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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, June 14, 2012 at 7:00 PM**  
**City Hall Council Chamber, 1101 Texas Avenue**  
**College Station, Texas**

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

**Presentation:**

- Presentation by the Veteran's Memorial Board of Directors on the newly unveiled commemorative statue: "Don't Give Up the Ship" located at Veteran's Park.
- Presentation by Sister Cities on recent trip to Salamanca Mexico.

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 22, 2012 Special Workshop
- May 24, 2012 Workshop
- May 24, 2012 Regular Council Meeting

- June 6, 2012 Joint Meeting with the Citizens' Charter Review Advisory Commission
- b. Presentation, possible action, and discussion on a resolution approving a Texas Commission on Environmental Quality (TCEQ) and Brazos Valley Council of Governments Grant Application (BVCOG) in the amount of \$9,200.00.
- c. Presentation, possible action, and discussion regarding Change Order #2 in the amount of \$4,700 to the Jones Butler Road Extension professional services contract with Jones and Carter, Inc.
- d. Presentation, possible action, and discussion regarding approval of a emergency purchase for the remount and refurbishing of a Frazer Type I Generator powered Module onto a 2012/2013 Chevrolet C3500 5.7L gasoline chassis with an air suspension system from Knapp Chevrolet at a cost of \$80,000.
- e. Presentation, possible action, and discussion regarding approval of a construction contract for the demolition and reconstruction of 1017 Fairview to Orion Construction in the amount of \$93,765.00 using federal HOME Investment Partnership Grant (HOME) funds.
- f. Presentation, possible action, and discussion regarding the renewal of an annual price agreement with Crafcot Texas, Inc. for the purchase of Crack Sealant and Detack Material in the amount of \$121,660.65. This action authorizes the City Manager to execute the renewal agreement on behalf of the City Council.
- g. Presentation, possible action, and discussion regarding the renewal of an annual price agreement with Brazos Paving, Inc. for the purchase of Cement Stabilized Base Rock for an amount not to exceed \$248,000 and authorizing the City Manager to execute the renewal agreement on behalf of the City Council.
- h. Presentation, possible action, and discussion regarding the renewal of an annual price agreement to Brazos Paving, Inc. for the purchase of Cement Stabilized Sand for an amount not to exceed \$137,000 and authorizing the City Manager to execute the renewal agreement on behalf of the City Council.
- i. Presentation, possible action, and discussion authorizing the payment of Retention and Expansion, and Payroll Grants in a total amount of \$45,000 to Reynolds & Reynolds.
- j. Presentation, possible action and discussion on a funding agreement amendment between the City of College Station and the Bryan-College Station Convention and Visitors Bureau (BCSCVB) for FY12 in the amount of \$256,000 for expenses related to Phase One of the Wayfinding Program for Bryan/College Station.

### **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 approximately 0.855 acres located at 111 North Dowling Road, generally located at the intersection of Harvey Mitchell Parkway and Wellborn Road, from A-O Agricultural Open and A-P Administrative Professional to C-1 General Commercial.
2. Presentation, possible action, and discussion on the Sunset Advisory Commission Report to the City Council with the Commission's recommendations for Council-appointed boards, commissions and committees.
3. Presentation, possible action, and discussion regarding the development of the Lick Creek Park Nature Center and the Advisory Committee's recommendation.
4. Presentation, possible action, and discussion on a Construction Contract with Bryan Construction Co. in the amount of \$2,304,300, for the construction of the Lick Creek Wastewater Treatment Plant Miscellaneous Improvements.
5. Presentation, possible action and discussion to approve authorizing award of contract 11-335 with the Reynolds Company for the replacement of SCADA Man-Machine Interface in an amount not to exceed \$520,000.
6. Adjourn.

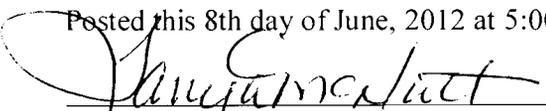
If litigation issues arise to the posted subject matter of this Council Meeting an executive session will be held.

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, June 14, 2012 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 8th day of June, 2012 at 5:00 p.m.

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

City Council Regular Meeting  
Thursday, June 14, 2012

Page 4

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](http://www.cstx.gov) . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on June 8, 2012 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 \_\_\_\_\_, 2012 By \_\_\_\_\_

Subscribed and sworn to before me on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public – Brazos County, Texas

My commission expires: \_\_\_\_\_

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

**June 14, 2012**  
**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 22, 2012 Special Workshop
- May 24, 2012 Workshop
- May 24, 2012 Regular Council Meeting
- June 6, 2012 Joint Meeting with the Citizens' Charter Review Advisory Commission

**Attachments:**

- May 22, 2012 Special Workshop
- May 24, 2012 Workshop
- May 24, 2012 Regular Council Meeting
- June 6, 2012 Joint Meeting with the Citizens' Charter Review Advisory Commission

MINUTES OF THE SPECIAL CITY COUNCIL WORKSOP  
CITY OF COLLEGE STATION  
MAY 22, 2012

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry

**Council:**

Blanche Brick  
Jess Fields  
Karl Mooney  
Katy-Marie Lyles – arrived at 4:50 p.m.  
Julie Schultz  
Dave Ruesink - absent

**City Staff:**

David Neeley, City Manager  
Kathy Merrill, Deputy City Manager  
Frank Simpson, Deputy City Manager  
Carla Robinson, City Attorney  
Tanya McNutt, Deputy City Secretary

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

With a quorum present, the Special Workshop of the College Station City Council was called to order by Mayor Nancy Berry at 3:19 p.m. on Tuesday, May 22, 2011 at the Carter Creek WWTP, 2200 North Forest Parkway, College Station, Texas.

**2. Presentation, possible action and discussion regarding a presentation on construction alternatives for the Wellborn Road and George Bush Drive grade separation project by TxDOT representatives.**

Bob Appleton, with TxDOT, presented an overview of the alternatives for the Wellborn Road and George Bush Drive grade separation project by TxDOT.

- Scenario 1 – “traditional” method under traffic with completion approximately August 2017
- Scenario 2 – close project site to all traffic with completion approximately July 2015

Council consensus was to go with Scenario 2; no further action was needed.

### **3. Presentation, possible action and discussion regarding transportation planning.**

Bob Cowell, Executive Director of Development Services, presented an overview of the College Station Comprehensive Plan that identifies 5 strategies: 1) develop, implement and maintain, through regular review, a multi-modal transportation plan that supports the planned growth and development pattern; 2) reduce and manage traffic congestion; 3) develop and implement context sensitive transportation solutions; 4) promote and invest in alternative transportation options; and 5) balance changes in land use with the capabilities of the transportation system.

Joe Guerra presented an overview of the Thoroughfare plan and the 20 plus years in the scope. He explained that the plan is closely linked to the future land use plan and to development standards. The plan traditionally has relied on the City, TxDOT, and development. A traditional model has been to increase capacity with primary focus on new streets and new lanes (Barron Road, Texas Avenue, Eagle Avenue, etc). Mr. Guerra also explained an increasing focus will need to expand to address capacity maintenance/enhancement that does not involve new streets and lanes (raised medians, intersection improvements, traffic signal synchronization, etc) Further, the City is likely to need to play a more active role with the TxDOT system (design, construction, etc). All this adds up to more expense than in the past, while revenues at all levels (private, city, state) are declining. Staff recently commissioned a study to evaluate TDM and thoroughfare plan if less funding is available than necessary to implement the currently adopted plan

Joe Guerra expressed that the thoroughfare plan is the City's focus. At the same time there are many others we coordinate with that are also doing transportation planning, construction, and operations. In general, the planning of these groups is coordinated through the MPO and by interaction among the elected officials and staff of each. The MPO (much like each of the cities and TxDOT) has a long-range transportation plan that works to integrate the efforts of all of the jurisdictions in the area to ensure a regional view toward transportation and mobility. Once projects are identified in the various transportation plans, they are "programmed" into the various capital budgets of each jurisdiction so that design and construction may occur. For the City, that is achieved through the Capital Improvements Program or CIP. For the MPO that is through the Transportation Improvements Program or the TIP, and for TxDOT, that is the State Transportation Improvements Program or STIP. In addition to budgeting and funding for the larger elements of the system, much of the system is constructed initially through private development. The City's development standards (found in the UDO, the BCS Design Guidelines, etc) guide the construction of these facilities to ensure that development does not compromise the overall system and to keep long-term maintenance costs as low as practical. Finally, the operation of the system is critical to maximizing its efficiency.

The STIP is developed by TxDOT and is a staged, multi-year, statewide, intermodal program of transportation projects, consistent with the statewide transportation plan and planning processes as well as metropolitan plans, TIPs, and processes.

The TIP is a document prepared by a metropolitan planning organization that lists projects funded with FHWA/FTA funds for the next one to three fiscal year period.

Planning and implementation are occurring at the regional level and the local level, and changes to the land use plan impacts the performance of the transportation system. Staff continuously seeks operational opportunities to increase the efficiency of our transportation network, and the City may be required to play a more active role in upgrading the TxDOT system. Greater attention and funding may be warranted for more strategic “capacity-enhancement” projects, such as intersection improvements, access management, signal synchronization, etc.

No action was taken.

#### **4. Presentation, possible action and discussion regarding the city's efforts to protect and enhance existing roadway capacity.**

Bob Cowell, Executive Director of Development Services, explained that this item is intended to build on the previous discussion regarding how we plan and build our transportation system to how we operate and protect that same system. A key component to an efficient transportation system is protecting and enhancing capacity in as low-cost a fashion as possible. The most expensive way to enhance capacity is to add lanes or build new streets. Therefore, the City goes to great lengths to ensure that what gets built and how it operates can “squeeze” every bit of capacity efficiency as possible. The transportation system is directly linked to how land is used. The City’s Future Land Use Plan provides a broad overview that helps identify generally what roads are needed, where, and to a certain extent, when. Mr. Cowell explained that the impact a specific use of land will have on the existing system requires a completely different set of tools and responses. To that end, as mentioned in the previous slide, the City requires a TIA for most new non-residential and multi-family projects. This helps us understand what improvements may be required with the development to help protect that capacity. One recent example is the TIA that was performed for the HEB at Tower Point which identified the need to address the u-turn ramp on the frontage road. Had the TIA not been performed and the improvement not constructed, this private land use would have compromised the operations of that system and eventually led to the need for further public expenditures. Concurrent with these efforts, the City itself is constantly conducting and refining studies.

Mayor Berry called for break at approximately 5:20 p.m.

Mayor Berry returned from break at approximately 5:38 p.m.

Chuck Gilman, Director of Capital Projects, discussed the City’s traffic signalization synchronization program, another key component in maximizing system capacity.

Staff recommended to Council we continue to enforce current development standards and regulations, synchronize FM 2818 from George Bush to Texas (extend fiber), synchronize George Bush from Texas to FM 2818 (extend fiber), update timing: University Drive West – included in Phase II of the Pedestrian Safety Improvement Project, University Drive East, Texas Avenue, FM 2818, and coordinate with BCSMI Partners to refine the goals of the partnership.

No action was taken.

#### **5. Presentation, possible action and discussion regarding the city's pavement management plan.**

Chuck Gilman, Director of Capital Projects, discussed the Updated Pavement Rating Guidance Manual, which includes: thirteen different distresses, density of the distresses, and a Utility Value based on severity of individual distress to determine overall score. He also presented a Maintenance Plan based on pavement reconstruction projects included in the draft capital plan (e.g. Luther, Francis, Rock Prairie, etc), Street reconstruction associated with utility rehabilitation projects is included in the draft capital plan, along with a decision matrix to determine maintenance strategy (type of distresses present, density of distresses, and roadway classification), with a Maintenance Strategy assigned to each street (crack sealing, patching & crack sealing, seal coat, resurfacing with thin overlay and partial reconstruction), with the costs from the maintenance strategy based on TxDOT's 12-month low bids.

The next step is to continue coordinating with Fiscal Services through the development of the FY 2013 budget, to continue to refine the unit costs for each maintenance strategy, and to develop an annual work plan based on the maintenance plan.

#### **6. Presentation, possible action and discussion regarding the establishment and seating of a Council Committee on Employee Benefits.**

Jeff Kersten, Executive Director of Fiscal Services, reminded Council that on May 14, 2012, staff recommended that the City Council form a subcommittee to discuss compensation and benefits issues. There are a number of policy issues that are proposed to be brought to this subcommittee, including policies related to overall compensation and employee benefits, including health insurance and retirement. Retiree health insurance is another area where policy direction will be needed.

City Manager David Neeley stressed the educational benefits and understanding this will give Council, and the need for Council to be a part of the budget process with the committee and policy issues related to benefits and retirement.

**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 approve a resolution to create an Ad Hoc Committee of the City Council and nominated Mayor Berry and Councilmembers Schultz and Brick to the committee. The motion carried unanimously.

#### **7. Executive Session**

In accordance with the Texas Government Code §551.086-Competitive Matters, City Council convened into Executive Session at 6:19 p.m. on Tuesday, May 22, 2012 in order to continue discussing matters pertaining to:

A. Deliberation on Competitive Matters; to wit:

- Power Supply

The Executive Session adjourned at approximately 6:37 p.m. on Tuesday, May 22, 2012.

**8. Take action, if any, on Executive Session.**

No action was required from Executive Session.

**9. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the Special Workshop of the College Station City Council at approximately 6:38 p.m. on Tuesday, May 22, 2012.

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

ATTEST:

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

MINUTES OF THE CITY COUNCIL WORKSHOP  
CITY OF COLLEGE STATION  
MAY 24, 2012

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry, Mayor

**Council:**

Blanche Brick  
Jess Fields  
Karl Mooney  
Katy-Marie Lyles  
Julie Schultz  
Dave Ruesink - absent

**City Staff:**

Kathy Merrill, Deputy City Manager  
Frank Simpson, Deputy City Manager  
Carla Robinson, City Attorney  
Tanya McNutt, Deputy City Secretary  
Shelley Major, Records Management Coordinator

**1. 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 4:35 p.m. on Thursday, May 24, 2012 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

**2. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.074-Personnel, and §551.087-Economic Development, the College Station City Council convened into Executive Session at 4:36 p.m. on Thursday, May 24, 2012 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
- Chavers et al v. Tyrone Morrow et al, No. 10-20792; Chavers v. Randall Hall et al, Case No. 10 CV-3922
- College Station v. Star Insurance Co., Civil Action No. 4:11-CV-02023
- Shirley Maguire and Holly Maguire vs. City of College Station, Cause No. 11-0025 16-CV-272, in the 272nd District Court of Brazos County, Texas
- Tracy Lynn Sheets, City of College Station (Intervener) v. Get Lucky. L.L.C. d/b/a Lux Nightclub and Alex Taylor Ford

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

- Atmos Mid-Tex 2012 rate case filing with the Atmos Cities Steering Committee, including the City of College Station.

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

- Council Self-evaluation

D. Deliberation on economic incentive negotiations; to wit:

- Administrative Services in College Station Business Park
- Biocorridor

The Executive Session adjourned at 5:54 p.m. on Thursday, May 24, 2012.

### **3. Take action, if any, on Executive Session.**

No action was required from Executive Session.

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

No items were pulled for additional clarification.

### **5. Presentation, possible action, and discussion on a report from the Research Valley Partnership regarding the activities of the organization.**

Jim Lewis, Chairman Elect, Todd McDaniel, President and CEO, Chris Peterson, Chairman of the Board, Dr. Terry Fossum, Texas A&M Institute for Preclinical Studies, Susan Vestal, VP of Corporate Relations, and Ivan Olsen, Treasurer, presented an overview of the activities and recent developments of the Research Valley Partnership.

The Research Valley Partnership is made up of an Executive Committee and a Board of Directors. The RVP develops and conducts their strategic planning process in-house by a steering committee. To date, there have been multiple meetings with stakeholders, and the strategic relations draft is almost complete. Dr. Fossum briefed the council on the Texas A&M Institute for Preclinical Studies (TIPS). This included an overview of the Texas Veterinary

Cancer Registry. Susan Vestal updated council on the Research Triangle Virtual Offices. The company Data Trak has an office in the Research Triangle and has offered the RVP the use of their space free of charge. This allows the RVP to stay connected with the area.

Ivan Olsen, stated that an accounting firm does all the input and bill paying for the RVP. Mr. Peterson added that the accounting software allows the RVP's account to be viewed by the City's designated user online. Mr. Peterson then gave closing remarks. He stated that there are several focus areas that the RVP is currently recruiting in. Energy is one focus, in regards to bio fuel and alternative fuels, along with companies that are innovators in green technology.

No action was taken.

**6. Presentation and discussion on a report from the Arts Council of Brazos Valley regarding the activities of the organization.**

Chris Dyer, Executive Director of the Arts Council of Brazos Valley provided a report on the activities of the Arts Council of Brazos Valley for the current fiscal year. The Arts Council's vision is to make the arts accessible to all residents and visitors of the Brazos Valley. Core activities of the Arts Council include: serving affiliate members, administering programs for underserved groups and the general public, providing free artistic opportunities to the public, and providing fee-based artistic classes and programs. The City provides \$300,550 in funding to the Arts Council. \$100,550 from the General Fund is for Operations and Maintenance, and \$200,000 from the Hotel Tax Fund is for Affiliate Funding.

No action was taken.

**7. Presentation, possible action and discussion regarding the renewal of the Interlocal Agreement establishing the Community Emergency Operations Center which will be staffed by a collaborative effort between Brazos County, the cities of College Station and Bryan and Texas A&M University for a cost to the City of College Station of \$60,592.89 for the lease agreement for the first year, this proposal is in support of the lease ending April 17, 2018.**

Fire Chief R.B. Alley updated Council on the collaborative efforts between Brazos County and the City of College Station. The current Interlocal Agreement expires April 2013. The ILA presented tonight is a renewal until April 17, 2018. There has been grant money utilized for equipment, but the CEOC has not received any grant funds for the facility. Staff recommends approval of this ILA on the Consent agenda.

No action was taken.

**8. Council Calendar**

- May 28 City Offices Closed – HOLIDAY
- June 6 Newman 10 Awards and Luncheon at CS Hilton, 12:00 p.m.

- June 6 Joint Meeting with Citizens Charter Review Advisory Commission in Council Chambers at 4:00 p.m.
- June 7 P&Z Workshop/Meeting in Council Chambers at 6:00 p.m. (Dave Ruesink, Liaison)
- June 14 City Council Executive/Workshop/Regular Meeting at 5:00, 6:00 and 7:00 p.m.

Council reviewed the Council calendar.

**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.**

There were no requests for future agenda items.

**9. Discussion, review and possible action regarding the following meetings: Animal Shelter Board, Arts Council of the Brazos Valley, Arts Council Sub-committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, BSWMA, BVWACS, Cemetery Committee, Code Review Committee, Convention & Visitors Bureau, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Neighborhood Parking Taskforce, Joint Relief Funding Review Committee, Landmark Commission, Library Board, 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, Zoning Board of Adjustments.**

Council Member Mooney updated Council on the Convention and Visitors Bureau.

