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Mayor

Nancy Berry

Mayor Pro Tem

Dave Ruesink

City Manager

David Neeley

Council members

Blanche Brick

Jess Fields

Karl Mooney

Katy-Marie Lyles

Julie M. Schultz

Agenda
College Station City Council
Regular Meeting
Thursday, May 26, 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 May 12, 2011 Workshop and Regular Council Meeting, and May 19, 2011 Special Meeting.

b. Presentation, possible action, and discussion regarding the approval of a change order to the construction contract (11-013) with Brazos Paving in the amount of \$25,539.25 for the Barron Road Widening Phase 2 Project.

c. Presentation, possible action, and discussion regarding the approval of a construction contract (11-216) with Marek Brothers Construction, Inc. in the amount of \$96,121.60 for the Electrical Substation Driveway

Project, and approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

d. Presentation, possible action, and discussion regarding the ratification of the release of a paving assessment lien against a portion of the property with frontage along Holleman Drive South in the amount of \$55,790.46.

e. Presentation, possible action, and discussion on obtaining approval for the medical, dental and prescription drug plan Administrative Services Agreement contract renewal with Blue Cross and Blue Shield of Texas for claims administration for calendar year 2011, in the amount of \$434,189.

f. Presentation, possible action and discussion on the first reading of a non-exclusive franchise agreement with Stericylce, Inc. for the purpose of collecting and disposing treated and untreated medical waste from various health care related facilities.

g. Presentation, possible action, and discussion to approve a City Portal Use Agreement with Texas Municipal Retirement System (TMRS).

h. Presentation, possible action and discussion on the first reading of a non-exclusive franchise agreement with CCA, LLC d/b/a BCS Stop 'N Go Potties for the purpose of collecting demolition and construction debris from residential sites.

i. Presentation, possible action, and discussion regarding a resolution awarding the bid and approval of a construction contract (Contract # 11-199) with Follis-Cole Construction, LLC in the amount of \$57,132.50 for new sidewalks, drinking fountain, pea gravel for playground, earthwork, sodding, and resurfacing of existing basketball court at Woodcreek Park.

j. Presentation, possible action, and discussion regarding amending Chapter 4, section F (1), "Business Regulations", of the code of ordinances of the City of College Station, which would exempt the City of College Station for the purpose of distributing public safety handbills.

Regular Agenda

Individuals who wish to address the City Council **on a regular agenda item not posted as a public hearing** shall register with the City Secretary prior to the Mayor's reading of the agenda item. The Mayor will recognize you to come forward to speak for or against the item. The speaker will state their name and address for the record and allowed three minutes. A timer will sound at 2 1/2 minutes to signal thirty seconds remaining for remarks.

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

If an individual does not wish to address the City Council, but still wishes to be recorded in the official minutes as being in support or opposition to an agenda item, the individual may complete the registration form provided

in the lobby by providing the name, address, and comments about a city related subject. These comments will be referred to the City Council and City Manager.

1. Public Hearing, presentation, possible action, and discussion regarding an amendment to Chapter 12, "Unified Development Ordinance", Section 4.2, "Official Zoning Map" of the Code of Ordinances of the City of College Station, Texas by rezoning 1.3 acres located at 1301 University Drive East from A-P Administrative Professional and OV Overlay District to C-1 General Commercial, A-O Agricultural-Open, and OV Overlay District.
2. Public Hearing, presentation, possible action, and discussion on an ordinance amendment to Chapter 12 "Unified Development Ordinance," Section 7.4 "Signs" and Section 11.2 "Defined Terms" specifically related to sign requirements.
3. Adjourn.

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

APPROVED:

City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the Thursday, May 26, 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 20th day of May, 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 . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on May 20, 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: _____

City Council Regular Meeting

Thursday, May 26, 2011

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

May 26, 2011
City Council Consent Agenda Item No. 2a
City Council Minutes

To: David Neeley, City Manager

From: Sherry Mashburn, City Secretary

Agenda Caption: Presentation, possible action, and discussion of minutes for May 12, 2011 Workshop and Regular Council Meeting, and May 19, 2011 Special Meeting.

Attachments:

- May 12, 2011 Workshop Minutes
- May 12, 2011 Regular Minutes
- May 19, 2011 Special Minutes

MINUTES OF THE CITY COUNCIL WORKSHOP
CITY OF COLLEGE STATION
MAY 12, 2011

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry, Mayor

Council:

John Crompton
Jess Fields
Dennis Maloney
Katy-Marie Lyles
Jana McMillan
Dave Ruesink, arrived after roll call

City Staff:

David Neeley, City Manager
Kathy Merrill, Assistant City Manager
Carla Robinson, City Attorney
Sherry Mashburn, City Secretary
Tanya McNutt, Deputy City Secretary
Shelley Major, Records Management Coordinator

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 3:10 p.m. on Thursday, May 12, 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.

2i: David Coleman, Director of Water Services, explained the TCEQ has been thinking of more restrictive regulations that will need to be implemented in eight - ten years. Staff thinks it is better to not design the complete Headworks, but rather design a temporary fix to get us through the next eight – ten years to see what the real requirements will be from TCEQ.

2j: This item was pulled, but not discussed.

2. Presentation, possible action, and discussion regarding the UP-BEAT Youth Health Leadership program community assessment.

Derrick Elder, Rachel Lamb, Benjamin Lamb, and Shlock Mohanty, representing the UP-BEAT team, came before Council to discuss their study and findings. UP-BEAT is an organization that empowers youth to be more active in the community. Training topics included public speaking, mapping, technology, and government-community. They conducted community interviews and conducted environmental assessments in the community. Walkability was defined as how people use the land in their community. They were trained to observe and assess items such as land use, street characteristics, walking and bike conditions, and perceptions. They found there are no available bike racks and little or no shade. Empty park space was being used for construction staging, and there is outdated playground equipment. They found few streets or park lights, fast traffic, incomplete or no sidewalks, and incomplete walking/biking paths. Short term solutions, which are less expensive and easier to do, include a games court, a community clean up day, bike racks, traffic calming devices, cross walks, and to plant shade trees. Long term solutions, which are more expensive and may take longer to complete, include sidewalks, neighborhood walking trails, street lights, bike lanes, and playground equipment. Specific projects they are requesting support for include: 1) complete the sidewalks on Wellborn between the gas station and the baseball complex; and 2) a pedestrian bridge over the ditch between the basketball court and subsidized housing.

3. Presentation, possible action, and discussion regarding the Gulf Coast Strategic Highway Feasibility Study.

Gary Bushell, who represents the Gulf Coast Strategic Highway Coalition, provided the City Council with an update on the Gulf Coast Strategic Highway concept and its current status. Wilbur Smith Associates, working with TXDOT, conducted public meetings in eight cities along the route from El Paso to the Texas-Louisiana border. This route is approximately 900 miles in length and crosses twenty-five counties. The I-14 Phase 1, connecting Fort Hood, I-35, I-45 and I-69, will be environmentally beneficial by circumventing certain air sheds. The coalition also wants to provide interstate access to the Texas A&M system campuses. I-14 would eventually cross five states.

4. Presentation, possible action, and discussion relating to receiving the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2010.

Jeff Kersten, Chief Financial Officer, presented the annual audit report and CAFR. Net assets totaled \$402,731,641 for an increase of \$15 million. Unrestricted net assets were \$76 million, and restricted net assets were \$11 million. Most net assets are capital assets and amount to \$314,762,842.

Jimmy Ingram, with Ingram, Wallis & Company reported on the 2009-2010 Audit. The audit was completed successfully, and they issued an unqualified opinion which is the highest rating. He commended staff for their assistance, and reported that the CAFR has been presented to GFOA. There were three major programs in 2010, and all three had unqualified opinions.

MOTION: Upon a motion made by Councilmember Lyles and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to approve the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2010. The motion carried unanimously.

5. Presentation, possible action, and discussion of the draft Parks and Recreation Master Plan.

David Schmitz, Parks and Recreation Director, and Bob Cowell, Planning and Development Director, presented a high level overview of the Parks and Recreation Master Plan. The plan's purpose is to implement the City's vision and goals for parks and recreation, align with the Council's strategic priorities, and implement the City's comprehensive plan. Parks, open space, and recreation matter because they contribute to the neighborhood and to community character. Parks and open space enhance property value and tax revenues. The proximity increases values/revenues and can also increase marketability. Parks and open space also contribute to the health and wellness of the community. Studies show 40% of College Station residents visit a park once a week or more, and 34% of College Station residents use a walking or biking trail once a week or more. Current conditions/trends show an increase of 9,000 visits to swimming pools since 2003 and an increase of 136,000 visits to the Wolf Pen Creek Amphitheater since 2003. College Station has 7.5 acres of parkland per 1,000 residents, and there are cities in Texas with much higher ratios of parkland to residents. A 150-acre deficiency is projected by 2020.

Goals for the plan include: resource conservation and City character; health and wellness; economic sustainability; connectivity and mobility; parkland and neighborhood character; diversity in recreation and cultural programs; and responsible governance. Staff will look at a physical framework, fiscal framework, recreation and programming framework, and administration and operations framework.

6. Presentation, possible action, and discussion regarding the assessment of deer population for the Foxfire Subdivision.

Scott McCollum, Field Operations Bureau Chief, reported that the subdivision consists of 150 one-acre plus lots on a total of 236 acres. The subdivision and surrounding area has a quality habitat for white-tailed deer, and the subdivision is adjacent to a large unimproved woodland area. Concerns pertaining to increased deer populations include deer/vehicle collisions, landscape/garden damage, habitat degradation, declining deer herd health, public safety, and Lyme disease. Obstacles to effective control include deer adaptability, aesthetics, safety and liability, conflicting social attitudes and perceptions, hunting/firearm restrictions, and public relations concerns. 172 residents were solicited with a response from 123 households. 50% felt the number of deer were just right; 50% felt there were too many deer. Twenty-five respondents advised they fed deer. The recommended deer population is one deer per fifteen acres. Foxfire is 236 acres, and at one deer per fifteen acres the population is approximately 16 deer. Today's conservative estimate based on the study's projection and homeowner observations has an approximate total of thirty-five deer. Based on the recommendations, these are too many deer. Timothy Siegmund, State Wildlife Biologist, recommends we identify where deer are coming from; the HOA can pass deed restrictions prohibiting the feeding of deer; or the City can pass an

ordinance prohibiting the feeding of deer. Deer management options include hunting on adjacent properties; employing sharpshooters; trap/transport/release; trap/transport/process; and prohibit feeding. There is no simple solution, and it is likely that a combination of techniques will be necessary to achieve desired results. It will require significant stakeholder input and cooperation, with long term planning and commitment. It can be expensive, and we will have to weigh the overall benefits against the costs. This is specific situation is more of a nuisance than a public safety issue at this time. The College Station Police Department Animal Control Unit is not currently staffed, nor equipped to conduct large scale efforts such as a deer management study or to manage such a program. Staff requested direction from Council as to what degree do we as a City wish to become involved in a large scale neighborhood animal control effort?

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted seven (7) for and none (0) opposed, to authorize the Police Department to collaborate with the homeowners and wildlife management on the options available. The motion carried unanimously.

Staff will report back to the Council in six months.

7. Council Calendar

- **May 16 IGC Meeting at Brazos County Expo Center, 5827 Leonard Road, 12:00 p.m.**
- **May 19 Planning & Zoning Commission Meeting in Council Chambers, 6:00 p.m.**
- **May 26 City Council Workshop/Regular Meeting at 3:00 p.m. & 7:00 p.m.**
- **May 30 City Offices Closed - HOLIDAY**

Mayor Berry noted that the City Council will canvass the votes at 4:00 p.m. on Thursday, May 19.

8. 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 Crompton requested a report regarding restitution from David Romei to the Arts Council.

Councilmember Maloney requested the status of the census and asked why our City signs do not reflect the correct population.

Councilmember Lyles asked for an update on the Wellborn annexation.

9. Discussion, review and possible action regarding the following meetings: Animal Shelter Board, 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, BVSWMMA,

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 that the Audit Committee met last week. The Council of Governments also met and is looking at state budget cuts.

Councilmember Ruesink reported that nine visitors from our Sister City, Salamanca, will be arriving May 21, leaving the following Friday.

10. Executive Session

In accordance with the Texas Government Code §551.071-Consultation with Attorney, the College Station City Council convened into Executive Session at 5:27 p.m. on Thursday, May 12, 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
- Clancey v. College Station, Glenn Brown, and Kathy Merrill
- Rachel Rahn v. Alma Martinez, The Arkitek Studio, Inc. et al, cause No. 09-000656-CV361
- Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White
- Chavers et al v. Tyrone Morrow, Michael Ikner, City of Bryan, City of College Station, et al
- Water CCN / 2002 Annexation / Wellborn Water Supply Corporation

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

- Legal issues regarding possible revenue sharing and legislation in bio-corridor
- Legal Issues Related to Wellborn Annexation
- Legal issues related to a proposed methane gas to electricity contract with City of Bryan

The Executive Session adjourned at 6:55 p.m. on Thursday, May 12, 2011.

No action was required from Executive Session.

10. Adjournment

MOTION: There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 6:55 p.m. on Thursday, May 12, 2011.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

DRAFT

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
MAY 12, 2011

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

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

City Staff:

David Neely, City Manager
Kathy Merrill, Assistant City Manager
Carla Robinson, City Attorney
Sherry Mash burn, City Secretary
Shelley Major, Records Management Clerk

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 7:05 p.m. on Thursday, May 12, 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.

Mayor Berry recognized Jennifer Nations for the Texas Section of American Water Works Association Water Conservation Award.

• **Citizen Comments**

Bobby Slovak, A&M Consolidate High School, thanked Council and staff for years of coming to the high school and speaking to the students. He also expressed his appreciation for the treatment of his students when they come to a meeting.

CONSENT AGENDA

2a. Presentation, possible action, and discussion of minutes for April 21, 2011 Joint Meeting with Planning and Zoning, and April 28, 2011 Workshop and Regular Council Meeting.

2b. Presentation, possible action, and discussion on Ordinance 2011-3342, amending Chapter 10, "Traffic Code," of the Code of Ordinances of the City of College Station, Texas, by amending Section 2 "Traffic Control Devices", subsections b, c, d, e, f, g (1), j, k, l, m, n as set out below; revising various schedules of traffic control inventory devices and incorporating those as new Traffic Schedules I through XI; providing a severability clause; declaring a penalty; and providing an effective date.

2c. Presentation, possible action, and discussion on Ordinance 2011-3343, amending Chapter 10, "Traffic Code," of the Code of Ordinances of the City of College Station, Texas, by amending subsections (e) and (f) of Section 3 "Speed Limits" and by adding a new subsection (g) of Section 3 "Speed Limits"; amending schedules XII and XIII; establishing permanent and temporary speed limits throughout the City; providing a severability clause; declaring a penalty; and providing an effective date.

2d. Presentation, possible action, and discussion on Ordinance 2011-3344, amending Chapter 10, "Traffic Code," of the Code of Ordinances of the City of College Station, Texas, by amending Section 4, "Administrative Adjudication of Parking Violations," subsection (e), paragraph (1) and subsection (g); amending and renumbering traffic control device inventory - Schedules XII and XIII as new Traffic Schedules XIV and XV, respectively; providing a severability clause; and providing an effective date.

2e. Presentation, possible action, and discussion regarding the approval of contract for professional services with McKay, in an amount not to exceed \$13,000 and authorizing a Contingency Transfer of \$13,000 and authorizing the City Manager to execute said contract.

2f. Presentation, possible action, and discussion regarding Resolution 05-12-11-2f, in support of the Gulf Coast Strategic Highway Feasibility Study.

2g. Presentation, possible action, and discussion on Resolution 05-12-11-2g, adopting procurement procedures for the City of College Station Electric Department pursuant to Local Government Code 252.022 (c).

2h. Presentation, possible action, and discussion to approve an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) to construct safety improvements at the FM 2818 and George Bush Drive (FM 2347) intersection. The estimated cost of the City's participation is not to exceed \$17,160.

2i. Presentation, possible action, and discussion on Resolution 05-12-11-2i, terminating a Professional Services Contract with Bury+Partners, Inc., (Bury) in the amount of \$339,210,

for the design, bidding, construction materials testing, and construction phase services of the Carter Creek Wastewater Treatment Plant Headworks Project.

2j. Presentation, possible action, and discussion on Resolution 05-12-11-2j, approving Professional Services Contract 11-227 with Bury+Partners, Inc., (Bury) in the amount of \$259,818. The contract and associated fee which includes design, bid preparation, construction materials testing, and construction administration of the Carter Creek Wastewater Treatment Plant Headworks Project, is based on a reduced scope of work.

Item 2f was pulled from the Consent Agenda.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda, with the changes provided by the City Attorney for item 2g, and less item 2f. The motion carried unanimously.

(2f)MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Lyles, the City Council voted six (6) for and one (1) opposed, with Councilmember Fields voting against, to adopt Resolution 05-12-11-2f, in support of the Gulf Coast Strategic Highway Feasibility Study. The motion carried.

REGULAR AGENDA

1. Public Hearing, presentation, possible action, and discussion regarding approval of an Inter Local Agreement between the Cities of College Station and Bryan for the joint development of a Research Valley BioCorridor.

At approximately 7:38 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 7:38 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, to adopt as substantially presented here, with the City Manager authorized to make any changes that are non-substantive, and contingent on the City of Bryan adopting substantially the same agreement on or before May 31, 2011. The motion carried unanimously.

2. Adjournment.

MOTION: There being no further business, the Mayor adjourned the Regular Meeting of the City Council at 7:53 p.m. on Thursday, May 12, 2011. The motion carried unanimously.

Nancy Berry, Mayor

ATTEST:

DRAFT

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
CITY OF COLLEGE STATION
MAY 19, 2011

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

John Crompton
Jess Fields
Dennis Maloney
Katy-Marie Lyles
Dave Ruesink
Blanche Brick
Karl Mooney
Julie Schultz

City Staff:

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

1. Call to Order and Announce a Quorum is Present

With a quorum present, the Special Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 4:05 p.m. on Thursday, May 19, 2011 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

2. Presentation, possible action, and discussion of Ordinance 2011-____, canvassing returns and declaring results of the General and Special Election, held on May 14, 2011, for the purpose of electing a City Council Member Place 1, a City Council Member Place 3, a City Council Member, Place 5, submitting propositions to the voters regarding the recall of Mayor Nancy Berry, City Council Member Katy-Marie Lyles, Place 4, and City Council Member Dave Ruesink, Place 6.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Fields, the City Council voted six (6) for and none (0) opposed, to adopt Ordinance 2011-____,

canvassing returns and declaring results of the General and Special Election, held on May 14, 2011, for the purpose of electing a City Council Member Place 1, a City Council Member Place 3, a City Council Member, Place 5, submitting propositions to the voters regarding the recall of Mayor Nancy Berry, City Council Member Katy-Marie Lyles, Place 4, and City Council Member Dave Ruesink, Place 6. The motion carried unanimously.

3. Issuance of Certificates of Election to elected City Council Member Place 1, City Council Member Place 3, and City Council Member Place 5; and administer Oaths of Office.

Judge Spillane administered the oath of office to Blanche Brick, newly elected Councilmember, Place 1, Karl P. Mooney, newly elected Councilmember, Place 3, and Julie Merrifield Schultz, newly elected Councilmember, Place 5.

4. Presentation, possible action, and discussion on the election of Mayor Pro Tempore.

MOTION: Upon a motion made by Councilmember Lyles and a second by Councilmember Mooney, the City Council voted six (6) for and none (0) opposed, to elect Dave Ruesink as Mayor Pro Tem. The motion carried unanimously.

5. Adjournment

MOTION: There being no further business, Mayor Berry adjourned the Special Meeting of the College Station City Council at 4:27 p.m. on Thursday, May 19, 2011. The motion carried unanimously.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

May 26, 2011
Consent Agenda Item No. 2b
Project Number ST 10-26
Barron Road Widening Phase 2

To: David Neeley, City Manager

From: Chuck Gilman, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a change order to the construction contract (11-013) with Brazos Paving in the amount of \$25,539.25 for the Barron Road Widening Phase 2 Project.

Relationship to Strategic Goals: Goal I, Financially Sustainable City Providing Response to Core Services and Infrastructure. Goal IV, Improving Multi Modal Transportation.

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

Summary: The Barron Road Widening Phase 2 construction project has been underway since December 2010 and significant progress has been made. During that time there have been conditions found in the field that were not anticipated during design.

