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**Mayor**

Nancy Berry

**Mayor Pro Tem**

John Crompton

**City Manager**

David Neeley

**Council members**

Jess Fields

Dennis Maloney

Katy-Marie Lyles

Dave Ruesink

Jana McMillan

**Agenda**  
**College Station City Council**  
**Regular Meeting**  
**Thursday, February 24, 2011 at 7:00 PM**  
**City Hall Council Chamber, 1101 Texas Avenue**  
**College Station, Texas**

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

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 5:30 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. Comments should not personally attack other speakers, Council or staff.

**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 February 8, 2011 COCS & CSISD Joint Meeting and February 10, 2011 Workshop and Regular Council Meeting.

b. Presentation, possible action, and discussion on an ordinance providing for the creation of a Citizens' Charter Review Advisory Commission, providing for seven (7) members, determining the term of office, providing for their duties and method of appointment.

c. Presentation, possible action, and discussion on an ordinance providing for the creation of a Sunset Advisory Commission, providing for seven (7) members, determining the term of office, providing for their duties, and method of appointment.

- d. Presentation, possible action, and discussion regarding renewal of an Agreement for Services with the Brazos Valley Softball Umpires Association to provide officiating services for City athletic leagues, programs and tournaments (Contract Number 09-085) in an amount not to exceed \$183,900.00 per year.
- e. Presentation, possible action, and discussion regarding approval of an Interlocal Agreement between the City of College Station and BVSWMA Inc. detailing City of College Station sponsorship of BVSWMA, Inc. as an Associate Member of the Brazos Valley Wide Area Communications Service (BVWACS).
- f. Presentation, possible action, and discussion regarding an economic development agreement between the City of College Station and GEG Productions, LLC. for the Presenting Title Sponsorship of the annual Duck Jam event.
- g. Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) for the City of College Station's participation in the costs of the Mayday Challenge, a bike race organized by Junction 505.
- h. Presentation, possible action and discussion on a contract amendment and renewal for year 2 to provide ambulance billing services with Emergicon in an amount not to exceed \$85,000.
- i. Presentation, possible action, and discussion regarding approval of a "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" for expenditures related to projects authorized as part of the 2008 General Obligation Bond (GOB) package.
- j. Presentation, possible action, and discussion regarding the proposed changes to the City's Fair Housing Ordinance.
- k. Presentation, possible action, and discussion regarding a resolution approving the reimbursement of costs to the Texas Department of Transportation (TXDOT) for the BS 6 (Texas Avenue) project and the FM2154 (Wellborn Widening) project. Reimbursement costs are \$99,246.51 on the BS 6 (Texas Avenue) project and \$235,391.37 on the FM2154 (Wellborn Widening) project. The reimbursement request from TXDOT totals \$334,637.88.
- l. Presentation, possible action and discussion regarding the approval of a resolution accepting from the Texas Division of Emergency Management (TDEM) the 2008 Homeland Security Grant Adjustment Notice (GAN).
- m. Presentation, possible action and discussion regarding the approval of a resolution to participate in a Clinical Affiliation Agreement with the Texas Engineering Extension Service (TEEX) for the Emergency Medical Services Program.

### **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

Thursday, February 24, 2011

individuals who wish to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer alarm will sound at 2 1/2 minutes to signal thirty seconds remaining to conclude remarks. After a public hearing is closed, there shall be no additional public comments. If Council needs additional information from the general public, some limited comments may be allowed at the discretion of the Mayor.

If an individual does not wish to address the City Council, but still wishes to be recorded in the official minutes as being in support or opposition to an agenda item, the individual may complete the registration form provided in the lobby by providing the name, address, and comments about a city related subject. These comments will be referred to the City Council and City Manager.

1. Public Hearing, presentation, possible action and discussion regarding a Rezoning for 1280 Harvey Mitchell Parkway of 6.21 acres from R-1 Single-Family Residential to C-1 General Commercial and R-4 Multi-Family Residential, generally located at the intersection of Luther Street and Harvey Mitchell Parkway.

2. Public Hearing, presentation, possible action and discussion on the Annual Review of the Bicycle, Pedestrian and Greenways Master Plan.

3. Public Hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance, Section 11.2 "Definitions" related to Mobile Food Vendors.

4. Public Hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances, Chapter 4 "Business Regulations," related to Mobile Food Vendors and Itenerant Vendors.

5. Presentation, possible action and discussion on a purchase agreement and use agreement between the City of College Station and the Arts Council of Brazos Valley for the Arts Council Building located at 2275 Dartmouth Drive.

6. Presentation, possible action and discussion on two (2) operations and maintenance funding agreements between the City of College Station and the Arts Council of Brazos Valley for the last 8 months of FY11 (February 1, 2011 – September 30, 2011) totaling \$78,058.34.

7. Presentation, possible action, and discussion on appointments to fill vacancies on the following committees and boards:

BVSWMA Policy Advisory Board

Library Board

8. Adjourn.

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

APPROVED:

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City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, February 24, 2011 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 21st day of February, 2011 at 5:00 p.m.

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

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](http://www.cstx.gov). The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on February 21, 2011 at 5:00 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 \_\_\_\_\_, 2011 By \_\_\_\_\_

Subscribed and sworn to before me on this the \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public – Brazos County, Texas      My commission expires: \_\_\_\_\_

The building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on [www.cstx.gov](http://www.cstx.gov). Council meetings are broadcast live on Cable Access Channel 19.

MINUTES OF THE JOINT MEETING WITH  
THE BOARD OF TRUSTEES, COLLEGE STATION INDEPENDENT SCHOOL DISTRICT  
AND CITY OF COLLEGE STATION CITY COUNCIL  
FEBRUARY 8, 2011

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry

**Council:**

John Crompton  
Jess Fields  
Dennis Maloney  
Katy-Marie Lyles  
Jana McMillan  
Dave Ruesink

**City Staff:**

David Neeley, Interim City Manager  
Kathy Merrill, Assistant City Manager  
Sherry Mashburn, City Secretary

**1. Call to Order and Announce a Quorum is Present**

With a quorum present, the Joint Meeting with the Board of Trustees of the College Station Independent School District and the College Station City Council was called to order by Mayor Nancy Berry at 6:04 p.m. on Tuesday, February 8, 2011 in the CSISD Transportation Services Center, 9304 Rock Prairie Road, College Station, Texas 77840.

**2. Consideration, discussion and possible action related to current CSISD Construction Projects and current/future College Station roadway projects related to school openings.**

Clark Ealy, Deputy Superintendent, reported on the 2009 bond referendum. \$144.2 million was approved, with 70% voting in favor. The bond referendum was for construction of the Support Services Facility, Phase 1 (Transportation Center); the eighth elementary school; the second high school; purchase of twenty-eight buses; and other projects. The *Transportation Center* was opened August 2010, and any issues were resolved through City and School District coordination meetings held every four to six weeks. The *Greens Prairie Elementary* is the exemplar of City/School District cooperation. It was annexed into the City in the summer of 2010. Improvements were made to Royder Road and Greens Prairie Trail. An interlocal agreement

ensures sewer capacity for up to four facilities on the Nelson and Eidson tracts. The school will deed two square acres from the Eidson tract on Royder Road for a future fire station. When that tract is deeded, the City will reimburse the district for half of the expenses incurred for expanding fiber to the area; the district will pay all expenses on the front end. The school is scheduled to open August 2011. Construction on the *College Station High School* is underway. Barron Road is being widened, and the City has purchased the right-of-way for Barron and the corner clip at Victoria. Victoria will also be extended. The project is on budget with a completion date of June 2012. Dr. Ealy also reviewed the planning process for renovations to *A&M Consolidated High School*. They are looking to provide the necessary space for the expanded Career and Technology programs. They plan to bring the open space use concept from the College Station High School to this campus as well as addressing the electrical and HVAC infrastructure and re-designing the entrance to the gyms to improve the movement of students in the building. The *A&M College Station Middle School* and *Oakwood Intermediate School* are the final major projects from a 2007 bond issue. They will be improving the traffic flow in the area.

Chuck Gilman, Director of Capital Projects, discussed transportation projects as they related to the new school facilities. *William D. Fitch* has been completed. The *expansion of Barron Road* is being widened from Decatur to Barron Cut-Off with four travel lanes, and a raised center median. It will include bike lanes and sidewalks, with a final completion date of July 2012. *Victoria Avenue* will be extended from its terminus to William D. Fitch with two travel lanes and a continuous center turn lane. It will include bike lanes and sidewalks, with a final completion date of February 2012. *Improvements to Royder Road and Greens Prairie Trail* include new pavement, sidewalks, drainage improvements along Royder Road south of Greens Prairie, a deceleration lane, and dedicated left turn lanes. Construction is expected to be completed July 2011.

### **3. Consideration, discussion and possible action related to current and potential partnership agreements and interlocal agreements between CSISD and the City of College Station and other potential entities.**

Greg McIntyre, Deputy Superintendent for Curriculum and Instruction, highlighted the collaborative efforts between the School District and the City. There are 10,400 students on thirteen campuses. Some of the collaborative programs include Kids Klub, City basketball and volleyball, Xtra Ed classes, Police and Fire personnel exams, school resource officers, parks and natatorium, etc. Collaboration is expected to continue with fiber, construction projects and emergency radio.

### **4. Consideration, discussion and possible action related to how the City of College Station determines placement/location of hike and bike trails.**

Bob Cowell, Director of Planning and Development, walked everyone through the planning process and provided maps of proposed sidewalks, bicycle facilities and multi-use paths. Location is determined by focusing on three criteria: (1) connectivity to the TAMU system; (2) connectivity with CSISD campuses; and (3) connectivity with parks.

**5. Presentation, discussion and possible action related to the CSISD and City of College Station budgets and contingency plans for state budget reductions.**

Eddie Coulson, Superintendent of Schools, reported that the state budget deficit is \$15 billion - \$27 billion, and public education comprises 44% of the state budget. Initial House and Senate budget reductions have cut public education by \$9 billion state-wide. \$100,000 for teaching and administrative support positions will be lost. Public education will be impacted if the system remains the same, student growth is not funded, or if the district budget is reduced. CSISD has \$29,198,000 in their fund balance. The M&O budget for 2010-2011 is \$74.5 million. 82% of the M&O budget is related to personnel costs. CSISD has prepared three plans. Plan A reduces the budget \$2 million; Plan B reduces the budget \$4.5 million over two years; and Plan C reduces the budget \$6.4 million over two years. These plans will create a budget deficit of \$2.5 million for 2011-2012 and \$4.5 million for 2012-2013, reducing the fund balance to about \$20 million. These projections include an assumption that the M&O tax rate will be raised by \$0.04 per \$100 of valuation over the next two years. These plans eliminated the Capital Projects budget by \$1 million, cut the utility budget by \$100,000, cut substitute teachers by \$80,000, and combined bus routes to save \$75,000. They are also exploring other areas of reduction, such as operational efficiencies and general education staffing. Their goal is to affect the individual classroom as little as possible; take care of the employees by handling reductions through attritions and reassignment (ensuring that everyone has a job, but not necessarily the same job); and communicating throughout the process.

Jeff Kersten, Chief Financial Officer, reported that the City budget has seen reductions the past three years. The current fiscal year eliminated vacant positions, reduced overtime, and travel and training. The City has also delayed or reduced equipment replacement. Building and technology maintenance has been reduced, as well as reductions in service. The City has looked at different ways to do things, such as through outsourcing.

**6. Consideration, discussion and possible action related to the CSISD School Bus Advertisement Program.**

Chuck Glenwinkle, Director of Communications, reported on CSISD advertising. They did not want to add any overhead when creating a revenue source or any additional duties to staff. They are proposing to provide advertising on buses, the web, and at athletic facilities. The district will have the final right of refusal. Estimated revenue reflects seventy buses with a 50/50 split with an ad company. They are projecting revenue of \$700 per month per bus, for about \$4,900 per month, or \$44,000 per year. There is an additional \$6,300 - \$15,000 per year for web advertising. The RFP went out on February 4, and the bid opening will be March 1.

**7. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the Joint Meeting with the Board of Trustees of the College Station Independent School District and the College Station City Council at 8:00 p.m. on Tuesday, February 8, 2011.

\_\_\_\_\_  
Nancy Berry, Mayor

ATTEST:

\_\_\_\_\_  
Sherry Mashburn, City Secretary

DRAFT

MINUTES OF THE CITY COUNCIL WORKSHOP  
CITY OF COLLEGE STATION  
FEBRUARY 10, 2011

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry

**Council:**

John Crompton  
Jess Fields  
Dennis Maloney  
Katy-Marie Lyles  
Jana McMillan  
Dave Ruesink

**City Staff:**

David Neeley, Interim City Manager  
Kathy Merrill, Assistant City Manager  
Carla Robinson, Interim City Attorney  
Sherry Mashburn, City Secretary  
Tanya McNutt, Deputy City Secretary

**Call to Order and Announce a Quorum is Present**

With a quorum present, the Workshop of the College Station City Council was called to order by Mayor Nancy Berry at 3:02 p.m. on Thursday, February 10, 2011 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

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

Items 2h, 2j, and 2o were pulled from the Consent Agenda.

**2h:** David Coleman, Director of Water Services, explained this was the final step in the process.

**2j:** Ben Roper, Director of Technology Services, reported that IT does not have the tools or the expertise to install a security system.

**2o:** David Schmitz, Director of Parks and Recreation, explained that this involves federal dollars. Costs were overestimated, and we still have grant money available.

**2. Presentation, possible action, and discussion regarding the proposed changes to the City's Fair Housing Ordinance.**

David Gwin, Director of Economic and Community Development, reported on the changes to the City's Fair Housing ordinance. The ordinance is required for participation in HUD programs. The Federal Housing Act is the Title 8 section in the Civil Rights Act and prohibits discrimination in housing based on several protected classes. Exemptions include owner-occupied buildings with no more than four units and single family housing sold or rented without a broker. Both the federal and state acts protect these protected classes, and our ordinance did mirror these acts, but with recent changes needs to add familial status and handicapped to match the current sections in the federal and state acts. This change would prohibit discrimination of financing of housing based on protected status and provide additional protection for disabled persons or familial status. Some additional protected classes to consider are sexual orientation, gender identity, status as a student, age, etc. A federal rule that consider sexual orientation and gender identity are being considered as protected class by HUD programs.

**MOTION:** Upon a motion by Councilmember Maloney and seconded by Councilmember Ruesink, the City Council voted seven (7) for and none (0) opposed, to add familial status and handicapped to match the current sections in the federal and state acts. The motion carried unanimously.

**3. Presentation, possible action, and discussion regarding a joint meeting of the City Council and the Cemetery Committee to consider Ordinance 2011-3315, amending the College Station Code of Ordinances, Chapter 1 "General Provisions", Section 29 "College Station Cemetery Rules and Regulations", Sub-Sections H: Plantings and Other Decorations in City Cemeteries and Sub-Section M: Rules Enforcement.**

Weldon Kruger, Cemetery Committee chair, called the joint meeting of the Cemetery Committee and City Council to order at 3:25 p.m. on Thursday, February 10, 2011. Two changes have been proposed related to aesthetics and ease of maintenance. The committee recommends limiting the number of items per space to two, and to remove the existing variance request process located in Sub-Section M. He reported the committee was unanimous in their recommendations.

**MOTION:** Upon a motion by Councilmember Crompton and seconded by Councilmember Maloney, the City Council voted six (6) for and one (1) opposed, with Councilmember Fields voting against, to adopt Ordinance 2011-3315, amending the College Station Code of Ordinances, Chapter 1 "General Provisions", Section 29 "College Station Cemetery Rules and Regulations", Sub-Sections H: Plantings and Other Decorations in City Cemeteries and Sub-Section M: Rules Enforcement. The motion carried.

Chair Kruger adjourned the Cemetery Committee at 3:55 p.m.

**4. Presentation, possible action, and discussion regarding the content of the draft Impact Fee Report for potential "system capacity" impact fees for Water and Wastewater.**

Dave Coleman, Director of Water Services, updated the Council on the impact fee report and stated the rate credit calculations are complete with maximum fees established.

Jeff Kersten, Director of Finance, reported on how impact fees affect utility rates. Assumptions included collecting impact fees for five years, assuming a capital project in the amount of \$10 million, and considering various funding sources. The assumption used was \$1 million cash with impact fees at the maximum of \$1,480 for 500 LUE's for water and \$1,578 for 600 LUE's for waste water. They also assumed a long term debt of twenty years with a 5% interest rate. For a capital project for water, they concluded that with no impact fee, the annual debt service would be \$715,000 with a rate increase of 5.6%. With impact fees, the annual debt service would be \$420,000 with a rate increase of 3.3%. The necessary rate increase for a \$10 million waste water capital project would be 6.1% without impact fees and 2.9% with impact fees.

Dave Coleman provided additional information regarding sewer line capacity. As sewer lines reach capacity, the City's funding options are: (1) tell the developer that City sewer service is not available; (2) enact a rate increase to get a CIP done quickly; (3) create additional impact fee lines along with a rate increase; and (4) use a combination of impact fees and a rate increase. Having sewer overflows is NOT an option. Staff recommends implementing water/wastewater impact fees at \$400 each, and zero out the five existing impact fees. Planning and Zoning recommends implementing impact fees at zero each. This preserves our ability to enact fees for five years. They also recommended keeping the existing impact fee lines as they are.

#### **5. Council Calendar**

- **February 11-13 AMCC Elected Official Conference in Austin, 8:00 a.m.**
- **February 14 TML Legislative Briefing in Austin, 8:00 a.m.**
- **February 17 Audit Committee Meeting in Administrative Conference Room, 5:00 p.m.**
- **February 24 City Council Workshop/Regular Meeting 3:00 p.m. & 7:00 p.m.**

There was no discussion.

#### **6. Presentation, possible action, and discussion on future agenda items: a Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.**

Councilmember Fields requested a workshop item regarding the City facilitating community involvement in non-profit organizations. Council consensus was to go forward. He also requested a workshop item to consider placing non-binding referenda on the May ballot. Examples could be the convention center, city-owned property, the city hall project, and the Starlight music series continuing at the same level of funding. There was no consensus. Councilmember Fields requested an item to place on the May ballot de-authorization of the 2003 bond to build city hall. There was no consensus. He then requested an item to put on the May ballot the city hall proposal. There was no consensus.

Mayor Berry requested an item to discuss the disposal of city property. Council consensus was to go forward.

**7. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, BVSWMA, BVWACS. Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Mayor's Council on Physical Fitness, Mayor's Development Forum, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Signature Event Task Force, Sister City Association, TAMU Student Senate, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Zoning Board of Adjustments.**

Mayor Berry reported on the Mayors' Council on Physical Fitness; they are collaborating with the Bicycle, Pedestrian and Greenways Advisory Board bike race in May. The Metropolitan Planning Organization met, and she was elected as the new chair. They passed a bylaw change to allow elected officials serving on the policy committee to appoint another member of their elected body to serve in their place. They also discussed the Wellborn overpass.

Councilmember Lyles reported that the Health Board will meet the 23<sup>rd</sup>, and the Intergovernmental Committee will meet in February. Things are going well with the Bench program with the Arts Council.

Councilmember Maloney reported that the Bicycle, Pedestrian and Greenways Advisory Board looked over the proposed sidewalk projects and multi-use paths and the May bike race.

**8. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.074-Personnel Matters, and §551.087 – Deliberation Regarding Economic Development Negotiation, the College Station City Council convened into Executive Session at 5:00 p.m. on Thursday, February 10, 2011 in order to continue discussing matters pertaining to:

A. Consultation with Attorney to seek advice regarding pending or contemplated litigation; to wit:

- City of Bryan's application with TCEQ for water & sewer permits in Westside/Highway 60 area, near Brushy Water Supply Corporation to decertify City of College Station and certify City of Bryan
- Water CCN / 2002 Annexation / Wellborn Water Supply Corporation
- Clancey v. College Station, Glenn Brown, and Kathy Merrill

- Rachel Rahn v. Alma Martinez, The Arkitex Studio, Inc. et al, Cause No. 09-000656-CV361
- Timothy Delasandro et al v. City of College Station et al; Cause No. 11-000240-CV-272
- City of College Station, Texas, v. Virtual Equity Group, Inc, et al relating to nonpayment of hotel occupancy taxes for College Station Inn
- Weingarten Realty Investors v. College Station, Ron Silva, David Ruesink, Lynn McIlhaney, and Ben White

B. Consultation with Attorney to seek legal advice; to wit:

- Legal Issues Related to Wellborn Annexation
- Legal Issues Related to Recall Petitions
- Legal Issues of purchase and lease back to Arts Council

C. Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer; to wit:

- City Manager
- City Council Self-Evaluation
- City Attorney

D. Deliberation regarding economic development negotiations; to wit:

- Global Event Group

The Executive Session adjourned at 7:53 p.m. on Thursday, February 10, 2011.

The following action was required from Executive Session.

**MOTION:** Upon a motion by Mayor Berry and seconded by Councilmember Crompton, the City Council voted seven (7) for and none (0) opposed, to appoint David Neeley as City Manager. The motion carried unanimously.

**MOTION:** Upon a motion by Mayor Berry and seconded by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to appoint Carla Robinson as City Attorney. The motion carried unanimously.

## **9. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 7:04 p.m. on Thursday, February 10, 2011.

\_\_\_\_\_  
Nancy Berry, Mayor

ATTEST:

\_\_\_\_\_  
Sherry Mashburn, City Secretary

DRAFT

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
CITY OF COLLEGE STATION  
FEBRUARY 10, 2011

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry

**Council:**

John Crompton  
Jess Fields  
Dennis Maloney  
Katy-Marie Lyles  
Jana McMillan  
Dave Ruesink

**City Staff:**

David Neeley, City Manager  
Kathy Merrill, Assistant City Manager  
Carla Robinson, City Attorney  
Sherry Mashburn, City Secretary  
Tanya McNutt, Deputy City Secretary

**Call to Order and Announce a Quorum is Present**

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 7:04 p.m. on Thursday, February 10, 2011 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

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

• **Citizen Comments**

Linda Harvell, 504 Guernsey, stated she is a 1965 A&M Consolidated High School alumni. She provided a packet of information on the building currently known as the Annex. It was built in 1940 and was the Music Room. She has memories as a child of lying on the floor with sunlight coming through the windows as she finger painted. This building is over 70 years old. The perception there is no historical value is wrong. The City has placed it on the chopping block. She, and others, would like to see the Music Room preserved as the College Station Museum of

History. The City's 75<sup>th</sup> anniversary is coming up in 2013. What better way to celebrate, than to have this structure housing our history? There are many wanting to help save this facility by providing in-kind services. This is not your history, it is ours. She also requested a plaque in memory of Frank Coulter as tribute to the educators that made an impact in our lives.

Kate Flournoy, 7 Rainsway, Houston, TX, reported that she was the victim of an expensive crime. The incident occurred in her apartment complex; the LED lights were stolen from her car. She informed the police, but they were not aware that LED lights were being stolen across Texas. She suggested that the police department maintain better contact with other cities regarding the types of crimes being committed and urged citizens to inform the police when crimes occur.

### **CONSENT AGENDA**

**2a. Presentation, possible action, and discussion of minutes for January 21, 2011 Council Retreat and January 27, 2011 Workshop and Regular Council Meeting.**

**2b. Presentation, possible action, and discussion of Ordinance 2011-3316, calling a Special Election to recall Mayor Nancy Berry, Councilmember Katy-Marie Lyles, Place 4, and Councilmember Dave Ruesink, Councilmember, Place 6.**

**2c. Presentation, possible action and discussion on the third and final reading of a franchise agreement amendment with Brazos Valley Recycling to add the collection of food waste for the purpose of recycling, multifamily apartments and commercial businesses to its agreement. City Council Regular Meeting Page 2 Thursday, February 10, 2011**

**2d. Presentation, possible action, and discussion on Resolution 02-10-11-2d, approving a new Certificate of Authorized Persons to replace the existing certificate on the Third Party Custodian Agreement between the City of College Station, Citibank, N.A., and The Bank of New York Mellon Trust Company, N.A., and authorizing the Mayor to execute the new Certificate of Authorized Persons.**

**2e. Presentation, possible action, and discussion on Resolution 02-10-11-2e, approving a new Certificate of Authorized Persons to replace the existing certificate on the Custody Agreement between the City of College Station and The Bank of New York Mellon, and authorizing the Mayor to execute the new Certificate of Authorized Persons.**

**2f. Presentation, possible action and discussion on Resolution 02-10-11-2f, amending the authorized representatives at TexPool.**

**2g. Presentation, possible action and discussion on Resolution 02-10-11-2g, amending the authorized representatives at Texas Short Term Asset Reserve ("TexSTAR").**

**2h. Presentation, possible action, and discussion regarding Resolution 02-10-11-2h, to hold the second public hearing for potential "system capacity" impact fees for Water and Wastewater.**

**2i. Presentation, possible action, and discussion on the renewal for the rental of heavy equipment with Mustang Rental Services of Bryan, TX in the amount of \$75,000 annually.**

**2j. Presentation, possible action, and discussion regarding a contract for City Hall Building Security, including card reader access and video surveillance, as supplied by Siemens Industry Inc., at a cost of \$66,740.**

**2k. Presentation, possible action and discussion regarding the annual traffic contact report required annually by Senate Bill 1074, of the Texas 77th legislative session.**

**2l. Presentation, possible action, and discussion Semi-Annual Report on Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02.**

**2m. Presentation, possible action and discussion regarding the approval of the 2011 State Homeland Security grant applications.**

**2n. Presentation, possible action and discussion regarding the amendment of an Interlocal Agreement (ILA) between the Cities of College Station and Bryan for the design costs of a traffic signal at the intersection of Wellborn Road with F&B and Old College. This amendment will result in an increase to the existing ILA, and will not exceed \$15,000.**

**2o. Presentation, possible action, and discussion on Resolution 02-10-11-2o for a construction contract with Marek Brothers Construction, Inc., in the amount of \$77,971 for lighting upgrades (LED lights to replace metal halide lights) at Wayne Smith Ball field parking lot and Veterans Park and Athletic complex, GG-1012 and GG-1013.**

**2p. Presentation, possible action and discussion on Resolution 02-10-11-2p for a construction contract with Marek Brothers Construction, Inc., in the amount of \$99,890, project #PK-1103, for site improvements in W.A. Tarrow Park.**

Items 2d, 2e, 2f, 2g, and 2h was pulled from the consent Agenda.

**MOTION:** Upon a motion made by Councilmember Crompton and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda, less items 2d, 2e, 2f, 2g, and 2h. The motion carried unanimously.

**(2d-2g)MOTION:** Upon a motion made by Councilmember Crompton and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to amend David Neeley's title from "Interim City Manager" to "City Manager" in each of the resolutions. The motion carried unanimously.

**(2h)MOTION:** Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted five (5) for and two (2) opposed, with Councilmembers Fields and McMillan voting against, to adopt Resolution 02-10-11-2h, calling the second public hearing for potential "system capacity" impact fees for Water and Wastewater. The motion carried.

## **REGULAR AGENDA**

### **1. Public Hearing, presentation, possible action, and discussion on Ordinance 2011-3317 Budget Amendment #1, amending ordinance number 3290 which will amend the budget for the 2010-2011 Fiscal Year in the amount of \$3,187,407 and presentation, possible action and discussion on two interfund transfers, one interdepartmental transfer, personnel transfers and the encumbrance roll.**

At approximately 7:24 p.m. Mayor Berry opened the Public Hearing.

Gary Ives, 3943 Blue Jay Court, president of the Spring Brook HOA board of trustees stated their support of the line item authorizing spending up to \$50,000 for the preliminary engineering report of the Lick Creek bike trail. The neighborhood has concerns regarding safety, flood protection, homeowner insurance, preservation of the natural surroundings, and the role of the City in the future management of the area. The HOA formed the Lick Creek Committee, who was charged with objective data gathering. The engineering report could fit hand in glove with the committee. The HOA wants to be fully involved in the process and wants transparency. They want open access to the study. They welcome the opportunity to share their own studies conducted in the recent past and any compiled in the future.

Sherry Ellison, 2705 Brookway, stated her support of the budget amendment to fund a preliminary engineering report to study the Lick Creek bike trail. This will determine current conditions and the best possible paths for connectivity of the southwest area to the southeast. Neighborhood issues are valid issues. This study will give recommendations for placement in or out of the flood plain. It will be a study of the whole trail, not just one section.

There being no further comments, the Public Hearing was closed at 7:32 p.m.

**MOTION:** Upon a motion made by Councilmember Crompton and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, approve items 2, 5, 6, 8, and 9 of Ordinance 2011-3317 Budget Amendment #1. The motion carried unanimously.

**MOTION:** Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted six (6) for and one (1) opposed, with Councilmember Fields voting against, to approve item 1 of Ordinance 2011-3317 Budget Amendment #1. The motion carried.

**MOTION:** Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted five (5) for and two (2) opposed, with Councilmembers Fields and McMillan voting against, to approve item 3 of Ordinance 2011-3317 Budget Amendment #1. The motion carried.

**MOTION:** Upon a motion made by Councilmember Maloney and a second by Mayor Berry, the City Council voted seven (7) for and none (0) opposed, to approve item 4 of Ordinance 2011-3317 Budget Amendment #1. The motion carried unanimously.

**MOTION:** Upon a motion made by Councilmember Maloney and a second by Councilmember Lyles, the City Council voted five (5) for and two (2) opposed, with Councilmembers Fields and McMillan voting against, to approve item 7 of Ordinance 2011-3317 Budget Amendment #1. The motion carried unanimously.

**2. Public Hearing, presentation, possible action and discussion concerning approval to proceed with an advertisement to solicit construction bids for improvements to Victoria Avenue from its current terminus to SH 40 (William D. Fitch Parkway).**

At approximately 7:50 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 7:50 p.m.

**MOTION:** Upon a motion made by Councilmember Maloney and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to proceed with an advertisement to solicit construction bids for the construction of Victoria Avenue, without a paving assessment, from its current terminus to SH 40 (William D. Fitch Parkway). The motion carried unanimously.

**3. Presentation, possible action, and discussion on appointments to fill vacancies on the following committees and boards:**

- **Convention and Visitors Bureau**
- **Audit Committee**

Peggy Callahan was appointed to the Convention and Visitors Bureau. There was no appointment to the Audit Committee.

