brought to the board in last month's meeting. He explained that the visitors asked that the Skate Park be incorporated as a dual use facility, for skate boards and BMX bikes. He explained that the State Law has detailed restrictions on the use of property. There is no allowance for the BMX to be incorporated into the park with the Skate Park. Edward McDonald the Project Manager explained that there was an email sent out to all of the visitors that attached their emails in the public meetings regarding the skate park. It explained the State Law and it's restrictions for a dual use facility.

Jessup made a motion to rescind the former recommendation of having a dual use facility, and recommend that include BMX bikes not be included. The skate park allowance will include skating, inline skating, roller-skating, and skateboarding. Jody Ford seconded the motion. Discussion followed. The vote was called. All were in favor, and the motion carried.

August 17, 2009
Consent Agenda Item No. 2n
Lease of CSISD Property for Pebble Creek School Park Project

To: Glenn Brown, City Manager

From: Marco A. Cisneros, Director, Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion to approve a lease of College Station Independent School District (CSISD) property for the construction of the Pebble Creek School Park Project.

Recommendation(s): The Parks and Recreation Advisory Board and Staff recommend approval of the lease of CSISD property for the construction of the Pebble Creek School Park Project including the sports pavilion.

Summary: The City and the CSISD developed the Pebble Creek School Park as a joint use facility in 1995. Since that time, numerous improvements have been made to this facility by both entities. There is no change in the partnership between the city and CSISD regarding this joint use facility. This is simply a formalization of the existing agreement. The proposed lease of CSISD property will allow the City to build a new sports pavilion over the basketball court at Pebble Creek School Park that is located on CSISD property. The sports pavilion would be similar in design and construction to the other sports pavilions that have been built in other parts of the City such as Dorothy and Jack Miller School Park, Lions Park and Oaks Park. The use of this lease agreement allows both entities to provide services and programs for their customers in a cost effective manner for all parties.

The Parks and Recreation Advisory Board reviewed and considered this lease concept for the construction of the sports pavilion to be located at Pebble Creek School Park their August 11, 2009 regular board meeting. They voted unanimously to recommend that the City Council approve this lease.

Budget & Financial Summary: This project is funded out of the Bond 2008 Fund that provides funding for improvements of neighborhood parks.

Attachments:

1. Lease of CSISD Property for Pebble Creek School Park
2. Minutes of August 11, 2009 Parks and Recreation Advisory Board Meeting

**LEASE BETWEEN
COLLEGE STATION INDEPENDENT SCHOOL DISTRICT
AND
THE CITY OF COLLEGE STATION, TEXAS**

THIS AGREEMENT OF LEASE is made and entered into by and between COLLEGE STATION INDEPENDENT SCHOOL DISTRICT, a Texas independent school district, (hereinafter referred to as "**CSISD**" or "**Lessor**"), and the CITY OF COLLEGE STATION, TEXAS (hereinafter referred to as the "**City**" or "**Lessee**"), a Texas Home Rule Municipal Corporation. (CSISD and the City may be referred to hereinafter either individually as the "Party" or "Agency" or collectively as the "**Parties**" or the "**Agencies**".)

WHEREAS, CSISD owns that certain piece of real property located in Pebble Creek Subdivision called Pebble Creek Park, situated on Parkview Drive on the east side of Pebble Creek Elementary School, College Station, Brazos County, Texas, which is more particularly described on the "**Exhibit A**", attached hereto and incorporated herein for all purposes ("Premises" or "Leased Premises"); and

WHEREAS, the City desires to construct a basketball pavilion and operate and maintain the park on the Premises; and

WHEREAS, Section 272.005 OF THE TEXAS LOCAL GOVERNMENT CODE, authorizes a political subdivision to lease property owned by the political subdivision to another political subdivision or agency of the state or federal government, for less than fair market value, so long as the lease will promote a public purpose; and

WHEREAS, SECTION 331.001 OF THE TEXAS LOCAL GOVERNMENT CODE, authorizes a municipality to improve land for park purposes and operate and maintain land for park purposes. The authority to improve the land includes the authority to construct buildings, lay out and pave driveways and walks, and construct ditches or lakes, and set out trees and shrubs; and

WHEREAS, the City is a Home-Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Lease pursuant to ARTICLE II, SECTION 5 OF ITS CITY CHARTER; and

WHEREAS, CSISD is an independent school district and is authorized to enter into this Lease pursuant to the approval of its board of trustees; and

WHEREAS, the governing body of CSISD has authorized this Lease and determined that the terms of this Lease will promote a public purpose; and

WHEREAS, the City and CSISD represent that each is independently authorized to perform the functions contemplated by this Lease; and

WHEREAS, the City and CSISD enter this Lease under the authority of the Texas Local Government Code and with the intent that the transaction contemplated by this Lease serve and promote a public purpose; and

WHEREAS, the authority to administer this Lease may be delegated by the City and CSISD to the City Manager and the Superintendent or their designees;

NOW THEREFORE, In consideration of the mutual covenants and agreements set forth in this Lease, and other good and valuable consideration, Lessor does hereby demise and lease to Lessee, and Lessee does hereby lease from Lessor the Premises.

ARTICLE I – TERM

1. **Initial Term.** This Lease shall be for a term of ten (10) years, referred to as the Lease Term, commencing on the date upon which the Lease is approved by both parties subject, however, to earlier termination as provided in this Lease.
2. **Renewal.** Thereafter, unless terminate as provided herein, this Lease shall be automatically renewed for successive one (1) year terms until the end of the thirtieth (30th) year following the effective date of this Lease.
3. **Termination.** Unless earlier terminated as provided for elsewhere in this Lease, the Lease shall terminate and become null and void without further notice on the expiration of the term specified in this Article I as automatically renewed from time to time, and any holding over by Lessee after the expiration of that term shall not constitute a renewal of the Lease or give Lessee any rights under the Lease in or to the Leased Premises.

ARTICLE II – RENT

1. **Rent.** Lessee agrees to pay to Lessor without any prior demand and without any deduction or set-off, as a fixed rent, the sum of \$1.00 per year, and all costs associated with the construction, maintenance and operation of the facilities necessary for the operation of a park.
2. **Place of Payment.** Lessee agrees to pay rent as provided in Article II, Paragraph 1 to Lessor by mailing such rent to Lessor at the below referenced address or other locations as Lessor shall from time to time designate by written notice to Lessee.

ARTICLE III – USE OF PREMISES

1. **Permitted Uses by Lessee.** Lessee shall construct on the Leased Premises a basketball pavilion, as more specifically described on "**Exhibit B**" attached hereto (the "Facilities"), and shall operate and maintain the Leased Premises for the purpose of a neighborhood park and shall use the Premises for no other purpose.
2. **Permitted Use by Lessor.** Lessor shall, for no consideration or payment, be entitled to access and utilize the Facilities, subject to the reasonable schedules of the City.
3. **Waste, Nuisance or Illegal Uses.** Lessee shall not use, or permit the use of, the Premises in any manner that results in waste of the Premises or constitutes a nuisance. Nor shall Lessee use, or permit the use of, the Premises for any illegal purpose. Lessee, at its expense, will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws and ordinances and with all applicable rules and regulations of governmental agencies, concerning the use of the Premises.

ARTICLE IV – MAINTENANCE AND SURRENDER

1. **Maintenance and Surrender by Lessee.** Lessee shall maintain the Leased Premises and keep them free from waste or nuisance throughout the Lease term and any extensions of that term. At the termination of the Lease, Lessee shall surrender and deliver the Lease Premises to Lessor in as good a state of repair and condition as they were in at the time Lessor delivered possession to Lessee, reasonable wear and tear and damage by fire, tornado, or other casualty excepted.
2. **Remedy for Failure to Maintain.** In the event Lessee fails to perform its obligation to repair or maintain as set forth in Article IV, Paragraph 1, above, after notice from the Lessor of the need for such repair or maintenance and the passage of a reasonable amount of time for performance after such notice but in no event less than thirty (30) calendar days, the Lessor may make such repairs or perform such

maintenance, or cause such repairs to be made or maintenance to be performed at its own expense. If Lessor is required to make the repair or to perform the maintenance, Lessee shall reimburse Lessor for the reasonable expense of the repair or maintenance.

ARTICLE V – TAXES AND ASSESSMENTS

1. Lessor and Lessee are both governmental entities and as such neither entity is responsible for taxes.

ARTICLE VI – UTILITIES AND GARBAGE REMOVAL

1. **Utility Charges.** Lessee shall pay all utility charges for water, electricity, heat, gas, and telephone service used in and about the Leased Premises during the term of the Lease, all such charges to be paid by Lessee directly to the utility company or municipality furnishing the same before the same shall become delinquent.

2. **Garbage Removal.** Lessee shall pay for the removal of all garbage and rubbish from the Leased Premises during the term of the Lease.

ARTICLE VII – ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

1. **Consent of Lessor.** Lessee shall not make any substantial alterations, additions, or improvements to the Leased Premises without the prior written consent of Lessor; provided, however, that Lessee may construct a basketball pavilion and maintain, repair, and make minor alterations or improvements to the Leased Premises without Lessor's prior written consent. Consent for alterations, additions, or improvements shall not be unreasonably withheld by Lessor.

2. **Property of Lessor.** All alterations, additions, or improvements made by Lessee may become the property of Lessor at the expiration of the Lease Term or the expiration of any renewal of the Lease Term as provided herein. At the termination of this Lease, at Lessor's option, Lessor may acquire the alterations, additions, or improvements for fair market value to be determined by an appraiser selected and mutually agreed upon by the parties. If Lessor elects to purchase the alterations, additions or improvements, the Lessee will pay for the costs associated with obtaining an appraisal. If Lessor does not elect to purchase the alterations, additions or improvements, Lessor may require that Lessee remove any or all alterations, additions, and improvements installed or made by Lessee, and any other property placed in the Premises by Lessee, upon termination of the Lease. In the event that Lessor requires Lessee to remove such alterations, additions, or improvements, Lessee shall repair any damage to the Premises caused by such removal.

ARTICLE VIII – DEFAULT

1. **Lessee's Default.** The occurrence of one or more of the following events shall constitute a default and breach of this Lease by Lessee:

- a. Any use of the Premises by the Lessee that does not promote a public purpose;
- b. Any use of the Premises by the Lessee that solely benefits a private entity or individual, and denies public use of the Facilities;
- c. Any action by Lessee which prevents Lessor from accessing the Premises, subject to Lessee's reasonable scheduling requirements;
- d. Any assigning or subletting by Lessee in violation of this Lease;

- e. Using the Lease for a purpose, other than operating a neighborhood park, unless with written consent of Lessor.