As a part of the design of Barron Road, a soils investigation was completed to determine the properties of the soil along the right-of-way. The information gathered from this investigation is primarily used to determine the pavement thickness for the road. Soil borings were spaced 700-feet apart to get a good representation of the soil type along the entire corridor. In some areas, small scale activities such as over irrigation and sediment deposition will affect the usability of the soils for road construction. The contractor found some of these areas while excavating the bar ditches along Barron Road.

The contractor also uncovered several areas where existing utilities were not marked or located prior to construction. Some of the utilities did not have sufficient record information to be able to determine the depth of the existing line to check for conflicts. This construction change order is for the additional scope and materials required for handle the conditions encountered in the field.

This change order is also for the addition of conduit across SH 40 for communications. The additional conduit was added to satisfy the needs of Water Services and IT while taking advantage of the mobilization and presence of the contractor for Barron Road.

Budget & Financial Summary: The change order is for a total of \$25,539.25. A total of \$50,000 is budgeted for this project in the Water Capital Projects Fund. \$28,124.48 has been expended or committed to date and \$12,784 of this change order will be paid from the Water budget balance. A total of \$8,425,000 is budgeted for this project in the Streets Capital Projects Fund. \$4,091,966.21 has been expended or committed to date and \$12,755.25 of this change order will be paid from the Streets budget balance. It is anticipated that the Streets portion of the project will come in considerably under budget.

Attachments:

1. Change Order
2. Project Location Map

CHANGE ORDER NO. 1		Contract No. 11-013		DATE: 3/14/2011		
P.O.# 110155		PROJECT: Barron Road Widening Phase 2		Project No. ST-1026		
OWNER:			CONTRACTOR:			
City of College Station			Brazos Paving, Inc.			
P.O. Box 9960			PO Box 714			
College Station, Texas 77842			Bryan, Texas 77806			
			Ph: (979) 822-7605			
			Fax: (979) 823-2659			
PURPOSE OF THIS CHANGE ORDER:						
A. Add scope to avoid utility conflicts encountered in the field						
B. Revise storm sewer layout to avoid existing waterline						
C. Revise quantities to satisfy construction material specifications and field discoveries						
ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	LF	Install and Remove 18" RCP	\$16.50	0	56	\$924.00
2	LF	Conduit (PVC)(SCH 40)(4"), complete with 1" innerduct, bends, caps, fittings, and in place	\$20.70	0	520	\$10,764.00
3	LF	Install 8" Bend, Complete and in place	\$365.00	0	4	\$1,460.00
4	LF	Install 8" PVC C-900, complete and in place	\$28.00	0	20	\$560.00
5	LF	Omit 4" Conduit at Intersection of Barron Road and Victoria Ave	\$16.20	1046	956	(\$1,458.00)
6	LF	Disposal of Gas Line	\$2.50	0	1250	\$3,125.00
7	LF	Excavation and Removal of Gas line	\$5.20	0	450	\$2,340.00
8	LF	Adjust 2-2" electrical conduit on Newport Drive (labor)	\$200.00	0	3	\$600.00
9	LF	Excavate and haul off undesirable soils	\$5.85	0	556	\$3,252.60
10	LF	Embankment (Final)(Dens Cont) (TyC), complete and in place	\$4.65	4948	5670	\$3,357.30
11	LF	P&P Bond Adjustment	\$614.35	0	1	\$614.35
					TOTAL	\$25,539.25
THE NET AFFECT OF THIS CHANGE ORDER IS A 0.63% INCREASE						
ORIGINAL CONTRACT AMOUNT			\$4,025,954.11			
Change Order No. 1			\$25,539.25	0.63% CHANGE		
REVISED CONTRACT AMOUNT			\$4,051,493.36	0.63% TOTAL CHANGE		
ORIGINAL CONTRACT DESIGN TIME			450 days			
Change Order No. 1			0 days			
Revised Contract Design Time			450 Days			
ORIGINAL COMPLETION DATE			February 29, 2012			
REVISED COMPLETION DATE			February 29, 2012			

APPROVED

A/E CONTRACTOR

CONSTRUCTION CONTRACTOR

PROJECT MANAGER

CITY ENGINEER

DEPARTMENT DIRECTOR FOR CRG

CITY ATTORNEY

DIRECTOR OF FISCAL SERVICES

MAYOR

CITY SECRETARY

CITY MANAGER

[Signature] 4-4-2011

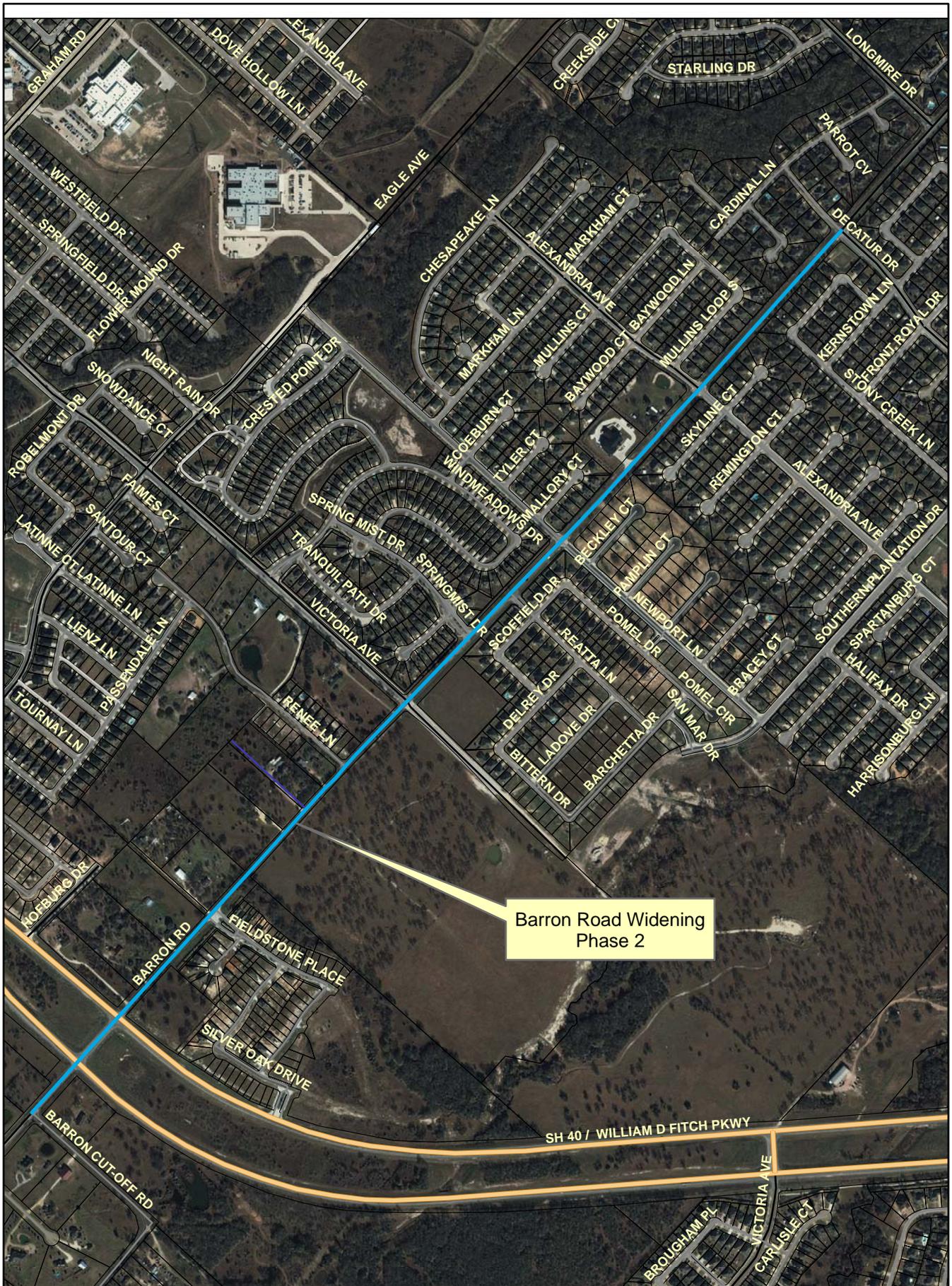
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[Signature]



May 26, 2011
Consent Agenda Item No. 2c
Work Order Number WF1348096
Electrical Substation Driveway and a
Resolution Declaring Intention to Reimburse Certain
Expenditures with Proceeds From Debt

To: David Neeley, City Manager

From: Chuck Gilman, P.E., Public Works Director

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a construction contract (11-216) with Marek Brothers Construction, Inc. in the amount of \$96,121.60 for the Electrical Substation Driveway Project, and approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt.

Relationship to Strategic Goals: Goal I, Financially Sustainable City Providing Response to Core Services and Infrastructure.

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

Summary: The Electrical Substation Driveway project includes the construction of a concrete driveway which will provide access from Holleman Drive South to the recently completed electrical substation located between Dowling Road and FM 2818. The driveway construction to the substation was scheduled to coincide with the substantial completion of Holleman Drive South.

Budget & Financial Summary: This project is budgeted in the Electric Capital Improvement Projects Fund. The "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is necessary for this item because the long term debt has not been issued for this project. This debt is scheduled to be issued later this fiscal year.

Attachments:

- 1.) Resolution
- 2.) Project Location Map
- 3.) Bid Tabulations
- 4.) Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT FOR THE ELECTRICAL SUBSTATION DRIVEWAY PROJECT AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for the construction phase of the Electrical Substation Driveway Project; and

WHEREAS, the selection of Marek Brothers Construction, Inc. is being recommended as the lowest responsible bidder for the construction services related to the Electrical Substation Driveway; now, therefore,

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

PART 1: That the City Council hereby finds that Marek Brothers Construction, Inc. is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Marek Brothers Construction, Inc. for \$96,121.60 for the labor, materials and equipment required for the improvements related the Electrical Substation Driveway Project.

PART 3: That the funding for this Contract shall be as budgeted from the Electric Capital Improvement Projects Fund, in the amount of \$ 96,121.60.

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

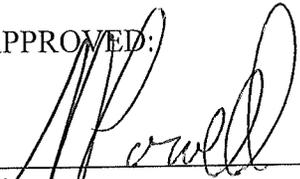
ADOPTED this _____ day of _____, A.D. 2011.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:


City Attorney



City of College Station - Purchasing Division
Bid Tabulation for #11-62
"Dowling Road Substation Driveway"
Open Date: Tuesday, April 26, 2011 @ 2:00 p.m.

ITEM	QTY	UNIT	DESCRIPTION	Marek Brothers College Station, TX		Brazos Paving Bryan, TX		Knife River Bryan, TX		Brazos Site Works Bryan, TX		Follis-Cole Franklin, TX	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
BASE BID													
1	1	LS	Mobilization	\$4,500.00	\$4,500.00	\$4,600.00	\$4,600.00	\$8,000.00	\$8,000.00		\$0.00	\$11,029.70	\$11,029.70
2	1	LS	Erosion Control	\$575.00	\$575.00	\$1,000.00	\$1,000.00	\$1,200.00	\$1,200.00		\$0.00	\$817.50	\$817.50
3	0.55	ACRE	Cleaning and Grubbing	\$1,045.45	\$575.00	\$2,000.00	\$1,100.00	\$1,800.00	\$990.00		\$0.00	\$450.00	\$247.50
4	910	SY	Cellulose Fibermulch Seeding	\$0.95	\$864.50	\$2.15	\$1,956.50	\$1.20	\$1,092.00		\$0.00	\$1.08	\$982.80
5	395	CY	Excavation	\$3.45	\$1,362.75	\$8.30	\$3,278.50	\$11.35	\$4,483.25		\$0.00	\$5.50	\$2,172.50
6	335	CY	Embankment	\$3.75	\$1,256.25	\$14.65	\$4,907.75	\$5.30	\$1,775.50		\$0.00	\$4.50	\$1,507.50
7	1,898	SY	8" Chemically Stabilized Subgrade	\$7.00	\$13,286.00	\$7.87	\$14,937.26	\$6.00	\$11,388.00		\$0.00	\$9.00	\$17,082.00
8	1,706	SY	8" Concrete Paving	\$42.85	\$73,102.10	\$36.32	\$61,961.92	\$39.30	\$67,045.80		\$0.00	\$51.32	\$87,551.92
9	1	LS	Construction Staking	\$600.00	\$600.00	\$2,700.00	\$2,700.00	\$800.00	\$800.00		\$0.00	\$250.00	\$250.00
TOTAL BASE BID (ITEMS 1-19)				\$96,121.60		\$96,441.93		\$96,774.55		\$0.00		\$121,641.42	
Certification of Bid				✓		✓		✓		✓		✓	
Acknowledged Addendums (1)				✓		✓		✓		✓		✓	
Bid Bond				✓		✓		✓		✓		✓	

NOTES:
 Brazos Site Works didn't bid a unit price for items 1-4 making it non-responsive

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 \$100,000, for the purpose of paying the aggregate costs of the Project.

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

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

PASSED AND APPROVED THIS 26th DAY OF MAY, 2011.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

(Seal)

APPROVED:



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

Exhibit "A"

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

Construction of a driveway at the Dowling Road Electrical Substation.

May 26, 2011
Consent Agenda Item No. 2d
Project Number ST 0913
Partial Release of Paving Lien Along
Holleman Drive South

To: David Neeley, City Manager

From: Chuck Gilman, P.E., Public Works Director

Agenda Caption: Presentation, possible action, and discussion regarding the ratification of the release of a paving assessment lien against a portion of the property with frontage along Holleman Drive South in the amount of \$55,790.46.

Relationship to Strategic Goals: Goal I, Financially Sustainable City Providing Response to Core Services and Infrastructure. Goal IV, Improving Multi Modal Transportation.

Recommendation(s): Staff recommends ratifying the executed release of the paving assessment lien.

Summary: In February 2010 City Council approved a paving assessment along Holleman Drive South (FM 2818 to Dowling road) to help fund the construction of the roadway extension and other associated infrastructure. Three of the tracts of land with frontage along Holleman Drive South have platted and the property owner has paid the City \$55,790.46 in accordance with the terms and conditions to release the property lien.

The City has received payment from the property owner, so the release has been executed so the development could proceed without delay and this action is for the ratification of the release of the lien.

Budget & Financial Summary: Sufficient funds for the appropriate portion of the assessed property along Holleman Drive South have been received by the city.

Attachments:

- 1.) Partial Release of Paving Lien

PARTIAL RELEASE OF PAVING LIEN

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BRAZOS §

WHEREAS, on or about January 15, 2010, the City of College Station did heretofore file a Notice of Paving Lien Assessment, recorded in Volume 9468, Page 156, of the Official Records of Brazos County, Texas, for paving and improvements to a portion of Holleman Drive Roadway, abutting the following described real property assessed according to Chapter 313 TX TRANSPORTATION CODE, said property being:

All that certain tract or parcel of land containing 120.76 acres of land, more or less, lying and being situated in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas; said tract being the remainder of a called 134.041 acre tract as described by a deed to TLS PROPERTIES LTD. recorded in Volume 3091, Page 243 of the Official Public Records of Brazos County, Texas, and all of a called 4.99 acre tract as described by a deed to TLS PROPERTIES, LTD. recorded in Volume 8735, Page 224 of the Official Public Records of Brazos County, Texas.

WHEREAS, Owner of a portion of the abutting property has paid to the City of College Station, the sum of \$55,790.46, which represents the portion of the assessment due and owing for the lineal feet of the three (3) tracts set forth below.

NOW, THEREFORE, in consideration of the payment of all sums due and owing to the City of College Station for the assessment related to the following described property, the City of College Station does hereby RELEASE ONLY the following described property from said lien:

Tract One:

All that certain tract or parcel of land containing 54.415 acres of land, more or less, lying and being situated in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas; said tract being a portion of the remainder of a called 120.76 acre tract as described by a deed to CAPSTONE-CS, LLC, recorded in Volume 8900, Page 148, of the Official Public Records of Brazos County, Texas, said 54.415 acre tract being more particularly described by metes and bounds on EXHIBIT "A" attached hereto and made a part hereof for all intents and purposes.

Tract Two:

All that certain tract or parcel of land containing 0.88 acre of land, more or less, lying and being situated in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas; said tract being a portion of the remainder of a called 120.76 acre tract as described by a deed to CAPSTONE-CS, LLC, recorded in Volume 8900, Page 148, of the Official Public Records of Brazos County, Texas, said 0.88 acre tract being more particularly described by metes and bounds on EXHIBIT "B" attached hereto and made a part hereof for all intents and purposes.

Tract Three:

All that certain tract or parcel of land containing 1.36 acres of land, more or less, lying and being situated in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas; said tract being a portion of the remainder of a called 120.76 acre tract as described by a deed to CAPSTONE-CS, LLC, recorded in Volume 8900, Page 148, of the Official Public Records of Brazos County, Texas, said 1.36 acre tract being more particularly described by metes and bounds on EXHIBIT "C" attached hereto and made a part hereof for all intents and purposes.

All properties not specifically described in Exhibits A, B, and C herein, remain subject to the Notice of Paving Lien Assessment, recorded in Volume 9468, Page 156, of the Official Records of Brazos County, Texas.

EXECUTED this 26th day of April, 2011.

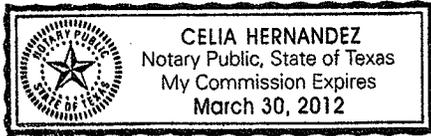
THE CITY OF COLLEGE STATION

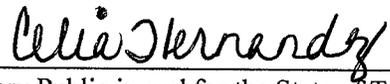
BY: 
DAVID NEELEY, City Manager

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 26th day of April, 2011, by DAVID NEELEY, as City Manager of the City of College Station, a Texas municipal corporation, on behalf of said municipality.




Notary Public in and for the State of Texas

PREPARED IN THE OFFICE OF:

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

RETURN ORIGINAL DOCUMENT TO:

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

**METES AND BOUNDS DESCRIPTION
OF A
54.415 ACRE TRACT
CRAWFORD BURNETT LEAGUE, 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 LEAGUE, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 120.76 ACRE TRACT AS DESCRIBED BY A DEED TO CAPSTONE-CS, LLC RECORDED IN VOLUME 8900, PAGE 148 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE FUTURE LOT 2, BLOCK 1, THE COTTAGES OF COLLEGE STATION SUBDIVISION, PHASE 1 (NOT YET FILED OF RECORD).