**4. Adjournment.**

**MOTION:** Upon a motion made by Mayor Berry and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adjourn the Regular Meeting of the City Council at 8:00 p.m. on Thursday, February 10, 2011. The motion carried unanimously.

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Nancy Berry, Mayor

ATTEST:

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Sherry Mashburn, City Secretary

**February 24, 2011  
Consent Agenda Item No. 2b  
Charter Review**

**To:** Mayor and Council  
**cc:** David Neeley, City Manager  
**From:** Sherry Mashburn, City Secretary

**Agenda Caption:** Presentation, possible action, and discussion on an ordinance providing for the creation of a Citizens' Charter Review Advisory Commission, providing for seven (7) members, determining the term of office, providing for their duties and method of appointment.

**Recommendation:** Staff recommends approval of the ordinance and requests authorization to proceed with accepting member applications, with a deadline of March 9. Council would consider appointments at the March 10 meeting.

**Summary:** The current city charter was substantially revised in 2003 with the College Station City Council serving as the review committee. Approximately seven months of extensive review by the City Attorney and City Department Heads was necessary to complete the process. Twenty-six sections related to statutory and policy updates, and particularly the term length for City Council members, were submitted to the voters within six propositions.

A comprehensive review of the charter is a lengthy process, and most probably, proposed amendments to the current charter will not go before the voters until May 2012.

**Financial Summary:** The base cost for a city general election is approximately \$35,000. Depending on the number of charter amendments, the cost of publishing the notice of election could add a considerable amount to the base cost of the election. Council may also want to consider budgeting for marketing/advertising the proposed charter amendments, but that cost can be kept low by utilizing in-house Public Communications experts and available technology, e.g. PSA's on the public access channel, the blog, City website, etc.

**Attachments:**  
Draft Ordinance

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

**AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, PROVIDING FOR THE CREATION OF A CITIZENS' CHARTER REVIEW ADVISORY COMMISSION; PROVIDING FOR SEVEN (7) MEMBERS; DETERMINING THE TERM OF OFFICE; PROVIDING FOR THEIR DUTIES AND METHOD OF APPOINTMENT**

WHEREAS, the City of College Station City Charter was last substantially revised in 2003; and

WHEREAS, there has not been a Citizens' Charter Review since 1992, and

WHEREAS, the City Council desires to create a Citizens' Charter Review Advisory Commission for the complete and thorough review of the Charter.

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

SECTION 1: There is hereby created a Citizens' Charter Review Advisory Commission in accordance with Article XII, Section 131 of the City Charter and state law.

SECTION 2: The Citizens' Charter Review Advisory Commission members will elect a chairperson and vice-chairperson within thirty (30) days after their appointment.

SECTION 3: The term of office of the Citizens' Charter Review Advisory Commission shall be nine (9) months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the City Secretary and shall become public record.

SECTION 4: The City Council shall provide direction to the Citizens' Charter Review Advisory Commission as to the charter provisions to be reviewed. The duties of the Citizens' Charter Review Advisory Commission shall be to:

- (1) Inquire into the operation of City government under the charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held; and the commission, upon agreement of a majority of the Citizens' Charter Review Advisory Commission, shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing.
- (2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the charter by the several departments of the City government.
- (3) Propose, if it deems desirable, amendments to the Charter to improve the effective application of said charter to current conditions.

(4) Report its findings and present its proposed amendments, if any, to the City Council.

SECTION 5: The City Council may take action to amend the charter in the manner provided by state law.

SECTION 6: That this ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED, AND APPROVED this 24th day of February, 2011.

APPROVED:

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Nancy Berry, Mayor

ATTEST:

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Sherry Mashburn, City Secretary

APPROVED:

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CITY ATTORNEY

**February 24, 2011  
Consent Agenda Item No. 2c  
Sunset Review Committee**

**To:** Mayor and Council  
**cc:** David Neeley, City Manager  
**From:** Sherry Mashburn, City Secretary

**Agenda Caption:** Presentation, possible action, and discussion on an ordinance providing for the creation of a Sunset Advisory Commission, providing for seven (7) members, determining the term of office, providing for their duties, and method of appointment.

**Recommendation:** Staff recommends approval of the ordinance and authorization to solicit member applications for Council consideration.

**Summary:** At the January 21 Council Retreat, staff received direction to proceed with drafting an ordinance creating the Sunset Review. A Sunset Review Commission serves as an advisory body to the Council concerning whether a public need exists for the continuation of a City board, commission or committee or for the performance of the functions of the City board, commission or committee.

Recommended criteria for Council to consider charging the Sunset Review Commission for its review of each City board, commission or committee are:

- The efficiency with which the board, commission or committee operates;
- The extent to which the city board, commission or committee is needed or used;
- The extent to which the jurisdiction of the city board, commission or committee overlaps or duplicates the jurisdiction of other city boards, commissions or committees and the extent to which the functions conducted or performed can be consolidated with the functions of other city boards, commissions or committees;
- Whether the city board, commission or committee has recommended to the city council changes calculated to be of benefit to the public, rather than to an occupation, a business or an institution;
- The promptness and effectiveness with which the city board, commission or committee disposes of complaints, if any, concerning persons affected by the city board, commission or committee;
- The extent to which the city board, commission or committee has encouraged participation by the public in making its decisions, as opposed to participation solely by an occupation, a business or an institution, and the extent to which the public participation has resulted in decisions compatible with the objectives established by the city council for the city board, commission or committee; and
- The extent to which the city board, commission or committee complies with the Open Records Act and with the Open Meetings Act.

**Financial Summary:** There is no fiscal impact.

**Attachments:**  
Draft Ordinance

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

**AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, PROVIDING FOR THE CREATION OF A SUNSET ADVISORY COMMISSION; PROVIDING FOR SEVEN (7) MEMBERS; DETERMINING THE TERM OF OFFICE; PROVIDING FOR THEIR DUTIES AND METHOD OF APPOINTMENT**

WHEREAS, a Sunset Advisory Commission serves as an advisory body to the City Council concerning whether a public need exists for the continuation of a City board, commission or committee or for the performance of the functions of the City board, commission or committee; and

WHEREAS, the City Council has determined a need for the review of each City board, commission, or committee; and

WHEREAS, the City Council desires to create a Sunset Advisory Commission for the complete and thorough review of the City's boards, commissions, and committees.

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

SECTION 1: There is hereby created a Sunset Advisory Commission.

SECTION 2: The Sunset Advisory Commission is established every five years, composed of seven (7) citizens of the city who are appointed by the City Council for terms not to exceed twelve (12) months. The commission members will elect a chairperson and vice-chairperson within thirty (30) days after their appointment. Each Sunset Advisory Commission will be automatically dissolved when it presents its report to the City Council and the report is formally received and accepted by the City Council.

SECTION 3: The commission will adopt the rules and regulations it deems best to govern its actions, subject to the laws of the state and of this City.

(a) The rules and regulations will be so that the following goals can be attained:

- (1) Interview each member of each City board or commission or committee.
- (2) Attend two meetings of each City board or commission or committee.
- (3) Interview each City board, commission or committee staff liaison person.

(b) The criteria used for its review of each City board, commission or committee is:

- (1) The efficiency with which the board, commission or committee operates;
- (2) The extent to which the City board, commission or committee is needed or used;
- (3) The extent to which the jurisdiction of the City board, commission or committee overlaps or duplicates the jurisdiction of other City boards, commissions or committees and the

extent to which the functions conducted or performed can be consolidated with the functions of other City boards, commissions or committees;

- (4) Whether the City board, commission or committee has recommended to the City Council changes calculated to be of benefit to the public, rather than to an occupation, a business or an institution;
- (5) The promptness and effectiveness with which the City board, commission or committee disposes of complaints, if any, concerning persons affected by the City board, commission or committee;
- (6) The extent to which the City board, commission or committee has encouraged participation by the public in making its decisions, as opposed to participation solely by an occupation, a business or an institution, and the extent to which the public participation has resulted in decisions compatible with the objectives established by the City Council for the City board, commission or committee; and
- (7) The extent to which the City board, commission or committee complies with the Open Records Act, V.T.C.A., Government Code, § 552.001 et seq., and with the Open Meetings Act, V.T.C.A., Government Code, § 551.001 et seq.

(c) The commission will submit to the City Council a written report on each City board, commission, or committee except the Sunset Advisory Commission. The report will contain recommendations on the abolition, continuation or reorganization of each City board, commission or committee and on the need for the performance of the functions of the City board, commission or committee.

(d) All City board, commissions or committees are subject to this division except the following.

- (1) A City board, commission or committee appointed by the City council for a limited purpose, that will automatically dissolve upon completion of that purpose.
- (2) A City board, commission or committee established under the City Charter.
- (3) The Sunset Advisory Commission, and any other City board, commission or committee that is expressly excepted from application of this division by the City Council.

(e) The commission, upon agreement of a majority of the Sunset Advisory Commission, may request the assistance of any City employee. The City employee will assist the commission when requested and when assistance is determined by the chairperson of the commission and the mayor to be essential and necessary to the commission's performance of its functions as provided for in this division.

**SECTION 4:** The City Council is not prohibited from terminating or abolishing a City board, commission or committee before a recommendation or a written report on the City board, commission or committee has been received by the City Council from the commission. The City Council is also not prohibited from considering any other recommendations, reports, changes or modifications relative to a City board, commission or committee.

**SECTION 5:** That this ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED, AND APPROVED this 24th day of February, 2011.

APPROVED:

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Nancy Berry, Mayor

ATTEST:

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Sherry Mashburn, City Secretary

APPROVED:

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CITY ATTORNEY

February 24, 2011  
Consent Agenda Item No. 2d  
**Agreement with the Brazos Valley Softball Umpires Association  
for Officiating Services for City Athletic Leagues and Programs**

**To:** David Neeley, Interim City Manager

**From:** David Schmitz, Interim Director, Parks and Recreation

**Agenda Caption:** Presentation, possible action, and discussion regarding renewal of an Agreement for Services with the Brazos Valley Softball Umpires Association to provide officiating services for City athletic leagues, programs and tournaments (Contract Number 09-085) in an amount not to exceed \$183,900.00 per year.

**Relationship to Strategic Goals:** Goal I.1 Spending taxpayer money efficiently, Goal I.10 Hotel/Motel utilization for eligible projects, Goal III.10 Increase tourism, working with University

**Recommendation(s):** Staff recommends approval of the renewal of the Agreement for Services with the Brazos Valley Softball Umpires Association.

**Summary:** This renews Contract Number 09-085 for a period of 1 year (Jan. 1 – Dec. 31, 2011). This contract was originally approved for a period of one year on February 12, 2009 with an option for two additional one year renewals.

The contract was amended August 12, 2010 to include officiating services for tournaments and additional programs. This amendment increased the original amount of \$128,980 to \$183,900 to accommodate these additions. Actual contract expenditures for 2010 equaled \$180,696.

The contract is for the provision of all officiating services for all City-operated athletic leagues and programs, including Adult and Youth Softball, Adult and Youth Flag Football, Adult and Youth Volleyball, Youth Basketball, and Adult Kickball, as well as tournament play.

Payment for umpire services is made to the Association, prior to each season based on the scheduled games, who then pays the individual umpires for actual games called. A "true up" is calculated at the end of each season to verify actual games called with the Association and the Parks and Recreation Department. Tournaments are handled individually in the same manner.

This Agreement for Services is exempt from competitive bidding in accordance with LGC 252.022(a)(7), a procurement that is available from only one source.

**Budget & Financial Summary:** This contract is not to exceed \$183,900.00. Funds are budgeted through the Parks and Recreation Departments General Fund and Hotel Occupancy Tax budgets.

**Attachments:**

- 1) Contract Number 09-085
- 2) Contract Number 09-085 Amendment (Aug. 12, 2010)
- 3) Renewal Letter for Contract Number 09-085
- 4) Current BVSUA Certificate of Insurance

**AGREEMENT FOR SERVICES  
BRAZOS VALLEY SOFTBALL UMPIRES ASSOCIATION**

STATE OF TEXAS           \*  
  \*  
COUNTY OF BRAZOS       \*

THIS AGREEMENT is entered into by and between the City of College Station, Texas, a Texas Home Rule Municipal corporation (hereinafter referred to as "CITY"), and the Brazos Valley Softball Umpires Association (hereinafter referred to as "ASSOCIATION").

1. ASSOCIATION shall provide qualified officiating services for each and every City league softball, flag football, volleyball and basketball game as scheduled by CITY'S Athletic Coordinator. ASSOCIATION further agrees to provide qualified softball umpires for all American Softball Association ("ASA") sanctioned and approved tournaments when such service is requested by CITY's Athletic Coordinator.

2. The term of this Agreement shall be for one (1) year, effective January 1, 2009, through December 31, 2009. Upon completion of the original contract, the contract may be extended annually upon mutual written agreement of both parties not to exceed an additional two (2) terms.

3. This Agreement may be terminated by either party for convenience upon thirty (30) days' written notice to the other party. Any funds received pursuant to this Agreement but not earned shall be returned to CITY within seven (7) days thereafter.

4. CITY agrees to pay to ASSOCIATION for their services provided in scheduling and administration of payroll to the umpires of ASSOCIATION. For each calendar year of this Agreement, CITY shall pay a scheduling fee of \$800.00 for the Spring season, \$800.00 for the Summer season and \$1,200.00 for the Fall season, which shall include flag football and basketball. The CITY agrees to pay the ASSOCIATION a fee for official training in the amount of \$300.00 for flag football and \$300.00 for basketball. In addition CITY shall pay for the officiating services of the ASSOCIATION, which services shall include *league tournaments, either pre/post season or in-season, weekend tournaments*, which tournaments shall be considered a part of the scheduled season. The amount of compensation to be paid shall be as follows:

- a. Adult Slow Pitch Games:     \$16.00 per official per game
- b. Adult Fast Pitch Games:     \$22.50 per official per game
- c. Youth Fast Pitch Games:     \$22.50 per official per game
- d. Youth Basketball Games:     \$11.00 per official per game
- e. Youth Flag Football Games   \$11.00 per official per game
- f. Adult Flag Football Games   \$22.00 per official per game
- g. Youth Volleyball Games     \$11.00 per official per game
- h. Adult Volleyball Games      \$14.00 per official per game

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CRC 1-10-06  
Contract No. 09-085

- i. Youth Basketball Games \$ 8.00 per scorekeeper per match

5. In all activities and services performed hereunder, the ASSOCIATION is an independent contractor and not an agent or employee of the CITY. The ASSOCIATION, as an independent contractor, shall be responsible for the services provided under this Agreement. The ASSOCIATION shall have ultimate control over the execution of the work performed under this Agreement and shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate the officials performing under this Agreement. The CITY shall have not control of or supervision over, the officials.

6. CITY shall issue a purchase order for the payment of officiating services. It is agreed that CITY shall make pre-payments to ASSOCIATION prior to and during the season according to the schedule below. It is further agreed that ASSOCIATION shall pay officials on a biweekly basis for services performed from these pre-paid funds. Actual payments shall be based upon the actual team registration. It is understood by and between the parties that these costs are estimated and will be adjusted based upon the actual team registration. In the event of an over or under payment, the parties shall adjust to address actual differences. For the term of this Agreement, CITY shall pay to ASSOCIATION:

- a. An estimated \$10,000.00 on or before the date of the first scheduled league game of the Fall season;
- b. An estimated \$24,000.00 after October 1<sup>st</sup> of the Fall season;
- c. An estimated \$40,000.00 on or before the date of the first scheduled league game of the Spring season; and
- d. An estimated \$40,000.00 on or before the date of the first scheduled league game of the Summer season.

The total amount of payment by the CITY to ASSOCIATION for all services to be performed under this Contract may not, under any circumstances, exceed ONE HUNDRED TWENTY EIGHT THOUSAND NINE HUNDRED EIGHTY and NO/100 DOLLARS (\$128,980.00). As a part of the services contemplated herein, ASSOCIATION covenants and agrees to print and distribute paychecks to individual officials on a biweekly basis.

7. CITY shall provide ASSOCIATION with the season schedules one week in advance of the date of the first scheduled game of the season. CITY shall also provide ASSOCIATION with one week's notice, if possible, of all rescheduled games. Both schedules shall be in writing.

8. ASSOCIATION shall establish, operate and maintain accounting system, which system shall be open to CITY for periodic inspection during regular business hours. The system shall be designed for and provide for the tracking of funds and the review of the financial status of the program on a monthly basis.

9. ASSOCIATION shall establish a separate account for the payment of officials for the services performed pursuant to this Agreement. ASSOCIATION shall put into operation and

utilize accounting and check issuing procedures approved by CITY. ASSOCIATION covenants and agrees that it shall not pay any funds out contrary to the terms of this Agreement or otherwise encumber CITY funds.

10. In the event that the CITY agrees to enter into a new agreement, any funds remaining with ASSOCIATION but not utilized to pay for services received shall be remitted to CITY not later than two weeks after the last game of the fiscal year. The balance of all money not spent or otherwise paid pursuant to the terms of this agreement shall be returned to CITY.

11. ASSOCIATION shall appoint an authorized representative who shall be available to meet with the Recreation Division Representative and other officials of CITY upon request.

12. In the event that an official fails to work any scheduled game due to absenteeism, ASSOCIATION shall reimburse CITY the amount of the base fee as established in Paragraph 4 herein.

13. ASSOCIATION shall provide two officials at each scheduled game, unless otherwise agreed upon by the parties, with at least one official having no less than one (1) year of experience.

14. In the event that ASSOCIATION fails to comply with or otherwise meet the terms and conditions of this agreement, CITY may withhold further payment to ASSOCIATION until the condition or term is remedied to the satisfaction of CITY. CITY may seek specific enforcement of this Agreement.

15. This Agreement shall be subject to all valid statutes, law, rules and regulations applicable thereto as promulgated by the United States of America, the State of Texas, or any other governmental body or agency having lawful jurisdiction.

**16. ASSOCIATION agrees to and shall indemnify and hold harmless CITY, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by ASSOCIATION, its officers, agents and employees, under this contract.**

17. ASSOCIATION shall not allow any non-ASA certified persons to umpire any City softball game. ASSOCIATION hereby guarantees that they shall require all umpires to be certified with the ASA, which covers all certified umpires with ASA insurance. As a certified member each ASSOCIATION umpire hereby represents that they shall maintain ASA insurance for the duration of this Agreement, including insurance against claims for injuries to persons and damages to property which may arise from or in connection with the performance of the work hereunder by Association, its agents, representatives, volunteers and employees. The ASSOCIATION umpires ASA insurance shall be primary insurance. Said insurance shall list College Station, its employees and officials as additional named insureds. Further, said insurance

policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested. Certificates of Insurance evidencing the required insurance coverages are attached hereto as Exhibit A. ASSOCIATION agrees to furnish CITY Certificates of Insurance evidencing continued coverage as required hereinabove through the term of the Agreement.

ASSOCIATION shall not allow any non-Texas Amateur Athletic Federation ("TAAF") certified persons to officiate any CITY flag football or basketball game. ASSOCIATION hereby guarantees that they shall require all flag football and basketball officials to be certified and registered with TAAF. As a certified member each ASSOCIATION official hereby represents that they shall maintain TAAF insurance for the duration of this Agreement, including insurance against claims for injuries to persons and damages to property which may arise from or in connection with the performance of the work hereunder by Association, its agents, representatives, volunteers and employees. The ASSOCIATION officials TAAF insurance shall be primary insurance. Said insurance shall list College Station, its employees and officials as additional named insureds. Further, said insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested. Certificates of Insurance evidencing the required insurance coverages are attached hereto as Exhibit B. ASSOCIATION agrees to furnish CITY Certificates of Insurance evidencing continued coverage as required hereinabove through the term of the Agreement.

18. Any gifts or other contributions received by ASSOCIATION or any of its members shall not be subject to the provisions of this agreement.

19. Notices to the parties shall be sent regular mail when addressed as follows:

CITY OF COLLEGE STATION  
PARKS AND RECREATION DEPARTMENT  
ATTN: *Marco A. Cisneros, Director*  
P.O. Box 9960  
College Station, TX 77842

BRAZOS VALLEY SOFTBALL UMPIRES ASSOCIATION  
P.O. Box 2875  
Bryan, TX 77805

The parties may change addresses by prior written notice sent to the other party pursuant to the terms of this agreement.

20. 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 entities.

21. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

22. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended by written instrument approved and executed by the parties.

SIGNED this the 6 day of JAN., 2009.

BRAZOS VALLEY SOFTBALL

CITY OF COLLEGE STATION

UMPIRES ASSOCIATION

BY: [Signature]  
Printed Name: GREG CANNON  
Title: BVSBK President  
Date: 1/6/09

BY: [Signature]  
Mayor  
Date: 3.3.09

ATTEST:  
[Signature] 3/3/09  
City Secretary

APPROVED:  
[Signature]  
City Manager  
[Signature]  
City Attorney  
[Signature]  
Chief Financial Officer

# ACORD. CERTIFICATE OF LIABILITY INSURANCE

OP ID M2  
ASAUS-1

DATE (MM/DD/YYYY)  
02/24/09

**PRODUCER**

Bollinger, Inc.  
101 JFK Parkway  
Short Hills NJ 07078-5000  
Phone: 800-526-1379 Fax: 973-921-2876

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

NAIC #

**INSURED**

ASA/USA Softball Association  
Mark Loehrs  
2801 NE 50th Street  
Oklahoma City OK 73111

INSURER A: **Markel Insurance Company** 38970

INSURER B: **Everest National Ins. Co.** 10120

INSURER C:

INSURER D:

INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Incl Participants	3602AH230069	01/01/09	01/01/10	EACH OCCURRENCE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE	71GA000013	01/01/09	01/01/10	EACH OCCURRENCE \$ 3,000,000
	DEDUCTIBLE \$ RETENTION \$				AGG REGATE \$ 3,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-ORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

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

Coverage is provided under this policy for umpire associations that are comprised of 100% ASA Registered Umpires. Certificate holder is named as additional insured. Certificate is issued on behalf of Brazos Valley Softball Umpires Association.

**CERTIFICATE HOLDER**

City of College Station

COLLSTA

**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# ROUTING SHEET

## CONTRACTS & OTHER AGREEMENTS

(These Documents Require Council Approval)

**For Office Use Only:**  
2 Originals sent to Fiscal on 8/25/10  
1 Copies sent to Legal on 8/25/10  
 Scanned into Laserfiche on 8/25/10

**Contract No.:** 09-085 Amendment.1 **Project No.:** \_\_\_\_\_

**Project Name:** Agreement for Services for Sports Officials

**Name of Contractor:** Brazos Valley Softball Umpires Association

**Contract Description:** Agreement for Services for Qualified Officiating Services for City Leagues and City Sponsored Tournaments

**CRC Approval Date (if required):** 1-10-06 Peter B. Lamont, Jr. Rec. Supt./3731  
**Department Representative/Extension**

**Council Approval Date (if required):** 8-12-10

**Agenda Item No.:** 2g

**Finance Review Required:** Insurance Certificates: RB Performance Bond: NA Payment Bond: NA  
*(person reviewing, please initial if approved)*

**Comments:**

This amendment is to include fees to pay for Adult Kickball as well as to pay for officials at various tournaments throughout the year. The fees for the Kickball officials were not included in the FY2010 budget however revenue from the increased fees approved in January are expected to cover the shortfall. The fees for the Tournament officials are partially included in the Parks and Recreation Department's Hotel Occupancy Tax budget

- |          |   |                |
|----------|---|----------------|
| <b>6</b> | <u><i>Sherry Mashburn</i></u>                                   | <u>8-24-10</u> |
|          | <b>CITY SECRETARY</b>   | <b>DATE</b>    |
| <b>5</b> | <u><i>Nancy J. Duvy</i></u>                                     | <u>8-24-10</u> |
|          | <b>MAYOR</b>  | <b>DATE</b>    |
| <b>4</b> | <u><i>Cheryl</i></u>  | <u>8-23-10</u> |
|          | <b>CITY MANAGER</b>   | <b>DATE</b>    |
| <b>3</b> | <u><i>Adm C. Fales</i></u>                                      | <u>8-23-10</u> |
|          | <b>LEGAL DEPARTMENT</b>   | <b>DATE</b>    |
| <b>2</b> | <u><i>Jeffrey Kent</i></u>                                      | <u>8-23-10</u> |
|          | <b>CHIEF FINANCIAL OFFICER</b>                                  | <b>DATE</b>    |
| <b>1</b> | <u><i>Marco L Cisneros</i></u>                                  | <u>8/18/10</u> |
|          | <b>DEPARTMENT DIRECTOR/<br/>ADMINISTERING CONTRACT DIRECTOR</b> | <b>DATE</b>    |

**August 12, 2010**  
**Consent Agenda Item No. 2g**  
**2010 Amendment to Agreement for Services with the Brazos Valley Softball**  
**Umpires Association**

**To:** Glenn Brown, City Manager

**From:** David Schmitz, Assistant Director, Parks and Recreation

**Agenda Caption:** Presentation, possible action, and discussion regarding an amendment to the Agreement for Services with the Brazos Valley Softball Umpires Association to provide officiating services for City athletic leagues and tournament programs (Contract Number 09-085) in an amount not to exceed \$183,900.00 total per year.

**Relationship to Strategic Goals:** Goal I.10 Hotel/Motel utilization for eligible projects, Goal III.10 Increase tourism, working with University.

**Recommendation(s):** Staff recommends approval of the Amendment to the Agreement for Services in an amount not to exceed of \$183,900 per year.

**Summary:** This amends the current Agreement for Services with the Brazos Valley Umpires Association (Contract 09-085) to include fees for Kickball and Tournaments. The contract as approved on January 28, 2010 allocates funds for the Kickball program but does not specify the rates. This amendment specifies that rate.

Additionally, this Amendment authorizes payment to the Brazos Valley Softball Umpires Association for Tournament Officials from the Department's Hotel Occupancy Tax budget. These officials are paid at the end of each tournament at a rate specified by National ASA. By paying the Association they can cut checks at the tournament to pay the officials instead of the City having to generate checks after the fact. Prompt payment of the officials, many of whom travel from out of town to work these tournaments, increases our tournament rating and thus the likelihood of our being able to attract additional tournaments in the future.

This Agreement for Services is exempt from competitive bidding in accordance with LGC 252.022(a)(7), a procurement that is available from only one source.

**Budget & Financial Summary:** This amendment is to include fees to pay for Adult Kickball as well as to pay for officials at various tournaments throughout the year. The fees for the Kickball officials were not included in the FY2010 budget however revenue from the increased fees approved in January are expected to cover the shortfall. The fees for the Tournament officials are partially included in the Parks and Recreation Department's Hotel Occupancy Tax budget and the shortfall is expected to be recovered from entry and gate fees as well as reimbursement from the State Comptrollers Special Event Fund from which we will be receiving reimbursement for costs associated with the 2010 ASA 16&U Class A National Softball Tournament.

**Attachments:**

1. 2010 Amendment to Agreement for Services with the Brazos Valley Softball Umpires Association

**2010 AMENDMENT TO AGREEMENT FOR SERVICES WITH THE BRAZOS  
VALLEY SOFTBALL UMPIRES ASSOCIATION**

This amended agreement (“AGREEMENT”) is made by and between **BRAZOS VALLEY SOFTBALL UMPIRES ASSOCIATION** (“Association”), and the **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation (“City”), and this amendment shall be subject to the following terms and conditions:

**WHEREAS**, the Association and City entered into and executed an agreement on March 3, 2009, with the contract number of 09-085 (“Original Agreement”); and

**WHEREAS**, the Association and the City desire to amend the original agreement by increasing the amount of the agreement and as stated below; and

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

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

To amend the original agreement as follows:

1. In paragraph 4 by adding after letter i:

j. Adult Kick Ball     \$22.00 per official per game;

k. Sanctioned Tournaments     Per ASA code.

2. In paragraph 6 by replacing the second paragraph after letter d with:

The total amount of payment by the City to the Association for all services to be performed under this Contract may not, under any circumstances, exceed **ONE HUNDRED EIGHTY THREE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$183,900.00)**. As a part of the services contemplated herein, Association covenants and agrees to print and distribute paychecks to individual officials on a biweekly basis.

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

EXECUTED THIS THE 22 DAY OF JULY, 2010.

**BRAZOS VALLEY SOFTBALL  
UMPIRES ASSOCIATION**

**CITY OF COLLEGE STATION**

By: 

By:   
Mayor

Printed Name: Tim Carda

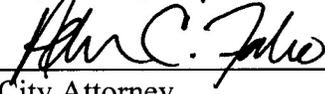
Title: President

Date: 7/22/10

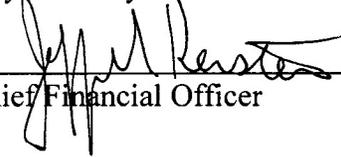
ATTEST:   
City Secretary

APPROVED:  
  
City Manager

8-23-10  
Date

  
City Attorney

8-23-10  
Date

  
Chief Financial Officer

8-23-10  
Date

\*\*\*\*\*

**RENEWAL ACCEPTANCE**

By signing herewith, I acknowledge and agree to renew Contract No. 09-085, for Brazos Valley Softball Umpires Association in accordance with all terms and conditions previously agreed to and accepted.

I understand this renewal term will be for a one (1) year period beginning January 1, 2011 through December 31, 2011. The amount of the renewal agreement shall not exceed One Hundred Eighty-Three Thousand Nine Hundred Dollars and 00/100 dollars (\$183,900.00). This is renewal number 2.

**BRAZOS VALLEY SOFTBALL UMPIRES ASSOCIATION**

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

  
\_\_\_\_\_  
DATE

**CITY OF COLLEGE STATION**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
DATE

**ATTEST:**

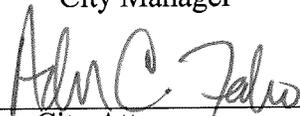
\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
DATE

**APPROVED:**

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

\_\_\_\_\_  
DATE

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

\_\_\_\_\_  
DATE

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

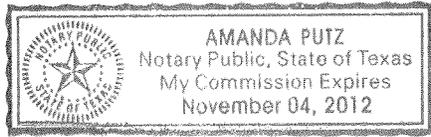
\_\_\_\_\_  
DATE

STATE OF TEXAS

CORPORATE ACKNOWLEDGMENT

COUNTY OF Brazos

This instrument was acknowledged on the 25<sup>th</sup> day of January, 2011,  
by Tim Cardo in his/her capacity as President of  
BVSUA, a TEXAS Corporation, on behalf of said corporation.



