

Table of Contents

Agenda	3
Consent No. 2a - Minutes	
Coversheet revised	7
Workshop	8
Regular	13
Special	18
Consent No. 2b - Automated Ambulance Billing, Accounts Receivable and Delinquent Account Collection Services	
Coversheet revised	24
Consent No. 2c - Holleman Dr. South & Deacon Drive West License to Encroach	
Coversheet revised	25
Resolution.	26
Exhibit A	31
Agreement	33
Consent No. 2d - Pay Day Lending Regulation	
Coversheet revised	35
Resolution.	36
Supporting Information	38
Consent No. 2e - TxDOT Drainage Infrastructure Data Collection - Project Number SD1303	
Coversheet revised	41
Consent No. 2f - Annual Auto & Truck Tire Purchases	
Coversheet revised	42
TxMAS Coop Contract Summary	43
Consent No. 2g - Annual Purchase of Auto Parts, Shop Equipment and Services	
Coversheet revised	44
PSA Coop Contract Summary	45
Consent No. 2h - Organic Waste Collection Franchise Agreement – Viridiun	
Coversheet updated.	47
Ordinance - Place Holder	48
Regular No. 1 - Public Hearing on the Rock Prairie Municipal Management District 1 (West)	
Coversheet revised	68
Resolution.	70
Draft Legislation.	72
Preliminary Consent Conditions Consideration	97
Regular No. 2 - Public Hearing on the Rock Prairie Municipal Management District 2 (East)	
Coversheet revised	98
Resolution.	100
Draft Legislation.	102

Preliminary Consent Condition Considerations	104
Regular No. 3 - ABHR Engagement Letter	
Coversheet revised	105
Regular No. 4 - Public Hearing and Consideration of Budget Amendment #1	
Coversheet revised	106
Budget Amendment 1 - Detail Listing	107
Budget Amendment 1 - Ordinance	108
Regular No. 5 - Public Hearing on the 3800 State Highway 6 South	
Coversheet revised	109
Background	111
Photos and Maps	112
P&Z Minutes	114
Ordinance	116
Regular No. 6 - Airport Zoning Reference Ordinance Amendment	
Coversheet revised	119
Ordinance	120
Regular No. 7 - Twin City Endowment Board of Directors Appointment	
Coversheet revised	127
Regular No. 8 - Nomination to the Brazos Valley Groundwater Conservation District Board	
Coversheet revised	128
Resignation letter	129
Resolution	130



Mayor
Nancy Berry
Mayor Pro Tem
Karl Mooney
City Manager
David Neeley

Council members
Blanche Brick
Jess Fields
John Nichols
Julie M. Schultz
James Benham

Agenda
College Station City Council
Regular Meeting
Thursday, January 10, 2013 at 7:00 PM
City Hall Council Chamber, 1101 Texas Avenue
College Station, Texas

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

Presentation:

- Proclamation for the Better Business Bureau Boss of the Year.
- Special recognition of Steve Beachy for his service on the Brazos Valley Groundwater Conservation District.

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

At the discretion of the Mayor, individuals may be allowed to speak on a Consent Agenda Item. Individuals who wish to address the City Council on a consent 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.

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:

- December 13, 2012 Workshop
- December 13, 2012 Regular Council Meeting
- December 18, 2012 Special Meeting

- b. Presentation, possible action and discussion on an Agreement for Services with Emergicon to provide ambulance billing, accounts receivable and delinquent account collection services in an amount not to exceed \$120,000.
- c. Presentation, possible action, and discussion approving a resolution authorizing a License Agreement with Heath Phillips Investments, LLC, pertaining to the encroachment in to the public utility easement area of a portion of a structure located in Common Area, The Barracks II Subdivision Phase 100, according to the plat recorded in Volume 10785, Page 163 of the Official Records of Brazos County, Texas.
- d. Presentation, possible action, and discussion regarding the approval of a Resolution of the City of College Station requesting the Texas Legislature and the Governor of Texas enact laws to regulate the rates and fees charged by payday lending and auto title loan businesses and to affirm cities authority to pass ordinances regulating payday lending and auto title loan business practices.
- e. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and Binkley & Barfield, Inc. in the amount of \$59,750.00 for TxDOT Drainage Infrastructure Data Collection and Mapping project and authorizing the City Manager to execute the contract on behalf of the City Council.
- f. Presentation, possible action and discussion regarding the approval of annual tire purchases from Pilger's Tire & Auto Center through the State of Texas (TxMAS) Tire Contract in the amount of \$197,000.00.
- g. Presentation, possible action, and discussion on approving an annual blanket purchase order for the purchase of auto parts, shop equipment and services from NAPA Auto Parts (College Station, TX) through the Purchasing Solutions Alliance (PSA) contract for the amount of \$75,000.00.
- h. Presentation, possible action, and discussion on the first reading of a franchise agreement with Viridiun; for the collection of organic waste from commercial business locations.

Regular Agenda

At the discretion of the Mayor, individuals may be allowed to speak on a Regular Agenda Item. 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. Registration forms are available in the lobby and at the desk of the City Secretary.

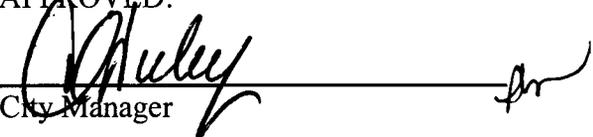
Individuals who wish to address the City Council on an item **posted as a public hearing** shall register with the City Secretary prior to the Mayor's announcement to open the public hearing. The Mayor will recognize individuals who wish to come forward to speak for or against the item. The speaker will 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 adoption of a Resolution of the City of College Station supporting Legislation to create the “Rock Prairie Medical District Municipal Management District Number One”, the associated draft legislation and the potential conditions of consent associated with the District.
2. Public Hearing, presentation, possible action and discussion regarding adoption of a Resolution of the City of College Station supporting Legislation to create the “Rock Prairie Medical District Municipal Management District Number Two”, the associated draft legislation and the potential conditions of consent associated with the District.
3. Presentation, possible action, and discussion regarding approval of an engagement letter between the City of College Station and Allen Boone Humphries Robinson, LLP in the amount of \$105,000 to provide services to the City in connection with the creation of two municipal management districts related to the Medical District and authorizing the City Manager to execute the engagement letter on behalf of the City Council.
4. Public Hearing, presentation, possible action, and discussion on an ordinance Budget Amendment #1 amending ordinance number 3443 which will amend the budget for the 2012-2013 Fiscal Year in the amount of \$2,070,602.
5. Public Hearing, presentation, possible action, and discussion regarding an amendment to Chapter 12, “Unified Development Ordinance”, Section 4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas by rezoning 1.24 acres located at 3800 State Highway 6 South from CI Commercial Industrial to GC General Commercial.
6. Public Hearing, presentation, possible action and discussion regarding an ordinance amending Chapter 12 “Unified Development Ordinance”, Article 2 “Development Review Bodies” and Article 5 “District Purpose Statements and Supplemental Standards”, of the Code of Ordinance of the City of College Station related to referencing the Easterwood Field Airport Zoning Ordinance and eliminating a duplicate Section in Article 5.
7. Presentation, possible action, and discussion regarding an appointment to the Twin City Endowment Board of Directors.
8. Presentation, possible action, and discussion regarding an appointment to the Brazos Valley Groundwater Conservation District Board of Directors, subject to confirmation by the Brazos County Commissioners Court.
9. Adjourn.

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

APPROVED:



City Manager

Thursday, January 10, 2013

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, January 10, 2013 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 4th day of January, 2013 at 5:00 p.m.

Sherry Mashburn
City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on January 4, 2013 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 _____, 2013 By _____

Subscribed and sworn to before me on this the ____ day of _____, 2013.

Notary Public – Brazos County, Texas My commission expires: _____

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

January 10, 2013
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:

- December 13, 2012 Workshop
- December 13, 2012 Regular Council Meeting
- December 18, 2012 Special Meeting

Attachments:

- December 13, 2012 Workshop
- December 13, 2012 Regular Council Meeting
- December 18, 2012 Special Meeting

MINUTES OF THE CITY COUNCIL WORKSHOP
CITY OF COLLEGE STATION
DECEMBER 13, 2012

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry, Mayor

Council:

Blanche Brick
Jess Fields
Karl Mooney
John Nichols
Julie Schultz
James Benham, arrived after roll call

City Staff:

David Neeley, City Manager
Frank Simpson, Deputy City Manager
Kathy Merrill, 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 Workshop of the College Station City Council was called to order by Mayor Nancy Berry at 4:03 p.m. on Thursday, December 13, 2012 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

2. Employee Recognition, Recognition of Employee of the Year nominees and Reception.

Jay Socol, Public Communication Director presented the Service Award Recipients for 20, 25, 30 & 35 years, along with the Recognition of Employee of the Year nominees.

Employee of the Year Nominees:

Kenneth Berry, IT Dept.	James Boykin, Water Services
David Brower, Community Development	Keith Cooke, Electric Utility
Travis LaCox, Police Department	Lacey Lively, Public Communications
Patrick McIntyre, Electric Utility	Ashley Michalsky, Fiscal Services
Andy Murph, Police Department	Dylan Potts, Electric Utility

Troy Rothers, Public Works
Joe Don Warren, Fire Department

Keith Tinker, Planning & Dev.

Employee of the Year:
James Boykin, Water Services

Mayor Berry called a brief recess for the reception at 4:28p.m.

3. Executive Session

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.072-Real Estate; §551.074-Personnel, and §551.087-Economic Development Negotiations, the College Station City Council convened into Executive Session at 4:43 p.m. on Thursday, December 13, 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.
- Patricia Kahlden, individ. and as rep. of the Estate of Lillie May Williams Bayless v. Laura Sue Streigler, City of College Station and James Steven Elkins, No. 11-003172-CV-272, in the 272nd District Court of Brazos County, TX
- Tom Jagielski v. City of College Station, Cause No. 12-002918-CU-361, In the 361st District Court of Brazos County, Texas
- State v. Carol Arnold, Cause Number 11-02697-CRF-85, In the 85th District Court, Brazos County, Texas

B. Deliberation on the deliberate the purchase, exchange, lease or value of real property; to wit:

- Property located generally in the area north of University Drive, east of Agronomy Road, and west of Wellborn Road.

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

- City Manager

D. Deliberation on economic development negotiations regarding an offer of financial or other incentives for a business prospect; to wit:

- Discuss economic development incentive negotiations with TAMU
- Discuss approval of economic development incentives to Woodbolt International

The Executive Session adjourned at 6:10 p.m.

4. Take action, if any, on Executive Session.

MOTION: Upon a motion made by Councilmember Mooney and a second by Councilmember Schultz, the City Council voted seven (7) for and none (0) opposed, to appoint Frank Simpson as Interim City Manager, effective January 12, 2013. The motion carried unanimously.

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

No discussion needed.

6. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount of \$95,195.00 for the purposes of conducting an analysis of the current software and recommend alternatives and authorizing the City Manager to execute the contract on behalf of the City Council.