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD FOUND ON THE NORTHWESTERLY LINE OF DOWLING ROAD (VARIABLE WIDTH R.O.W.) MARKING THE SOUTH CORNER OF SAID REMAINDER OF 120.76 ACRE TRACT;

THENCE: N 48° 14' 40" W ALONG THE WESTERLY LINE OF DOWLING ROAD AND ALONG THE COMMON LINE OF SAID REMAINDER OF 120.6 ACRE TRACT AND BLOCK 3, THE WOODLANDS, ACCORDING TO THE PLAT RECORDED IN VOLUME 393, PAGE 521 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS FOR A DISTANCE OF 1243.67 FEET TO A CONCRETE MONUMENT FOUND ON THE SOUTHWEST LINE OF SAID REMAINDER OF 120.76 ACRE TRACT MARKING THE NORTH CORNER OF BLOCK 1, THE WOODLANDS, AND A NORTHEAST CORNER OF A CALLED TRACT OF LAND AS DESCRIBED BY A DEED TO THE TEXAS A&M UNIVERSITY SYSTEM;

THENCE: N 48° 24' 12" W ALONG THE COMMON LINE OF SAID REMAINDER OF 120.76 ACRE TRACT AND SAID A&M TRACT FOR A DISTANCE OF 496.23 FEET TO THE COMMON CORNER OF SAID REMAINDER OF 120.76 ACRE TRACT AND LOT 2, BLOCK 1, 2818 PLACE, ACCORDING TO THE PLAT RECORDED IN VOLUME 8721, PAGE 259 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 41° 44' 04" E ALONG THE COMMON LINE OF SAID REMAINDER OF 120.76 ACRE TRACT AND SAID 2818 PLACE FOR A DISTANCE OF 471.11 FEET;

THENCE: THROUGH SAID REMAINDER OF 120.76 ACRE TRACT AND ALONG THE WESTERLY LINES OF THE FUTURE LOT 2 FOR THE FOLLOWING CALLS:

S 48° 15' 56" E FOR A DISTANCE OF 678.19 FEET;

N 90° 00' 00" E FOR A DISTANCE OF 27.68 FEET;

N 00° 00' 00" W FOR A DISTANCE OF 132.83 FEET;

N 90° 00' 00" E FOR A DISTANCE OF 167.95 FEET;

N 00° 00' 00" W FOR A DISTANCE OF 301.98 FEET;

N 44° 44' 31" W FOR A DISTANCE OF 259.50 FEET;

EXHIBIT A

N 22° 23' 34" W FOR A DISTANCE OF 250.86 FEET;

N 41° 44' 04" E FOR A DISTANCE OF 291.35 FEET;

S 32° 00' 42" E FOR A DISTANCE OF 498.44 FEET;

N 38° 29' 57" E FOR A DISTANCE OF 586.47 FEET TO THE NORTH CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 51° 25' 46" E CONTINUING THROUGH SAID REMAINDER OF 120.76 ACRE TRACT, AT 234.77 FEET BEGIN THE FUTURE SOUTHWEST LINE OF MARKET STREET (60' R.O.W.), CONTINUE ON FOR A TOTAL DISTANCE OF 345.32 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 230.00 FEET;

THENCE: CONTINUING THROUGH SAID REMAINDER OF 120.76 ACRE TRACT AND ALONG THE FUTURE SOUTHWEST AND NORTHWEST LINES OF MARKET STREET, COTTAGE LANE (60' R.O.W.) AND BROWNSTONE DRIVE (60' R.O.W.) FOR THE FOLLOWING CALLS:

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32° 10' 29" FOR AN ARC DISTANCE OF 129.16 FEET (CHORD BEARS: S 67° 31' 00" E - 127.47 FEET) TO THE END OF SAID CURVE;

S 38° 35' 27" E FOR A DISTANCE OF 24.81 FEET;

S 03° 14' 38" W FOR A DISTANCE OF 121.34 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 192.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34° 21' 35" FOR AN ARC DISTANCE OF 115.14 FEET (CHORD BEARS: S 20° 25' 26" W - 113.42 FEET) TO THE END OF SAID CURVE;

S 51° 30' 03" E FOR A DISTANCE OF 120.16 FEET;

THENCE: CONTINUING THROUGH SAID REMAINDER OF 120.76 ACRE TRACT AND ALONG THE NORTHEAST LINES OF SAID FUTURE LOT 2 FOR THE FOLLOWING CALLS:

S 14° 59' 07" W FOR A DISTANCE OF 235.42 FEET;

S 00° 00' 00" W FOR A DISTANCE OF 1013.82 FEET TO THE NORTHWEST LINE OF DOWLING ROAD, FOR REFERENCE A ½ INCH IRON ROD FOUND MARKING AN ANGLE POINT IN SAID NORTHWEST LINE BEARS: N 62° 44' 18" E FOR A DISTANCE OF 3.98 FEET;

THENCE: S 62° 44' 18" W ALONG THE NORTHWEST LINE OF DOWLING ROAD FOR A DISTANCE OF 732.84 FEET TO THE POINT OF BEGINNING CONTAINING 54.415 ACRES OF LAND, MORE OR LESS. 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/11-169B.MAB

EXHIBIT A

**METES AND BOUNDS DESCRIPTION
OF A
0.88 ACRE TRACT
CRAWFORD BURNETT LEAGUE, 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 LEAGUE, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 120.76 ACRE TRACT AS DESCRIBED BY A DEED TO CAPSTONE-CS, LLC RECORDED IN VOLUME 8900, PAGE 148 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE FUTURE LOT 1, BLOCK 3, THE COTTAGES OF COLLEGE STATION SUBDIVISION, PHASE 1 (NOT YET FILED OF RECORD).

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 5/8 INCH IRON ROD FOUND ON THE SOUTHERLY LINE OF FM 2818 (HARVEY MITCHELL PARKWAY – VARIABLE WIDTH R.O.W.) MARKING THE NORTHWEST CORNER OF SAID REMAINDER OF 120.76 ACRE TRACT AND THE NORTHEAST CORNER OF 2818 PLACE, ACCORDING TO THE PLAT RECORDED IN VOLUME 8721, PAGE 259 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 83° 49' 00" E ALONG THE SOUTHERLY LINE OF FM 2818 FOR A DISTANCE OF 231.75 FEET TO THE WESTERLY LINE OF HOLLEMAN DRIVE (80' R.O.W.) MARKING THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 840.00 FEET;

THENCE: ALONG THE WESTERLY LINE OF HOLLEMAN DRIVE FOR THE FOLLOWING CALLS:

THENCE: N 83° 49' 00" E CONTINUING ALONG THE SOUTHERLY LINE OF FM 2818 FOR A DISTANCE OF 70.97 FEET TO A CONCRETE RIGHT-OF-WAY MARKER FOUND MARKING AN ANGLE POINT IN SAID LINE;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 36° 37' 03" FOR AN ARC DISTANCE OF 536.84 FEET (CHORD BEARS: S 24° 29' 32" E – 527.75 FEET) TO THE END OF SAID CURVE;

S 00° 51' 06" E FOR A DISTANCE OF 33.44 FEET;

S 44° 24' 59" E FOR A DISTANCE OF 60.18 FEET;

N 85° 29' 58" E FOR A DISTANCE OF 35.00 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 840.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03° 03' 30" FOR AN ARC DISTANCE OF 44.84 FEET (CHORD BEARS: S 51° 37' 46" E – 44.83 FEET) TO THE **POINT OF BEGINNING** OF THIS HEREIN DESCRIBED TRACT;

THENCE: CONTINUING ALONG THE SOUTHWESTERLY LINE OF HOLLEMAN DRIVE FOR THE FOLLOWING CALLS:

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11° 44' 10" FOR AN ARC DISTANCE OF 172.06 FEET (CHORD BEARS: S 59° 01' 36" E – 171.76 FEET) TO THE END OF SAID CURVE;

EXHIBIT B

S 29° 44' 31" E FOR A DISTANCE OF 33.72 FEET;

S 32° 52' 35" W, AT 10.31 FEET PASS A PLATTED CORNER OF HOLLEMAN DRIVE RIGHT-OF-WAY, CONTINUE ON THROUGH SAID REMAINDER OF 120.76 ACRE TRACT FOR A TOTAL DISTANCE OF 31.51 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 170.00 FEET;

THENCE: CONTINUING THROUGH SAID REMAINDER OF 120.76 ACRE TRACT AND ALONG THE FUTURE NORTHERLY LINE OF MARKET STREET (60' R.O.W.) AND THE FUTURE SOUTHEASTERLY LINE OF MANOR AVENUE (60' R.O.W.) FOR THE FOLLOWING CALLS:

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95° 41' 40" FOR AN ARC DISTANCE OF 283.93 FEET (CHORD BEARS: S 80° 43' 24" W – 252.06 FEET) TO THE END OF SAID CURVE;

N 51° 25' 46" W FOR A DISTANCE OF 21.75 FEET;

N 06° 31' 48" W FOR A DISTANCE OF 19.49 FEET;

N 38° 34' 14" E FOR A DISTANCE OF 194.22 FEET TO THE POINT OF BEGINNING CONTAINING 0.88 OF AN ACRE OF LAND, MORE OR LESS. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

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EXHIBIT B

**METES AND BOUNDS DESCRIPTION
OF A
1.36 ACRE TRACT
CRAWFORD BURNETT LEAGUE, 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 LEAGUE, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 120.76 ACRE TRACT AS DESCRIBED BY A DEED TO CAPSTONE-CS, LLC RECORDED IN VOLUME 8900, PAGE 148 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE FUTURE RIGHT-OF-WAYS OF MANOR AVENUE, MARKET STREET AND COTTAGE LANE (60' R.O.W.'s) ACCORDING TO THE COTTAGES OF COLLEGE STATION SUBDIVISION, PHASE 1 (NOT YET FILED OF RECORD).

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 5/8 INCH IRON ROD FOUND ON THE SOUTHERLY LINE OF FM 2818 (HARVEY MITCHELL PARKWAY – VARIABLE WIDTH R.O.W.) MARKING THE NORTHWEST CORNER OF SAID REMAINDER OF 120.76 ACRE TRACT AND THE NORTHEAST CORNER OF 2818 PLACE, ACCORDING TO THE PLAT RECORDED IN VOLUME 8721, PAGE 259 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 83° 49' 00" E ALONG THE SOUTHERLY LINE OF FM 2818 FOR A DISTANCE OF 231.75 FEET TO THE WESTERLY LINE OF HOLLEMAN DRIVE (80' R.O.W.) MARKING THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 840.00 FEET;

THENCE: ALONG THE WESTERLY LINE OF HOLLEMAN DRIVE FOR THE FOLLOWING CALLS:

THENCE: N 83° 49' 00" E CONTINUING ALONG THE SOUTHERLY LINE OF FM 2818 FOR A DISTANCE OF 70.97 FEET TO A CONCRETE RIGHT-OF-WAY MARKER FOUND MARKING AN ANGLE POINT IN SAID LINE;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 36° 37' 03" FOR AN ARC DISTANCE OF 536.84 FEET (CHORD BEARS: S 24° 29' 32" E – 527.75 FEET) TO THE END OF SAID CURVE;

S 00° 51' 06" E FOR A DISTANCE OF 33.44 FEET;

S 44° 24' 59" E FOR A DISTANCE OF 60.18 FEET;

N 85° 29' 58" E FOR A DISTANCE OF 14.23 FEET TO THE POINT OF BEGINNING OF THIS HEREIN DESCRIBED TRACT;

THENCE: CONTINUING ALONG THE SOUTHWESTERLY LINE OF HOLLEMAN DRIVE FOR THE FOLLOWING CALLS:

N 85° 29' 58" E FOR A DISTANCE OF 20.77 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 840.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03° 03' 30" FOR AN ARC DISTANCE OF 44.84 FEET (CHORD BEARS: S 51° 37' 46" E – 44.83 FEET) TO THE END OF SAID CURVE;

THENCE: THROUGH SAID REMAINDER OF 120.76 ACRE TRACT THE FOLLOWING CALLS:

S 38° 34' 14" W FOR A DISTANCE OF 194.22 FEET;

S 06° 31' 48" E FOR A DISTANCE OF 19.49 FEET;

S 51° 25' 46" E FOR A DISTANCE OF 21.75 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 170.00 FEET;

EXHIBIT C

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95° 41' 40" FOR AN ARC DISTANCE OF 283.93 FEET (CHORD BEARS: N 80° 43' 24" E – 252.06 FEET) TO THE END OF SAID CURVE;

N 32° 52' 35" E FOR A DISTANCE OF 21.19 FEET TO THE SOUTHERLY LINE OF HOLLEMAN DRIVE;

THENCE: S 71° 13' 22" E ALONG THE SOUTHERLY LINE OF HOLLEMAN DRIVE FOR A DISTANCE OF 61.86 FEET;

THENCE: THROUGH SAID REMAINDER OF 120.76 ACRE TRACT FOR THE FOLLOWING CALLS:

S 32° 52' 35" W FOR A DISTANCE OF 35.59 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 230.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40° 43' 09" FOR AN ARC DISTANCE OF 163.46 FEET (CHORD BEARS: S 53° 14' 09" W – 160.04 FEET) TO THE END OF SAID CURVE;

S 29° 25' 58" W FOR A DISTANCE OF 31.20 FEET;

S 03° 14' 38" W FOR A DISTANCE OF 125.45 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 252.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20° 46' 40" FOR AN ARC DISTANCE OF 91.38 FEET (CHORD BEARS: S 13° 37' 58" W – 90.89 FEET) TO THE END OF SAID CURVE;

S 51° 30' 03" E FOR A DISTANCE OF 28.13 FEET;

S 38° 29' 57" W FOR A DISTANCE OF 60.00 FEET;

N 51° 30' 03" W FOR A DISTANCE OF 80.15 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 192.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34° 21' 35" FOR AN ARC DISTANCE OF 115.14 FEET (CHORD BEARS: N 20° 25' 26" E – 113.42 FEET) TO THE END OF SAID CURVE;

N 03° 14' 38" E FOR A DISTANCE OF 121.34 FEET;

N 38° 35' 27" W FOR A DISTANCE OF 24.81 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 230.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32° 10' 29" FOR AN ARC DISTANCE OF 129.16 FEET (CHORD BEARS: N 67° 31' 00" W – 127.47 FEET) TO THE END OF SAID CURVE;

N 51° 25' 46" W FOR A DISTANCE OF 110.55 FEET;

N 38° 34' 14" E FOR A DISTANCE OF 60.00 FEET;

N 83° 34' 14" E FOR A DISTANCE OF 21.21 FEET;

N 38° 34' 14" E FOR A DISTANCE OF 178.63 FEET TO THE POINT OF BEGINNING CONTAINING 1.36 ACRES OF LAND, MORE OR LESS. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

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EXHIBIT C

May 26, 2011
Consent Agenda Item No. 2e
2011 Blue Cross and Blue Shield
Administrative Services Agreement Contract Renewal

To: David Neeley, City Manager

From: Alison Pond, Human Resources Director

Agenda Caption: Presentation, possible action, and discussion on obtaining approval for the medical, dental and prescription drug plan Administrative Services Agreement contract renewal with Blue Cross and Blue Shield of Texas for claims administration for calendar year 2011, in the amount of \$434,189.

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

Recommendation(s): Staff recommends approval of the contract renewal.

Summary: At the December 9, 2010 Council meeting, the City Council approved expenditures for fees and projected claims with all 2011 benefits plan carriers. The Council was informed that the contracts would be brought back at a later date for approval, as the contracts had not been received from the carriers before the required designated time for approval of expenditures for 2011.

The City's benefits consultant, McGriff, Seibels & Williams, was able to negotiate a 3% decrease on the medical and dental administration fees combined with Blue Cross and Blue Shield. These fees are in line with the three year rate caps provided in the Administrative Service Agreement effective 1/1/08.

Budget and Financial Summary: Funds are available in the employee benefits fund.

Attachments:

Blue Cross and Blue Shield ASA / Fee Schedule

FEE SCHEDULE – 2011
Specifications for the
ADMINISTRATIVE
SERVICES AGREEMENT
(the Agreement)

between

Blue Cross and Blue Shield of Texas
(BCBSTX or Claims Administrator)

Blue Cross and Blue Shield of Texas provides administrative claims payment services only and does not assume any financial risk or obligation with respect to claims.

and

Group Health Plan of

City of College Station
(Group Health Plan)

Group Number: 80897

These specifications are to apply for the period of time indicated herein and shall continue in force and effect until the end of the Fee Schedule Period, the Agreement is terminated, or this Fee Schedule is superseded in whole or in part by a later executed Fee Schedule.

Item One
Fee Schedule Period

These specifications are for the **Fee Schedule Period** commencing on January 1, 2011 and ending on December 31, 2011.

Item Two
Reports

Monthly billing statement.....No additional charge
Standard reports as specified by the reporting policyNo additional charge

A Division of Health Care Service Corporation, a Mutual Legal Reserve Company, an Independent Licensee of the Blue Cross and Blue Shield Association

**Item Three
Charges for Additional Services**

The following **Additional Services** shall be furnished:

- Subrogation 25.0% of any recovered amounts*
 - BlueCard® Program/Network access fees Available Upon request
 - BlueCard® Worldwide Program
 - International Group (10 or more members living outside of the USA) BCWW Fee Schedule
 - Domestic Group (under 10 members living outside of the USA) No additional charge
 - Optional Services for International or Domestic Group BCWW Fee Schedule
- * The indicated subrogation fees are based on the net recovery after attorney's fees, if any, have been paid.

**Item Four
Plan Design Materials**

**Claims Administrative Document
Schedule of Specifications
Exhibit A - Plan Service Area**

Benefit Booklets:

Accept/Decline

- Benefit Booklets No additional charge
 Supplemental Billing*
- Customized Benefit Booklets No additional charge
 Supplemental Billing*
- Customized Covers No additional charge
 Supplemental Billing*

Subscriber Identification (ID) Cards:

Accept/Decline

- Subscriber ID Cards No additional charge
 Supplemental Billing*
- Customized ID Cards No additional charge
 Supplemental Billing*

- Network Provider Directories** No additional charge
 Supplemental Billing*

- Subscriber Claim Forms, Application Forms, Enrollment Materials** No additional charge
 Supplemental Billing*

Special Mailings: Cost has been included in Administrative Charge: Yes No

Identification Cards mailed to home addresses Yes No

Provider Directories mailed to home addresses Yes No

* Any customized materials or additional services or supplies not documented in this Fee Schedule may be subject to *Supplemental Billing* upon mutual agreement of the parties.

**Item Five
Administrative Charges and Credits**

**Item Five
Administrative Charges and Credits**

- A. The **Administrative Charge**, calculated Monthly, shall be equal to the sum of the amounts obtained by multiplying the total number of covered Subscriber Units by category by the appropriate factors shown below.

	Composite
Base Administrative Charge (Medical)	\$47.60
Prescription Drug Rebate Credit	\$(10.11)
*Blue Care Connection	Included
Total	\$37.49
Dental:	\$3.72

***BLUE CARE[®] CONNECTION PROGRAM**

A program that may include utilization management, case management, condition management, predictive modeling, 24/7 nurseline and access to a personal health manager or such other features as determined by the Employer.

- B. The **Termination Administrative Charge** shall be equal to the amount obtained by multiplying the sum of all covered Subscriber Units during the three Months immediately preceding the date of termination by the factors shown below.

	Composite
Medical Run-off Administration Charge	\$16.83
Dental Run-off Administration Charge	\$2.89

**Item Six
Plan Coverage**

Group Health Plan's Health Benefit Plan coverage inclusive of the following:

- PPO Managed Health Care coverage
- Prescription Drug Coverage
- Traditional (Out-of-Area) Indemnity Benefit coverage
- Consumer Driven Health Plan (HSA)
- Comprehensive Dental Care coverage

**BLUE CROSS AND BLUE SHIELD
OF TEXAS, a Division of Health Care
Service Corporation, a Mutual Legal
Reserve Company**

**GROUP HEALTH PLAN OF
CITY OF COLLEGE STATION**

By: *Hersa A. Calderon*

By: _____

Title: Divisional Vice President

Title: _____

Date: April 7, 2011

Date: _____

CITY OF COLLEGE STATION

By: _____
Mayor

Date: _____

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____



City Attorney
Date: _____

Chief Financial Officer
Date: _____

May 26, 2011
Consent Agenda Item No. 2f
Medical Waste Hauling Franchise
with Stericycle, Inc.

To: David Neeley, City Manager

From: Jason Stuebe, Assistant to the City Manager

Agenda Caption: Presentation, possible action and discussion on the first reading of a non-exclusive franchise agreement with Stericycle, Inc. for the purpose of collecting and disposing treated and untreated medical waste from various health care related facilities.

Recommendation(s): Staff recommends approval.

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

This proposed non-exclusive five (5) year franchise agreement allows for the collection, hauling, and disposal of treated and untreated medical waste from various health care facilities within the city limits. The disposal of medical waste, a State mandated service, was privatized in 2005 because untreated medical waste cannot be depositing in any BVSWMA landfill. Staff maintains that continuing this practice is the most cost-effective way to offer this service to our community.

The Council unanimously approved a five (5) year agreement with BCS Stop 'N Go Potties in August 2005 that has since expired.

Budget & Financial Summary: The franchisee agrees and shall pay to the City five percent (5%) of the franchisee's monthly gross delivery and hauling revenues generated from the collection services provided for in the Franchise Agreement.

Attachments:

1. Franchise Ordinance

**MEDICAL WASTE FRANCHISE AGREEMENT WITH STERICYCLE, INC
ORDINANCE NO. _____**

AN ORDINANCE GRANTING STERICYCLE, INC., ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTION AND DISPOSAL OF TREATED AND UNTREATED MEDICAL WASTE FROM VARIOUS HEALTH CARE-RELATED FACILITIES WITHIN THE CITY LIMITS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES; FOR PARTIAL INVALIDITY AND ASSESSING A PENALTY FOR VIOLATION.

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

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

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

WHEREAS, STERICYCLE, INC. is engaged in the business of collection and disposal of treated and untreated medical waste from health care-related facilities and is requesting a franchise to operate its business within the City limits of the City of College Station; and

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

**ARTICLE I
DEFINITIONS**

1. **Franchise Agreement** shall mean this franchise between the City of College Station and STERICYCLE, INC. for the provision of collection and disposal of treated and untreated medical waste from health care-related facilities service within the City of College Station, under certain terms and conditions set out herein.