Council Member Schultz reported on the RVP meeting.

Mayor Berry was elected as Vice-Chair to the Blinn College Brazos Valley Advisory Committee.

**10. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 8:35 p.m. on Thursday, May 24, 2012.

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

ATTEST:

DRAFT

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
CITY OF COLLEGE STATION  
MAY 24, 2012

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry

**Council:**

Blanche Brick  
Jess Fields  
Karl Mooney  
Katy-Marie Lyles  
Julie Schultz  
Dave Ruesink - absent

**City Staff:**

Kathy Merrill, Deputy City Manager  
Frank Simpson, Deputy City Manager  
Carla Robinson, City Attorney  
Tanya McNutt, Deputy City Secretary  
Shelley Major, Records Management Coordinator

**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 7:06 p.m. on Thursday, May 24, 2012 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.**

**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 approve the absence request submitted by Dave Ruesink for the May 24<sup>th</sup>, 2012 council meeting.

**Video presentation of the Plaza Hotel implosion.**

Jay Socol, Director of Public Communications, presented a video of the implosion of the Plaza Hotel, which occurred earlier this morning.

## **Presentation of Historical Marker #87 for 1009 Walton Drive.**

Mayor Berry presented Bill and Layne Averyt with Residential Historic Marker #87 for 1009 Walton Drive. The house was built in 1938 and served as the home of College Station's first mayor, John Henry Binney.

## **Citizen Comments**

David Warnick, 612 Navaro Drive, spoke in reference to Consent Agenda Item No. 2c, He said he has concerns with raising the utilities deposit rate. Renters will be the most impacted by this change because of the extra financial burden it will put on residents moving into a new property. Most renters pay the first and last month's rent on top of the deposit for utilities. This increase will have the most affect on the student renter population. Increasing this is something that he disagrees with, and he asked that Council look into the numbers that Utility is actually writing off when considering this increase.

## **CONSENT AGENDA**

### **2a. Presentation, possible action, and discussion of minutes for:**

- **May 14, 2012 Workshop**
- **May 14, 2012 Regular Council Meeting**

**MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Fields, the City Council voted six (6) for and none (0) opposed, to approve the minutes from the May 14<sup>th</sup>, 2012 Workshop and the minutes from the May 14<sup>th</sup>, 2012 Regular meetings with the correction to change the word "over" to the word "almost" in the statement made by Karen Fawcett during Citizen Comment.

### **2b. Presentation, possible action and discussion on an Advance Funding Agreement (AFA) Amendment between the City of College Station and the State of Texas (TxDOT) for the College Main Plaza and Patricia/Lodge Street Improvements.**

### **2c. Presentation, possible action, and discussion regarding Ordinance 2012-3416, amending Chapter 11, "Utilities" Section 11-1, "General Provisions", sections B-D and K of the Code of Ordinances of the City of College Station, Texas, having the effect of raising utility deposit amounts for residential Utility customers and raising the delinquent fee amount for commercial customers.**

### **2d. Presentation, possible action, and discussion regarding Resolution 05-24-12-2d, approval of a contract between the City of College Station and HDR Engineering, Inc. in the amount of \$221,917.25 for the University Drive Pedestrian Improvements Phase 2 Preliminary Engineering Report (PER) and authorizing the City Manager to execute the contract on behalf of the City Council.**

### **2e. Presentation, possible action, and discussion regarding Resolution 05-24-12-2e, denying Atmos Energy Corp., Mid-Tex Division's proposed rate increase.**

**2f. Presentation, possible action and discussion regarding Resolution 05-24-12-2f, approval accepting from the 2011 Homeland Security Assistance to Firefighters Grant Program recipient of \$210,168, and naming a City staff member as manager of those grant funds.**

**2g. Presentation, possible action and discussion of Resolution 05-24-12-2g, regarding the renewal of the Inter-local Agreement establishing the Community Emergency Operations Center which will be staffed by a collaborative effort between Brazos County, the cities of College Station and Bryan, and Texas A&M University for a cost of to the City of College Station of \$60,592.89 for the lease agreement for the first year, this proposal is in support of the lease ending April 17, 2018.**

**2h. Presentation, possible action, and discussion regarding Resolution 05-24-12-2h to approve the professional services contract (Design Contract 12-230) with PBK Sports in the amount of \$205,000.00, for the design of the Veteran's Park Synthetic Turf Fields Project (HM 1217), and authorizing the City Manager to execute the contract on behalf of the City Council.**

**2i. Presentation, possible action, and discussion regarding a recommendation for revision to the Naming Policy for City Facilities and Sub-facilities.**

**2j. Presentation, possible action, and discussion regarding Resolution 05-24-12-2j, approval of a construction contract for the construction of sidewalks on Holleman, Lassie, and Pedernales to Vox Construction, LLC. in the amount of \$117,219.25 and to Brazos Paving Inc. in the amount \$55,414.00 for the construction of neighborhood sidewalks on Manuel Drive.**

Items 2c, 2g and 2i were pulled for a separate vote.

**MOTION:** Upon a motion made by Councilmember Fields and a second by Councilmember Mooney, the City Council voted six (6) for and none (0) opposed, to approve the Consent Agenda, less items 2c, 2g and 2i. The motion carried unanimously.

**(2c)MOTION:** Upon a motion made by Councilmember Fields and a second by Councilmember Mooney, the City Council voted six (6) for and none (0) opposed, to approve Ordinance 2012-3416. The motion carried unanimously.

**(2i)MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Fields, the City Council voted six (6) for and none (0) opposed, to approve the recommendation for revision to the Naming Policy for City Facilities and Sub-facilities. The motion carried unanimously.

Council heard the presentation for Workshop Item No. 7 (Consent Item 2g).

(2g)**MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Schultz, the City Council voted six (6) for and none (0) opposed, to approve Resolution 05-24-2012-2g. The motion carried unanimously.

## **REGULAR AGENDA**

### **1. Presentation and discussion regarding the Lick Creek Greenway Trail Project.**

Chuck Gilman, Director of Public Works, presented an update on the Lick Creek Greenway Trail Project.

No action was taken.

### **2. Public Hearing, presentation, possible action, and discussion regarding an update on the Lick Creek Hike & Bike Trail Project.**

This item was pulled from the regular meeting agenda to be revisited at a later date.

### **3. 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 approximately 0.2 acres located at 1405 University Drive, generally located at the northwest corner of the intersection with the former Meadowland Street, from C-1 General Commercial to PDD Planned Development District.**

At approximately 8:05 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:06 p.m.

**MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Schultz, the City Council voted six (6) for and none (0) opposed, to approve Ordinance 2012-3416. The motion carried unanimously.

### **4. Public Hearing, presentation, and discussion on the creation of Reinvestment Zone #17; and, discussion and possible action on the adoption of an Ordinance creating Reinvestment Zone #17 for commercial tax abatement in the Business Center at College Station.**

At approximately 8:08 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:08 p.m.

No action was taken.

### **5. Public Hearing, possible action, and discussion on an ordinance Budget Amendment #2 amending ordinance number 3371 which will amend the budget for the 2011-2012 Fiscal**

**Year in the amount of \$1,537,208 and presentation, possible action and discussion on four interfund transfers.**

At approximately 8:15 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:15 p.m.

**MOTION:** A motion was made by Councilmember Fields to approve Items 1, 2, 3 and 6 of Budget Amendment #2. Motion died due to lack of second.

**MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Schultz, the City Council voted five (5) for and one (1) opposed, with Councilmember Fields voting against, to approve Ordinance 2012-3417. The motion carried.

**6. Presentation, possible action, and discussion regarding approval of a resolution requesting the Texas Commission on Environmental Quality Executive Director to schedule a public meeting concerning a proposed permit to operate the Brazos Valley Disposal Facility, a Municipal Solid Waste Type IV disposal facility.**

Charles Mancuso, Owner, Brazos Valley Recycling, spoke to the hours of operation and the communication with neighbors. Mr. Mancuso asked that the city speak to the neighbors of this property. All signs for property are permitted and have been up for 9 months.

**MOTION:** Upon a motion made by Councilmember Fields and a second by Councilmember Lyles, the City Council voted six (6) for and none (0) opposed, to approve Resolution 05-24-12-06. The motion carried unanimously.

**7. Adjournment.**

**MOTION:** There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 8:30 p.m. on Thursday, May 24, 2012.

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

ATTEST:

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

MINUTES OF THE JOINT MEETING WITH  
THE CITY OF COLLEGE STATION CITY COUNCIL  
AND THE CITIZENS' CHARTER REVIEW ADVISORY COMMISSION  
JUNE 6, 2012

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Council Present:**

Nancy Berry, Mayor  
Blanche Brick  
Jess Fields, arrived after roll call  
Karl Mooney  
Katy-Marie Lyles  
Dave Ruesink

**Commission Present**

Lynn McElhaney, Chair  
Brian Bochner  
Tony Jones  
Paul Greer  
Patrick Gendron  
Chuck Ellison  
Gary Halter

**City Staff:**

David Neeley, City Manager  
Kathy Merrill, Deputy City Manager  
Frank Simpson, Deputy City Manager  
Carla Robinson, City Attorney  
Sherry Mashburn, City Secretary

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

With a quorum present, the College Station City Council was called to order by Mayor Nancy Berry at 4:00 p.m. on Wednesday, June 6, 2012 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

**2. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, the College Station City Council convened into Executive Session at 4:00 p.m. on Wednesday, June 6, 2012 in order to continue discussing matters pertaining to:

- A. Consultation with Attorney to seek advice regarding pending or contemplated litigation; to wit:
- Legal advice concerning proposed charter amendments.

The Executive Session adjourned at 4:33 p.m. on Wednesday, June 6, 2012.

**3. Take action, if any, on Executive Session.**

No action was taken.

With a quorum present, the Joint Meeting with the Citizens' Charter Review Advisory Commission and the College Station City Council was called to order by Chair Lynn McIlhaney at 4:35 p.m. on Wednesday, June 6, 2012 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

**4. Presentation, possible action, and discussion on the Citizens Charter Review Advisory Commission's Final Report to the City Council with the Commission's recommendations for amendments within the City Charter.**

Lynn McIlhaney, chair of the Citizens' Charter Review Advisory Commission, presented the City Council with the Commission's Final Report containing the Commission's recommendations for amendments within the City Charter. The major changes are found in the sections about recall. The language in Section 97 was modified to reflect the City Secretary's examination of the recall petition shall be ministerial. Another change was to require signers of a petition to persons who actually voted in the election in which the person being recalled was elected.

Chair McIlhaney provided a brief overview of the eight propositions being recommended for the November ballot.

**MOTION:** Upon a motion made by Councilmember Lyles and a second by Councilmember Ruesink, the City Council voted six (6) for and none (0) opposed, to accept the Final Report. The motion carried unanimously.

**5. Presentation, possible action, and discussion to receive direction from the City Council as to how the Commission can support the City Council through the Charter amendment process.**

Chair McIlhaney said the Commission's concern is educating the public in advance of the November election. They wish to be involved in the education process because they have been working on these amendments for several months and are prepared to answer questions.

Mayor Berry noted that an education process is necessary; however, we cannot advocate any position. If a request comes from an organization to hear about the amendments, the Mayor said she would prefer to see a Commission member and a Councilmember present the information together. Councilmember Fields concurred that neutrality is paramount.

**6. Presentation, possible action, and discussion on possible Public Hearing dates to receive comments on the proposed Charter amendments.**

**MOTION:** Upon a motion made by Councilmember Mooney and a second by Councilmember Fields, the City Council voted six (6) for and none (0) opposed, to set the Public Hearing dates for July 12 and July 26. The motion carried unanimously.

**7. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the Joint Meeting with the Citizens' Charter Review Advisory Commission and the College Station City Council at 5:04 p.m. on Wednesday, June 6, 2012.

**MOTION:** There being no further business, Chair McIlhaney adjourned the Joint Meeting with the Citizens' Charter Review Advisory Commission and the College Station City Council at 5:04 p.m. on Wednesday, June 6, 2012.

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

ATTEST:

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

DRAFT

**June 14, 2012**  
**Consent Agenda Item No. 2b**  
**Brazos Valley Grant Authorization**

**To:** David Neeley, City Manager

**From:** Chuck Gilman, Director of Public Works

**Agenda Caption:** Presentation, possible action, and discussion on a resolution approving a Texas Commission on Environmental Quality (TCEQ) and Brazos Valley Council of Governments Grant Application (BVCOG) in the amount of \$9,200.00.

**Recommendation(s):** Staff recommends approval of the resolution and grant application with TCEQ and BVCOG in the amount of \$9,200.00.

**Summary:** The Brazos Valley Council of Governments (BVCOG) is now accepting Requests for Project Applications. BVCOG has \$70,038.79 in funding from the Texas Commission on Environmental Quality (TCEQ) for FY 2011 solid waste implementation project grants.

The City of College Station Public Works Staff has completed the grant application and is requesting funding in the amount of \$9,200.00 to purchase smart phone application My-Waste and Brazos Valley Earth Day advertising. These materials will help educate the public about the 4 R's of Recycling: Reduce, Reuse, Recycle, and Rebuy. Brazos Valley Earth Day continues to grow every year; the funding will allow the City of College Station to continue participation as a Hosting Entity alongside City of Bryan, TAMU, Brazos Valley Council of Governments, Keep Brazos Beautiful, and Brazos Valley Solid Waste Management Agency, Inc. The last Earth Day hosted at Wolf Pen Creek on April 21 brought more than 5,200 people.

**Budget & Financial Summary:** Grant Application in the amount of \$9,200.00, no matching or in-kind funds needed.

**Attachments:**

1. Resolution
2. Grant Application

**RESOLUTION NO \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS AUTHORIZING THE FILING OF A GRANT APPLICATION FOR THE FISCAL YEAR 2012-2013 REGIONAL SOLID WASTE GRANTS PROGRAM.**

**WHEREAS**, the Brazos Valley Council of Governments (BVCOG) is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the BVCOG's adopted regional solid waste management plan; and

**WHEREAS**, the City of College Station, Texas is qualified to apply for grant funds under the Request for Applications;

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS**

- PART 1:** That the City Manager or his designee is authorized to request grant funding under the BVCOG'S Request for Applications of the Regional Solid Waste Program in the amount of Nine Thousand Seven Hundred Dollars and No Cents, (\$9,700.00) to be used to educate College Station Residents about the importance of Waste Reduction and Recycling through Brazos Valley Earth Day and the smart phone application My-Waste.
- PART 2:** The City Manager or his designee is authorized to act and execute all documents on behalf of the City of College Station in all matters related to the grant application, grant contracts, and any grant projects that may result from the funding.
- PART 3:** That if the grant funds are received, the City of College Station will comply with the grant requirements of the BVCOG, Texas Commission on Environmental Quality and any other applicable laws.
- PART 4:** The grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant. Those activities will comply with and support, as applicable, the regional and local solid waste management plans adopted for the geographical area in which the activities are performed.
- PART 5:** That this resolution shall take effect immediately from and after its passage.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

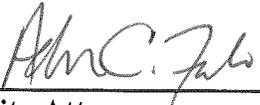
ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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



**FY 2012/2013  
Regional Solid Waste  
Grants Program**

**II-B  
Implementation Project  
Grant Application  
Instructions and Forms**

Waste Permits Division  
Texas Commission on Environmental Quality

**BRAZOS VALLEY COUNCIL OF GOVERNMENTS  
FY 2012/2013 Regional Solid Waste Grants Program**

**Form 1. Application Information and Signature Page**

Applicant	Funding Amount Requested
	Phone
Address	
	Fax
Contact Person	
	Date Submitted

**Project Category**

- Local Enforcement
- Litter and Illegal Dumping Cleanup and Community Collection Events
- Source Reduction and Recycling
- Local Solid Waste Management Plans
- Citizens' Collection Stations and "Small" Registered Transfer Stations
- Household Hazardous Waste (HHW) Management
- Technical Studies
- Educational and Training Projects
- Other (The COG should add other project categories if authorized)

**Signature**

By the following signature, the Applicant certifies that it has reviewed the certifications, assurances, and deliverables included in this application, that all certifications are true and correct, that assurances have been reviewed and understood, and that all required deliverables are included with this application.

Signature	Title
Typed	Date

**For Use By BRAZOS VALLEY COUNCIL OF GOVERNMENTS**

Date application was received: \_\_\_\_\_  
Does the application meet all of the required screening criteria: \_\_\_\_\_ Yes \_\_\_\_\_ No  
Is the application administratively complete: \_\_\_\_\_ Yes \_\_\_\_\_ No

Project Application  
Form 1

Form 2. Authorized Representatives

The Applicant hereby designates the individual(s) named below as the person or persons authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf of the Applicant for the purposes shown:

1. **Authorized Project Representative.** The following person is authorized to receive direction, manage work performed, sign required reports, and otherwise act on behalf of the Applicant.

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Typed Date

2. **Authorized Financial Representative.** In addition to the authorized project representative, the following person is authorized to act on behalf of the Applicant in all financial and fiscal matters, including signing financial reports and requests for reimbursement.

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Typed Date



**Form 5b. Summaries of Discussions with Private Industry**

*(Refer to instructions concerning information to include on this form. Attach any written comments or input provided)*

**Form 6: Project Summary**

Please provide a complete project summary. Reference the goals, objectives, and/or recommendations from the regional solid waste management plan that apply to the project, and how the project will assist in implementing the plan. Refer to the application instructions when completing these forms. If necessary, attach additional pages for each form.

**Form 6a. Project Description**

(add additional pages as necessary)

**Form 6: Project Summary**  
**Form 6a. Project Description**

## **Form 6b. Project Cost Evaluation**

*(add additional pages as necessary)*

Provide an evaluation of the costs associated with the proposed project. Explain how the total related costs of the proposed project were adequately considered; compare project costs to established averages or to normal costs for similar projects. Present the costs in unit terms, such as cost per ton, cost per customer, or cost per capita, as applicable. Describe any measurable costs savings, or reasonably justified costs of the project.

**Form 6b. Project Cost Evaluation**

**Form 6c. Level of Commitment of the Applicant**  
*(add additional pages as necessary)*

Provide information related to the Applicant's level of commitment to preferred solid waste management practices. If the proposed project is an ongoing service, demonstrate the ability to sustain the program beyond the term of the grant. Explain the extent to which the appropriate governing bodies support the proposed project.

List any previously demonstrated commitment to preferred solid waste management practice, such as implementing other solid waste management projects, involvement in a local or sub-regional solid waste management plan or study, or membership in the TCEQ's Clean Texas Program.

If the proposed project has received previous grant funding under this program, explain to what extent the proposal involves expansion of current services or operations; present quantifiable documentation of the success of the project in order to warrant further funding. Demonstrate a good record of past grant contractual performance.