2. **Parties' Remedies Upon Default.** In the event of any default under or breach of this Lease by either party, the non-defaulting party may, after giving sixty (60) days written notice, specifying how the party has failed to perform such obligations and the acts required to cure the same; provided, however, that if the nature of defaulting party's obligation is such that more than thirty (30) days are required for performance; that party shall not be in default if performance commence within such thirty (30) day period and thereafter diligently prosecutes the same to completion, exercise any of the following remedies:

- a. Continue this Lease in full force and effect upon the consent of both parties, and Lessor shall have the right to collect rent and other amounts when due,
- b. Terminate the Lease and terminate the Lessee's use of the Premises.
- c. In no event shall Lessee have the right to abate rent, exercise any self-help remedies, or offset damages against rent.

3. **Termination for Convenience.** This Lease may be terminated at any time and for any reason without liability to either party upon six (6) months advance written notice as provided herein.

ARTICLE IX – MECHANIC'S LIEN

1. **Bonds.** For any public work contract for the Facilities that exceeds \$25,000, the Lessee will require a payment bond.

ARTICLE X – INSURANCE AND INDEMNITY

1. **Property Insurance.** Lessee shall, at its own expense, during the term of this Lease, keep the Facilities insured against loss or damage by fire or theft, to include direct loss by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke, in the aggregate amounts of not less than the full fair insurable value of the Facilities.

2. **Liability Insurance.** Lessee is a public entity subject to the TEXAS TORT CLAIMS ACT, TEX. CIV. PRAC. & REM. CODE 101.001, and by entering into this Lease expressly does not agree to and does not waive its governmental immunity. However, the Licensee agrees to insure through self insurance or otherwise the limits of its statutory liability, if any, subject to the TEXAS TORT CLAIMS ACT.

3. **Hold Harmless.** The City and CSISD each individually agree to hold the other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, for damage to any property, arising out of or in connection the Lease.

- a. The Parties understand and agree that each Party is a "Governmental Unit" as that term is defined in Section 101.001(3) of the Texas Civil Practice Code.
- b. The Parties further understand and agree that they are entitled to the, rights, protections and limitations which Title 5 of the Texas Civil Practice and Remedies Code provides for Governmental Units, including the protections and limitations afforded under Chapter 101 of the Texas Civil Practice and Remedies Code.
- c. The Parties agree to indemnify and hold the other Party and its officers, trustees, directors, employees, and agents harmless from claims, demands, causes of action, suits, damages,

costs, and attorney fees, in favor of any third party, subject to the following: (a) the Party's obligation to indemnify extends only to those claims, demands, suits, causes of action, damages, costs, or attorney fees, which arise out of or are connected with their own acts or negligence; and (b) the Party's obligation to indemnify is subject to Title 5 of the Texas Civil Practice and Remedies Code.

- d. Notwithstanding anything which may be construed to the contrary herein, the Party's liability to indemnify will only exist to the extent and to the limits that it would itself otherwise be exposed to liability under Title 5 of the Texas Civil Practice and Remedies Code.

ARTICLE XI – DAMAGE OR DESTRUCTION OF PREMISES

1. **Notice to Lessor.** If the Facilities should be damaged or destroyed by fire, tornado, or other casualty, Lessee shall give immediate written notice of the damage or destruction to Lessor, including a description of the damage and, as far as known to Lessee, the cause of the damage.

2. **Total Destruction.** If the Facilities should be totally destroyed by fire, tornado, or other casualty not the fault of Lessee or any person in or about the Leased Premises with the express or implied consent of Lessee, or if it should be so damaged that rebuilding or repairs cannot reasonably be completed within 360 working days, this Lease shall terminate, and rent shall be abated for the unexpired portion of this Lease, effective as of the date of written notification as provided in Article XI, Paragraph 1 .

3. **Partial Destruction.** If the Facilities should be damaged by fire, tornado, or other casualty not the fault of Lessee or any person in or about the Leased Premises with the express or implied consent of Lessee, but not to such an extent that rebuilding or repairs cannot reasonably be completed within ninety (90) working days, this Lease shall not terminate.

ARTICLE XII – MISCELLANEOUS

1. **Inspection by Lessor.** Lessee shall permit Lessor and Lessor's agents, representatives, and employees to enter into and on the Leased Premises at all reasonable times for the purpose of inspection, maintenance, making repairs or alterations to the Premises or any other purpose necessary to protect Lessor's interest in the Leased Premises or to perform Lessor's duties under this Lease.

2. **Parties Bound.** This agreement shall be binding upon, and inure to the benefit of, the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement.

3. **Attorney's Fees and Costs.** If, as a result of a breach of this agreement by either party, the other party employs an attorney or attorneys to enforce its rights under this Lease, then the breaching party agrees to pay the other party the reasonable attorney's fees and costs incurred to enforce the Lease.

4. **Force Majeure.** Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

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

6. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

College Station Independent School District
1812 Welsh
College Station, Texas 77840
Attn: Superintendent of Schools

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

7. **Entire Lease.** It is understood that this Lease 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 Lease exist. This Lease cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the Parties, either before or after the execution of this Lease, shall affect or modify any of the terms or obligations hereunder.

8. **Amendment.** No amendment to this Lease shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of each party.

9. **Texas Law.** This Lease has been made under and shall be governed by the laws of the State of Texas.

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

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

12. **Waiver.** Failure of either Party, at any time, to enforce a provision of this Lease, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Lease, any part hereof, or the right of the Parties thereafter to enforce each and every provision hereof. No term of this Lease 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.

13. **Lease Read.** The Parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Lease.

14. **No Assignment.** This Lease and the rights and obligations contained herein may not be assigned by either Party without the prior written approval of the other Party.

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

16. **Exhibits.** The Exhibits attached to this Lease and incorporated by references herein are as follows:

Exhibit "A" – Legal description of property owned by CSISD.

Exhibit "B" – Description of park facilities to be constructed by the City.
This Lease shall be effective for all purposes as of _____ day of _____
_____, 2009.

COLLEGE STATION INDEPENDENT SCHOOL DISTRICT

By: _____
Charlotte Slack, Board President
College Station Independent School District

CITY OF COLLEGE STATION

By: _____
Mayor
City of College Station

Attest: _____
City Secretary

APPROVED:

City Manager

Date

Carla A. Robinson

City Attorney

Date

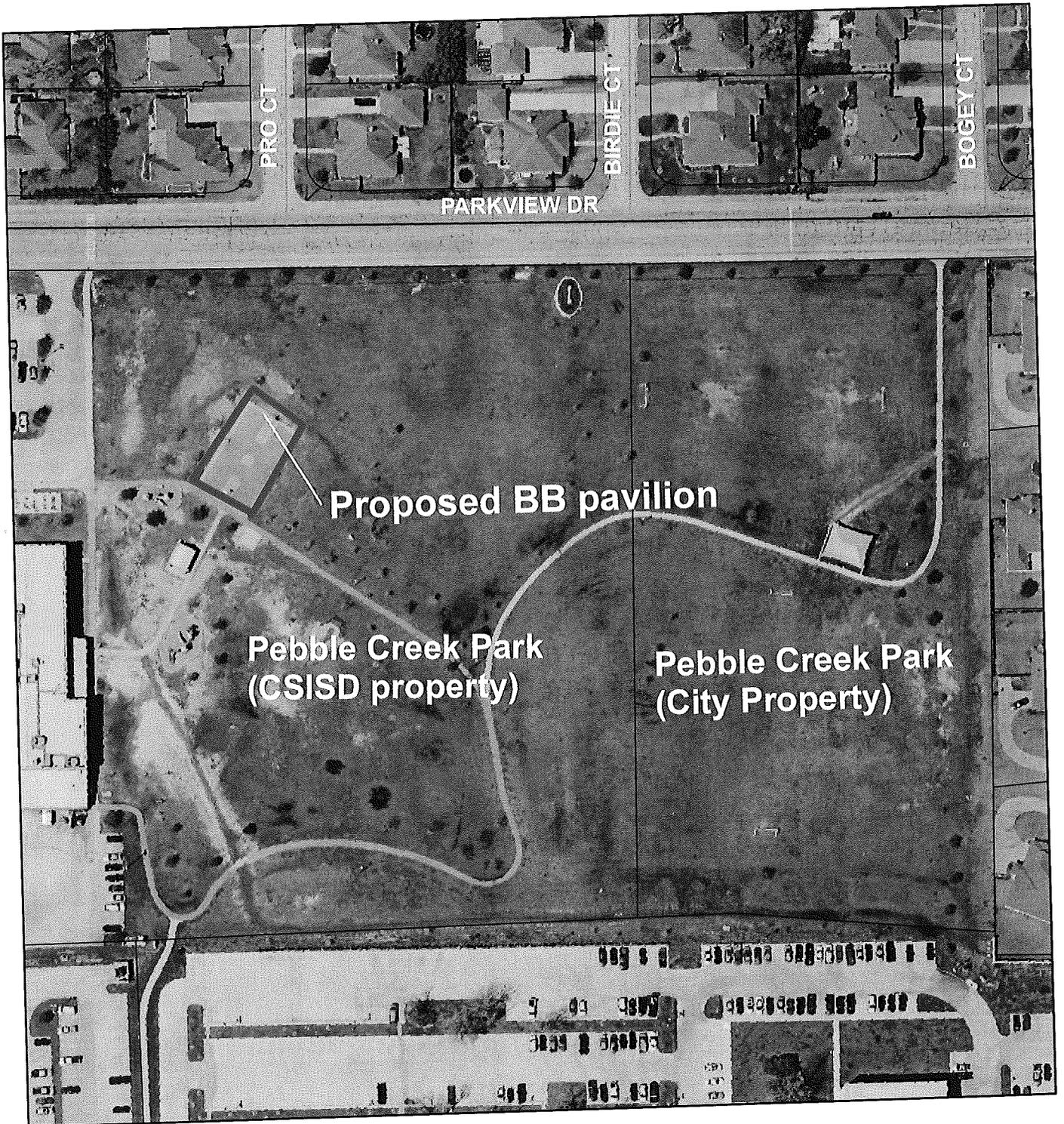
Chief Financial Officer

Date

Exhibit "A"
Legal Description

Exhibit "B"
Description of Facilities

EXHIBIT B



Pebble Creek Park

Joe and Jennifer Garcia, 3701 Night Rain: *What kinds of trees are going to be in the park?*

- Elms, Oaks, and some décor trees (Crape Myrtles)

Sabrina Heaton, 3706 Springfield: *Are you going to have a walkway at the culdesak into the park?*

- Yes we are going to add a walk.