2. **CONTRACTOR** shall mean STERICYCLE, INC a privately held corporation incorporated in the State of Texas which provides medical waste management services for the healthcare industry as well as providing destruction services to major pharmaceutical manufacturers and which operates in the State of Texas as well as other states.
3. **Brazos Valley Solid Waste Management Agency, Inc.** or BVSWMA means landfills operated by a local government.
4. **City of College Station** or CITY means the City of College Station, Texas a Home-Rule Municipal Corporation incorporated under the laws of Texas.
5. **City Council** or COUNCIL means the governing body of the City of College Station, Texas.
6. **City Manager** means the City official appointed by the City Council who is responsible for the daily operation of the City of College Station.
7. **Customers** Those health care-related facilities located within the CITY that generates treated and untreated medical waste.
11. **Medical Wastes** means medical wastes as that term is defined in the Texas Administrative Code as it now exists or as is hereafter amended.
12. **Treated or Processed Medical Waste** is medical waste that has been treated as provided in Texas Administrative Code as it now exists or as it is hereafter amended.

**ARTICLE II
GRANT OF NONEXCLUSIVE FRANCISE**

1. For and in consideration of the compliance by CONTRACTOR with the covenants and conditions herein set forth CITY hereby grants to CONTRACTOR a nonexclusive franchise to operate and establish in College Station, as constituted as of the effective date of this Franchise, or as may hereafter be constituted to collect and dispose of treated and untreated medical waste from various health care-related facilities within the jurisdictional limits of CITY, and CONTRACTOR is hereby granted passage and right-of-way on, along and across the streets, avenues, rights-of-way, alleys, and highways within the corporate limits of College Station, for any such service and lawful purpose as herein mentioned; provided that all such work, activity and undertakings by CONTRACTOR shall be subject to the terms and provisions of this Franchise and the continuing exercise by College Station of its governmental and police powers, and provided further that nothing herein shall be construed to require or authorize CONTRACTOR to exceed any rights granted herein or by the TCEQ.
2. Nothing in this Franchise shall be construed as granting any exclusive franchise or right.

**ARTICLE III
DISPOSAL SITE TO BE USED**

Unless approved otherwise in writing by the CITY, CONTRACTOR shall utilize the BVSWMA landfill located on Rock Prairie Road, College Station, Texas, the Twin Oaks Landfill located on Texas 30, Grimes County, Texas, or any other site designated for disposal of treated medical waste by CONTRACTOR under this Franchise Agreement. Untreated medical waste collected by CONTRACTOR within the corporate limits of the City of College Station will be treated and disposed of at any site of CONTRACTOR selection, provided however, that any site used shall be permitted to accept this classification of waste by the appropriate regulatory authority.

**ARTICLE IV
RATES TO BE CHARGED BY CONTRACTOR, INC**

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

**ARTICLE V
PAYMENTS TO CITY**

1. For and in consideration of the grant of the franchise herein, CONTRACTOR agrees and shall pay to CITY upon acceptance of this Franchise Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of CONTRACTOR'S monthly gross delivery and hauling revenues generated from CONTRACTOR's provision of treated medical waste collection services within the CITY. Any revenue received by CONTRACTOR will be subject to the franchise fee and shall be computed into CONTRACTOR'S monthly gross delivery and hauling revenue. Said payment shall be paid quarterly to the City Manager or his/her delegate and shall be due by the twentieth of the month following the end of the previous quarter. Payment after that date shall incur a ten percent (10%) late fee on the outstanding amount owed.

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

**ARTICLE VI
ACCESS TO RECORDS & REPORTING**

1. CITY shall have the right, upon reasonable notice, to inspect during normal business hours CONTRACTOR's records, billing records of those customers served by CONTRACTOR and all papers relating to the operation medical waste collection and disposal within the CITY. CONTRACTOR shall cooperate in allowing CITY to conduct the inspections. The following records and reports shall be filed quarterly with the City Manager or her delegate:

a. Reports of the results of all complaints and investigations received and action taken by CONTRACTOR.

b. A listing of all CONTRACTOR accounts served and monthly revenue derived from containers placed in the CITY under terms of this franchise. The reports will include customer's name, address, frequency of pick-up, size of container, and monthly charges.

**ARTICLE VII
SERVICE TO BE PROVIDED BY COMPANY**

1. CONTRACTOR, shall furnish service consistent with the requirements and intent of this Franchise, and specified in this ordinance as now or hereafter approved by the Council or other regulatory authority having jurisdiction, without unreasonable discrimination, to all areas of College Station.

2. CONTRACTOR shall maintain its property and equipment in good order and working condition, consistent with the needs of the services rendered therefrom and in accordance with Texas Administrative Code.

3. CONTRACTOR'S vehicles shall at all times be clearly marked with COMPANY's name and TCEQ registration number in letters not less than three (3) inches in height. CONTRACTOR agrees that a standby vehicle shall always be available

4. CONTRACTOR'S operations shall be conducted in a manner that minimizes noise, disturbance, and commotion. CONTRACTOR shall use all proper skill and care, and exercise all due and proper precautions that meet or exceed industry standards and TCEQ regulatory requirements to prevent injury to any person or person(s) and damage to any property.

5. CONTRACTOR shall register their operations with the TCEQ prior to commencing operations under this Franchise and shall provide proof of such registration and renewal thereof annually to CITY.

**ARTICLE VIII
COMPLAINTS REGARDING SERVICE/SPILLAGE**

CONTRACTOR shall handle directly any complaints pertaining to customer service, property damage or personal injury from their collection service. Any such complaints received by CITY shall be forwarded to CONTRACTOR within twenty-four (24) hours of their receipt by CITY. CONTRACTOR shall respond to all complaints within twenty-four (24) hours of receiving notice of such complaint from CITY, resolve such complaints promptly and shall report to CITY the action taken. Failure by CONTRACTOR to respond and report to CITY on action taken within this twenty-four (24) hour period may subject CONTRACTOR to a \$25.00 per incident charge from CITY payable with the next payment due CITY under Article V of this Franchise Agreement.

**ARTICLE IX
COMPLIANCE WITH LAWS**

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

**ARTICLE X
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

This Franchise Agreement contains all the terms and conditions agreed on by the parties and no other agreements, or otherwise, regarding the subject matter of this franchise shall be of any force or effect. Both parties agree and understand that nothing in this Franchise Agreement conveys to CONTRACTOR an exclusive franchise for the services described in this franchise and that this franchise is nonexclusive.

**ARTICLE XI
OWNERSHIP OF MATERIALS**

Sole and exclusive title to all medical waste collected by CONTRACTOR under this Franchise Agreement shall pass to CONTRACTOR when said waste is placed on CONTRACTOR'S truck.

**ARTICLE XII
CITY SERVICE**

CONTRACTOR agrees to provide free service to CITY following natural disasters or acts of God.

**ARTICLE XIII
INTERRUPTION OR TERMINATION OF SERVICE**

1. In the event that CONTRACTOR terminates service to any customer within the CITY's limit, CONTRACTOR must notify CITY through registered mail within forty-eight (48) hours of termination and state the cause of such termination.
2. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform under this contract and CITY may invoke the provisions of Article XIV of this Franchise Agreement (FAILURE TO PERFORM).

**ARTICLE XIV
FAILURE TO PERFORM**

It is expressly understood and agreed by the parties that if at any time CONTRACTOR shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after hearing as described herein, revoke and cancel the Franchise Agreement by and between the parties and said Franchise Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the Council of said CITY, CITY shall mail notice to CONTRACTOR, at the address designated herein or at such address as may be designated from time to time, by registered mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Franchise Agreement. The hearing shall be conducted in public before the City Council and CONTRACTOR shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Franchise Agreement between the parties at no penalty to the CITY.

**ARTICLE XV
RELEASE AND INDEMNIFICATION**

1. **CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER, AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, ANY PERSON WHETHER THAT PERSON BE A THIRD PERSON, CONTRACTOR, OR AN EMPLOYEE OF EITHER OF THE PARTIES HERETO, AND ANY LOSS OF OR DAMAGE TO PROPERTY, WHETHER THE SAME BE THAT OF EITHER OF THE PARTIES HERETO OR OF THIRD PARTIES, CAUSED BY OR ALLEGED TO BE CAUSED BY, ARISING OUT OF OR IN CONNECTION WITH THE GRANT OF THIS FRANCHISE TO CONTRACTOR, WHETHER OR NOT SAID CLAIMS, DEMANDS AND CAUSES OF ACTION IN WHOLE OR IN PART ARE COVERED BY INSURANCE.**
2. **CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD CITY HARMLESS AND DEFEND THE 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 ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, AND FOR DAMAGE TO ANY PROPERTY, OUT OF OR IN CONNECTION WITH OPERATION OF CONTRACTOR'S RECYCLING BUSINESS UNDER THIS FRANCHISE AND DISPOSAL OF THE RECYCLABLE WASTE COLLECTED BY IT OR RESALE, AND ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT, WHETHER THE CONTRACTOR'S NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGES, AND WHETHER THE CITY'S NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, THAT THE INDEMNITY PROVIDED FOR HEREINABOVE IS INDEMNITY BY THE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF BOTH THE CITY'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE, AND THE CONTRACTOR'S NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

3. CONTRACTOR ASSUMES RESPONSIBILITY AND LIABILITY AND HEREBY AGREES TO INDEMNIFY THE CITY FROM ANY LIABILITY CAUSED BY CONTRACTOR'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL LAWS AND REGULATIONS, TOUCHING UPON THE MAINTENANCE OF A SAFE AND PROTECTED WORKING ENVIRONMENT, AND THE SAFE USE AND OPERATION OF MACHINERY AND EQUIPMENT IN THAT WORKING ENVIRONMENT.

ARTICLE XVI INSURANCE

1. For the duration of this Agreement, Contractor shall procure and maintain at its sole cost and expense insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the terms of this Agreement by Contractor, its agents, representatives, volunteers, employees, or subcontractors.

2. Contractor's insurance shall be primary insurance with respect to the City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers, shall be considered in excess of Contractor's insurance and shall not contribute to it.

3. Contractor shall include any and all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements and endorsements stated herein.

4. Certificates of Insurance and endorsements shall be furnished to City and approved by City before work commences. During the term of this Agreement Contractor's insurance policies shall meet the following requirements:

a. Standard Insurance Policies Required

1. Commercial General Liability
2. Business Automobile Liability
3. Workers' Compensation

b. General Requirements Applicable to All Policies

1. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted, if available. Otherwise, an Insurance Carrier shall be permitted outside the State of Texas, as long as policy is through an Insurance Broker authorized within Texas and the policy complies with the other insurance requirements contained in this Agreement.
2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
3. "Claims Made" policies are not accepted.
4. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
5. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
6. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

c. Commercial General Liability

1. General Liability insurance shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
2. Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
3. Coverage shall be at least as broad as ISO form CG 00 01.
4. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
5. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability and MCS 90 Pollution Liability Coverage.

d. Endorsements

1. Those policies set forth in Paragraphs III and IV shall contain an endorsement naming the City as Additional Insured and further providing that the Contractor's policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as **Exhibit "B"**, and approved by the City before work commences.

e. Workers Compensation Insurance

1. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a worker's compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors must use that portion of the form whereby the hiring Contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent Contractor may not be used.
2. Workers compensation insurance shall include the following terms:
 - A. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required.
 - B. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 - C. Texas must appear in Item 3A of the Workers Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
3. Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to

accommodate the specific document in which they are contained or to impose stricter standards of documentation:

Definitions:

- A. Certificate of coverage (“certificate”) – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
 - B. Duration of the project - includes the time from the beginning of the work on the project until the Contractor’s/person’s work on the project has been completed and accepted by the governmental entity.
 - C. Persons providing services on the project (“subcontractors” in § 406.096 [of the Texas Labor Code) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. “Services” does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- 4. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
 - 5. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
 - 6. If the coverage period shown on the Contractor’s current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
 - 7. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - A. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of

coverage showing coverage for all persons providing services on the project; and

- B.** no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- 8.** The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- 9.** The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- 10.** The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 11.** The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - A.** Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - B.** Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - C.** Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - D.** Obtain from each other person with whom it contracts, and provide to the Contractor:
 - ii.** A certificate of coverage, prior to the other person beginning work on the project; and
 - ii.** A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - E.** Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - F.** Notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have

known, of any change that materially affects the provision of coverage of any person providing services on the project; and

G. Contractually require each person with whom it contracts to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.

12. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

13. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.

f. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

1. The company is licensed and admitted to do business in the State of Texas.
2. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
3. All endorsements and insurance coverages according to requirements and instructions contained herein.
4. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
5. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**ARTICLE XVII
ASSIGNMENT**

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

**ARTICLE XVIII
SAFETY AND LIABILITY FOR INJURIES TO CITY OR ABUTTING PROPERTY**

1. CONTRACTOR shall perform the collection in accordance with the applicable laws, codes, ordinances and regulations of the United States, State of Texas, Brazos County, and City of College Station and in compliance with OSHA and other laws as they apply to its employees.

It is the intent of the parties that the safety precautions are a part of the collection techniques for which CONTRACTOR is solely responsible. In the carrying on of the services herein provided for, CONTRACTOR shall use all proper skill and care, and CONTRACTOR shall exercise all due and proper precautions to prevent injury to any property, or person(s).

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

**ARTICLE XIX
AD VALOREM TAXES**

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

**ARTICLE XX
NOTICES AND PAYMENTS**

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

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

Authorized Agent
STERICYCLE, INC.
8950 N. Conroe Park Dr.
Conroe, TX 77303

All notices shall be deemed to have been properly served only if sent by Registered or Certified Mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

**ARTICLE XXI
PENALTY**

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

**ARTICLE XXII
AMENDMENTS**

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

**ARTICLE XXIII
SEVERABILITY**

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

**ARTICLE XXIV
AUTHORIZATION TO EXECUTE**

The parties signing this Franchise Agreement shall provide adequate proof of their authority to execute this Franchise Agreement. This Franchise Agreement shall inure to the benefit and be binding upon the parties hereto and their respective successors or assigns, but shall not be assignable by either party without the written consent of the other party.

**ARTICLE XXV
TERM AND TERMINATION OF FRANCHISE**

1. The term of this Franchise Agreement shall be for a period of five (5) years beginning on the date of acceptance.

2. In addition to all other rights and powers retained by City under this Franchise or otherwise, City reserves the right to declare this Franchise forfeited and to terminate the Franchise and all rights and privileges of Contractor hereunder in the event of a material breach of the terms, covenants, or conditions herein set forth. A material breach by Contractor shall include, but not be limited to, the following:
 - a. Failure to pay the fees prescribed by Article V.
 - b. Failure to materially provide the services provided for in this Franchise.
 - c. Material misrepresentation of fact in the application for or negotiation of this Franchise.
 - d. Conviction of any director, officer, employee, or agent of Contractor of the offense of bribery or fraud connected with or resulting from the awarding of this Franchise.
 - e. Material misrepresentations of fact knowingly made to City with respect to or regarding Contractor's operations, management, revenues, services or reports required pursuant to this Franchise.
 - f. Revocation or denial of registration or renewal of registration by TCEQ.
 - h. Excessive interruption in service for a period of seventy-two (72) hours or more due to causes other than force majeure.

3. Contractor shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, or employees.

4. City may after a hearing as described herein, revoke and cancel the Franchise by and between the parties and said Franchise shall be null and void. City shall mail notice to Contractor, at the address designated herein or at such address as may be designated from time to time, by registered mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and Contractor shall be allowed to present evidence and be given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the City.

**ARTICLE XXVI
ACCEPTANCE OF FRANCHISE**

In accordance with City of College Station City Charter, Section 120, Contractor shall have sixty (60) days, from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary within thirty (30) days from the final adoption of this Ordinance, and upon acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance. Such acceptance shall be typed or printed on the letterhead of Contractor and, with the blank spaces appropriately completed, shall be as follows:

Attn: Public Works Director

_____ acting by and through its undersigned who is acting with his official capacity and authority, hereby accepts the franchise to operate a recycling collection service within the City of College Station, Texas ("College Station") as said franchise is set forth and provided in Ordinance No. _____ (the "Ordinance").
_____ agrees to be bound and governed by each terms, provision and condition of the Ordinance, to accept and to give the benefits provided for in the Ordinance in a business like and reasonable manner and compliance with the Ordinance.

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

By accepting this Agreement, Contractor represents that it has, by careful examination, satisfied itself as to the nature and location of the work, the character, quality and quantity of work to be performed, the character of the equipment and facilities necessary to fulfill its obligations under this Agreement, as well as the general and local conditions and all other matters that in any way affect the work to be performed under this Agreement.

**ARTICLE XXVIII
PUBLIC MEETING**

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

First Consideration & Approval on the _____ day of _____ 2011

Second Consideration & Approval on the _____ day of _____ 2011

Third Consideration & Approval on the _____ day of _____ 2011

PASSED, ADOPTED and APPROVED by the City of College Station City Council on this the _____ day of _____ 2011.

STERICYCLE, INC

CITY OF COLLEGE STATION

By: *Donald J. Kaminski*

By: _____

Printed Name: DONALD J. KAMINSKI

Mayor

Date: _____

Title: REGIONAL OPERATIONS DIRECTOR

Date: 5-4-11

ATTEST:

City Secretary

Date

APPROVED:

City Manager

Date

Adam C. Felt
City Attorney

Date

Chief Financial Officer

Date

EXHIBIT "A"
SCHEDULE OF RATES

Exhibit A

Rate Structure

Stericycle customers pay a monthly rate based on the level of service(s) provided. This monthly rate includes containers, packaging, collection, transportation, treatment, disposal and may include periodic training among other services. This is customer dependent. Stericycle does not separate delivery and hauling revenue from the monthly flat fee(s) charged to customers. Therefore, Stericycle will overpay the fee required by Article V because our remittance will be 5% of gross revenue.

EXHIBIT "B"
CERTIFICATES OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/21/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. 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).

PRODUCER MARSH USA INC. 500 WEST MONROE STREET CHICAGO, IL 60661 Attn: Chicago.CertRequest@marsh.com Fax:212-948-0770	CONTACT NAME: PHONE (A/C, No, Ext):	FAX (A/C, No):														
	E-MAIL ADDRESS: PRODUCER CUSTOMER ID #:															
350208-ALL-wPOLL-10-11	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Lexington Insurance Company</td> <td>19437</td> </tr> <tr> <td>INSURER B : Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER C : Allied World National Assurance Company</td> <td>10690</td> </tr> <tr> <td>INSURER D : Illinois Union Insurance Co</td> <td>27960</td> </tr> <tr> <td>INSURER E : American Zurich Insurance Company</td> <td>40142</td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Lexington Insurance Company	19437	INSURER B : Zurich American Insurance Company	16535	INSURER C : Allied World National Assurance Company	10690	INSURER D : Illinois Union Insurance Co	27960	INSURER E : American Zurich Insurance Company	40142	INSURER F :	
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INSURER F :																
INSURED STERICYCLE, INC. ATTN: KATHY KIPP 28161 N. KEITH DRIVE LAKE FOREST, IL 60045																

COVERAGES **CERTIFICATE NUMBER:** CHI-003369115-34 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			EG 1932356	11/08/2010	11/08/2011	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 25,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS <input checked="" type="checkbox"/> PHY DAM - SELF-INSURED			TRK9377341-07 (AOS) TRK5344318-07 (PR)	11/08/2010 11/08/2010	11/08/2011 11/08/2011	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
								\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000			0305-0836	11/08/2010	11/08/2011	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
								\$
								\$
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC 9377344-07 (AOS) WC 9377345-07 (WI)	11/08/2010 11/08/2010	11/08/2011 11/08/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
D	Pollution Legal Liability			PPL G24926916 001 SIR: 50,000	11/08/2008	11/08/2011	EACH OCCURRENCE	5,000,000
							AGGREGATE	10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 CERTIFICATE HOLDER IS INCLUDED AS ADDITIONAL INSURED UNDER THE GENERAL LIABILITY AND AUTOMOBILE POLICIES AS THEIR INTEREST MAY APPEAR, BUT ONLY TO THE EXTENT SUCH STATUS IS REQUIRED BY THEIR WRITTEN CONTRACT OR WRITTEN AGREEMENT WITH THE NAMED INSURED. WAIVER OF SUBROGATION APPLIES IN FAVOR OF THE CERTIFICATE HOLDER UNDER THE WORKERS COMPENSATION POLICY BUT ONLY AS REQUIRED BY WRITTEN CONTRACT / WRITTEN AGREEMENT WITH THE NAMED INSURED.

CERTIFICATE HOLDER CITY OF COLLEGE STATION P.O. BOX 9960 COLLEGE STATION, TX 77842	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Katey E. Jones
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May 26, 2011
Consent Agenda Item No. 2g
TMRS City Portal Use Agreement

To: David Neeley, City Manager

From: Alison Pond, Human Resources Director

Agenda Caption: Presentation, possible action, and discussion to approve a City Portal Use Agreement with Texas Municipal Retirement System (TMRS).