Ben Roper, Information Technology Director, presented a possible replacement of the City's main financial and management software that has significant implications regarding scope, complexity and potential cost of the project. He discussed the reason for initiating this project, provided background information on the work accomplished to get to this point, and provided Council with information relevant to the decision to award the Consultant Contract to BerryDunn. The budget in the amount of \$103,550 is included in the FY13 approved budget for this phase of the project (CO 1204). This phase of the project is being funded with General Funds that are included in the IT Department budget.

7. Presentation, possible action and discussion regarding Council's Annual Strategic Plan Update, specifically to review the potential agenda items for the workshops in late January.

Bob Cowell, Executive Director of Planning & Development Services, presented a review and update of the Council's Annual Strategic Plan in preparation for development of the fiscal year budget, which begins in early summer. A portion of this update included a variety of discussion items related to the development of the Strategic Plan Update.

Council will review the potential agenda items with staff and set the preliminary agenda for the workshop. This year's workshops are scheduled for January 28th and 29th and will consist of approximately one and one-half days.

Staff has reviewed the items provided by Council, to date, and submitted the following for Council consideration:

Items Requested by Council to be on the Agenda

- Current Strategic Plan Review and Update
- Disposition of Conference Center
- Lick Creek Nature Center Design and Programming

Items Referred by Council as possible Agenda Items (Need to be Prioritized)

- A. Review Order/Structure of Council Meetings
- B. Affiliate Funding Policy
- C. Impact of Recent Budget Reductions on City Services (Code Enforcement, Parks, etc.)
- D. Funding of Infrastructure to Undeveloped Areas of City
- E. Electric Power Supply
- F. Review of Enterprise Resources Planning upgrade

Staff anticipates that the items Requested by Council will take the entirety of one day, leaving approximately four hours for the remaining agenda items. Staff is requesting that each Council member rank the items identified as possible agenda items in rank of importance (1- being the most important). The top three items will be placed on the agenda, with the remaining items placed upon Future Workshop agendas, if the Council so desires.

MOTION: Upon a motion made by Councilmember Brick and a second by Councilmember Schultz, the City Council voted seven (7) for and none (0) opposed, to approve adding D. Impact of Recent Budget Reductions on City Services; E. Funding of Infrastructure to Undeveloped Areas of City; and F. Electric Power Supply to the January 28th and 29th Council Retreat. The motion carried unanimously.

8. Council Calendar

- **Dec. 15 Fire Station 6 Opening Ceremony, the corner of University Dr. & Tarrow Rd, 11:00 a.m.**
- **Dec. 18 Council Special Meeting, CSU Training Facilities, 4:00 p.m.**
- **Dec. 19 BVSWMA Board Meeting, Twins Oaks Facility - 2690 SH30, 11 :00 a.m.**
- **Dec. 19 RVP Board Meeting at RVP, 3:00 p.m.**
- **Dec. 20 P&Z Workshop/Meeting, CSU Training Facilities, 6:00 p.m. (Jess Fields, Liaison)**
- **Dec. 24 & 25 City Offices Closed - HOLIDAY**
- **Jan. 7 Bicycle, Pedestrian & Greenways Advisory Board Meeting, Council Chambers, 3:00 pm**
- **Jan. 8 Audit Committee Meeting, City Hall Administrative Conference Room, 4:30 p.m.**
- **Jan. 10 Executive Session/Workshop/Regular Meeting at 5:00, 6:00 & 7:00 p.m.**

Council reviewed the Council calendar. The time was changed from 4:00 p.m. to 2:00 p.m. for the December 18th Council Special Meeting.

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

Councilmember Benham would like to invite the Executive Director of “Gig.U” to make a presentation on January 24, 2013. Councilmember Benham also asked to discuss a future item on block length in the UDO.

10. 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, Blinn College Brazos Valley Advisory Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Bryan/College Station Chamber of Commerce, BSWMA, BVWACS, 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, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Sister City Association, TAMU Student Senate, Texas Municipal League, Youth Advisory Council, Zoning Board of Adjustments.

Mayor Berry reported on the Brazos Valley Council of Governments.

Councilmember Schultz reported on the RVP Committee.

Councilmember Nichols reported on TML and the information received.

Councilmember Brick reported on the Joint Neighborhood Parking Committee.

11. Adjournment

MOTION: There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 7:05 p.m. on Thursday, December 13, 2012.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
DECEMBER 13, 2012

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

Blanche Brick
Jess Fields
Karl Mooney
John Nichols
Julie Schultz
James Benham

City Staff:

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

Call to Order and Announce a Quorum is Present

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 7:15 p.m. on Thursday, December 13, 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.

Citizen Comments

There were no citizen comments.

CONSENT AGENDA

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

- **November 19, 2012 Workshop**
- **November 19, 2012 Regular Council Meeting**
- **December 4, 2012 Special Meeting**

2b. Presentation, possible action, and discussion regarding Ordinance 2012-3464, approving the renumbering and rearrangement of the City Charter, as necessary, and authorizing the Mayor to certify and submit to the Secretary of State of the State of Texas an authenticated copy of the amended Home Rule Charter for the City of College Station, certifying that the Home Rule Charter was approved by the registered voters of the City of College Station at a special election held on November 6, 2012 and was accepted on their behalf by the City Council of the City of College Station by Ordinance no. 2012-3460 on November 19,2012.

2c. Presentation, possible action, and discussion regarding adoption of the 2013 Annual Council Calendar.

2d. Presentation, possible action and discussion regarding Ordinance 2012-3465, amending Chapter 4 "Business Regulations" Section 20 "Mobile Food Vendors", B "Permit and Application", 4 "Permit Form", (N), of the Code of Ordinance of the City of College Station.

2e. Presentation, possible action, and discussion on renewing the Stop Loss reinsurance for the City's self funded health plan with Blue Cross and Blue Shield of Texas (BCBS) for the period of January 1, 2013 through December 31,2013. The estimated annual premiums are \$569,232.

2f. Presentation, possible action and discussion regarding a new policy for employee life, accidental death & dismemberment (AD&D), voluntary life and AD&D, and dependent life insurance with Mutual of Omaha. Projected annual City cost is \$93,000.00.

2g. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount of \$95,195.00 for the purposes of conducting an analysis of the current software and recommend alternatives and authorizing the City Manager to execute the contract on behalf of the City Council.

2h. Presentation, possible action, and discussion on a bid award for the purchase of steel, fiberglass, and concrete electric distribution poles to TransAmerican Power Products, Inc. \$96,725.00; HD Supply Utilities \$160,936.40; Stress Crete, Inc \$208,231.00; and RS Technologies, Inc \$17,724.66 for a total of \$483,617.06.

2i. Presentation, possible action, and discussion regarding Resolution 12-13-12-2i, declaring intention to reimburse certain expenditures with proceeds from debt for the Rock Prairie Road Rehabilitation (Bird Pond Road to W.D. Fitch Parkway) project.

2j. Presentation, possible action and discussion regarding Resolution 12-13-12-2j, delegating authority to the City Manager to approve and execute various documents of a routine nature on behalf of the City to conduct the daily affairs of the City.

2k. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and Texas Landscape Creations in the amount of \$101,945.98

for the Barron Road Phase 2 Landscaping project and authorizing the City Manager to execute the contract on behalf of the City Council.

2l. Presentation, possible action, and discussion regarding a change order to professional services contract #09233 with Mitchell & Morgan, LLP in the amount of \$41,500.00, and approval of Resolution 12-13-12-2l, declaring intention to reimburse certain expenditures with proceeds from debt.

MOTION: Upon a motion made by Councilmember Mooney and a second by Councilmember Benham, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda. The motion carried unanimously.

REGULAR AGENDA

1. Public Hearing, presentation, possible action and discussion of Ordinance 2012-3466, amending Chapter 10 "Traffic Code", to remove parking along specific streets in the Buena Vida Subdivision.

At approximately 7:35 p.m., Mayor Berry opened the Public Hearing.

Don Curtis, 3201 Toni Ct., asked Council to consider parking removal on Toni Ct. as well as what's been considered in the Buena Vida Subdivision.

Rebekah Weirich, 3201 Toni Ct., asked Council to consider parking removal on Toni Ct. as well as what's been considered in the Buena Vida Subdivision. Property owners are concerned with the backlash of parking removal without including Toni Court.

Mike Ashfield, P&Z Commissioner, spoke as a citizen agreeing to the citizen's request to extend the parking removal to Toni Court.

There being no further comments, the Public Hearing was closed at 7:35 p.m.

MOTION: Upon a motion made by Councilmember Fields and a second by Councilmember Mooney, the City Council voted three (3) for and four (4) opposed, with Mayor Berry and Councilmembers Nichols, Schultz and Brick voting against, to adopt Ordinance 2012-3466, amending Chapter 10 "Traffic Code", to remove parking along specific streets in the Buena Vida Subdivision and adding no parking on the north side of the street beginning at the intersection of Keefer Loop and Toni Ct., at the northwest corner of said intersection, westward on Toni Ct. and continuing around the complete circular end of Toni Ct. to end at the driveway entrance of 3207 Toni Ct. The motion failed.

MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Schultz, the City Council voted six (6) for and one (1) opposed, with Councilmember Benham voting against, to adopt Ordinance 2012-3466, amending Chapter 10 "Traffic Code", to remove parking along specific streets in the Buena Vida Subdivision. The motion carried.

2. Public Hearing, presentation, possible action and discussion regarding Ordinance 2012-3467, designating the western portion of the College Station Medical District as

Reinvestment Zone Number 18, City of College Station, Texas, Enumerating the qualifying criteria, adopting a preliminary development and financing plan, and establishing a Board of Directors for such Zone, and other matters relating thereto.

3. Public Hearing, presentation, possible action and discussion regarding Ordinance 2012-3468, designating the Eastern portion of the College Station Medical District as Reinvestment Zone Number 19, City of College Station, Texas, enumerating the qualifying criteria, adopting a preliminary development and financing plan, and establishing a Board of Directors for such Zone, and other matters relating thereto.

Items 2 and 3 were presented together with separate Public Hearings and votes.

At approximately 8:50 p.m., Mayor Berry opened the Public Hearing for Item 2.

There being no comments, the Public Hearing was closed at 8:50 p.m.

(2)MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Mooney, the City Council voted six (6) for and one (1) opposed, with Councilmember Fields voting against, to adopt Ordinance 2012-3467, designating the western portion of the College Station Medical District as Reinvestment Zone Number 18, City of College Station, Texas, Enumerating the qualifying criteria, adopting a preliminary development and financing plan, and establishing a Board of Directors for such Zone, other matters relating thereto and with exhibits A & B amended to reflect TIRZ #18. The motion carried.

At approximately 9:10 p.m., Mayor Berry opened the Public Hearing for Item 3.

There being no comments, the Public Hearing was closed at 9:10 p.m.

(3)MOTION: Upon a motion made by Councilmember Mooney and a second by Councilmember Benham, the City Council voted six (6) for and one (1) opposed, with Councilmember Fields voting against, to adopt Ordinance 2012-3468, designating the Eastern portion of the College Station Medical District as Reinvestment Zone Number 19, City of College Station, Texas, enumerating the qualifying criteria, adopting a preliminary development and financing plan, and establishing a Board of Directors for such Zone, other matters relating thereto and with exhibits A & B amended to reflect TIRZ #19. The motion carried.