Amber Arseneaux, 918 Eagle: *Will there be bike lanes on each side of the park? What is the parking going to be like?*

We see that the bike lanes cease, when there is entry into the park. Also in neighborhood park parking, typically we do not do much parking because it is designed for the neighborhood. The citizens usually walk from their homes to the park. There will be an open parking lot for the citizens after school hours at Creek View School.

Billy Hart, 3908 Tranquil Path (President of the subdivision): *What is going to happen regarding traffic issues on Eagle Avenue with the school going in and the traffic with the park, etc? What is the time frame of construction with the park? Are there going to be any road closures when construction begins?*

Construction will start early Spring of 2010, and it is a 4 to 5 month project. There will be no road closures during this period.

Discussion followed.

Glenn Schroeder made a motion that the Board recommend that Staff move forward with the conceptual plan and further development with park, and George Jessup seconded the motion. The vote was called. All were in favor, and the motion carried unanimously.

8. **Presentation, possible action and discussion concerning proposed College Station Independent School District lease of property for Pebble Creek School Park:** David Scott made a motion to approve the CSISD lease of property for Pebble Creek School Park, and Jody Ford seconded. Discussion followed. The vote was called. All were in favor, and the motion passed unanimously.

9. **Presentation, possible action, and discussion concerning Proposed Skate Park project, location and usage operations:** Marco A. Cisneros explained that this item was brought to the board in last month's meeting. He explained that the visitors asked that the Skate Park be incorporated as a dual use facility, for skate boards and BMX bikes. He explained that the State Law has detailed restrictions on the use of property. There is no allowance for the BMX to be incorporated into the park with the Skate Park. Edward McDonald the Project Manager explained that there was an email sent out to all of the visitors that attached their emails in the public meetings regarding the skate park. It explained the State Law and it's restrictions for a dual use facility.

Jessup made a motion to rescind the former recommendation of having a dual use facility, and recommend that include BMX bikes not be included. The skate park allowance will include skating, inline skating, roller-skating, and skateboarding. Jody Ford seconded the motion. Discussion followed. The vote was called. All were in favor, and the motion carried.

August 17, 2009
Consent Agenda Item No. 2o
Interlocal Agreement for Increasing the Height of the
Brazos County Millican Radio Tower

To: Glenn Brown, City Manager

From: Ben Roper, Director, Information Technology

Agenda Caption: Presentation, possible action, and discussion to approve an Interlocal Agreement (ILA) for raising the height of the County owned radio tower located at 21550 Kathy Fleming Road, in the vicinity of the community of Millican, Texas between the City of College Station and Brazos County.

Recommendation(s): Staff recommends approval.

Summary: The City is working to replace existing obsolete radio equipment for the Public Safety Radio System used by Fire, Police, Emergency Management, and other city departments. One such improvement was to enter into an ILA with the City of Bryan, City of Brenham, Washington County, Brazos County and Texas A&M University to establish the Brazos Valley Wide Area Communication System (BVWACS).

Additionally, the City obtained the services of RCC Consultants to ensure that the planned BVWACS system would meet the City's radio requirements, specifically in the southern part of the city where rapid growth is occurring. RCC Consultants determined that the BVWACS would meet the City's requirements if the Millican radio tower owned by Brazos County was increased in height from its present 100' to approximately 190', and if an additional radio site is constructed in the vicinity of the intersection of Hwy 6 and William D Fitch Parkway.

This ILA provides the framework for the City to work with Brazos County to raise the height of the existing Millican tower.

Budget & Financial Summary: Funds to accomplish this project are included in the Radio System Replacement Project, CO 0601.

Attachments:

1. Interlocal Agreement between City of College Station and Brazos County to raise the height of the Millican tower.

**INTERLOCAL AGREEMENT
FOR INCREASING THE HEIGHT OF THE
BRAZOS COUNTY MILLICAN RADIO TOWER**

THE STATE OF TEXAS
COUNTY OF BRAZOS

This Agreement is made and entered into by and between the City of College Station (hereinafter referred to as "College Station"), a Texas Home Rule Municipal Corporation, and Brazos County, Texas (hereinafter referred to as the "County").

RECITALS

WHEREAS, College Station and the County wish to enter into an interlocal agreement for the purpose of removing a radio tower owned by the County and located on County property located at 21550 Kathy Fleming Road, in the vicinity of the community of Millican, Texas and to construct a new tower utilizing portions of the old tower and increasing the tower height at such location from 100 feet to 190 feet to enhance radio communications of the parties; and

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes local governments to contract with each other to perform governmental functions or services including emergency response services and to make cooperative purchases of goods among themselves; and

WHEREAS, College Station and the County desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs, and services; and

WHEREAS, the parties are of the opinion that the joint use and modifications to the Millican radio tower for the purpose of providing improved public safety and emergency communications will be beneficial to the citizens of Brazos County and College Station;

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as follows:

I. DEFINITIONS

- (a) "BVWACS" means the Brazos Valley Wide Area Communications System established among the City of College Station, City of Bryan, City of Brenham, Brazos County, Washington County, and Texas A&M University pursuant to that once certain agreement titled "Interlocal Agreement for the Construction, Acquisition, Implementation, Operation and Maintenance of the Brazos Valley Wide Area Communications System (BVWACS)" approved in September and October of 2008 by such entities.

II. PURPOSE

The purpose of this Agreement is to remove a radio tower and build a new, taller one utilizing portions of the old tower generally referred to as the Millican radio tower and raising the height of the tower at such location from the present height of approximately 100 feet to a height of approximately 190 feet for the new tower. The location and proposed removal, construction and cost estimate of such project is as shown on Exhibit A attached hereto and made a part hereof. The primary purpose of this project is to support public safety and general radio communications of the Parties and of third parties as set forth herein.

III. OBLIGATIONS OF COUNTY

The County agrees that it shall perform the following:

1. Make available to City, including the right of access, the property upon which sits an approximately 100 foot high radio tower owned by County and upon which will be constructed an approximately 190 foot high new radio tower at the location shown on Exhibit "A", such location hereinafter referred to as the "Property."
2. Grant permission for City to remove the currently existing radio tower on the Property and to construct a new one as shown in Exhibit "A" for the purposes recited in this Agreement. This includes allowing the City to utilize all or some of the currently existing tower on the Property for construction of the new one on the Property.
3. Permit the City to carry out all its obligations and responsibilities as set forth in this Agreement.
4. Upon completion of construction of the new tower, permit, allow and make accessible to the City the new tower and Property as shown on Exhibit "A" for public safety radio systems users' communications.
5. Understand that during the period of removal of the old tower until completed construction of the new tower on the Property that neither tower may not be functional for communications during such period. Time is of the essence, and every effort will be made to minimize the time that communications are unavailable due to this project.
6. Understand that the scope of work to be performed by the City is to remove the old tower and construct a new one; and that making additional improvements or adding facilities upon the tower so as to allow or permit BVWACS radio communications falls outside the scope of this Agreement. Tower construction will be coordinated with BVWACS to minimize delay and impact on BVWACS.
7. Understand and agree that ownership of the Property, the old tower and the new tower shall remain with the County; but in the event this Agreement is terminated earlier than as otherwise set forth as the initial term that the provisions regarding early termination apply.

8. Understand and agree that capacity on the new tower for governmental use is to be shared equally by both Parties.
9. Be responsible and assume the cost for the proper operation, maintenance, repair and use of the new tower for radio communications, including proper maintenance, upkeep and repair of the tower structurally.
10. Not enter into any third party agreement for use of the new tower without mutual written agreement of the parties except that use of the new tower by BVWACS shall not require future mutual agreement.
11. Assume the cost and responsibility of purchasing and installing on the new tower whatever equipment is necessary for County radio communications.

IV. OBLIGATIONS OF THE CITY

The City agrees that it shall perform the following:

1. Assume responsibility for the performance and cost of removing the existing tower on the Property and constructing a new one as set forth in Exhibit "A."
2. Comply with all applicable laws, rules and regulations regarding the removal of the current tower and construction of the new one.
3. Comply with all applicable laws, rules and regulations in using the new tower for its radio communications.
4. Understand and agree that ownership of the Property, the old tower and the new tower shall remain with the County; but in the event this Agreement is terminated earlier than as otherwise set forth as the initial term that the provisions regarding early termination apply.
5. Understand that the scope of work to be performed by the City is to remove the old tower and construct a new one; and that making additional improvements or adding facilities upon the tower so as to allow or permit BVWACS radio communications falls outside the scope of this Agreement.
6. Understand and agree that capacity on the new tower for governmental use is to be shared equally by both Parties.
7. Not enter into any third party agreement for use of the new tower without mutual written agreement of the parties except that use of the new tower by BVWACS shall not require future mutual agreement.
8. Assume the cost and responsibility of purchasing and installing on the new tower whatever equipment is necessary for City radio communications.

9. Submit for County approval the tower design and specifications prior to beginning removal of the existing tower and construction of the new tower.
10. Ensure that the new tower design will accommodate the planned BVWACS antenna equipment.

V. TERM

The initial term of this Agreement is five years. Thereafter, this Agreement shall be automatically renewable for one year terms unless terminated in accordance herein.

In the event either Party desires to terminate this Agreement during the first five years, it may do so only after giving 270 days advance written notice to the other Party. In such event, the County agrees to reimburse City its actual costs incurred in removing the old tower and constructing the new one, prorated for the time the tower is used by both Parties. Thereafter, in the event either Party desires to terminate this Agreement it may do so upon giving 180 days advance written notice to the other without further obligation.

VI. INDEMNITY / RELEASE

To the extent provided by law and without waiving governmental immunity or the limitations as to damages in the Texas Tort Claims Act, the Parties each individually agree to hold the other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury or death to any person or damage to any property, arising out of or in connection with the work performed under this Agreement. The Parties hereby agree that each Party will remain solely responsible for the legal defense and any civil liability due to the actions of a peace officer or other personnel regularly employed by the Party. Nothing herein shall be construed as a waiver of any legal defense of any nature to any claim against a Party or an agent, officer or employee of a Party.