Amanda Putz  
Notary Public in and for the  
State of Texas

STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged on the \_\_\_\_\_ day of \_\_\_\_\_, 2011,

By \_\_\_\_\_, in his capacity as Mayor of the City of College Station, a  
Texas

home-rule municipality, on behalf of said municipality.

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

\*\*\*\*\*

# ACORD CERTIFICATE OF LIABILITY INSURANCE

ISSUE DATE (MM/DD/YYYY)  
01/25/2011

**PRODUCER**  
BOLLINGER, Inc,  
101 JFK PARKWAY  
SHORT HILLS, NJ 07078  
PHONE: 1-800-526-1379 FAX: 973-921-2876

**INSURED** Amateur Softball Association and Members of  
Texas ASA JO Indiv Reg Program  
Jack Aaron  
1925 Marshall Ave  
Waco, TX 76708

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY  
AND CONFERS NO RIGHTS UPON THE CERTIFICATE  
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR  
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

INSURER A: Markel Insurance Company  
INSURER B: Everest National Insurance Company  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY	3602AH230069	01/01/2011	01/01/2012	EACH OCCURENCE	\$2,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any One Fire)	\$300,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
		<input checked="" type="checkbox"/> Participants Liab				PERSONAL & ADV INJURY	\$2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$5,000,000
		<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> TEAM				PRODUCTS - COMP/OP AGG	\$2,000,000
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea Accident)	\$
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTO'S				BODILY INJURY (Per accident)	\$
		<input type="checkbox"/> SCHEDULED AUTO'S				PROPERTY DAMAGE (Per accident)	\$
		<input type="checkbox"/> HIRED AUTO'S					
		<input type="checkbox"/> NON-OWNED AUTO'S					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
		<input type="checkbox"/> ALL OWNED AUTO'S				AUTO ONLY: AGG	\$
B	X	EXCESS/UMBRELLA LIABILITY	71G1000013	01/01/2011	01/01/2012	EACH OCCURENCE	\$3,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$3,000,000
		<input type="checkbox"/> DEDUCTIBLE					\$
		RETENTION \$					\$
							\$
		WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY				WC STATU-TORY LIMITS	OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				A.L. EACH ACCIDENT	\$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
A		OTHER	4102AH220317	01/01/2011	01/01/2012	Med Max: \$250,000	52-week Benefit Period. Deductible may apply
		Accident Medical Full Excess					

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

Coverage applies to liability of the named insured arising out of the administration, play or practice of amateur softball/baseball. Certificate holder is named as an additional insured. This certificate is issued on behalf of: TEXAS ASA YOUTH /ADULT TEAMS AND UMPIRES

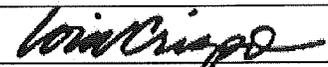
**CERTIFICATE HOLDER**

CITY OF COLLEGE STATION, TEXAS  
PETER LAMONT  
1000 KRENEK TAP ROAD  
COLLEGE STATION, TEXAS 77840

**CANCELLATION**

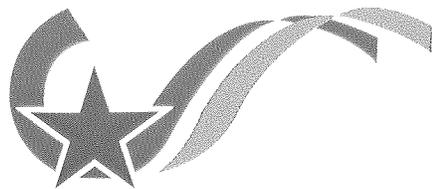
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS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

AUTHORIZED REPRESENTATIVE



ACORD 25-S(79/97)

© ACORD CORPORATION 1988



CITY OF COLLEGE STATION

*Home of Texas A&M University®*

January 20, 2011

Brazos Valley Softball Umpires Association  
P.O. Box 2875  
Bryan, TX 77805  
ATTN: Tim Carda

**RE: Renewal – Contract No. 09-085  
Brazos Valley Softball Umpires Association**

Dear Mr. Carda:

The City of College Station appreciates the services provided by Brazos Valley Softball Umpires Association this past year. We would like to exercise our option to renew the referenced Contract #09-085 for the term of January 1, 2011 through December 31, 2011, in the amount of One Hundred Eighty-Three Thousand Nine Hundred Dollars and 00/100 dollars (\$183,900.00).

If this meets with your company's approval, please complete this renewal agreement and return it no later than January 28, 2011. We will then issue your company a new purchase order effective January 1, 2011 through December 31, 2011.

Should you have any questions, please call me at 979.764.3423.

Sincerely,

Jessica R. Bucknum  
Assistant Buyer

Attachment

PO Box 9960  
1101 Texas Avenue  
College Station, TX 77842

[www.cstx.gov](http://www.cstx.gov)

# ACORD CERTIFICATE OF LIABILITY INSURANCE

ISSUE DATE (MM/DD/YYYY)  
01/25/2011

**PRODUCER**  
BOLLINGER, Inc,  
101 JFK PARKWAY  
SHORT HILLS, NJ 07078  
PHONE: 1-800-526-1379 FAX: 973-921-2876

**INSURED** Amateur Softball Association and Members of  
Texas ASA JO Indiv Reg Program  
Jack Aaron  
1925 Marshall Ave  
Waco, TX 76708

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

INSURER A: Markel Insurance Company  
INSURER B: Everest National Insurance Company  
INSURER C:  
INSURER D:  
INSURER E:

## COVERAGES

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INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Participants Liab  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> TEAM	3602AH230069	01/01/2011	01/01/2012	EACH OCCURENCE	\$2,000,000
							FIRE DAMAGE (Any One Fire)	\$300,000
							MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$2,000,000
							GENERAL AGGREGATE	\$5,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
			<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea Accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
			<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS				AUTO ONLY - EA ACCIDENT	\$
							OTHER THAN AUTO ONLY: EA ACC	\$
							AGG	\$
B	X		<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	71C1000013	01/01/2011	01/01/2012	EACH OCCURENCE	\$3,000,000
							AGGREGATE	\$3,000,000
								\$
								\$
			<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS	OTH-ER
							A.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A			<b>OTHER</b> Accident Medical Full Excess	4102AH220317	01/01/2011	01/01/2012	Med Max: \$250,000	52-week Benefit Period. Deductible may apply

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

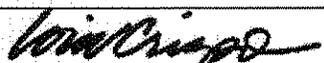
Coverage applies to liability of the named insured arising out of the administration, play or practice of amateur softball/baseball. Certificate holder is named as an additional insured. This certificate is issued on behalf of: TEXAS ASA YOUTH /ADULT TEAMS AND UMPIRES

**CERTIFICATE HOLDER**

CITY OF COLLEGE STATION, TEXAS  
PETER LAMONT  
1000 KRENEK TAP ROAD  
COLLEGE STATION, TEXAS 77840

**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE 

February 24, 2011  
Consent Agenda Item No. 2e  
Interlocal Agreement Between College Station and BSWMA Inc. for College  
Station to Sponsor BSWMA Inc, as an Associate Member of the Brazos Valley  
Wide Area Communications Service (BVWACS)

**To:** David Neeley, City Manager

**From:** Ben Roper, IT Director

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of an Interlocal Agreement between the City of College Station and BSWMA Inc. detailing City of College Station sponsorship of BSWMA, Inc. as an Associate Member of the Brazos Valley Wide Area Communications Service (BVWACS).

**Relationship to Strategic Goals:** Goal I.4 Services must pay for themselves.

**Recommendation(s):** The BSWMA, Inc. Board of Directors will consider the ILA at the next scheduled Board Meeting, Feb 18th. Staff recommends approval.

**Summary:** During the process to create BSWMA as a separate entity, both cities discussed the best method for the new BSWMA Inc to obtain services previously provided by the City of College Station. It was agreed upon by all parties that to provide continued radio service for BSWMA Inc. operations, the City of College Station would petition the Brazos Valley Wide Area Communications Service (BVWACS) to sponsor BSWMA Inc as an Associate Member.

Sponsorship of BSWMA will have no material impact on BVWACS operations, since they previously operated on the system as a City Department. The ILA provides for BSWMA Inc. to pay the City for the fair share cost of the radios operated on the system.

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

**Attachments:**

1. ILA

**INTERLOCAL AGREEMENT  
BVSWMA, INC. AND  
THE CITY OF COLLEGE STATION, TEXAS  
ASSOCIATE MEMBERSHIP IN THE BRAZOS VALLEY WIDE AREA  
COMMUNICATIONS SYSTEM (BVWACS)**

This Agreement is made and entered into by and between, BRAZOS VALLEY SOLID WASTE MANAGEMENT AGENCY, INC., a Texas non-profit local government corporation (hereinafter referred to as "BVSWMA, Inc.") and the CITY OF COLLEGE STATION, TEXAS, a Texas Home Rule Municipal Corporation (hereinafter referred to as "College Station").

WHEREAS, CHAPTER 791 OF THE TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes local governments and state agencies to contract with each other to provide a governmental function or service that each Party to the contract is authorized to perform individually and in which the contracting Parties are mutually interested, such as administrative functions, planning, parks and recreation and engineering;

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

WHEREAS, College Station, and BVSWMA, Inc. represent that each is independently authorized to perform the functions contemplated by this Agreement;

WHEREAS, BVSWMA, Inc. needs radio communications to conduct day-to-day operations;

WHEREAS, BVSWMA, Inc. and College Station entered into an Interlocal Agreement for College Station to provide certain communications services, including sponsoring BVSWMA, Inc. as an Associate Member under College Station to the Brazos Valley Wide Area Communications System (BVWACS). The proposed scope of services is more particularly described in Exhibit A;

WHEREAS, BVSWMA, Inc. has sufficient funds available from current revenues to fund the radio services;

NOW THEREFORE, College Station, and BVSWMA, Inc. herein enter into this Agreement pursuant to the above-named Act to authorize BVWACS to provide radio communications services to BVSWMA, Inc. as an Associate Member of College Station.

The following establishes the obligations of each Party:

1. **BVSWMA, Inc. will:**

- Provide payment for the radio communications related services provided by College Station as set forth in this Agreement and future revisions.
- Be responsible for purchasing and providing their own Subscriber Equipment to be used on the BVWACS.
- Use the BVWACS in accordance with all applicable FCC rules and regulations.
- Obey all BVWACS policies and procedures regarding use and operations.
- Pay any FCC penalties or fines resulting from actions of BVSWMA, Inc. employees or other BVSWMA, Inc. radio users.
- Refrain from any other action or omission that has a material adverse impact on the operation and maintenance of BVWACS
- Coordinate with designated College Station personnel desired changes or modifications to subscriber units or talkgroups used by BVSWMA, Inc. including, but not limited to, adding additional subscriber units, loss of subscriber units, changes to talkgroup members.

**College Station will:**

- Petition the Brazos Valley Wide Area Communications System (BVWACS) to provide radio service to BVSWMA, Inc. as an Associate Member of the City of College Station on the BVWACS 800/700 MHz radio system.

2. **Service Requirements**

College Station will provide the services defined in the Agreement in a manner that does not conflict with site development projects and daily solid waste disposal operations. The service provided shall not cause the facility to be in violation of any Texas Commission on Environmental Quality regulations, or other regulations, including but not limited to 30 Texas Administrative Code Chapters 330 and 332. College Station agrees that the project will comply with all local, state and federal regulations.

No modifications to the scope of services as described in Exhibit A will be made without prior written consent from College Station and BVSWMA, Inc.

3. **Project Costs**

BVSWMA, Inc. will pay for all costs associated with the services provided in an amount for each year of the term to be determined as a per subscriber unit (radio) cost equal to the amount College Station is charged per subscriber unit as a BVWACS Party. First year cost \$149.15/subscriber unit. Costs for renewal years will be mutually agreed upon by both parties.

4. **Term/Termination**

This Agreement shall automatically renew annually for up to a total of four one year terms and be effective from October 1<sup>st</sup> of each year until September 30<sup>th</sup>. The obligations of the parties to this Agreement are subject to the annual budget appropriation for each party.

This Agreement may be terminated at any time and for any reason without liability by either Party upon ninety (90) days written notice as provided herein.

5. **Hold Harmless**

College Station and BVSWMA, Inc. each individually agree, to the extent authorized by the Constitution and laws of the State of Texas, 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 with the services provided under this Agreement.

6. **Invalidity**

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

7. **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.

**Brazos Valley Solid Waste Management Agency, Inc.**  
Executive Director  
2690 State Highway 30,  
Anderson, Texas 77830

**With Copy to:**

Peter G. Smith  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
500 N. Akard, Suite 1800  
Dallas, Texas 75201

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

8. **Entire Agreement**

It is understood that this Agreement contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements, or understandings between the Parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or

terminated orally. No verbal agreement or conversation with any officer, agent or employee of College Station, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

9. **Amendment**

No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of each Party.

10. **Texas Law; Venue**

This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue for any dispute arising from or related to this Agreement shall be in a state court in Brazos County, Texas.

11. **Place of Performance**

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

12. **Authority to Enter Contract**

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

13. **Waiver**

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

14. **Force Majeure**

Each party will be excused from any breach of this Agreement which is proximately caused by government regulation, war, strike, act of God, or other similar circumstance normally deemed outside the control of well-managed businesses.

15. **Agreement Read**

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

16. **Assignment**

This Agreement and the rights and obligations contained herein may not be assigned by either Party without the prior written approval of the other Party.

17. **Multiple Originals**

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

(Signatures on Following Page)

SIGNED AND AGREED on the dates indicated below.

**CITY OF COLLEGE STATION**

**BRAZOS VALLEY SOLID WASTE  
MANAGEMENT AGENCY, INC.**

BY: \_\_\_\_\_  
Nancy Berry, Mayor

BY: \_\_\_\_\_  
Jason P. Bienski, President

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST:

ATTEST:

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

\_\_\_\_\_  
Secretary

APPROVED:

APPROVED AS TO FORM

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

\_\_\_\_\_  
General Counsel

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

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

STATE OF TEXAS           §  
  §       ACKNOWLEDGMENT  
COUNTY OF BRAZOS     §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_ 2011,  
by \_\_\_\_\_, in his capacity as \_\_\_\_\_ of The  
Brazos Valley Solid Waste Management Agency, Inc., a government corporation, on its behalf.

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

STATE OF TEXAS           §  
                                      §       ACKNOWLEDGMENT  
COUNTY OF BRAZOS       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by **Nancy Berry**, in her capacity as **Mayor** of the **City of College Station**, a Texas home-rule municipality, on behalf of said municipality.

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

**Exhibit A**

**BVSWMA , INC. RADIO COMMUNICATIONS SERVICES**

This Exhibit provides additional definition details regarding the scope of radio communications services to be provided by the City of College Station to BVSWMA, Inc. in accordance with this Agreement.

Radio services will be provided by radio towers and infrastructure equipment and communications links that make up the BVWACS.

The City of College Station will provide the following communication services to BVSWMA, Inc. in conjunction with this agreement:

**Radio Service**

In accordance with the ILA establishing the Brazos Valley Wide Area Communications System (BVWACS), College Station will petition BVWACS to provide radio service to BVSWMA, Inc. as an Associate Member of the City of College Station on the BVWACS 800/700 MHz radio system. Radio service costs will be billed at a rate equal to that charged City Departments for identical service and is based on a per subscriber unit basis. Radio Service is contingent on BVWACS Governing Board approval of BVSWMA, Inc. as an Associate Member under City of College Station sponsorship.

As of the date of this agreement, BVSWMA Inc. has in use, 20 mobile subscriber units, 13 portable subscriber units, and 1 control station as shown in Table 1.

**Table 1: BVSWMA, Inc. Subscriber Units**

Radio Model	ModelNo	Serial	BVWACS ID	Owner	Asset Tag #	Alias	NOTES
XTS 1500	H66UCD9PW5BN	687CKZ1711	771001	BVSWMA	49-005	CCS BVSWMA 49-005	portable
XTS 1500	H66UCD9PW5BN	687CKZ1712	771002	BVSWMA	49-001	CCS BVSWMA 49-001	portable
XTS 1500	H66UCD9PW5BN	687CKZ1715	771005	BVSWMA	49-007	CCS BVSWMA 49-007	portable
XTS 1500	H66UCD9PW5BN	687CKZ1728	771018	BVSWMA	49-002	CCS BVSWMA 49-002	portable
XTS 1500	H66UCD9PW5BN	687CKZ1731	771021	BVSWMA	49-009	CCS BVSWMA 49-009	portable
XTS 1500	H66UCD9PW5BN	687CKZ1735	771025	BVSWMA	49-004	CCS BVSWMA 49-004	portable
XTS 1500	H66UCD9PW5BN	687CKZ1736	771026	BVSWMA	49-008	CCS BVSWMA 49-008	portable

Radio Model	ModelNo	Serial	BVWACS ID	Owner	Asset Tag #	Alias	NOTES
XTS 1500	H66UCD9PW5BN	687CKZ1737	771027	BVSWMA	49-003	CCS BVSWMA 49-003	portable
XTS 1500	H66UCD9PW5BN	687CKZ1738	771028	BVSWMA	49-006	CCS BVSWMA 49-006	portable
XTS 2500 M1	H46UCC9PW5AN	205CDS0125	not yet assigned	BVSWMA		not yet assigned	portable
XTS 2500 M1	H46UCC9PW5AN	205CDS0091	not yet assigned	BVSWMA		not yet assigned	portable
XTS 2500 M1	H46UCC9PW5AN	205CDS0109	not yet assigned	BVSWMA		not yet assigned	portable
XTS 2500 M1	H46UCC9PW5AN	205CDS0108	not yet assigned	BVSWMA		not yet assigned	portable
XTL 1500	M28URS9PW1AN	775CKZ0809	769907	BVSWMA		CCS BVSWMA CTRL ST	CONTROL STATION
XTL 1500	M28URS9PW1AN	775CKZ0851	770507	BVSWMA		CCS BVSWMA Packer 01	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0852	770508	BVSWMA		CCS BVSWMA 73-76	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0853	770509	BVSWMA		CCS BVSWMA 73-69	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0854	770510	BVSWMA		CCS BVSWMA 68	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0855	770511	BVSWMA		CCS BVSWMA 53	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0856	770512	BVSWMA		CCS BVSWMA 73-33	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0857	770513	BVSWMA		CCS BVSWMA 73-35	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0858	770514	BVSWMA		CCS BVSWMA 73-19	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0859	770515	BVSWMA		CCS BVSWMA 73-34	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0860	770516	BVSWMA		CCS BVSWMA 73-29	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0861	770517	BVSWMA		CCS BVSWMA Packer 02 Cat	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0862	770518	BVSWMA		CCS BVSWMA 73-50	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0863	770519	BVSWMA		CCS BVSWMA 20	Mobile

Radio Model	ModelNo	Serial	BVWACS ID	Owner	Asset Tag #	Alias	NOTES
XTL 1500	M28URS9PW1AN	775CKZ0864	770520	BVSWMA		CCS BVSWMA 73-15	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0865	770521	BVSWMA		CCS BVSWMA 13	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0866	770522	BVSWMA		CCS BVSWMA 31	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0867	770523	BVSWMA		CCS BVSWMA 73-18	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0868	770524	BVSWMA		CCS BVSWMA 66	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0869	770525	BVSWMA		CCS BVSWMA 73-10	Mobile
XTL 1500	M28URS9PW1AN	775CKZ0870	770526	BVSWMA		CCS BVSWMA 73-75	Mobile

BVSWMA, Inc. subscriber units operate using the following BVWACS talkgroups:

- CCS BVSWMA
- CCS SANIT
- BRY COMP

Additionally, the subscriber units are programmed with City of College Station city common zone B talkgroups as shown in Table 2:

**Table 2: Zone B talkgroups programmed into BVSWMA, Inc. subscriber units.**

TG Number	Name
1	CCS D UTIL
2	CCS Direct
3	CCS DPD/FD
4	CCS PUBWK
5	CCS CITY 1
6	CCS CITY 2
7	CCS EVT 1
8	CCS EVT 2
9	BRZ CEOC
10	CCS PANIC

**February 24, 2011**  
**Consent Agenda Item No. 2f**  
**Economic Development Agreement**  
**between the City of College Station and GEG Productions, LLC.**

**To:** David Neeley, City Manager

**From:** David Schmitz, Interim Director, Parks and Recreation

**Agenda Caption:** Presentation, possible action, and discussion regarding an economic development agreement between the City of College Station and GEG Productions, LLC. for the Presenting Title Sponsorship of the annual Duck Jam event.

**Relationship to Strategic Goals:** Goal I.10 Hotel/Motel utilization for eligible projects, Goal III.10 Increase tourism

**Recommendation(s):** Staff recommends approval of the economic development agreement with GEG Productions, LLC. for presenting title sponsorship of the Duck Jam event.

**Summary:** This is an economic development agreement between the City of College Station and GEG Productions, LLC. for the Presenting Title Sponsorship of the annual Duck Jam event. This agreement is for a five (5) year period.

In exchange for the City's economic incentives for the Event, GEG Productions, LLC. agrees to hold the Event as described in the attached Agreement, to recognize the City as the Presenting Title Sponsor, and to present the City in a positive manner at all times. City shall reserve the right to preview any and all advertising containing its name or logo.

**Budget & Financial Summary:** Funds are budgeted through the Parks and Recreation Department's General Fund and Hotel Occupancy Tax budgets.

**Attachments:**

- 1) Economic Development Agreement Document
- 2) Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ADOPTING AN ECONOMIC DEVELOPMENT PROGRAM FOR GEG PROMOTIONS, LLC., RELATING TO THE DUCK JAM EVENT PURSUANT TO CHAPTER 380 TEXAS LOCAL GOVERNMENT CODE AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

WHEREAS, the City Council desires to promote state and local economic development and to stimulate business and commercial activity within its boundaries and surrounding areas; and

WHEREAS, the City Council is authorized by Section 380, Texas Local Government Code, to make loans and/or grants of public money and/or to provide personnel and/or services to achieve the foregoing; and

WHEREAS, the City Council now desires to adopt an economic development program to create incentives for GEG Productions, LLC. to hold an event called Duck Jam; now, therefore,

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

PART 1: That the facts and recitations set forth in the preamble of this resolution are hereby declared true and correct.

PART 2: That the City Council hereby adopts an economic development program for GEG Productions, LLC., to hold an event called Duck Jam as set forth in an agreement which is attached hereto as Exhibit "A" and incorporated herein by reference.

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

ADOPTED by the City Council of the City of College Station, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN  
THE CITY OF COLLEGE STATION**

**and**

**GEG PRODUCTIONS, LLC.**

This is an agreement by and between the **City of College Station**, a Texas home-rule municipal corporation (the "City"), by and through its authorized representative, and **GEG Productions, LLC.**, a Texas Limited Liability Company (the "Promoter") by and through its authorized representative.

WHEREAS, the City desires to promote state and local economic development and to stimulate business and commercial activity within its boundaries and surrounding areas; and

WHEREAS, Promoter intends to provide a form of public tourism/special event for the City of College Station and the Brazos County area in general through its annual College Station Duck Jam Event (the "Event") at the City's Wolf Pen Creek Park (the "Facility") which the City has determined will achieve the aforementioned economic benefits; and

WHEREAS, pursuant to Chapter 380, Texas Local Government Code and other applicable law, the City desires to create an economic development program for said Duck Jam Event at its Wolf Pen Creek Park including making loans and/or grants of public money and/or providing personnel and/or services as set forth below; and

NOW, THEREFORE, for and in consideration of the mutual promises recited herein, the parties agree as follows:

**I. CITY PROGRAM**

CITY agrees to provide Promoter incentives and other assistance for the Event as follows:

1.1 Personnel and Services Provided. City agrees to provide personnel and certain services relating to general oversight, pre and post event setup and breakdown of the Event as in-kind contributions at the Facility and as further described in Exhibit "A" attached hereto and made a part hereof.

1.2 Waiver of fees. City agrees to waive the City Special Events Permit application fee relating to the Event. City also agrees to waive any commissions and vender fees normally associated with use of the City's Facility during the Event.

1.3 Grant of funds. The City agrees to give to Promoter an amount from City's Hotel Occupancy Tax ("HOT") it collects that is directly attributable to Promoter's Event as

determined by the Bryan/College Station Convention and Visitors Bureau in the following amounts for each year that the Event is held:

- 1<sup>st</sup> Year: 100% of HOT directly attributable to the Event up to \$15,000;
- 2<sup>nd</sup> Year: 100% of HOT directly attributable to the Event up to \$15,000 plus 25% of HOT directly attributable to the Event thereafter;
- 3<sup>rd</sup> Year: 100% of HOT directly attributable to the Event up to \$15,000 plus 50% of HOT directly attributable to the Event thereafter;
- 4<sup>th</sup> Year: 100% of HOT directly attributable to the Event up to \$15,000 plus 75% of HOT directly attributable to the Event thereafter;
- 5<sup>th</sup> Year: 100% of HOT directly attributable to the Event up to \$15,000 plus 100% of HOT directly attributable to the Event thereafter.

1.4 The City will allow Promoter use of Wolf Pen Creek Park and Amphitheater complex for up to ten (10) days total each year the Event is held including pre and post event setup and breakdown of the Event.

## **II. PROMOTER OBLIGATIONS**

2.1 Promoter agrees that the Event shall be an annual occurrence with a primary focus on entertainment for the general public for three days commencing on Thursday evening and concluding late Saturday night, and as further described in Exhibit "B" attached hereto and made a part hereof. This year's Event is currently scheduled to occur April 28-30, 2011. Notice of the dates in each subsequent year shall be given to and approved by City a minimum of 60 days prior to the Event. Promoter understands and agrees that City is incenting Promoter's Event as set forth herein and pursuant to the provisions of Chapter 380, Texas Local Government Code.

2.2 In exchange for City's economic incentives for the Event as set forth above, Promoter agrees to hold the Event as described in this Agreement, to recognize City as the Presenting Title Sponsor and to present the City in a positive manner at all times. City shall reserve the right to preview any and all advertising containing its name or logo. Presenting Title Sponsorship shall include:

- a) All mentions of the name of the Event will be stated as: "City of College Station presents Duck Jam";
- b) City logo will be placed on the front portal entrance signage;
- c) City logo will be placed on all pre-event promotional materials including newspapers;
- d) City logo will be placed on all hand bills including over 20,000 print drops to CSISD and BISD;
- e) City logo and/or name will be placed on all electronic media pertaining to the Event, including facebook, twitter, smart phone apps, and all internet-based advertising;

- f) The Event will be mentioned to at least the same degree as other events on Promoter's website and Ducks Unlimited official website;
- g) City named in post-event recognition including mention in national Ducks Unlimited report;
- h) City named in all 30 and 60 second radio spots;
- i) City named on all television spots;
- j) City name and logo shall be on the front of ticket print;
- k) City name and logo shall be on front cover of event program guide;
- l) City shall be named and mentioned on all press release materials; and
- m) City shall be given such additional event ground signage opportunities as available;

2.3 Except as may be expressly set forth otherwise in this Agreement, Promoter will comply with all applicable rules and regulations, and will comply with all the requirements to obtain a City Special Events Permit each year the Event is held, including insurance, providing a site plan for events, meeting permit bonding requirements, and establishing and following protocols for security, public safety, sanitation, crowd control and traffic control. Furthermore, Promoter agrees to annually assign one person on-site who will be responsible for ensuring compliance with all of the above at all times during its use of the Facility.

2.4 Promoter agrees to annually provide a list of all persons who will be in charge of the activities engaged by Promoter during the Event. Promoter agrees to provide addresses, emails, and office and cell phone numbers for such persons. This list of names with contact information must be provided to the City immediately upon the effective date of this Agreement and updated as necessary.

2.5 Each year this Agreement is in effect, Promoter shall provide City an exact schedule of activities relating to the Event, including pre and post-Event activities. At a minimum, this schedule of activities must include the following information:

- a) Description of dates, times and nature of set up;
- b) Dates, times and nature of scheduled activities during the actual Event itself;
- c) Identification of areas to be used;
- d) All vendor and sponsor names; and
- e) Any other pertinent information as reasonably requested by City to assist it in carrying out its obligations herein and in serving the general public.

2.6 Promoter hereby agrees to abide by minimum standards of safety regulations and procedures generally recognized for the nature of the proposed Event. Promoter, including its attendees, employees and volunteers, is also required to abide by City of College Station park rules including its severe weather procedures.

2.7 Each year this Agreement is in effect, Promoter shall provide to City a post event report showing profit/loss statements, attendance figures, an economic impact analysis for Sales Tax and Hotel Occupancy Tax directly related to the Event, and any other significant data and information concerning the Event as reasonably requested by the City.

### III. NON-DISCRIMINATION CLAUSE

Promoter hereby agrees that the entertainment relating to the Event shall be open to the general public and agrees to refrain from any activity that unlawfully discriminates against any person or persons based upon race, color, creed, national origin, religion, sex, disability or communicable disease, and in accordance with present federal and state laws.

### IV. TERM

4.1 The term of this Agreement shall be for five (5) years, effective upon the last date of approval by the parties hereof through December 31, 2015.

4.2 This Agreement may be terminated by either party for convenience upon one hundred eighty (180) days' written notice to the other party. Any funds received by Promoter from City pursuant to this Agreement but not earned shall be returned to City within seven (7) days thereafter.

### V. DAMAGES/REPAIRS

Promoter shall be using City premises for its Event. Promoter agrees to be solely responsible for any and all damages related to and arising out of its use of City premises for the Event including, but not limited to, any and all persons associated with Promoter or anyone who attends Promoter's Event during the term of the Agreement. Promoter agrees to be solely responsible for all repairs or costs of repairs to the City premises and for any and all related damages as set forth herein.

### VI. INDEMNIFICATION

**It is agreed that the Promoter shall indemnify, hold harmless, and defend the City, its officers, agents, employees and volunteers from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the Event. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Promoter, or any third party. It is the intent of the parties that this provision shall extend to, and include, any and all claims, causes of action or liability caused by the concurrent, joint and/or contributory negligence of the City, an alleged breach of an express or implied warranty by the City or which arises out of any theory of strict or products liability.**

## VII. RELEASE

Promoter hereby releases, relinquishes and discharges the City, its officers, agents, employees and volunteers 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 or alleged to be caused by, arising out of, or in connection with Promoter's Event whether or not said claims, demands, or causes of action are covered in whole or in part by insurance.