4. Public Hearing, presentation, possible action and discussion regarding review and development of a Resolution of the City of College Station supporting Legislation to create the "Rock Prairie Medical District Municipal Management District Number One" and the associated draft Legislation.

5. Public Hearing, presentation, possible action and discussion regarding review and development of a Resolution of the City of College Station supporting Legislation to create the "Rock Prairie Medical District Municipal Management District Number Two" and the associated draft Legislation.

Items 4 and 5 were presented together with separate Public Hearings. Staff and Steve Robinson, of Allen Boone Humphries Robinson, presented to Council items regarding the Rock Prairie

Municipal Management District One and Rock Prairie Municipal Management District Two. Council received a general overview of why MMDs are important and the role they might serve regarding the College Station Medical District. After the proposed boundaries of each were presented, staff provided specific detail for each MMD explaining their proposed powers and duties. Council was asked to provide feedback regarding the draft enabling legislation that would be used to create the MMDs with their respective powers and duties. Council members provided staff and Mr. Robinson general direction that would be used to write a local bill that would need to be sponsored and filed in the State Legislature. Staff also sought feedback regarding the draft resolution that would be used to support the future filing of the required legislation. A final resolution will come back to City Council on January 10 for adoption.

At approximately 9:40 p.m., Mayor Berry opened the Public Hearing on Item 4.

James Murr, 3600 Hwy 6 South, reported he is a stakeholder and a resource if needed.

There being no further comments, the Public Hearing was closed at 9:44 p.m.

At approximately 10:50 p.m., Mayor Berry opened the Public Hearing on Item 5.

There being no comments, the Public Hearing was closed at 10:50 p.m.

6. Adjournment.

MOTION: There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 11:03 p.m. on Thursday, December 13, 2012.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
CITY OF COLLEGE STATION
DECEMBER 18, 2012

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

Blanche Brick
Jess Fields, absent
Karl Mooney
John Nichols
Julie Schultz
James Benham

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 Special Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 2:14 p.m. on Tuesday, December 18, 2012 in the College Station Utility Services Training Center, 1603 Graham Road, College Station, Texas 77842.

2. Presentation, possible action, and discussion regarding the City's State Legislative Plan for the 83rd Legislature.

Jason Stuebe, Assistant to the City Manager, presented the 2013 State Legislative Plan. The purpose is to influence legislation at the state level that may impact the city. The plan covers five primary areas: general administration, economic development, law enforcement, public utilities and infrastructure, and parks and recreation.

General administration will cover election law (monitor the modification of election laws including proposals related to Senate Bill 100 and support or oppose as necessary), open meetings and open records law (support only changes to the open meetings and records

requirements that do not increase the burden on cities to comply), annexation (oppose legislation that restricts current annexation law), appraisal and revenue caps (oppose legislation that imposes revenue or appraisal caps, limiting the City's ability to raise and collect the necessary revenue to provide services), municipal authority (oppose legislation that diminishes municipal authority, including the ability to enact and enforce ordinances and restrict zoning authority), unfunded mandates (oppose legislation with unfunded mandates), vital statistics and records (oppose legislation that consolidates local registrar functions and erodes local control), newspaper notices (support legislation that allows municipalities to rely more on posting notices online), the Texas Windstorm Insurance Amendment (oppose legislation creating a statewide disaster pool), and payday lending regulation (support legislation stopping usurious lending by payday and auto title lenders).

The City positions on economic development will be to support: locally initiated legislation for economic development purposes, legislation that promotes economic development opportunities through the expansion of state economic development funds, and legislation beneficial to TAMU and Blinn College. The City will oppose attempts to restrict the use of economic development tools such as tax abatement and/or TIRZ's.

On Law Enforcement issues, the City will monitor and likely support many initiatives proposed by the Texas Police Chiefs Association.

For Public Utilities and Infrastructure issues, as they relate to Water/Wastewater, the City will monitor and support legislation that protects our ability to provide an adequate water supply, promote water conservation, and maintain local authority. The City will also support legislation pertaining to the State Water Plan as long as it does not create any unnecessary burdens for local governments or water systems.

Intergovernmental partners include TML, The Bryan/College Station Chamber of Commerce, Blinn College, and the City of Bryan. Staff will provide regular updates as the session progresses.

MOTION: Upon a motion by Councilmember Mooney, and a second by Councilmember Schultz, the Council voted six (6) for and none (0) against, to approve the City's State Legislative Plan for the 83rd Legislature as presented. The motion carried unanimously.

3. Presentation, possible action, and discussion regarding options and enhancements for the Utility Dispatch outage reporting and tracking system.

Tim Crabb, Interim Director of Electric Utilities, reported on the proposed Utility Dispatch Phone System Upgrade. The current system was installed in 2001. It has been updated, but not upgraded. It was designed with fourteen phone lines coming in. The customer's phone number is used for identification. The system is only turned on for large outages. The current cost is \$5,000/year for OMS support, but the hardware is out of date. A system our size needs at least forty-eight phone lines. Automatic data information for all outages is not available, and phone number identification only works on 15%-20% of the customers. The lack of use on a daily basis has created issues when it is needed.

The first issue is to be able to identify the customers. He reiterated that only 15%-20% can be identified by phone number. Also, street addresses have too many variables. 80% of customers can be identified by the system if we go to using the Account Number for identification. The customer will need to be educated on using Account Number when calling in.

Three options were presented. Option 1 is to update the current system. Cost for the first year is \$19,800 including training. Every year after that is \$10,500 for support and maintenance plus maintain fourteen lines on the CISCO system.

Option 2 is to purchase new equipment and software (new lines, voice recognition, caller ID, Text to Speech), training for dispatchers, a new direct line to serve 48 vs 14 lines, and the ability to turn on and turn off as needed. The first year cost is \$122,500 including training. Every year after that is \$39,000 for support, phone lines and maintenance.

Option 3 is a Hosted Call Center (the Cloud). It has the same benefits as the new IVR system. Training for dispatchers is on OMS, but not IVR. Unlimited number of lines will be available. It would always be on, and all outage data would be collected. A new 800 number would be required to call in to Dispatch. The first year cost is \$29,000 including training. Every year after that is \$14,800 for calls, support, and maintenance.

MOTION: Upon a motion by Councilmember Benham, and a second by Councilmember Mooney, the Council voted six (6) for and none (0) against, to approve Option 3. The motion carried unanimously.

4. Presentation, possible action, and discussion of information about payday and auto title lending businesses, as well as efforts other cities are undertaking to bring about regulation of this industry.

Alison Prince, Vice President Community Impact, United Way of the Brazos Valley, spoke on financial stability committee and payday and auto title lending activities. She requested Council support for a resolution that will be coming before the Council at the January 10 meeting. The resolution requests the State Legislature and Governor to take action to stop usurious lending by payday and auto title lending activities that exploit economically vulnerable College Station citizens. Payday loans are small cash advances, with two-week loan terms. It is unsecured, but a postdated check is required. With an auto title loan, the car title is used as collateral. It has a one month loan term. If the borrower defaults, the lender can take the car. These types of loans create a cycle of debt wherein high fees are paid month after month. From January 2012 – June 2012, there were 14,000 payday loans in Bryan/College Station, and \$1.3 million in fees alone were paid. 101 vehicles were repossessed.

5. Presentation, possible action, and discussion regarding approval of an engagement letter between the City of College Station and Allen Boone Humphries Robinson, LLP in the amount of \$105,000 to provide services to the City in connection with the creation of two municipal management districts related to the Medical District and authorizing the City Manager to execute the engagement letter on behalf of the City Council.

This item was pulled from the agenda, was not discussed and no action taken.

6. Presentation, possible action, and discussion regarding an amendment to the Interlocal Cooperation and Joint Development Agreement for the Joint Research Valley BioCorridor Development Project.

Frank Simpson, Deputy City Manager, noted this was to clarify the original intent of the Agreement. City Attorney Carla Robinson reported that the City of Bryan City Council has already approved this amendment.

MOTION: Upon a motion by Councilmember Schultz, and a second by Councilmember Nichols, the Council voted six (6) for and none (0) against, to approve the amendment to the Interlocal Cooperation and Joint Development Agreement for the Joint Research Valley BioCorridor Development Project. The motion carried unanimously.

7. Presentation, possible action and discussion regarding Year-end budget savings distribution to eligible employees.

MOTION: Upon a motion by Councilmember Nichols and a second by Councilmember Schultz, the Council voted six (6) for and none (0) against, to approve the year-end budget savings distribution to eligible employees. The motion carried unanimously.

8. Presentation, possible action, and discussion regarding Resolution 12-18-12-08, creating a City Council Economic Development Committee; Resolution 12-18-12-08a, creating a Budget and Finance Committee; Resolution 12-18-12-08b, creating a Compensation and Benefits Committee; and Resolution 12-18-12-08c, creating a Transportation and Mobility Committee.

MOTION: Upon a motion by Councilmember Brick, and a second by Councilmember Mooney, the Council voted six (6) for and none (0) against, to adopt Resolution 12-18-12-08, creating a City Council Economic Development Committee; Resolution 12-18-12-08a, creating a Budget and Finance Committee; Resolution 12-18-12-08b, creating a Compensation and Benefits Committee; and Resolution 12-18-12-08c, creating a Transportation and Mobility Committee. The motion carried unanimously.

9. Presentation, possible action, and discussion regarding the appointment of Councilmembers to boards and commissions.

MOTION: Upon a motion by Councilmember Mooney, and a second by Councilmember Benham, the Council voted six (6) for and none (0) against, to make the following appointments to external committees and the newly created internal committees:

- Brazos County Health Department: John Nichols, Blanche Brick
- Intergovernmental Council: Karl Mooney
- Economic Development: Karl Mooney, Julie Schultz
- Budget and Finance: John Nichols, James Benham

- Compensation and Benefits. Blanche Brick, Julie Schultz
- Transportation and Mobility: Blanche Brick, John Nichols

The motion carried unanimously.

10. Executive Session

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.072-Real Estate; and §551.087-Economic Development Negotiations, the College Station City Council convened into Executive Session at 3:55 p.m. on Tuesday, December 18, 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 v. Randall Hall et al, Case No. 10 CV -3922; Thomas Chavers et al. v. Kalinec Towing Company, Inc. et al, Cause Number 201237978, In the 270 District Court of Harris County, Texas.
- 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. 11-002516-CV-272, in the 272nd District Court of Brazos County, Texas
- Patricia Kahlden, individ. and as rep. of the Estate of Lillie May Williams Bayless v. Laura Sue Streigler, City of College Station and James Steven Elkins, No. 11-003172-CV -272, in the 272nd District Court of Brazos County, Tx.
- Claim and potential litigation related to a June 24, 2011 collision with a city vehicle.
- State v. Carol Arnold, Cause Number 11-02697-CRF-85, in the 85th District Court, Brazos County, Texas

B. Deliberation on the deliberate the purchase, exchange, lease or value of real property; to wit:

- Property located generally in the area north of University Drive, east of Agronomy Road, and west of Wellborn Road.