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

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

Summary: TMRS has developed a web-based site for cities that are participating members of TMRS to access information and provide certain functionality to participating municipalities as necessary for its official governmental functions. The City regularly requests and receives member information from TMRS, including service credit listings for analysis on workforce retirement eligibility and succession planning and for use in actuarial valuation studies on benefits. Approval of this agreement will allow Human Resources access to that information, when needed, through the online, administrator portal.

Budget and Financial Summary: There are no costs associated with the approval of this agreement.

Attachments: TMRS City Portal Use Agreement

**Texas Municipal Retirement System
City Portal Use Agreement**

This City Portal Use Agreement (the “Agreement”) is entered into by and among the Texas Municipal Retirement System, the City of College Station, and the City Portal Administrator (defined below), to be effective as set forth below.

RECITALS

WHEREAS, the Texas Municipal Retirement System (“TMRS”) is offering access to a web-based, online portal (the “City Portal”) for cities that are participating members of TMRS to access information and provide certain functionality to participating municipalities as necessary for its official governmental functions; and

WHEREAS, the City of College Station (the “City”) is a municipality that participates in TMRS and desires access to the TMRS City Portal for official City business purposes; and

WHEREAS, Kimberly Voitier is an individual employee of the City, is an authorized contact for the City with the Texas Municipal Retirement System, and will be the main contact and administrator for the purposes of the TMRS City Portal, as further described herein (the “City Portal Administrator”); and

WHEREAS, the City Portal Administrator will have the authority to grant access and permissions to the City Portal to other City employees and officers who are TMRS authorized City contacts (“City Portal User(s)”, including the City Portal Administrator, where applicable); and

WHEREAS, TMRS will grant City Portal Users the authority to access TMRS data relating to City employees and retirees via the City Portal in a form identifiable with a specific individual pursuant to Section 855.115(a)(1)(C) of the Texas Government Code, which information TMRS must protect pursuant to Sections 552.101 and 855.115 of the Texas Government Code (attached as Exhibit B, and incorporated by reference); and

WHEREAS, the City, the City Portal Administrator, and the City Portal Users understand that they may violate provisions of and be subject to potential civil and criminal penalties under the Texas Public Information Act for failure to comply with the terms of this Agreement or any applicable provisions of the Texas Public Information Act with respect to any Confidential Information; and

WHEREAS, TMRS is willing to disclose such information only upon acknowledgement and agreement of the City and the City Portal Administrator of the terms and conditions required for access to the information:

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, TMRS, the City, and the City Portal Administrator hereby agree to the terms and conditions below:

1. The City and City Portal Administrator represent and warrant that all information requested by any City Portal User will be information that is reasonably necessary to the performance of the duties

of the City Portal User requesting such information. The City Portal Administrator hereby attests that he/she has attended and completed training by TMRS on the City Portal. The City Portal Administrator hereby agrees that only persons meeting the following criteria may be trained to become a City Portal User: (i) a contributing TMRS member, and (ii) job duties require access to the Confidential Information. The City and the City Portal Administrator agree that all City Portal Users shall be trained by the City Portal Administrator on the obligations and responsibilities set forth in this Agreement and shall ensure that any City Portal User shall agree in writing to be bound by the same terms and conditions contained in this Agreement prior to such City Portal User's access to the City Portal.

2. The City and the City Portal Administrator each represents, warrants, and covenants that any City Portal User, or any City employee, officer, representative, contractor or agent (collectively, "Representatives") who will receive any Confidential Information (defined below), shall, prior to receiving such information, be given a copy of this Agreement and shall **sign** an acknowledgement agreement, in the form attached hereto as Exhibit A, in which such person agrees to be bound by all terms and conditions contained in this Agreement regarding the use and protection of the Confidential Information. Each City Portal User is responsible for maintaining the confidentiality of his or her password. City Portal Users shall not share passwords, or allow any unauthorized person or groups of persons to use one password to access the City Portal. The City Portal Administrator shall promptly terminate the access rights of any City Portal User that is no longer employed by the City, or who is no longer authorized by the City to have access or no longer requires access to the City Portal for the performance of such persons' duties, or who violates the terms and conditions set forth in this Agreement. The City and the City Portal Administrator each agrees to use its reasonable best efforts to cause all City Portal Users and any Representatives who receive any Confidential Information to observe the terms and conditions of this Agreement, and agrees that the City will be responsible for any breach of any terms of this Agreement by any of its City Portal Users or Representatives.

3. The City, the City Portal Administrator, the City Portal Users and the Representatives each agree that all Confidential Information (a) shall be maintained in accordance with Section 855.115 of the Texas Government Code, as amended from time to time (a current copy of which is attached hereto as Exhibit B), and in strict confidence except as required by an order of a court of competent jurisdiction or other legal process; (b) shall not be disclosed to any third party other than the authorized employees or agents of the City who have a need to know the information in connection with the performance of their official duties for the City; (c) shall not be used for any purpose other than for the purpose of, and only to the extent it is reasonably necessary to, the performance of his/her official duties for the City, and (d) shall, at the City's option and expense, be returned to TMRS or be destroyed by the City (in either case, including all originals and copies of all Confidential Information) upon completion of the set task for which it is required or at the end of an appropriate record retention period. The City must notify TMRS if it chooses to destroy or return the Confidential Information and will confirm the completion of such destruction to TMRS in writing, if it chooses to destroy the Confidential Information.

4. The City, the City Portal Administrator, the City Portal Users, and the Representatives shall not publish any report, press release, data or other information regarding or derived from such Confidential Information to the extent the report, press release, data or other information includes individual participant or retiree data in a form identifiable with a specific individual and whose release would be prohibited by Section 855.115 of the Texas Government Code, unless otherwise required by applicable law.

5. The parties agree that if a breach of this Agreement occurs with respect to the Confidential Information, TMRS shall suffer irreparable harm and significant injury and loss to a degree which would be difficult to ascertain and which would not be fully compensable by damages alone, and that TMRS

shall have the right to invoke the jurisdiction of the courts to seek immediate temporary or permanent injunctive relief, specific performance or other equitable relief, without bond, and without prejudice to any other rights and remedies available to TMRS. To the extent permitted by applicable state law, the City shall indemnify and hold harmless TMRS from all damages, losses, expenses and costs whatsoever, including but not limited to attorney's fees, resulting from breach of this Agreement by the City, the City Portal Administrator, or a City Portal User.

6. For the purposes of this Agreement, "Confidential Information" shall mean all TMRS data which is subject to Section 855.115 of the Texas Government Code, including, but not limited to, any information concerning an individual member, retiree, annuitant, or beneficiary, whether in electronic or written form, provided by TMRS to the City, the City Portal Administrator or any City Portal User during the term of this Agreement. Confidential Information will not include any information which (i) is or becomes publicly available other than as a result of a disclosure by the City, the City Portal Administrator, a City Portal User, or any Representative, (ii) is already in the City Portal Administrator's or City's possession prior to its disclosure through the use of the City Portal, as demonstrated by written or documented evidence, and not otherwise subject to the confidentiality provisions of Section 855.115 of the Texas Government Code; (iii) is or becomes available to the City Portal Administrator or City on a non-confidential basis from a source other than TMRS, provided that such source is not subject to any legal, contractual, or fiduciary obligation to keep such information confidential, or (iv) is independently developed by the City Portal Administrator on the City's behalf, as demonstrated by written or documented evidence, without violating any of the obligations hereunder.

7. TMRS reserves the right to deny access to the City Portal for any City Portal User for any reason, and may require any City Portal User to change a password for any reason.

8. TMRS, MyTMRS and the TMRS "Star Design" logo are trademarks and service marks of TMRS and are used and registered in the United States. Use of these trademarks and service marks without permission is prohibited, and the City and City Portal Administrator agree that no City Portal User will use any of these trademarks and service marks without the prior written consent of TMRS to the specific intended use.

9. The information and materials contained in the City Portal, and the terms, conditions, and descriptions that appear, are subject to change at any time. Estimates provided through the City Portal are subject to the limitations stated on the City Portal website and the terms and conditions listed thereon. The City, the City Portal Administrator, and the City Portal Users are not agents of TMRS and shall not represent that they have authority to represent or certify information on behalf of TMRS.

10. Unauthorized use of the City Portal or any of the TMRS systems, or misuse of any information posted on the City Portal is strictly prohibited. Use of the City Portal or any Confidential Information (i) for any purpose other than as reasonably necessary for the performance of duties of a City employee or official, (ii) for any illegal activity, or (iii) to engage in conduct that is defamatory, libelous, threatening or harassing or that infringes on a third party's intellectual property or other proprietary rights, is prohibited.

11. This Agreement is to be governed by, construed and interpreted in accordance with the laws of the State of Texas without regard to its conflicts of laws principles. It is agreed that venue shall be in the District Court of Travis County, Texas. Each party hereto hereby irrevocably submits, for itself and its property, to the jurisdiction of the courts of Travis County, Texas in any action, suit, or proceeding brought against it related to or in connection with this Agreement.

12. If any third person or entity requests or seeks to compel the City or any City Portal User to disclose or produce any information provided to the City or any City Portal User by TMRS, through the City Portal or otherwise, under this Agreement which is subject to Section 855.115 of the Texas Government Code, or claims an entitlement to any such information on the grounds that such information is alleged or claimed to be generally available to the public or to constitute in whole or in part a public record, document or report under applicable law, the City agrees to file a timely request for an opinion of the Texas attorney general seeking to withhold the information under the Texas Public Information Act. In addition, the City agrees to use its best efforts to notify TMRS within two (2) business days of its receipt of such a request, but in no case later than is reasonably necessary to provide TMRS an adequate opportunity to request a legal opinion or to consent to or seek to prevent such disclosure through protective order or other appropriate remedy.

13. Each party agrees that no failure or delay by any party in exercising or enforcing any right, power, privilege or remedy under this Agreement will constitute a waiver thereof, and a waiver under one circumstance will not constitute a waiver under any other circumstance.

14. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

15. This Agreement may be unilaterally amended by TMRS at any time upon 60 days prior written notice to the City Portal Administrator. No party may assign any of its rights or delegate any of its duties under this Agreement to any other person or entity without the prior written consent of the other parties hereto. A transfer by operation of law, including by merger or consolidation, is an assignment subject to the provisions of this Section.

16. This Agreement may be terminated by either TMRS or the City, for any reason, upon 30 days prior written notice of termination to the other party. Any provision of this Agreement which, by its nature, may become performable by a party after termination of this Agreement will survive termination of this Agreement.

17. In the event of any suit, action, or arbitration proceedings (whether based on contract, tort, or any other theory of liability) to enforce any provision of this Agreement, to recover damages for a breach hereof, or to secure or preserve the rights of any party against any other party to any property which is the subject of this Agreement, the prevailing party will be entitled to recover reasonable attorney fees (other than fees computed on a contingency fee basis), court costs, and expenses of arbitration and litigation expended in the prosecution or defense thereof.

18. The City and the City Portal Administrator each represent and warrant that the City Portal Administrator has the requisite right and authority to execute this Agreement on behalf of the City and to bind the City, the City Portal Administrator, and the City Portal Users to the provisions hereof. The parties further agree that this Agreement contains the entire understanding of the parties with respect to the subject matter hereof and that there are no other agreements or understandings with respect to the subject matter. No party will be liable or bound to any party in any manner by any warranties, representations, or covenants other than those set forth in this Agreement. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

19. This Agreement may be executed by the parties in multiple original counterparts, and each such counterpart will constitute an original hereof.

IN WITNESS WHEREOF, this TMRS City Portal Use Agreement shall be effective for all purposes on the date fully executed, as evidenced by the signatures below.

CITY:

CITY OF COLLEGE STATION

By: _____ **SEE ATTACHED** _____
(SIGNATURE)

PRINTED NAME: _____

TITLE: _____

DATE: _____

CITY PORTAL ADMINISTRATOR:

SIGNATURE: _____

PRINTED NAME: KIMBERLY VOITIER

TITLE: BENEFITS COORDINATOR

CITY OF COLLEGE STATION

DATE: _____

TMRS:

TEXAS MUNICIPAL RETIREMENT SYSTEM:

By: _____
(SIGNATURE)

PRINTED NAME: ERIC DAVIS

TITLE: DEPUTY EXECUTIVE DIRECTOR

DATE: _____

CITY OF COLLEGE STATION

By: _____
Mayor
Date: _____

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____

City Attorney
Date: _____

Chief Financial Officer
Date: _____

EXHIBIT A

**ACKNOWLEDGEMENT AGREEMENT
TO TMRS CITY PORTAL USE AGREEMENT**

I, ALISON POND, for the purpose of being designated as a City Portal User under the terms and conditions of that certain Texas Municipal Retirement System City Portal Use Agreement, as amended from time to time (the "Agreement") by and among the Texas Municipal Retirement System ("TMRS"), the City of College Station (the City"), and the City Portal Administrator (as defined in the Agreement), hereby represent, warrant, acknowledge and agree that (i) I have received and read a full and complete copy of the Agreement, and (ii) I agree to comply with and be bound by all terms and conditions of the Agreement, including but not limited to the use and protection of Confidential Information (as defined in the Agreement).

I understand that I may violate provisions of and be subject to potential civil and criminal penalties under the Texas Public Information Act if I fail to comply with the terms of this Agreement or any applicable provisions of the Texas Public Information Act with respect to any Confidential Information.

(Signature)

Name: Kimberly Voitier

Date: _____

[CITY PORTAL ADMINISTRATOR: RETAIN THIS AGREEMENT WITH YOUR FILES]

Exhibit B
Section 855.115 of the Texas Government Code

Sec. 855.115. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained in records that are in the custody of the retirement system concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 552.101, and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the director determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee after the director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information;

or

(2) the information is disclosed pursuant to a subpoena and the director determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the retirement system.

(c) The director may designate other employees of the retirement system to make the necessary determinations under Subsection (a).

(d) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, annuitant, or beneficiary.

May 26, 2011
Consent Agenda Item No. 2h
Demolition and Construction Debris Franchise Agreement
with BCS Stop 'N Go Potties

To: David Neeley, City Manager

From: Jason Stuebe, Assistant to the City Manager

Agenda Caption: Presentation, possible action and discussion on the first reading of a non-exclusive franchise agreement with CCA, LLC d/b/a BCS Stop 'N Go Potties for the purpose of collecting demolition and construction debris from residential sites.

Recommendation(s): Staff recommends approval.

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

This proposed non-exclusive five (5) year franchise agreement allows for the collection, hauling and disposal services for residential construction debris generated within the corporate limits of the City of College Station in a solid waste industry containers.

The Council unanimously approved a five (5) year agreement with BCS Stop 'N Go Potties in June 2005 that has since expired.

Budget & Financial Summary: The franchisee agrees and shall pay to the City five percent (5%) of the franchisee's monthly gross delivery and hauling revenues generated from the collection services provided for in the Franchise Agreement.

Attachments:

1. Franchise Ordinance

**DEMOLITION AND CONSTRUCTION DEBRIS FRANCHISE AGREEMENT WITH
CCAA, LLC, D/B/A BCS STOP 'N GO POTTIES
ORDINANCE NO. 2011-_____**

AN ORDINANCE GRANTING CCAA, LLC, D/B/A BCS STOP 'N GO POTTIES, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING DEMOLITION AND CONSTRUCTION DEBRIS FROM RESIDENTIAL SITES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES; FOR PARTIAL INVALIDITY AND ASSESSING A PENALTY FOR VIOLATION.

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

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

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

WHEREAS, CCAA, LLC d/b/a BCS STOP 'N GO POTTIES desires to obtain a franchise to provide for the collection, hauling and disposal of construction debris solid waste from the City of College Station;

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

**ARTICLE I
DEFINITIONS**

1. **Franchise Agreement** shall mean this franchise between the City of College Station and CCAA, LLC d/b/a BCS STOP 'N GO POTTIES for provision of a residential roll-off container demolition and construction debris collection service within the City of College Station, under certain terms and conditions set out herein.
2. **Contractor** shall mean BCS STOP 'N GO POTTIES means CCAA, LLC d/b/a BCS STOP 'N GO POTTIES conducting the roll-off container demolition and construction debris collection service.
3. **Brazos Valley Solid Waste Management Inc.** or BVSWMA means landfills operated by an interlocal agreement.
4. **City of College Station** or CITY means the City of College Station, Texas a Home-Rule Municipal Corporation incorporated under the laws of Texas.
5. **City Council** or COUNCIL means the governing body of the City of College Station, Texas.
6. **Class 1 Waste** means that term as defined in the Texas Administrative Code as it now exists or as is hereafter amended.
7. **Customers** shall mean those areas zoned for single family, duplex, and quadraplex uses located within the CITY that generate demolition and construction debris. Not included are multi-family dwellings that are attached to each other such as but not limited to apartments and townhomes.
8. **Demolition and Construction Debris** means any building material waste resulting from demolition, remodeling, repairs, or construction as well as materials discarded during periodic temporary facility clean-up generated within the CITY.
9. **Roll-Off Containers or container** means that type of solid waste industry container loaded by truck not to exceed fifteen (15) cubic yards in volume.
10. **Residential customers** shall mean any residential dwelling that is owned or occupied by a resident in the CITY whether as owner, lessee or tenant.

**ARTICLE II
AUTHORITY FOR CONTRACTOR TO PROVIDE SERVICE**

1. City hereby grants to Contractor a nonexclusive franchise to operate and establish in the City, as constituted as of the effective date of this Agreement, or as may hereafter be constituted to engaging in the business of collecting only demolition and construction debris from residential customers in those areas zoned for single family, duplex, triplex and quadraplex within the

jurisdictional limits of CITY using roll-off containers within the corporate limits of City, and Contractor is hereby granted passage and right-of-way on, along and across the streets, avenues, rights-of-way, alleys, and highways within the corporate limits of the City, for any such service and lawful purpose as herein mentioned; provided that all such work, activity and undertakings by Contractor shall be subject to the terms and provisions of this Franchise and the continuing exercise by the City of its governmental and police powers, and provided further that nothing herein shall be construed to require or authorize Contractor to exceed any rights granted herein or by the TCEQ.

2. Nothing in this Franchise shall be construed as granting an exclusive franchise or right.

ARTICLE III DISPOSAL SITE TO BE USED

CONTRACTOR shall utilize a BSWMA landfill or any other T.C.E.Q. approved disposal site for the disposal of all demolition and construction debris collected by CONTRACTOR under this Franchise Agreement. **CONTRACTOR shall not dispose of any Class 1 Waste at the BSWMA landfill** or any other T.C.E.Q. approved disposal site.

ARTICLE IV RATES TO BE CHARGED BY BCS STOP 'N GO POTTIES

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

ARTICLE V PAYMENTS TO CITY

1. For and in consideration of the grant of the franchise herein, CONTRACTOR agrees and shall pay to CITY upon acceptance of this Franchise Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of CONTRACTOR's monthly gross delivery and hauling revenues generated from CONTRACTOR's provision of demolition and construction debris roll-off container collection services within the CITY. Any revenue received by CONTRACTOR will be subject to the franchise fee and shall be computed into CONTRACTOR's monthly gross delivery and hauling revenue. Said payment shall be paid quarterly to the City Manager or her delegate and shall be due by the twentieth of the month following the end of the previous quarter. Payment after that date shall incur a ten percent (10%) late fee on the outstanding amount owed.

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

**ARTICLE VI
ACCESS TO RECORDS & REPORTING**

1. CITY shall have the right, upon reasonable notice, to inspect during normal business hours CONTRACTOR's records, billing records of those customers served by CONTRACTOR and all papers relating to the operation of demolition and construction debris collection and disposal within the CITY. CONTRACTOR shall cooperate in allowing CITY to conduct the inspections. The following records and reports shall be filed quarterly with the City Manager or the City Manager's delegate:

a. Reports of the results of all complaints and investigations received and action taken by CONTRACTOR.

b. A listing of all CONTRACTOR accounts served and monthly revenue derived from roll-off containers placed in the CITY under terms of this franchise. The reports will include customer's name, address, frequency of pick-up, size of container, and monthly charges.

**ARTICLE VII
PLACEMENT OF ROLL-OFF CONTAINERS**

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

**ARTICLE VIII
CONTAINER AND EQUIPMENT MAINTENANCE**

1. CONTRACTOR agrees to properly maintain in a safe, clean and sanitary condition, and paint all roll-off containers placed out for service within the CITY. All equipment necessary for the performance of this franchise shall be in good condition and repair.