## **Form 6d. Scope of Work**

*(See application instructions. Add additional pages as necessary)*

Provide a work program with a schedule of deliverables for the proposed project or program. The work program with the schedule of deliverables will be considered the Scope of Work to be performed under the contract agreement, if funded. Once the details of the work program have been negotiated with the Applicant and approved by the COG, the work program will be entered into the grant contract.

As concisely as possible, for each task of the proposed project, describe the major steps or activities involved, identify the responsible entities and establish a specific timeframe to accomplish each task. The scope of work for the project or program must include:

- Detailed purpose and goal of the project (should be consistent with implementing the goals, objectives, and recommendations from the regional solid waste management plan, as stated in the project description on Form 6a).
- Specific task statements with responsible entity identified.
- List of deliverables/products/activities under each task.
- Schedule of deliverables.

**Form 6d. Scope of Work**



**Form 7a: Detailed Matching Funds/In-Kind Services**

This budget form should be completed if the Applicant is providing any level of matching funds or in-kind services directly related to the proposed project.

Matching Funds: \$ \_\_\_\_\_

In the space below, please explain in detail the application of any matching funds to be provided by the Applicant, as directly related to the proposed project:

In-Kind Services: \$ \_\_\_\_\_ (monetary equivalent)

In the space below, please explain in detail the application of any in-kind services to be provided by the Applicant, as directly related to the proposed project:

What is the TOTAL COST of the proposed project, considering the total grant funding requested, any matching funds being provided by the Applicant, and the monetary equivalent of any in-kind services being provided by the Applicant:

\$ \_\_\_\_\_

**Form 7b: Detailed Personnel/Salaries Expenses**

For each employee to be funded wholly or in part by this grant, complete one of the lines in the table below. Please refer to the definitions provided in the instructions in completing this sheet. If funds are awarded, changes to grant-funded positions must be approved in advance by the BVCOG.

<b>Position Title</b>	<b>Function</b>	<b>FTE</b>	<b>Status</b>	<b>Monthly Salary</b>
				\$
				\$
				\$
				\$
				\$
				\$
				\$
				\$
				\$
<b>Total</b> <i>(Must equal Line 1 of the Overall Budget Summary)</i>				\$

**Form 7c: Detailed Travel Expenses**

This budget form provides a more detailed breakdown of the total expenses for travel indicated on Line 3 of the Overall Budget Summary.

Please describe the types of routine in-region travel expenses expected and purpose for the travel.

<b>Routine In-Region Travel</b>	<b>Purpose of Travel</b>	<b>Estimated Cost</b>
		\$
		\$
		\$
		\$
		\$

All out-of-state travel expenses and other non-routine travel, such as out-of-region travel to special training or events must be pre-approved by the BVCOG. Complete the following information for all requested non-routine travel, including any out-of-state travel. If those details are not presently known, the BVCOG will need to approve those travel costs before the travel occurs.

**Non-Routine Travel Expenses**

<b>Date(s)</b>	<b>Purpose &amp; Destination</b>	<b>Person(s)</b>	<b>Estimated Cost</b>
			\$
			\$
			\$
<b>Total Travel Expenses</b> <i>(Must equal Line 3 of the Overall Budget Summary)</i>			\$

**Form 7d: Detailed Supply Expenses**

This budget form provides a more detailed breakdown of the total expenses for supplies indicated on Line 4 of the Overall Budget Summary.

Please list the general types of supplies you expect to purchase with grant funding.

<b>General Types of Supplies</b>	<b>Estimated Cost</b>
General office/desk supplies	\$
Other supplies ( <i>explain below</i> ):	\$
<b>TOTAL</b> ( <i>Must equal Line 4 of the Overall Budget Summary</i> )	\$

**Form 7e: Detailed Equipment Expenses**

All equipment purchases must be pre-approved by the BVCOG. If the specific details of an equipment purchase are known, show that equipment on the list below. If the specific details of the equipment costs are not known at this time, list the general details on this form. The specific details of the equipment will then need to be provided to and approved by the BVCOG before the costs are incurred.

Equipment (\$5,000 or more per unit) <i>(Show description, type, model, etc.)</i>	Unit Cost	No. of Units	Total Cost
	\$		\$
	\$		\$
	\$		\$
	\$		\$
<i>Total</i> <i>(Must equal Line 5 of the Overall Budget Summary)</i>		\$	

**Form 7f: Detailed Construction Expenses**

All construction projects must be pre-approved by the BVCOG. If the specific details of the construction costs are not known at this time, list the general details on this form. The specific details of the construction will then need to be provided to and approved by the BVCOG before the costs are incurred. For any subcontracted activities, the request for approval will need to include evidence that the contract price is reasonable and necessary (see instructions).

Types of Construction	Subcontracted Yes/No	Estimated Cost
		\$
		\$
		\$
		\$
		\$
<b>Total</b> <i>(Must equal Line 6 of the Overall Budget Summary)</i>		\$



**Form 7h: Detailed Other Expenses**

This budget form provides a more detailed breakdown of the total other expenses indicated on Line 8 of the Overall Budget Summary. *Please note that the final totals are at the bottom of the next page.*

**Basic Other Expenses**

Please identify the basic "Other" category expenses you expect to incur appropriate to the project.

<b>Basic Other Expenses</b>	<b>Estimated Cost</b>
Books and reference materials	\$
Postage, telephone, FAX, utilities	\$
Printing/reproduction	\$
Advertising/public notices	\$
Registration fees for training (if approved)	\$
Repair and maintenance	\$
Basic office furnishings	\$
Space and equipment rentals	\$
Signage	\$

### Additional Other Expenses

The specific details of additional Other category expenses, not included on the list of basic Other expenses, must be pre-approved by the BVCOG. If the specific details of the additional Other expenses are not known at this time, list the general details on this form. The more specific details will then need to be provided to and approved by the BVCOG before the costs are incurred.

Additional Other Expenses	Unit Cost	No. of Units	Total Cost
Computer hardware not listed under the Equipment category (itemize each expense below including description, type, model, etc.):	\$		\$
Computer software (itemize each expense below including description, type, model, etc.):	\$		\$
Additional Other expenses (itemize each expense below including description, type, model, etc.):	\$		\$
<b>Total Other Expenses</b> (Must equal Line 8 of the Overall Budget Summary)			\$

Project Application



# **BRAZOS VALLEY COUNCIL OF GOVERNMENTS**

P.O. DRAWER 4128 · BRYAN, TEXAS 77805-4128

## **CERTIFICATION OF COMPLIANCE WITH STATE LAWS AND REGULATIONS**

I, David Neeley, certify that I am aware that local and Regional political subdivisions that are barred from participating in state contracts by the State Comptroller's of Public Accounts (CPA) under the provisions of §2155.077, Texas Government Code, and Title 1 TAC (Texas Administrative Code) §113.02, CPA (formerly under the Texas Building and Procurement Commission – TBPC) Regulations, are not eligible to receive subgrant funds from the Brazos Valley Council of Governments.

I further certify that the City of College Station is not barred from participating in the state contracts by the State Comptroller's of Public Accounts (CPA) under the provisions of §2155.077, Texas Government Code, and Title 1 TAC (Texas Administrative Code) §113.02, CPA (formerly under the Texas Building and Procurement Commission – TBPC) Regulations.

## **CERTIFICATION TO ALLOW PUBLIC REVIEW OF PENDING APPLICATION REGIONAL SOLID WASTE MANAGEMENT GRANTS PROGRAM**

I, David Neeley, of the City of College Station, hereby certify that the Regional Solid Waste Management Grants Program application submitted by the City of College Station is available for public review at the local office located at, College Station City Hall and the regional council of government's office. This release of information is effective for any party that may be interested in reviewing this Regional Solid Waste Management Grants Program application. I hereby waive any authorization under the Texas Open Records Act to keep this information confidential until the competition has been completed.

---

Signature

---

David Neeley, City Manager

---

Date

OFFICES AT 3991 EAST 29<sup>TH</sup> STREET  
Email: info@bvcog.org  
August - 2011

ADMINISTRATION PHONE 979/595-2800  
FAX 979/595-2810

**June 14, 2012  
Consent Agenda Item No. 2c  
Jones Butler Road Extension  
Professional Services Contract  
Change Order #2**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding Change Order #2 in the amount of \$4,700 to the Jones Butler Road Extension professional services contract with Jones and Carter, Inc.

**Relationship to Strategic Goals:** Goal V - Improving Multimodal Transportation: Provide complete streets that accommodate vehicles, bicyclists, and pedestrians.

**Recommendation(s):** Staff recommends approval of Change Order #2 in the amount of \$4,700.

**Summary:** The scope of the project includes the extension of Jones Butler as a major collector from Luther Street to the intersection of George Bush Drive & Penberthy Road. Change Order #1 resulted from a Texas A&M (TAMU) request to install different street lights along Penberthy north of George Bush Drive, on the TAMU campus.

Change Order #2 is for additional modifications to the electrical design initiated by TAMU to modify the current design of the street lights along Jones Butler between Luther Street and George Bush Drive. This change requires additional design and modifications to the plans, specifications, and cost estimate to be in accordance with TAMU standards.

**Budget & Financial Summary:** Change Order #2 is in the amount of \$4,700. The current budget for this project is \$3,283,500. Funds in the amount of \$334,408 have been expended or committed to date, leaving a balance of \$2,949,092 for the design completion and construction of this project.

**Attachments:**

1. Change Order #2
2. Project Location Map

**CHANGE ORDER NO. 2**  
P.O.# 101091

Contract # 10-178  
PROJECT: Jones-Butler Extension

May 21, 2012

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

**CONTRACTOR:**  
Jones & Carter, Inc.  
1716 Briarcrest, Ste. 160  
Bryan, Texas 77802  
Ph: (979) 731-8000

**PURPOSE OF THIS CHANGE ORDER:**

Modifications to the electrical design is due to a request by Texas A&M to provide the lighting on the project for Jones Butler Road in addition to Penberthy. The change includes modifications to the design, plans and specifications in accordance with TAMU standards. The original scope of work was for CSU providing the lighting for Jones Butler.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	LS	Modifications to Electrical Design and Plans	\$4,700.00	0.0	1.0	\$4,700.00
						\$0.00
						\$0.00
						\$0.00
					TOTAL	\$4,700.00

THE NET AFFECT OF THIS CHANGE ORDER IS A 6.41% INCREASE.

LINE1 (ST 139-9111-971.30-10)	\$4,700.00		
TOTAL CHANGE ORDER	\$4,700.00		
ORIGINAL CONTRACT AMOUNT	\$289,000.00		
Change Order No. 1	\$13,830.00	4.79%	CHANGE
Change Order No. 2	\$4,700.00	1.63%	CHANGE
TOTAL:	\$307,530.00	6.41 %	TOTAL CHANGE

APPROVED

\_\_\_\_\_  
CHIEF FINANCIAL OFFICER Date

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

\_\_\_\_\_  
MAYOR Date

\_\_\_\_\_  
CITY SECRETARY Date

\_\_\_\_\_  
CITY MANAGER Date

*N/A*  
\_\_\_\_\_  
CONTRACTOR Date

*Jim E. Pledger 5/24/12*  
\_\_\_\_\_  
DESIGN CONSULTANT Date

*Danielle Charbonnet 5/24/12*  
\_\_\_\_\_  
PROJECT MANAGER Date

*Chad R. H. 25 May 2012*  
\_\_\_\_\_  
DEPARTMENT DIRECTOR Date



**June 14, 2012**  
**Consent Agenda Item No. 2d**  
**Emergency Purchase for Remount and**  
**Refurbishing of Ambulance Unit number 51-23**

**To:** David Neeley, City Manager

**From:** Jon Mies, Assistant Fire Chief

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a emergency purchase for the remount and refurbishing of a Frazer Type I Generator powered Module onto a 2012/2013 Chevrolet C3500 5.7L gasoline chassis with an air suspension system from Knapp Chevrolet at a cost of \$80,000.

**Recommendation(s):** Staff recommends the purchase of a remount and refurbishing of a Frazer Type I Generator powered Module onto a 2012/2013 Chevrolet C3500 5.7L gasoline chassis with an air suspension system from Knapp Chevrolet at a cost of \$80,000. Quote #7731B from Frazer Ambulance through HGACBUY. Contract NO.: AM04-10

**Summary:** This 2005 Ambulance is the oldest in the fleet and suffered a catastrophic failure of the engine. Cost estimates for repair were \$12,000 and did not include anything but a rebuilt motor. The chassis remount and refurbishment of the patient compartment compares to a new unit with a cost savings of \$60,000 over the purchase of a new ambulance. The City of College Station participates with Houston Galveston Area Council of Governments (HGAC) Purchasing Cooperative which satisfies our competitive bidding requirements. Knapp Chevrolet is an awarded contract vendor on HGAC.

**Budget & Financial Summary:** This unit was originally scheduled for replacement in 2014; however, funds are available in the Fleet Replacement fund and will be part of the next budget amendment.

**Attachments:**

1. Quote #7731B



June 4, 2012

Chief Thomas Goehl  
 College Station Fire Department  
 E-mail: [tgoehl@cstx.gov](mailto:tgoehl@cstx.gov)

Quote #7731B

Chief Goehl,

Per your request we are quoting remounting and refurbishing your Frazer Type I 12' Generator Powered Module, E-1391, onto a 2012/2013 Chevrolet C3500 5.7L gasoline chassis with an air suspension system. For your convenience all pricing has been itemized below.

2012 Chevrolet C3500 5.7L gasoline chassis	\$ 29,875.00
Granning air suspension system	\$ 6,500.00
Remount of module (see below)	\$ 10,225.00
Optional items (see below)	\$ 33,400.00
Total	\$ 80,000.00

**Remount of module includes:**

- a) New black grille guard with (4) Whelen 600 series grille & intersect LEDs and (2) Federal Signal AS124 speakers
- b) New console with new Whelen 295SLSA1 siren
- c) Inspect all generator cabling, replace as needed
- d) New boot plate and boot
- e) New mounting rubber
- f) Rewire tail lights
- g) New under hood breakers
- h) Electrical check-out
- i) Add insulation to side and rear entry doors
- j) Replace entry door windows with double pane windows
- k) New weatherstripping and rivets for compartment and entry doors
- l) Replace all non-skid material on threshold(s)
- m) Stripe new chassis

**Optional items included in above total:**

Replace air conditioner w/ new Dometic self-contained A/C unit, make necessary interior and exterior modifications to accommodate	\$ 5,000.00
Replace interior fluorescent ceiling lights with (8) Grote LEDs, ship old fixtures and bulbs loose	\$ 2,700.00
Furnish and install a new Onan 5.5kW generator w/ non-permeable hoses, emissions canister kit, modify the compartment, replace compartment door (if applicable), and add new tank and fuel pump	\$ 7,200.00
New Buell 10" & 12" air horns w/ 2.2 CFM fast recovery compressor w/momentary switch on the console	\$ 2,050.00
Black nerf bars on truck cab	\$ 450.00
Plastix Plus custom console	\$ 1,800.00
Install components in aftermarket console built into truck cab including MDT, radios, and speakers (look at last new unit)	\$ 1,400.00
Remove and reinstall your Start Guard in truck cab, wire battery hot, run MedVault &	

Knox Box through it	\$	225.00
Remove and reinstall your wires from DriveCam battery hot to rear view mirror	\$	150.00
Shore power ignition kill switch	\$	225.00
Paramedic Design holder PD-1 above squad bench	\$	450.00
3 high glove box holder/end rail combo at end of squad bench	\$	450.00
Whelen 295HFSC9 siren in lieu of standard	\$	225.00
Replace rear entry door grabbers	\$	50.00
Furnish and install 3 high "D" cylinder holder in front I/O facing rear	\$	200.00
Furnish and install 2 high jumbo "D" cylinder holder next to 3 high "D" in front I/O facing rear	\$	175.00
Furnish & install (4) M6 series red/clear split grille & intersect LEDs in lieu of standard	\$	375.00
Connect in module speakers to new chassis radio	\$	N/C
Factory wheel covers	\$	incl.
Red/clear map light in truck cab above console	\$	100.00
Whelen Howler for siren and speakers	\$	1,000.00
Furnish and install 14 qt. Engel refrigerator w/ 120VAC adapter and hasp on stationary portion of the O2 lid	\$	900.00
Furnish and nstall converter plate for laydown O2 needed for under the refrigerator	\$	125.00
Furnish and nstall new shore power receptacle	\$	150.00
Add an extra O2 outlet in the ceiling	\$	525.00
Add an angle on the ceiling of the rear storage compartment with (4) hooks	\$	200.00
Add an indicator LED for shore power	\$	150.00
Replace license plate light and holder with Cast version with LED	\$	50.00
Replace all cabinet doors w/ polycarbonate scratch resistant doors	\$	650.00
Lime yellow and red conspicuity striping on entire rear of module	\$	1,500.00
Remove & reinstall lights, latches, etc. on rear (for adding conspicuity)	\$	350.00
Add magnets to existing squad bench & CPR seat cushions only	\$	450.00
Furnish & install large acrylic holder aft of CPR seat	\$	250.00
Furnish & install small acrylic holder at end of action wall cabinet	\$	175.00
Replace rear lower b/t/t halogen lights w/ (2) 4" round red LEDs and (2) 4" round clear LED back-up lights	\$	425.00
Replace black plastic flanges on entry doors with black aluminum flanges	\$	75.00
New clearance LEDs	\$	50.00
Remove rear entry door ramp	\$	N/C
Reinstall sharps container brackets at action wall and rear wall and glove box holder on back wall	\$	N/C
Convert all module exterior emergency, b/t/t LEDs, and rear load lights to M6 and M7 series with converter flanges	\$	2,600.00
New backboard compartment door (clamshell style)	\$	300.00
Run 2 new coax & cat5 cable from electrical compartment to console	\$	250.00

All pricing is F.O.B. Houston.

Per TMVCC we are quoting these through our licensed franchise dealer, Knapp Chevrolet.

Thank you for the opportunity to quote this job. If you have any questions please call me at 888-372-9371.

Best Regards,



Laura Richardson  
Frazer, Ltd.

LGR:SH



**June 14, 2012**  
**Consent Agenda Item No. 2e**  
**HOME Housing Reconstruction Project at 1017 Fairview**  
**Construction Contract 12-207**  
**Project Number CD 8101**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding approval of a construction contract for the demolition and reconstruction of 1017 Fairview to Orion Construction in the amount of \$93,765.00 using federal HOME Investment Partnership Grant (HOME) funds.

**Relationship to Strategic Goals:** Financially Sustainable City, Core Services and Infrastructure, and Neighborhood Integrity by helping to provide Safe, Decent, Affordable Housing.

**Recommendation(s):** Staff recommends approval of contract 12-207 for the demolition and reconstruction of 1017 Fairview.

**Summary:** At their April 12, 2012 meeting, the City Council approved an Owner Agreement for a reconstruction activity at 1017 Fairview under the HOME Reconstruction Loan Program. The project will include mortgage refinancing, demolition and reconstruction.