C. Deliberation on economic development negotiations regarding an offer of financial or other incentives for a business prospect; to wit:

- Discuss economic development incentive negotiations with TAMU
- Economic Development prospect in the Biocorridor

The Executive Session adjourned at 4:37 p.m. on Tuesday, December 18, 2012.

11. Action on Executive Session.

MOTION: Upon a motion by Councilmember Brick, and a second by Councilmember Schultz, the Council voted six (6) for and none (0) against, to approve the settlement of Maguire vs. City of College Station in an amount not to exceed \$130,000 and to authorize the City Manager to

execute any documents necessary for the settlement on behalf of the City. The motion carried unanimously.

12. Adjournment

MOTION: There being no further business, Mayor Berry adjourned the Special Meeting of the College Station City Council at 4:38 p.m. on Tuesday, December 8, 2012.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

DRAFT

January 10, 2013
Consent Agenda Item No. 2b
Automated Ambulance Billing, Accounts Receivable and
Delinquent Account Collection Services

To: David Neeley, City Manager

From: Jeff Kersten, Executive Director of Business Services

Agenda Caption: Presentation, possible action and discussion on an Agreement for Services with Emergicon to provide ambulance billing, accounts receivable and delinquent account collection services in an amount not to exceed \$120,000.

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

Recommendation(s): Staff recommends the approval of the Agreement for Services with Emergicon.

Summary: Ambulance billing is unique in that it requires specialized knowledge, training, and software in order to code the transports for billing, and it requires a tremendous amount of follow-up work with Medicare, Medicaid, and private insurance companies after bills are sent. Dealing with patient confidential information necessitates specialized training in federal HIPPA and Privacy Act legislation compliance.

In November 2012, staff solicited proposals for ambulance billing, account receivable and delinquent account collection ser

vices. A total of 10 responses were received. A review committee made up of staff personnel from Fire, IT and Accounting was formed and after reviewing all proposals Emergicon was the topped ranked firm.

This Agreement for Services provides ambulance billing, accounts receivable and collection services for the City's EMS operation. Emergicon has been the City's ambulance billing and collection provider for the past three years and has collected \$3.7 million net of fees for the City during that time.

Budget & Financial Summary: Funds are available in the General Fund, Fiscal Services, Accounting Division. The fee that will be charged for all new bills is 5% of the amount collected and 16% of any delinquent accounts collected.

Reviewed and Approved by Legal: Yes

Attachments:

Contract #13-045 is available in the City Secretary's Office.

January 10, 2013
Consent Agenda Item No. 2c
Holleman Dr. South & Deacon Drive West License to Encroach

To: David Neeley, City Manager

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

Agenda Caption: Presentation, possible action, and discussion approving a resolution authorizing a License Agreement with Heath Phillips Investments, LLC, pertaining to the encroachment in to the public utility easement area of a portion of a structure located in Common Area, The Barracks II Subdivision Phase 100, according to the plat recorded in Volume 10785, Page 163 of the Official Records of Brazos County, Texas.

Relationship to Strategic Initiatives: N/A

Recommendation(s): Staff recommends approval of the resolution granting the license to encroach at Holleman Drive South and Deacon Drive West.

Summary: A subdivision monument sign at the intersection of Holleman Drive South and Deacon Drive West extends approximately 4 feet into a 10-foot wide Public Utility Easement along Deacon Drive West and extends approximately 3 feet into a 10-foot wide Public Utility Easement along Holleman Drive South. There are no existing utilities in the easements and consent has been granted by all franchised utilities for the encroachment. Approval of the resolution will allow the sign to remain in the current location.

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Attachment 1 - Vicinity Map
2. Attachment 2 - Resolution
Resolution Exhibit "A" (License Agreement)
License Agreement Exhibit "A" (Survey)
3. Attachment 3 - Application for License to Encroach (On file at the City Engineer's Office)

RESOLUTION NO. _____

A RESOLUTION MAKING CERTAIN FINDINGS OF FACT AND AUTHORIZING THE MAYOR OF THE CITY OF COLLEGE STATION TO EXECUTE A LICENSE AGREEMENT BETWEEN THE CITY OF COLLEGE STATION AND APPLICANT, HEATH PHILLIPS INVESTMENTS, LLC, PERTAINING TO THE ENCROACHMENT OF A STRUCTURE LOCATED IN COMMON AREA, THE BARRACKS II SUBDIVISION, PHASE 100, MORE COMMONLY KNOWN AS COMMON AREA AT 750 DEACON DRIVE WEST, INTO THE EASEMENT.

WHEREAS, the City of College Station, has received an application for a license to encroach into a utility easement;

WHEREAS, the City of College Station has enacted Ordinance No. 1645 regulating, controlling and governing encroachments;

WHEREAS, in order for a license to be granted by the City Council of the City of College Station, the Council must make certain findings of facts;

WHEREAS, after hearing the application of HEATH PHILLIPS INVESTMENTS, LLC, to encroach into the easement, the City Council of the City of College Station, finds the following facts:

1. That through no fault of the present property owner, a portion of the structure was constructed in the utility easement.
2. That there are no utilities which would be interfered with by the utilization of the property in its present status.
3. That there are no utilities which would interfere with the utilization of the property in its present status.
4. That the structure intrudes into the easement to such a degree that it is not economically feasible to remove the part of the structure within the easement.
5. That the land use in the neighborhood appears to be stable and the use to which this property is being put is not likely to change within the foreseeable future and is similar to the use to that of the neighborhood;

WHEREAS, the City Council after hearing the application and finding the specific facts as stated above now concludes and finds that:

1. The fact that the structure was constructed within the easement through no fault of the present property owner and that it is not economically feasible to remove the part of the structure within the easement area does constitute special circumstances and conditions affecting the property which if not take into consideration would deprive the applicant of the reasonable use of his property.
2. The fact that the land use is not likely to change within the foreseeable future and that it is not economically feasible to remove the part of the structure within the easement does provide a basis for granting the license necessary for the preservation and enjoyment of the substantial property right of the applicant.

- 3. The fact that the use of the easement area by the property owner does not interfere with the utilities or access to the utilities and is not detrimental to the public health, safety or welfare or injurious to the property in the area; and

WHEREAS, the applicant agrees to accept the terms of the License Agreement as presented to him; now, therefore,

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

I.

That the Mayor is hereby authorized to execute on behalf of the City of College Station a License Agreement with HEATH PHILLIPS INVESTMENTS, LLC, pertaining to the encroachment of a portion of a structure located in Common Area, The Barracks II Subdivision Phase 100, more commonly known as Common Area at 750 Deacon Drive West, into the easement area. The terms of said License Agreement are as set forth in the form which is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes.

II.

That this resolution shall be effective immediately upon adoption.

PASSED and APPROVED this 10th day of January, 2013.

ATTEST:

APPROVED:

SHERRY MASHBURN, City Secretary

NANCY BERRY, Mayor

APPROVED:

Carla A. Robinson

Carla A. Robinson
City Attorney

LICENSE AGREEMENT

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

That the City of College Station (hereinafter referred to as "LICENSOR"), acting through the undersigned official who is so empowered by resolution of the City Council to so act in consideration of the agreement made herein by HEATH PHILLIPS INVESTMENTS, LLC, (hereinafter referred to as "LICENSEE"), owner of Common Area, The Barracks II Subdivision Phase 100, College Station, Texas, according to the plat recorded in Volume 10785, Page 163 of the Official Records of Brazos County, Texas, hereby grants a license to the said LICENSEE to permit a portion of a structure located on Common Area, The Barracks II Subdivision Phase 100, College Station, Texas, to encroach upon the easement, as shown on Exhibit "A" attached hereto and incorporated herein by reference for all purposes, owned and occupied by the City of College Station, Brazos County, Texas, but such improvements shall be at all times under and not in contact with any electric, water, sewer, or other utility, or equipment, or interfere in any way with such utility, including any drainage structures which are servicing the improvements and other property, and subject to the following terms and conditions:

Neither the granting of the license, nor any related permit, constitutes an abandonment by LICENSOR of its property, easement or easements, or any other rights in and to the above-described property. LICENSEE expressly stipulating and agreeing by LICENSEE's acceptance of this license that LICENSEE neither asserts nor claims any interest or right of any type or nature whatsoever, legal, equitable or otherwise in or to LICENSOR's property.

LICENSEE hereby expressly covenants, stipulates and agrees, without limitation, to indemnify and defend the LICENSOR and hold it harmless from any and all liability, claim, cause of action, and cost, including attorneys' fee, and including any acts or omissions of the LICENSOR, its officers, agents, and employees, which may grow out of or be attributable to the granting by the LICENSOR of said license and any supplemental license which may hereafter be issued in connection herewith including any inspections which may be conducted in connection with or pursuant to said license or any supplemental license.

LICENSEE, at its own expense, shall restore or cause to be restored the subject property to as good a condition as existed prior to construction of the improvements which are the subject of this License Agreement. LICENSEE shall pay all costs of relocation of any public utilities or facilities that may be incurred as a result of the proposed construction or actual construction.

LICENSEE agrees to comply with all laws and ordinances in the construction and maintenance of said improvements.

LICENSOR retains the right, but not the obligation, to enter upon the land to which this license applies and at LICENSEE's expense to remove any structure or improvements or alterations thereon upon the determination by LICENSOR that such removal is necessary for exercising LICENSOR's rights or duties in regard to said easement, or for protecting persons or property, or public interest in regard to said easement.

This license, until its expiration or revocation, shall run with the title to the above-described real property, and the terms and conditions hereof shall be binding upon subsequent owners or holders thereof. LICENSEE shall cause any immediate successors in interest to have factual notice of this License Agreement.

This license shall expire automatically upon removal of the improvements located upon the property pursuant to this license, and shall expire as to any portion of said improvements upon the removal, whether or not all of the proposed improvements are removed.

This license is revocable by the LICENSOR upon the occurrence of any of the following conditions or events:

- A. LICENSEE or its successors or assigns have failed to comply with the terms of the granting of the license; or
- B. The improvements located thereon or any portion of them interfere with the rights of the LICENSOR or the public in or to LICENSOR's property; or
- C. The use of the licensed area becomes necessary for a public purpose; or
- D. Said improvements or a portion of them constitute a danger to the public which is not remediable by maintenance or alteration of the said improvements; or
- E. Said improvements or a portion of them have expanded beyond the scope of the license; or
- F. Maintenance or alteration necessary to alleviate danger to the public has not been made within a reasonable time after the dangerous condition has arisen.

This license shall be effective upon the acceptance of the terms hereof by the LICENSEE, as indicated by the signature of LICENSEE.

The license shall be filed of record in the Official Records of the County Clerk of the Brazos County Courthouse.

APPROVED this the _____ day of _____, 2013.