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

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

**ARTICLE IX
COMPLAINTS REGARDING SERVICE/SPILLAGE**

CONTRACTOR shall handle directly any complaints pertaining to customer service, property damage or personal injury from their roll-off container service. Any such complaints received by CITY shall be forwarded to CONTRACTOR within twenty-four (24) hours of their receipt by CITY. CONTRACTOR shall respond to all complaints within twenty-four (24) hours of receiving notice of such complaint from CITY, resolve such complaints promptly and shall report to CITY the action taken. Failure by CONTRACTOR to respond and report to CITY on action taken within this twenty-four (24) hour period may subject CONTRACTOR to a \$25.00 per incident charge from CITY payable with the next payment due CITY under Article V of this Franchise Agreement.

**ARTICLE X
COMPLIANCE WITH LAWS**

1. This ordinance shall be construed in accordance with the City's Charter and Code of Ordinances in effect on the Effective Date of this ordinance to the extent that such City Charter and Code of Ordinances are not in conflict with or in violation of the Constitution and Laws of the United States or the State of Texas.
2. This Ordinance shall be governed in accordance with the Laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.
3. Notwithstanding any other provision in this franchise to the contrary, City and Contractor shall at all times comply with all laws, rules, and regulations of the state and federal government and any administrative agencies thereof, with respect to the subject matter of this Ordinance.
4. In the event that the Contractor uses BVSWMA for disposal of materials that are collected under this Agreement, the Contractor agrees to comply with all BVSWMA regulations. All collections made under this Agreement shall be made by Contractor without unnecessary noise, disturbance, or commotion.

**ARTICLE XI
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

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

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

**ARTICLE XII
OWNERSHIP OF MATERIALS**

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

**ARTICLE XIII
CITY SERVICE**

CONTRACTOR agrees to provide free service to CITY following natural disasters or Acts of God.

**ARTICLE XIV
INTERRUPTION OR TERMINATION OF SERVICE**

1. In the event that CONTRACTOR terminates service to any customer within the CITY's limit, CONTRACTOR must notify CITY through registered mail within forty-eight (48) hours of termination and state the cause of such termination.

2. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform under this contract and CITY may invoke the provisions of Article XV of this Franchise Agreement (FAILURE TO PERFORM).

**ARTICLE XV
FAILURE TO PERFORM**

It is expressly understood and agreed by the parties that if at any time CONTRACTOR shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after hearing as described herein, revoke and cancel the Franchise Agreement by and between the parties and said Franchise Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the Council of said CITY, CITY shall mail notice to CONTRACTOR, at the address designated herein or at such address as may be designated from time to time, by registered mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Franchise Agreement. The hearing shall be conducted in public before the City Council and CONTRACTOR shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Franchise Agreement between the parties at no penalty to the CITY.

**ARTICLE XVI
RELEASE AND INDEMNIFICATION**

1. **CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER, AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, ANY PERSON WHETHER THAT PERSON BE A THIRD PERSON, CONTRACTOR, OR AN EMPLOYEE OF EITHER OF THE PARTIES HERETO, AND ANY LOSS OF OR DAMAGE TO PROPERTY, WHETHER THE SAME BE THAT OF EITHER OF THE PARTIES HERETO OR OF THIRD PARTIES, CAUSED BY OR ALLEGED TO BE CAUSED BY, ARISING OUT OF OR IN CONNECTION WITH THE GRANT OF THIS FRANCHISE TO CONTRACTOR, WHETHER OR NOT SAID CLAIMS, DEMANDS AND CAUSES OF ACTION IN WHOLE OR IN PART ARE COVERED BY INSURANCE.**

2. **CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD CITY HARMLESS AND DEFEND THE 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 ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, AND FOR DAMAGE TO ANY PROPERTY, OUT OF OR IN CONNECTION WITH OPERATION OF CONTRACTOR'S RECYCLING BUSINESS UNDER THIS FRANCHISE AND DISPOSAL OF THE RECYCLABLE WASTE COLLECTED BY IT OR RESALE, AND ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT, WHETHER THE CONTRACTOR'S NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGES, AND WHETHER THE CITY'S NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, THAT THE INDEMNITY PROVIDED FOR HEREINABOVE IS INDEMNITY BY THE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF BOTH THE CITY'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE, AND THE CONTRACTOR'S NEGLIGENCE, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.**

3. **CONTRACTOR ASSUMES RESPONSIBILITY AND LIABILITY AND HEREBY AGREES TO INDEMNIFY THE CITY FROM ANY LIABILITY CAUSED BY CONTRACTOR'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL LAWS AND REGULATIONS, TOUCHING UPON THE MAINTENANCE OF A SAFE AND PROTECTED WORKING ENVIRONMENT, AND THE SAFE USE AND OPERATION OF MACHINERY AND EQUIPMENT IN THAT WORKING ENVIRONMENT.**

ARTICLE XVII INSURANCE

1. For the duration of this Agreement, Contractor shall procure and maintain at its sole cost and expense insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the terms of this Agreement by Contractor, its agents, representatives, volunteers, employees, or subcontractors.

2. Contractor's insurance shall be primary insurance with respect to the City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers, shall be considered in excess of Contractor's insurance and shall not contribute to it.

3. Contractor shall include any and all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements and endorsements stated herein.

4. Certificates of Insurance and endorsements shall be furnished to City and approved by City before work commences. During the term of this Agreement Contractor's insurance policies shall meet the following requirements:

a. Standard Insurance Policies Required

1. Commercial General Liability
2. Business Automobile Liability
3. Workers' Compensation

b. General Requirements Applicable to All Policies

1. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted, if available. Otherwise, an Insurance Carrier shall be permitted outside the State of Texas, as long as policy is through an Insurance Broker authorized within Texas and the policy complies with the other insurance requirements contained in this Agreement.
2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
3. "Claims Made" policies are not accepted.
4. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
5. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
6. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General and Business

Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

c. Commercial General Liability

1. General Liability insurance shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
2. Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
3. Coverage shall be at least as broad as ISO form CG 00 01.
4. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
5. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability MSC 90 Pollution Coverage.

d. Endorsements

1. Those policies set forth in Paragraphs III and IV shall contain an endorsement naming the City as Additional Insured and further providing that the Contractor's policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as **Exhibit "B"**, and approved by the City before work commences.

e. Workers Compensation Insurance

1. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a worker's compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors must use that portion of the form whereby the hiring Contractor agrees to provide coverage to the employees of the

subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent Contractor may not be used.

2. Workers compensation insurance shall include the following terms:
 - A. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required.
 - B. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 - C. Texas must appear in Item 3A of the Workers Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
3. Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

Definitions:

- A. Certificate of coverage ("certificate") – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
- B. Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.
- C. Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

4. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
5. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
6. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
7. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - A. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - B. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
8. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
9. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
10. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
11. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - A. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - B. Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

- C. Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - D. Obtain from each other person with whom it contracts, and provide to the Contractor:
 - i. A certificate of coverage, prior to the other person beginning work on the project; and
 - ii. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - E. Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - F. Notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - G. Contractually require each person with whom it contracts to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.
12. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
13. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.
- f. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:**
- 1. The company is licensed and admitted to do business in the State of Texas.
 - 2. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
 - 3. All endorsements and insurance coverages according to requirements and instructions contained herein.

4. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
5. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

ARTICLE XVIII ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by Contractor without the specific prior written approval of the City Council. The Contractor may request assignment of the Contractor's rights or obligations under this Agreement upon written request to the City. City shall take the requested assignment before the City Council within thirty (30) days of receipt of request from Contractor, and will be recommended for approval by staff unless deemed unreasonable.

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

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

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

ARTICLE XX AD VALOREM TAXES

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

ARTICLE XXI NOTICES AND PAYMENTS

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

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

Charles Mancuso
President, CCAA, LLC, d/b/a
Stop 'N Go Potties
P. O. Box 5449
Bryan, Texas 77805

2. All notices shall be deemed to have been properly served only if sent by Registered or Certified Mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

ARTICLE XXII PENALTY

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

ARTICLE XXIII AMENDMENTS

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

ARTICLE XXIV SEVERABILITY

If any section, sentence, clause, or paragraph of this Agreement shall be held to be invalid, illegal or unenforceable by a court 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 invalid, illegal or unenforceable provision(s) of this Agreement with valid legal terms and conditions approximating the original intent of the parties.

ARTICLE XXV AUTHORIZATION TO EXECUTE

The parties signing this Franchise Agreement shall provide adequate proof of their authority to execute this Franchise Agreement. This Franchise Agreement shall inure to the benefit and be binding upon the parties hereto and their respective successors or assigns, but shall not be assignable by either party without the written consent of the other party.

**ARTICLE XXVI
TERM AND TERMINATION OF FRANCHISE**

1. The term of this Franchise Agreement shall be for a period of five (5) years beginning on the date of acceptance.
2. In addition to all other rights and powers retained by City under this Franchise or otherwise, City reserves the right to declare this Franchise forfeited and to terminate the Franchise and all rights and privileges of Contractor hereunder in the event of a material breach of the terms, covenants, or conditions herein set forth. A material breach by Contractor shall include, but not be limited to, the following:
 - a. Failure to pay the fees prescribed by Article V.
 - b. Failure to materially provide the services provided for in this Franchise.
 - c. Material misrepresentation of fact in the application for or negotiation of this Franchise.
 - d. Conviction of any director, officer, employee, or agent of Contractor of the offense of bribery or fraud connected with or resulting from the awarding of this Franchise.
 - e. Material misrepresentations of fact knowingly made to City with respect to or regarding Contractor's operations, management, revenues, services or reports required pursuant to this Franchise.
 - f. Revocation or denial of registration or renewal of registration by TCEQ.
 - h. Excessive interruption in service for a period of seventy-two (72) hours or more due to causes other than force majeure.
3. Contractor shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, or employees.
4. City may after a hearing as described herein, revoke and cancel the Franchise by and between the parties and said Franchise shall be null and void. City shall mail notice to Contractor, at the address designated herein or at such address as may be designated from time to time, by registered mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and Contractor shall be allowed to present evidence and be given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the City.

**ARTICLE XXVII
ACCEPTANCE OF FRANCHISE**

In accordance with City of College Station City Charter, Section 120, Contractor shall have sixty (60) days, from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary within thirty (30) days from the final adoption of this Ordinance, and upon acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance. Such acceptance shall be typed or printed on the letterhead of Contractor and, with the blank spaces appropriately completed, shall be as follows:

Attn: Public Works Director

_____ acting by and through its undersigned who is acting with his official capacity and authority, hereby accepts the franchise to operate a recycling collection service within the City of College Station, Texas ("College Station") as said franchise is set forth and provided in Ordinance No. _____ (the "Ordinance").
_____ agrees to be bound and governed by each terms, provision and condition of the Ordinance, to accept and to give the benefits provided for in the Ordinance in a business like and reasonable manner and compliance with the Ordinance.

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

By accepting this Agreement, Contractor represents that it has, by careful examination, satisfied itself as to the nature and location of the work, the character, quality and quantity of work to be performed, the character of the equipment and facilities necessary to fulfill its obligations under this Agreement, as well as the general and local conditions and all other matters that in any way affect the work to be performed under this Agreement.

**ARTICLE XXVIII
PUBLIC MEETING**

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

First Consideration & Approval on the _____ day of _____ 2011

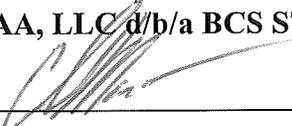
Second Consideration & Approval on the _____ day of _____ 2011

Third Consideration & Approval on the _____ day of _____ 2011

PASSED, ADOPTED and APPROVED by the City of College Station City Council on this the _____ day of _____ 2011.

CCAA, LLC d/b/a BCS STOP 'N GO POTTIES

CITY OF COLLEGE STATION

By: 

By: _____

Printed Name: CHARLES MANLISO

Mayor
Date: _____

Title: OWNER

Date: 5/4/11

ATTEST:

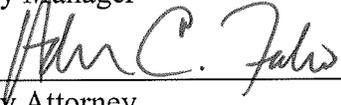
City Secretary

Date

APPROVED:

City Manager

Date


City Attorney

Date

Chief Financial Officer

Date

EXHIBIT "A"
SCHEDULE OF RATES
BCS STOP N GO POTTIES

Rates for a fourteen (14) yard dumpster

\$75.00 plus tipping fee or
\$110.00 minus tipping fee

\$1.00 per day fee after fourteen days on location without disposal

EXHIBIT "B"
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/18/2010

PRODUCER WM BLANCHARD & ASSOCIATES PO Box 308 Granbury, TX 76048 (817) 573-7752		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Chas. Mancuso, Inc. & CCAA, LLC, dba BCS Stop&Go Potties & Brazos Valley Recycling P.O. BOX 5449 Bryan, TX 77805		INSURERS AFFORDING COVERAGE	NAIC#
		INSURER A: ST. PAUL FIRE & MARINE	
		INSURER B:	
		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 CTR. INBRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input checked="" type="checkbox"/> OCCUR	CK00222244	5/8/10	5/8/11	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> UM	CA00202259	5/8/10	5/8/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
					BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A	EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	502XA9366	5/8/10	5/8/11	EACH OCCURRENCE \$ 2,000,000
					AGGREGATE \$ 2,000,000 2 EX OF 1 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER All Risk Blanket Equip. Bldgs. & Content	IM00200486	5/8/10	5/8/11	Values--\$200,000 with \$2,500 ded./Occur \$1,085,000

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

ALL PERSONS AND ORGANIZATIONS ARE PROTECTED AS PROVIDED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

EDGAR MACHINERY CORP.
4629 PRIEM LANE
PFLUGERVILLE, TX 78660

ATTN: L. RUFF
FAX: 512-251-5609

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

ORD25(2009/01)

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May 26, 2011
Consent Agenda Item No. 2i
Construction Contract 11-199 for Site Improvements
at Woodcreek Park

To: David Neeley, City Manager

From: David Schmitz, Interim Director, Parks and Recreation

Agenda Caption: Presentation, possible action, and discussion regarding a resolution awarding the bid and approval of a construction contract (Contract # 11-199) with Follis-Cole Construction, LLC in the amount of \$57,132.50 for new sidewalks, drinking fountain, pea gravel for playground, earthwork, sodding, and resurfacing of existing basketball court at Woodcreek Park.

Recommendation(s): Staff recommends approval of the resolution and award of the construction contract with Follis-Cole Construction for improvements at Woodcreek Park in the amount of \$57,132.50 and forty (40) construction days.

Summary: This project is for the renovation of Woodcreek Park, built in 1991. Many of the repairs are related to safety or replacement of items that are no longer in good or acceptable condition. The renovations will also address ADA access compliance issues. The repairs/renovations include:

- Remove gravel walks, edging, and brick pavers
- Install concrete paving
- Furnish/Install new fountain and remove existing fountain
- Repair/Drain line and add concrete splash block
- Earthwork, sodding, stone rip rap and install clay soil or concrete under sidewalk (north side)
- Concrete curb for playground, 190 linear feet
- Resurface/stripe basketball court
- Add 8" x 1' of pea gravel at playground
- 392' x 5' sidewalk to replace the gravel sidewalk/trail

Budget & Financial Summary: Five (5) sealed, competitive bids were received and opened on April 11, 2011. The bid summary is attached. The project budget was \$72,850 and the recommended low bid is \$57,132.50. Funds are available from the 2008 Bond Fund - Neighborhood Park Improvements.

Attachments:

1. Resolution
2. Bid Number 11-50 Tabulation
3. Site Plan
4. Construction Contract 11-199
(This contract will be available in the City Secretary's office.)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION AGREEMENT WITH FOLLIS-COLE CONSTRUCTION, LLC, WITH CONTRACT #11-199, FOR SITE IMPROVEMENTS AT WOODCREEK PARK, PROJECT NUMBER PK-1114, AND AUTHORIZING EXPENDITURE OF FUNDS.

WHEREAS, the City of College Station, Texas, solicited bids for construction of site improvements in Woodcreek Park, now therefore,

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

- PART 1: That the City Council hereby finds that Follis-Cole Construction, LLC is the lowest, responsible bidder.
- PART 2: That the City Council hereby approves the contract with Follis-Cole Construction, LLC in the amount of \$57,132.50 and forty (40) calendar days for the labor, materials, and equipment required for the construction of site improvements at Woodcreek Park.
- PART 3: That the funding for this contract shall be budgeted from the 2008 Neighborhood Bond Fund in the amount of \$57,132.50.
- PART 4: That this resolution shall take effect immediately.

ADOPTED this the 26th day of May , 2011.

ATTEST:

APPROVED:

CITY SECRETARY

MAYOR

APPROVED:



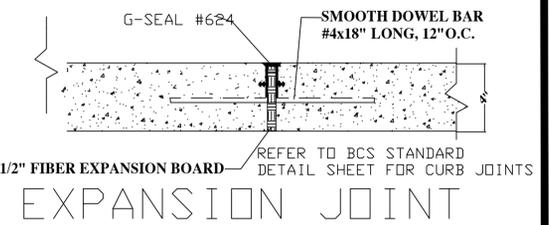
CITY ATTORNEY



City of College Station - Purchasing Division
Bid Tabulation for #11-50
"Woodcreek Park Site Improvements"
Open Date: April 11, 2011 @ 2:00 p.m.

				Follis-Cole Construction LLC		Dudley Construction Ltd		Marek Brothers Construction, Inc.		VoX Construction LLC		Orion Construction	
ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	1	ls	Remove gravel walks & edging & brick pavers	\$350.000	\$350.00	\$3,650.00	\$3,650.00	\$4,807.00	\$4,807.00	\$6,106.00	\$6,106.00	\$12,850.00	\$12,850.00
2	6550	sq ft	Install concrete paving	\$5.15	\$33,732.50	\$4.00	\$26,200.00	\$4.25	\$27,837.50	\$5.54	\$36,287.00	\$4.90	\$32,095.00
3	1	ls	Furnish/Install new fountain & remove existing fountain	\$3,606.000	\$3,606.00	\$5,350.00	\$5,350.00	\$5,563.00	\$5,563.00	\$5,845.00	\$5,845.00	\$6,500.00	\$6,500.00
4	1	ls	Repair/drain line & add concrete splash block	\$225.00	\$225.00	\$1,200.00	\$1,200.00	\$445.00	\$445.00	\$508.00	\$508.00	\$400.00	\$400.00
5	1	ls	Earthwork, sodding, stone rip rap & install clay soil or concrete under sidewalk (north side)	\$250.000	\$250.00	\$5,100.00	\$5,100.00	\$4,308.00	\$4,308.00	\$4,830.00	\$4,830.00	\$7,200.00	\$7,200.00
6	1	ls	Concrete curb for playground, 190 lin ft	\$3,700.00	\$3,700.00	\$3,200.00	\$3,200.00	\$3,490.00	\$3,490.00	\$3,977.00	\$3,977.00	\$2,000.00	\$2,000.00
Total w/o Alternates				\$41,863.50		\$44,700.00		\$46,450.50		\$57,553.00		\$61,045.00	
Alt 1	1	ls	Resurface/stripe basketball court	\$2,819.000	\$2,819.00	\$4,500.00	\$4,500.00	\$18,768.00	\$18,768.00	\$5,885.00	\$5,885.00	\$4,475.00	\$4,475.00
Alt 3	1	ls	Add 8' - 1' of pea gravel@playground	\$650.00	\$650.00	\$3,850.00	\$3,850.00	\$3,659.00	\$3,659.00	\$2,568.00	\$2,568.00	\$3,940.00	\$3,940.00
Alt 3	1	ls	392'x5' sidewalk to replace the gravel one	\$11,800.000	\$11,800.00	\$8,750.00	\$8,750.00	\$13,990.00	\$13,990.00	\$17,293.00	\$17,293.00	\$13,990.00	\$13,990.00
				Total with Alternate 1	\$44,682.50	\$49,200.00	\$65,218.50	\$63,438.00	\$65,520.00				
				Total with Alternate 2	\$42,513.50	\$48,550.00	\$50,109.50	\$60,121.00	\$64,985.00				
				Total with Alternate 3	\$53,663.50	\$53,450.00	\$60,440.50	\$74,846.00	\$75,035.00				
				Total with Alternates 1, 2 & 3	\$57,132.50	\$61,800.00	\$82,867.50	\$83,299.00	\$83,450.00				
Number of calendar days to substantial completion				40	60	90	40	90					
Certification of Bid				✓	✓	✓	✓	✓					
Acknowledged Addendums				✓	✓	✓	✓	✓					
Bid Bond				✓	✓	✓	✓	✓					

NOTES: SECURE G-SEAL TO THE EXPANSION JOINT W/ NAILS, SCREWS, OR STAPLES 18" O.C.
G-SEAL PROVIDES A FINISHED JOINT (DO NOT TOOL)