Each Party hereby releases, relinquishes, and discharges all other Parties, including their officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the services provided under this Agreement. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of any Party, its officers, agents, and employees, or any third party.

VII. EFFECTIVE DATE

This Agreement shall become effective between the Parties hereto upon proper approval by both Parties.

VIII. NOTICES

Any notices, approval, consent, or communication by one Party to another must be in writing and may be by personal delivery or registered or certified United States Mail, properly addressed to the respective Parties as follows:

COLLEGE STATION:

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

with copies to:

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

BRAZOS COUNTY:

County Judge
Brazos County
200 S. Texas Ave., Suite 310
Bryan, Texas 77803

with copy to:

Sheriff
Brazos County Sheriff's Office
1700 Hwy 21 West
Bryan, Texas, 77803

IX. MISCELLANEOUS

- a. The Parties expressly acknowledge that each Party to this Agreement is a Texas governmental entity. Nothing in this Agreement will be construed as a waiver or relinquishment by any Party of its right to claim such exemptions, privileges and immunities as may be provided by law nor form the basis of a consent to suit.
- b. The article headings in this Agreement are used for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation.
- c. This Agreement is construed under and in accordance with the laws of the State of Texas and is performable in Brazos County, Texas.

- d. Public disclosure of information related to, and activities conducted under, this Agreement may be subject to the Freedom of Information Act (5 U.S.C. § 552) and the Texas Public Information Act (TEX. GOV'T CODE §§ 552.001 et. seq.). To the degree permissible by law and prior to public disclosure of any requested information, the Parties shall consult with each other regarding any such proposed disclosure.
- e. This Agreement may not be assigned by either Party without the written consent of the other Party.
- f. This Agreement constitutes the entire agreement between the Parties and will not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or agreements, either written or oral.
- g. The Parties represent that the undersigned representative of each entity is duly authorized to enter into this Agreement and that each Party is authorized to perform the functions or services contemplated herein.
- h. Each Party represents that it has sufficient funds available from current revenues to perform its obligations under this Agreement;
- i. This Agreement may only be amended or modified by the mutual agreement of the Parties hereto in writing.
- j. 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.
- k. The failure of any Party to insist, in one or more instances, on strict performance of any of the requirements of this Agreement will not be construed as a waiver or relinquishment of such requirements in future instances, but such requirements will continue and remain in full force and effect.
- l. Severability. If one or more of the provisions contained in this Agreement is, for any reason, held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and the Agreement shall be construed as if the invalid, illegal, or unenforceable term or provision had never been contained in it.

EXECUTED this the _____ day of _____, 2009 by **CITY OF COLLEGE STATION, TEXAS.**

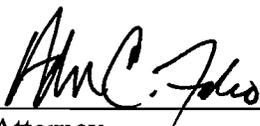
CITY OF COLLEGE STATION, TEXAS

By: _____

Mayor

ATTEST:

APPROVED AS TO FORM:



City Attorney

City Secretary

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, Mayor of College Station, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed it for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2009.

Notary Public in and for the State of Texas
My Commission Expires: _____

EXECUTED this the _____ day of _____, 2009 by
BRAZOS COUNTY.

COUNTY OF BRAZOS

By: _____
County Judge

ATTEST:

APPROVED AS TO FORM:

County Clerk

County Attorney

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ County Judge of Brazos County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed it for the purposes and consideration therein expressed, and in the capacity therein stated.

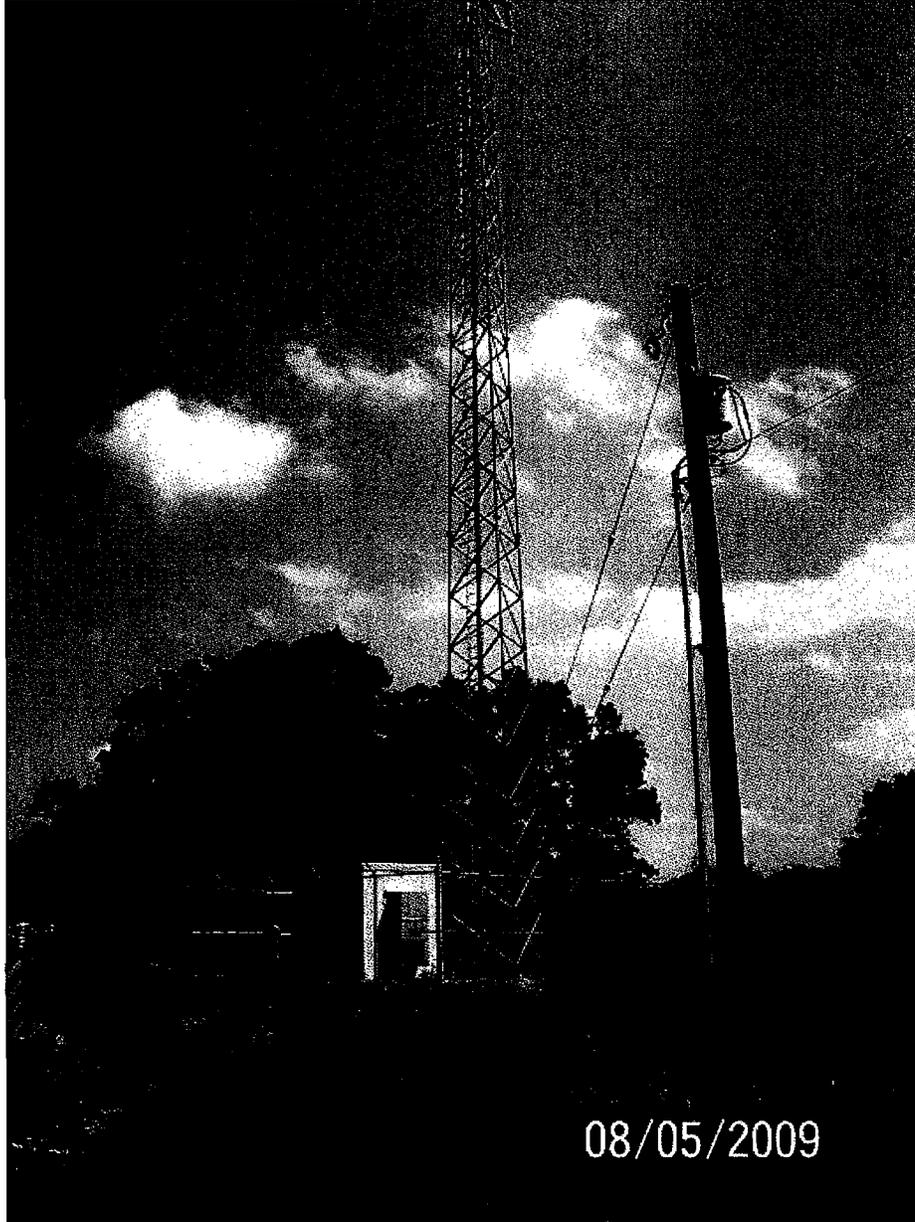
GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2009.

Notary Public in and for the State of Texas
My Commission Expires: _____

Exhibit A

The current 100' tower is shown in Figure 1 below:

Figure 1: Current 100' tower



This work specified by this Agreement will remove the existing tower and install an approximately 190' tower in the same location. The existing tower will be reused in the new tower to the maximum extent possible. The new tower will be of similar construction, will be freestanding, and will not require guide wires for support.

August 17, 2009
Consent Agenda Item No. 2p
Video Surveillance Pilot Project for the Northgate Entertainment District

To: Glenn Brown, City Manager

From: Ben Roper, Director, Information Technology

Agenda Caption: Presentation, possible action, and discussion regarding participating on a state contract with RedMoon, Inc. of Plano, Texas for design, equipment, materials, supplies and services to install a wireless video surveillance pilot project in the Northgate Entertainment District for an amount not to exceed \$60,000.00.

Recommendation(s): Staff recommends approval.

Summary: On October 9, 2008, Council approved the Wireless Plan, which included a pilot video surveillance pilot project in the Northgate Entertainment District. This pilot project consists of four video surveillance cameras connected by wireless radio, and to the City's fiber infrastructure.

The video surveillance project could not proceed until the network upgrade project was complete, which occurred in May 2009. In April 2009 a Request for Information (RFI) was sent to potential vendors. Based on the responses to the RFI, a Request for Proposal (RFP) was issued in June. The City received 17 responses to the RFP. An evaluation team with members from IT, Police and Economic Development reviewed the proposals and selected five vendors to participate in a demonstration and Q&A session concerning their proposal. From these vendors, RedMoon, Inc. of Plano, Texas was selected as the leading vendor.

Budget & Financial Summary: Funds to accomplish this project are included in the Wireless Infrastructure Project, CO 0704. Redmoon, Inc. is approved under the State of Texas Department of Information Resources (DIR) for installation of wireless services, Contract # SDD-475

Attachments:

1. Statement of Work

Statement of Work

City of College Station Northgate Video Surveillance Pilot Project

General

This project consists of the planning, development and deployment of a pilot video surveillance project consisting of a maximum of four (4) surveillance cameras located in the Northgate Entertainment District (bounded by University Drive, Church Avenue, Boyett Street, College Main). The system will consist of 4 pan tilt zoom cameras connected via 4.9 GHz wireless links, a video digital recorder or Network Video Recorder (DVR/NVR) capable of storing up to 45 days of continuous video from each camera, management and control software, and real time display system. The DVR and display system will be located up to five miles away from the cameras. Connectivity between the camera location and the DVR and display system will be via the city's fiber network (48 strand, single mode, 1310nm/1550nm window, fiber optic cable).

This project includes all tasks and work needed to plan, design, install, test, deliver and train users and maintainers of the pilot video surveillance project system for the College Station Northgate Entertainment District. Following contract award, the vendor will meet with city representatives to review project objectives, develop a project schedule, and introduce key personnel. The vendor and the City will identify specific camera and radio locations. Following this identification, the vendor will develop a detailed project plan and implementation schedule. This plan and schedule will be presented to the city for approval. Following approval, the vendor will install and test the system. Following installation and testing, training for city users and maintainers will be conducted. The selected firm will be expected to provide a single project manager for the duration of the project.