APPROVED:

HEATH PHILLIPS INVESTMENTS, LLC
LICENSEE

BY: _____
HEATH PHILLIPS, President

APPROVED:

CITY OF COLLEGE STATION,
LICENSOR

BY: _____
NANCY BERRY, Mayor

ATTEST:

SHERRY MASHBURN, City Secretary

STATE OF TEXAS)
)
COUNTY OF BRAZOS) CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2013, by _____, as Mayor of the City of College Station, a Texas Municipal Corporation, on behalf of said Corporation.

Notary Public in and for
the State of T E X A S

STATE OF TEXAS)
)
COUNTY OF BRAZOS) CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on the ____ day of _____, 2013, by _____ as _____ of _____, on behalf of said _____.

Notary Public in and for the State of Texas

- E. Said improvements or a portion of them have expanded beyond the scope of the license; or
- F. Maintenance or alteration necessary to alleviate danger to the public has not been made within a reasonable time after the dangerous condition has arisen.

This license shall be effective upon the acceptance of the terms hereof by the LICENSEE, as indicated by the signature of LICENSEE.

The license shall be filed of record in the Official Records of the County Clerk of the Brazos County Courthouse.

APPROVED this the _____ day of _____, 2013.

APPROVED:

HEATH PHILLIPS INVESTMENTS, LLC
LICENSEE

APPROVED:

CITY OF COLLEGE STATION,
LICENSOR

BY: _____
HEATH PHILLIPS, President

BY: _____
NANCY BERRY, Mayor

ATTEST:

SHERRY MASHBURN, City Secretary

STATE OF TEXAS)
)
COUNTY OF BRAZOS)

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, as Mayor of the City of College Station, a Texas Municipal Corporation, on behalf of said Corporation.

Notary Public in and for
the State of T E X A S

STATE OF TEXAS)
)
COUNTY OF BRAZOS)

CORPORATE ACKNOWLEDGMENT

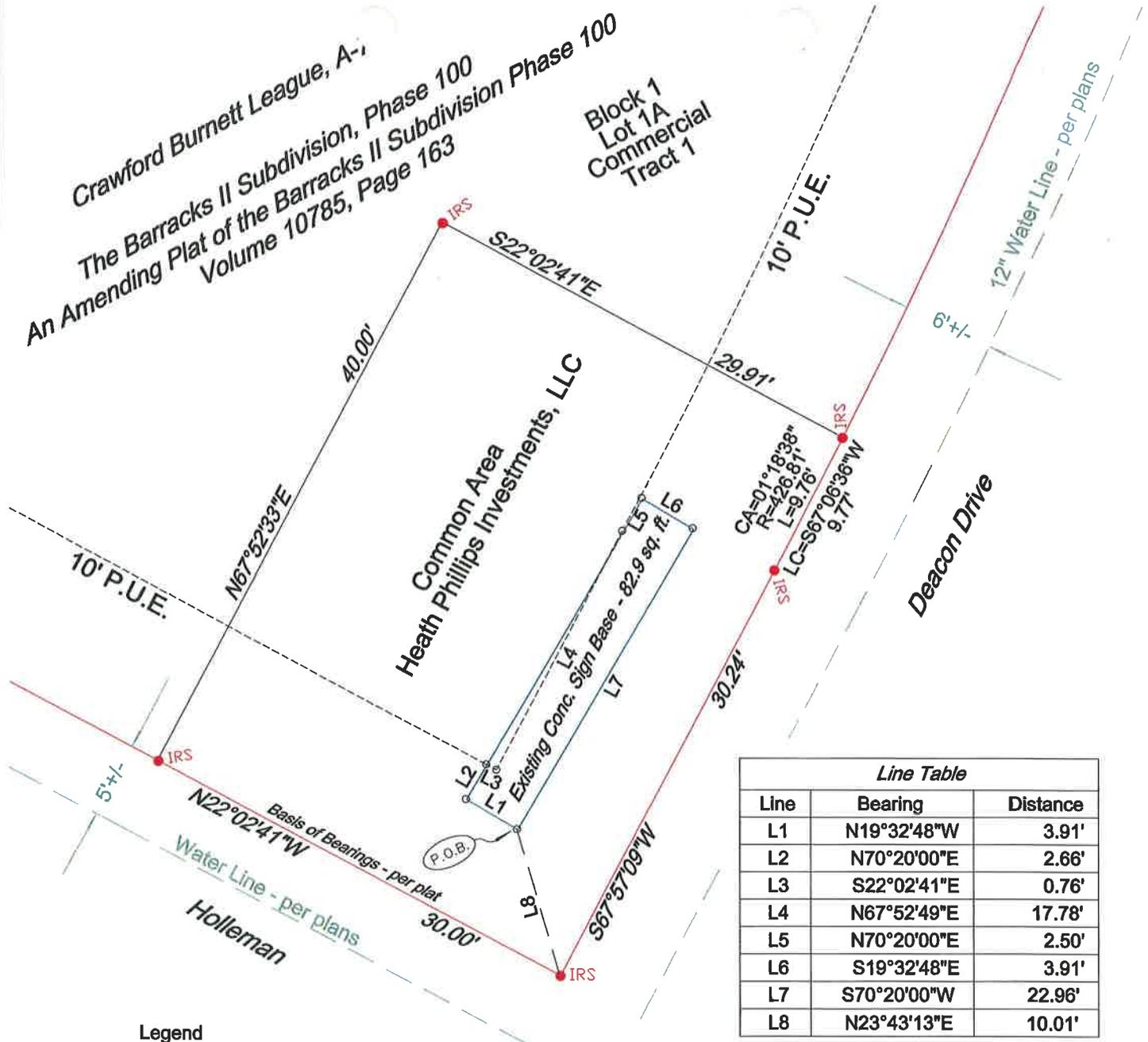
This instrument was acknowledged before me on the _____ day of _____, 2013, by _____ as _____ of _____, on behalf of said _____.

Notary Public in and for the State of Texas

Crawford Burnett League, A-
 The Barracks II Subdivision, Phase 100
 An Amending Plat of the Barracks II Subdivision Phase 100
 Volume 10785, Page 163

Block 1
 Lot 1A
 Commercial
 Tract 1

Common Area
 Heath Phillips Investments, LLC



Line Table		
Line	Bearing	Distance
L1	N19°32'48"W	3.91'
L2	N70°20'00"E	2.66'
L3	S22°02'41"E	0.76'
L4	N67°52'49"E	17.78'
L5	N70°20'00"E	2.50'
L6	S19°32'48"E	3.91'
L7	S70°20'00"W	22.96'
L8	N23°43'13"E	10.01'

Legend

● IRS Set 1/2" Iron Rod



Scale: 1" = 10'

I, Kirk Raymond, certify that this survey represents the results of an on the ground survey made by me or under my supervision during August 2012.

[Signature]
 Kirk Raymond, R.P.L.S. 4957



See attached fieldnotes Title Information was not provided at the time of survey



GOODWIN-LASITER, INC.
 ENGINEERS - ARCHITECTS
 SURVEYORS

4077 CROSS PARK DRIVE, SUITE 100 • BRYAN, TEXAS 77802 • (979) 776-9700
 1609 S. CHESTNUT ST., SUITE 202 • LUFKIN, TEXAS 75901 • (936) 637-4900

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Date: 11-30-12	Drawn By: kr	Appv'd By:	Client: Heath Phillips	Job Number: 644293
Survey Plat of a Public Utility Easement Encroachment in the Burnett Crawford League, A-7, Brazos County, Texas.				Sheet No. 1

Fieldnote Description to 82.9 square feet

Part of Block 1, Common Area

The Barracks II Subdivision, Phase 100 – An Amending Plat of the Barracks II Subdivision, Phase 100

Crawford Burnett League, A-7

Brazos County, Texas

Fieldnotes to all that certain lot, tract, or parcel of land situated in the Crawford Burnett League, A-7, Brazos County, Texas, being 82.9 square feet, more or less, and being that portion of an existing concrete sign base which encroaches into 10 foot wide Public Utility Easements, as shown on the Amending Plat of The Barracks II Subdivision, Phase 100, Recorded in Volume 10785, Page 163, Plat Records, Brazos County, Texas, to which reference is hereby made to for any and all purposes. Said tract described as follows, to wit:

BEGINNING at the southwestern corner of an existing concrete sign base. Said point bears N23°43'13"E 10.01 feet from a ½" iron rod, capped Goodwin-Lasiter, set for the southwestern corner of the Common Area tract as shown on the referenced amending plat. Said reference point being in the intersection of the northerly right of way of Deacon Street with the easterly right of way of Holleman;

THENCE across and within existing 10' wide Public Utility Easements which are parallel to and perpendicular to the aforesaid right of ways, as follows:

NORTH 19°32'48" WEST 3.91 feet to the northwestern corner of said concrete sign base,

NORTH 70°20'00" EAST 2.66 feet along the northwestern side of said sign base to a point for corner in the intersection of said base with the existing Public Utility Easement parallel to Holleman,

SOUTH 22°02'41" EAST 0.76 feet along said Public Utility Easement to a point within said sign base in the intersection with a 10' Public Utility Easement paralleling Deacon Drive,

NORTH 67°52'49" EAST 17.78 feet across said sign base and with the said Public Utility Easement paralleling Deacon Drive to a point in the intersection of the northern side of said sign base with said Public Utility Easement,

NORTH 70°20'00" EAST 2.50 feet with the northern side of said sign base to the northeast corner of same,

SOUTH 19°32'48" EAST 3.91 feet along the eastern side of said sign base to the southeastern corner of same, and

SOUTH 70°20'00" WEST 22.96 feet along the southerly limit of said sign base to the Point of Beginning and occupying approximately 82.9 square feet, more or less, as shown on the accompanying survey plat of even date herewith.



Kirk Raymond, R.P.L.S. 4957

Goodwin-Lasiter, Inc.

Bryan Texas

November 30, 2012



January 10, 2013
Consent Agenda Item No. 2d
Pay Day Lending Regulation

To: David Neeley, City Manager

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

Agenda Caption: Presentation, possible action, and discussion regarding the approval of a Resolution of the City of College Station requesting the Texas Legislature and the Governor of Texas enact laws to regulate the rates and fees charged by payday lending and auto title loan businesses and to affirm cities authority to pass ordinances regulating payday lending and auto title loan business practices.

Relationship to Strategic Goals: Financially Sustainable City, Neighborhood Integrity, and Diverse Growing Economy

Recommendation(s): Staff recommends approval.

Summary: A Presentation was given by the United Way of the Brazos Valley at your December 18th meeting covering information about payday and auto title lending businesses, as well as efforts other cities are undertaking to bring about regulation of this industry. Staff received direction at that time to bring a draft resolution for your consideration.

Texas cities, including Austin, Dallas and San Antonio, are seeking support from the Texas Municipal League (TML) to request the Texas Legislature and the Governor of Texas to provide for regulation of payday lending and auto title lending practices. Staff works with various Community Stakeholders through the United Way's Financial Stability Committee which has drafted a Call to Action Concerning Payday and Auto Title Lending Activities. This call was created to urge both the College Station and Bryan City Council's to adopt a Resolution to request that policy makers take action to regulate payday and auto title lending in the State. The City of Bryan recently passed a Resolution in support of this effort.