## VIII. DEFAULT

8.1 Promoter Default. If Promoter fails in any material term or condition of this Agreement, including failing to obtain or comply with the terms of the City Special Events Permit or failing to hold the Event in substantially the manner presented herein, Promoter is in default of this Agreement. Whenever the City determines it's feasible, the City will give Promoter a reasonable amount of time to correct the default upon written notice.

If Promoter is unable to cure a default, then the City shall be excused from performing any further obligations under this Agreement. If Promoter is in default, Promoter may only terminate this Agreement without further liability.

8.2 If City materially breaches its obligation to disburse the incentives as set forth above in this Agreement and Promoter is not in default, Promoter, as its option, may terminate this Agreement, and the Promoter may thereafter pursue its remedies available at law. In no event shall City be liable to Promoter for any consequential damages as a result of its breach.

## IX. NOTICE

Any notice sent under this Agreement except as may be otherwise expressly required in this Agreement shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following:

To the Promoter: GEG Promotions, LLC.

Telephone: 979-778-9101

Facsimile:

Email: [matt@globaleventgroup.com](mailto:matt@globaleventgroup.com)

To the City: City of College Station Attn: Director of Parks and Recreation

Telephone: 979-764-3414

Facsimile: 979-764-3737

Email: [dschmitz@cstx.gov](mailto:dschmitz@cstx.gov)

Each party may change its address by written notice to the other party in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged or confirmed, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the other party, as the case may be.

## **X. MISCELLANEOUS TERMS**

10.01 This Agreement has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

10.02 This Agreement and the rights and obligations contained herein may not be assigned or sublet by Promoter without the prior written approval of the City.

10.03 This Agreement contains the entire agreement between the parties. There are no other written or oral agreements, contracts, or understandings between the parties.

10.04 No waiver or deferral by either party of any term or condition of this Agreement shall be deemed or construed to be a waiver or deferral of any other term or condition or to be a subsequent waiver or deferral of the same term or condition.

10.05 This Agreement may only be amended by written instrument approved and executed by both parties.

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

10.07 The parties hereby state that they have read the terms of this Agreement and hereby agree to the terms and conditions contained herein.

This Agreement is herein executed by the parties as set forth below, effective as of the date of approval by both governing authorities.

### **EXHIBITS**

“A” City Economic Program of Incentives

“B” Event Schedule of Activities for Duck Jam 2011

**GEG PRODUCTIONS, LLC.,**

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
MAYOR  
Date: \_\_\_\_\_

ATTEST:

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

APPROVED:

\_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
City Attorney  
Date: \_\_\_\_\_

\_\_\_\_\_  
Chief Financial Officer  
Date: \_\_\_\_\_

\_\_\_\_\_  
Director of Parks and Recreation  
Date: \_\_\_\_\_

**EXHIBIT "A"**

**City Economic Program of Incentives**

	<b>Incentives</b>	<b>Est. value</b>
1	City Parks and Recreation staffing costs for Event preparation, operations, and breakdown	\$ 8,600
2	Labor and material costs incurred by the Streets and Drainage Divisions relating to the Event	\$13,200
3	City Cleaning and stocking of restrooms	\$ 650
4	City performance of general grounds maintenance of the Facility including City-installed equipment	\$ 4,450
5	City waiver of commissions and fees normally collected as part of the Duck Jam event.	\$ 8,100
	<b>subtotal</b>	\$35,000
6	HOT reimbursement	\$15,000 +
	<b>TOTAL</b>	<b><u>\$50,000+</u></b>

**EXHIBIT “B”**

**The Event-Schedule of Activities  
(Subject to Change)**

Thursday:

Demonstration and vendor booths  
Children’s entertainment stage and activity area  
Bar-B-Que Cook-Off  
Dock Dogs Event

Friday:

Taste of the Town-local restaurants booths  
Demonstration and vendor booths  
Children’s entertainment stage and activity area  
Bar-B-Que Cook-Off  
CSISD/BISD Duck painting contest  
Dock Dogs Event  
Concerts: (TBD)

Saturday:

Taste of the Town-local restaurants booths  
Demonstration and vendor booths  
Children’s entertainment stage and activity area  
CSISD/BISD Duck painting contest  
Rubber Duckie Race  
Dock Dogs Event  
Concerts: (TBD)

February 24, 2011  
Consent Agenda Item No. 2g  
City of College Station  
Advance Funding Agreement for  
the Mayday Challenge Bike Race

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion on an Advance Funding Agreement (AFA) for the City of College Station's participation in the costs of the Mayday Challenge, a bike race organized by Junction 505.

**Relationship to Strategic Goals:** III. Diverse Growing Economy and IV. Improving Multi-modal Transportation

**Recommendation(s):** Staff recommends approval of the AFA in the amount of \$6800.

**Summary:** May Day Challenge The Bicycle, Pedestrian, and Greenways Advisory Board in collaboration with the Mayors Council on Physical Fitness proposes to partner with Junction 505 (a non-profit operating in the Brazos Valley) in the form of a monetary contribution as well as in-kind resources to continue the annual bike race – Mayday Challenge. Historically, the race has drawn more than two-hundred and has helped Junction 505 raise donations.

Junction Five-O-Five is a private, not-for-profit business organized to provide a community rehabilitation program in the Bryan/College Station area. They provide adults with disabilities the opportunity to join in mainstream employment. For the past six years they have organized a charity bicycle ride. The event will not occur this year without City participation.

**Budget & Financial Summary:** Funds for this event are proposed to come from a grant awarded to the Mayor's Council on Physical Fitness (\$5000) as well as the City's general fund (\$1800).

**Attachments:**

Resolution  
Draft AFA

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, ADOPTING AN ECONOMIC DEVELOPMENT PROGRAM FOR JUNCTION FIVE-O-FIVE RELATING TO THE MAY DAY CHALLENGE EVENT PURSUANT TO CHAPTER 380 TEXAS LOCAL GOVERNMENT CODE AND OTHER APPLICABLE LAW AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

WHEREAS, the City Council desires to promote state and local economic development and to stimulate business and commercial activity within its boundaries and surrounding areas; and

WHEREAS, the City Council is authorized by applicable law including Section 380, Texas Local Government Code, to make loans and/or grants of public money and/or to provide personnel and/or services to achieve the foregoing; and

WHEREAS, the City Council now desires through sponsorship and adoption of an economic development program to create incentives for Junction Five-O-Five to hold an event called the "Junction 505 May Day Challenge sponsored by the City of College Station"; now, therefore,

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

PART 1: That the facts and recitations set forth in the preamble of this resolution are hereby declared true and correct.

PART 2: That the City Council hereby sponsors and adopts an economic development program for Junction Five-O-Five to hold an event called the Junction 505 May Day Challenge sponsored by the City of College Station" as set forth in an agreement which is attached hereto as Exhibit "A" and incorporated herein by reference.

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

ADOPTED by the City Council of the City of College Station, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

**\*\*\*DRAFT\*\*\***

**SPONSORSHIP AGREEMENT  
BETWEEN THE CITY OF COLLEGE STATION  
AND JUNCTION FIVE-O-FIVE**

This Agreement is by and between the CITY OF COLLEGE STATION, a Home Rule Municipal Corporation incorporated under the laws of the State of Texas (hereinafter referred to as the "City") and the Junction Five-O-Five, a Texas Non – Profit Corporation (hereinafter referred to as “Sponsoree”).

WHEREAS, City has determined it to be in the best interest of its citizens and the general public to promote physical fitness, through the Mayor’s Council on Physical Fitness and through the participation of various fitness events promoting healthful lifestyles for its citizens; and

WHEREAS, City has determined it to be in the best interest of its citizens and the general public to enhance the quality of life for all adults within its community, including those facing disabilities and to enhance the employability of the disabled; and

WHEREAS, Sponsoree desires to host a bike race to promote and enhance the purposes recited above; and

WHEREAS, the City desires to promote state and local economic development and to stimulate business and commercial activity within its boundaries and surrounding areas, and the City finds and determines that assisting Sponsoree in the manner set forth herein does this; and

WHEREAS, pursuant to Chapter 380, Texas Local Government Code and other applicable law, the City desires to create an economic development program for a bicycle race event including making loans and/or grants of public money and/or providing personnel and/or services as set forth below;

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

**ARTICLE I. DEFINITIONS**

- 1.1 “Event” means that one certain approximately 50 mile bike race within the City and within Brazos County as well as associated activities as set forth in Exhibit “A” attached hereto and made a part hereof.
- 1.2 “Financial Post Report” means the post Event report provided by Sponsoree to City which includes a summary of Sponsoree’s revenues and expenditures relating to the Event, which report shall at a minimum include how funds from the City have been spent and which shall include the availability of Sponsoree’s Financial Records.
- 1.3 “Financial Records” means invoices, receipts, bank statements, reconciliations, cleared checks, financial statements, audit reports records, accounts, and any and all other reports, files or other documents relating to the Event.

## ARTICLE II. SPONSOREE OBLIGATIONS

2.1 The Sponsoree agrees to host the Event which is comprised of an approximately 50 mile bike race within the City and within Brazos County as set forth in this Agreement to be called “The Junction 505 May Day Challenge sponsored by the City of College Station” which event shall promote to the general public the benefits of being physically fit and which Event shall support the mission of Sponsoree of promoting, advocating, generating funding and building partnerships with, and funding for businesses that enhance the employability of disabled adults in the community in a positive, professional and accountable way.

The Event is currently scheduled to occur May \_\_\_\_, 2011. Sponsoree understands and agrees that City is incenting Sponsoree’s Event as set forth herein and pursuant to the provisions of Chapter 380, Texas Local Government Code and other applicable law.

2.2 City’s program of incentives is as set forth in Exhibit “B” attached hereto and made a part hereof. Any funds advanced as part of City’s incentives must be spent by Sponsoree for only the limited purposes set forth in Exhibit “A” relating to the Event. Any funds not spent in the manner set forth in this Agreement shall be refunded to City.

2.3 In exchange for City’s economic incentives for the Event as set forth above, Sponsoree agrees to hold the Event as described in this Agreement, to recognize City as the Presenting Title Sponsor and to present the City in a positive manner at all times. City shall reserve the right to preview any and all advertising containing its name or logo. Presenting Title Sponsorship shall include:

- a) All mentions of the name of the Event will be stated as: “The Junction 505 May Day Challenge sponsored by the City of College Station”;
- b) City logo will be placed on all signage along the race route;
- c) City logo will be placed on all pre-event promotional materials including newspapers;
- d) City logo will be placed on all hand bills including Sponsoree publications that include the Event, and any biking publications that include the Event to the degree that Sponsoree has authority to make such request;
- e) City logo and/or name will be placed on all electronic media pertaining to the Event, including facebook, twitter, smart phone apps, and all internet-based advertising and including the official websites for Sponsoree and for any professional race directing agency that may be used by Sponsoree;
- f) The Event will be mentioned to at least the same degree as other events on Redemption Race Productions’ official website and Sponsoree’s official website;
- g) City named in post-event recognition including mention in Sponsoree’s report of similar activities or fundraising events;
- h) City named in all 30 and 60 second radio spots;
- i) City named on all television spots;
- j) City name and logo shall be on registration packet and application form;
- k) City name and logo shall be on front cover of all printed materials relating to the Event;
- l) City shall be named and mentioned on all press release materials; and
- m) City shall be given such additional event advertising and signage opportunities as available;

2.4 Except as may be expressly set forth otherwise in this Agreement, Sponsoree will comply with all applicable rules and regulations, and will comply with all the requirements to obtain a City Special Events Permit

for the Event, including providing insurance, providing a plan of activities, meeting permit bonding requirements, and establishing and following protocols for security, public safety, sanitation, crowd control and traffic control.

2.5 Sponsoree agrees to assign a person throughout the planning, holding of the Event and the follow up of the Event who will be responsible for ensuring compliance with all of the terms of this Agreement. This shall expressly include having a name of a person who will be responsible to City at all times during the Event itself. Sponsoree agrees to provide addresses, emails, and office and cell phone numbers for all such persons. This list of names with contact information must be provided to the City immediately upon the effective date of this Agreement and updated as necessary.

2.6 Sponsoree shall provide City an exact schedule of activities relating to the Event, including pre and post-Event activities. At a minimum, this schedule of activities must include the following information:

- a) Description of dates, times and nature of set up;
- b) Dates, times and nature of scheduled activities during the actual Event itself beginning with picking up registration packets or whatever else may be the first activity;
- c) Identification of bike race route and any and all other staging areas related to the Event;
- d) All vendor and sponsor names; and
- e) Any other pertinent information as reasonably requested by City to assist it in carrying out its obligations herein and in serving the general public.

2.7 Sponsoree hereby agrees to abide by minimum standards of safety regulations and procedures generally recognized for the nature of the proposed Event. Sponsoree, including participants in the Event, its agents, contractors, promoters, employees and volunteers, is required to abide by all applicable laws, rules and ordinances.

2.8 Sponsoree shall make its Financial Records available to City during reasonable business hours.

2.9 Sponsoree shall provide to City a Financial Post Report showing profit/loss statements, participant figures, an economic impact analysis for Sales Tax and Hotel Occupancy Tax directly related to the Event, and any other significant data and information concerning the Event as reasonably requested by the City.

2.10 If requested, Sponsoree shall make a presentation to the City Council following the Event relating to its Financial Post Report.

2.11 Sponsoree understands that City is subject to the Open Records Act pursuant to Chapter 552, Texas Government Code and other applicable law relating to the availability of public records. Accordingly, Sponsoree agrees to maintain its Financial Post Report and Financial Records for a minimum of three (3) years after the expiration of this Agreement. City's right to access Sponsoree's files shall continue during this 3-year period and for as long as the records are retained by Sponsoree.

### **ARTICLE III. CITY PROGRAM**

CITY agrees to provide Sponsoree incentives and other assistance for the Event as follows:

3.1 **Personnel and Equipment Provided.** City agrees to make available to Sponsoree certain equipment relating to general preparation, general oversight, pre and post event setup and breakdown of the Event as in-kind contributions as further described in Exhibit "B" attached hereto and made a part hereof.

3.2 **Waiver of fees.** City agrees to waive the City Special Events Permit application fee relating to the Event.

3.3 **Grant of funds.** For and in consideration of the activities to be performed by Sponsoree under this Agreement, City shall provide funding in the total amount of **Six Thousand Eight hundred dollars and no cents**

**(\$6,800.00)** payable as set forth herein. One half of said amount shall be payable by City to Sponsoree as soon as this Agreement is in effect. The second half of said amount shall be payable upon City receipt of the Financial Post Report.

3.4 The appropriated funds shall be used only for the items listed in Exhibit "A."

3.5 City may withhold the second payment of funds described above in the event the City determines that Sponsoree has materially deviated from holding the Event in the manner represented in this Agreement, or if the Final Post Report or Financial Records required or requested herein are not properly submitted.

#### **IV. NON-DISCRIMINATION CLAUSE**

Sponsoree hereby agrees that the Event shall be open to the general public and agrees to refrain from any activity that unlawfully discriminates against any person or persons based upon race, color, creed, national origin, religion, sex, disability or communicable disease, and in accordance with present federal and state laws.

#### **V. DAMAGES/REPAIRS**

Sponsoree shall be using City equipment and premises for its Event. Sponsoree agrees to be responsible for any and all damages related to and arising out of its use of such City property and premises for the Event including, but not limited to, any and all persons associated with Sponsoree, including its contractor, participants, agents and volunteers. Sponsoree agrees to be responsible for all repairs or costs of repairs to City property and premises and for any and all related damages as set forth in this Agreement.

#### **VI. INDEMNIFICATION**

**It is agreed that the Sponsoree shall indemnify, hold harmless, and defend the City, its officers, agents, employees and volunteers from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the Event. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Sponsoree, or any third party. It is the intent of the parties that this provision shall extend to, and include, any and all claims, causes of action or liability caused by the concurrent, joint and/or contributory negligence of the City, an alleged breach of an express or implied warranty by the City or which arises out of any theory of strict or products liability.**

#### **VII. RELEASE**

Sponsoree hereby releases, relinquishes and discharges the City, its officers, agents, employees and volunteers 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 or alleged to be caused by, arising out of, or in connection with Sponsoree's Event whether or not said claims, demands, or causes of action are covered in whole or in part by insurance.

#### **XIII. NOTICE**

Any notice sent under this Agreement except as may be otherwise expressly required in this Agreement shall be written and mailed, or sent by electronic or facsimile transmission or personally delivered to an officer of the receiving party at the following:

To the Sponsoree:

Telephone:  
Facsimile:  
Email:

To the City:

City of College Station  
Attn: City Manager  
1101 Texas Avenue  
College Station, Tx 77842  
Telephone: 979/764-3461  
Facsimile: 979/764-6377  
Email: [dneeley@cstx.gov](mailto:dneeley@cstx.gov)

Each party may change its address by notice to the other party by one of the methods set forth above. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged or confirmed, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the other party, as the case may be.

#### **ARTICLE IX. TERM AND TERMINATION**

9.1 The term of this Agreement shall commence as of the last date of approval by the parties hereof through July 31, 2011.

9.2 This Agreement may be terminated by either party for convenience upon thirty (30) days' written notice to the other party. Any funds received by Sponsoree from City pursuant to this Agreement but not earned shall be returned to City within seven (7) days thereafter.

9.3 Notwithstanding any of the foregoing, this Agreement may be immediately terminated by City in the event that Sponsoree fails to properly hold the Event, including the expenditure of City funds, in the manner set forth in this Agreement. Sponsoree agrees to immediately refund any and all unused or misappropriated funds provided by City pursuant to the terms of this Agreement.

#### **ARTICLE X. GENERAL PROVISIONS**

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

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

10.3 The City and Sponsoree attest that, to the best of their knowledge, no member of the City of College Station City Council and no other officer, employee or agent of the City, who exercises any function or responsibility in connection with the carrying out of the terms of this Agreement, has any personal interest, direct or indirect, in this Agreement.

10.4 The parties to this Agreement agree and understand that Sponsoree is an independent entity and not an agent or representative of the City, and that the obligation to compensate its contractors, employees and personnel furnished or used by Sponsoree to provide the Event shall be the responsibility of Sponsoree and shall not be deemed employees of the City nor be the responsibility of the City for any purpose.

10.5 No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

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

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

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

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

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

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

10.12 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.

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

10.14 It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This

Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

Exhibits

- “A” Description of the Event
- “B” City Program of Incentives

**JUNCTION FIVE-O-FIVE**

By: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
 Mayor  
 Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
 City Secretary  
 Date: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
 City Manager  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 City Attorney  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 Chief Financial Officer  
 Date: \_\_\_\_\_

STATE OF TEXAS )

)

ACKNOWLEDGMENT

COUNTY OF BRAZOS )

This instrument was acknowledged before me on the \_ day of \_\_\_\_\_, 2011, by \_\_\_  
\_\_\_\_\_ in his/her capacity as \_\_\_\_\_ of the Junction  
Five-O-Five Texas non-profit corporation.

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

STATE OF TEXAS )

)

ACKNOWLEDGMENT

COUNTY OF BRAZOS )

This instrument was acknowledged before me on the \_ day of \_\_\_\_\_,  
2011, by \_\_\_\_\_, in his capacity as Mayor of the City of College Station, a Texas home-rule  
municipality, on behalf of said municipality.

---

Notary Public in and for

The State of Texas

## **EXHIBIT "A"**

### **DESCRIPTION OF THE EVENT**

The Event shall be an approximately 50 mile bike race located within the City of College Station and Brazos County. Said Event shall also include the following:

1. Preparation and availability of registration packets to prospective participants in the Event;
2. Provision of an approximately 50 mile appropriately marked race course throughout parts of the City and parts of Brazos county;
3. Provision of adequate safety controls, including traffic control which may necessitate the securing police officers at various points along the race.
4. Set up and clean up of the Event, including picking of and hauling away of trash, setting up and taking down of aid stations, port a potties, trash receptacles;
5. Provision and adequate manning of at least two aid stations, one at the approximately 25-30 mile mark and the other at the approximately 40 mile mark;
6. Advertising of the Event in various media forums, including radio, newspaper, signs, websites for Sponsoree and for third party race directing agencies, etc.;
7. Provision of manpower of a nature and as necessary and appropriate to ensure the Event occurs in a safe, orderly, and enjoyable manner reflective of the caliber event as is appropriate for a city-sponsored event;
8. Provision of information and tracking as may be required pursuant to this Agreement;
9. Provision of accounting and reporting as may be required pursuant to this Agreement;
10. Provision of such other hosting duties as reasonably required for an event of this nature.

**EXHIBIT “B”**

**City Economic Program of Incentives**

	<b>Incentives</b>	<b>Est. value</b>
1	City Parks and Recreation staffing costs for assistance in set up, operations, and breakdown	\$ 75
2	City Parks and Recreation provision of the following equipment: 4 10 X 10 Tents 8 Folding tables 8 Water coolers	\$200
3	City payment of cash towards the Event	\$ 6,800
5	City waiver of special events fee for the Event.	<u>\$ 200</u>
	<b>TOTAL</b>	<b><u>\$7,275</u></b>



February 24, 2011  
Consent Agenda Item No. 2h  
Ambulance Billing Services

To: David Neeley, City Manager

From: Jeff Kersten, Chief Financial Officer

**Agenda Caption:** Presentation, possible action and discussion on a contract amendment and renewal for year 2 to provide ambulance billing services with Emergicon in an amount not to exceed \$85,000.

**Relationship to Strategic Goals:** Goal I. 1 Spending taxpayer money efficiently.

**Recommendation(s):** Staff recommends approving the contract amendment and renewal with Emergicon, LLC.

**Summary:**

In June 2009, staff solicited proposals for ambulance billing services. A total of 7 responses were received. Interviews with a staff team were held with 3 firms, and Emergicon was the top ranked firm.

Staff recommended and on September 10, 2009, City Council approved contracting with Emergicon for one (1) year with the option of renewing for two (2) additional one (1) year terms to be awarded one (1) year at a time (not to exceed 3 years total). Any renewal options are subject to an annual performance review and recommendation of the City of College Station Fiscal Services Department.

Staff recommends amending the contract to require an American Institute of Certified Public Accountants) Statement of Auditing Standards No. 70, Service Organizations, Type II annual report from Emergicon and awarding the amended contract.

**Budget & Financial Summary:** Funds are available and budgeted in the General Fund, Fiscal Services Department, Accounting Division. The not to exceed amount, \$85,000, reflects an increase from the previous contracted amount of \$75,000 due in part to the projected increase in fees from the rate increase adapted September 9, 2010 and in part to the increase in collections since entering into the contract with Emergicon.

In FY 10 Emergicon collected over \$1,300,000 in ambulance fees. This is more than half a million dollars over what was budgeted. Emergicon is paid a 5% commission based on fees collected.

**Attachments:**

1. Contract amendment and renewal

**AMENDMENT & RENEWAL OF THE GENERAL SERVICES AGREEMENT  
BETWEEN THE CITY OF COLLEGE STATION AND EMERGICON, LLC**

**WHEREAS**, the **City of College Station** a Texas home-rule municipal corporation, Texas entered into a Service Contract No. 09-260 with **Emergicon, LLC** on September 15, 2009 for Automated Ambulance Billing and Accounts Receivable Services;

**WHEREAS**, Service Contract No. 09-260 was approved by the College Station City Council on September 10, 2009; and

**WHEREAS**, the City desires to renew Service Contract No. 09-260 for the term September 15, 2010 to September 14, 2011;

**WHEREAS**, the City desires to amend Service Contract No. 09-260 to revise the terms and conditions as stated below;

**NOW THEREFORE**, for and in consideration of the recitation above and the covenants expressed herein below, the parties agree to amend and renew Service Contract No. 09-260 as follows:

The City exercises its right to renew Service Contract No. 09-260 for the term September 15, 2010 to September 14, 2011 pursuant to Paragraph 5 of the contract.

To amend Paragraph 2 by:

Changing the amount not to exceed to **“Eighty Five Thousand Dollars and no /100 Dollars (\$85,000)”**.

To amend by adding at the end of Paragraph 21:

22. The contractor, Emergicon, LLC, will establish the City of College Station with online access and authority to enable it to draft from the lockbox bank, Frost National Bank, or its successor, to the City’s bank (banking information to be provided separately by the City’s Treasurer) of all monies collected on behalf of the City in the lockbox. Timing of the automatic draft shall be coordinated as to the cutoff time between the lockbox bank and the City’s bank.
  
23. In accordance with the American Institute of Certified Public Accountants’ (AICPA) Auditing Standards No. 70 (SAS 70), the contractor, Emergicon, LLC, will provide the City with a Type II Report. The SAS 70 report includes the service auditor’s opinion as to whether the contractor has adequate controls and safeguards in place and whether those controls were operating effectively during the period under review. The resulting service auditor’s report (i.e. SAS 70 report) can be distributed and relied upon by all of the financial statement auditors of the service organizations' clients. The SAS 70 report will cover a period of



February 24, 2011  
Consent Agenda Item No. 2i  
Debt Reimbursement Resolution for  
2008 GOB Projects

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" for expenditures related to projects authorized as part of the 2008 General Obligation Bond (GOB) package.

**Recommendation(s):** Staff recommends approval of the "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt."

**Summary:** For a number of projects authorized as part of the 2008 General Obligation Bond (GOB) package all or part of the authorized debt has not yet been issued. On projects for which spending will occur in advance of the debt issue, a "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" must be approved by Council. Typically, the resolution is brought to Council along with the initial contract for the project (i.e. the engineering contract). In the case of some projects, however, spending will take place before the initial contract is brought to Council (i.e. staff time charged to the project for initial planning). This "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is being brought to Council to cover these expenditures as well as expenditures for projects on which spending is estimated to occur in advance of the debt issue scheduled for FY11 and FY12. In the case of longer term projects, depending on the timing of future debt issues, an additional "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" may be necessary in the future.

The projects covered by this resolution are:

- East District Maintenance Shop Replacement
- Lick Creek Nature Center
- Neighborhood Park Improvements
- Neighborhood Park Revolving Fund
- Lick Creek Hike and Bike Trail
- Barron Road East/Lakeway
- Traffic Signals

**Budget & Financial Summary:** The "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is necessary for this item because not all of the long term debt has not been issued for these projects. The debt that this resolution is intended to cover is estimated to be issued in FY11 and FY12.

**Attachments:**

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

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

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH  
PROCEEDS FROM DEBT

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

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

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

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

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed \$4,765,000, for the purpose of paying the aggregate costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

PASSED AND APPROVED THIS 24th DAY OF FEBRUARY, 2011.

\_\_\_\_\_  
Nancy Berry, Mayor

ATTEST:

\_\_\_\_\_  
Sherry Mashburn, City Secretary

(Seal)

APPROVED:



Robert A. Steyer

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

Exhibit "A"

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

East District Maintenance Shop Replacement (\$1,645,000)  
Lick Creek Nature Center (\$475,000)  
Neighborhood Park Improvements (\$380,000)  
Neighborhood Park Revolving Fund (Park Land purchases) (\$220,000)  
Lick Creek Hike and Bike Trail (\$475,000)  
Barron Road East/Lakeway (\$970,000)  
Traffic Signals (\$600,000)

**February 24, 2011**  
**Consent Agenda Item No. 2j**  
**Fair Housing Ordinance Changes**

**To:** David Neely, City Manager

**From:** David Gwin, Director of Economic and Community Development

**Agenda Caption:** Presentation, possible action, and discussion regarding the proposed changes to the City's Fair Housing Ordinance.

**Relationship to Strategic Goals:** Goal II.5 Neighborhood Services; Goal V.1 Continue education to citizens and within city; and Goal III.12 Housing affordability.

**Recommendation(s):** Staff recommends that the City Council approve the changes to the City's Fair Housing Ordinance.

**Summary:** At the February 10<sup>th</sup> Workshop Meeting, staff provided City Council with a presentation outlining several proposed changes to the City's Fair Housing Ordinance to match the Federal and Texas Fair Housing Acts. This presentation identified the key proposed changes to the City's Fair Housing Ordinance that would:

- Add familial status as a protected class,
- Add handicap (disability) as a protected class, and
- Add language to support nondiscriminatory practices of these protected classes.

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

**Attachments:**

Attachment 1: Ordinance Amendment for Fair Housing Regulations

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

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 4, "BUSINESS REGULATIONS", 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 \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT “A”**

That Chapter 4, “BUSINESS REGULATIONS”, Section 12, “FAIR HOUSING REGULATIONS”, of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**A. DEFINITIONS**

For the purpose of this section the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

- (1) Discriminatory Housing Practice means an act that is unlawful under subsections B, C, D, E or F of this section.
- (2) Dwelling means any building, structure, or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one (1) or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (3) Family includes a single individual.
- (4) Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.
- (5) To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (6) Private Club includes fraternities and sororities.

**B. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING**

Except as exempted by subsection E, it shall be unlawful for any person to:

- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion, national origin, familial status, or handicap (disability).
- (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, national origin, familial status, or handicap (disability).

(3) Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, sex, religion, national origin, familial status, or handicap (disability), or an intention to make any such preference, limitation, or discrimination. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

(4) Represent to any person because of race, color, sex, religion, national origin, familial status, or handicap (disability) that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit or with the hope or expectation of profit, induce or attempt to induce any PERSON to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, national origin, familial status or handicap (disability).

#### C. DISCRIMINATION IN THE FINANCING OF HOUSING

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, sex, religion, national origin, familial status, or handicap (disability) of such person or of any person associated with him in connection with such loan or other financial assistance or the race, color, sex, religion, national origin, familial status, or handicap (disability) of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part of the making or purchasing of commercial or residential real estate loans, to discriminate in appraising property, refuse to purchase a loan, or set different terms or conditions for purchasing a loan because of race, color, sex, religion, national origin, familial status, or handicap (disability).

#### D. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership, or participation on account of race, color, sex, religion, national origin, familial status, or handicap (disability).

#### E. ADDITIONAL PROTECTION FOR THE DISABLED

It shall be unlawful for a landlord to refuse to let tenant or someone associated with tenant to make reasonable modifications to dwelling or common areas, at tenant's expense, or to make reasonable accommodations in rules policies, practices or services if necessary for the disabled person to use the housing which includes tenant or someone associated with tenant that have or are regarded as having a physical or mental disability (including hearing, mobility, and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities.