This project will consist of the following five phases:

- Phase I – System Planning and Design
- Phase II – System Installation
- Phase III – Testing
- Phase IV – Training
- Phase V – Acceptance and Completion

Phase I

Phase I of the system will consist of an initial kick-off meeting between key personnel, and will include an orientation visit to the Northgate area and identification of locations for cameras and radios. Following this initial meeting, the vendor will develop the proposed system design and implementation plan. This plan will include all of the work necessary to install the camera and wireless radio equipment at the designated locations, as well as all additional work needed for system installation. City obligations and work must be clearly identified in the plan. **Any equipment, supplies, services, or work required for full system operation, and not clearly identified as city responsibilities will be assumed to be the contractor's responsibility.**

Deliverable: System installation plan, including proposed camera and radio locations marked on an aerial map/photo of the area, camera settings, radio configuration, installation timeline, and other equipment installation locations.

Phase II

Following approval of the proposed implementation plan, the vendor will install all system components. The vendor will be responsible for all equipment installation and mounting, including electrical runs and hook-up needed for power. At the connection point to the city's fiber network, the City will provide a suitable equipment cabinet and SC connectors on the city fiber to receive camera video. The vendor is responsible for all equipment needed to collect and aggregate the camera video and convert it to an optical signal to be connected to the fiber network. For planning purposes, the distance between the point where the video is injected into the city network to the display location at PD will be 40,000 feet. The vendor will be responsible for obtaining any permits needed to support the installation.

Deliverable: Cameras and radios installed, DVR/NVR installed, software installed and configured. All other equipment and material installed, cabled, and connected.

Phase III

Phase III will consist of component and end-to-end system testing, and will be observed by city representatives.

Phase IV

This phase will consist of training for system administrators, users, and maintainers. The City will provide a training location. System administrator training will include an overview of system components, licensing, and instruction for technical personnel to administer and control the system. This training session will accommodate up to 6 personnel.

User training will be conducted in two sessions, accommodating up to 10 personnel in each session. User training will be geared toward system operators and personnel needed to search, locate and record video for investigative or evidence purposes.

Maintenance training will consist of routine basic system maintenance functions that city staff will be tasked to perform to ensure normal continuous system operation. This training session will accommodate up to 4 personnel.

Deliverable: On-site training as specified above.

Phase V

Once the system installation is complete, training conducted, documentation (consisting of manuals, operating procedures, as-built drawings, license, and configurations) delivered to the City; the vendor will provide written notification (E-mail acceptable) to the city that the system is installed and ready for use and all contract requirements are complete. The city will inspect the system and upon agreement, accept delivery of the system. Documentation will consist of one paper copy of all required documentation, and one electronic copy on CD/DVD. Electronic copies of as-built drawings will be configured as E-size in *.dwg format. All other electronic files will be in PDF or Microsoft Word 2007 format.

Deliverable: System documentation.

Payment Schedule

PO Issued – 40% of Contract Price

Implementation Plan Approval – 20% of Contract Price

Installation Complete – 20% of Contract Price

System Acceptance – 20% of Contract Price

August 17, 2009
Consent Agenda Item No. 2q
Sungard Public Sector Click2Gov for Business Licenses

To: Glenn Brown, City Manager

From: Ben Roper, Director of Information Technology

Agenda Caption: Presentation, possible action, and discussion regarding approval of a contract with Sungard Public Sector (SPS), formerly Sungard HTE, for the purchase of the Click2Gov online application for the SPS Business Licenses module in an amount not to exceed \$15,240.00.

Recommendation(s): Staff recommends approval.

Summary: The SPS Business Licenses module is the system in which rental registration records are maintained. This Click2Gov module will allow online renewal of the annual rental property registration information and fees.

This contract (09-274) is a Supplement to the H.T.E., Inc. Software and License Agreement dated March 13, 1998 between Sungard Public Sector (SPS) and the City of College Station. The contract is exempt from competitive bidding by LGC 252.022(a)(7)(A) due to one source based on software copyrights. Sungard Public Sector is the software vendor for approximately 29 modules (applications) hosted on the IBM i5 computer and used by virtually every City department including, but not limited to Planning and Development Services, Utility Billing and Collection, Finance, Budget and Accounting, Fleet Management and Utility Work Orders.

Budget & Financial Summary: Funds are available in the Planning and Development Services FY09 operating budget to cover the costs associated with this purchase. Ongoing costs of \$2,190, incorporated into the contract amount, exist for the maintenance and support of this module.

Attachments:

Supplement contract for SPS Click2Gov-OL Software and License Agreement

A copy of the master agreement with SPS is available in the City Secretary's office

SUNGARD PUBLIC SECTOR

SUPPLEMENT TO H.T.E., INC. SOFTWARE LICENSE AND SERVICES AGREEMENT BY AND BETWEEN SUNGARD PUBLIC SECTOR INC. AND CITY OF COLLEGE STATION, TX SCHEDULE A-PRICING AND PAYMENT SCHEDULE CONTRACT NO. COLG-090941

This Supplement is to the H.T.E., Inc. Software License and Services Agreement dated March 13, 1998 (Agreement), between SunGard Public Sector Inc. (SunGard Public Sector) and City of College Station, TX (Customer). Unless otherwise stated below, all terms and conditions as stated in the Agreement shall remain in effect.

Designated Machine

Use of the Licensed Program(s) provided in this Supplement on platforms other than specified below, without written permission from SunGard Public Sector, may be subject to an upgrade charge.

Type: _____ Model: _____ Serial Number _____
Operating System: _____ Tape Drive: _____

SunGard Public Sector Licensed Programs	License Fees	Installation Fees	Annual Support
C2G OL - K6 ¹	\$ 10,950.00	\$ 2,100.00	\$ 2,190.00
SunGard Public Sector Licensed Programs Total	\$ 10,950.00	\$ 2,100.00	\$ 2,190.00

Payment Schedule*	Total Contract	Due Upon Contract Execution	Due As Incurred/ Delivered	Due As Otherwise Noted
License Fees	\$ 10,950.00	\$ 10,950.00		
Installation Fees	2,100.00		\$ 2,100.00	
Annual Support	2,190.00			\$ 2,190.00
Grand Total	\$ 15,240.00	\$ 10,950.00	\$ 2,100.00	\$ 2,190.00

APPLICABLE TAXES ARE NOT INCLUDED IN THIS SCHEDULE, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO THE CUSTOMER. CUSTOMER IS A TAX EXEMPT ENTITY AND WILL PROVIDE ITS TAX EXEMPTION NUMBER.

*Payments:

THE AMOUNTS NOTED ABOVE SHALL BE PAYABLE AS FOLLOWS:

- License Fees: Upon execution of this Supplement.
- Installation Fees: On invoice; upon completion.
- Support Fees: Prior to the commencement of the initial term of support. Support fees for subsequent terms of support will be due prior to the start of that term at the then prevailing rate. Rates for subsequent years of support service are subject to change.
- Travel and Living Expenses: Travel and living expenses are in addition to the prices quoted above and will be invoiced as incurred and shall be governed by the SunGard Public Sector Corporate Travel and Expense Reimbursement Policy.

¹If using vendor other than AMS, client is responsible for any vendor setup fees and vendor agreements.

SunGard Public Sector Support Services

The initial term of SunGard Public Sector support services shall commence one hundred twenty (120) days after installation/configuration of the Licensed Program(s), and extend for a twelve (12) month term. Subsequent terms of support will be for twelve (12) month periods, commencing at the end of the initial support period. Support Services do not include maintenance on modifications made to the Licensed Program(s) at Customer's request.

Licensed Program Testing and Acceptance

The Licensed Program Testing and Acceptance as defined in Section VI of the Agreement shall extend for a period of sixty (60) days commencing on the first day of Installation and Configuration services of each Licensed Program.

Warranty

SunGard Public Sector warrants that for a period of one hundred twenty (120) days after testing and acceptance of the Licensed Programs, the SunGard Public Sector Licensed Programs herein will perform in substantial compliance with the reference documentation supplied by SunGard Public Sector, provided the Licensed Programs are used in the proper operating environment. SunGard Public Sector does not warrant that the functions contained in the Licensed Programs will meet the Customer's requirement or will operate in the combinations which may be selected for use by the Customer after the one hundred twenty (120) day period.

Any other utility or incidental software distributed by SunGard Public Sector will be on an "AS IS" and "WITH ALL FAULTS" basis without warranty of any kind either expressed or implied. SunGard Public Sector shall be responsible only for the Licensed Programs and products as originally supplied and accepted by Customer, and for changes made to the Licensed Programs by SunGard Public Sector's authorized representatives. SunGard Public Sector will not be responsible for the consequences of attempts at changes or modifications to the products and Licensed Programs made by the Customer or any other unauthorized party.

SunGard Public Sector warrants that it has the right to license the SunGard Public Sector Licensed Programs listed herein and that the SunGard Public Sector Licensed Programs do not infringe any intellectual property of any third party. SunGard Public Sector agrees to defend and indemnify Customer against expenses, including reasonable attorneys' fees, costs, expert fees and other fees and expenses and liability arising from any claim of infringement related to SunGard Public Sector Licensed Programs provided SunGard Public Sector shall have the right to control the defense or settlement of any such claim. If use of the SunGard Public Sector Licensed Programs by the Customer is enjoined by any infringement proceeding, SunGard Public Sector shall, if possible, obtain without unreasonable expense the right of License for the Customer to use the SunGard Public Sector Licensed Programs or if that is not possible, SunGard Public Sector shall refund to the Customer the license fees paid under this Supplement for the particular Licensed Program that is determined to be infringing.

SunGard Public Sector does not make any representations or warranties with respect to intellectual property rights of any third party products. Any such representations or warranties are made solely by the Vendor of such products, and shall not be construed as a warranty with respect to infringement and the like by SunGard Public Sector.

SUNGARD PUBLIC SECTOR MAKES NO WARRANTIES, OTHER THAN AS STATED HEREIN, WITH RESPECT TO THE PARTICULAR LICENSED PROGRAM(S), EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

Remedies and Limitation of Liability

In situations involving performance or nonperformance of Licensed Programs furnished under this Supplement, the Customer's remedy is (1) the prompt correction by SunGard Public Sector of Licensed Program defects, or (2) if, after commercially reasonable efforts, SunGard Public Sector is unable to make the Licensed Programs operate as warranted, SunGard Public Sector shall reimburse Customer actual, direct damages to the limits set forth in Section XI of the Agreement. Customer shall return or destroy the Licensed Programs for which damages are sought once the reimbursement has been received.