The Resolution requests that the Texas Legislature and the Governor of Texas enact laws to regulate the rates and fees charged by payday lending and auto title loan businesses and to affirm cities authority to pass ordinances regulating payday lending and auto title loan business practices.

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Resolution
2. UWBV Financial Stability Committee Call to Action Concerning Payday and Auto Title Lending Activities

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, REQUESTING THAT THE TEXAS STATE LEGISLATURE AND THE GOVERNOR OF TEXAS TAKE ACTION TO STOP USURIOUS LENDING BY PAYDAY AND AUTO TITLE LENDERS AND SUPPORT CITIES' AUTHORITY TO PASS ORDINANCES TO REGULATE PRACTICES BY CREDIT ACCESS BUSINESSES' THAT MAY NEGATIVELY IMPACT THE CITY'S ECONOMICALLY VULNERABLE CITIZENS.

WHEREAS, the City Council of the City of College Station, Texas, represents the citizens of the City of College Station; and

WHEREAS, citizens of the City of College Station are deeply concerned about the harmful effects of payday and auto title lending practices in our community and throughout Texas; and

WHEREAS, in the state of Texas there are over 3,000 of these unlicensed and unregulated lending storefronts making over \$3 billion in high-cost loans to Texas families each year; and

WHEREAS, there are at least thirteen of these loan businesses in the local community promising "easy credit" only to economically damage borrowers with annual percentage rates upwards of 500% and loan terms that often pull borrowers deeper into debt; and

WHEREAS, in response to the targeting of working families, senior citizens, and military families who struggle to pay rent, bills, and provide for other basic needs, at least sixteen (16) states and the District of Columbia have adopted 36% or lower annual percentage rate cap for these small loans; and

WHEREAS, upon the Department of Defense's finding that these loans, "undermine military readiness, harm the morale of troops and their families, and add to the cost of fielding an all-volunteer fighting force", the federal government enacted a rate cap of 36% for loans up to 90 days and up to \$2,000 to protect certain members of the military from exploitation; and

WHEREAS, other states have implemented provisions such as rate caps, fee caps, prorated fees, and limits on the total number of loans per consumer to ensure that borrowers can actually repay loans on time; and in these states, payday and auto title businesses continue to operate in compliance with these standards; and

WHEREAS, the City Council of the City of College Station, Texas, sees a crisis in this community and it is vital that the Texas State Legislature take immediate action to support and enforce fair consumer lending standards in Texas; now, therefore,

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

- PART 1: That the City Council hereby urges the Texas State Legislature and the Governor of Texas to take action in the next regular session of the State Legislature in 2013 to enact laws that will:
- End the practices of credit access businesses that hurt our communities and struggling Texans by charging usurious rates and fees;
 - Affirm cities' right to promote the public welfare and prevent predatory practices by upholding local control, as permitted by current law.

PART 2: That the City Council hereby supports cities' authority to pass ordinances aimed at curtailing predatory payday and auto title business practices and ending the cycle of debt and economic drain often caused by these loans.

ADOPTED this 10th day of January, A.D. 2013.

ATTEST:

City Secretary

APPROVED:

MAYOR

APPROVED:

Carla A Robinson

City Attorney



OF THE BRAZOS VALLEY

October 31, 2012

David Neeley
City Manager, City of College Station
P.O. Box 9960
College Station, TX 77840

Dear Mr. Neeley:

On behalf of the Financial Stability Committee of United Way of the Brazos Valley, I would like to submit the enclosed statement concerning the adoption of a Payday and Auto Title Lending Resolution in College Station.

The Financial Stability Committee of the United Way of the Brazos Valley exists to promote and advocate a healthy financial environment for individuals and families in the Brazos Valley. The Financial Stability Committee has reviewed research and evidence which demonstrates that the business practices of payday and auto title lenders cause long-term financial harm to College Station residents.

The Committee urges the College Station City Council to adopt a resolution that will encourage the Texas State Legislature and the Governor of Texas to take statewide action on these practices and create a healthy financial environment for families in Texas.

Enclosed with this letter is the United Way Board Approved Financial Stability Statement on Payday and Auto Title Lending as well as a sample City Resolution for your review.

Thank you for your time and consideration.

Sincerely,

Alison Prince

Vice President Community Impact
United Way of the Brazos Valley

United Way of the Brazos Valley brings the community together to find solutions that change people's lives by advancing Education, Financial Stability and Health in the Brazos Valley.



Financial Stability Committee Call to Action Concerning Payday and Auto Title Lending Activities

Payday and auto title loan businesses are expanding across our community, with over 50 stores in the Bryan/College Station community. These businesses target working families, senior citizens, and military families who struggle to pay rent, bills and other basic needs. Payday and auto title loan products carry annualized percentage rates (APRs) upwards of 500%. Research has shown that payday and auto title loans trap borrowers in a cycle of debt, causing them serious financial harm.

Local community service organizations have a particular interest in seeing reform for payday and auto title lender businesses because 20% of charitable cash assistance is given to families that are financially struggling due to these loans; additionally, 76% of payday and auto title borrowers seeking charitable assistance also receive public benefits.

United Way of the Brazos Valley's Financial Stability Committee works to promote a healthy financial environment for individuals and families. Members of the committee include representatives from community service organizations, banking institutions, community and economic development offices, housing authorities, the Better Business Bureau, and Council of Governments.

The members of the Financial Stability Committee advocate that the College Station City Council takes a stand and adopt a Resolution to request that the Texas State Legislature and the Governor of Texas take action to stop usurious lending by payday and auto title lenders and support cities' authorities to pass ordinances aimed at curtailing credit access businesses' exploitation of economically vulnerable citizens.

Adopted by Financial Stability Committee: *September 19, 2012*

Approved by United Way Board of Directors: *October 25, 2012*

Sources:

Texas Fair Lending Alliance, 2012

Bush School Capstone, The Bush School of Government and Public Service at Texas A&M University 2011-2012

DRAFT RESOLUTION
OF
THE CITY OF XXXXX
TO REQUEST THAT THE TEXAS STATE LEGISLATURE AND THE GOVERNOR OF TEXAS TAKE
ACTION TO STOP USURIOUS LENDING BY PAYDAY AND AUTO TITLE LENDERS
AND
TO SUPPORT CITIES' AUTHORITY TO PASS ORDINANCES AIMED AT CURTAILING CREDIT
ACCESS BUSINESSES' EXPLOITATION OF ECONOMICALLY VULNERABLE CITIZENS

WHEREAS, the Council/Board of Commissioners of the City of XXXXX, represents the citizens of the City of XXXX;

WHEREAS, citizens of the City of XXXXX are deeply concerned about the harmful effects of payday and auto title lending practices in our community and throughout Texas;

WHEREAS, in the state of Texas there are over 3,000 of these lending storefronts, operating outside of state usury laws, evading licensed consumer lending standards under Texas law, and making over \$3 billion in high-cost loans to Texas families each year;

WHEREAS, there are at least XXXX of these loan businesses in our local community promising "easy credit" only to hurt people with annual percentage rates upwards of 500% and loan terms that often pull people deeper into debt;

WHEREAS, in response to the targeting of working families, senior citizens, and military families who struggle to pay rent, bills, and provide for other basic needs, at least 16 states and the District of Columbia have adopted 36% or lower annual percentage rate cap for these small loans;

WHEREAS, upon the Department of Defense's finding that these loans, "undermine military readiness, harm the morale of troops and their families, and add to the cost of fielding an all-volunteer fighting force", the federal government enacted a rate cap of 36% for loans up to 90 days and up to \$2,000 to protect certain members of the military from exploitation; however, Texas payday lenders have found ways to evade the rate cap and continue to exploit the military community;

WHEREAS, to prevent payday and auto title lenders from trapping borrowers in a perpetual cycle of debt, other states have implemented provisions such as rate caps, fee caps, prorated fees, and limits on the total number of loans per consumer to ensure that borrowers can actually repay loans on time; and in these states, payday and auto title businesses continue to operate in compliance with these standards;

WHEREAS, we see a crisis in our community and it is vital that the Texas State Legislature take immediate action;

NOW, THEREFORE, BE IT RESOLVED that:

1. The City of XXXX urges the Texas State Legislature and the Governor of Texas to take action in the next regular session of the State Legislature in 2013 to enact laws that will:
 - o End the exploitative practices of credit access businesses that hurt our communities and struggling Texans by charging usurious and immoral rates and fees;
 - o Affirm cities' right to promote the public welfare and prevent predatory practices by upholding local control, as permitted by current law.
2. The City of XXXX supports cities' authority to pass ordinances aimed at curtailing predatory payday and auto title business practices and ending the damaging cycle of debt and economic drain too often caused by these loans.

January 10, 2013
Consent Agenda No. 2e
TxDOT Drainage Infrastructure Data Collection
Project Number SD1303

To: David Neeley, City Manager

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

Agenda Caption: Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and Binkley & Barfield, Inc. in the amount of \$59,750.00 for TxDOT Drainage Infrastructure Data Collection and Mapping project and authorizing the City Manager to execute the contract on behalf of the City Council.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Neighborhood Integrity

Recommendation(s): Staff recommends approval of the contract and authorization for the City Manager to execute the contract.

Summary: This item is for data collection and GIS mapping of existing drainage infrastructure in the designated right of way of TxDOT thoroughfares within the College Station city limits. The City's Storm Water Management Plan calls for the mapping and screening of outfalls and other drainage structures within the city limits. Existing city-owned outfalls and drainage infrastructure has been entered into the City's GIS system along with a significant portion of drainage structures and outfalls that have been constructed by developers over the past 5 years.

Currently, outfalls and other drainage structures that are within the city limits in TxDOT right of way along TxDOT thoroughfares are not identified and mapped in the City's GIS system. Since the storm water discharge from these facilities impacts the City's storm water drainage infrastructure, this project will allow the City to identify the location and types of drainage infrastructure in TxDOT right of way. This will enable the City to better understand the upstream storm water infrastructure and allow the City to identify upstream issues that may be impacting the City's drainage infrastructure.

Budget & Financial Summary:

Funds in the amount of \$67,070 are budgeted and available in the Drainage Utility Fund for Storm Water Mapping – GIS Services.

Reviewed and Approved by Legal: Yes

Attachments:

- 1.) Consultant Contract – on file in the City Secretary's Office

January 10, 2013
Consent Agenda Item No. 2f
Annual Auto & Truck Tire Purchases

To: David Neeley, City Manager

From: Jeff Kersten, Executive Director Business Services

Agenda Caption: Presentation, possible action and discussion regarding the approval of annual tire purchases from Pilger's Tire & Auto Center through the State of Texas (TxMAS) Tire Contract in the amount of \$197,000.00.

Relationship to Strategic Goals: (Select all that apply)

1. Financially Sustainable City

Recommendation(s): Staff recommends approval to purchase auto and truck tires from Pilger's Tire & Auto Center through the Texas Multiple Awards Schedule (TxMAS) Contract (#TxMAS-7-261020-40). The estimated annual expenditure of \$197,000.00 is based on the average amount spent on auto and truck tires since January 2012 and the anticipated needs for existing vehicles and new vehicles being added to inventory this fiscal year.