On May 24, 2012, ITB 12-064 was released soliciting bids for the demolition the dilapidated structure and reconstruction of a home at 1017 Fairview. Three bids were received in response to the ITB. The lowest bid was submitted by Orion Construction in the amount of \$93,765. The reconstruction contract is a tri-party agreement between the homeowner, Orion Construction and the City of College Station. The City will provide oversight of the construction and financial management.

**Budget & Financial Summary:** \$107,159 of Federal HOME Investment Partnership funds have been approved in the 2011 Annual Action Plan.

**Attachments:**

- Attachment 1: Resolution – Approving Orion Construction Contract 12-207
- Attachment 2: Reconstruction Agreement
- Attachment 3: Project Location Map
- Attachment 4: Bid Tabulation
- Attachment 5: Contract – On File in City Secretary's Office

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A HOUSING RECONSTRUCTION PROGRAM AGREEMENT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE DEMOLIATION AND RECONSTRUCTION OF 1017 FAIRVIEW.**

WHEREAS, the City of College Station, Texas, solicited bids for the demolition and reconstruction of 1017 Fairview; and

WHEREAS, the selection of Orion Construction, Inc is being recommended as the lowest responsible bidder; now, therefore,

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

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

PART 2: That the City Council hereby approves the contract with Orion Construction, Inc., Janie Mireles and the City of College Station in an amount not to exceed \$93,765.00 for the labor, materials and equipment required for the HOME Housing Reconstruction of 1017 Fairview.

PART 3: That the funding for this Project shall be as budgeted from the College Station Community Development Fiscal Year 2011 Budget, in an amount not to exceed \$107,159.00.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2012.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

**CITY OF COLLEGE STATION**  
**COMMUNITY DEVELOPMENT**  
**HOUSING RECONSTRUCTION PROGRAM AGREEMENT**

**CONTRACT NO.** \_\_\_\_\_

This Agreement is entered into by and between the **City of College Station**, a Texas home-rule municipal corporation (the "City") and **Contractor**, a corporation (the "Contractor"), and **Owner** ("Owner") for demolishing the Owner's current, substandard, residence that is not able to be rehabilitated and reconstruct a new residence . The current residence and the future residence ("Property") are located at:

111 STREET in College Station, Texas; being more particularly described by its legal description as follows: All that certain lot, tract or parcel of land lying and being situated in Brazos County, Texas and being Lot Sixteen (16), Block Four (4), Breezy Heights an addition to The City of College Station, Brazos County, Texas, according to the Plat recorded in Volume 128, Page 516 of the Deed Records of Brazos County, Texas.

**1. DEFINITIONS**

- 1.01. Calendar Day. A "calendar day" is any day of the week or month, no days being excepted.
- 1.02. City. Whenever the word "City" is used, it shall mean and be understood as referring to the City of College Station, Texas.
- 1.03. City's Representative. Whenever the words "City's Representative" or "Representative" are used, it shall mean and be understood as referring to the City Manager or his delegate, who shall act as City's agent. The City's Representative may inspect and issue instructions but shall not directly supervise the Contractor.
- 1.04. Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices times the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City.
- 1.05. Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.
- 1.06. Contractor. Whenever the word "Contractor" is used, it shall mean the person(s), partnership, or corporation who has agreed to perform the work embraced in this Agreement and the other Contract Documents.

- 1.07. Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing *prior* to the work being done by the Contractor.
- 1.08. Final Completion. The term "Final Completion" shall mean that all the work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.
- 1.09. Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.
- 1.10. Nonconforming work. The term "nonconforming work" shall mean work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.
- 1.11. Parties. The "parties" are the City, Owner, and the Contractor.
- 1.12. Project. The term "Project" shall mean and include all that is required to obtain a final product that is acceptable to the City. The term "work" shall have like meaning.
- 1.13. Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.
- 1.14. Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.
- 1.15. Work. The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The term "Project" shall have like meaning. This Project includes the following: demolishing the Owner's current, substandard, residence that is not able to be rehabilitated and reconstruct a new residence

- 1.16. Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

## **2. CONTRACT DOCUMENTS**

- 2.01. The Contract Documents and their priority shall be as follows:

1. This signed Agreement
2. Addendum to this Agreement
3. General Conditions
4. Special Conditions
5. Technical specifications
6. Drawings
7. Instructions to Bidders and any other notices to Bidders or Contractor
8. Performance bond, Payment bonds, Bid bonds and Special bonds
9. Community Development Housing Reconstruction Program  
Owner (HOME) Agreement
10. Notes and Deed of Trusts Executed by Owner related to the Project
11. Contractor's Proposal

- 2.02. Where applicable, the Contractor will be furnished three (3) sets of plans, drawings, specifications, and related Contract Documents for its use during construction. Plans and specifications provided for use during construction shall be furnished directly to the Contractor only.

- 2.03. The Contractor shall distribute copies of the plans and specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the plans and specifications accessible at the work site with the latest revisions noted thereon. For proper execution of the work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

- 2.04. All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the plans and specifications and "as built" drawings, are to be returned to the City on request at the completion of the work. All Contract Documents, models, mockups, or other representations are the property of the City. In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions of this Clause 2.04, however, shall not relieve the Contractor of any of the obligations set forth in Paragraphs 8.01. and 8.02.

## **3. AWARD OF CONTRACT**

3.01. Upon the award of the contract by the City Council, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02. **Time is of the essence of this Agreement.** Accordingly, the Contractor shall be prepared to perform the work in the most expedient and efficient possible manner in order to complete the work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the notice to proceed. The notice to proceed may be given by oral notification or set by City's Representative at the post-contract award conference. **The notice to proceed may not be given, nor may any work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Paragraphs 27 and 28 (Insurance & Bonds).**

#### 4. CITY'S REPRESENTATIVE

4.01. The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02. The City's Representative may periodically review and inspect the work of the Contractor.

4.03. The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the work performed under this Agreement and ensure that said work is performed in accordance with the plans and specifications.

4.04. The Contractor shall regard and obey the directions and instructions of City's Representative, any subordinate supervisors or inspectors appointed by the City provided such directions and instructions are consistent with the obligations of this Agreement.

4.05. Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

#### 5. INDEPENDENT CONTRACTOR

5.01. In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors,

and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02. The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the work and fulfillment of this Agreement. The subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project during the progress of the work a competent Project Manager and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.03. Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the work by the Contractor. It shall be the responsibility of the Contractor to furnish a completed work product that meets the requirements of the City. Any additional work, material, or equipment needed to meet the intent of this specification shall be supplied by the Contractor *without* claim for additional payment, even though not specifically mentioned herein.

5.04. Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

## **6. DISORDERLY EMPLOYEES**

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the work are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the work and shall not again be re-employed on the site or the Project without City's Representative's written permission.

## **7. HOURS OF WORK**

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for

Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

## **8. NATURE OF THE WORK**

8.01. It is understood and agreed that the Contractor has, by careful examination, studied and compared the various Drawings and other Contract Documents, satisfied itself as to the nature and location of the work, the conditions of the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any work on the Project that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03. If the Contractor fails to perform the obligations of Paragraphs 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

## **9. POST-AGREEMENT AWARD MEETINGS**

9.01. Prior to the commencement of the work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten

(10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

- (a) Schedules of work contemplated, including the starting and ending date, as well as an indication of the completion of stages of work hereunder.
- (b) The names and addresses of all proposed subcontractors in writing.
- (c) Schedules of the starting and ending dates of subcontractors and the scope of work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02. The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

## **10. PROGRESS OF WORK**

10.01. Unless otherwise specifically provided, the Contractor shall prosecute its work at such time and sessions, in such order of precedence, and in such manner as shall be most conducive to the economy of the Project; provided, however, that the order and time of prosecution shall be such that the Project shall be Substantially Completed in accordance with this Agreement, the plans and specifications, and within the time of completion designated in the schedules agreed upon by the parties.

10.02. Further, the parties shall be subject to the following:

- (a) The Contractor shall submit a progress schedule and payment schedule of the work contemplated by this Agreement at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's schedule submitted herein. The Contractor shall promptly resubmit a revised schedule to City's Representative.

- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the work with dates at which the Contractor will start the several parts of the work and the estimated dates of completion of the several parts.
- (e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.
- (f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.
- (g) In the event that it is determined by the City that the progress of the work is not in accordance with the approved progress and payment schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03. The process of approving Contractor's schedules and updates to Contractor's schedules shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Contractor's schedules. Approval of a contractor's schedules does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a Claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedules and shall promptly advise the City of any delays or potential delays. In the event any schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04. **Work Stoppage.** If in the judgment of either the City or City's Representative any of the work or materials furnished is not in strict accordance with this Agreement or any portion of the work is being performed so as to create a hazardous condition, they may, in their sole discretion, order the work of the Contractor or any sub contractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

## 11. SITE CONDITIONS AND MANAGEMENT

- 11.01. Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.
- 11.02. The Contractor shall be responsible for all power, light, and water required to perform the work.
- 11.03. Throughout the progress of the work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.
- 11.04. **Layout of Work.** Except as specifically provided herein, the Contractor shall lay out all work in a manner acceptable to City's Representative in accordance with applicable City of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all work in accordance with the plans and specifications.
- 11.05. **Lines and Grades.** All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.
- 11.06. **Contractor's Structures.** The building or locating of structures for housing men or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.07. The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.08. **City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. Although Contractor should anticipate some delays and interference to its sequence of Work because of work by other contractors and utilities, and will not be entitled to either an extension of time or additional compensation because of them, in the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.**

11.09. When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work at the Project site be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

## 12. MATERIALS

12.01. Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the

Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02. All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03. Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

- (a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.
- (b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.
- (c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.
- (d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.
- (e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04 **Materials and supplies shall be new and of good quality.** Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative

may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

### **13. ENTRY, OBSERVATION, TESTING & POSSESSION**

13.01. The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02. The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the work will be ready for observation.

13.03. The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the plans, specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if the work is in accordance with the plans, specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04. City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement. Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

### **14. REJECTED WORK**

14.01. All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such

defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02. If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

- (a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.
- (b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

## **15. SUBCONTRACTING & SUBCONTRACTORS**

15.01. The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02. Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

## **16. PAYMENT**

16.01. The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Contract. The Contractor shall issue exemption certificates to its suppliers and Subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02. **Progress Payment Applications.** The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require. This schedule, unless objected to by the City, shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the \_\_\_\_ day of each month, the Contractor shall submit to City's Representative, for approval or modification, a statement showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the work.

16.03. **Progress Payments.** On or before the **30th** calendar day following the City's receipt of a progress payment application made in conformity with Paragraph 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

16.04. **Retainage.** From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than \$400,000.00, and five percent (5%), where the full contract amount is \$400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

16.05. If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06. Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any restocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07. The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08. The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09. Unless otherwise provided in the Contract Documents:

- (a) allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances;
- (c) whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 16.9(b).

16.10. **Suspension of Payments.** The City, at any time, may suspend monthly progress payments on the work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.11. **Withhold Funds.** Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Paragraph 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

- (a) Defective work.
- (b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.

- (e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (g) City's determination of an amount of liquidated damages.
- (h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.12. **Owner Liable for Repayment of Funds to the City.** The City will allocate funds for the Owner sufficient to pay for all costs related the Projects, subject to the Community Development Housing Reconstruction Program Owner (HOME) Agreement, and any Note and Deed of Trusts related to the Project the Owner executes to secure payment to the City for the work related to the Project.

## 17. EXTRA WORK CHARGES

17.01. No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid for except upon the written order from authorized personnel of the City.

17.02. For "Extra Work", as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original contract price may not be increased by more than *twenty-five percent (25%)*. Written change orders that do not exceed *twenty-five percent (25%)* of the original contract amount may be made or approved by the City Manager or his delegate if the change order is less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

OR:

For construction contracts funded in whole or in part by Certificates of Obligations, for "Extra Work," as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 271.060 of the Texas Local Government Code, a contract with an original contract

price of \$1 million or more may not be increased by more than *twenty-five percent (25%)*. If a change order for a construction contract funded in whole or in part with certificates of obligation that has an original price of less than \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than *twenty-five percent (25%)*. Written change orders may be made or approved by the City Manager or his delegate if the change order is less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of *Fifty Thousand Dollars (\$50,000.00)* must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

17.03. The Contractor shall complete all work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the work shall not excuse the Contractor from performing all the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the work and the Contractor shall assume and pay the costs of the performance of the work as contracted.

- (a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.
- (b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.
- (c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its performance, then the Contractor shall proceed with the work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.
- (d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or  
Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost of the work.

(e) **Method A - Unit Prices.** The Contractor agrees to perform Extra Work for the unit prices in the Contractor's Proposal. The Contractor also agrees and warrants that when it is necessary to construct units not shown in the Contract Documents, it shall construct such units for a price arrived at as follows:

- (1) The cost of materials shall be determined by the invoices;
- (2) The cost of labor shall be the reasonable cost thereof, as determined by the City, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio. Provided, however, that the ratio shall be calculated for only those units that are similar to the new unit for which a price is to be determined.

(f) **Method B - Lump Sum.** The lump sum shall be reasonably close to the amount for similar work previously done or combinations of similar units. Invoices for materials used shall be provided in support of the agreed lump sum.

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, worker's compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All damages must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned

expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned manloading to actual manloading, or any other analysis that is used to show damages indirectly.

- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

## **18. TIME OF COMPLETION**

- 18.01. The date of beginning, the time for Substantial Completion and Final Completion of work as specified in this Agreement are of the essence of this Agreement.
- 18.02. The work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed may be given orally or set by the City's Representative at the post-award conference.
- 18.03. The work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor bid calendar days for the time within which it shall reach Substantial Completion of the Project.
- 18.04. The work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

## **19. SUBSTANTIAL COMPLETION**

- 19.01. The Contractor shall notify City's Representative when, in the Contractor's opinion, the contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the work has been Substantially Completed, City's Representative shall inspect the work for the preparation of a final punch list.
  - (a) If City's Representative and the City find that the work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the work. City's Representative shall not be required to provide a list of unfinished work.
  - (b) If the City Representative and City find that the work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

19.02. The Substantial Completion of the work shall not excuse the Contractor from performing all of the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents.

## **20. FINAL COMPLETION**

20.01. Contractor shall notify the City's Representative when it believes that the work has reached Final Completion as defined in Paragraph 1.08. If the City's Representative and the City accept and deems such work Finally Complete, then Contractor shall be so notified and certificates of completion and acceptance, as provided herein, shall be issued. A complete itemized statement of this Agreement account, certified by the City's Representative as correct, shall then be prepared and delivered to Contractor. Contractor or City, as the case may be, shall pay the balance due as reflected by said statement within thirty (30) calendar days.

20.02. The Contractor shall procure all required certificates of acceptance or completions issued by state, municipal, or other authorities and submit the same to the City. The City may withhold any payments due under this Agreement until the necessary certificates are procured and delivered.

20.03. Neither the final payment nor any acceptance nor certificate nor any provision of this Agreement shall relieve the Contractor of any responsibility for faulty workmanship or materials. At the option of the City, the Contractor shall remedy any defects and pay for any damage to other work which may appear after final acceptance of the work.

## **21. DELAYS**

21.01. The Contractor, in undertaking to complete the work within the times herein fixed, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material or workmen or delays arising from inclement weather or otherwise.

21.02. The City may, in its sole discretion, delay the work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event and upon a written request from the Contractor, the City may grant an extension of time pursuant to Paragraph 22 to offset for such stoppage of the work.

21.03. In the event of delays resulting from changes ordered in the work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

## 22. EXTENSIONS OF TIME

The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the work has been delayed by one or more of the following:

- (1) an act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;
- (2) by changes ordered in the work, or reductions thereto approved in writing;
- (3) by "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the Texas A&M University weather service; or
- (4) by other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's proposal or decision to bid.

If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

## 23. LIQUIDATED DAMAGES

23.01. The time for the Substantial and Final Completion of the work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02. As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of \_\_\_\_\_ /100 DOLLARS (\$) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

#### **24. CHARGES FOR INJURY OR REPAIR**

24.01. The Contractor shall be liable for any damages incurred or repairs made necessary by reason of its work and/or caused by it. Repairs of any kind required by the City will be made and charged to the Contractor by the City.

24.02. The Contractor shall take the necessary precautions to protect any areas adjacent to its work.

24.03. The work specified consists of all work, materials, and labor required by the City to repair any damage to the property of the City, including but not limited to structures, roadways, curbs, parking areas, and sidewalks.

#### **25. WARRANTY**

25.01. Upon issuance of a certificate of Final Completion, the Contractor warrants for a period of one (1) year as follows:

**The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative and that all work will be of good quality, free from faults and defects, and in conformance with this Agreement, the other Contract Documents, and recognized industry standards.**

25.02. All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

25.03. This warranty is in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor.

25.04. Where more than a one (1) year warranty is specified for individual products, work, or materials, the longer warranty shall govern.

25.05. This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Agreement.

25.06. **Defective Work Discovered During Warranty Period.** If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly correct the defective work at no cost to the City.

25.07. After receipt of written notice from the City to begin corrective work, the Contractor shall promptly begin the corrective work. The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

25.08. If within ten (10) calendar days after the City has notified the Contractor of a defect, failure, or abnormality in the work, the Contractor has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the Contractor or its surety.

25.09. The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the Contractor or by the surety.

25.10. The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of this Project, whether or not a warranty is specified in the individual section of the Contract Documents that prescribe that particular aspect of the work.

## **26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS**

26.01. **Wage Rates.** Pursuant to Section 2258.023(a) of the Texas Government Code, wage rates paid by the Contractor and any subcontractor on this Project shall be not less than the general prevailing rate of per diem wages for work of a similar character in this locality as specified in the schedule of general prevailing rates of per diem wages attached hereto as Exhibit A.

26.02. **Statutory Penalty.** Pursuant to Section 2258.023(b) of the Texas Government Code, if the Contractor or any subcontractor violates the requirements of Paragraph 26.01, the Contractor or subcontractor as the case may be shall pay the City **Sixty Dollars (\$60.00)** for each worker employed for each calendar day or part of the day that the worker is paid less than the stipulated wage rates.

- 26.03. The Contractor and each subcontractors shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.
- 26.04. No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.
- 26.05. **Payment of Subcontractors.** The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.
- 26.06. **Affidavit of Bills Paid.** Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

## 27. INSURANCE

27.01. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, coverages, limits and endorsements required are as set forth in Exhibit B.

## 28. BOND PROVISIONS

28.01. Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$50,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such

bonds shall be executed in accordance with all requirements of Article 7.19-1 of the Texas Insurance Code, all other applicable law, and the following:

- (a) The Contractor shall execute performance and payment bonds for the full Contract Amount.
- (b) The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.
- (c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit C, together with valid original powers of attorney, **at the time of execution of this Agreement and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit C**.
- (d) The performance and payment bonds shall remain in effect for a period of one (1) year after Final Completion of the work and shall be extended for any warranty work to cover the warranty period.
- (e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

28.02. The Contractor may make such changes and alterations as the City may require in the work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the work as originally planned, in accordance with the provisions of Article 17.