SunGard Public Sector's liability for claims related to bodily injury, death and damage to real property and tangible personal property, as provided in Section XI of the Agreement, is intended to include, and does include, claims in which automobiles are involved.

Scheduled Resource Changes

Customer acknowledges that SunGard Public Sector makes every effort to schedule training and project management sessions sufficiently in advance to make effective use of SunGard Public Sector's personnel and to obtain favorable prices for travel and living. In the event Customer schedules and then cancels training or project management, Customer shall be obligated to reimburse SunGard Public Sector for any non-refundable expenses incurred by SunGard Public Sector for travel expenses. Notwithstanding the above, SunGard Public Sector will use commercially reasonable efforts to reschedule SunGard Public Sector personnel in order to mitigate Customer's costs and expenses under this paragraph. To the extent SunGard Public Sector is successful in such rescheduling, Customer's payment obligations shall be reduced.

Provisions of Insurance

The provisions for insurance as defined in the Agreement are hereby terminated for this and subsequent SunGard Public Sector supplements and shall be replaced with the attached "Certificate of Liability Insurance".

Preprinted Terms and Conditions

Preprinted conditions and all other terms, not included in this Supplement or in the Agreement, on any purchase order or other document submitted hereafter by Customer are of no force or effect, and the terms and conditions of the Agreement, and if applicable, this Supplement and the Hardware Purchase Agreement if applicable, shall control unless expressly accepted by SunGard Public Sector in writing to the Customer.

Non-Hiring Statement

During the term of this Supplement and for a period of twenty-four (24) months after the termination of this Supplements, neither party may offer to hire or in any way employ or compensate any of the employees of the other Party or persons who have been employed by that party within the immediate past twenty-four (24) months without prior consent of the other party.

Estimated Travel and Living Expenses

The Travel and Living Expense estimated below includes travel and living expenses associated with services performed for the Licensed Programs in this Supplement. Customer agrees to pay actual travel and living expenses incurred by SunGard Public Sector. SunGard Public Sector will use commercially reasonable efforts not to exceed the projected expense defined below.

Airfare	\$600 (booked at least 21 days in advance)	1 Flight
Hotel	\$125/Night	3 Nights - \$375
Per diem	\$ 45/Day	3 Days - \$135
Car Rental	\$ 90/Day	3 Days - \$270
Miscellaneous Expenses (Parking, Tolls, Mileage etc.)	= \$ 100	
Customer is Tax Exempt		

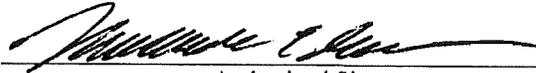
The terms and conditions contained in this Supplement, including the prices, will be honored as set forth herein, provided this Supplement is fully executed by September 15, 2009.

Customer warrants that the amounts to be paid hereunder will be paid out of Customers budgeted funds.

CITY OF COLLEGE STATION, TX

SUNGARD PUBLIC SECTOR INC.

Authorized Signature



Authorized Signature

Print Name & Title

Ronald E. Goodrow
Exec.VP, SunGard Public Sector Inc

Print Name & Title

Date

July 29, 2009

Date

ATTEST:

City Secretary

Date

City Manager

Date



City Attorney

Date

Chief Financial Officer

Date

**August 17, 2009
Consent Agenda Item No. 2r
Northgate Promenades, Surface Parking Lot,
Northgate Parking Garage, and
Chimney Hill Shopping Center
Maintenance Services Rejection of Bids**

To: Glenn Brown, City Manager

From: David Gwin, Director of Economic and Community Development

Agenda Caption: Presentation, possible action and discussion regarding rejection of the bid received in response to RFP #09-65 for maintenance and sanitation services to be provided at the Northgate Promenades, Surface Parking Lot, Northgate Parking Garage and Chimney Hill Shopping Center.

Recommendation(s): Staff recommends rejection of the currently held bid for this maintenance and sanitation services contract.

Summary: On May 13, 2009 staff released a Request for Bid for the annual sanitation and maintenance services provided for the Northgate Promenades, Surface Parking Lot, Northgate Parking Garage, and Chimney Hill Shopping Center.

Staff evaluated the bid submitted as of the May 27, 2009 deadline and determined that the scope of services as bid were too costly to enter into an agreement with any of responding vendors. Furthermore, Bid #09-65 did not include operation and maintenance services for the soon-to-be-completed Northgate Public Restroom Facility.

Staff has since restructured the scope of services in order to more efficiently and cost effectively meet the sanitation and maintenance requirements of some of these sites and includes provisions for the operation and maintenance of the new public restroom and issued a revised Request for Bid, #09-83, on August 4, 2009.

Staff, therefore, recommends rejection of the currently held bid for the sanitation and maintenance services.

Budget & Financial Summary: The minimum responsible bid for ITB #09-65 was \$76,837.44. However, staff recommends rejection of this bid.

Attachments: N/A

August 17, 2009
Consent Agenda Item No. 2s
Traffic Code Changes Relating to the City's Parking Operations

To: Glenn Brown, City Manager

From: David Gwin, Director of Economic and Community Development

Agenda Caption: Presentation, possible action and discussion regarding changes to the City's traffic code concerning parking operations in the Northgate District.

Recommendation(s): Staff recommends approval of the proposed ordinance changes.

Summary: The proposed changes to the ordinance concern parking operations in the Northgate College Main Parking Garage as well as the Patricia Street Surface Lot. These changes will allow for more flexibility in determining the operational hours of the parking garage and surface lot. The changes will also grant staff the authority to enter into lease agreements with members of the community who desire long-term access to the parking garage, as well as set restrictions on the amounts the City can charge per license purchased.

Budget & Financial Summary: N/A

Attachments:

Attachment 1 – Proposed Ordinance Changes

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 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 _____ day of _____, 2009.

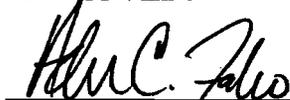
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 10, "TRAFFIC CODE", Section 4, H, "NORTHGATE PROMENADE PARKING LOT FEES", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, as set out hereafter to read as follows:

H. NORTHGATE PROMENADE PARKING LOT FEES AND NORTHGATE COLLEGE MAIN PARKING GARAGE FEES

(2) (f) License Agreements. The City Manager or his designee may enter into license agreements for the use of parking spaces in the Northgate College Main Parking Garage and may charge the following fees:

- (i)** Twenty Four Hour – Seven Days a Week Licenses (24/7). Up to \$2,000 annually, or up to \$700 per semester or up to \$200 per month.
- (ii)** Daytime Licenses. Up to \$1,500 annually or up to \$500 per semester or up to \$200 per month.
- (iii)** Charge a non-refundable administrative fee up to \$50.00 upon execution of a license agreement to park in the garage.

(4) Hours of Operation

The City Manager or his designee shall determine the hours of operation of the Northgate Promenade Parking Lot and Northgate College Main Parking Garage.

(6) Violations

- (a)** It shall be unlawful to park in a space without paying the required fee into the meter for the space unless covered by an exemption listed above.
- (b)** It shall be unlawful to park in the parking garage without paying the required fee, unless covered by an exemption as listed above.
- (c)** It shall be unlawful to park in such a manner that the vehicle prohibits the use of an adjacent designated parking space.

August 17, 2009
Consent Agenda Item No. 2t
Carters Creek Wastewater Treatment Plant Miscellaneous
Improvements

To: Glenn Brown, City Manager

From: Chuck Gilman, Director of Capital Projects

Agenda Caption: Presentation, possible action, and discussion on a Construction Contract with Associated Construction Partners, Ltd, in the amount of \$1,221,700, for the construction of the Carters Creek Wastewater Treatment Plant Miscellaneous Improvements.

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

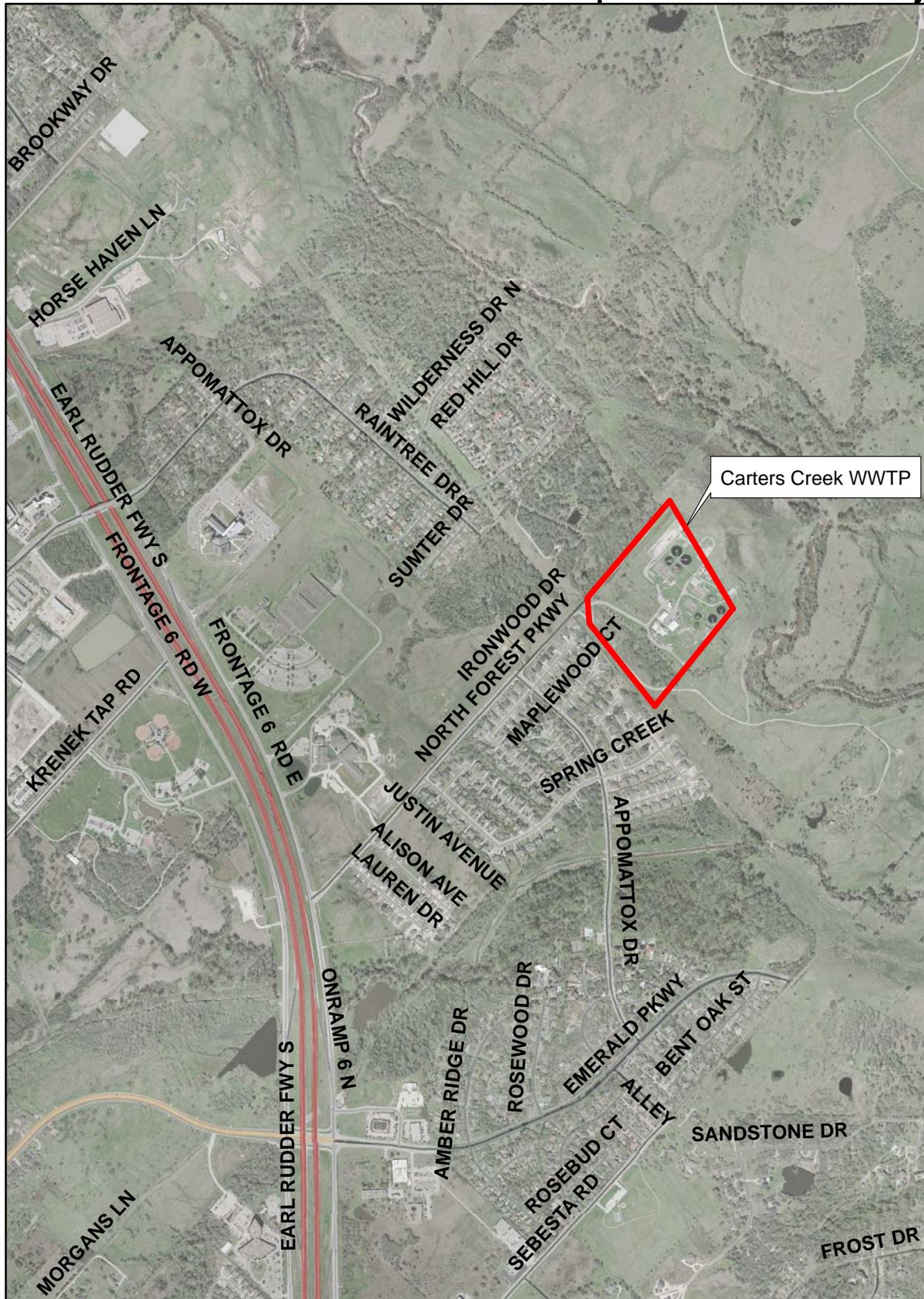
Summary: The scope of the Carters Creek Wastewater Treatment Plant Miscellaneous Improvements is for design and construction of improvements to the gravity thickener, clarifiers, autothermal thermophilic aerobic digestion system, service water (non-potable) system, and process controls. With the projected construction budget of \$1,221,700, Associated Construction Partners, Ltd was selected to construct the project because they were the lowest responsible bidder in response to the city's solicitation of bids.