Summary: Pilger's Tire & Auto Center is the local (College Station, TX) TXMAS contract dealer for auto and truck tires. TXMAS contracts are developed from contracts that have been competitively bid and awarded by the federal government or any other governmental entity of any state. The contracts offer access to multiple vendors providing commodities and services at the most favored customer prices. Texas Government Code §2155.504, *Use of Schedule by Government Entities*, states that a State agency or local government may purchase goods or services directly from a vendor under a contract listed on a schedule developed under this subchapter. A purchase authorized by this section satisfies any requirement of State law relating to competitive bids or proposals. Contingent upon Council approval, a blanket purchase order will be issued for the term of February 1, 2013 through January 31, 2014.

Budget & Financial Summary: Funds are available and budgeted in the Fleet Maintenance fund which is funded by all other departments.

Reviewed and Approved by Legal: N/A

Attachments: Summary of TXMAS Contract #TXMAS-7-261020-40

PILGER'S TIRE & AUTO CENTER
Contract [TXMAS-7-261020-40](#)

Dealer for:

BRIDGESTONE FIRESTONE N.A. TIRE, LLC

[On-Line Catalog/Order Processing](#)

TIRES, PNEUMATIC (NEW), FOR PASSENGER, LIGHT TRUCK, MEDIUM TRUCK, AND BUS, AND RETREAD SERVICES

Corporate Office: BRIDGESTONE FIRESTONE N.A. TIRE, LLC 535 MARRIOTT DRIVE NASHVILLE TN 37214 USA Send PO to: PILGER'S TIRE & AUTO CENTER 400 E. UNIVERSITY DRIVE COLLEGE STATION TX 77840 USA Vendor ID: 17418726752 Invoice From: PILGER'S TIRE & AUTO CENTER 400 E. UNIVERSITY DRIVE COLLEGE STATION TX 77840 USA Vendor ID:	Delivery: 30 DAYS ARO FOB Point: DESTINATION Terms: NET 30 DAYS Remit To: PILGER'S TIRE & AUTO CENTER 400 E. UNIVERSITY DRIVE COLLEGE STATION TX 77840 USA Vendor ID: Vendor ID: 17418726752 Business Type: Small DUNS #: Effective: 1/19/2007 Expires: 12/20/2016
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CONTACT: WILLIE HESS
 Phone 979-696-1729
WILLIE@PILGERSTIRE.COM

January 10, 2013
Consent Agenda Item No. 2g
Annual Purchase of Auto Parts, Shop Equipment and Services

To: David Neeley, City Manager

From: Jeff Kersten, Executive Director Business Services

Agenda Caption: Presentation, possible action, and discussion on approving an annual blanket purchase order for the purchase of auto parts, shop equipment and services from NAPA Auto Parts (College Station, TX) through the Purchasing Solutions Alliance (PSA) contract for the amount of \$75,000.00.

Relationship to Strategic Goals: (Select all that apply)

1. Financially Sustainable City

Recommendation(s): Staff recommends approval of an annual blanket purchase order to purchase various auto parts, shop equipment and related services from NAPA Auto Parts through the Purchasing Solutions Alliance (PSA) contract (#09-102). The estimated annual expenditure of \$75,000.00 is based on the average amount spent on automotive and truck parts since January 2012 and the anticipated needs for existing vehicles and new vehicles being added to inventory this fiscal year.

Summary: Summary: NAPA Auto Parts is the local (College Station, TX) PSA contract dealer for auto parts, shop equipment and services. PSA is a purchasing cooperative for public agencies. All products and services available for purchase through PSA contracts have been competitively bid and awarded and satisfy any State law requirements relating to competitive bids or proposals. Contingent upon Council approval, a blanket purchase order will be issued for the term of January 15, 2013 through January 14, 2014.

Budget & Financial Summary: Purchases of auto parts are made through an inventory account as budgeted and available in the Fleet Maintenance Funds. Charges are made to the various departments for vehicle maintenance based on the average annual cost for each piece of equipment.

Reviewed and Approved by Legal: N/A

Attachments: Summary of PSA Contract #09-102

Purchasing Solutions Alliance

a purchasing cooperative for public agencies

PSA Contract No. 09-102

Auto Parts, Shop Equipment and Services



Contract Details

Vendor POC:

Genuine Parts Company (d.b.a. NAPA Auto Parts)
 Robert L. Parks, Division Sales Manager
 Phone: (214) 654-1301
 Cell: (210) 317-6534
 Email: Robert_L_Parks@genpt.com

Contract: All inclusive selection of automotive parts and accessories, shop and service equipment, classroom and online training services, and integrated business solutions (on-site supplier owned inventory management).

Contract Term: 03.19.2010 through 03.18.2012. Three – 1 year Extensions Available.

Orders: PSA Members may place orders via phone, fax, email or through the NAPA online ordering system. PSA Members are granted access to this site by contacting the NAPA representative listed above.

Pricing: Discount from NAPA's Nationally Published Electronic Internet Price List. Reference PSA Contract No. 09-102 to the NAPA store/location your entity orders through; NAPA Major Account No. 342 and NAPA Pricing Profile should be set at 9075. [Click here](#) to download the PSA Contract 09-102 pricing discount schedule in pdf format.

Delivery: 1. F.O.B. to customer's destination, full freight allowed. Deliveries within 10 miles of a NAPA facility are made within 1 hour of the time order is received and during normal business hours for in-stock parts. For customers who are more than 10 miles from a NAPA facility but less than 30 miles, receive same day delivery on in-stock parts.

Or

2. F.O.B. to customer's destination, full freight allowed. Deliveries greater than 30 miles are shipped via UPS ground or other Common Carrier. Orders less than \$300 will be charged actual UPS or Common Carrier freight cost.

Or

Quick I



Se

3. Freight costs will be applied to parts/equipment that are not stocked within NAPA local stores and have to be assigned to one of NAPA's distribution centers.

Returns: Any NAPA product that is new and in sellable condition can be returned at anytime without any restocking fees. Items that are used and found to be unsatisfactory to an End User for any reason are returnable during the manufactures warranty period for a free replacement. All purchases will be tracked; therefore, no proof of purchase is required from customer to process a return.

January 10, 2013
Consent Agenda Item No. 2h
Organic Waste Collection
Franchise Agreement – Viridiun

To: David Neeley, City Manager

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

Agenda Caption: Presentation, possible action, and discussion on the first reading of a franchise agreement with Viridiun; for the collection of organic waste from commercial business locations.

Relationship to Strategic Goals: Wise stewardship of the natural resources and features needed to meet current demands without compromising the ability of future generations to do the same.

Recommendation(s): Staff recommends approval of this franchise agreement.

Summary: The proposed agreement would allow Viridiun to collect organic waste from commercial business locations within the City of College Station.

Organic waste is defined as waste of a biological origin recovered from the solid waste stream for the purposes of reuse, reclamation, or compost. Organic waste is not solid waste, unless it is abandoned or disposed of, rather than reprocessed into another product. Organic waste includes food waste, brush, manure, leaves, mulch, and compost.

The company will be responsible for developing onsite collection of organic waste so as not to interfere with the collection of municipal solid waste (MSW).

Section 104 of the City Charter states that "The City of College Station shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance, however, shall not be passed finally until it shall have been read at three (3) separate regular meetings of the City Council."

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Franchise Ordinance

Ordinance No. _____

AN ORDINANCE GRANTING VIRIDIUN, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION FOR THE PURPOSE OF PROVIDING COMMERCIAL ORGANIC WASTE COLLECTION; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR THE PERIOD OF THE GRANT; FOR ASSIGNMENT; FOR THE METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES; AND FOR PARTIAL INVALIDITY.

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

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

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

Contract No. 13-097

**ARTICLE I
DEFINITIONS**

1. **Contractor** means Viridiun conducting a commercial and industrial organic waste collection service.
2. **Brazos Valley Solid Waste Management Inc.** or BVSWMA means a landfill operated by an interlocal agreement.
3. **City of College Station** or City means the City of College Station, Texas a Home-Rule Municipal Corporation incorporated under the laws of Texas.
4. **City Council** or Council means the governing body of the City of College Station, Texas.
5. **Class 1 Waste** means that term as defined in the Texas Administrative Code as it now exists or as is hereafter amended.
6. **Compactor** means a bulk container used for the collection of refuse, equipped with a device to compact such materials and thereby increasing the storage capacity of the containers.
7. **Container** means an apparatus of varying capacity used for refuse collection. This apparatus must have a securable lid. This lid shall remain closed and secured with the exception of loading and collection. Containers shall not be made of any temporary material.
8. **Customer** means: those industrial or commercial premises located within the City that generate organic waste.
 - a. **Commercial Customers** - Any customer who is an enterprise or establishment whose main purpose is to carry on a commercial for-profit or not-for-profit activity. Said definition shall include all uses not falling within the category of residential, including, but not limited to, churches, hospitals, schools and industries.
 - b. **Industrial Customers-** Real property on which manufacture or assembly employing labor or machinery is carried on for profit.
9. **Demolition and Construction Debris** means any building material waste resulting from demolition, remodeling, repairs, or construction, as well as materials discarded during periodic temporary facility clean-up generated within the City.
10. **Franchise Agreement** means this franchise between the City of College Station and Viridiun for provision of organic waste collection from commercial business locations within the City of College Station, under certain terms and conditions set out herein.

- 11. Organic Waste** means waste of biological origin recovered from the solid waste stream for the purposes of reuse, reclamation, or compost. Organic Waste is not solid waste, unless it is abandoned or disposed of, rather than reprocessed into another product.
- 12. Recyclables or Recyclable Commodities** means materials recovered from the solid waste stream for reuse or reclamation, a substantial portion of which are consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable commodities or recyclables are not solid waste unless they are abandoned or disposed of, rather than reprocessed into another product.
- 13. Residue** means the material regularly associated with and attached to recyclable commodities, as a part of the original packaging or use of that commodity, that is not recyclable itself.
- 14. Roll-Off** means a container of varying capacity used for refuse collection.

**ARTICLE II
GRANT OF NON-EXCLUSIVE FRANCHISE**

1. Nothing in this Franchise shall be construed as granting an exclusive franchise or right. City hereby grants Contractor a non-exclusive franchise to operate and establish in the City from the effective date of the Agreement, to engage in the business of collecting organic waste from commercial and industrial sites; for the purpose of recycling within the jurisdictional limits of the City.

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

**ARTICLE III
DISPOSAL SITE TO BE USED**

Unless approved otherwise in writing by City, Contractor shall utilize BVSWMA, Inc. landfill for the disposal of all non-recyclable waste material collected by Contractor within the corporate limits of the City. Contractor will only use a City-approved recycling facility for processing all recyclable material collected by Contractor within the corporate limits of the City under this Franchise Agreement. Contractor shall not dispose of any Class 1 Waste at the BVSWMA, Inc. landfill.