## **29. SURETY**

29.01. If the Contractor has abandoned the Project or the City has terminated the contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the work in compliance with this Agreement, then the City at its option may provide for completion of the work in either of the following manners:

29.01.01. The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be

deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

29.01.02. The City may, after notice published as required by law, accept sealed bids and let this Agreement for the completion of the work under substantially the same terms and conditions that are provided in this Agreement. In case of any increase in cost to the City under the new agreement as compared to what would have been the cost under this Agreement, such increase together with all of the City's damages due to Contractor's abandonment and/or default, including liquidated damages, as provided pursuant to Paragraph 38, entitled "TERMINATION FOR CAUSE" shall be charged to the Contractor and the surety shall be and remain bound therefor. However, should the cost to complete such new agreement prove to be less than that which would have been the cost to complete the work under this Agreement, the Contractor shall be credited therewith after all deductions are made in accordance with this Agreement.

29.02. Should the cost to complete the work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

29.03. In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor.

### **30. COMPLIANCE WITH LAW**

30.01. The Contractor's work and materials shall comply with all state and federal laws, municipal ordinances, regulations, codes, and directions of inspectors appointed by proper authorities having jurisdiction.

30.02. The Contractor shall perform and require all subcontractors to perform the work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In

the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

30.03. The Contractor shall follow all applicable state and federal laws, municipal ordinances, and guidelines concerning soil erosion and sediment control throughout the Project and warranty term.

### 31. SAFETY PRECAUTIONS

31.01. All safety measures, policies and precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the College Station Fire Department marked "Attn.: Assistant Chief".

31.02. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

31.03. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

31.04. Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Paragraph 31.07, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Paragraph 31.07). **In the event Contractor engages in any of the activities prohibited in this Paragraph 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this Paragraph 31.04.**

31.05. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been

rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

31.06. City and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

31.07. For purposes of this Agreement, the term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which are defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Contractor's responsibility to comply with this Paragraph 31.07 based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

## **32. TRENCH SAFETY**

The Contractor must comply with Texas law regarding trench excavation exceeding five feet in depth and in accordance with the following items:

32.01 The Contractor must comply with the requirements of Tex. Health & Safety Code Ann. §756.022-023 (Vernon 1992), as amended, and the requirements of 29 C.F.R., Sections 1926.650 through 1926.653 inclusive, "Excavation, Trenching and Shoring," of the Occupational Safety and Health Administration Standards, as amended.

32.02 The Contractor must include a separate pay item for trench safety complying with trench safety requirements, stating a unit price per linear foot of trench safety systems, as measured along the centerline of trench including manholes and other line structures.

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty,

responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

- 32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.
- 32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

### **33. INDEMNITY**

**33.01 CONTRACTOR SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY FROM ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY OR CAUSES OF ACTION FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY, TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE WORK DONE BY ANY PERSON UNDER THIS CONTRACT. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION SHALL EXTEND TO, AND INCLUDE, ANY AND ALL CLAIMS, CAUSES OF ACTION OR LIABILITY CAUSED BY THE CONCURRENT, JOINT AND/OR CONTRIBUTORY NEGLIGENCE OF THE CITY, AN ALLEGED BREACH OF AN EXPRESS OR IMPLIED WARRANTY BY THE CITY OR WHICH ARISES OUT OF ANY THEORY OF STRICT OR PRODUCTS LIABILITY.**

**33.02. The indemnifications contained in paragraphs 33.01 shall include but not be limited to the following specific instances:**

- (a) In the event the City is damaged due to the act, omission, mistake, fault or default of the Contractor, then the Contractor shall indemnify and hold harmless and defend the City for such damage.**
- (b) The Contractor shall indemnify and hold harmless and defend the City from any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.**
- (c) The Contractor shall indemnify and hold harmless and defend the City from any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.**
- (d) The Contractor shall be responsible for any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.**

- (e) The Contractor shall also be responsible for the removal of all related debris.
- (f) The Contractor shall also be responsible for subcontractors hired by it.
- (g) The Contractor shall indemnify, hold harmless, and defend the City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.

**33.03.** The indemnification obligations of the Contractor under this section shall not extend to include the liability of any professional engineer, the architect, their consultants, and agents or employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the professional engineer, the architect, their consultants, and agents and employees of any of them, provided such giving or failure to give is the primary cause of the injury or damage.

**33.04.** It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 33.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

#### **34. RELEASE**

The Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City.

### **35. PERMITS AND LICENSES**

The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

### **36. ROYALTIES AND LICENSING FEES**

The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the Project. It shall defend all suits or claims for infringement of any patent rights. Further, if the Contractor has reason to believe that the design, service, process, or product specified is an infringement of a patent, it shall promptly give such information to City's Representative.

### **37. BREACH OF CONTRACT & DAMAGES**

37.01. The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate, or terminate the Contractor's obligations under this Agreement.

37.02. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (a) If the Contractor shall fail to remedy any default after written notice thereof from City's Representative, as City's Representative shall direct; or
- (b) If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or
- (c) If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

### **38. TERMINATION FOR CAUSE**

Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to terminate this Agreement in its entirety at any time for any of the following:

38.01. If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or

38.02. If a receiver, trustee, or liquidator of any of the property or income of the Contractor shall be appointed; or

38.03. If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

38.04. If the Contractor shall fail to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or

38.05. If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or

38.06. If the Contractor abandons the Work.

38.07. If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

### **39. TERMINATION FOR CONVENIENCE**

39.01. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

39.02. In the event of termination for convenience, the Contractor shall only be paid the reasonable value of the Work performed prior to the effective date of the termination notice and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law. In the event of termination for convenience, Contractor Waives and Releases any claim for lost profit, other than profit on Work performed prior to the effective date of such termination.

### **40. RIGHT TO COMPLETE**

If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and

privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

#### **41. CLOSE OUT**

41.01. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City's Representative, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City's Representative, do the following:

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;
- (d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;
- (f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred; and/or

#### **42. TERMINATION CONVERSION**

Upon determination of Court of competent jurisdiction that termination of the Contractor pursuant to Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 39 and Contractor's remedy for such termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Paragraph 39.

#### **43. HIRING**

During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

#### 44. ASSIGNMENT

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

#### 45. EFFECTIVE DATE

The effective date of this contract shall be the date of award of the contract.

#### 46. OTHER TERMS

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

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

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

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

46.05. **Mediation.** After receipt of a Notice of Claim, the Owner may elect to refer the matter to the Architect, Owner's Representative or another party for review. Contractor will attend meetings called to review and discuss the Claims and mitigation of the problem, and shall furnish any reasonable factual backup for the Claim requested. The Owner may also elect to defer

consideration of the Claim until the Work is completed, in which case the same review options shall be available to the Owner at the completion of the Work. At any stage, the Owner, at its sole discretion, is entitled to refer a Claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a Claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under Owner's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.06. **Arbitration.** In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.07. **Choice of Law and Place of Performance.** This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.08. **Authority to do business.** The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this contract.

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

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

46.11. **Headings, Gender, Number.** The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.12. **Agreement Read.** The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

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

46.14. **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

**OWNER**

**CITY OF COLLEGE STATION**

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

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

Mayor

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

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

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

**ATTEST:**

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

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

**CONTRACTOR**

**APPROVED:**

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Executive Director Business Services

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

**EXHIBIT A**  
**Insert Appropriate Davis Bacon Wage Rates**

Copy and paste the following notes to the end of the DB wage rates for Building Construction or Heavy/Highway Construction. Omit #5 if for Heavy/Highway Construction.

1. Payment greater than prevailing wage rate as listed within this document not prohibited per Texas Government Code, Chapter 2258, Prevailing Wage Rates, Subchapter A. General Provisions.
2. Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.
3. The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 & 1/2) times the base hourly rate.
4. The rates listed are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew.
5. Building construction wage rates shall be paid to all workers except those workers engaged in site work and construction beyond five feet of buildings.

**Exhibit B**  
**INSURANCE REQUIREMENTS**

During the term of this Agreement Contractor's insurance policies shall meet the following requirements:

I. Standard Insurance Policies Required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Umbrella / Excess Liability – required for contract amounts exceeding \$1,000,000
- D. Workers' Compensation
- E. Builder's Risk – provides coverage for contractor's labor and materials for a project during construction that involves a structure such as a building or garage builder's risk policy shall be written on "all risks" form.

II. General Requirements Applicable to All Policies:

- A. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
- B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- C. "Claims Made" policies are not accepted.
- D. 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.
- E. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
- F. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella 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.

III. Commercial General Liability

- A. 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.

- B. 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.
- C. Coverage shall be at least as broad as ISO form GC 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

#### IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier with a “A:VIII” or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- C. Coverage shall be at least as broad as Insurance Service’s Office Number CA 00 01.
- D. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- E. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- F. Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00.

#### V. Excess Liability

Umbrella form excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the contract, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

- VI. Those policies set forth in Paragraphs III, IV, and V 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 D, and approved by the City before work commences.

## VII. Workers Compensation Insurance

- A. 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 workers compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. Workers compensation insurance shall include the following terms:
1. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required.
  2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
  3. Texas must appear in Item 3A of the 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.
- C. 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:
- "A. *Definitions:*

*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.*

*Duration of the project - includes the time from the beginning of the work on the project until the Contractor’s/person’s work on the project has been completed and accepted by the governmental entity.*

*Persons providing services on the project (“subcontractors” in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. “Services” does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.*

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. If the coverage period shown on the Contractor’s current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and**

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

*the current certificate of coverage ends during the duration of the project;*

- (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
- (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
- (7) *Contractually require each person with whom it contracts to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

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

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

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

- A. The company is licensed and admitted to do business in the State of Texas.
- B. 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.
- C. All endorsements and insurance coverages according to requirements and instructions contained herein.
- D. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.

- E. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**Exhibit C**  
**PERFORMANCE AND PAYMENT BONDS**



under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be done there under, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the work to be done there under; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety there from.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party.

**IN WITNESS THEREOF**, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

**IN WITNESS THEREOF**, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

ATTEST, SEAL: (if a corporation)

WITNESS: \_\_\_\_\_ (Name of Contractor)

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

By:

Name:  
Title:

Name:  
Title:  
Date:

ATTEST/WITNESS (SEAL)

\_\_\_\_\_  
(Full Name of Surety)

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

\_\_\_\_\_  
Name: (Address of Surety  
for Notice)  
Title:  
Date:

By:

\_\_\_\_\_  
Name:  
Title:  
Date:

REVIEWED:  
IS ACCEPTED

THE FOREGOING BOND

ON BEHALF OF  
THE CITY OF COLLEGE  
STATION, TEXAS:

\_\_\_\_\_  
City Attorney's Office

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

TEXAS STATUTORY PAYMENT BOND  
No. \_\_\_\_\_

Project

THE STATE OF TEXAS                    §  
  §  
PRESENTS:  
THE COUNTY OF BRAZOS               §

KNOW ALL MEN BY THESE

**THAT WE,** \_\_\_\_\_, as Principal, hereinafter called “Principal” and the other subscriber hereto \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called “Surety”, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of \_\_\_\_\_ (\$\_\_\_\_\_) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

**THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:**

**WHEREAS,** Principal has entered into a certain contract with the City of College Station, dated the \_\_\_\_day of\_\_\_\_\_, 20\_\_, for \_\_\_\_\_, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW THEREFORE,** the condition of this obligation is such that if Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and effect;

**PROVIDED, HOWEVER,** that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Code to the same extent as if it were copied at length herein.

**IN WITNESS THEREOF,** the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

ATTEST, SEAL: (if a corporation)

WITNESS: (if not a corporation)

(Name of Contractor)

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

By:

Name:

Title:

Name:

Title:

Date:

ATTEST/WITNESS

(SEAL)

\_\_\_\_\_

(Full Name of Surety)

By:

\_\_\_\_\_

Name:

(Address of Surety for

Notice)

Title:

Date:

\_\_\_\_\_

By:

\_\_\_\_\_

Name:

Title:

Date:

REVIEWED:  
IS ACCEPTED

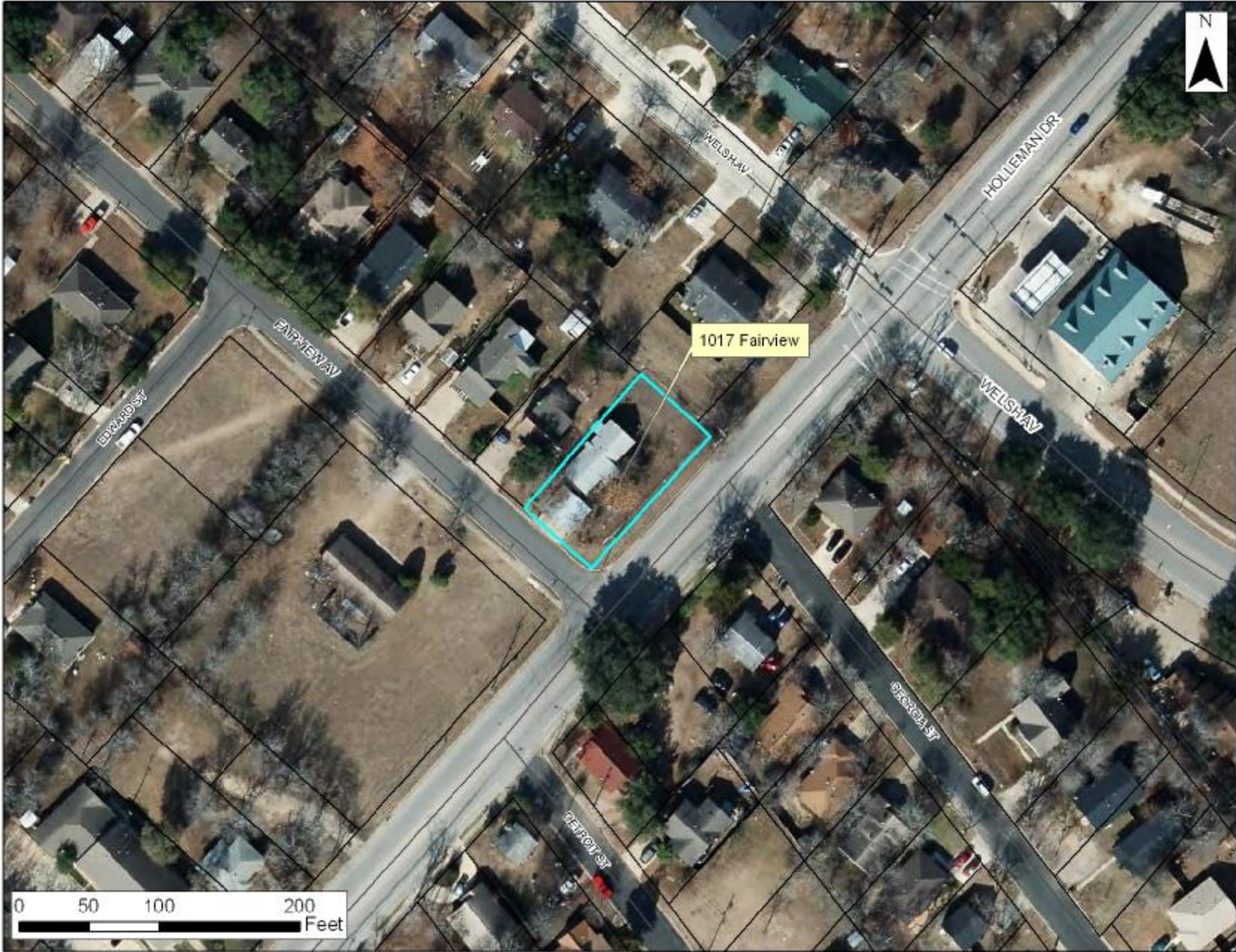
THE FOREGOING BOND

ON BEHALF OF  
THE CITY OF COLLEGE  
STATION, TEXAS:

\_\_\_\_\_

City Attorney's Office

City Manager



City of College Station: Janie Mirelas 1017 Fairview				BIDDERS			
BID TABULATION							
BID DATE: May 24, 2012							
Project No.			Embrace Brazos Valley	Ilcor Homes	Wall Development	Orion Construction	
<b>ITEM NO. DESCRIPTION</b>							
	<b>Construction</b>		<b>\$99,200.00</b>	<b>No Bid</b>	<b>\$122,500.00</b>	<b>\$93,765.00</b>	
<b>ALTERNATE 1:</b>	Fence		<b>No Bid</b>	<b>No Bid</b>	\$ 350.00	\$ 950.00	
<b>ALTERNATE 2:</b>	Appliances		<b>No Bid</b>	<b>No Bid</b>	\$ 225.00	\$ 2,065.00	
<b>ALTERNATE 3:</b>	Screen Door		<b>No Bid</b>	<b>No Bid</b>	\$ 2,230.00	\$ 270.00	
					<b>\$125,305.00</b>	<b>\$97,050.00</b>	

**June 14, 2012**  
**Consent Agenda Item No. 2f**  
**Renewal of Annual Purchase Agreement for Crack Sealant/Detack Material**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding the renewal of an annual price agreement with Crafcot Texas, Inc. for the purchase of Crack Sealant and Detack Material in the amount of \$121,660.65. This action authorizes the City Manager to execute the renewal agreement on behalf of the City Council.

**Relationship to Strategic Goals:** Goal I: Financially Sustainable City Providing Response to Core Services and Infrastructure – Spending taxpayer money efficiently.

**Recommendation(s):** Staff recommends approval of the renewal of the price agreement, with an 8% increase, and authorization for the City Manager to execute the renewal agreement.

**Summary:** Bids (Bid 11-93) were requested for an annual price agreement for Crack Sealant and Detack Material on June 21, 2011. Crafcot Texas, Inc agrees to a first renewal of two allowable annual renewals as follows:

	Original Bid Amount	Renewal with 8% Increase
Poly Flex III	\$0.55/lb.	\$0.59/lb
Detack	\$8.15/gal.	\$8.80/gal.

The original agreement amount was not to exceed \$112,648.75 and the increased amount at 8% will not exceed \$121,660.65.

**Budget & Financial Summary:** Funds to purchase crack sealant and detack material are budgeted and available in the General Fund within the Operations Budget.

**Attachments:**

1. Signed Letter of Renewal

.....

**RENEWAL ACCEPTANCE**

By signing herewith, I acknowledge and agree to renew the Annual Price Agreement for Crack Sealant and Detack Sealant as stated in BID 11-93 and in accordance with all terms and conditions previously agreed to and accepted, with a vendor requested price increase of eight percent (8%). With the increase, the pricing of Crack Sealant, Polyflex Type III will be \$0.59/lb, and Detack Sealant will be \$8.80/gal, for a total amount not to exceed One Hundred Twenty One Thousand Six Hundred Sixty Dollars and 65/100 (\$121,660.65).

I understand this renewal term will be for the period beginning July 18, 2012 through July 17, 2013. This is the first renewal.