Budget & Financial Summary: For ease of project administration and economies of scale, several projects have been combined to be included in this Carters Creek (CC) Wastewater Treatment Plant Miscellaneous Improvements project. These projects include CC Clarifier Improvements, CC Service Water Improvements, CC Process Control Improvements and CC ATAD Improvements. The total current project budget for these improvements is \$2,164,000. Funds in the amount of \$190,360 have been expended or committed to date, leaving a balance of \$1,973,640. The P.O. for the project construction is \$1,221,700. This item replaces the standard terms, conditions and specifications that were attached to the P.O. with those in the Construction Contract and requires no additional funds. Funds for this project are budgeted in the Wastewater Capital Improvement Projects Fund.

Attachments:

- 1.) Project Location Map
- 2.) Resolution

Carters Creek Miscellaneous Improvements Project



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE CARTERS CREEK WASTEWATER TREATMENT PLANT MISCELLANEOUS IMPROVEMENTS PROJECT.

WHEREAS, the City of College Station, Texas, solicited bids for the construction of the Carters Creek Waterwater Treatment Plant Miscellaneous Improvements Project; and

WHEREAS, the selection of Associated Construction Partners, Ltd. is being recommended as the lowest responsible bidder; 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 Associated Construction Partners, Ltd. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Associated Construction Partners, Ltd. for an amount not to exceed \$1,221,700 for the labor, materials and equipment required for the improvements related to the Carters Creek Waterwater Treatment Plant Miscellaneous Improvements Project.

PART 3: That the funding for this Contract shall be as budgeted from the Water Services Fund in the amount of \$1,221,700.

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

ADOPTED this _____ day of _____, A.D. 2009.

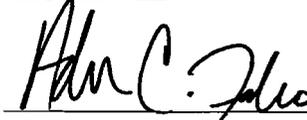
ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:



City Attorney

August 17, 2009
Regular Agenda Item No. 1
Certify Petition

To: Glenn Brown, City Manager

From: Connie Hooks, City Secretary

Agenda Caption: Presentation, possible action, and discussion of City Secretary examination of petition submitted by College Station electors to repeal Ordinance No. 3017 amending Chapter 10 of the City's Traffic Code on red light camera enforcement.

Summary: The petition was certified as sufficient by the City Secretary. Sections 88 and 89 of the City Charter provides that the City Council shall consider such petition as being valid and hold a public hearing. The public hearing is scheduled for this meeting.

If the City Council does not approve the ordinance proposed by the petition, the proposed ordinance shall be submitted to the electors at the next available election date, November 3, 2009. If a majority of the electors voting on the ordinance vote in favor, it shall be an ordinance of the City. An ordinance which is not approved by a majority of electors shall be deemed repealed.

Budget & Financial Summary: Brazos County is holding a constitutional amendment election on Tuesday November 3, 2009. The City may place this proposition on the ballot and join with the County to conduct the election. Cost to the City for this special election will be approximately \$35,000. Funds are not available in FY10 budget.

Attachments:
Certification by City Secretary
Page from Petition

Memorandum

To: Mayor and Council

From: Connie Hooks, City Secretary

Date: 8/11/2009

Re: Certificate Validating the Initiative Petition on Red Light Cameras

This document serves as a Certificate to validate the Petition submitted to the City of College Station on July 17, 2009. The petition contained the proposed ordinance language: "Be it ordained by the City Council of the City of College Station, Texas: The powers granted under City Ordinance 3017, Titled Section 11 AUTOMATIC TRAFFIC SIGNAL ENFORCEMENT, which amended Chapter 10, "Traffic Code" of the Code of Ordinances of the City of College Station, enacted 10/25/08, shall henceforth be deemed and declared unenforceable".

Per Section 83 of the College Station City Charter, the total number of signatures required to validate the petition is twenty-five (25) percent of the number of votes cast at the last regular municipal election. The total number of votes cast during the May 9, 2009 election was 3,384; therefore, the total number of signatures required to validate the petition was 846. The petition contained 913 valid signatures.

The City Council will consider the petition at the August 17th regular meeting and hold a public hearing. The City Council may adopt the ordinance as submitted by the petition or refer the proposed ordinance to College Station registered voters on the November 3, 2009 ballot. Cost to the taxpayers of College Station to conduct a referendum election shall be approximately \$35,000.

Attached to this memo is a copy of one page of the petition. Please contact me if you have any questions.

Thank you, Connie

City of College Station, Texas Petition Paper - Initiative Petition to Vote on Red Light Cameras

Ordinance proposed:

Be it Ordained by the City Council of the City of College Station, Texas: The powers granted under City Ordinance 3017, Titled Section 11 **AUTOMATIC TRAFFIC SIGNAL ENFORCEMENT**, which Amended Chapter "Traffic Code" of the code of Ordinances of the City of College Station, Texas, enacted 10/25/08, shall henceforth be deemed and declared unenforceable.

We the undersigned duly qualified electors of the City of College Station Texas, by affixing our signatures here on demand the above INITIATIVE Ordinance be placed before the electorate for acceptance or rejection at the polls.

Print Full Name	Signature	College Station, TX Address	ZIP	Birth Date MM/DD/YY	Date Signed MM/DD	Phone No. (Optional)	Email (Optional)	<input type="checkbox"/> com <input type="checkbox"/> ne t <input type="checkbox"/> org
Curtis Kaiser	x	702 Kingmills	77845	08/31/68	6/16/09	() -	1041130178	<input checked="" type="checkbox"/>
Wendy Heu	x	8408 Lauen Dr	77845	3/31/72	6/16/09	() -		<input type="checkbox"/>
Jonathan Spencer	x	6121 COMPANS LOBBY	77840	6/19/88	6/16/09	() -		<input type="checkbox"/>
Leah Jones	x	2505 Savannah Ct	778845	7/20/72	6/16/09	() -	1041421482	<input checked="" type="checkbox"/>
Joseph Sergio	x	401 HARVEY Rd	778840	02/09/75	6/16/09	(979)402-9890		<input type="checkbox"/>
Michelle Dickson	x	4050 Pendleton Dr #918	77802	9/27/80	6/16/09	(281) 468-1617		<input type="checkbox"/>
Roderick Carter	x	1501 Harvey Rd, Apt #333	77840	10/25/78	6/16/09	(979) 662-8643		<input type="checkbox"/>
Brian Scheffer	x	3150 Finectur Rd #339	77801	03/28/84	6/16/09	(832) 289-5995		<input type="checkbox"/>
Jarah Black	x	1006 San Saba Dr	77845	05/18/82	6/16/09	(501) 276-8272	1159784912	<input checked="" type="checkbox"/>
Elias Hernandez	x	4400 Cray ke	77845	1/10/72	6/16/09	(979) 492-7807		<input type="checkbox"/>
JONE VIEIRA	x	PO BOX #9386	77842	02/23/65	6/16/09	(979) 458-1842	1041178174	<input type="checkbox"/>

AFFIDAVID OF PETITION CIRCULATOR

I, Lori Dee Ash, of 804 Prestwick Ct College Station, TX, personally circulated this petition paper, it bears 11 signatures, all signatures appended thereto were made in my presence and I believe them to be the genuine signatures of the persons whose name they purport to be. Signed Lori Dee Ash Date 6/16/09

Elector Members of Committee of Petitioners: **James R. Ash** 804 Prestwick Court College Station, TX; **Clifton Eggers** 2001 Colgate College Station, TX
Daniel Crocker 2401 Welsh Ave Apt#412 College Station, TX; **Hunter Goodwin** 1011 Lyceum Ct. College Station, TX; **Lori Dee Ash** 804 Prestwick Court College Station, TX

August 17, 2009
Regular Agenda Item No. 2
Public Hearing Red Light Camera Petition

To: Glenn Brown, City Manager

From: Connie Hooks, City Secretary

Agenda Caption: Public hearing, presentation, possible action, and discussion on proposed ordinance repealing City Ordinance 3017, amending Chapter 10 of the Traffic Code regarding Automatic Traffic Signal Enforcement (Red Light Cameras within the City of College Station).

Summary: The petition was certified as sufficient by the City Secretary. Sections 88 and 89 of the City Charter provides that the City Council shall consider such petition as being valid and hold a public hearing.

If the City Council does not approve the ordinance proposed by the petition, the proposed ordinance shall be submitted to the electors at the next available election date, November 3, 2009. If a majority of the electors voting on the ordinance vote in favor, it shall be an ordinance of the City. An ordinance which is not approved by a majority of electors shall be deemed repealed.

Budget & Financial Summary: Brazos County is holding a constitutional amendment election on Tuesday November 3, 2009. The City may place this proposition on the ballot and join with the County to conduct the election. Cost to the City for this special election will be approximately \$35,000. Funds are not available in FY10 budget.

Attachments:

See Agenda Item No. 1

August 17, 2009
Regular Agenda Item No. 3
Public Hearing and Consideration of Budget Amendment # 3

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Public Hearing, presentation, possible action, and discussion on an ordinance Budget Amendment #3 amending ordinance number 3114 which will amend the budget for the 2008-2009 Fiscal Year results in a net reduction of overall expenditures in the amount of \$954,175.