Not replacing more stringent standards in State or local law, new buildings with an elevator and four or more units are required to have public and common areas accessible to persons with disabilities, doors and hallways must be wide enough for wheelchairs, and units must have an accessible route into and through the unit, have accessible light switches, electrical outlets, thermostats, and other environmental controls, reinforced bathroom walls to allow later installation of grab bars , and kitchens and bathrooms that can be used by people in wheelchairs.

#### F. HOUSING OPPORTUNITIES FOR FAMILIES

It shall be unlawful for a building or community to discriminate against families in which one or more children under 18 live with a parent, a person who has legal custody of the child or children, or the designee of the parent or legal custodian with the parent or custodian's written permission; unless the building or community is determined by the HUD Secretary that it is specifically designed for elderly persons under a Federal, State, or local government program, is occupied solely by persons who are 62 or older, or houses at least one person who is 55 or older in at least 80 percent of the occupied units and adheres to a policy that demonstrates an intent to house person who are 55 or older.

#### G. EXEMPTIONS AND EXCLUSIONS

There shall be exempted from the application of this section all transactions involving:

##### (1) Exemptions Enumerated

- (a) The rental of units in dwellings containing living quarters occupied or in-tended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one (1) of such units as his residence.
- (b) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one (1) family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four (4) such rooms are offered.
- (c) The sale or rental of any single house by a private individual who owns such house; provided that:
  - (i) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any such broker, agent, salesman, or person; and
  - (ii) The sale is made without the publication, posting, or mailing of any advertisement or written notice in violation of subsection B(3) of this

section; this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; and

- (iii) The owner does not own more than three (3) single-family houses at the time of the sale; and
- (iv) The owner does not own any interest in, nor is there owned or re-served on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time.
- (v) If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period.

#### (2) Religious Organizations

Nothing in this section shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association or society from limiting the sales, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status, or handicap (disability).

#### (3) Private Clubs

Nothing in this section shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns and operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

#### (4) Housing Accommodations

Nothing in this section shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased, or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen, or similar facilities available for the use of all persons occupying such housing accommodation.

### H. COMPLAINTS

#### (1) Who May File

Only a person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring, hereinafter referred to as person aggrieved, may file a complaint with the City Attorney of the City of College Station. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be

committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The City Attorney shall prepare complaint forms and furnish them without charge to any person upon request.

(2) City Attorney May File Complaint

If at any time the City Attorney shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the City Attorney may prepare and file a complaint upon his own motion and in his own name, and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(3) Deadlines; Notifications

All complaints shall be filed within ninety (90) days following the occurrence of an alleged discriminatory housing practice. Upon the filing of any complaint, the City Attorney shall provide notice of the complaint by furnishing a copy of such complaint, to the person or persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(4) Subscribed and Sworn

All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

I. INVESTIGATION

(1) By City Attorney

Upon the filing of a complaint as herein provided, the City Attorney shall cause to be made a prompt and full investigation of the matter stated in the complaint.

(2) City Attorney to Effect Conciliation

During or after the investigation, but subsequent to the mailing of the notice of complaint, the City Attorney shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this section.

(3) When City Attorney May Prosecute

Upon completion of the investigation and informal endeavors at conciliation by the City Attorney, but within thirty (30) days of the filing of the complaint with the City Attorney, if the efforts of the City Attorney to secure voluntary compliance have been

unsuccessful, and if the City Attorney has made a determination that a discriminatory housing practice has in fact occurred, such violation shall be prosecuted in the Municipal Court of the City of College Station. If the City Attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination, or as soon thereafter as practicable.

(4) Lack of Probable Cause

If the City Attorney determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the City Attorney shall take no further action with respect to that alleged or suspected offense. In such case the person filing the complaint shall be notified by the City Attorney and informed of any alternate action he may take.

J. CUMULATIVE LEGAL EFFECT

This section is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.

K. UNLAWFUL INTIMIDATION

It shall be unlawful for any person to harass, threaten, harm, damage, or otherwise penalize any individual, group, or business because he or they have complied with the provisions of this section, because he or they have exercised his or their rights under this section, or enjoyed the benefits of this section, or because he or they have made a charge, testified, or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the City Attorney.

L. EDUCATION AND PUBLIC INFORMATION

In order to further the objectives of this section, the City Attorney may conduct educational and public information programs.

M. PENALTY

(1) Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances. Each day a violation continues after passage of seventy-five (75) days from the date of the filing of the initial complaint with the City Attorney shall constitute a separate and distinct offense.

(2) Any person, firm or corporation violating any provision of this section may be enjoined by a suit filed by the City in a court of competent jurisdiction, and this remedy is in addition to any penalty provision.

February 24, 2011  
Consent Agenda Item No. 2k  
Texas Department of Transportation Reimbursement

To: David Neeley, City Manager

From: Chuck Gilman, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion regarding a resolution approving the reimbursement of costs to the Texas Department of Transportation (TXDOT) for the BS 6 (Texas Avenue) project and the FM2154 (Wellborn Widening) project. Reimbursement costs are \$99,246.51 on the BS 6 (Texas Avenue) project and \$235,391.37 on the FM2154 (Wellborn Widening) project. The reimbursement request from TXDOT totals \$334,637.88.

**Relationship to Strategic Goals:** Financially Sustainable City Providing Response to Core Services and Infrastructure.

**Recommendation(s):** Approval of the resolution.

**Summary:** On August 27, 1998 the College Station City Council approved a resolution entering into a contract with the Texas Department of Transportation to pay for 10% of the right of way costs for a state highway project on BS 6 (Texas Avenue) from Dominik Drive to FM 2818. This project is complete and final reimbursement due is \$99,246.51. Previous payments on the right of way related to this project were \$496,714.50, for a total of \$595,961.01.

On February 12, 2004 the College Station City Council approved a resolution entering into a contract with the Texas Department of Transportation to pay for 10% of the right of way costs for a state highway project on FM 2154 from FM 2818 to SH 40 (Wellborn Widening). This project is not complete but a partial reimbursement has been requested in the amount of \$235,391.37. Note that this is not the final reimbursement request on the FM 2154 (Wellborn Widening) project. This project is not complete and a final request for reimbursement will be submitted upon project completion.

The total current reimbursement request from TXDOT is \$334,637.88.

**Budget & Financial Summary:** Funds for these reimbursements were included in the FY11 Streets Capital Improvement Project Fund. Budget for the reimbursements was transferred from the balance of the Texas Avenue Streetscaping project which was completed under budget.

**Attachments:**

1. Resolution
2. Request letter from TXDOT

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE REIMBURSEMENT OF FUNDS TO THE TEXAS DEPARTMENT OF TRANSPORTATION FOR RIGHT OF WAY ACQUISITION COSTS.

WHEREAS, the City Council of the City of College Station, Texas, on August 27, 1998 approved a resolution entering into a contract with the Texas Department of Transportation to pay for 10% of the right of way costs for a state highway project on BS 6 (Texas Avenue) from Dominik Drive to FM 2818; and

WHEREAS, the City Council of the City of College Station, Texas, on February 12, 2004 approved a resolution entering into a contract with the Texas Department of Transportation to pay for 10% of the right of way costs for a state highway project on FM 2154 from FM 2818 to SH 40; now, therefore,

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

- PART 1: That the City Council hereby approves final reimbursement of \$99,246.51 for the BS 6 (Texas Avenue) from Dominik Drive to FM 2818 project.
- PART 2: That the City Council hereby approves partial reimbursement of \$235,391.37 for the project on FM 2154 from FM 2818 to SH 40.
- PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2011.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
MAYOR

APPROVED:

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



# Texas Department of Transportation

1300 N TEXAS AVE • BRYAN TX 77803-2760 • (979) 778-2165

January 14, 2011

BS6  
Brazos County  
CSJ 0050-01-065  
Limits: From Dominik Drive  
to FM 2818

FM 2154  
Brazos County  
CSJ 0540-04-056  
Limits: From 0.3 mile North of FM 2818  
to 0.6 mile South of SH 40

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

Dear Mr. McLemore:

Attached, you will find the breakdown of costs for land acquired and eligible utilities reimbursed for the above two projects that the City of College Station was required to participate in. The City's responsibility is 10% of the costs as directed by the attached Agreement to Contribute Funds for each of these projects. The BS 6 (Texas Avenue) project is complete and these are the final costs. The FM 2154 project still has eligible utility reimbursement pending.

By virtue of the execution of the Supplemental Agreement for FM 60 (University Drive), the City of College Station will still owe \$235,391.37 on the FM 2154 project. Adding this amount to the \$99,246.51 owed on the BS 6 (Texas Avenue) project brings the total amount owed on both projects to \$334,637.88.

We are hereby requesting that the City of College Station submit to the Texas Department of Transportation the amount currently owed in order to get the accounts caught up. Upon completion of the FM 2154 project, a final cost breakdown will be submitted and the remaining costs owed will be requested at that time.

If you should have any questions, please contact Mr. Darrell Kolwes at (979) 778-9236.

Sincerely,

for Samuel L. Wilson  
Right of Way Supervisor  
East Region

Attachments

Parcel	Payment	LPA (10%)
		City of College Station
1	\$73,974.00	\$7,397.40
1A	\$31,436.00	\$3,143.60
2	\$63,252.00	\$6,325.20
3	\$108,234.00	\$10,823.40
4	\$10,587.00	\$1,058.70
5	Suspended	
6	\$21,816.00	\$2,181.60
7	Suspended	
8	Suspended	
9	\$42,500.00	\$4,250.00
10	Suspended	
11	\$160,034.00	\$16,003.40
12	\$85,000.00	\$8,500.00
13	\$56,517.00	\$5,651.70
14	\$174,999.00	\$17,499.90
15	\$111,836.00	\$11,183.60
16	\$11,095.00	\$1,109.50
17	\$861,202.80	\$86,120.28
18	\$125,000.00	\$12,500.00
19	\$8,532.00	\$853.20
20	\$12,897.00	\$1,289.70
21	\$35,565.00	\$3,556.50
22	\$229,495.00	\$22,949.50
23	\$168,860.00	\$16,886.00
24	\$681,696.00	\$68,169.60
25	\$26,994.00	\$2,699.40
26	\$38,535.00	\$3,853.50
27	\$19,665.00	\$1,966.50
28	\$150,000.00	\$15,000.00
29	\$96,037.00	\$9,603.70
30	\$117,500.00	\$11,750.00
31	\$20,000.00	\$2,000.00
32	\$36,866.00	\$3,686.60
33	\$117,286.00	\$11,728.60
34	\$240,000.00	\$24,000.00
35	\$32,604.00	\$3,260.40
36	\$161,535.00	\$16,153.50
37	\$45,592.00	\$4,559.20
38	\$765,813.50	\$76,581.35
39	\$30,953.00	\$3,095.30
40	\$23,568.00	\$2,356.80
41	\$29,000.00	\$2,900.00
42	\$42,595.00	\$4,259.50
43	\$37,602.00	\$3,760.20
44	\$225,000.00	\$22,500.00
45	\$79,553.00	\$7,955.30
46	\$48,580.80	\$4,858.08
47	\$22,722.00	\$2,272.20
48	\$13,962.00	\$1,396.20
49	\$67,311.00	\$6,731.10
50	\$45,759.00	\$4,575.90
51	\$27,466.00	\$2,746.60
52	\$8,262.00	\$826.20
53	\$15,000.00	\$1,500.00
54	\$8,524.40	\$852.44



Parcel	Payment	LPA (10%)
		City of College Station
1	\$200,081.00	\$20,008.10
2	\$220,564.00	\$22,056.40
3	\$40,059.00	\$4,005.90
4	\$22,652.00	\$2,265.20
5	\$120,000.00	\$12,000.00
6	Suspended	
7	\$18,081.00	\$1,808.10
8	\$172,738.00	\$17,273.80
9	\$25,203.00	\$2,520.30
10	Suspended	
10A	\$36,208.00	\$3,620.80
10B	\$27,736.00	\$2,773.60
11	Suspended	
11A	\$44,624.00	\$4,462.40
11B	\$27,635.00	\$2,763.50
12	\$35,000.00	\$3,500.00
13	\$4,281.00	\$428.10
14	\$2,729.00	\$272.90
15	\$32,500.00	\$3,250.00
16	\$283,695.00	\$28,369.50
17	\$807,672.00	\$80,767.20
18	\$43,075.00	\$4,307.50
19	\$72,427.00	\$7,242.70
20	\$551,998.00	\$55,199.80
21	Suspended	
21A	\$193,999.00	\$19,399.90
21B	\$227,403.00	\$22,740.30
22	\$67,000.00	\$6,700.00
23	Suspended	
23A	\$16,313.00	\$1,631.30
23B	\$30,590.00	\$3,059.00
23C	\$49,805.00	\$4,980.50
24,24TE	\$217,518.10	\$21,751.81
25	\$99,158.00	\$9,915.80
26,26TE	\$418,431.00	\$41,843.10
27	\$224,820.00	\$22,482.00
28	\$175,000.00	\$17,500.00
29	\$46,500.00	\$4,650.00
29X	\$68,098.97	\$6,809.90
30	\$48,787.00	\$4,878.70
31	\$50,901.00	\$5,090.10
32	\$69,000.00	\$6,900.00
33	\$7,000.00	\$700.00
34	\$10,254.00	\$1,025.40
35	\$3,200.00	\$320.00
36	\$8,500.00	\$850.00
37	\$5,500.92	\$550.09
38	\$1,000.00	\$100.00
39	Suspended	
39A	\$937.00	\$93.70
39B	\$9,883.00	\$988.30
40TE	\$6,160.00	\$616.00
41TE	\$1,190.00	\$119.00
Acquisition Totals	\$4,845,906.99	\$484,590.70

			LPA (10%)
		Payment	City of College Station
	<u>Utility Company</u>		
U10931	CITGO Products Pipeline	\$322,169.75	\$32,216.98
U10932	Wellborn SUD	\$317,275.70	\$31,727.57
U10933	City of College Station (Water)	\$2,374,640.97	\$237,464.10
U10935	Verizon	\$415,596.35	\$41,559.64
U10936	Qwest Communications	\$265,673.69	\$26,567.37
U10937	BTU (Gas)	Pending	\$0.00
U11158	City of College Station (Electric)	\$126,844.10	\$12,684.41
U11159	BTU (Electric)	\$242,576.48	\$24,257.65
U11378	Suddenlink	Pending	\$0.00
U12034	Verizon	\$300,621.12	\$30,062.11
U12945	Qwest Communications	\$12,745.96	\$1,274.60
U12946	Sprint	Pending	\$0.00
U13123	Verizon	\$59,761.03	\$5,976.10
	Utility Totals	\$4,437,905.15	\$443,790.52
	Total Acquisition & Utility Costs	\$9,283,812.14	\$928,381.21
	City of College Station's Contribution		\$455,789.84
	<b>City of College Station's Receivable</b>		<b>\$472,591.37</b>
	Amount to be transferred from FM 60 (CSJ 0506-01-090)		\$237,200.00
	<b>Total Amount Owed</b>		<b>\$235,391.37</b>

**Agreement to Contribute Funds**  
(City Form)

THE STATE OF TEXAS

COUNTY OF Travis

Contract No. \_\_\_\_\_

County Brazos

Federal Project No. \_\_\_\_\_

CSJ No. 0050-01-065

ROW Account No. 8017-1-47

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the State, and the City of College Station, Texas, acting by and through its duly authorized official under a Resolution dated the 27<sup>th</sup> day of August 19 98, hereinafter called the City, shall be effective on the date of approval and execution by and on behalf of the State.

WHEREAS, the State is requesting the City to enter into a contractual agreement and to pay for 10% of the right of way costs for a State highway project on Highway No. BS 6-R with the following project limits:

From: Dominik Drive  
To: FM 2818; and

WHEREAS, the City has now requested that the State assume responsibility for acquisition of all necessary right of way for said highway project; and

WHEREAS, the City desires to voluntarily contribute to the State funds equal to ten (10) percent of the cost of the said right of way for the proper development and construction of the State Highway System;

WHEREAS, the City desires to contribute this ten (10) percent of the cost of the right of way in incremental payments in accordance with the following schedule:

- Seventy-One Thousand and 00/100----- Dollars (\$ 71,000.00 ) upon execution of agreement.
- One Hundred Sixty-Four Thousand Five Hundred and 00/100----- Dollars (\$ 164,500.00 ) on or before October 15, 1999.
- One Hundred Sixty-Four Thousand Five Hundred and 00/100----- Dollars (\$ 164,500.00 ) on or before October 15, 2000.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual benefits to be derived therefrom, the City shall contribute to the State an amount equal to ten (10) percent of the cost of the right of way to be acquired by the State and shall transmit to the State with the return of this agreement, duly executed by the City, a warrant or check payable to the Texas Department of Transportation in the amount of Seventy-One Thousand and 00/100----- Dollars (\$ 71,000.00 ) as partial payment of the aforementioned ten (10) percent cost. The City will contribute to the State the balance of the ten (10) percent in accordance with the following schedule:

- One Hundred Sixty-Four Thousand and 00/100----- Dollars  
( \$ 164,500.00 ) on or before October 15, 1999 .
- One Hundred Sixty-Four Thousand and 00/100----- Dollars  
( \$ 164,500.00 ) on or before October 15, 2000 .

The above contributions constitute Four Hundred Thousand and 00/100-----  
----- Dollars ( \$ 400,000.00 ) which represents ten (10) percent  
of the estimated cost of the right of way. However, if it is found that any installment is insufficient  
to pay the City's obligation, then the City, upon request of the State, will forthwith supplement this  
amount in such amount as is requested by the State. Upon completion of the highway project and  
in the event the total amount as paid by the City is more than ten (10) percent of the actual cost of  
the right of way, any excess amount will be returned to the City by the State. Cost of the right of  
way acquired by the State shall mean the total value of compensation paid to owners, including but  
not limited to utility owners, for their property interests either through negotiations or eminent  
domain proceedings.

CITY OF COLLEGE STATION , TEXAS

EXECUTION RECOMMENDED:

By: Lynn McElhenny  
Mayor

[Signature]  
District Engineer

ATTEST:  
Connie Hook

THE STATE OF TEXAS  
Certified as being executed for the purposes and effect of  
activating and/or carrying out the orders, established policies  
or work programs heretofore approved and authorized by the  
Texas Transportation Commission under the authority of  
Minute Order 1000027

By: [Signature]  
Director of Right of Way

Date: 10-19-98

# Resolution

RESOLUTION NO. 8-27-98-5-d

WHEREAS, the Texas Department of Transportation is requesting the City of College Station (City) to enter into a contractual agreement and to pay for 10% of the right of way costs for a State highway project on Highway No. BS 6-R from Dominik Drive to FM 2818; and

WHEREAS, the City desires to voluntarily contribute to the State funds equal to ten (10) percent of the cost of the said Right of Way for the proper development and construction of the project; and

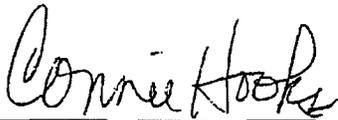
WHEREAS, the completion of the improvement to BS 6-R is crucial to the enhancement of circulation and safety; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of College Station, Texas, that the City of College Station, Texas, accepts responsibility for ten (10) percent of the cost of said Right of Way which is currently estimated at \$400,000.00 for the improvement of BS 6-R from Dominik Drive to FM 2818. The Department of Transportation will be responsible for acquiring all property required for the project. Acquisition procedures will be in accordance with policies of the Texas Department of Transportation and with applicable Federal and State laws governing the acquisition policies for acquiring real property. The Mayor is hereby authorized to execute an agreement with the Texas Department of Transportation on behalf of the City of College Station.

This resolution shall be effective immediately upon adoption.

PASSED AND APPROVED this 27th day of August, 1998.

ATTEST:

  
\_\_\_\_\_

APPROVED:

  
\_\_\_\_\_  
Lynn McIlhane, Mayor



Form ROW-RM-129  
 Replaces Form ROW-RM-129 and ROW-RM-130  
 Rev. 9/2003  
 GSD-EPC  
 Page 1 of 2

**AGREEMENT TO CONTRIBUTE FUNDS - LOCAL GOVERNMENT**

County: Brazos                                      Federal Project No:                                      ROW CSJ No: 0540-04-056  
 ROW Account No: 8017-1-63                      Highway: FM 2154

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, and the City of College Station, Texas, acting by and through its duly authorized officials pursuant to a Resolution dated the 12<sup>th</sup> day of February, 2004, hereinafter called the **Local Government**, shall be effective on the date of approval and execution by and on behalf of the **State**.

**WHEREAS**, the **State** and the **Local Government** hereby agree to enter into a contractual agreement to acquire right of way for a highway project on Highway No. FM 2154 with the following project limits:  
 From: 0.3 mile North of FM 2818

To: 0.6 mile South of Proposed SH 40; and

**WHEREAS**, the **Local Government** requests that the **State** assume responsibility for acquisition of all necessary right of way for said highway project; and

**WHEREAS**, the **Local Government** desires to voluntarily contribute to the **State** funding participation as defined in 43 TAC, §15.55 for the cost of acquiring said right of way for the proper improvement of the State Highway System;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual benefits to be derived therefrom, the **Local Government** shall contribute to the **State** an amount equal to ten percent (10%) of the cost of the right of way to be acquired by the **State** and shall transmit to the **State**, on or before October 30, 2004, a warrant or check payable to the Texas Department of Transportation in the amount of One Hundred Ninety Thousand and 00/100-----Dollars (\$190,000.00), which represents ten percent (10%) of One Million Nine Hundred Thousand and 00/100----- Dollars (\$1,900,000.00), the estimated total cost of the right of way. If however, it is found that this amount is insufficient to pay the **Local Government's** obligation, then the **Local Government** will within thirty (30) days after receipt of a written request from the **State** for additional funds, transmit to the **State** such supplemental amount as is requested. Upon completion of the highway project and in the event the total amount as paid by the **Local Government** is more than ten percent (10%) of the actual cost of the right of way, any excess amount will be returned to the **Local Government** by the **State**. The **Local Government** shall return this agreement, duly executed by the **Local Government**, upon approval by the city commissioner's court.

In the event any existing, future, or proposed **Local Government** ordinance, commissioners court order, rule, policy, or other directive, including but not limited to those concerning outdoor advertising, are more restrictive than **State** law, policy, or directive, and thereby result in any increased costs, then the **Local Government** will pay one hundred percent (100%) of all such increased costs, even if the applicable county qualifies as an economically disadvantaged county. The amount of the increased costs associated with the existing, future, or proposed **Local Government** ordinance, order, rule, policy, or other directive will be determined by the **State** at its sole discretion.

The cost of providing such right of way acquired by the **State** shall mean the total value of compensation paid, either through negotiations or eminent domain proceedings, to the owners for their property interests, including

but not limited to utility owners involving expenses related to the relocation, removal or adjustment of eligible utilities. The **Local Government** shall maintain all books, papers, accounting records and other documentation relating to costs incurred under this agreement and shall make such materials available to the **State** and, if federally funded, the Federal Highway Administration (FHWA) or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this agreement or until any impending litigation, or claims are resolved. Additionally, the **State** and FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The **State** auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the **State** auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

**THE LOCAL GOVERNMENT**  
City of College Station

By:     *Don Silvia*    

Title:     *Mayor Don Silvia*    

Date:     *3-22-04*    

**EXECUTION RECOMMENDED:**

    *[Signature]*     3/23/2004  
for District Engineer, Bryan District

**THE STATE OF TEXAS**

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By:     *[Signature]*      
John P. Campbell, P.E.  
Right of Way Division Director

Date:     *04/15/2004*

RESOLUTION NO. 2-12-2004-12.08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO PROVIDE FUNDS FOR THE ACQUISITION OF PROPERTY FOR THE WIDENING OF FM 2154.

WHEREAS, the Texas Department of Transportation has requested that the City of College Station (City) enter into a contractual agreement and acquire Right of Way for the highway project on FM 2154 from 0.3 miles North of FM 2818 to 0.6 miles South of Proposed SH 40 in College Station; and

WHEREAS, the City Council of the City of College Station, Texas, desires to voluntarily contribute to the State funds equal to ten (10) percent of the cost of the said Right of Way for the proper development and construction of the project; and

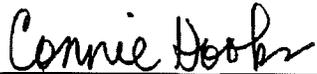
WHEREAS, the completion of the improvement to FM 2154 is crucial to the enhancement of circulation and safety; now, therefore,

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

- PART 1: That the City Council hereby accepts responsibility for ten (10) percent of the cost of said Right of Way which is currently estimated at \$190,000.00 for the improvement of FM 2154 from 0.3 miles North of FM 2818 to 0.6 miles South of Proposed SH 40 in College Station.
- PART 2: That the Texas Department of Transportation will be responsible for acquiring all property required for the project in accordance with policies of the Texas Department of Transportation and with applicable Federal and State laws governing the acquisition of real property.
- PART 3: That the City Council hereby authorizes Mayor Ron Silvia to execute an agreement with the Texas Department of Transportation on behalf of the City of College Station.
- PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 12th day of February, A.D. 2004.

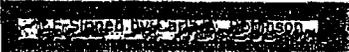
ATTEST:

  
\_\_\_\_\_  
CONNIE HOOKS, City Secretary

APPROVED:

  
\_\_\_\_\_  
RON SILVIA, Mayor

APPROVED:



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

**February 24, 2011  
Consent Agenda Item No. 2L  
2008 Homeland Security Grant Adjustment Notice**

**To:** David Neeley, City Manager

**From:** Robert Alley, Fire Chief

**Agenda Caption:** Presentation, possible action and discussion regarding the approval of a resolution accepting from the Texas Division of Emergency Management (TDEM) the 2008 Homeland Security Grant Adjustment Notice (GAN).

**Recommendation(s):** Staff recommends acceptance of the grant adjustment notice from Texas Division of Emergency Management.

**Summary:** The City of College Station has been awarded the 2008 Homeland Security program grant of \$166,666.67 through TDEM. The city has expended \$166,645.92 on equipment for the Fire and Police Departments. The remaining \$20.75 will be returned to the State Administrating Agency for redistribution.

**Budget & Financial Summary:** This is an equipment grant and the City of College Station has no matching funds committed.

**Attachments:**

2008 Homeland Security Grant Adjustment Notice – on file in the City Secretary’s office  
Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING 2008 GRANT ADJUSTMENT NOTICE IN THE AMOUNT OF \$166,645.92.

WHEREAS, the Office for Domestic Preparedness, a component of the U.S. Department of Homeland Security, has awarded the Texas Division of Emergency Management (TDEM) the 2008 Homeland Security Grant Program and the Texas Division of Emergency Management has served the City of College Station ("City") with an Grant Adjustment Notice; and

WHEREAS, the city has expended all of the original amount of the 2008 State Homeland Security Grant and will return to the State Administering Agency \$20.75; now therefore

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

PART 1: That the City Council hereby approves the 2008 State Homeland Security Grant Adjustment Notice.

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

ADOPTED this \_\_\_\_\_ day of , \_\_\_\_\_ A.D. 2011.

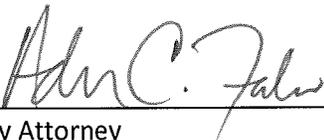
ATTEST :

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

**February 24, 2011  
Consent Agenda Item No. 2m  
Clinical Affiliation Agreement with TEEX**

**To:** David Neeley, City Manager

**From:** Robert Alley, Fire Chief

**Agenda Caption:** Presentation, possible action and discussion regarding the approval of a resolution to participate in a Clinical Affiliation Agreement with the Texas Engineering Extension Service (TEEX) for the Emergency Medical Services Program.

**Recommendation(s):** Staff recommends approval of the Resolution authorizing the Fire Chief to sign the signature page of the Clinical Affiliation Agreement.

**Summary:** The City of College Station continues to support the coordination of the College Station Fire Department working with the Emergency Medical Students at TEEX to complete their emergency medical clinical hours. The Emergency Medical Students work side by side and under supervision of the paramedics of the College Station Fire Department to gather required knowledge, skills and abilities to complete their certifications.

**Budget & Financial Summary:** There is no financial impact to the city.

**Attachments:**

Clinical Affiliation Agreement – on file in the City Secretary's Office  
Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE 2011 CLINICAL AFFILIATION AGREEMENT WITH THE TEXAS ENGINEERING EXTENSION SERVICE (TEEX) FOR THE EMERGENCY MEDICAL SERVICES PROGRAM.

WHEREAS, the Texas Engineering Extension Service conducts Emergency Medical Services training for students as a member of the Texas A&M University system (TAMUS), an agency of the State of Texas; and

WHEREAS, the Texas Engineering Extension Service has submitted a Clinical Affiliation Agreement for the City of College Station Fire Department for review and consideration; and

WHEREAS, The city has supported the Clinical Affiliation agreement in the past for the TEEX Emergency Medical training Program; now, therefore,

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

PART 1: That the City Council hereby acknowledges that the city has received, reviewed and approved the Clinical Affiliation Agreement with TEEX for the College Station Fire Department to continue to participate in this Emergency Medical Service training program .

PART 2: That the City Council hereby acknowledges that the Fire Chief is authorized to sign the signature page on the Clinical Affiliation Agreement signature page.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2011.

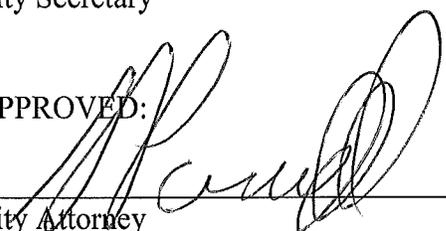
ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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



CLINICAL AFFILIATION AGREEMENT
BY AND BETWEEN
THE TEXAS ENGINEERING EXTENSION SERVICE
AND
CITY OF COLLEGE STATION FIRE DEPARTMENT

This Clinical Affiliation Agreement ("Agreement") is entered into by and between City of College Station Fire Department ("Affiliate"), and the Texas Engineering Extension Service ("TEEX"), a member of The Texas A&M University System (TAMUS), an agency of the State of Texas.