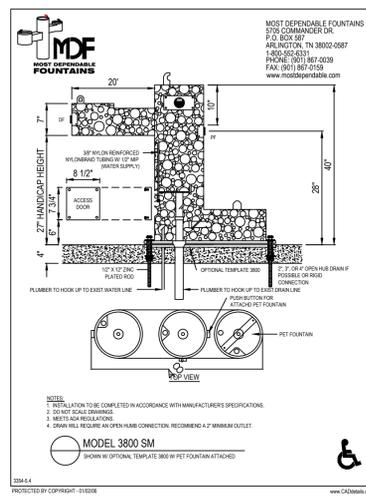
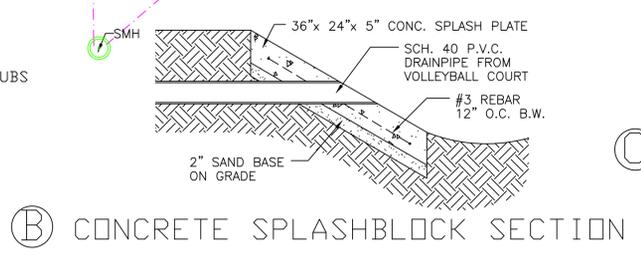
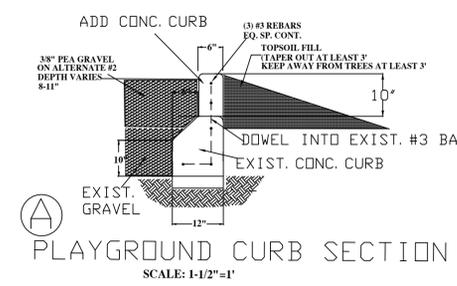
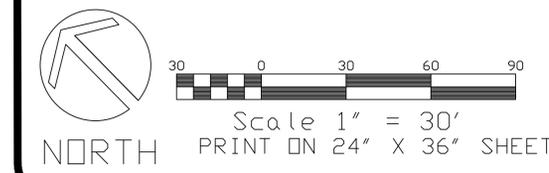
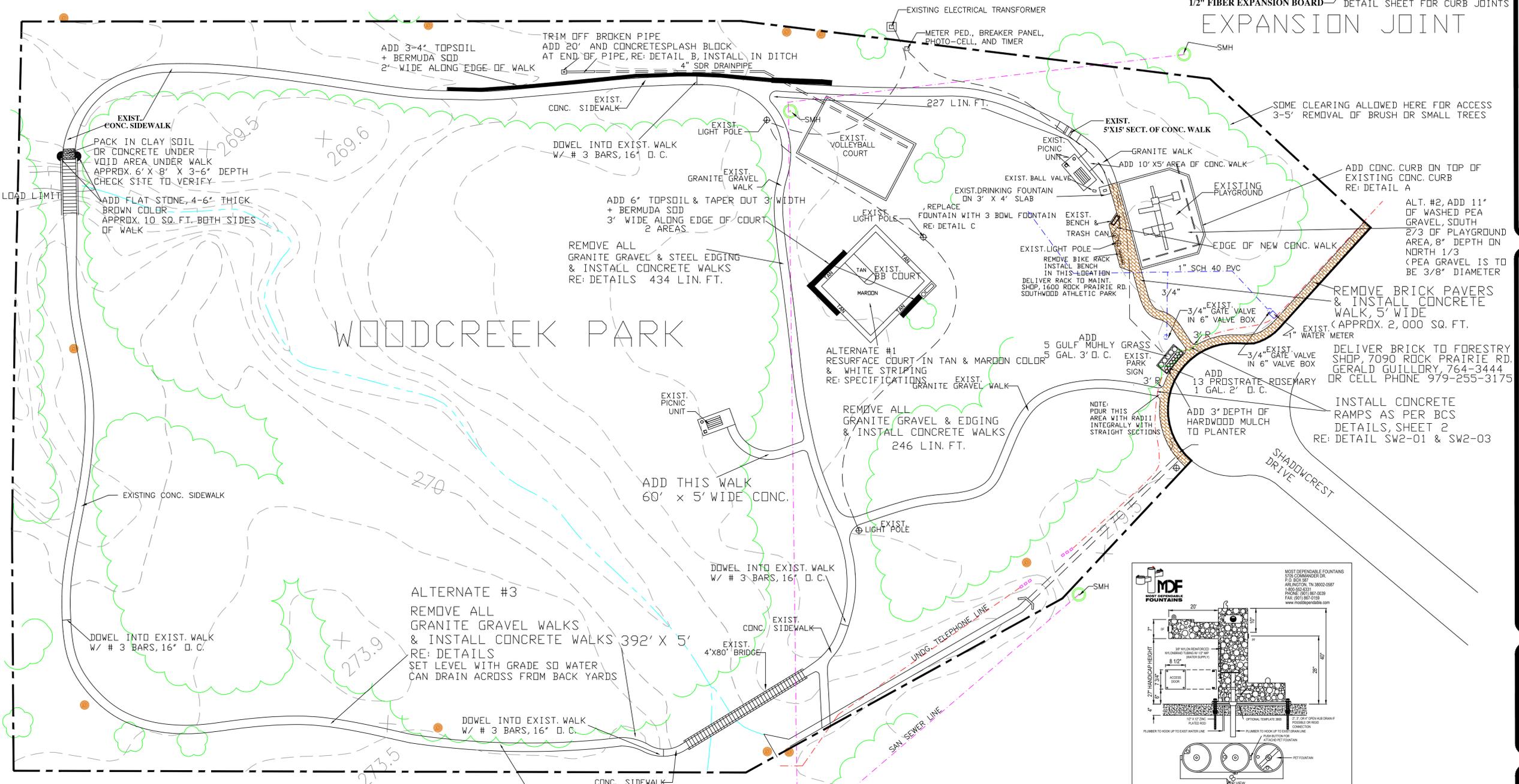


NOTE: DOWEL ALL NEW CONCRETE INTO ANY EXISTING CONCRETE WALKS OR CURBS, #3 BARS, 16" D. C.
WALKS TO HAVE SCORE JOINTS, 5' O. C.
EXPANSION JOINTS 30' MAXIMUM RE: DETAILS
EXPANSION JOINTS TO BE FIBER TYPE & HAVE GRAY RUBBER G SEALS VS. WOOD & JOINT FILLER

1/2" FIBER EXPANSION BOARD REFER TO BCS STANDARD DETAIL SHEET FOR CURB JOINTS

EXPANSION JOINT

NOTE: BRIDGE HAS A 5,000 LB. LOAD LIMIT



CITY OF COLLEGE STATION
PARKS AND RECREATION DEPARTMENT
POST OFFICE BOX 9960
COLLEGE STATION, TX. 77842
WWW.CS.TX.GOV

WOODCREEK PARK
IMPROVEMENTS



DATE: Dec., 2010
Sr. Park Planner
Peter B. Vanecsek
(979) 764-3412
REVISIONS:

SHEET:
1
OF 2

May 26, 2011
Consent Agenda Item No. 2j
Itinerant Vendor Handbill Exemption

To: David Neeley, City Manager

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

Agenda Caption: Presentation, possible action, and discussion regarding amending Chapter 4, section F (1), "Business Regulations", of the code of ordinances of the City of College Station, which would exempt the City of College Station for the purpose of distributing public safety handbills.

Recommendation(s): Staff recommends passing the ordinance amendment.

Summary: In November 2010, City Council passed an ordinance revision based on the recommendation of the Police Department. The revision enabled police officers to disseminate educational handbills, which was prohibited by ordinances previously in place. This ordinance revision was being drafted simultaneously with the Planning and Development Services Department revision for mobile food vendors which was adopted in March. However, the provision added by Police was not in the later revision due to a staff oversight associated with the timing. This proposed amendment would combine the two previously approved ordinance amendments.

Budget & Financial Summary: N/A

Attachments:

1. Chapter 4 "Business Regulations", Section 1(F) entitled "Exemptions".

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS", SECTION 1 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDERS, HANDBILL DISTRIBUTORS", F, "EXEMPTIONS" 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", SECTION 1 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDERS, HANDBILL DISTRIBUTORS", F, "EXEMPTIONS" 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 26nd day of May 2011.

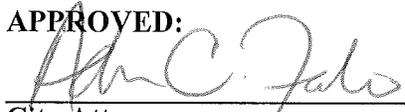
APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 4, "Business Regulations", Section 1 "SOLICITORS, CHARITABLE SOLICITORS, ITINERANT VENDERS, HANDBILL DISTRIBUTORS", F, "EXEMPTIONS", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, as set out hereafter to read as follows:

F. EXEMPTIONS

- (1) This section shall not apply to the City of College Station for the purpose of distributing public safety handbills.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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.

May 26, 2011
Regular Agenda Item No. 1
Rezoning for 1301 University Drive East

To: David Neeley, City Manager

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

Agenda Caption: Public Hearing, presentation, possible action, and discussion regarding an amendment to Chapter 12, "Unified Development Ordinance", Section 4.2, "Official Zoning Map" of the Code of Ordinances of the City of College Station, Texas by rezoning 1.3 acres located at 1301 University Drive East from A-P Administrative Professional and OV Overlay District to C-1 General Commercial, A-O Agricultural-Open, and OV Overlay District.

Recommendation(s): The Planning and Zoning Commission considered this item at their May 5, 2011 meeting and voted 7-0 to recommend approval. Staff also recommended approval of the request.

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

REVIEW CRITERIA

- 1. Consistency with the Comprehensive Plan:** The Comprehensive Plan Land Use and Character Map shows the proposed A-O Agricultural-Open portion as General Commercial and the proposed C-1 General Commercial portion as Natural Areas-Reserved. The proposed rezoning would designate approximately 75% of the property as A-O Agricultural-Open thus protecting that portion of the floodway against future intense development. A portion of the proposed C-1 property is located within the floodplain; however, development may occur in that areas at any time due to the current zoning. Though the request is not entirely consistent with the future land use and character provisions of the Comprehensive Plan, the floodway was zoned R-3 Townhome and later rezoned to A-P Administrative-Professional, which allows development to occur in this location by right.
- 2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:** The proposed C-1 and OV zoning districts are compatible with the abutting Gateway commercial development. The applicant is proposing to include this property with the commercial development of Gateway Subdivision Phase 3. The A-O and OV will act as a buffer between the proposed commercial development and the existing duplexes along April Bloom Drive. Staff believes the proposed zoning to be compatible with the surrounding uses and zoning districts.
- 3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment:** The proposed A-O district is more appropriate for the floodway and floodplain than the current A-P zoning. This will limit development on this portion of the property to low-density uses only. The suitability of C-1 is no less than the current A-P district when considering that the area is 0.39 acres.
- 4. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The current

A-P zoning district is not suitable for the floodway and floodplain portion of the property, which comprises the majority of the area.

5. **Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The marketability of the subject is possibly limited by its acreage and floodplain/floodway that take up most of the property. However, this site could be developed in its current state with a small office building that would likely utilize the floodplain and floodway areas of the property.
6. **Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:** The subject tract is located adjacent to a 12-inch water main which runs along University Drive. The subject tract is located adjacent to both an 8-inch and a 12-inch sanitary sewer main which are located along the eastern and western property lines, respectively. The subject tract is located in the Burton Creek drainage basin and is encroached by a FEMA-regulated Special Flood Hazard Area, Zone AE. The proposed zoning is reserving the floodway as A-O Agricultural-Open. Development of the subject tract will be required to meet the City Storm Water Design Guidelines. The subject tract will share joint access to State Highway 60 (University Drive) with the adjoining property to the east. University Drive is classified as a 6-lane major arterial, urban context on the City's Thoroughfare Plan. The joint access to University Drive must be permitted by TxDOT.

Budget & Financial Summary: N/A

Attachments:

1. Background Information
2. Aerial & Small Area Map (SAM)
3. Draft Planning & Zoning Commission Minutes – May 5, 2011
4. Ordinance

BACKGROUND INFORMATION:

NOTIFICATIONS

Advertised Commission Hearing Date: May 5, 2011
Advertised Council Hearing Dates: May 26, 2011

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: 19

Contacts in support: None

Contacts in opposition: None

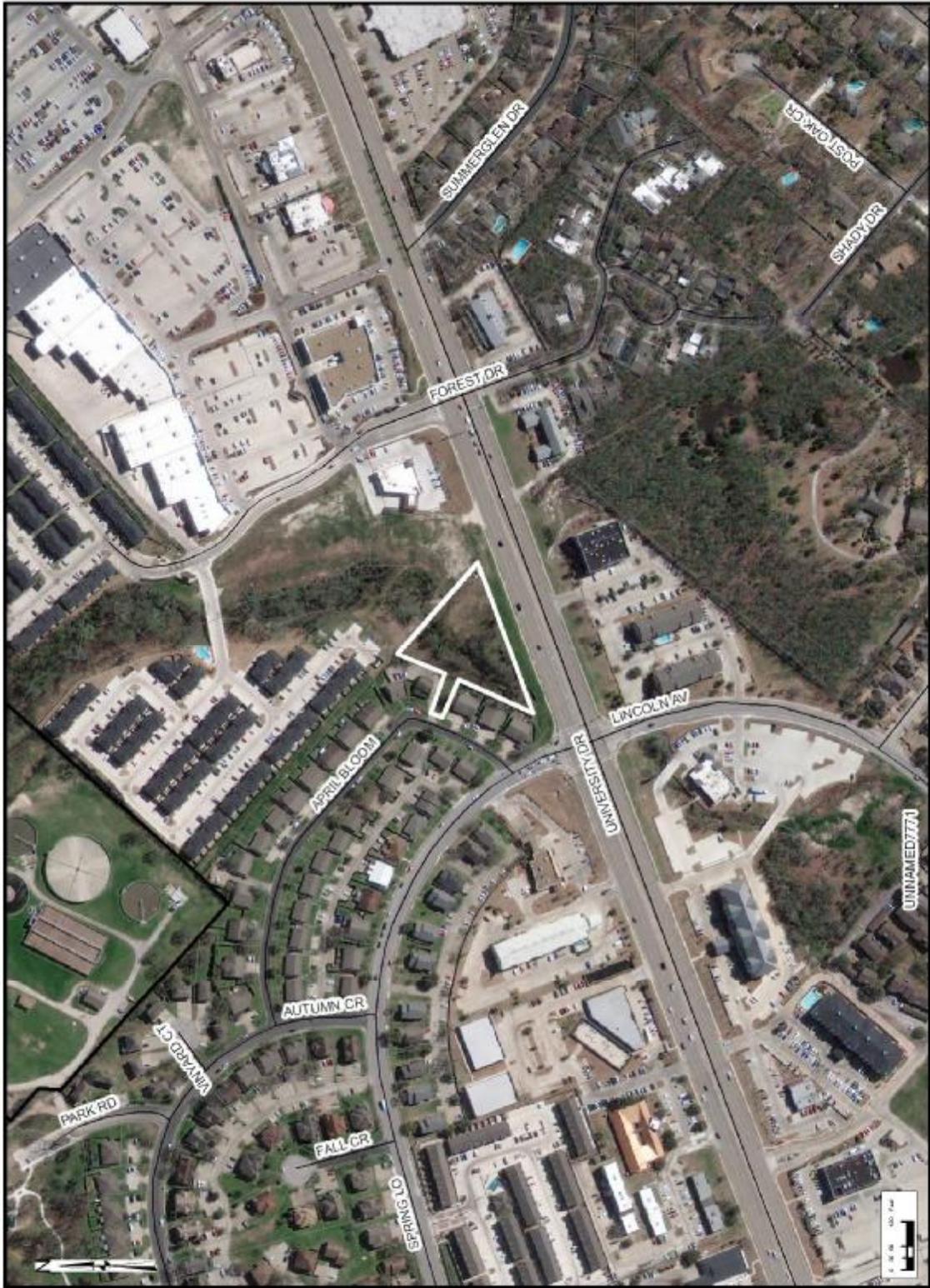
Inquiry contacts: None

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Urban	R-3 Townhome and R-4 Multi-Family	Duplexes and Gateway Villas Apartments
South	Major Arterial	N/A	University Drive
East	General Commercial and Natural Areas-Reserved	C-1 General Commercial	Vacant commercial property and floodway
West	Urban	R-3 Townhome	Duplexes

DEVELOPMENT HISTORY

Annexation: February 1971
Zoning: 1981- R-3 Townhome
1986- A-P Administrative-Professional
1992- OV Overlay District
Final Plat: N/A
Site development: Vacant

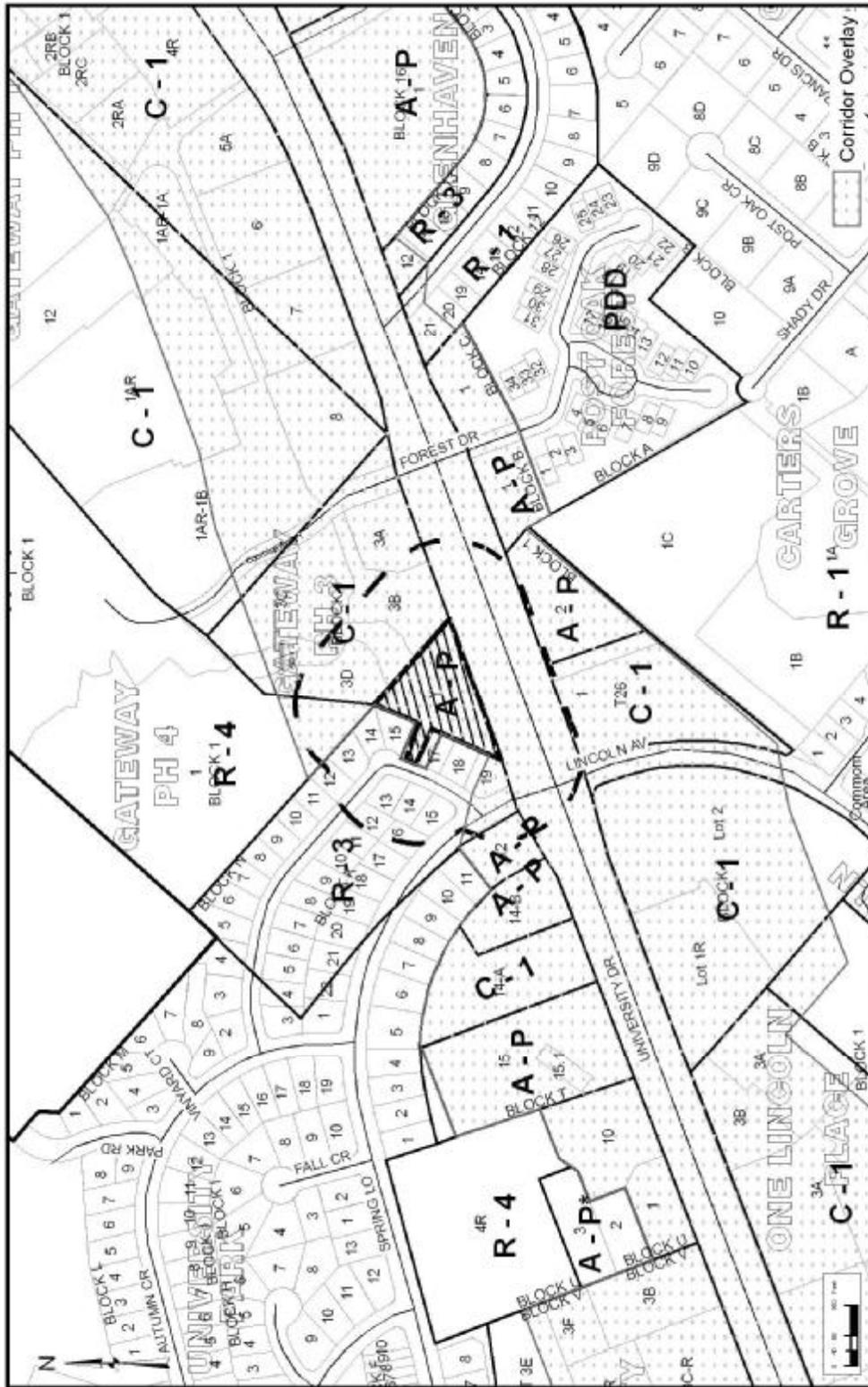


REZONING
Case: 11-054

PANERA BREAD

DEVELOPMENT REVIEW





WPC	Wall Pen Creek Dev. Corridor
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate
CV	Corridor Overlay
RDD	Redevelopment District
KO	Klenek Tap Overlay

DEVELOPMENT REVIEW **PANERA BREAD** **REZONING**

Case: 11-054

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES AS DESCRIBED BELOW; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 26th day of May, 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 1.3 acres of property is rezoned from A-P Administrative-Professional and OV Overlay District to C-1 General Commercial, A-O Agricultural-Open, and OV Overlay District as described Exhibit "B" and shown graphically in Exhibit "C":

EXHIBIT "B"

Rezoning Request C-1
Block "Y" University Park Section II
Richard Carter Survey, A-3
College Station, Brazos County, Texas

Field notes of a 0.39 acre tract or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Block "Y" University Park Section II, according to the plat recorded in Volume 519, Page 354, of the Deed Records of Brazos County, Texas, and said 0.39 acre tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod found marking the common corner between the beforementioned Block "Y" and Lot 3B - 1.07 acres, Block 1 of The Gateway Subdivision, Phase 3, according to the plat recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, said 1/2" iron rod also lying in the north right-of-way line of University Drive - F.M. No. 60;

THENCE S 69° 44' 28" W along the north right-of-way line of the beforementioned University Drive, for a distance of 221.06 feet to a 1/2" iron rod set;

THENCE generally parallel to and one foot west of the eastmost floodway line of a tributary to Burton Creek, as shown on FEMA Map No. 48041C0142C, and revised per LOMR Case No. 07-06-1928P, as follows:

- N 33° 51' 41" E for a distance of 77.05 feet to the beginning of a curve, concave to the west, having a radius of 20.00 feet,
- Northerly along said curve, for an arc distance of 11.82 feet to the end of this curve, the chord bears N 16° 46' 59" E - 11.75 feet,
- N 00° 17' 44" W for a distance of 17.14 feet to the beginning of a curve, concave to the west, having a radius of 55.00 feet,
- Northerly along said curve, for an arc distance of 13.42 feet to the end of this curve, the chord bears N 07° 17' 08" W - 13.39 feet,
- N 14° 16' 33" W for a distance of 27.08 feet to a 60d nail set at the beginning of a curve, concave to the east, having a radius of 43.00 feet,
- Northerly along said curve, for an arc distance of 35.45 feet to the end of this curve, the chord bears N 09° 20' 32" E - 34.45 feet,
- N 32° 57' 37" E for a distance of 5.02 feet to the beginning of a curve, concave to the southeast, having a radius of 15.00 feet,
- Northeasterly along said curve, for an arc distance of 14.78 feet to the end of this curve, the chord bears N 61° 11' 44" E - 14.19 feet,
- N 89° 25' 51" E for a distance of 7.10 feet to the beginning of a curve, concave to the south, having a radius of 20.00 feet,
- Easterly along said curve, for an arc distance of 4.34 feet to the end of this curve, the chord bears S 84° 21' 07" E - 4.33 feet,
- S 78° 08' 04" E for a distance of 34.67 feet to a 60d nail set in the common line between the beforementioned Block "Y" and Lot 3B - 1.07 acres, Block 1, The Gateway, Ph. 3;

THENCE S 48° 04' 07" E along the common line between the beforementioned Block "Y" and Lot 3B - 1.07 Acres, Block 1, The Gateway, Ph. 3, for a distance of 139.03 feet to the **PLACE OF BEGINNING**, containing 0.39 acre of land, more or less.