**CRAFCO TEXAS, INC**

By: William T. Frerichs  
Printed Name: William T. Frerichs  
Title: President  
Date: 5-24-12

**CITY OF COLLEGE STATION**

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

APPROVED:

Michael...  
City Attorney  
Date: \_\_\_\_\_

\_\_\_\_\_  
Executive Director Business Services  
Date: \_\_\_\_\_

**June 14, 2012**  
**Consent Agenda Item No. 2g**  
**Renewal of Annual Price Agreement for the Purchase of Cement Stabilized Rock**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding the renewal of an annual price agreement with Brazos Paving, Inc. for the purchase of Cement Stabilized Base Rock for an amount not to exceed \$248,000 and authorizing the City Manager to execute the renewal agreement on behalf of the City Council.

**Relationship to Strategic Goals:** Financially Sustainable City Providing Response to Core Services and Infrastructure – Spending taxpayer money efficiently.

**Recommendation(s):** Staff recommends approval of the annual price agreement and authorization for the City Manager to execute the renewal agreement.

**Summary:** Bids were requested for an annual price agreement for Cement Stabilized Base Rock on June 24, 2011. One bid was received from Brazos Paving, Inc. for \$248,000 for material to be picked up by City crews for a unit price of \$31.00 per ton. The maximum amount of material that would be ordered during a one year period is 8,000 tons. This material has a relatively short life span and cannot be stockpiled because it has a percentage of Portland cement added to it. It is used when soil conditions require a stabilized base for a pavement repair. When a job requires it, a Street and Drainage crew will pick up the material at the plant for use on the same day. This is Renewal one of two allowable renewals.

**Budget & Financial Summary:** Funds to purchase cement stabilized base rock are budgeted and available in the General Fund within the Operations Budget.

**Attachments:**

1. Signed Renewal Agreement #1



**RENEWAL ACCEPTANCE**

By signing herewith, I acknowledge and agree to renew the Annual Price Agreement for Cement Stabilized Rock as stated in BID 11-97 and in accordance with all terms and conditions previously agreed to and accepted at \$31.00/ton, for an amount not to exceed Two Hundred Forty Eight Thousand Dollars and 00/100 (\$248,000.00).

I understand this renewal term will be for the period beginning July 18, 2012 through July 17, 2013. This is the first renewal.

**BRAZOS PAVING, INC**

**CITY OF COLLEGE STATION**

By:   
Printed Name: MARTIN JACKSON  
Title: President  
Date: 5/7/2012.

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

APPROVED:

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

\_\_\_\_\_  
Executive Director Business Services  
Date: \_\_\_\_\_

**June 14, 2012**  
**Consent Agenda Item No. 2h**  
**Renewal of Annual Price Agreement for the Purchase of Cement Stabilized Sand**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding the renewal of an annual price agreement to Brazos Paving, Inc. for the purchase of Cement Stabilized Sand for an amount not to exceed \$137,000 and authorizing the City Manager to execute the renewal agreement on behalf of the City Council.

**Relationship to Strategic Goals:** Financially Sustainable City Providing Response to Core Services and Infrastructure – Spending taxpayer money efficiently.

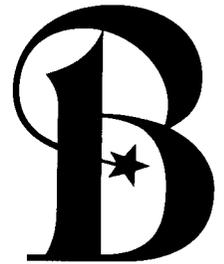
**Recommendation(s):** Staff recommends approval of the authorization to participate with the City of Bryan for the renewal of the annual price agreement and authorization for the City Manager to execute the renewal agreement.

**Summary:** The City of Bryan requested bids (City of Bryan Bid #11-031) for an annual price agreement for Cement Stabilized Sand on May 17, 2011. Three bids were received from Texcon, Brazos Paving, Inc. and Knife River. Our Interlocal Purchasing Agreement with the City of Bryan allows the City to utilize contracts that have been competitively solicited. The lowest Total Annual Bid Price was received from Brazos Paving, Inc. for \$16.50 for material to be picked up by City crews and \$21.50 for material to be delivered to the job site by contractor crews. The amount estimated to be picked up by City of College Station crews for regular and emergency maintenance is 7,000 tons at \$16.50 for \$115,500. The amount estimated to be delivered by contractor crews to the job site would be 1,000 tons at \$21.50 for \$21,500. The total amount would not exceed \$137,000. This is Renewal #1 of two allowable renewals.

**Budget & Financial Summary:** Funds to purchase cement stabilized sand are budgeted and available in the General Fund within the Operations Budget of the Streets and Drainage Divisions.

**Attachments:**

1. City of Bryan Renewal Letter



CITY OF BRYAN

*The Good Life, Texas Style.*

April 10, 2012

Brazos Paving  
Attn: Landon Alford  
P O Box 714  
Bryan, Texas 77807

RE: 1<sup>st</sup> Extension of Contract No. 11-031 entitled "Annual Contract for Cement Stabilized Sand"

Dear Mr. Alford:

Please be advised that the above referenced contract will expire on June 14, 2012, and it is our intent to recommend to the City Council to extend said contract for one (1) additional period of one (1) year, beginning the day following the expiration date of said contract.

If your company is willing and able to extend Contract No. 11-031 under the same prices, terms, conditions and provisions as those contained in the original contract, please complete the following information and return this original within ten (10) days from the date of this notification.

I, Billy Prewitt V.P.  
Name Title  
Of Brazos Paving, Inc.  
Company Name

agree to extend Contract No. 11-031 with the City of Bryan, under the same prices, terms, conditions and provisions as those contained in the original contract, for a period of one (1) year beginning June 15, 2012 and expiring June 14, 2013 upon approval of City Council.

Signed By: Billy Prewitt Date 4/26/12

Susan Chmelar

Susan Chmelar, Buyer  
City of Bryan - Purchasing Department

**June 14, 2012**  
**Consent Agenda Item No. 2i**  
**Authorization to Disburse Grant Funding to Reynolds & Reynolds, Inc.**

**To:** David Neeley, City Manager

**From:** Randall Heye, Economic Development Analyst

**Agenda Caption:** Presentation, possible action, and discussion authorizing the payment of Retention and Expansion, and Payroll Grants in a total amount of \$45,000 to Reynolds & Reynolds.

**Recommendation(s):** In fulfillment of the City's contractual obligation, staff recommends approval of a \$45,000 payment to Reynolds & Reynolds. for performance in 2011.

**Summary:** On, December 14, 2006 the City Council unanimously approved an Economic Development Agreement with Reynolds & Reynolds. to provide Retention and Expansion, and Payroll Grants for economic performance at their 200 Quality Circle campus in the *Business Center at College Station*. The term of this agreement is ten (10) years and the total maximum amount of all applicable grants is \$550,000. This payment represents the fifth annual disbursement; Reynolds and Reynolds previously received \$45,000 for 2007, 2008, and 2010 as well as \$40,000 for 2009 performance.

The Retention and Expansion component of the existing Agreement requires Reynolds & Reynolds to maintain real and personal property of at least \$24 million and maintain an annual payroll of \$18 million. As a performance incentive, the Agreement provides for Reynolds and Reynolds to receive a Retention and Expansion Grant in an amount of \$30,000 and a Payroll Grant of \$5,000 for each \$1 million increment in additional payroll over the \$18 million base.

Based on the Statement of Compliance as recently submitted by Reynolds & Reynolds to the Research Valley Partnership and the City, the company has established real and personal property valuation in an amount of \$61,877,021 and, as such, is eligible for a Retention and Expansion Grant of \$30,000. Further the company currently maintains a payroll of \$21,480,228.97 and, as such, is eligible for a combined Payroll Grant of \$15,000.

**Budget & Financial Summary:** Funding in the amount of \$45,000 is budgeted and available in the City's Economic Development Fund.

**Attachments:** 2011 Statement of Compliance – Reynolds & Reynolds, Inc.



May 8, 2012

Mayor Nancy Berry  
City of College Station  
Post Office Box 9960  
College Station, Texas 77842

**RE: 2011 Economic Development Agreement Performance**

Dear Mayor Nancy Berry:

In accordance with Article IV §(1), (2), (3) of the Economic Development Agreement (the "Agreement"), dated March 15, 2007 between the City of College Station, Brazos County, Research Valley Partnership and Reynolds & Reynolds Company, Inc. (the "Company"), please accept this letter and its related attachments as certification of our 2011 performance and an official request for payment in that regard.

Per the attached documentation as provided by Mr. William W. Matteson, CPA and our Director of Tax and Financial Reporting, Reynolds & Reynolds Company realized and currently maintains a Real Property value of \$19,497,565.47 and Personal Property valuation of \$42,379,455.65 at its 200 Quality Circle, College Station, Texas location. In accordance with the provisions of the Agreement, the Company requests payment of a Retention and Expansion Grant, in the amount of \$30,000.

Further, per the attached documentation as provided by Mr. William W. Matteson, our CPA and our Director of Tax and Financial Reporting, Reynolds & Reynolds Company currently maintains an annual Payroll of \$21,480,228.97 at its 200 Quality Circle, College Station, Texas location. In accordance with the provisions of the Agreement, the Company also requests remittance of Payroll Grants in a cumulative amount of \$15,000.

I, the undersigned, being an authorized representative of Reynolds & Reynolds Company, do hereby certify that the above stated amounts are correct; and that Reynolds & Reynolds Company is in full compliance with all terms of the aforementioned Agreement and, as such, eligible for a 2011 payment of \$45,000 from the City of College Station, Texas.

200 Quality Circle Dr.  
College Station, Texas 77845-4468  
979.595.2600  
fax 979.595.2624  
www.reyrey.com

Carl M. Cooper  
Signature of Contract Signee  
**Carl M. Cooper**  
**Senior Vice President**  
Title

County of Brazos,  
State of Texas

I, Jackie Cobb, certify that Carl M. Cooper signed the above statement in my presence on 5-8, 2012.

Jackie Cobb  
Notary Public

Seal:



**RECEIVED AND REVIEWED**

I, the undersigned, being an authorized representative of the Research Valley Partnership, do hereby certify that the above statements and related attachments have been reviewed and are correct; and that Reynolds & Reynolds Company is in full compliance with all terms of the aforementioned Agreement and, as such, eligible for a 2011, payment of \$45,000 from the City of College Station, Texas.

Bob Malaise  
Signature  
Compliance Officer  
Title

County of Brazos,  
State of Texas

I, Jackie Cobb ~~Bob Malaise~~, certify that Bob Malaise signed the above statement in my presence on \_\_\_\_\_, 2012

Jackie Cobb  
Notary Public

Seal:



STATEMENT OF COMPLIANCE WITH ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN REYNOLDS & REYNOLDS AND THE CITY OF COLLEGE  
STATION, BRAZOS COUNTY, AND THE RESEARCH VALLEY PARTNERSHIP

Company Name: Reynolds & Reynolds  
Date of Agreements: City of College Station -  
February 19, 2007  
Brazos County - February 19, 2007  
The RVP - February 19, 2007

Annual retention expansion grant  
as of 2/19/2010

Maintain real and personal property at the property At least \$24,000,000

Maintain a payroll at the property At least \$18,000,000

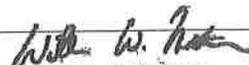
REYNOLDS & REYNOLDS acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the Property, as called for in the above referenced Agreement, have been completed and constructed pursuant to said agreement. Owner further certifies that it is in compliance with every other applicable term of said Agreement.

Signed this 27<sup>TH</sup> day of JANUARY, 2012

REYNOLDS & REYNOLDS

BY: William W. Matteson

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

  
William W. Matteson  
Assistant Secretary



January 27, 2012

I, W. Wayne Matteson, Assistant Secretary, certify to the following 12/31/2011 values associated with the economic development agreement:

**Economic Development Agreement between Reynolds & Reynolds and the City of College Station, Brazos County, and the Research Valley Partnership dated February 19, 2007**

200 Quality Circle	
Real property	\$ 19,497,565.47
Personal property	42,379,455.65
Gross payroll for 2011	21,480,228.97

A handwritten signature in black ink, appearing to read "W. Wayne Matteson", written over a horizontal line.

W. Wayne Matteson, Assistant Secretary

Tax Department

P.O. Box 2608

Dayton, Ohio 45401-2608

937.485.2000

**June 14, 2012**  
**Consent Agenda Item No. 2j**  
**Brazos Valley Convention and Visitors Bureau Funding Agreement**  
**Amendment No. 1 for Wayfinding Signage**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion on a funding agreement amendment between the City of College Station and the Bryan-College Station Convention and Visitors Bureau (BCSCVB) for FY12 in the amount of \$256,000 for expenses related to Phase One of the Wayfinding Program for Bryan/College Station.

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

**Summary:** On April 26, 2012, Council approved Phase One of the Wayfinding Program, which included the development and installation of approximately 150 wayfinding signs throughout Bryan/College Station. The total budget for this phase of the program is \$400,000, which will come proportionately from each city's hotel occupancy tax (HOT) funds. The not-to-exceed amount of \$256,000 represents 64% of the total program phase cost and constitutes the total expense that may be incurred by the City for uniform wayfinding signage directing visitors to the following general destinations in College Station:

- Texas A&M University
- George Bush Presidential Library and Museum
- Northgate Entertainment District
- Veterans Athletic Park
- Wolf Pen Creek District
- Central Park
- Bryan/College Station Visitors Center

The BCSCVB is currently negotiating a contract with National Sign Plazas (NSP) to complete the design, development and installation of Phase One signage and will also negotiate terms for how the signs will be monitored, maintained or replaced. The current estimated annual cost for such maintenance would be \$12,800 per year.

**Budget & Financial Summary:** The funds needed for this amendment are budgeted and available in the 2011-2012 Hotel Tax Fund budget. A total of \$256,000 in additional funds was appropriated as part of the FY12 Budget Amendment #2.

**Attachments:**

1. CVB Funding Agreement Amendment No. 1

**AMENDMENT NO. 1 TO THE FUNDING AGREEMENT PROVIDING FOR THE PAYMENT AND USE OF THE HOTEL TAX REVENUE BETWEEN THE CITY OF COLLEGE STATION AND THE BRAZOS VALLEY CONVENTION AND VISITORS BUREAU FOR OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2012**

**WHEREAS**, the City of College Station, Texas (“City”) entered into a funding agreement with the Brazos Valley Convention and Visitors Bureau D/B/A Bryan-College Station Convention and Visitors Bureau (“Agency”) on October 13, 2011 with contract No. 12-023 (Funding Agreement).

**WHEREAS**, the parties desire to amend the Funding Agreement to authorize the Agency to receive additional funding to pay expenses related to Phase 1 of the development, installation and maintenance of approximately 150 way finding signs throughout Bryan/College Station.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the recitations above and the covenants expressed herein below, the parties agree to the following:

To amend Section 2.1 of the original Funding Agreement by deleting in its entirety and replacing with the following:

**2.1 Consideration and Payment.** For and in consideration of the activities to be satisfactorily performed by Agency under this Agreement, City agrees to pay to Agency a portion of the Hotel Tax Revenue collected by City in the total amount of ONE MILLION TWO HUNDRED FIFTY-SIX THOUSAND DOLLARS AND NO/100 CENTS (\$1,256,000.00), to be paid as follows:

(a) The amount of ONE MILLION DOLLARS AND NO/100 (\$1,000,000.00) shall be paid from the City’s Hotel Tax Revenue for the operations and maintenance of the Agency. Payment will be made in twelve (12) monthly installments of \$83,333.33. A portion of this amount has already been paid at the time of this amendment, and

(b) An amount not to exceed TWO HUNDRED FIFTY-SIX THOUSAND DOLLARS AND NO/100 (\$256,000.00) shall be paid from the City’s Hotel Tax Revenue for actual expenses related to Phase 1 of the development, installation and maintenance of approximately 150 way finding signs throughout Bryan/College Station. The Agency must submit an invoice to City requesting payment for sign development and installation. The Agency’s submittal must include copies of invoices from contractor(s) detailing actual expenses for services rendered related to the way finding signs. Payment will be made to the Agency within thirty (30) days of receipt of an invoice.

(c) The appropriated funds shall be used during the period of October 1, 2011 to September 30, 2012.

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

**BRAZOS VALLEY CONVENTION  
AND VISITORS BUREAU**

By: Shanna Overby  
Printed Name: Shannon Overby  
Title: Executive Director  
Date: June 4, 2012

**CITY OF COLLEGE STATION**

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

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

APPROVED:

\_\_\_\_\_  
City Manager  
Alan C. Fahn  
\_\_\_\_\_  
City Attorney

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**June 14, 2012  
Regular Agenda Item No. 1  
Rezoning for 111 North Dowling**

**To:** David Neeley, City Manager

**From:** Bob Cowell, AICP, CNU-A, Executive Director - 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 approximately 0.855 acres located at 111 North Dowling Road, generally located at the intersection of Harvey Mitchell Parkway and Wellborn Road, from A-O Agricultural Open and A-P Administrative Professional to C-1 General Commercial.

**Relationship to Strategic Initiatives:** Diverse Growing Economy, Sustainable City

**Recommendations:** The Planning and Zoning Commission considered this item at their May 17<sup>th</sup> meeting and voted 7-0 to recommend approval. Staff also recommends approval.

**Summary:** This is a request to rezone 0.855 acres near the intersection of Harvey Mitchell Parkway and Wellborn Road from A-P Administrative Professional and A-O Agricultural-Open to C-1 General Commercial. The Unified Development Ordinance provides the following review criteria for zoning map amendments:

**REVIEW CRITERIA**

**1. Consistency with the Comprehensive Plan:**

The subject and surrounding parcels are shown on the Comprehensive Plan Future Land Use and Character Map and Concept Map as Urban in Growth Area VI which allows for general commercial activities. C-1 General Commercial is an appropriate consideration for this land use designation.

**2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:**

The zoning around and within the subject tract varies due to the 32 years difference between annexations in the area. The properties that were annexed in 1970 have been rezoned to C-3 Light Commercial, A-P Administrative Professional, and M-2 Heavy Industrial. C-1 is consistent with this mix of zoning districts. The properties that were annexed in 2002 remain zoned A-O Agricultural-Open. The A-O Agricultural-Open properties are relatively undeveloped with temporary buildings on site.

**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 subject tract has limited access to Holleman Drive, North Dowling Road, and Harvey Mitchell Parkway though the site is visible from the overpass. Commercial activities that do not require much access, but benefit from visibility, can be supported by the location of this tract.