WHEREAS, TEEX is an institution of higher education with an approved program in the TEEX EMS Program ("Program") which requires clinical experiences of students enrolled therein; and

WHEREAS, Affiliate is a health facility which has the resources in equipment and staff to provide the clinical experiences required by the Program; and

WHEREAS, it is to the benefit of TEEX that the resources of Affiliate be made available to its students for the required clinical experiences; and

WHEREAS, it is to the benefit of both TEEX and Affiliate to cooperate in the educational preparation of students enrolled in the Program so as to promote excellence in patient care, to ensure professional competence, and to provide maximum utilization of community resources;

NOW, THEREFORE, the parties agree as follows:

- 1. Term of Agreement: This Agreement commences on date of last signature and expires August 31, 2015, at 5:00 pm Central Time Zone; however, this Agreement may be renewed with written approval of the parties for a total term of up to five (5) years

Either party may terminate this Agreement upon giving thirty days written notice to the other party. Should notice of termination be given by either party, those students then assigned to the Affiliate by TEEX shall be permitted to complete their shift but shall not be permitted to complete the clinical internship assignment in progress.

- 2. Responsibilities of TEEX: TEEX agrees to:

- A. Identify, in concert with Affiliate, the names and number of students assigned to Affiliate for on-site clinical and practical training.
B. Prepare, in concert with Affiliate, from time to time, a schedule for students specifying the hours of each day, the days of each month, and the months of each year during which the students will be receiving on-site clinical and

practical training at Affiliate, and the health related specialties to which the students will be exposed in connection with their on-site training, TEEX will further provide such data as Affiliate may request in order to coordinate its scheduling and programming with that of TEEX.

- C. Assure that all students selected for clinical and practical training at Affiliate have satisfactorily completed all portions of TEEX curriculum that are prerequisites for the training and can show proof of the following (check applicable prerequisites for clinical study at Affiliate):

- ACLs certificate
BCLS certificate
TB testing
Hepatitis B vaccine
Drug screening
Other, including contagious conditions that would negatively impact Affiliate's provision of services.

- D. Designate in writing an TEEX Representative to coordinate the educational experience of students undergoing clinical and practical training at Affiliate with the Affiliate Representative.

- E. Require that students participating in the clinical and practical training have professional liability insurance coverage and provide written proof of same. The minimum amount of coverage per individual shall be \$1,000,000 each incident with a \$3,000,000 annual aggregate. The coverage shall extend through the term of the student's participation. Affiliate acknowledges that, because TEEX is an agency of the State of Texas, liability for the tortious conduct of the agents and employees of TEEX or for injuries caused by conditions of tangible state property is provided solely by the provisions of the Texas Tort Claims Act (Texas Civil Practice and Remedies Code, Chapters 101 and 104), and that Workers' Compensation Insurance coverage for employees of TEEX is provided by TAMUS as

- mandated by the provisions of Chapter 502, *Texas Labor Code*.
  - F. Have, and maintain throughout the term of this Agreement, all licenses and/or permits required by state law, and/or any federal or local authority, for the training of students, and accreditation by proper accrediting authorities.
  - G. Represent that no adverse action by the federal government that can result in exclusions from a federal health care program has occurred or is pending or threatened against TEEX, its affiliates, or to the best of TEEX' knowledge, against any of the students. TEEX agrees it will not perform any act that can cause TEEX to be excluded from a federal health care program during the term of this Agreement.
  - H. Provide access to TEEX' contracts, books, documents, and records relating to this Agreement to the Comptroller General of the United States and the United States Department of Health and Human Services for seven (7) years after expiration or termination of this Agreement, if required by the Social Security Act and without violating the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, *et seq.*, and as may be amended, or any other student and/or student records privacy act.
3. **Responsibilities of Affiliate:** Affiliate agrees to:
- A. Provide supervised clinical experiences for students which fulfill the curriculum requirements of the Program and meet the objectives agreed upon by TEEX and Affiliate.
  - B. Comply with all applicable federal, state, and municipal laws, ordinances, rules, and regulations; comply with all applicable requirements of any accreditation authority; and certify such compliance upon request by TEEX.
  - C. Permit the authority responsible for accreditation of the Program to inspect the facilities, services, and other items provided by Affiliate for purposes of the clinical and practical training.
  - D. Designate in writing a member of the Affiliate staff ("Affiliate Representative") to coordinate the educational experience of students undergoing clinical and practical training at Affiliate with the TEEX Representative.
  - E. Provide TEEX with a minimum of 90 days notice in the event it is unable to place TEEX' students.
  - F. Permit the students, at their sole cost and expense, to use Affiliate amenities such as the cafeteria, rest rooms, emergency rooms, conference areas and parking facilities on the same basis as that made available to Affiliate's employees.
- G. Provide an orientation for the students and participating faculty and staff with respect to the operations of Affiliate, its policies and procedures, and the location of the facilities and other equipment.
  - H. Provide patient information to students to the extent necessary to provide a meaningful clinical experience.
  - I. Provide emergency medical treatment in the event of injury or illness experienced by a student participating in the clinical program while the student is interning with Affiliate. The student is solely responsible for the cost of such health care.
4. **Removal of Students:** Affiliate may, in its sole and absolute discretion, refuse the use of its facilities and services as contemplated by this Agreement to any student who does not meet the professional and other standards and requirements of Affiliate or which may prevent Affiliate from effectively providing its services in the manner and to the standard it determines is necessary. TEEX agrees to withdraw any Student from Affiliate or its premises for any reasonable cause as determined by Affiliate.
5. **Patient Care:** Affiliate will at all times remain responsible for the safety and welfare of its patients. Nothing herein contained will be construed as a limitation on the responsibility of Affiliate with respect to providing medical care for its patients or with respect to performing all of its services.
6. **Cooperation and Liaison:** Affiliate and TEEX will act in good faith, and cooperate with one another in implementing the intent and purpose of this Agreement and in furtherance thereof will work out the details of the administration needed to fulfill the needs of the on-site educational program of TEEX and to benefit Affiliate in such a manner so as not to interfere with the medical care provided by Affiliate. TEEX and Affiliate will maintain adequate communication with one another, to make changes that may be advisable within the terms of this Agreement and discuss any problems as may arise concerning their affiliation as created by this Agreement.
7. **HIPAA:** The parties agree that:
- A. To the extent Affiliate is a covered entity for purposes of the Health Insurance Portability and Accountability Act (HIPAA) and subject to 45 CFR Parts 160 and 164 ("the HIPAA Privacy Regulations") that it will comply with the same;
  - B. To the extent that TEEX students are participating in clinical and practical training at

- Affiliate and TEEX employees are providing supervision at Affiliate as part of such training, such students and TEEX employees and Affiliate shall comply with HIPPA and HIPPA Privacy Regulations;
- C. TEEX will never access or request to access any Protected Health Information held or collected by or on behalf of Affiliate that has not first been de-identified as provided in 45 CFR 164.514(a); and
- D. No services are being provided to Affiliate by TEEX pursuant to this Agreement and therefore this Agreement does not create a "business associate" relationship as that term is defined in 45 CFR 160.103.

8. **Notices:** Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. TEEX and Affiliate may change their respective contact information by sending notice to the other by one of the methods set forth above. Contact information is as follows:

TEEX: EMS Program

301 Tarrow

College Station, TX 77840

Attention: Mike Schuler  
 Phone: (979) 458-2150  
 Fax: (979) 458-3533

E-mail: Mike.Schuler@ teexmail.tamu.edu

**Affiliate:** City of College Station Fire Department  
 300 Krenek Tap  
 College Station, TX 77840

Attention: Billy Bradshaw

Phone 979-764-3505

Fax: 979-764-3403

E-mail: bbradshaw@cstx.gov

- 9. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, together constitute but one instrument.
- 10. **Assignment:** Neither TEEX nor Affiliate may assign this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of the other party; provided that either party can assign the Agreement to an entity affiliated by ownership or control.
- 11. **Relationship of Parties:** TEEX and Affiliate are independent parties acting in unison for the purpose of this Agreement. Nothing in this Agreement or the parties' actions should be construed as creating any partner or agency relationship between TEEX and Affiliate.
- 12. **Program Participants Independent:** While participating in the clinical program, the students and TEEX employees are acting independently of Affiliate and are not employees of Affiliate; and therefore will not be entitled to compensation, future employment, or any benefits of Workers' Compensation in the event of any injury occurring on Affiliate's premises.
- 13. **Non-Exclusive Agreement:** This Agreement should not be construed as an exclusive contract and the parties may enter into other affiliation agreements.
- 14. **Waiver:** The waiver by either party of a breach or violation of any provision of this Agreement will not be deemed a waiver of any subsequent breach of the same or different provision.
- 15. **Severability:** In the event that a provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will remain in full force and effect.
- 16. **Governing Law:** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TEEX shall be in Brazos County, Texas, in which the primary office of the chief executive officer of TEEX is located.
- 17. **Non-Waiver Provision:** Affiliate expressly acknowledges that TEEX is an agency of the State of Texas and TEEX expressly acknowledges that Affiliate is a Texas home-rule municipality and nothing in this

Agreement will be construed as a waiver or relinquishment by either party of their respective right to claim such exemptions, privileges, and immunities as may be provided by law.

Affiliation. Any amendment must be in writing and duly approved by both parties

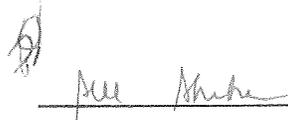
18. This agreement constitutes the entire Agreement between TEEX and Affiliate and supersedes all previous Agreements and understandings relating to the Clinical

19. Authority to contract. Each party represents that the person signing this Agreement on behalf of such party properly authorized to do so.

**City of College Station Fire Department:**

**Texas Engineering Extension Service:**

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

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

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

Name: **Sue Shahan**

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

Title: **Deputy Director**

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

Date: 2-10-2011

**Texas Engineering Extension Service:**

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

Name: **Les Bunte or Ron Peddy / Robert L.**

Title: **Moore**

Title: **Division Director or Associate**

Title: **Division Director**

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

Reviewed by  
ESTI Business Office

**CITY OF COLLEGE STATION**

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

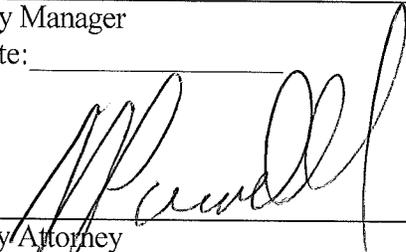
Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Secretary  
Date: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
City Attorney  
Date: \_\_\_\_\_

\_\_\_\_\_  
Chief Financial Officer  
Date: \_\_\_\_\_

**February 24, 2011**  
**Regular Agenda Item No. 1**  
**1280 Harvey Mitchell Parkway Rezoning Request**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Public Hearing, presentation, possible action and discussion regarding a Rezoning for 1280 Harvey Mitchell Parkway of 6.21 acres from R-1 Single-Family Residential to C-1 General Commercial and R-4 Multi-Family Residential, generally located at the intersection of Luther Street and Harvey Mitchell Parkway.

**Recommendation(s):** At their meeting on February 3, 2011, the Planning and Zoning Commission voted (7-0) to recommend approval of the request with the condition that a deceleration lane be installed at each driveway designed to meet TxDOT criteria, both signals at Harvey Mitchell at Luther and Harvey Mitchell at George Bush be optimized (this can be coordinated with the City's Public Works Department), and that access to and from the site is limited to right-in and right-out only. Based on the Traffic Impact Analysis, the applicant suggested and Planning and Zoning Commission agreed that a left turn lane be configured with pavement markings on George Bush east bound at the intersection with Harvey Mitchell Parkway. Staff also recommended approval of the zoning amendment, with conditions similar stated by the Planning and Zoning Commission.

**Summary:** The Unified Development Ordinance provides the following review criteria for zoning map amendments:

**REVIEW CRITERIA**

1. **Consistency with the Comprehensive Plan:** The subject tract is designated as Urban on the Comprehensive Plan Future Land Use and Character Map. It is also located within Growth Area VI which states that the "growth area should be used for intense land use activities including general commercial, office uses, townhomes, high-density apartments, and vertical mixed use. Single-family uses (excluding townhomes) should be prohibited from this area due to issues of incompatibility." Commercial activity is an acceptable use within the Urban Growth Areas. While multi-family is one of the uses that can be contemplated for this tract, it is important to consider the implications of any particular use given the context of its relationship to the surrounding area and properties. It is for this reason that the commercial portion of the property is proposed as a transitional area between the industrial type use of the Texas A&M University Poultry Science Center and the proposed multi-family portion.
2. **Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:** Much of the property in the nearby

area is zoned for multi-family uses. Those properties, however, do not abut directly to two Texas A&M University System facilities: the Poultry Science Center and Solid Waste Operations (see Aerial map on page 2), as does the subject tract.

Harvey Mitchell Parkway is to the north and an undeveloped 4.2-acre tract is to the east. Much of this neighboring tract was rezoned to R-4 Multi-Family in January 2010 by the Council. This property has now been final platted and is currently in the site plan review process. Though the adjacent System tracts are zoned C-U College and University, if owned privately, the Poultry Science Center and Solid Waste Operation area would likely be zoned M-1 Light Industrial or M-2 Heavy Industrial. According to the Unified Development Ordinance, M-2 uses are not compatible with residential uses of any density, or even lower-intensity commercial uses. However, C-1 General Commercial could be an appropriate district to abut such uses and could provide a transition to the proposed and existing R-4 Multi-uses.

3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment: This vacant tract is relatively close to Texas A&M University and therefore appears to have a market for multi-family uses. The subject tract however is adjacent to industrial-type uses that affect the suitability of this tract for residential uses. The University System previously opposed multi-family uses on the subject tract, and suggested that commercial uses would be more appropriate. The split zoning proposal places the multi-family portion farther away from the University System property, and they have conveyed to Staff that this is satisfactory to them.
4. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment: Upon annexation into the City in 1970, the subject tract was zoned R-1 Single-Family Residential, the default zoning district for annexation at the time. As stated in the Comprehensive Plan description for the Urban land use designation, single-family residential should be prohibited from these areas due to issues of incompatibility. In addition, single family uses are not desirable on this tract as it is located along Harvey Mitchell Parkway, a freeway on the Thoroughfare Plan.
5. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment: Due to its proximity to the Texas A&M University System facilities and frontage along Harvey Mitchell Parkway, it is assumed that the property would be very difficult to market for R-1 Single-Family Residential uses. To date, there is 1,752.82 acres of property zoned C-1 General Commercial within the City of College Station, 459.11 acres of which remain undeveloped. Also, there is 765.393 acres of R-4 Multi-Family Residential, 93.21 acres of which are undeveloped at this time. This information is displayed graphically below.





6. **Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:** The subject tract is located adjacent to an 18-inch water main and an 8-inch waste water main is located in the southeast portion of the tract. A sanitary sewer regional lift station is also located in the southeast portion of this tract, is owned and maintained by College Station Utilities, accessed from Harvey Mitchell Parkway and approximately 2,500 square feet in area. The subject tract is located in the Whites Creek Drainage Basin and when it develops it will need to meet the City of College Station minimum storm water design regulations and guidelines.

The subject tract is adjacent to Harvey Mitchell Parkway, a freeway in this area on the Thoroughfare Plan. In October 2007, the City installed traffic signals on Harvey Mitchell Parkway at the intersections with Luther Street West and Holleman Drive. Though the subject property is near the Luther Street West intersection, the ownership at the intersection is not clear at this time. The Brazos County Appraisal District shows the roadway on this side of the intersection with Harvey Mitchell Parkway as being owned by the Texas A&M University System. In the ordinance that annexed the subject area into the City in 1970, a reference is made to a right-of-way in this area. Staff is still investigating the facts that relate to this matter. If a right-of-way does not exist or the Texas A&M University System does not grant access, the subject tract will still have access to Harvey Mitchell Parkway, but not at the Luther Street West signalized intersection.

Staff has concerns regarding the possibility of unrestricted left-turning movements from the subject property onto Harvey Mitchell Parkway. The proposed access will split the egress between a driveway specifically for the commercial portion and a shared driveway on the abutting multi-family property that will be utilized by the multi-family portion of the subject property. A zoning Traffic impact Analysis (TIA) was required and performed for this request based on the UDO requirement for any rezoning that will generate 150 trips or more in the peak hour. The TIA results should be used by the Planning and Zoning Commission and City Council to discern potential traffic impacts of the rezoning on the surrounding transportation network, the availability of the transportation network infrastructure to serve the development, and to discern potential mitigation solutions. The results of the TIA are as follows:

1. The TIA confirms staff's reservations with regard to left turns out of the proposed development and onto Harvey Mitchell Parkway.
2. The results of the TIA illustrates failing left turn movements (LOS E or F ) at both the commercial driveway and the residential drive onto Harvey Mitchell Parkway. The applicant's response was that the driveways were modeled to have one lane exiting the driveway and proposes two lanes to exit the driveways one for right turns and the other for left turns this would improve the LOS to D for both driveways.
3. Based on Harvey Mitchell Parkway being a high speed freeway facility, and the potential for accidents by travelers crossing three lanes of traffic making left turn maneuvers out of the development, staff would prefer these two driveways be configured to allow for only right turn in and right turn out movements and

meet TxDOT driveway spacing requirements but such an arrangement is dependent on an agreement reached by the applicant and TAMU to allow access on the private drive known as Luther. This agreement would allow for those left turns restricted at the commercial driveway to be accomplished safely at the signalized intersection. (Meetings regarding this issue between the applicant and TAMU and facilitated by City staff to date have not been productive with TAMU not willing to grant access.) Because an agreement has not been reached by TAMU and the applicant, and because of the length required to the next opportunity to perform a left turn (Holleman Drive) the right in and right out requirement cannot be made at this time.

4. Staff further recommends a right turn deceleration lane at each driveway designed to meet TxDOT deceleration lane criteria. This requirement is based on the Unified Development Ordinance for any roadway with a speed of 40 mph and above if the development generates 25 vehicles per hour (vph) ingress a right turn deceleration lane is required to be built. The commercial driveway generates 71 vph, ingress, and the residential driveway generates 30 vph, ingress. The applicant concurs.
5. Based on the TIA staff recommends as a mitigation requirement both signals at Harvey Mitchell at Luther and Harvey Mitchell at George Bush be optimized (this can be coordinated with the City's Public Works Department). The applicant agrees but further recommends that a left turn lane be configured with pavement markings on George Bush east bound at the intersection with Harvey Mitchell Parkway. This will be accomplished by the applicant as part of the site plan approval process.

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

**Attachments:**

1. Maps
2. Background
3. Planning & Zoning Commission Minutes – February 3, 2011
4. Ordinance

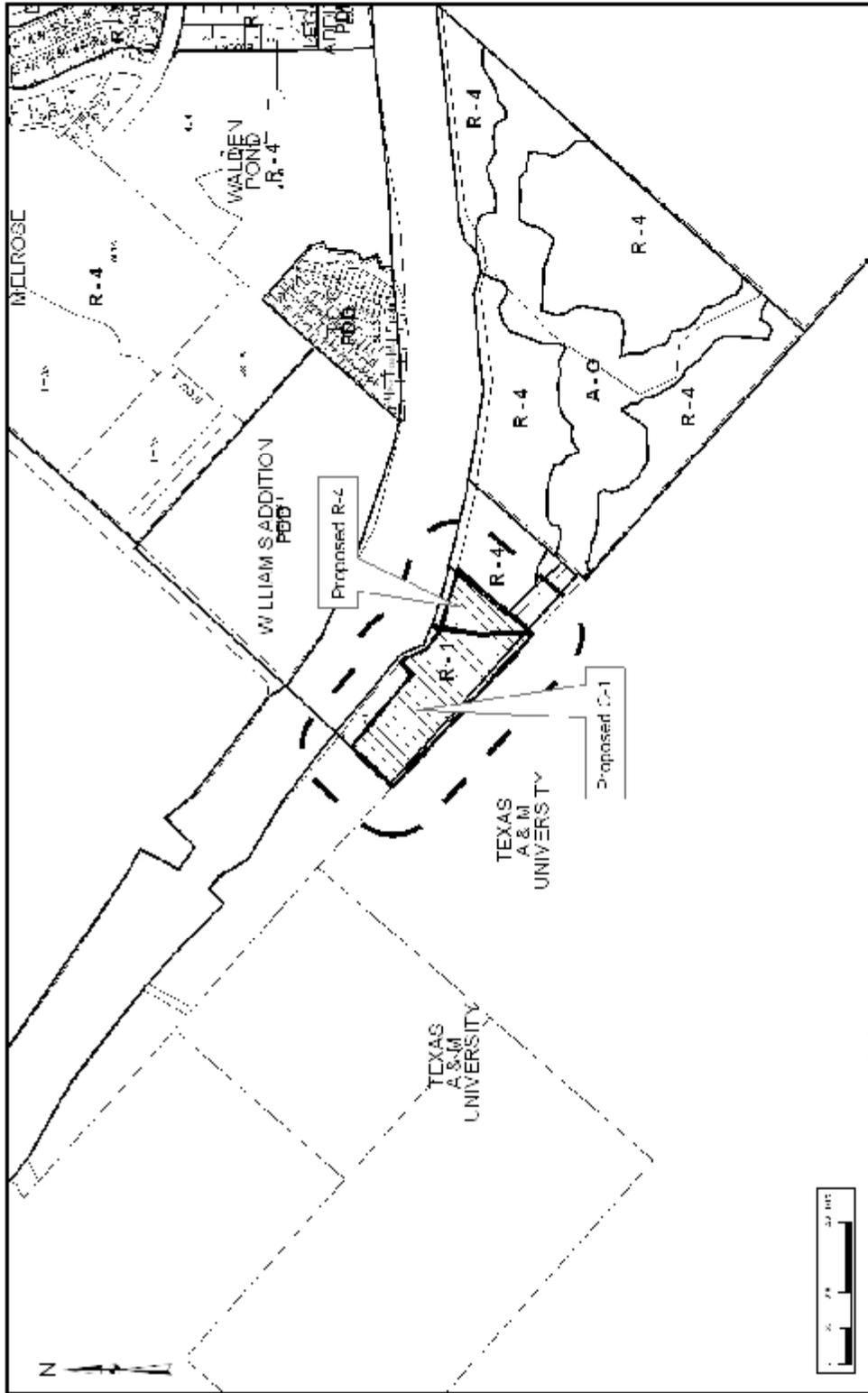


REZONING  
Case: 10-263

1280 HARVEY MITCHELL PKWY

DEVELOPMENT REVIEW





Zoning Districts	R-3	Townhouse	C-3	MPC	Wolf Pen Creek Dev. Corridor
A-O	R-4	Multi-Family	M-1	NS-1	Core Nonrigate
A-OR	R-6	High Density Multi-Family	M-2	NS-2	Transitional Nonrigate
R-1	R-7	Manufactured Home Park	C-U	NS-3	Residential Nonrigate
R-1B	A-P	Administrative/Professional	R&D	OV	Corridor Overlay
R-2	C-1	General Commercial	P-MUD	RDD	Redevelopment District
	C-2	Commercial-Industrial	FCC	KD	Market-By-Overlay

**DEVELOPMENT REVIEW**

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**1280 HARVEY MITCHELL PKWY**

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**REZONING**

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Case: 10-263

## BACKGROUND INFORMATION

### NOTIFICATIONS

Advertised Commission Hearing Date: February 3, 2010

Advertised Council Hearing Dates: February 24, 2010

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 6

Contacts in support: 0

Contacts in opposition: 0

Inquiry contacts: Texas A&M does not oppose this rezoning request, but does express concerns regarding site lighting and traffic.

### ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Thoroughfare - Freeway	N/A	Harvey Mitchell Pkwy
South	Texas A&M University	C-U College and University	Texas A&M Poultry Science Center
East	Urban	R-4 Multi-Family & R-1 Single-Family Residential	Vacant
West	Texas A&M University	C-U College and University	Texas A&M Solid Waste Operations

### DEVELOPMENT HISTORY

**Annexation:** 1970

**Zoning:** R-1 (upon annexation)

**Final Plat:** Not platted

**Site development:** Vacant



**MINUTES**  
**PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**February 3, 2011, 7:00 p.m.**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**College Station, Texas**

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**COMMISSIONERS PRESENT:** Chairman Scott Shafer, Mike Ashfield, Craig Hall, Jodi Warner, Hugh Stearns, Doug Slack, and Bo Miles

**COMMISSIONERS ABSENT:** None

**CITY COUNCIL MEMBERS PRESENT:** Nancy Berry

**CITY STAFF PRESENT:** Jennifer Prochazka, Matt Robinson, Lauren Hovde, Joe Guerra, Erika Bridges, Josh Norton, Carol Cotter, Molly Hitchcock, David Coleman, Jeff Kersten, Lance Simms, Bob Cowell, Carla Robinson, Kerry Mullins, Richard Cox, and Brittany Caldwell

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:02 p.m.

7. Public hearing, presentation, possible action, and discussion regarding a request to rezone 6.21 acres located 1280 Harvey Mitchell Parkway from R-1 Single-Family Residential to C-1 General Commercial and R-4 Multi-Family. **Case # 10-00500263 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Lauren Hovde presented the rezoning and recommended approval with the condition that a deceleration lane be installed at each driveway designed to meet TXDOT criteria. She stated that staff recommends as a mitigation requirement that both signals at Harvey Mitchell Parkway at Luther Street and Harvey Mitchell Parkway at George Bush Drive be optimized. She said that the applicant suggested that a left-turn lane be configured with pavement markings on George Bush Drive east bound at the intersection with Harvey Mitchell Parkway. She said that this could be accomplished by the applicant as part of the site plan approval process.

There was general discussion amongst the Commission regarding the rezoning.

Chairman Shafer opened the public hearing.

Joe Schultz, Schultz Engineering, stated that previous efforts did not work because adjacent property owners did not want multi-family developments abutting their property. He said that the applicant does not want to connect the tracts because there is a wooded drainage easement between the tracts that is 10 feet deep and it would be too expensive,

but pedestrian connectivity is being discussed. He also said that the Texas A&M System is not willing to give access to Luther Street at the intersection.

Seth McKinney, applicant, stated that he felt that this was the best solution.

Fred Bayliss, 7610 River Ridge, College Station, Texas, stated that the applicant has worked with the Texas A&M System to come to a compromise and said that the applicant will need the access to Harvey Mitchell Parkway since he is unable to get access to Luther Street.

Tim Coffey, Texas A&M System, stated that the applicant has taken A&M's concerns and moved the multi-family development to the south. He said that there was still concern about the approach to the secondary runway at Easterwood going over the development, but he said that the applicant had agreed to install appropriate lighting.

Robert Rose, 505 University Drive, College Station, Texas, said that he was concerned about pedestrian walkability and bicycle transportation when leaving the property.

Chairman Shafer closed the public hearing.

Commissioner Stearns expressed concern about left turns from the development.

There was general discussion amongst the Commission regarding the safety of left turns from the development.

Transportation Planning Coordinator Guerra stated that at site plan review the applicant could be required to put in a median within the driveway, also known as a pork chop. He said it would not prevent right turns 100% because people will still try to go around it, but it will provide some redirection of traffic. He said that a median on Harvey Mitchell Parkway would prevent right turns, but this is the applicant's best option until that is done.

**Commissioner Stearns motioned to recommend approval of the rezoning with the condition that Staff's recommendations and conditions are met and the driveway as approved by TXDOT be a right-in and right-out only design. Commissioner Slack seconded the motion, motion passed (7-0).**

8. Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" regarding Mobile Food Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Warner motioned to approve the amendment. Commissioner Ashfield seconded the motion, motion passed (7-0).**

9. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Mobile Food Vendors.

Commissioner Warner stated that she felt that the 300-foot buffer was too extensive, but said that there does need to be a buffer. She also expressed concern about only allowing College Station businesses to operate as a mobile food vendor.

Commissioner Stearns suggested revisiting the buffer after it is in place.

There was general discussion amongst the Commission regarding the amendment.

Chairman Shafer opened the public hearing.

Diego Mendez, 1660 Antoine, Bryan, Texas; Tai Lee, 3707 Marielene Circle, College Station, Texas; Peter Madden, 5215 Ballybunion, College Station, Texas; Chris Scotti, Executive Director of Northgate; Heather Taylor, owner of Cake Junkie, formerly Sweet Memories. The citizens expressed concern about the buffer and not allowing Bryan restaurants to operate food trucks within College Station.

Sherry Ellison, 2705 Brookway Drive, College Station, Texas, expressed concern about mobile food vendors being at public parks.

Robert Rose, 505 University Drive, College Station, Texas, stated that he feels that deference should be given to brick and mortar businesses because of the amount of money invested and that the buffer zones should be set at a high level.

Chairman Shafer closed the public hearing.

**Commissioner Ashfield motioned to recommend approval with the condition that the territory be expanded to Brazos County, the buffer zone be measured from the front door of a business, reduce the initial permitting fee and renewal fee by 50% for cart vendors, clarify in the ordinance that when a restaurant is closed the buffer zone would not apply to that particular brick and mortar restaurant, and revisit the language regarding mobile food vendors not being allowed to make any sales after**

**2:00 a.m. in Northgate. Commissioner Miles seconded the motion, motion passed (7-0).**

Director Cowell said that Staff would suggest that the item come back within a year to revisit any issues that may have arisen during that time.

10. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Itinerant Vendors. **Case # 10-00500284 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Itinerant Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Stearns motioned to approve the amendment. Commissioner Miles seconded the motion, motion passed (7-0).**

13. Adjourn.

**Commissioner Ashfield motioned to adjourn the meeting. Commissioner Slack seconded the motion, motion passed (7-0).**

**The meeting adjourned at 11:05 p.m.**

**Approved:**

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Scott Shafer, Chairman  
Planning and Zoning Commission

**Attest:**

---

Brittany Caldwell, Admin. Support Specialist  
Planning and Development Services

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

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibits "A" and "B" and as depicted in Exhibit "C", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 24th day of February, 2011.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT "A"**

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from R-1 Single-Family Residential to C-1 General Commercial, and as shown graphically in Exhibit "C":

**METES AND BOUNDS DESCRIPTION  
OF A  
4.91 ACRE TRACT  
CRAWFORD BURNETT SURVEY, A-7  
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF A CALLED 6.21 ACRES AS DESCRIBED BY A DEED TO CRAWFORD-BURNETT INVESTMENTS, LLC RECORDED IN VOLUME 9852, PAGE 235 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A ½ INCH IRON ROD FOUND ON THE SOUTHWESTERLY LINE OF FM 2818 (HARVEY MITCHELL PARKWAY – VARIABLE WIDTH R.O.W.) MARKING THE EAST CORNER OF SAID 6.21 ACRE TRACT AND THE NORTHWEST CORNER OF A CALLED 4.23 ACRE TRACT AS DESCRIBED BY A DEED TO LINDA PRESTON-SHEPARD RECORDED IN VOLUME 7043, PAGE 287 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

**THENCE:** N 76° 41' 20" W ALONG THE SOUTHWESTERLY LINE OF FM 2818 FOR A DISTANCE OF 255.60 FEET TO A ½ INCH IRON ROD FOUND MARKING THE POINT OF BEGINNING OF THIS HEREIN DESCRIBED TRACT;

**THENCE:** THROUGH SAID 6.21 ACRE TRACT FOR THE FOLLOWING CALLS:

S 17° 38' 04" W FOR A DISTANCE OF 161.00 FEET;

S 02° 12' 30" E FOR A DISTANCE OF 240.00 FEET TO A ½ INCH IRON ROD FOUND ON THE NORTHEAST LINE OF A CALLED TRACT OF LAND OWNED BY THE TEXAS A&M UNIVERSITY SYSTEM MARKING THE SOUTH CORNER OF SAID 6.21 ACRE TRACT;

**THENCE:** N 48° 26' 42" W ALONG THE COMMON LINE OF SAID 6.21 ACRE TRACT AND SAID TEXAS A&M UNIVERSITY SYSTEM TRACT FOR A DISTANCE OF 875.08 FEET TO A FENCE CORNER POST FOUND MARKING THE WEST CORNER OF SAID 6.21 ACRE TRACT;

**THENCE:** N 41° 03' 31" E CONTINUING ALONG THE COMMON LINE OF SAID 6.21 ACRE TRACT AND SAID TEXAS A&M UNIVERSITY SYSTEM TRACT FOR A DISTANCE OF 253.58 FEET TO A FENCE CORNER POST FOUND MARKING A COMMON CORNER OF SAID 6.21 ACRE TRACT AND A CALLED 0.786 ACRE TRACT AS DESCRIBED BY A DEED TO TEXAS A&M UNIVERSITY SYSTEM RECORDED IN VOLUME 901, PAGE 245 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS;

**THENCE:** S 51° 17' 45" E ALONG THE COMMON LINE OF SAID 6.21 ACRE TRACT AND SAID 0.786 ACRE TRACT FOR A DISTANCE OF 422.75 FEET TO A 60D NAIL FOUND AT THE BASE OF A FENCE CORNER POST MARKING THE SOUTH CORNER OF SAID 0.786 ACRE TRACT;

**THENCE:** N 41° 55' 01" E CONTINUING ALONG THE COMMON LINE OF SAID 6.21 ACRE TRACT AND SAID 0.786 ACRE TRACT FOR A DISTANCE OF 73.51 FEET TO A ½ INCH IRON ROD FOUND ON THE SOUTHWESTERLY LINE OF FM 2818 MARKING THE EAST CORNER OF SAID 0.786 ACRE TRACT;

**THENCE:** ALONG THE SOUTHWESTERLY LINE OF FM 2818 FOR THE FOLLOWING CALLS:

**EXHIBIT "A" CONTINUED**

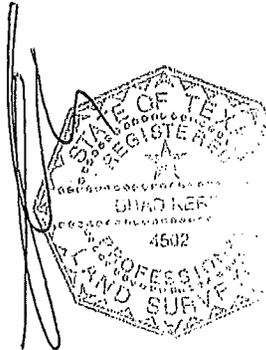
S 46° 06' 21" E FOR A DISTANCE OF 20.62 FEET TO A CONCRETE RIGHT-OF-WAY MARKER FOUND;

S 26° 04' 37" E FOR A DISTANCE OF 112.46 FEET TO A CONCRETE RIGHT-OF-WAY MARKER FOUND;

S 57° 40' 12" E FOR A DISTANCE OF 100.00 FEET TO THE **POINT OF BEGINNING** CONTAINING 4.91 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND OCTOBER 2010. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR  
REGISTERED PROFESSIONAL  
LAND SURVEYOR No. 4502

D:/WORK/MAB/10-620B.MAB



**EXHIBIT "B"**

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from R-1 Single-Family Residential to R-4 Multi-Family Residential, and as shown graphically in Exhibit "C":

**METES AND BOUNDS DESCRIPTION  
OF A  
1.30 ACRE TRACT  
CRAWFORD BURNETT SURVEY, A-7  
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF A CALLED 6.21 ACRE TRACT AS DESCRIBED BY A DEED TO CRAWFORD-BURNETT INVESTMENT, LLC RECORDED IN VOLUME 9852, PAGE 235 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A ½ INCH IRON ROD FOUND ON THE SOUTHWESTERLY LINE OF FM 2818 (HARVEY MITCHELL PARKWAY – VARIABLE WIDTH R.O.W.) MARKING THE EAST CORNER OF SAID 6.21 ACRE TRACT AND THE NORTHWEST CORNER OF A CALLED 4.23 ACRE TRACT AS DESCRIBED BY A DEED TO LINDA PRESTON-SHEPARD RECORDED IN VOLUME 7043, PAGE 287 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

**THENCE:** S 40° 45' 44" W ALONG THE COMMON LINE OF SAID 6.21 ACRE TRACT AND SAID 4.23 ACRE TRACT FOR A DISTANCE OF 441.49 FEET TO A ½ INCH IRON ROD FOUND ON THE NORTHEAST LINE OF A CALLED TRACT OF LAND OWNED BY THE TEXAS A&M UNIVERSITY SYSTEM;

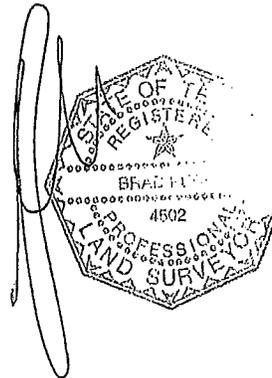
**THENCE:** N 02° 12' 30" W THROUGH SAID 6.21 ACRE TRACT FOR A DISTANCE OF 240.00 FEET;

**THENCE:** N 17° 38' 04" E CONTINUING THROUGH SAID 6.21 ACRE TRACT FOR A DISTANCE OF 161.00 FEET TO A ½ INCH IRON ROD FOUND ON THE SOUTHWESTERLY LINE OF FM 2818 MARKING THE NORTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;

**THENCE:** S 76° 41' 20" E ALONG THE SOUTHWESTERLY LINE OF FM 2818 FOR A DISTANCE OF 255.60 FEET TO THE **POINT OF BEGINNING** CONTAINING 1.30 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND OCTOBER 2010. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR  
REGISTERED PROFESSIONAL  
LAND SURVEYOR No. 4502

D:/WORK/MAB/10-620A.MAB





**February 24, 2011  
Regular Agenda Item No. 2  
City of College Station  
Annual Review of the  
Bicycle, Pedestrian, and Greenways Master Plan**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Public Hearing, presentation, possible action and discussion on the Annual Review of the Bicycle, Pedestrian and Greenways Master Plan.

**Relationship to Strategic Goals:** IV. Improving Multi-modal Transportation and V. Green Sustainable City

**Recommendation(s):** N/A

**Summary:** The Bicycle, Pedestrian and Greenways Master Plan, a component of the College Station Comprehensive Plan was adopted on January 28, 2010. This will be the first annual review since adoption as recommended in the Plan. The purpose of this review is to provide an update on significant actions and accomplishments that have occurred over the past year, outline on-going steps being taken to implement and maintain a dynamic document, and identify obstacles or problems in the implementation of the Master Plan. The process will be repeated annually until the five-year update of the Plan. Attached is a summary of some of the accomplishments and projects that are related to biking, walking, and greenways.

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

**Attachments:**  
List of Projects

**Master Plan Goals:**

- Improve Connectivity and Aecessibility
- Increase Safety
- Increase Bicycling and Walking Outdoors
- Encourage Environmental Stewardship

**Accomplishments:**

Flood-prone property "Greenway" Acquisition – Fee Simple Purchase (116.54 acres); Easements (.334 acres)

- Wolf Pen Creek Corridor
  - Oakwood Custom Homes btw. Academy and Horse Haven Approx. 2.5 acres FEE SIMPLE PURCHASE 7/6/2010
- Carter's Creek Corridor
  - Martell - Public Access Easement (PAE) acquired (Approx. .239acres) EASEMENT PURCHASE - 7/16/2010
  - Guseman – Public Access Easement Approx. .095 acres EASEMENT PURCHASE - 7/7/2010
  - Cashion - Entire parcel 12.4 acres FEE SIMPLE PURCHASE - 6/10/2010
  - Ruffino - Entire parcel 34.29 acres FEE SIMPLE PURCHASE - 7/28/2010
  - Entergy - Greenway dedication platted. Approx. .45 acres FEE SIMPLE DEDICATION - 6/18/2010
  - Smith - Entire parcel 78.9 acres approx. 12 acres will be park FEE SIMPLE PURCHASE - 7/30/2010

**Multi-use Path along Harvey Mitchell Parkway (FM 2818) – Phase I**

Description: 10 foot multi-use path that will constructed along FM 2818 from Welsh to Longmire and a 8 foot sidewalk from Longmire to Texas

- Design Completion: May 2010
- Construction Completion: March 2011

**Multi-use Path along Harvey Mitchell Parkway (FM 2818) – Phase II**

Description: Continuation of Phase I from Welsh Avenue to Southwest Parkway through Southwest Park. A portion of the path is being constructed by the Campus Village development at the corner of Harvey Mitchell Parkway (FM 2818) and Wellborn Road (FM 2154).

- Design Completion: Summer 2011
- Construction Completion: January 2012

**Multi-use Path within Bee Creek Park (Bike Loop)**

Description: 10 foot multi-use path that will connect the existing path that terminates in Bee Creek Park to the Bee Creek Bride crossing near Longmire Court and will provide a connection from the bridge to Anderson Street

- Design Completion: Fall 2010
- Construction Completion: Summer 2011

**Roadways with Sidewalks and Bike Lanes**

## ○ Victoria Avenue Extension

Description: From Southern Plantation to SH 40 and aligning with the existing Victoria Avenue on the south side of SH 40. The roadway will be a major collector consisting of two travel lanes and center turn lane, bike lanes, sidewalks, etc.

- § Design Completion: Fall 2010 – Complete
- § Construction Completion: Spring 2012

- Barron Road Widening Phase 2  
Description: Four lane road with raised median, curb and gutter, bike lanes and sidewalks from Decatu to SH 40.
  - § Design Completion: February 2010
  - § Construction Completion: April 2012
  
- Jones Butler Road Extension  
Description: Extension from Luther Street to the George Bush/Penberthy intersection. The roadway will consist of 4 travel lanes, bike lanes and a sidewalk on the east side.
  - § Design Completion: Fall 2011
  - § Construction Completion: Fall 2012
  
- Tauber and Stasney Street Rehabilitation and Northgate Sidewalks  
Description: Eight foot sidewalks to be placed on the east side and west sides of Stasney Street between University Drive and Church Avenue. Eight foot sidewalks will be placed on both sides of Tauber Street as well although due to right-of-way constraints some sections will be five feet. The project also includes utility upgrades and a new driving surface.
  - § Design Completion: Summer 2010
  - § Construction Completion: Fall 2011

**February 24, 2011  
Regular Agenda Item No. 3  
City of College Station  
Amendment to the Unified Development Ordinance, Section 11.2 "Definitions"  
related to Mobile Food Vendors**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Public Hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance, Section 11.2 "Definitions" related to Mobile Food Vendors.

**Relationship to Strategic Goals:** Diverse Growing Economy

**Recommendation(s):** At their February 3<sup>rd</sup> meeting, the Planning & Zoning Commission unanimously recommended approval of this item. Staff also recommended approval.

**Summary:** This amendment is part of a package of UDO text amendments intended to ease restrictions on mobile food vendors operating within the City. This specific amendment adds the necessary definitions to the UDO

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

**Attachments:**

1. P&Z Minutes
2. Ordinance



**MINUTES**  
**PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**February 3, 2011, 7:00 p.m.**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**College Station, Texas**

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**COMMISSIONERS PRESENT:** Chairman Scott Shafer, Mike Ashfield, Craig Hall, Jodi Warner, Hugh Stearns, Doug Slack, and Bo Miles

**COMMISSIONERS ABSENT:** None

**CITY COUNCIL MEMBERS PRESENT:** Nancy Berry

**CITY STAFF PRESENT:** Jennifer Prochazka, Matt Robinson, Lauren Hovde, Joe Guerra, Erika Bridges, Josh Norton, Carol Cotter, Molly Hitchcock, David Coleman, Jeff Kersten, Lance Simms, Bob Cowell, Carla Robinson, Kerry Mullins, Richard Cox, and Brittany Caldwell

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:02 p.m.

7. Public hearing, presentation, possible action, and discussion regarding a request to rezone 6.21 acres located 1280 Harvey Mitchell Parkway from R-1 Single-Family Residential to C-1 General Commercial and R-4 Multi-Family. **Case # 10-00500263 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Lauren Hovde presented the rezoning and recommended approval with the condition that a deceleration lane be installed at each driveway designed to meet TXDOT criteria. She stated that staff recommends as a mitigation requirement that both signals at Harvey Mitchell Parkway at Luther Street and Harvey Mitchell Parkway at George Bush Drive be optimized. She said that the applicant suggested that a left-turn lane be configured with pavement markings on George Bush Drive east bound at the intersection with Harvey Mitchell Parkway. She said that this could be accomplished by the applicant as part of the site plan approval process.

There was general discussion amongst the Commission regarding the rezoning.

Chairman Shafer opened the public hearing.

Joe Schultz, Schultz Engineering, stated that previous efforts did not work because adjacent property owners did not want multi-family developments abutting their property. He said that the applicant does not want to connect the tracts because there is a wooded drainage easement between the tracts that is 10 feet deep and it would be too expensive,

but pedestrian connectivity is being discussed. He also said that the Texas A&M System is not willing to give access to Luther Street at the intersection.

Seth McKinney, applicant, stated that he felt that this was the best solution.

Fred Bayliss, 7610 River Ridge, College Station, Texas, stated that the applicant has worked with the Texas A&M System to come to a compromise and said that the applicant will need the access to Harvey Mitchell Parkway since he is unable to get access to Luther Street.

Tim Coffey, Texas A&M System, stated that the applicant has taken A&M's concerns and moved the multi-family development to the south. He said that there was still concern about the approach to the secondary runway at Easterwood going over the development, but he said that the applicant had agreed to install appropriate lighting.

Robert Rose, 505 University Drive, College Station, Texas, said that he was concerned about pedestrian walkability and bicycle transportation when leaving the property.

Chairman Shafer closed the public hearing.

Commissioner Stearns expressed concern about left turns from the development.

There was general discussion amongst the Commission regarding the safety of left turns from the development.

Transportation Planning Coordinator Guerra stated that at site plan review the applicant could be required to put in a median within the driveway, also known as a pork chop. He said it would not prevent right turns 100% because people will still try to go around it, but it will provide some redirection of traffic. He said that a median on Harvey Mitchell Parkway would prevent right turns, but this is the applicant's best option until that is done.

**Commissioner Stearns motioned to recommend approval of the rezoning with the condition that Staff's recommendations and conditions are met and the driveway as approved by TXDOT be a right-in and right-out only design. Commissioner Slack seconded the motion, motion passed (7-0).**

8. Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" regarding Mobile Food Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Warner motioned to approve the amendment. Commissioner Ashfield seconded the motion, motion passed (7-0).**

9. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Mobile Food Vendors.

Commissioner Warner stated that she felt that the 300-foot buffer was too extensive, but said that there does need to be a buffer. She also expressed concern about only allowing College Station businesses to operate as a mobile food vendor.

Commissioner Stearns suggested revisiting the buffer after it is in place.

There was general discussion amongst the Commission regarding the amendment.

Chairman Shafer opened the public hearing.

Diego Mendez, 1660 Antoine, Bryan, Texas; Tai Lee, 3707 Marielene Circle, College Station, Texas; Peter Madden, 5215 Ballybunion, College Station, Texas; Chris Scotti, Executive Director of Northgate; Heather Taylor, owner of Cake Junkie, formerly Sweet Memories. The citizens expressed concern about the buffer and not allowing Bryan restaurants to operate food trucks within College Station.

Sherry Ellison, 2705 Brookway Drive, College Station, Texas, expressed concern about mobile food vendors being at public parks.

Robert Rose, 505 University Drive, College Station, Texas, stated that he feels that deference should be given to brick and mortar businesses because of the amount of money invested and that the buffer zones should be set at a high level.

Chairman Shafer closed the public hearing.

**Commissioner Ashfield motioned to recommend approval with the condition that the territory be expanded to Brazos County, the buffer zone be measured from the front door of a business, reduce the initial permitting fee and renewal fee by 50% for cart vendors, clarify in the ordinance that when a restaurant is closed the buffer zone would not apply to that particular brick and mortar restaurant, and revisit the language regarding mobile food vendors not being allowed to make any sales after**

**2:00 a.m. in Northgate. Commissioner Miles seconded the motion, motion passed (7-0).**

Director Cowell said that Staff would suggest that the item come back within a year to revisit any issues that may have arisen during that time.

10. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Itinerant Vendors. **Case # 10-00500284 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Itinerant Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Stearns motioned to approve the amendment. Commissioner Miles seconded the motion, motion passed (7-0).**

13. Adjourn.

**Commissioner Ashfield motioned to adjourn the meeting. Commissioner Slack seconded the motion, motion passed (7-0).**

**The meeting adjourned at 11:05 p.m.**

**Approved:**

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Scott Shafer, Chairman  
Planning and Zoning Commission

**Attest:**

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Brittany Caldwell, Admin. Support Specialist  
Planning and Development Services

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

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", SECTION 11.2 "DEFINED TERMS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

**PART 1:** That Chapter 12, "Unified Development Ordinance", Section 11.2 "Defined Terms", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

**PART 2:** Should any part of this ordinance be held illegal or invalid for any reason, the holding shall not affect the remaining sections or portion of sections or provisions of this ordinance.

**PART 3:** That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

**PASSED, ADOPTED and APPROVED this 24<sup>th</sup> day of February, 2011.**

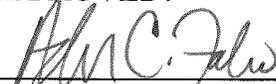
**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

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

**APPROVED:**

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

## **Exhibit "A"**

That Chapter 12, "Unified Development Ordinance," Section 11.2 "Defined Terms," of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending said Section by adding the following term alphabetically to the Section:

### **Section 11.2 Defined Terms**

Mobile Food Vendor: Any business operating more than twenty-one (21) days per calendar year which sells edible goods from a non-stationary location within the City of College Station. The term shall include, but shall not be limited to, mobile food trucks, carts, or trailers.

**February 24, 2011  
Regular Agenda Item No. 4  
City of College Station**

**Amendment to the Code of Ordinances, Chapter 4 "Business Regulations," related  
to Mobile Food Vendors and Itinerant Vendors**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances, Chapter 4 "Business Regulations," related to Mobile Food Vendors and Itinerant Vendors

**Relationship to Strategic Goals:** Diverse Growing Economy

**Recommendation(s):** During their February 3, 2011 meeting, the Planning and Zoning Commission unanimously recommended approval of the proposed ordinances with adjustments that have been included. Staff also recommended approval.

**Summary:** The Code of Ordinances, Chapter 4 "Business Regulations," currently allows Mobile Food Vendors within City limits for a maximum of twenty-one (21) days per calendar year (3 days at a time) with an Itinerant Vendor permit. This does not allow for long-standing mobile businesses to operate, but does successfully accommodate for visiting or special event-oriented businesses. Due to the growing trend of mobile food vending, City Council directed Staff on September 9, 2010 to proceed with drafting an ordinance that would be more permissive for mobile food vending, while creating parameters that would protect existing "brick and mortar" businesses.

The Code of Ordinances, Chapter 4 "Business Regulations", currently requires the Finance Division of the Accounting Department to process all Itinerant Vendor Permit applications. Since Planning and Development Services is required to review such applications for zoning compliance and site requirements, the permits are now being processed by Planning and Development Services for the convenience of the customer.

Additionally, minor changes are proposed to reorganize the definition section of Chapter 4 Section 2 into alphabetical order, as well as amend typos and other non-pertinent items, again for the convenience of the customer.

The proposed ordinance defines Mobile Food Vendors and restricts them within single-family residential and agricultural zoning districts. It is also proposed that Mobile Food Vendors be restricted within three hundred (300) feet of a permanent food service business and one hundred (100) feet of a business defined as a restaurant in Northgate. In addition, the proposed ordinance would limit the permit eligibility to Food Service Establishments within Brazos County, thus ensuring that proper inspection can be made at the place of preparation and waste disposal.

The Brazos Valley Restaurant Association and Northgate Business Association, along with numerous restaurants in the Hospitality Corridor and other areas, were included as stakeholders in the ordinance revision process. Stakeholders were given the opportunity to review the draft ordinance and were asked to provide comments and suggestions. In addition, many stakeholders were consulted during the drafting process for guidance and additional information.

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

**Attachments:**

1. P&Z Minutes
2. Ordinances



**MINUTES**  
**PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**February 3, 2011, 7:00 p.m.**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**College Station, Texas**

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**COMMISSIONERS PRESENT:** Chairman Scott Shafer, Mike Ashfield, Craig Hall, Jodi Warner, Hugh Stearns, Doug Slack, and Bo Miles

**COMMISSIONERS ABSENT:** None

**CITY COUNCIL MEMBERS PRESENT:** Nancy Berry

**CITY STAFF PRESENT:** Jennifer Prochazka, Matt Robinson, Lauren Hovde, Joe Guerra, Erika Bridges, Josh Norton, Carol Cotter, Molly Hitchcock, David Coleman, Jeff Kersten, Lance Simms, Bob Cowell, Carla Robinson, Kerry Mullins, Richard Cox, and Brittany Caldwell

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:02 p.m.

7. Public hearing, presentation, possible action, and discussion regarding a request to rezone 6.21 acres located 1280 Harvey Mitchell Parkway from R-1 Single-Family Residential to C-1 General Commercial and R-4 Multi-Family. **Case # 10-00500263 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Lauren Hovde presented the rezoning and recommended approval with the condition that a deceleration lane be installed at each driveway designed to meet TXDOT criteria. She stated that staff recommends as a mitigation requirement that both signals at Harvey Mitchell Parkway at Luther Street and Harvey Mitchell Parkway at George Bush Drive be optimized. She said that the applicant suggested that a left-turn lane be configured with pavement markings on George Bush Drive east bound at the intersection with Harvey Mitchell Parkway. She said that this could be accomplished by the applicant as part of the site plan approval process.

There was general discussion amongst the Commission regarding the rezoning.

Chairman Shafer opened the public hearing.

Joe Schultz, Schultz Engineering, stated that previous efforts did not work because adjacent property owners did not want multi-family developments abutting their property. He said that the applicant does not want to connect the tracts because there is a wooded drainage easement between the tracts that is 10 feet deep and it would be too expensive,

but pedestrian connectivity is being discussed. He also said that the Texas A&M System is not willing to give access to Luther Street at the intersection.

Seth McKinney, applicant, stated that he felt that this was the best solution.

Fred Bayliss, 7610 River Ridge, College Station, Texas, stated that the applicant has worked with the Texas A&M System to come to a compromise and said that the applicant will need the access to Harvey Mitchell Parkway since he is unable to get access to Luther Street.

Tim Coffey, Texas A&M System, stated that the applicant has taken A&M's concerns and moved the multi-family development to the south. He said that there was still concern about the approach to the secondary runway at Easterwood going over the development, but he said that the applicant had agreed to install appropriate lighting.

Robert Rose, 505 University Drive, College Station, Texas, said that he was concerned about pedestrian walkability and bicycle transportation when leaving the property.

Chairman Shafer closed the public hearing.

Commissioner Stearns expressed concern about left turns from the development.

There was general discussion amongst the Commission regarding the safety of left turns from the development.

Transportation Planning Coordinator Guerra stated that at site plan review the applicant could be required to put in a median within the driveway, also known as a pork chop. He said it would not prevent right turns 100% because people will still try to go around it, but it will provide some redirection of traffic. He said that a median on Harvey Mitchell Parkway would prevent right turns, but this is the applicant's best option until that is done.

**Commissioner Stearns motioned to recommend approval of the rezoning with the condition that Staff's recommendations and conditions are met and the driveway as approved by TXDOT be a right-in and right-out only design. Commissioner Slack seconded the motion, motion passed (7-0).**

8. Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Unified Development Ordinance Section 11.2 "Defined Terms" regarding Mobile Food Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Warner motioned to approve the amendment. Commissioner Ashfield seconded the motion, motion passed (7-0).**

9. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Mobile Food Vendors. **Case # 10-00500247 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Mobile Food Vendors.

Commissioner Warner stated that she felt that the 300-foot buffer was too extensive, but said that there does need to be a buffer. She also expressed concern about only allowing College Station businesses to operate as a mobile food vendor.

Commissioner Stearns suggested revisiting the buffer after it is in place.

There was general discussion amongst the Commission regarding the amendment.

Chairman Shafer opened the public hearing.

Diego Mendez, 1660 Antoine, Bryan, Texas; Tai Lee, 3707 Marielene Circle, College Station, Texas; Peter Madden, 5215 Ballybunion, College Station, Texas; Chris Scotti, Executive Director of Northgate; Heather Taylor, owner of Cake Junkie, formerly Sweet Memories. The citizens expressed concern about the buffer and not allowing Bryan restaurants to operate food trucks within College Station.

Sherry Ellison, 2705 Brookway Drive, College Station, Texas, expressed concern about mobile food vendors being at public parks.

Robert Rose, 505 University Drive, College Station, Texas, stated that he feels that deference should be given to brick and mortar businesses because of the amount of money invested and that the buffer zones should be set at a high level.

Chairman Shafer closed the public hearing.

**Commissioner Ashfield motioned to recommend approval with the condition that the territory be expanded to Brazos County, the buffer zone be measured from the front door of a business, reduce the initial permitting fee and renewal fee by 50% for cart vendors, clarify in the ordinance that when a restaurant is closed the buffer zone would not apply to that particular brick and mortar restaurant, and revisit the language regarding mobile food vendors not being allowed to make any sales after**

**2:00 a.m. in Northgate. Commissioner Miles seconded the motion, motion passed (7-0).**

Director Cowell said that Staff would suggest that the item come back within a year to revisit any issues that may have arisen during that time.

10. Public hearing, presentation, possible action, and discussion regarding an amendment to the Code of Ordinances Chapter 4 "Business Regulations" related to Itinerant Vendors. **Case # 10-00500284 (LH) (Note: Final action on this item is scheduled for the February 24, 2011 City Council Meeting--subject to change)**

Staff Planner Hovde presented the amendment to the Code of Ordinances Chapter 4 "Business Regulations" regarding Itinerant Vendors.

Chairman Shafer opened the public hearing.

No one spoke during the public hearing.

Chairman Shafer closed the public hearing.

**Commissioner Stearns motioned to approve the amendment. Commissioner Miles seconded the motion, motion passed (7-0).**

13. Adjourn.

**Commissioner Ashfield motioned to adjourn the meeting. Commissioner Slack seconded the motion, motion passed (7-0).**

**The meeting adjourned at 11:05 p.m.**

**Approved:**

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Scott Shafer, Chairman  
Planning and Zoning Commission

**Attest:**

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Brittany Caldwell, Admin. Support Specialist  
Planning and Development Services

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

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS" BY ADDING SECTION 20 "MOBILE FOOD VENDORS", TO THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, 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 4, "BUSINESS REGULATIONS" be amended BY ADDING SECTION 20 "MOBILE FOOD VENDORS", to the Code of Ordinances of the City of College Station, Texas, as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) or more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

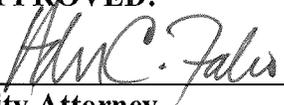
APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED:

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

## EXHIBIT "A"

That CHAPTER 4, "BUSINESS REGULATIONS" be amended BY ADDING SECTION 20 "MOBILE FOOD VENDORS", be added to the Code of Ordinances of the City of College Station, Texas and is to read as follows:

### SECTION 20 MOBILE FOOD VENDORS

#### A. DEFINITIONS

- (1) **Edible Goods** shall include, but are not limited to:
  - (a) Prepackaged food including, but not limited candy, beverages, and ice cream.
  - (b) Prepared food including, but not limited to hot dogs, deserts, and pizza.
  - (c) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos)
- (2) **Food Service Establishment** shall mean businesses that Sell Edible Goods and have been inspected and approved by the Brazos County Health Department, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.
- (3) **Mobile** shall mean the state of being in active, but not necessarily continuous, movement.
- (4) **Mobile Food Vendors** shall mean any business which Sells Edible Goods from a non-Stationary Location within the City of College Station. The term shall include, but not be limited to:
  - (a) Mobile food trucks: A self-contained motorized unit Selling items defined as Edible Goods.
  - (b) Concessions carts: Mobile vending units that must be moved by non-motorized means
  - (c) Concession trailers: A vending unit which is pulled by a motorized unit and has no power to move on its own.
- (5) **Non-refrigerated** shall mean Edible Goods that are not required to be kept at a temperature below forty-one (41) degrees Fahrenheit according to the federal Food and Drug Administration and the Texas Food Establishment Rules.
- (6) **Sell** shall mean the act of exchanging a good for a profit or in return for a donation.
- (7) **Stationary Location** shall mean the position of the Mobile Food Vendor when not in motion and addressing the public for the purpose of sales.