Surveyed: March, 2011
By: *[Signature]*
S. M. Kling
R.P.L.S. No. 2003

EXHIBIT "B" CONTINUED

Rezoning Request A-O
 Block "Y" University Park Section II
 Richard Carter Survey, A-8
 College Station, Brazos County, Texas

Field notes of a 0.91 acre tract or parcel of land, lying and being situated in the Richard Carter Survey, Abstract No. 8, College Station, Brazos County, Texas, and being part of Block "Y" University Park Section II, according to the plat recorded in Volume 519, Page 384, of the Deed Records of Brazos County, Texas, and said 0.91 acre tract being more particularly described as follows:

BEGINNING at the common 5-way corner between Lot 14 and Lot 15, Block "N" and Block "Y", according to the plat of The Re-subdivision of Blocks "N" and "P", University Park Section II, according to the plat recorded in Volume 519, Page 384, of the Deed Records of Brazos County, Texas; Lot 1 - 7.59 acres, Block 1 - The Gateway Phase Four, according to the plat recorded in Volume 7848, Page 100, of the Official Records of Brazos County, Texas; Lot 3D - 0.78 acre, Block 1, according to the plat of The Gateway Subdivision, Phase 3, recorded in Volume 9112, Page 138, of the Official Records of Brazos County, Texas, from which a 1/2" iron rod found bears N 22° 00' E - 0.89 feet;

THENCE S 48° 04' 07" E along the common line between the beforementioned Block "Y" and Lot 1 - 7.59 acres, Block 1 - The Gateway, and Common Area No. 2 - 0.83 acre, according to the beforementioned plat of The Gateway Subdivision, Phase 3, for a distance of 160.97 feet to a 60d nail set,

THENCE generally parallel to and one foot west of the eastmost floodway line of a tributary to Burton Creek, as shown on FEMA Map No. 48041C0142C, and revised per LOMR Case No. 07-06-1928P, as follows:

- N 78° 08' 04" W for a distance of 34.87 feet to the beginning of a curve, concave to the southeast, having a radius of 20.00 feet,
- Northwesterly along said curve, for an arc distance of 4.34 feet to the end of this curve the chord bears N 84° 21' 07" W - 4.33 feet,
- S 89° 25' 51" W for a distance of 7.10 feet to the beginning of a curve, concave to the south, having a radius of 15.00 feet,
- Westerly along said curve, for an arc distance of 14.78 feet to the end of this curve, the chord bears S 81° 11' 44" W - 14.19 feet,
- S 32° 57' 37" W for a distance of 5.02 feet to the beginning of a curve, concave to the east, having a radius of 43.00 feet,
- Southerly along said curve, for an arc distance of 35.45 feet to the end of this curve, the chord bears S 09° 20' 32" W - 34.45 feet,
- S 14° 16' 33" E for a distance of 27.08 feet to the beginning of a curve, concave to the west, having a radius of 55.00 feet,
- Southerly along said curve, for an arc distance of 13.42 feet to the end of this curve, the chord bears S 07° 17' 08" E - 13.39 feet,
- S 00° 17' 44" E for a distance of 17.14 feet to the beginning of a curve, concave to the west, having a radius of 20.00 feet,
- Southerly along said curve, for an arc distance of 11.92 feet to the end of this curve, the chord bears S 16° 46' 59" W - 11.75 feet,
- S 33° 51' 41" W for a distance of 77.05 feet to a 1/2" iron rod set in the north right-of-way line of University Drive - F.M. No. 60;

EXHIBIT "B" CONTINUED

Rezoning Request A-O
Block "Y" University Park Section II
Richard Carter Survey, A-8
College Station, Brazos County, Texas
Continued - Page 2

THENCE S 89° 44' 28" W along the north right-of-way line of the
beforementioned University Drive, for a distance of 178.95 feet to the common
corner between the beforementioned Block "Y" and Lot 19, Block "N", from which
a 3/8" iron rod found bears S 83° 22' 25" W - 0.50 feet;

THENCE N 24° 09' 49" E along the common line between Block "N" and
Block "Y", for a distance of 202.02 feet to a 1/4" iron rod set at the east corner of Lot
17, Block "N";

THENCE N 65° 50' 11" W along the common line between Lot 17, Block "N"
and Block "Y", for a distance of 101.89 feet to the north corner of Lot 17, Block "N",
said corner also being in the southeast right-of-way line of April Bloom - 50' wide
right-of-way, same being a curve, concave to the northwest, having a radius of
740.82 feet, from which a 3/8" iron rod found bears N 67° 26' E - 0.26 feet;

THENCE Northeasterly along the southeast right-of-way line of the
beforementioned April Bloom, for an arc distance of 30.36 feet to an "X" found in
concrete marking a north corner of Block "Y", the chord bears N 20° 12' 00" E -
30.36 feet;

THENCE along the common line between the beforementioned Block "Y" and
Lot 16, Block "N", as follows:

S 70° 54' 21" E	for a distance of 104.40 feet, a 3/8" iron rod found bears N 54° 16' E - 0.41 feet,
N 24° 09' 49" E	for a distance of 130.00 feet to the PLACE OF BEGINNING , containing 0.91 acre of land, more or less.

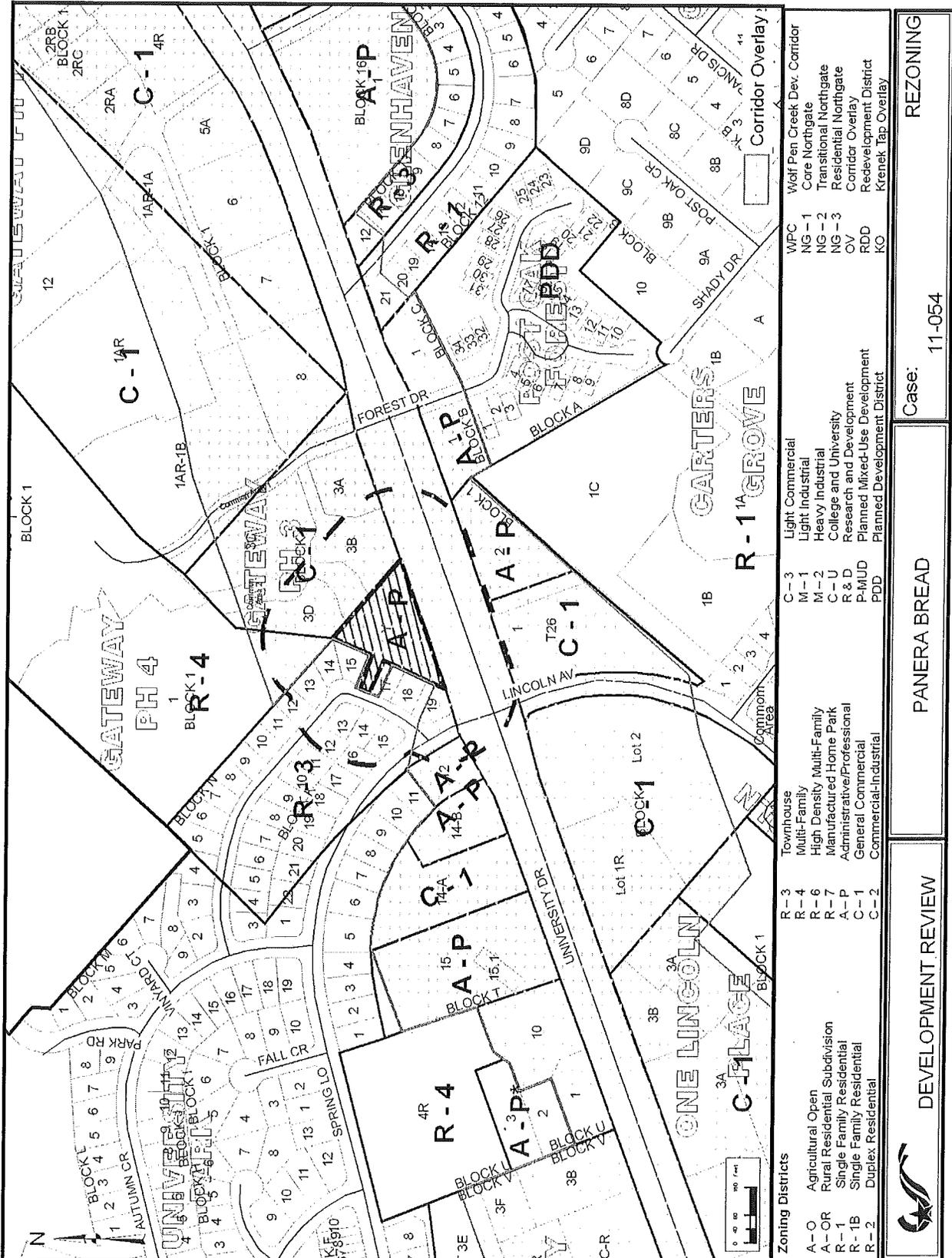


Surveyed: March, 2011

By: *[Signature]*
S. M. Kling
R.P.L.S. No. 2003

Prepared: 03/18/11
Los Angeles Planning Board - 04 Y Rezoning Request - University Park Sect. II - 05/16/09

EXHIBIT "C" CONTINUED



May 26, 2011
Regular Agenda Item No. 2
UDO Amendment for Campus Wayfinding Signs

To: David Neely, City Manager

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

Agenda Caption: Public Hearing, presentation, possible action, and discussion on an ordinance amendment to Chapter 12 "Unified Development Ordinance," Section 7.4 "Signs" and Section 11.2 "Defined Terms" specifically related to sign requirements.

Relationship to Strategic Goals: Goal III. Diverse Growing Economy – Promote business-friendly attitude

Recommendation(s): At their meeting on May 5 and May 19th, 2011 meetings, the Planning and Zoning Commission voted 7-0 to recommend approval of the amendment. Staff recommended approval of the Ordinance amendment.

Summary: At the January 11, 2011 City Council meeting, Council gave staff direction to pursue various amendments to the Unified Development Ordinance (UDO) that were identified by a subcommittee of the Mayor's Forum on Development. These items were also presented to the Planning & Zoning Commission at their December 16, 2010 meeting. This item is being brought forward in connection with this effort.

Section 7.4 "Signs" of the Unified Development Ordinance (UDO) currently provides limited options for wayfinding signage within a development. Presently, signs that are not easily identified from beyond the property line or right-of-way are exempt from the UDO sign requirements when they meet a specified distance from the property line and when the height of the copy or logo is restricted to a specified size. In addition, directional traffic control signs are only allowed one (1) per curb cut, with a maximum size of three (3) square feet and height of four (4) feet.

The proposed amendment would allow campus wayfinding signs within planned development districts (PDD) or unified developments located in C-1 General Commercial, C-2 Commercial Industrial, A-P Administrative Professional, and R&D Research and Development; of 20 acres or more in size; and that contain multiple buildings in the development. These signs would be limited in height to no greater than six (6) feet, with a maximum total sign area of 30 square feet. All campus wayfinding signs would be limited to one per intersection of two (2) primary circulation drive aisles when parking is not provided along the drive aisles, or at the intersection of a primary circulation drive aisle and public way when parking is not provided along the drive aisle or public way.

Budget & Financial Summary: N/A

Attachments:

1. Draft Planning & Zoning Commission Regular Meeting Minutes
2. Ordinance



MINUTES
PLANNING & ZONING COMMISSION
Regular Meeting
May 5, 2011, 7:00 p.m.
Conference Center Room 127
1300 George Bush Drive
College Station, Texas

COMMISSIONERS PRESENT: Chairman Scott Shafer, Mike Ashfield, Doug Slack, Craig Hall, Jodi Warner, Hugh Stearns, and Bo Miles

COMMISSIONERS ABSENT: None

CITY COUNCIL MEMBERS PRESENT: None

CITY STAFF PRESENT: Jason Schubert, Matt Robinson, Lauren Hovde, Jenifer Paz, Joe Guerra, Erika Bridges, Josh Norton, Carol Cotter, Molly Hitchcock, Lance Simms, Bob Cowell, Mary Ann Powell, Carla Robinson, Mark Beal, Christina Court, and Brittany Caldwell

1. Call meeting to order.

Chairman Shafer called the meeting to order at 7:00 p.m.

2. Hear Citizens.

None

Regular Agenda

3. Public hearing, presentation, possible action, and discussion regarding an amendment to the Unified Development Ordinance, Section 7.4 "Signs" and Section 11.2 "Defined Terms", related to campus wayfinding signs. **Case # 11-00500051 (MR) (Note: Final action on this item is scheduled for the May 26, 2011 City Council Meeting--subject to change)**

Senior Planner Robinson presented the ordinance amendment regarding campus wayfinding signs.

There was general discussion amongst the Commission regarding the ordinance amendment.

Chairman Shafer opened the public hearing.

Sarah Worthy, 500 Nagle Street, College Station, Texas, stated that she liked the idea of having more signs in the community to help with navigating through larger developments.

Chairman Shafer closed the public hearing.

Commissioner Slack motioned to approve the ordinance amendment. Commissioner Stearns seconded the motion, motion passed (7-0).

4. Adjourn.

Commissioner Stearns motioned to adjourn the meeting. Commissioner Warner seconded the motion, motion passed (7-0).

The meeting adjourned at 8:55 p.m.

Approved:

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 7.4, "SIGNS," AND SECTION 11.2, "DEFINED TERMS," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 12, "Unified Development Ordinance," Section 7.4 "Signs," and Section 11.2, "Defined Terms," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibits "A" and "B", 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:

Carla A. Robinson

City Attorney

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 7.4, "Signs," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

7.4 Signs

C. Summary of Permitted Signs

The following signs are permitted in the relevant zoning districts of the City:

	A-O	A-OR	R-1B	R-1	R-2	R-3	R-4	R-6	R-7	A-P	C-1	C-2	C-3	R&D	M-1	M-2
Apartment/Condominium/ Manufactured Home Park Identification Signs							X	X	X							
Area Identification/ Subdivision Signs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Attached Signs							X	X	X	X	X	X	X	X	X	X
Campus Wayfinding Signs										X	X	X		X		
Development Signs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Directional Traffic Control Signs										X	X	X	X	X	X	X
Freestanding Signs											X	X			X	X
Home Occupation Signs	X	X	X	X	X	X	X	X	X							
Low Profile Signs										X	X	X	X	X	X	X
Non-Commercial Signs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Real Estate, Finance, and Construction Signs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Roof Signs											X	X			X	X

EXHIBIT "A" CONTINUED

F. Sign Standards

The following table summarizes the sign standards for the City of College Station:

Sign Type	Maximum Area (s.f.)**	Maximum Height (ft.)	Setback From ROW (ft.)	Number Allowed
Apartment / Condominium / Manufactured Home Park Identification Signs	100	10	10	1/frontage
Area Identification Signs	16	4	10	1/10-50 acre subdivision or phase
Attached Signs	Varies, see 7.4.I below	Not to exceed 1 foot from top of wall, marquee, or parapet to which it is attached	---	Any number allowed if within the total allowed square footage of attached signs
Campus Wayfinding signs	30	6	---	See 7.4.AA below
Commercial Banners	36	No to exceed the top of structure to which it is attached	10	1/premises
Development Signs Residential / Collector Street	35	15	10	1/premises
Arterial Street	65			
Freeway (As designated on Thoroughfare Plan)	200			
Directional Traffic Control Signs	3	4	4	1/curb cut
Freestanding Signs	Varies, see 7.4.M below			1/building plot where lot exceeds 75 feet of frontage
Home Occupation Signs	2	Not to exceed top of wall to which it is attached	---	1/dwelling unit
Low Profile Signs (In lieu of permitted Freestanding Sign)	60	4	10	1/150 feet of frontage *
Real Estate, Finance, and Construction Signs				1/frontage (Real Estate) 1/property (Finance) 3/property (Construction)
Up to 150-foot frontage	16	8	10	
Greater than 150-foot frontage	32	8	10	
Roof Signs	Determined by frontage. Same as freestanding Max. 100 s.f.	10 feet above structural roof	---	1/building plot in place of a freestanding sign
Subdivision Signs	150	15	10	1/primary subdivision entrance. Not to exceed 2 signs.

* Except as provided for in Section 7.4.N.10, Freestanding Commercial Signs.

** The area of a sign is the area enclosed by the minimum imaginary rectangle or vertical and horizontal lines that fully contains all extremities (as shown in the illustration below), exclusive of supports.

EXHIBIT "A" CONTINUED

AA. Campus Wayfinding Signs**1. A campus wayfinding sign:**

- A. May be utilized as part of a Planned Development District (PDD) or unified development that is at least 20 acres in size, contains multiple buildings and that may include multiple building plots;**
- B. A maximum of one campus wayfinding sign shall be allowed per intersection of two (2) primary circulation drive aisles, when parking is not provided along the drive aisle; or intersection of a primary circulation drive aisle and public way, when parking is not provided along the drive aisle or public way;**
- C. All signs shall be internal to the development and shall not be located along a public right-of-way or at the intersection of a primary circulation aisle or public way and right-of-way;**
- D. Shall be limited in height to no greater than six (6) feet, measured from the elevation of the curb or pavement edge, with a maximum total sign area of 30 square feet;**
- E. Shall not be located within a site visibility triangle;**
- F. All campus wayfinding signs shall be submitted as part of a sign package for the development; and,**
- G. Shall utilize a common design or theme throughout the development and contain no commercial logo or graphics.**

EXHIBIT "B"

11.2 Defined Terms

For the purpose of this UDO, certain words as used herein are defined as follows:

Campus/Wayfinding: A sign utilized as a traffic control device in off-street parking or access areas whose primary purpose is to direct traffic within a planned development district (PDD) or unified development, that may include the names of tenants or businesses, but does not contain any commercial logo or graphics.