**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:**

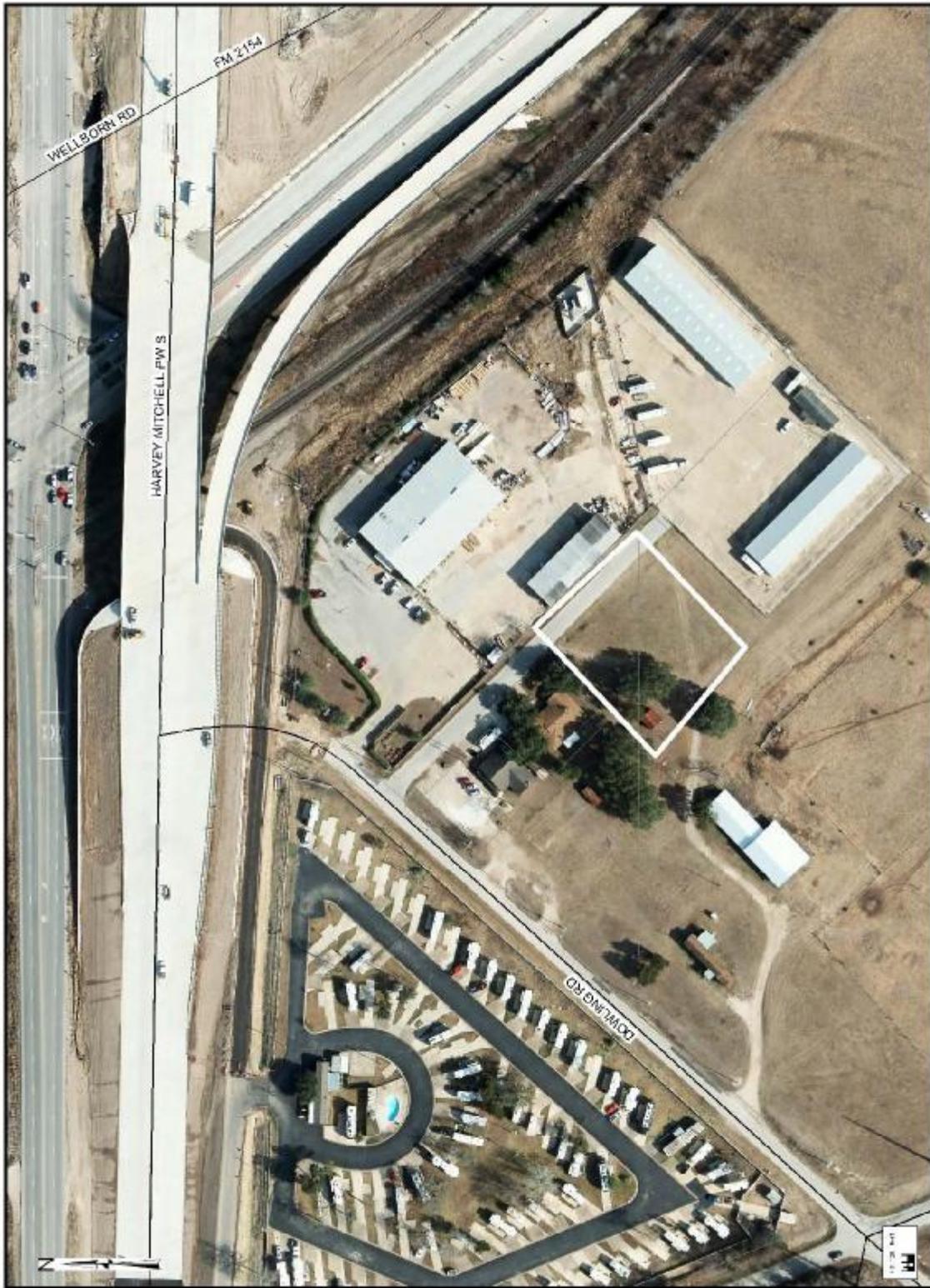
Due to the abutting M-2 Heavy Industrial zoning district, the uses allowed in an A-O Agricultural-Open zoning district are not suitable. These uses include, but are not limited to, single-family lots of at least 5 acres and agricultural activities.

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 uses allowed in an A-O Agricultural-Open zoning district are not highly marketable in this location due to the conflicting land uses in the vicinity and the overpass of Harvey Mitchell Parkway.
  
6. **Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:**  
There are existing 8-inch and 6-inch water mains along the along the south side of Dowling Road and the eastern side of the property, respectively. There is also an existing 6-inch sanitary sewer line along the south side of Dowling Road and a 6-inch service line extended through an adjacent lot to the northeastern corner of the subject tract. Drainage is mainly to the east within the Bee Creek Drainage Basin. Access to the site is currently available via an existing drive to Dowling Road which runs along the eastern side of the property. Drainage and any other infrastructure required with site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. Existing infrastructure appears to be adequate for the proposed use.

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

**Attachments:**

1. Aerial & Small Area Map (SAM)
2. Rezoning Map
3. Background Information
4. Draft May 17th Planning & Zoning Commission Minutes
5. Ordinance

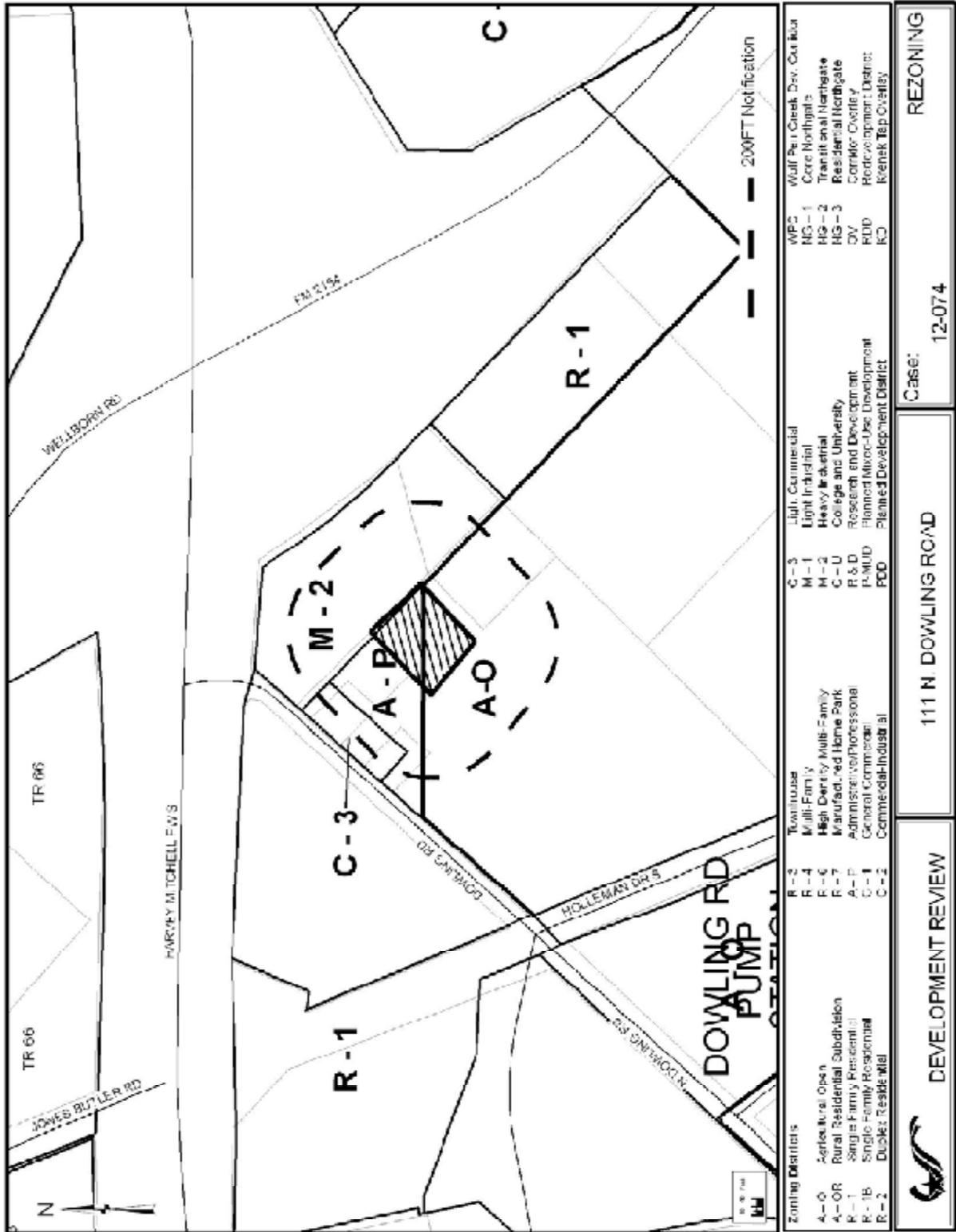


REZONING  
Case: 12-074

111 DOWLING ROAD

DEVELOPMENT REVIEW





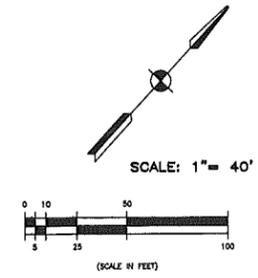
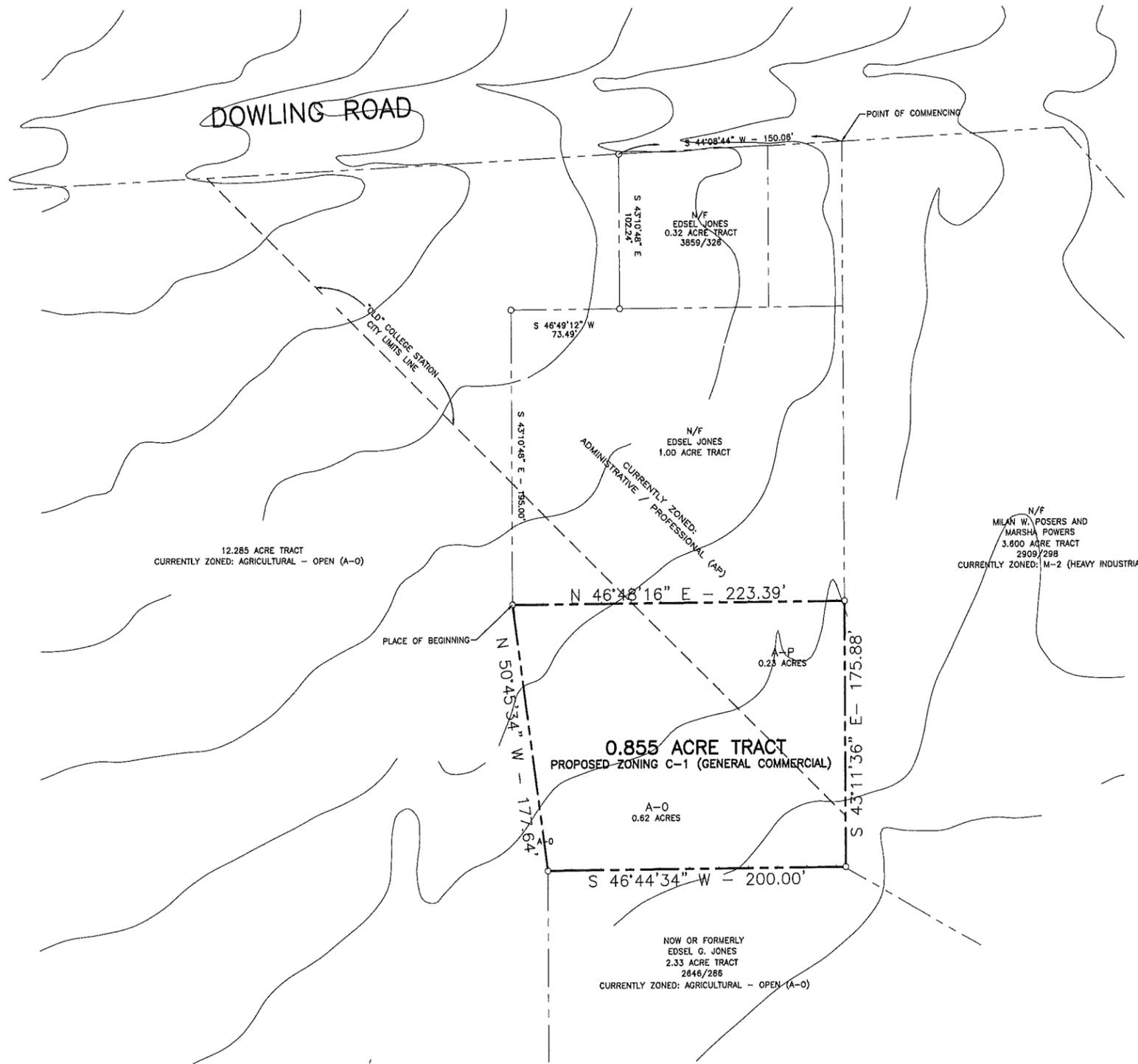
<b>Zoning Districts</b>	R-1, R-2, R-3, R-4, R-5, R-6, R-7, A-P, C-1, C-2	R-2, R-3, M-1, M-2, C-U, R&D, P-MUD, PDD	Light Commercial, Light Industrial, Heavy Industrial, College and University, Research and Development, Planned Future-Use Development, Planned Development District	WPC, RG-1, RG-2, RG-3, CV, RPD, KO	Wolf Pen Creek Dev. Corridor, Core Northgate, Transitional Northgate, Residential Northgate, Corner Overlay, Redevelopment District, Krenak Tap Overlay
A-O	Agricultural Open				
A-OR	Rural Residential Subdivision				
R-1	Single Family Residential	Townhouse, Multi-Family, High Density Multi-Family			
R-1B	Single Family Residential	Manufactured Home Park, Administrative/Professional, General Commercial			
R-2	Double Reside Unit	Commercial-Industrial			

**DEVELOPMENT REVIEW**

**111 N DOWLING ROAD**

**REZONING**

Case: 12-074

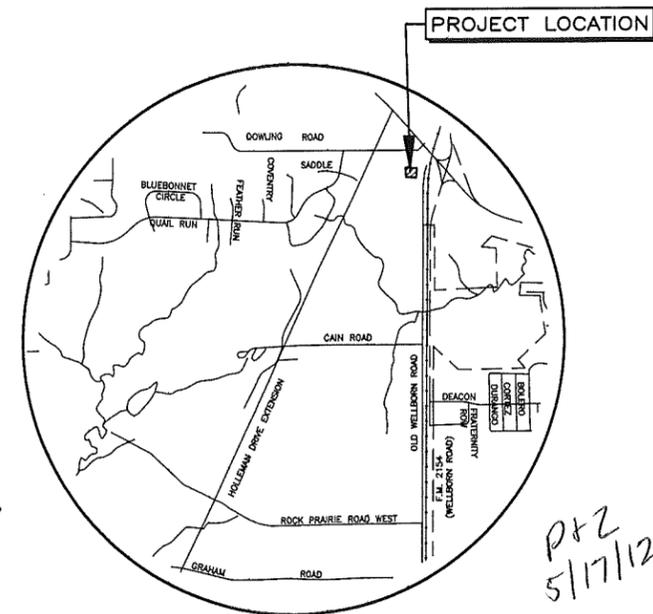


0.855 ACRE TRACT

FIELD NOTES OF A 0.855 ACRE TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT LEAGUE - ABSTRACT NO.7, CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS AND BEING A PORTION OF A 20.37 ACRE TRACT CONVEYED TO EDESL G. JONES ET UX, ELSIE J. JONES BY PARTITION DEED RECORDED IN VOLUME 302, PAGE 239 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, SAID CORNER ALSO LYING IN THE SOUTHEAST RIGHT-OF-WAY OF A COUNTY COMMONLY KNOWN AS DOWLING ROAD;

COMMENCING AT THE WEST CORNER OF A 3.80 ACRE TRACT CONVEYED TO WICKES CORPORATION BY EDESL G. JONES ET UX BY DEED RECORDED IN VOLUME 318, PAGE 435 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS; SAID CORNER ALSO LYING IN THE SOUTHEAST RIGHT-OF-WAY OF A COUNTY COMMONLY KNOWN AS DOWLING ROAD;

THENCE S 44 DEGREES 08'44\"/>



VICINITY MAP  
N.T.S.

APPLICANT / OWNER: EDESL G. JONES  
310 UNIVERSITY DRIVE EAST  
COLLEGE STATION, TEXAS 77840  
TELEPHONE: (979) 693-1530  
FAX: (979) 696-3040

SCALE: 1" = 40'	DATE: APR. 2012	SHEET NO. 12-74
DRAWN: ESKL		4-30-12
		9.10
		PK
<b>PROPOSED REZONING</b>		
A 0.855 ACRE TRACT LYING AND BEING SITUATED IN THE CRAWFORD BURNETT SURVEY - ABSTRACT NO.7 COLLEGE STATION, BRAZOS COUNTY, TEXAS		
<b>PROPOSED REZONING</b>		
<b>REZONING</b>		
<b>TR</b>		
<b>Resources &amp; Development</b>		
310 University Drive East College Station, Texas 77840 E-Mail: <a href="mailto:worff@trdevelopment.com">worff@trdevelopment.com</a>		
Concept & Site Plan Development		
NO.	REVISIONS	DATE

**BACKGROUND INFORMATION**

Advertised Commission Hearing Date: May 17, 2012  
 Advertised Council Hearing Dates: June 14, 2012

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: Three  
 Contacts in support: None  
 Contacts in opposition: None  
 Inquiry contacts: None

**ADJACENT LAND USES**

Direction	Comprehensive	Zoning	Land Use
Northwest	Urban	M-2 Heavy Industrial	Construction supply warehouse
Southwest	Urban	A-O Agricultural-Open	Construction supply warehouse
Northeast	Urban	A-P Administrative Professional	Storage building
Southeast	Urban	A-O Agricultural-Open	Barn

**DEVELOPMENT HISTORY**

Annexation: February 1970  
 November 2002  
 Zoning: R-1 Single-Family Annexation upon annexation in 1970  
 A-P Administrative Professional  
 A-O Agricultural Open for area annexed in 2002  
 Final Plat: The subject tract is currently unplatted.  
 Site development: The subject tract is undeveloped.

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", and as shown graphically in Exhibit "B" and Exhibit "C", attached hereto and made a part of this ordinance for all purposes.