**B. PERMIT AND APPLICATION**

- (1) **Permit** - Every Mobile Food Vendor shall have a permit issued by the City of College Station Planning and Development Services Department to conduct business in the City.
- (2) **Application**- An applicant shall apply for a permit on a form promulgated by the City of College Station Planning and Development Services Department.
- (3) The application shall be processed through the following method:
  - (a) Application submitted to the City of College Station,
  - (b) Application shall be reviewed by designated City Staff,
  - (c) City Staff shall inform the Brazos County Health Department when the application is eligible for approval by the City,
  - (d) Brazos County Health Department may then accept an application from a Mobile Food Vendor,
  - (e) Following notification from the City, Brazos County Health department may issue a permit when their application is eligible for approval,
  - (f) Applicant shall submit their Brazos County Health Department permit to City of College Station
  - (g) The City of College Station may then, and only then, approve a Mobile Food Vendor permit.
- (4) **Permit Form** - A complete application shall require the following information from the applicant to be considered:
  - (a) Name of applicant,
  - (b) Legal name of business or entity,
  - (c) State of Incorporation or filing of a partnership or articles of association,
  - (d) If applicable, Copy of Chapter or Articles of Incorporation and current listing of directors, partners, or principles (publicly traded companies are exempted),
  - (e) Sales tax number with a copy of sales tax permit,
  - (f) Signed permission from the private property owner,
  - (g) Name, phone number, and driver's license number of business owner,
  - (h) Contact name and phone number for Mobile food vending unit while in route,
  - (i) Copy of permits to do business in Texas for foreign companies,
  - (j) Description of product being sold,
  - (k) Description of attached signage,
  - (l) Vehicle Identification Number, photo and description of Mobile food vending unit,
  - (m) Upon request, a statement as to the location of the goods at the time of permitting and sale, and proof of product origin and a bill a sale for those goods.
  - (n) A signed affidavit under oath with photo identification that each individual applicant:

- (i) Has no unpaid civil judgments against him or her in any State or U.S. possession which arise from a business activity which would have been covered by this Section if in effect at the time in the jurisdiction where such judgments are of record.
  - (ii) A statement of all convictions in any state, the United States or U.S. possession within the last ten (10) years.
- (o) A bond in the sum of not less than One Thousand and No/100 (\$1,000.00) Dollars, executed by the Mobile Food Vendor with two or more good and sufficient sureties satisfactory to the Finance Director, which bond shall be payable to the Mayor of the City of College Station, and his successors in office, for the use and benefit of any person or persons entitled thereto, and conditioned that the principal and sureties will pay all damages to persons caused by or arising from or growing out of any action of the Mobile Food Vendor while conducting business in the City of College Station, Texas. The bond shall remain in full force and effect for the entire duration of the permit provided herein and for two full years after such permit expires. The bond shall not be required for the sale of goods in interstate commerce.
  - (p) Copy of the Brazos County Health Department permit issued to the Food Service Establishment.
  - (q) Copy of written permission to utilize the private facilities of the Food Service Establishment.

**(5) Permit Fee**

- (a) The application for a Mobile Food Vendor permit shall be \$500.00.
- (b) Mobile Food Vendor permits shall be valid for one (1) year from the date of permit issuance.
- (c) Upon renewal the applicant must provide a new application, payment of a \$250.00 renewal fee, and new permitting documentation upon permit renewal. The applicant must submit the application and renewal fee within thirty (30) days after expiration of the permit or must reapply as a new applicant.
- (d) Concession carts shall apply under a reduced fee of \$250 for initial application, and \$125 for a renewal.

**(6) Permit Denial - A permit may be denied where:**

- (a) An applicant is found to have an unpaid civil judgment(s) against him which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments, or
- (b) An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of

the permit and the extent that the permit would allow someone to engage in further criminal activity, or;

- (c) The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a Mobile Food Vendor.
- (d) The opportunity to reissue a permit has been denied due to previous violations as described in this Section.

(7) **Display of Permit** - Every permit, including those from the City of College Station and Brazos County Health Department, shall be displayed at all times in a conspicuous place where it can be read by the general public on the Mobile Food Vendor's truck, concession cart, or concession trailer.

(8) **Permit Revocation or Suspension**

- (a) A permit may be revoked upon conviction of any offense committed by an individual operating as a Mobile Food Vendor in the City of College Station while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
- (b) A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram.
- (c) Any employee working for an applicant permitted as an employer under this Section above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- (d) A permit may be suspended or revoked for not complying with the requirements of this Section, or any other ordinances, or laws.

(9) **Appeal of Permit Revocation, Suspension, or Denial**

- (a) The notice of revocation, suspension, or denial of a permit shall include the procedure for appealing the suspension, revocation, or denial.
- (b) If a City official revokes, suspends or denies a Mobile Food Vendor permit, the holder or applicant of the permit which has been revoked, suspended, or denied shall have the right of appeal to the City of College Station Planning and Development Services Director or designee by submitting an appeal in writing to the Director within ten (10) business days of the revocation, suspension, or denial.
- (c) Pending action on the appeal, a permit which has been revoked or suspended shall be considered revoked or suspended.
- (d) If a written appeal is not submitted within ten (10) business day of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended, or denied.

**(10) Reapplication After Revocation, Suspension, or Denial of Permit**

If a Mobile Food Vendor or applicant is not in compliance with this section or any other ordinances, laws, or the approved vendor application, the following actions will be taken:

- (a) 1<sup>st</sup> violation- A warning may be issued, or the permit may be revoked or suspended and the vendor may become ineligible for new or reissued permit for three (3) months.
- (b) 2<sup>nd</sup> violation- Permit will be revoke and the vendor may become ineligible for new or reissued permit for three (3) months.
- (c) 3<sup>rd</sup> violation- Permit will be revoke and the vendor will become ineligible for new or reissued permit for one (1) year.
- (d) If an applicant's permit has been denied and the appeal is denied the applicant may not reapply for three (3) months.

**C. ZONING AND LOCATION RESTRICTIONS**

**(1) Distance Regulations**

- (a) No Mobile Food Vendor shall conduct business within any single-family residential or agricultural zoning district, including townhouse districts, but may be located in such districts when serving and within one hundred (100) feet to a property with an active building permit or located within a public park facility.
- (b) A Mobile Food Vendor may not be located within three hundred (300) feet of the primary entrance of an open and operating fixed-location food sales service establishments outside of Northgate. This buffer may be reduced upon receiving written permission from said establishments.
- (c) **Northgate Only**- A Mobile Food Vendor may not be located within one hundred (100) feet of an existing business lawfully operating as a restaurant as defined by the Unified Development Ordinance within Northgate. This buffer may be reduced upon written permission from said restaurants.

**(2) A Mobile Food Vendor shall not conduct sales at a Stationary Location:**

- (a) For a duration exceeding three (3) hours per location.
- (b) **Northgate Only** - For a duration exceeding three (3) hours per location, except in the NG-1 Northgate Core zoning district from 10:00 pm to 2:00 am.
- (c) For a duration exceeding thirty (30) minutes on any public street designated on the City of College Station's Thoroughfare Plan as a major collector or greater.
- (d) In congested areas where the operation impedes vehicular or pedestrian traffic.
- (e) In a designated bike lane.
- (f) Between the hours of 2:00 am and 5:00 am.

**(3) Northgate and Wolf Pen Creek District**

- (a)** Concession carts, permitted as a Mobile Food Vendor, may be located only within the Northgate zoning districts and Wolf Pen Creek district when operating at a mixed-use development. Carts must be positioned as to not disrupt pedestrian traffic and must maintain an abutting five-foot (5) clear space.
- (b)** A Mobile Food Vendor may not be located within twenty (20) feet of another Mobile Food Vendor.

**(4) Location Regulations**

- (a)** No Mobile Food Vendor shall locate on any private property without written permission to do so and must comply if asked to leave by the property owner or City official. A copy of the written permission to operate in a specific location, signed by the private property owner, shall be kept within the Mobile vending unit at all times.
- (b)** No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any motor vehicle without permission of the owner.
- (c)** No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the property owner or City official not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".
- (d)** No person shall Sell or offer for sale any item upon any premises if requested by the property owner or City official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors", "no trespassing", or "no solicitors."

**D. MOBILE FOOD VENDOR REQUIREMENTS**

The following regulations shall apply to Mobile Food Vendors within any zoning district:

- (1)** Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the Food Service Establishment. All disturbed areas must be cleaned following each stop at a minimum of twenty (20) feet of the sales location.
- (2)** Continuous music or repetitive sounds shall not project from the Mobile unit.
- (3)** A five-foot (5) clear space can be maintained around the Mobile food vending unit.
- (4)** The Mobile unit will be subject to inspection upon permit application through the Building Division of the Planning and Development Services Department and the Fire Marshal, and may be subject to random inspection and upon reissuance of the permit.
- (5)** No sales are allowed within public park facilities while park concession units are operating.
- (6)** A "No Smoking" sign must be posted next to the order window or area.
- (7)** A tagged fire extinguisher shall be kept accessible as directed by the City of College Station Fire Marshal or designee.

- (8) An extinguishing vent hood, Type 1 or other if approved by the City of College Station Fire Marshal, shall be required when the cooking process produces grease laden particles within the Mobile unit.

**E. OFFENSES AND REGULATIONS**

- (1) It shall be unlawful for any individual as the agent or employee of another regulated under this Section to Sell Edible Goods in the City unless its principal or employer has received a permit under this Section.
- (2) A permit issued under this Section is not transferable.
- (3) It shall be unlawful for an individual to Sell Edible Goods while displaying a valid permit issued by the City of College Station in the name of another individual, organization, or entity.
- (4) It shall be unlawful for any individual directly or through an agent or employee to Sell goods within the corporate limits of the City after the expiration of the permit issued by the City of College Station under this Section.
- (5) It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this Section.
- (6) It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the City of College Station constitutes the City's endorsement or approval of the product for sale.
- (7) It shall be unlawful to operate a Mobile Food Vendor operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.
- (8) A Mobile Food Vendor permit may only be granted to a business that lawfully Sells a like product within a permanent building located in the City of College Station.
- (9) A violation of this Section is a Class C misdemeanor and shall be punished by a fine pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances.

**F. EXEMPTIONS**

Individuals Selling only Non-Refrigerated farm products in an unrefined state shall not be required to pay an application fee or provide a bond.

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

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS" SECTION 10 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS," TO THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, 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 4, "BUSINESS REGULATIONS" SECTION 10 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS", of the Code of Ordinances of the City of College Station, Texas be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED:

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

## **EXHIBIT "A"**

That **CHAPTER 4, "BUSINESS REGULATIONS" SECTION 10 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS"**, of the Code of Ordinances of the City of College Station, Texas be amended to read as follows:

### **CHAPTER 4 BUSINESS REGULATIONS**

#### **SECTION 1: SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDORS, HANDBILL DISTRIBUTORS**

##### **A. DEFINITIONS**

1. "Auctions" shall mean all sales made by bids received through an auctioneer. Exempt are estate sales conducted by a Court-appointed administrator or independent executor, personally or through a licensed auctioneer
2. "Charitable contribution" shall mean the donation of any money, property, or anything of value, or the pledge of a future donation of money, property or anything of value; or the sale or offer for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures upon the presentation, expressed or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of "charitable funds" is membership in any organization. Charitable contribution shall include anything received as a result of a request for donations by a charitable organization, said funds used for the purpose of either sustaining the charitable organization or benefiting others.
3. "Charitable organizations" shall mean any organization holding a certificate of exemption from Federal Income Tax or State Sales or Franchise Taxes.
4. "Charitable purpose" shall mean philanthropic, religious or other non-profit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any religious or church society, sect group or order; the benefit of a patriotic or veterans association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. The term "charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation. Nor shall the term "charitable purpose" be construed to include the benefit of any political group or political organization which is subject to financial disclosure under Federal or State law.
5. "Charitable sales" shall mean the sale by a charitable organization to the ultimate consumer or user of goods or services whereby the proceeds are intended to be applied to the charitable organization either for the purpose of maintaining the organization or benefiting others.

6. "Christmas tree sales" shall mean sales made by a charitable organization of Christmas trees during the Christmas holiday season, November and December.
7. "Commercial handbills" shall mean any printed or written matter in the form of a circular, leaflet, pamphlet, paper, or any other printed or otherwise reproduced original or copies of any matter or literature which tends primarily to accomplish the following:
  - (a) Advertises for sale of any merchandise, product, commodity, or thing; or
  - (b) Directs attention to any business or mercantile or commercial establishment, for the purpose of either directly or indirectly promoting the interest of the sales; or
  - (c) Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.
  - (d) While containing reading matter other than advertising matter, it is predominantly and essentially an advertisement and is distributed or circulated for advertisement purposes.
8. "Handbill distributor" shall mean any person(s) or business entity distributing handbills within the City of College Station. For the purposes of this Section a valid home occupation under the Zoning Ordinance shall be considered a business hereunder. This term shall include all distributions that are made door to door, on or in a motor vehicle and in the roadway or right-of-way.
9. "Interstate commerce" shall mean the sale of goods that are brought directly from another state to be delivered to the ultimate consumer. Goods that are warehoused or otherwise stored within this state are not considered to be within interstate commerce.
10. "Itinerant Vendors" shall mean any person(s) or business entity establishing a place of business in the City of College Station on a temporary basis. The term shall include without limitation:
  - (b) outdoor sales booths,
  - (c) set ups,
  - (d) tailgate sales,
  - (e) truckload sales,
  - (f) tent sales,
  - (g) sales from "moving vehicles" operating for twenty-one days or less
  - (i) auctions, either private or public, and
  - (j) all indoor sales of a temporary nature not conducted in a retail establishment
  - (k) temporary parking space rentals
  - (l) solicitation of payment or donations for work already complete
  - (m) solicitation for charitable purposes.

11. "Moving vehicle" sales shall mean any sales made from a vehicle that stops as it moves down a road.
12. "Parking lot" shall mean any area covered by asphalt, cement or other material designed and suitable for the purpose of parking vehicles and actually used for same or approved by the Project Review Committee or Planning and Zoning Commission, or their successors in function, as a parking lot.
13. "Retail sales" shall mean a sale to the ultimate consumer or user of any goods or services intended or sold for personal, family or household use, as distinguished from commercial or business use.
14. "Sell" shall refer to the act of exchanging a good for a profit or for a charitable donation.
15. "Solicit charitable contributions" shall mean a request for any charitable funds. A solicitation of charitable funds is complete when the solicitation is communicated to any individual located within the corporate limits of the City.
16. "Solicitors" shall mean any person(s) or business entity conducting a business within the City of College Station without a fixed location or place of business. For the purposes of this Section, a valid home occupation under the Unified Development Ordinance shall be considered a business hereunder. The term shall include all door-to-door sales persons and any agent or representative doing business by calling in person upon potential customers without appointment, for retail sales.
17. "Temporary" shall mean any business transaction in the City of College Station for which definite arrangements have not been made for hire, rental or lease of a structure conforming to the codes and ordinances of the City of College Station for at least one month.
18. "Temporary parking space rental" shall mean the rental of a parking space(s) as a temporary activity for a special event not associated with the permanent use of the premises.

**B. PERMIT AND APPLICATION**

- (1) Every solicitor or handbill distributor shall have a permit. Permits shall be issued by the City of College Station Accounting Division of the Finance Department.
- (2) Every itinerant vendor shall have a permit issued by the City of College Station Planning and Development Services.
- (3) An applicant shall apply for a permit on a form promulgated by the City of College Station that shall be submitted with the following information, as applicable:
  - (a) Name of the applicant

- (b)** Legal name of the business entity, if any, state of incorporation or filing of a partnership or articles of association
- (c)** Sales tax number with a copy of sales tax permit or 501c3 documentation
- (d)** Local phone number
- (e)** Permanent location, address and phone number
- (f)** Signed permission from the private property owner or representative to utilize the property as a temporary location
- (g)** Graphic showing the location of activity on the proposed property with information as requested on the applicable application
- (g)** Names of employees
- (i)** Permanent addresses of employees
- (j)** Date of birth
- (k)** Driver's license number
- (l)** Copy of Charter or Articles of Incorporation and current listing of directors, partners or principles (any company listed on the American or New York Stock Exchange is exempt from this requirement)
- (m)** Copy of permits to do business in Texas for foreign corporations
- (n)** If the contact is to be a charitable solicitation, then a statement as to the intended use of the funds collected shall be reported prior to contact with the public; and after the contact with the public has been completed or the permit expires, whichever event occurs first, then a statement as to the actual use of the funds shall be reported.
- (o)** If the action is to be a solicitation of funds, then a description of that purpose will be set out in the application.
- (p)** If applicable, a statement that the goods are in interstate commerce and a statement as to the location of the goods at this time and the last location of the goods.
- (q)** A statement under oath (acceptable photo identification required) that each individual applicant:

- (i) Has no unpaid civil judgments against him or her in any State or U.S. possession which arise from a business activity which would have been covered by this Section if in effect at the time in the jurisdiction where such judgments are of record.
  - (ii) A statement of all convictions in any state, the United States or U.S. possession within the last ten (10) years.
  - (iii) The individual has read and is familiar with Article 5069-13, The Texas Home Solicitation Act.
  - (r) For food sales, prior written approval of the Brazos County Health Department shall be provided.
  - (s) A list of the kind, amount, and character of goods or services to be sold or distributed.
  - (t) A bond in the sum of not less than One Thousand and No/100 (\$1,000.00) Dollars, executed by the itinerant vendor, solicitor, or handbill distributor with two or more good and sufficient sureties satisfactory to Finance Director, which bond shall be payable to the Mayor of the City of College Station, and his successors in office, for the use and benefit of any person or persons entitled thereto, and conditioned that the principal and sureties will pay all damages to persons caused by or arising from or growing out of any action of the itinerant vendor, solicitor or handbill distributor while conducting business in the City of College Station, Texas. The bond shall remain in full force and effect for the entire duration of the permit provided herein and for two full years after such permit expires. The bond shall not be required for the sale of goods in interstate commerce.
- (4) An employer may seek a permit for itself covering all of its employees, but shall, at least two (2) working days prior to sales activities by any individual, supply the following:
- (a) Each employer shall sign a statement on the application that it recognizes the individual permitted under its permit as an employee and not as independent an contractor and accepts the responsibilities imposed by State Law for the acts of its employees.
    - (i) Employee's name
    - (ii) Residence address of employee
    - (iii) Date of birth of employee

- (iv) Driver's License number of employee
      - (v) Location of birth of employee
    - (b) Every person who is an independent contractor shall be separately permitted and shall meet the requirements of paragraph number 2 above.
  - (5) An application for permit as an itinerant vendor, solicitor, or handbill distributor shall be accompanied by a fee of Twenty-five Dollars (\$25.00) for a sole proprietor or business entity plus Three Dollars (\$3.00) for each individual engaged in sales activities who will have any contact with the public.
    - (a) A permit may be denied when the required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business under the aegis proposed.
    - (b) A permit may be denied if a location plan or diagram does not meet the following requirements:
      - (i) The itinerant vendor, or solicitor must locate the activity in an existing parking lot.
      - (ii) If there is an open and operating business(es) at the location during the time of co-utilization, then the itinerant vendor, or solicitor's activity cannot utilize more than five percent (5%) of the available parking space, or sixteen spaces, whichever is smaller.
      - (iii) The location of the activity in the parking lot shall not cause a traffic hazard.
    - (c) A permit may additionally be denied where:
      - (i) an applicant is found to have unpaid civil judgments against him which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments, or
      - (ii) an applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent

that the permit would allow someone to engage in further criminal activity.

- (6) An itinerant vendor or solicitor must comply with the City sign ordinance.
- (7) Every permit shall be displayed where it can be read by the general public either at the place of the business subject to the provisions of this Section or visibly shown by the person making door-to-door sales or distributing handbills.
- (8) A permit may be revoked upon conviction of any offense committed in the City of College Station while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
- (9) A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram.
- (10) Any employee working for an applicant permitted as an employer under Section B.3 above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- (11) It shall be the duty of all peace officers to examine all places of business and persons, subject to the provisions of this Section herein, to determine if this Section has been complied with and to enforce the provisions of this Section against any person found to be in violation of the same.
- (12) The Accounting Division or Planning and Development Services shall notify a permittee (or an employee whose rights there under are involved) of the possible suspension or termination of a permit by regular mail, addressed to the most recent address in the City's permit file for the permittee, allowing three (3) days for delivery and setting a hearing on such termination or suspension, not sooner than five (5) days, or later than eight (8) days from the mailing of the notice. Should the reason for suspension or termination consist of a conviction for a crime or upon a determination of probable cause pursuant to subsection (f) as described herein, the permit shall be suspended immediately, pending restoration after the hearing, and the notice shall so state. A permittee (or employee) may appeal the suspension, termination, or denial of a permit by to the Director of the issuing department. Notice of appeal must be given within ten (10) days of the ruling. If the appeal is from the immediate suspension or termination by virtue of criminal charges or conviction, the permit shall continue suspended until res-

olution by the Director of the permit issuing department; in all other cases, the suspension or termination shall not be effective until such final resolution.

**C. DURATION**

- (1) Itinerant vendors' permits shall be valid for one (1) year, provided that sales may not be conducted for longer than three (3) consecutive days or twenty-one (21) cumulative days. No use may be continued beyond the period of the permit absent compliance with all provisions of the Unified Development Ordinance. If sales are conducted out of a tent, the tent may only be set up two days prior to any sales period and it must be taken down two days after any sales period. One day is defined as 24 hours.
- (2) Solicitors' and handbill distributors' permits shall be valid for thirty (30) days but may be renewed upon payment of a Ten Dollar (\$10.00) renewal fee. Individual employees' permits may be renewed upon payment of a One Dollar (\$1.00) renewal fee. Each applicant for renewal must verify permit information as correct and file copies of sales tax returns for the prior permit period.

**D. ZONING AND LOCATION RESTRICTIONS**

- (1) No itinerant vendor may locate in an area unless the zoning classification of the area permits the type of business or service to be performed or provided.
- (2) No itinerant vendor may locate in the street right-of-way or highway department right-of-way without permission of the State Highway District Engineer or the City Engineer having control over such property, where such authority exists.
- (3) No itinerant vendor, solicitor or handbill distributor may locate on any private property without written permission to do so.
- (4) Itinerant vendors and solicitors doing business from a moving vehicle shall not stop:
  - (a) at an unpermitted stationary location nor is permitted to operate in any congested area where his operation impedes traffic.
  - (b) to do business on the following streets:
    - (i) Texas Avenue
    - (ii) Southwest Parkway
    - (iii) F.M. 2818
    - (iv) Wellborn Road
    - (v) Jersey Street/George Bush Blvd.
    - (vi) State Highway 30/Harvey Road
    - (vii) University Drive

- (c) for a period of time longer than ten (10) minutes at any location.
- (5) No solicitor or handbill distributor may remain on private property without the permission of the owner or if asked to leave.
- (6) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any motor vehicle without permission of the owner.
- (7) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by anyone not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".
- (8) No person shall sell or offer for sale any item upon any premises if requested by anyone not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors" or "no trespassing", or "no solicitors."
- (9) Temporary parking space rentals shall not exceed three (3) consecutive days or twenty-one (21) cumulative days per year unless compliance with all provisions of the City Zoning Ordinance. For the use of premises for temporary parking space rentals pursuant to the permit, the permanent business shall be closed or have excess parking under the City of College Station Zoning Ordinance.

**E. MISCELLANEOUS REGULATIONS**

- (1) A permit issued under this Section is not transferable.
- (3) It shall be unlawful for any individual as the agent or employee of another regulated under this Section to sell goods, solicit funds or distribute handbills in the City unless its principal or employer has received a permit under this Section.
- (4) It shall be unlawful for an individual to solicit funds or distribute handbills without visibly displaying a valid permit issued to that individual by the City of College Station under this Section.
- (5) No person shall solicit funds for a charitable purpose other than that which is set out in the statement upon which the permit was issued.
- (6) It shall be unlawful for an individual to sell goods, solicit funds or distribute handbills while displaying a valid permit issued by the City of College Station in the name of another individual, organization, or entity.
- (7) It shall be unlawful for any individual directly or through an agent or employee to sell goods, solicit funds or distribute handbills within the corporate limits of the City after the expiration of the permit issued by the City of College Station under this Section.

- (8) It shall be unlawful for any person directly or through an agent or employee to sell goods, solicit funds or distribute handbills within the corporate limits of the City of College Station without a permit issued by the City of College Station under this Section.
- (9) It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this Section.
- (10) It shall be unlawful for any individual directly or through an agent or employee to solicit funds for a purpose other than that set out in the permit application upon which the permit was issued.
- (11) It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the City of College Station constitutes an endorsement or approval of the purposes of a solicitation or product for sale by the City.
- (12) A violation of this Section is a Class C misdemeanor and shall be punished by a fine pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances."

**F. EXEMPTIONS**

- (1) Any organization, group or individual making a distribution of a non-commercial handbill shall not be required to pay an application fee or obtain a permit.
- (2) No organization or group shall be exempt from the provisions of this Section as to itinerant vendors, solicitors and handbill distributors, except that charitable organizations making charitable sales or soliciting charitable contributions for a charitable purpose shall not be required to pay an application fee for any permit or provide a bond.
- (3) Christmas tree sales as defined herein are exempted from the location requirement of five percent (5%) or sixteen (16) spaces and are exempted from the time requirement of three (3) consecutive days or twenty-one (21) cumulative days. Christmas tree sales may be made during the Christmas holiday season, November 15 through December 24.
- (4) No person or other business entity doing business in interstate commerce shall be required to pay an application fee to obtain a permit or provide a bond.
- (5) Salesmen representing a commercial or industrial business or enterprise where the contacts are made for the solicitation of bulk orders, wholesale orders, special equipment sales, special instrument sales, the sale of special manufactured goods or pharmaceuticals are exempt from this ordinance.

- (6) A charitable organization holding a bazaar, fete, rummage sale or other special event for the purpose of raising funds no more than two (2) times per year are exempt from this ordinance.
- (7) Individuals selling farm products in an unrefined state shall be required to pay an application fee but shall not be required to provide a bond.
- (8) Individuals or corporations having a regular place of business or approved home occupation with a permanent fixed address in either College Station or Bryan, Texas are exempt from the permit fee and bond requirements.

**February 24, 2011**  
**Regular Agenda Item No. 5**  
**Arts Council Building Purchase and Use Agreements**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion on a purchase agreement and use agreement between the City of College Station and the Arts Council of Brazos Valley for the Arts Council Building located at 2275 Dartmouth Drive.

**Recommendation(s):** Staff recommends approval of the purchase and use agreements.

**Summary:** For the past 2 years the City has been working on the purchase of the Arts Council of Brazos Valley located on Dartmouth Drive. This is a building that is owned by the Arts Council of Brazos Valley on land owned by the City of College Station.

The City of College Station will be purchasing this building from the Arts Council of Brazos Valley for the payoff amount of the mortgage that the Arts Council has on the building. The pay off on the mortgage as of March 1, 2011 is \$508,495.26. The City and the Arts Council of Brazos Valley will also enter into a Use Agreement for the use of the building. The use agreement has a 3 year term with a 2 year renewal option that the City may exercise.

This agreement has several advantages for the City of College Station including the City will own the building on the property owned by the City. The City will also be able to better integrate the property into the Wolf Pen District where the City already has significant assets and resources.

Advantages for the Arts Council include having the mortgage for the building paid off, and having a place to conduct programming and administrative functions, while it works on long term plans.

**Budget & Financial Summary:** The funds for this purchase were included in the 2010 debt issue, and are available for this purchase.

**Attachments:**

1. Building Purchase Agreement (available in City Secretary's Office prior to City Council Meeting)
2. Use Agreement (available in City Secretary's Office prior to City Council Meeting)

**February 24, 2011**  
**Regular Agenda Item No. 6**  
**8 Months Arts Council of Brazos Valley Operations & Maintenance Funding**  
**Agreements**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion on two (2) operations and maintenance funding agreements between the City of College Station and the Arts Council of Brazos Valley for the last 8 months of FY11 (February 1, 2011 – September 30, 2011) totaling \$78,058.34.

**Recommendation(s):** Staff recommends approval of the funding agreements to provide funding for the remainder of the fiscal year (February 1, 2011 – September 30, 2011).

**Summary:** As part of the 2010-2011 budget process the City Council approved operations and maintenance funding for the Arts Council of Brazos Valley in the amount of \$164,000.

On November 22, 2010, Council approved 2 agreements for operations and maintenance funding of \$41,000 for the 1<sup>st</sup> Quarter of FY11, from October 1, 2010 through December 31, 2010. On January 27, 2011 the City Council approved 2 agreements for operations and maintenance funding of \$13,666.66.

The two funding agreements being considered will provide funding in the amount of \$78,058.34 for the remainder of FY11, from February 1, 2011 through September 30, 2011. Of this amount, \$50,000 is from the General Fund for operations and maintenance of the Arts Council. \$28,058.34 is from the Hotel Tax fund for operations and maintenance associated with the administration of Hotel Tax funds.

The City has also been negotiating the purchase of the Arts Council Building. That purchase and use agreements are now ready for City Council consideration.

This item is for the consideration of the two funding agreements.

The total funding to the Arts Council is being reduced this fiscal year by \$31,275. This is ½ year of funding related building expenses that the Arts Council will not incur with the City's purchase of the Arts Council building.

**Budget & Financial Summary:** The funds for these agreements are budgeted and available in the 2010-2011 General Fund budget in the amount of \$75,000 and the Hotel Tax Fund budget in the amount of \$89,000, for a total of \$164,000.

These 2 agreements along with the other agreements approved for the first 4 months of the year will provide total funding to the Arts Council of \$132,275. This is \$31,275 less than the budgeted amount due to the reduction in funding as a result of the City purchasing the Arts Council Building.

**Attachments:**

1. Arts Council of Brazos Valley 8 Month General Fund O&M Funding Agreement (available in City Secretary's Office)
2. Arts Council of Brazos Valley 8 Month Hotel Tax Fund O&M Funding Agreement (available in City Secretary's Office)

February 24, 2011  
Regular Agenda Item No. 7  
Committee & Board Appointments

**To:** David Neeley, City Manager

**From:** Sherry Mashburn, City Secretary

**Agenda Caption:** Presentation, possible action, and discussion on appointments to fill vacancies on the following committees and boards:

BVSWMA Policy Advisory Board  
Library Board

**Summary:** The following individuals are appointed by the City Council to represent the City of College Station on joint boards and committees with other governmental agencies and community groups.

**BVSWMA Policy Advisory Board**

Ben White  
John Crompton  
Nancy Berry

**Library Board**

Larry Ringer, Pres. (CS)  
Mary Fran Troy (CS)  
Charles Smith (CS)  
Sonia Gangotena (B)  
Dorothy Hagen (B)  
Carroll Johnson (B)  
Helen Kunz (B)  
Vacancy

**Attachments:** None