Recommendation(s): Staff recommends the City Council hold the public hearing on Budget Amendment #3, and approve the budget amendment ordinance.

Summary: In order to meet lower than anticipated revenues in FY09 staff has thoroughly reviewed departmental budgets and has proposed a net reduction of \$954,175 in overall General Fund expenditures. This includes reductions in expense categories such as travel, training, miscellaneous supplies, etc. as well as delays in hiring certain vacant positions. This amendment will decrease the General Fund FY09 Revised Budget in the net amount of \$954,175.

Budget & Financial Summary: The result of this amendment is a net reduction of \$954,175 in overall budgeted General Fund expenditures.

Attachments:

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE (BUDGET AMENDMENT 3) AMENDING ORDINANCE NUMBER 3114 WHICH WILL AMEND THE BUDGET FOR THE 2008-2009 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS THEREIN PROVIDED.

WHEREAS, the City Council of the City of College Station, Texas, approved its Budget Ordinance for the 2008-2009 Fiscal Year on September 25, 2008; and

WHEREAS, the City Council of the City of College Station, Texas, desires to amend the approved Budget Ordinance; and

WHEREAS, this amendment was prepared and presented to the City Council and a public hearing held thereon as prescribed by law and the Charter of the City of College Station, Texas, after notice of said hearing having been first duly given; now, therefore,

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

Part 1: That Part 1 of the Budget Ordinance for the 2008-2009 Fiscal Year is amended to read as follows:

"PART 1: That the proposed budget as amended by the City Council of the City of College Station, which is made a part hereof to the same extent as if set forth at length herein, is hereby adopted and approved, a copy of which is on file in the Office of the City Secretary in College Station Texas. Amended appropriations for fiscal year 2008-2009 for the General Fund are \$60,832,262. All other appropriations as originally adopted and amended by the City Council remain in full force and effect."

Part 2: That this ordinance shall become effective immediately after passage and approval.

PASSED and APPROVED this _____ day of _____ 2009.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

[Handwritten Signature]

City Attorney

August 17, 2009
Regular Agenda Item No. 4
Discuss Tax Rate, and Call 2 Public Hearings

To: Glenn Brown, City Manager

From: Jeff Kersten, Chief Financial Officer

Agenda Caption: Presentation, possible action and discussion on the 2009-2010 ad valorem tax rate; and on calling two public hearings on a proposed ad valorem tax rate for 2009-2010.

Recommendation(s): Staff recommends the City Council discuss the tax rate; and then if they wish to consider adopting a tax rate higher than the effective tax rate, call 2 public hearings on the tax rate that would increase tax revenues. Staff recommends the City Council call the public hearings for **Thursday August 27th at 7:00 PM, and Tuesday September 1 at 6:00 PM in the College Station Council Chambers at 1101 Texas Avenue, College Station, Texas** at the current tax rate of \$0.439400 cents per \$100 assessed valuation. This is the tax rate used to prepare the proposed budget.

Summary: The Texas Property Tax Code requires that if an entity wishes to increase tax revenues over the effective tax rate then that entity must call and hold two public hearings on the proposed tax rate.

The Effective Tax Rate is the tax rate that will generate the same revenues on the same properties this year as last year. This year the Effective Tax rate is \$0.42933 per \$100 assessed valuation. The Rollback Tax Rate is the highest rate that can be adopted before rollback provisions can be initiated. This year the Rollback Tax Rate is \$0.445815 per \$100 assessed valuation.

The FY 2009-2010 proposed budget was prepared on the existing tax rate of \$0.4394 per \$100 assessed valuation. Each one cent on the tax rate generates approximately \$540,000.

The public hearings are recommended to be held on **Thursday August 27th at 7:00 PM, and Tuesday September 1st at 6:00 PM in the College Station Council Chambers at 1101 Texas Avenue, College Station, Texas.** Following each public hearing the City Council must announce the meeting date, time and place to adopt the tax rate.

The tax rate on which the Public Hearings are held, is the highest tax rate that the City Council can consider adopting.

The notice of the public hearings will be placed in the Eagle, as well as on the City's internet site, and the City's television channel.

The second public hearing on the tax rate is scheduled for Wednesday September 17th. The City Council will vote on the tax rate on Thursday September 25.

Budgetary and Financial Summary: Staff is recommending Council call public hearings on a tax rate of \$0.439400 per \$100 assessed valuation. It is estimated that the proposed tax rate of \$0.4394 cents per \$100 assessed valuation will generate approximately \$23,639,141. The existing tax rate will support the 2009-2010 Proposed Budget. The property taxes are used to fund the General Debt Service of the City as well as a portion of the operations and maintenance costs of the General Fund.

Attachments: N/A

**August 17, 2009
Regular Agenda Item No. 5
Council Appointments**

To: Glenn Brown, City Manager

From: Connie Hooks, City Secretary

Agenda Caption: Presentation, possible action, and discussion regarding sunset review of Council Committees and selection of Council appointed representatives to fill vacancies on the following committees and boards.

Arts Council of the Brazos Valley
Audit Committee
Brazos County Health Department
BVSMA Policy Advisory Board
Intergovernmental Committee
Convention and Visitors Bureau Board of Directors
Research Valley Partnership Board of Directors
Sister Cities Association
Transportation Committee
Wolf Pen Creek Oversight Committee
City/CSISD Subcommittee

The following individuals are appointed by the City Council to represent the City of College Station on joint committees with other governmental agencies and community groups.

Arts Council of the Brazos Valley (College Station Representatives)

Tom Wilkinson	Appointed 8/07	Reappointed till 10
John Happ	Appointed 8/07	Reappointed till 10
Lynn McIlhaney	Appointed 8/07	Reappointed 7/08

Audit Committee

Larry Stewart (Chair)	Appointed 7/08
James Massey	Appointed 7/08
Lynn McIlhaney (vacant)	Appointed 7/08

Brazos County Health Department

Lynn McIlhaney (vacant)	Appointed 6/06	Reappointed 7/08
Ben White	Appointed 6/06	Reappointed 7/08

Brazos Valley Council of Governments Board of Directors

Mayor Ben White

B/CS Metropolitan Planning Organization

Mayor Ben White

BVSMA Policy Advisory Board

Lynn McIlhaney (vacant)

Mayor Ben White

Comprehensive Plan Advisory Committee

Dennis Maloney	Appointed 7/08	
Larry Stewart (Alternate)	Appointed 7/08	

Convention and Visitors Bureau

Stephen Moore		
Scott Shafer (vacant)		
Dave Ruesink (Council Rep)		

Intergovernmental Committee

James Massey (Chair)	Appointed 8/07	Reappointed 7/08
Dave Ruesink	Appointed 8/07	Reappointed 7/08
Larry Stewart	Appointed 7/08	

Research Valley Partnership

Ben White	Appointed 7/08	
Larry Hodges		
Larry Mariott (vacant)		
Dave Ruesink (alternate)	Appointed 7/08	

Sister Cities Association

Dave Ruesink	Appointed 8/06	Reappointed 7/08
--------------	----------------	------------------

Transportation Committee

Lynn McIlhaney (Chair) vacant	Appointed 8/06	Reappointed 7/08
John Crompton	Appointed 7/08	
Dennis Maloney	Appointed 7/08	
MPO Linda LaSuit	Created position 7/05	
TTI Dennis Christianson	Created position 7/05	
BVCOG Michael Parks	Created position 7/05	
TxDot Bryan Woods	Created position 7/05	

Wolf Pen Creek Oversight Committee

Dennis Maloney	Appointed 7/08
James Massey	Appointed 7/08
Larry Stewart (Alternate)	Appointed 7/08

City/CSISD Subcommittee



POLICY ON COUNCIL APPOINTED CITIZEN COMMITTEES AND SUBCOMMITTEES OF THE COUNCIL

Purpose

As the governing body of the City of College Station, the City Council shall be responsible for selecting the best qualified person to serve on Committees, Boards, and Subcommittees composed of Council Members. The City Council shall appoint residents of the community to serve on a volunteer basis to Committees, Boards and Subcommittees. A description of each Committee, Board, and Subcommittee is included in the Citizen Committee Directory.

Objectives

A. Committees, Boards, Sub-Committees of Council composed of Council Members

1. Committees, boards, and sub-committees of the Council shall be approved and selected by the City Council. All committees, boards, and sub-committees of the Council shall be advisory only.
2. Periodic Reports on the committee's objectives will be presented to the City Council.
3. The roles and responsibilities of each committee shall be written, defined and approved by the City Council. Any modification of responsibility shall be approved by City Council. Each committee, sub-committee or board shall be directed by the City Council to ensure that it has a clear understanding of its purpose and function.
4. An annual review will be conducted by the City Council to review the Committee, Sub-Committee or Board's purpose. At the annual review the Council shall decide if the committee, sub-committee or board needs to continue.

5. Council Members may serve two (2) three (3) year terms on a committee, sub-committee or board. The Chair shall be selected on seniority basis of service on the committee, sub-committee or board. The Chair's term shall be set by the City Council.

6. All Council Members are required to serve on committees.

7. Each Council Member shall be selected to serve on the various committees, sub-committees or boards by a process determined by Council. In the event no Councilmember expresses interest to serve, then nominations will be made.

B. Committees, Sub-Committees, Boards - Advisory and Quasi Judicial

Citizen committees also serve in an advisory role unless otherwise provided by ordinance or state law.

1. Interviews shall be conducted by the City Council of the applicants to citizen boards. Citizens are encouraged to attend the Citizen University and to learn as much about the City before applying for public service.

2. Committee applicants that are allowed to be reviewed in executive session shall be discussed by the City Council in executive session. At the present time, the applicants for Planning and Zoning Commission, Zoning Board of Adjustments, Parks and Recreation Board, Construction and Building Standards Commission and Design Review Board make final decisions on some issues and may be discussed in executive session.

3. All final decisions and votes by the Council will be in public.

Scope of Work

The Scope of work for the committees, sub-committees or boards shall focus on the subject matter that has the entire City Council's support. The Council's intention is to not duplicate staff functions. The City Council will maintain its power to establish public policy and give guidance to the committees, sub-committees and boards.

Adopted by City Council, July 28, 2005

O:council/council correspondence 2005/policy council apptd committees