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

PASSED, ADOPTED and APPROVED this 14<sup>th</sup> day of June, 2012

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT "A"**

That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from A-O Agricultural-Open and A-P Administrative Professional to C-1 General Commercial:

**Field Notes  
0.855 Acre Tract**

**Field Notes of a 0.855 acre tract or parcel of land lying and being situated in the Crawford Burnett League-Abstract No. 7, City of College Station, Brazos County, Texas and being a portion of a 20.37 acre tract conveyed to Edsel G. Jones et ux, Elsie J. Jones by Partition Deed Recorded in Volume 302, page 236 of the Deed Records of Brazos County, Texas and being more particularly described by metes and bounds as follows:**

**COMMENCING; at the west corner of a 3.60 acre tract conveyed to Wickes Corporation by Edsel G. Jones et ux by deed recorded in Volume 318, page 436 of the Deed Records of Brazos County, Texas, said corner also lying in the southeast right-of-way of Dowling Road for a distance of 150.06 feet to a point for corner;**

**THENCE: S 44° 08' 44" W – along the southeast right-of-way of Dowling Road for a distance of 150.06 feet to a point for corner;**

**THENCE: S 43° 10' 48" E – for a distance of 102.24 feet to a point for corner;**

**THENCE: S 46° 49' 12" W – for a distance of 73.49 feet to a point for corner;**

**THENCE: S 43° 10' 48" E – for a distance of 195.00 feet to the PLACE OF BEGINNING;**

**THENCE: N 46° 48' 16" E – for a distance of 223.39 feet to a point for corner;**

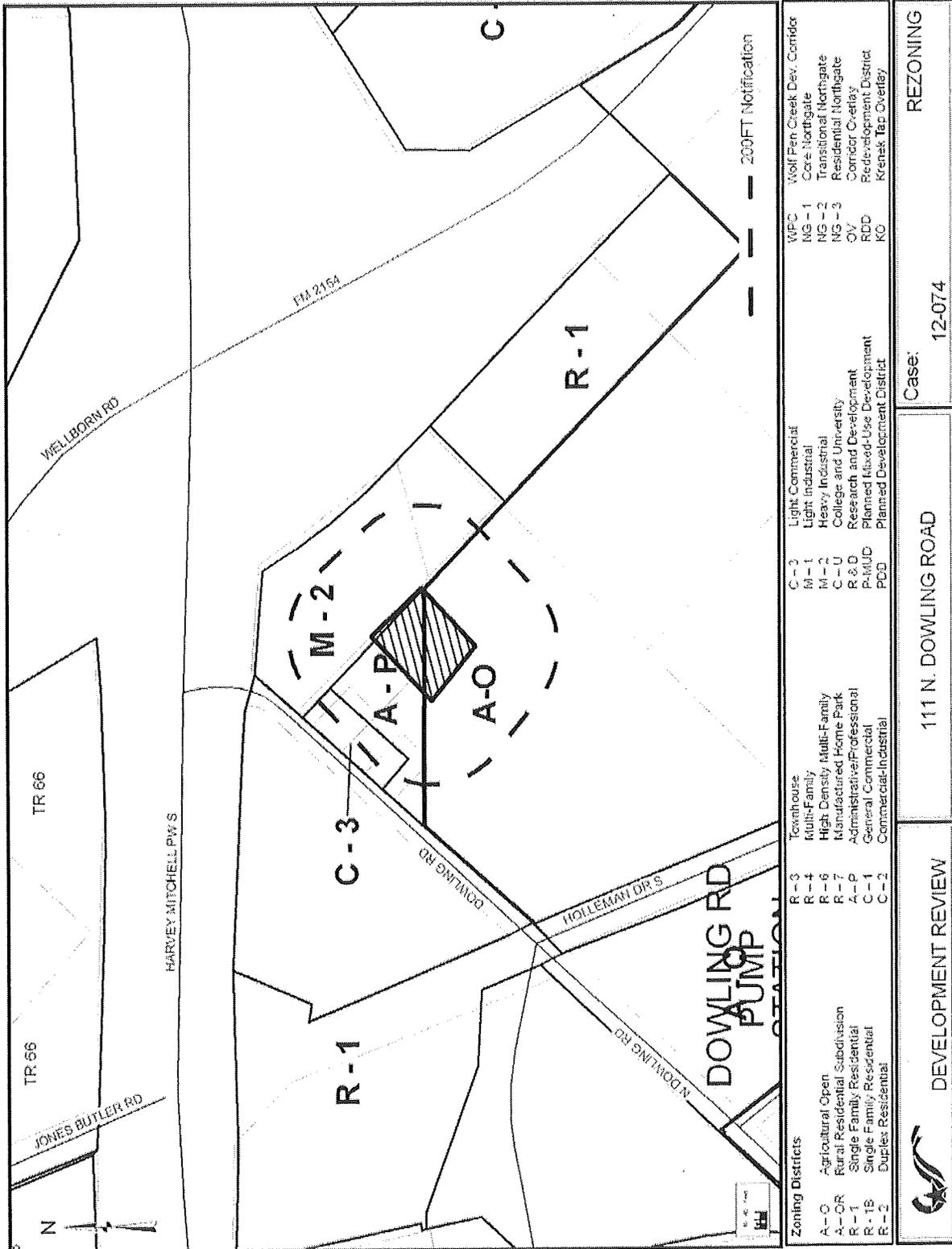
**THENCE: S 43° 11' 36" E – for a distance of 175.88 feet to a point for corner;**

**THENCE: S 46° 44' 34" W – for a distance of 200.00 feet to a point for corner;**

**THENCE: N 50° 45' 34" W – for a distance of 177.64 feet to the PLACE OF BEGINNING; and containing 0.855 acres of land, more or less.**



EXHIBIT "C"



**June 14, 2012**  
**City Council Regular Agenda Item No. 2**  
**Sunset Advisory Commission**

**To:** David Neeley, City Manager

**From:** Sherry Mashburn, City Secretary

**Agenda Caption:** Presentation, possible action, and discussion on the Sunset Advisory Commission Report to the City Council with the Commission's recommendations for Council-appointed boards, commissions and committees.

**Background & Summary:** On February 24, 2011 the Council created a Sunset Advisory Commission. A Sunset Advisory Commission serves as an advisory body to the Council concerning whether a public need exists for the continuation of a City board, commission or committee or for the performance of the functions of the City board, commission or committee. The Commission considered the following criteria in their review

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

The Commission has completed their charge and respectfully submits their report to the Council for consideration.

**Attachments:** On file in the City Secretary's Office

**June 14, 2012**  
**Regular Agenda Item #3**  
**Lick Creek Park Nature Center**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion regarding the development of the Lick Creek Park Nature Center and the Advisory Committee's recommendation.

**Relationship to Strategic Goals:** Core Services and Infrastructure: Plan for and invest in infrastructure, facilities, services, personnel, and equipment necessary to meet projected needs and opportunities.

**Recommendation(s):** The City Council appointed Lick Creek Park Nature Center Advisory Committee recommends Scenario C, which includes a main building, an outdoor classroom and a small support building for storage.

**Summary:** On June 17, 2010 at the Council Retreat, the City Council recommended that Staff begin development of a Master Plan for the Lick Creek Park Nature Center in fiscal year 2011.

On October 25, 2010, the City Council approved a contract with Ray+Hollington Architects to develop a Master Plan for the Lick Creek Park Nature Center. The Master Plan development process would include extensive public engagement and coordination with a Council Appointed Advisory Committee.

On June 23, 2011 the Lick Creek Park Nature Center Advisory Committee was established to provide input during the Master Plan development regarding the design features for the Center and its amenities, provide input on future facility programming, and participate in the design charette process. Per the resolution, the committee will dissolve on July 1, 2012.

Based upon input gathered at two design charettes, subsequent meetings with the Advisory Group and staff input, the design consultant developed two concepts consistent with the needs, goals and priorities identified, the desired program elements, and the current project budget.

Scenario A includes a main building with conditioned space and a support building. Restrooms, offices, storage, a display area, workroom, information station, and a meeting room will be included in the main building. The support building (unconditioned space) includes maintenance/site storage, a greenhouse, and a workspace. The anticipated annual O&M for this alternative is \$231,650.

Scenario B is an open-air concept that consists of small outdoor (unconditioned) classrooms dispersed throughout the Nature Center site (not throughout the entire park), a support building and an orientation center. The outdoor classrooms are essentially small pavilion-like structures that provide relief from the weather, seating, work tables, sinks, etc. The support building (unconditioned space) includes maintenance/site storage, a greenhouse, and a

workspace. The orientation center is a small structure (conditioned space) that provides users with information and restrooms. This scenario requires less staffing, and a lower O&M costs. The anticipated annual O&M for this alternative is \$116,400.

Scenario C was developed is a hybrid of the Scenarios A & B. This alternative includes a main building with conditioned space, a smaller support building, and an outdoor classroom. The main building includes restrooms, offices, storage, a display area, workroom, information station, and a meeting room. The support building provides is for site/storage maintenance only. A subcommittee was identified to work with Parks and Recreation staff to refine the O&M estimate for Scenario C. The anticipated annual O&M for this alternative is \$160,425.

At an Advisory Group meeting on May 30<sup>th</sup>, the committee voted unanimously to endorse Scenario C to take forward as their recommendation to the City Council.

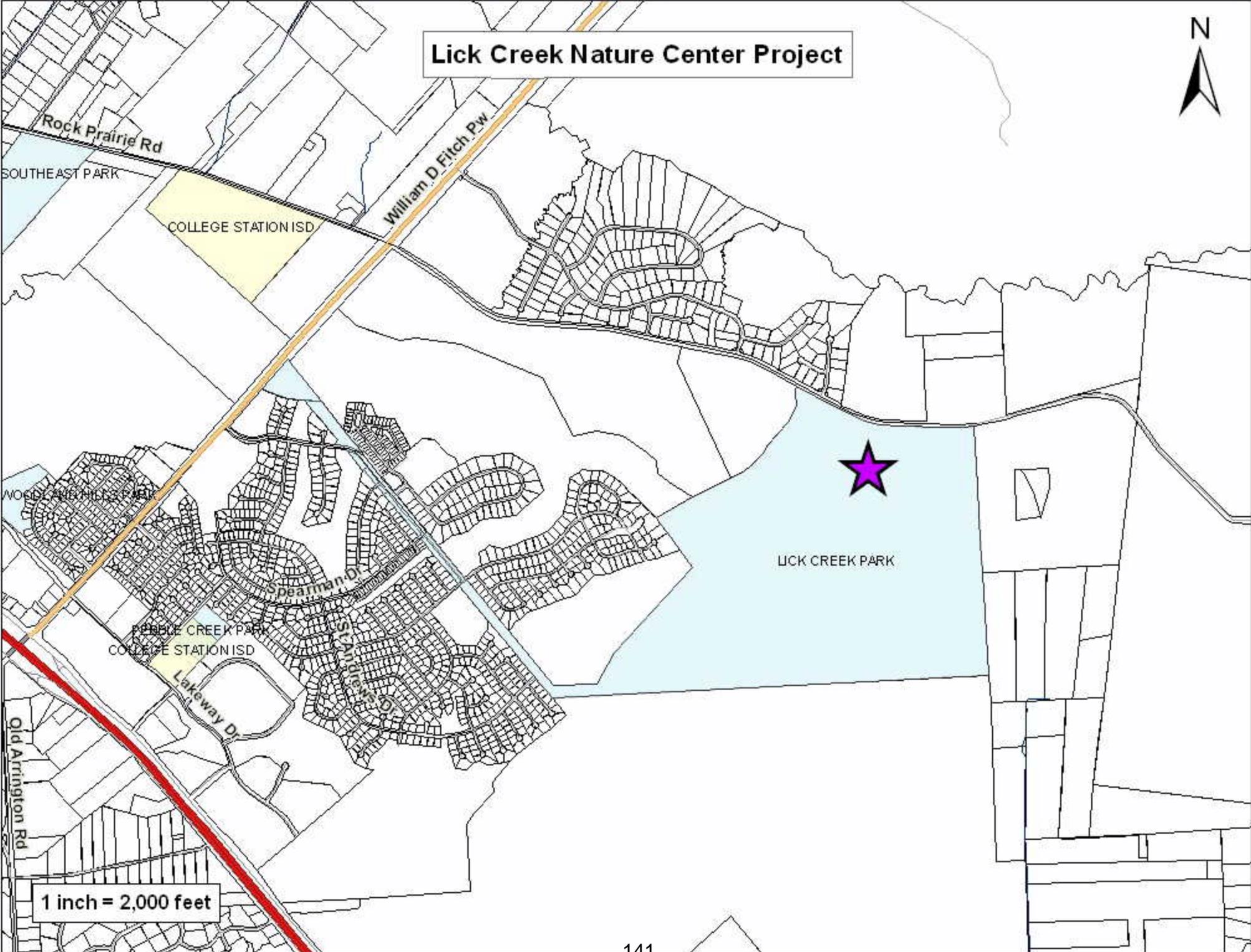
The next steps will be to complete the Master Plan based on the direction received from Council followed by the detailed design of the Nature Center.

**Budget & Financial Summary:** Funds for this project are budgeted in the Parks Capital Improvement Project Fund in the amount of \$2,495,000. Funds in the amount of \$77,408 have been expended or committed to date, leaving a balance of \$2,417,592 for the design and construction of this project.

**Attachments:**

1. Project Map

# Lick Creek Nature Center Project



**June 14, 2012**  
**Regular Agenda Item No. 4**  
**Lick Creek Wastewater Treatment Plant Miscellaneous Improvements**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action, and discussion on a Construction Contract with Bryan Construction Co. in the amount of \$2,304,300, for the construction of the Lick Creek Wastewater Treatment Plant Miscellaneous Improvements.

**Recommendation(s):** Staff recommends approval of the construction contract

**Summary:** The scope of the Lick Creek Wastewater Treatment Plant Miscellaneous Improvements is for design and construction of improvements to the centrifuge, sludge holding tank, return activated sludge process, process controls, clarifier catwalks, and the influent lift station guiderails. The centrifuge will be replaced because it has been a consistent operation and maintenance (O&M) problem for City staff. Recently, staff has been taxed by continuous repairs and subsequent outages. The sludge holding tank and return activated sludge process will be expanded to meet standards due to population growth in the City which causes greater flow at the plant. The process controls will be upgraded to provide a more efficient aeration system that will upgrade operations. The clarifier catwalks will provide safe access to entire circumference of the clarifier system for efficient O&M. Currently, staff only has access when the system is in a certain location. The lift station guiderails will be replaced to correct previous damages.

Bryan Construction Company was the apparent low bidder in ITB 12-058.

**Budget & Financial Summary:** For ease of project administration and economies of scale, several projects have been combined to be included in this Lick Creek (LC) Wastewater Treatment Plant Miscellaneous Improvements project. These projects include LC Centrifuge, LC Clarifier Catwalks, LC Holding Tank, LC Process Control Improvements, LC Return Activated Sludge, and LC Guiderails. The total current project budget for these improvements is \$2,983,359. \$344,388 has been expended or committed to date leaving a balance of \$2,638,971 for construction and related costs. The contract for the project construction is \$2,304,300.

**Attachments:**

- 1.) Resolution
- 2.) Project Location Map
- 3.) Bid Tabulation

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING A CONSTRUCTION CONTRACT AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE LICK CREEK WASTEWATER TREATMENT PLAN MISCELLANEOUS IMPROVEMENTS PROJECT.**

WHEREAS, the City of College Station, Texas, solicited bids for the construction of the Lick Creek Wastewater Treatment Plant Miscellaneous Improvements Project; and

WHEREAS, the selection of Bryan Construction Company is being recommended as the lowest responsible bidder; now, therefore,

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

PART 1: That the City Council hereby finds that Bryan Construction Company is the lowest responsible bidder.

PART 2: That the City Council hereby approves the contract with Bryan Construction Company for an amount not to exceed \$2,304,300 for the labor, materials and equipment required for the improvements related to the Lick Creek Wastewater Treatment Miscellaneous Improvements Project.

PART 3: That the funding for this Contract shall be as budgeted from the Wastewater Capital Improvement Projects Fund in the amount of \$2,304,300.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

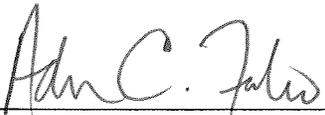
ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

APPROVED:

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

# LICK CREEK WWTP MISCELLANEOUS IMPROVEMENTS





**City of College Station - Purchasing Division**  
**Bid Tabulation for #12-058**  
**"Lick Creek Wastewater Treatment Plant Miscellaneous Improvements"**  
**Open Date: Thursday, May 3, 2012 @ 2:00 p.m.**

ITEM	DESCRIPTION	Bryan Construction Co. (Bryan, TX)		Dudley Construction, Ltd. (College Station, TX)	
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
A1	Influent Pump Station Guide Rails		\$11,900.00		\$5,510.19
A2	Aeration Basin Control Improvements		\$189,000.00		\$268,399.18
A3	Final Clarifier Catwalks		\$291,000.00		\$308,883.92
A4	RAS/WAS Improvements		\$321,300.00		\$348,021.64
A5	Centrifuge LCFG-02 Improvements		\$990,100.00		\$1,158,106.12
<b>TOTAL BASE BID (Sum of A1 to A5)</b>			<b>\$1,803,300.00</b>		<b>\$2,088,921.05</b>
B	Additive Alternative A		\$311,000.00		\$411,943.50
C	Additive Alternative B		\$64,000.00		\$91,936.97
D	Additive Alternative C		\$126,000.00		\$146,314.24
<b>Certification of Bid</b>			✓		✓
<b>Acknowledged Addendums (3)</b>			✓		✓
<b>Bid Bond</b>			✓		✓

**NOTES:**

»**Dudley Construction, Ltd.**

Bidder miscalculated the Total Base Bid amount. The highlighted amount above is correct.

**June 14, 2012**  
**Regular Agenda Item No. 5**  
**SCADA Man-Machine Interface Replacement**

**To:** David Neeley, City Manager

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

**Agenda Caption:** Presentation, possible action and discussion to approve authorizing award of contract 11-335 with the Reynolds Company for the replacement of SCADA Man-Machine Interface in an amount not to exceed \$520,000.

**Relationship to Strategic Goals:** Financially sustainable city providing response to core services and infrastructure.

**Recommendation:** Staff recommends awarding the contract.

**Summary:** College Station Water Services operates 26 water and wastewater facility sites, spread out from one end of Brazos County to the other. Each of these sites has equipment that must be monitored, operated, and certain data collected to meet our regulatory and service requirements. Twenty years ago, these tasks were accomplished by staffing the facilities 24/7, which required a work force approximately three times greater than what we have today.

The need for 24/7 staffing was alleviated when Water Services installed an electronic remote control system called SCADA (Supervisory Control And Data Acquisition). This SCADA system retrieves data and operates the equipment with an operating system that we call the Man-Machine Interface (MMI) – this is what allows our operators to understand the controls and obtain meaningful information from the SCADA system, often from remote locations. The staffing reduction allowed by SCADA saves the City literally millions of dollars every year.

The original MMI, installed over 15 years ago, is still in service but is obsolete and no longer supported by the manufacturer – it must be replaced for serviceability and to function properly with the latest generation of control components. When we started the planning process over two years ago to replace the MMI, we budgeted \$200,000 to purchase the software product. However, as we learned more, we realized that we must also have the vendor install and integrate the new MMI system, to allow the existing system to remain fully functional during the transition, and to get a fully documented control system that will be simple for any skilled IT professional to make adjustments. For the software with installation/integration will cost \$525,000.

We issued RFP 11-119 to select the product that would provide the best life cycle costs and benefits for the City. Of the four proposals received, "Factory Talk", provided by The Reynolds Company, was selected. After very careful study and discussion with the City IT Dept staff, we are confident this contract represents an excellent value to the City, and therefore recommend approval.

**Budget & Financial Summary:** The original budget for the SCADA MMI project was \$205,000. An additional \$205,000 was transferred from the Water Redundant Communications project, which is expected to come in under budget and \$115,000 was transferred from the Water Reclamation Phase 1 project, which came in under budget. Following these transfers, the revised project budget for the SCADA MMI project is \$525,000.

**Attachment:** Contract document on file with City Secretary