**ARTICLE IV
RATES TO BE CHARGED BY VIRIDIUN**

Attached hereto as **Exhibit "A"** and incorporated herein by reference is the Schedule of Base Rates, which Contractor shall charge for the aforementioned services. The Contractor shall notify the City in writing at least 30 days before making any base rate changes.

**ARTICLE V
PAYMENTS TO CITY**

1. For and in consideration of the grant of the franchise herein, Contractor agrees and will pay during the term of this Franchise, a sum based on the following graduated fee schedule depending on the percentage of aggregate recycling accomplished.

- a. A fee is required equivalent to five percent (5%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **"Exhibit A"**, generated from Contractor's provision of organic waste collection services within the City is required if Contractor reports aggregate recycling of at least sixty percent (60%) of organic waste collected.

3. Reports of all complaints and investigations received/ action taken by Contractor, and results or final disposition of complaint and investigation.
4. A report of all Contractor accounts served and monthly revenue derived from the provision of collecting organic waste in the City under terms of this franchise. The reports will include customer's address, frequency of pick-up, size of container, type of container, and monthly charges.
5. Such information concerning the business of collection, processing and marketing of recyclable materials as may be required by the City's representative.

**ARTICLE VII
PLACEMENT OF ROLL-OFFS, COMPACTORS, AND CONTAINERS**

1. All roll-off(s), compactor(s), and container(s) placed in service shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall Contractor place roll-off(s), compactor(s), or container(s) on public streets, alleys or thoroughfares without the prior written approval of the City. City reserves the right to designate the exact location of any or all roll-off(s), compactor(s), or container(s) placed in service in the City.
2. Organic waste collection shall not interfere with the City's collection of municipal solid waste.
3. Under no circumstances shall contractor place roll-off(s), compactor(s), or container(s) in existing enclosures designated for City roll-off(s), compactor(s), and container(s).

**ARTICLE VIII
CONTAINER AND EQUIPMENT MAINTENANCE**

1. Contractor's vehicles shall at all times be clearly marked with Contractor's name, address, telephone number and if applicable, state permit number, in letters not less than three (3) inches in height. All equipment necessary for the performance of this franchise shall be in good condition and repair.
2. Contractor agrees to paint and properly maintain in a safe, clean, and sanitary condition, all roll-off, compactors, or containers placed out for service within the City. Organic waste roll-off(s), compactor(s), and container(s) must be clearly marked as used for "Organic Waste Only" in letters at least twelve inches (12") in height on the sides of the roll-off(s), compactor(s), and container(s).
3. All vehicles used by Contractor in the removal of organic waste must be covered during transport to prevent spillage, blowing, or scattering of refuse onto public streets or rights of way, private property or adjacent property. A stand-by vehicle shall always be available.

**ARTICLE IX
COMPLAINTS REGARDING SERVICE/SPILLAGE**

Contractor shall handle directly any complaints pertaining to customer service, property damage or personal injury from their collection service. Any complaints received by City shall be forwarded to Contractor within twenty-four (24) hours of receipt by City. Contractor shall respond to all complaints within twenty-four (24) hours of receiving notice of complaint from City, shall resolve complaints promptly, and shall report to City the action taken. Failure by Contractor to respond and report to City on action taken within this twenty-four (24) hour period may subject Contractor to a \$100.00 per incident charge from City, payable with the next payment due City under Article V of this Franchise Agreement.

**ARTICLE X
COMPLIANCE WITH LAWS**

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

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

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

**ARTICLE XII
OWNERSHIP OF MATERIALS**

Sole and exclusive title to all organic waste collected by Contractor under this Franchise Agreement will pass to Contractor when the debris is placed on Contractor's truck.

**ARTICLE XIII
CITY SERVICE**

Contractor agrees to provide free service to City following natural disasters or acts of God.

**ARTICLE XIV
FAILURE TO PERFORM**

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

**ARTICLE XV
RELEASE AND INDEMNIFICATION**

1. Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges City, its officers, agents and employees, from all claims, demands, and causes of action of every kind and character including the cost of defense thereof, for any injury to, including death of, any person whether that person be a third person party, Contractor, or an employee of either of the parties hereto, and any loss of or damage to property, whether the same be that of either of the parties hereto or of third parties, caused by or alleged to be caused by, arising out of or in connection with the grant of this franchise to Contractor, whether or not said claims, demands and causes of action in whole or in part are covered by insurance.

2. Contractor agrees to and shall indemnify and hold City harmless and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person, and for damage to any property, out of or in connection with operation of Contractor's recycling business under this franchise and disposal or resale of the recyclable waste collected by it, and arising out of or in connection with the performance of this Agreement, whether the Contractor's negligence is the sole or concurring cause of the injury, death, or damages, and whether the City's negligence is the sole or concurring cause of the injury, death, or damages. It is the express intention of the parties hereto, that the indemnity provided for

hereinabove is intended by the Contractor to indemnify and protect the City from the consequences of both the City's own negligence, whether that negligence is the sole or a concurring cause of the injury, death or damage; or the Contractor's negligence, whether that negligence is the sole or a concurring cause of the injury, death or damage.

3. Contractor assumes responsibility and liability and hereby agrees to indemnify the City from any liability caused by Contractor's failure to comply with applicable federal, state, or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

ARTICLE XVI INSURANCE

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

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

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

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

a. Standard Insurance Policies Required

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

b. General Requirements Applicable to All Policies

1. Only Insurance Carriers licensed and authorized to do business in the State of Texas will be accepted.
2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
3. "Claims Made" policies are not accepted.

4. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits of liability, except after thirty (30) days prior written notice has been given to the City of College Station.
5. In the event of a claim and upon request, Contractor shall furnish copies of all insurance policies to the City of College Station.
6. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" on the Commercial General and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

c. Commercial General Liability

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

d. Endorsements

1. 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 on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as **Exhibit "B"**, and approved by the City before work commences.

e. Workers Compensation Insurance

1. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a worker's compensation insurance policy, either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance

Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent Contractor may not be used.

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

Definitions:

- A. Certificate of coverage ("certificate") – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
- B. Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.
- C. Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor,

transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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

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

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

ARTICLE XVII ASSIGNMENT

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

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

1. Contractor shall perform the collection in accordance with the applicable laws, codes, ordinances and regulations of the United States, State of Texas, Brazos County, and City of College Station and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that safety precautions are part of the collection techniques for which Contractor is solely responsible. In carrying on the services herein provided for, Contractor shall use all proper skill and care, and Contractor shall exercise all due and proper precautions to prevent injury to any property, or person(s).
2. Contractor shall pay for all damages to City property resulting from the operation of its service, and shall pay every owner of property abutting the residential property on which the container is located, for all damages or injuries caused by any act or omission of Contractor or of any of its subcontractors or employees in the operation of the Contractor service,

ARTICLE XIX AD VALOREM TAXES

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

**ARTICLE XX
NOTICES AND PAYMENTS**

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

Recycling Coordinator	Eric Hickman
City of College Station	President and CEO
P.O. Box 9960	Viridiun
College Station, Texas 77842	5050 Wallace Drive
	Cumming, Georgia 30041

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

**ARTICLE XXI
PENALTY**

Any person, firm or corporation violating any provision of this ordinance shall receive a citation and fine not to exceed \$2,000.00 for each offense, and each and every day said violation continues constitutes a separate offense.

**ARTICLE XXII
AMENDMENTS**

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

**ARTICLE XXIII
SEVERABILITY**

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

**ARTICLE XXIV
AUTHORIZATION TO EXECUTE**

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

**ARTICLE XXV
TERM AND TERMINATION OF FRANCHISE**

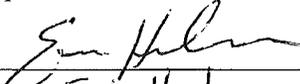
1. The term of this Franchise Agreement shall be for a period of five (5) years beginning on the date of acceptance.
2. In addition to all other rights and powers retained by City under this Franchise or otherwise, City reserves the right to declare this Franchise forfeited and to terminate the Franchise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

**ARTICLE XXVI
ACCEPTANCE OF FRANCHISE**

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

Attn: Public Works Director

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

By: 
Name: Eric Hickman
Title: President & CEO
Date: 12/21/2012

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

**ARTICLE XXVII
PUBLIC MEETING**

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

First Consideration & Approval on the _____ day of _____ 2012

Second Consideration & Approval on the _____ day of _____ 2012

VIRIDIUM

CITY OF COLLEGE STATION

By: 

By: _____
Mayor

Printed Name: Eric Hickman

Date: _____

Title: President & CEO

Date: 12/21/2012

ATTEST:

City Secretary
Date: _____

APPROVED:

City Manager
Date: _____


City Attorney
Date: 1-3-13

Executive Dir. Business Services
Date: _____

EXHIBIT "A"
SCHEDULE OF RATES

Organic Recycling Service	\$210.00 per pickup
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EXHIBIT "B"
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

January 10, 2013
Regular Agenda Item No. 1
Rock Prairie Municipal Management District 1 (West)

To: David Neeley, City Manager

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

Agenda Caption: Presentation, public hearing, possible action and discussion regarding adoption of a Resolution of the City of College Station supporting Legislation to create the "Rock Prairie Medical District Municipal Management District Number One", the associated draft legislation and the potential conditions of consent associated with the District

Relationship to Strategic Goals: Core Services and Infrastructure, Financially Sustainable City, Diverse Growing Economy, and Improving Mobility

Recommendation: Staff recommends Council approve the Resolution as presented and receive the preliminary list of consent conditions for later discussion (should the Council forward the draft legislation and should the legislation be approved).

Summary: In October of 2012, the City Council approved an amendment of the City's Comprehensive Plan to include the College Station Medical District Master Plan. To realize the Vision and economic development opportunities realized in the Master Plan, significant barriers to development and successful plan implementation must be overcome. These barriers include, but are not limited to lack of basic infrastructure (potable water, fire flow, sanitary sewer, etc) to serve development in the area and lack of transportation capacity (vehicular, pedestrian, etc) to meet the mobility needs present in the area and the lack of a sufficient management structure to ensure the long-term success of the District.

The approved Master Plan identified a series of financial and management tools necessary to overcome these barriers and to maximize the development potential of the area. A key tool identified in the Master Plan is the use of Municipal Management Districts (MMD). Staff has proposed the establishment of two MMD's in the District. This request addresses MMD 1, which encompasses the area west of the SH6/Rock Prairie Road Bridge and includes the two hospitals located within the District. The emphasis of the MMD in this area will be on the marketing and promotion of the District and limited service enhancements (landscaping, maintenance of public works, etc) and limited improvement projects (signage, public works enhancements, etc).

Funding of the activities of the MMD will come from proceeds raised via assessments and other means as described in the proposed enabling legislation and as voted on by the MMD Board.

At the December 13th Council meeting, the Council conducted a public hearing and provided direction to staff regarding the draft legislation and provided some indication of the types of conditions they may wish to discuss further at the time they consider conditions on their consent to join/form the MMD. All required notices to property owners, TCEQ, Brazos County, and the Governor have been mailed and published so that if approved by Council, the draft legislation may be filed in January.

Action on the Resolution and draft legislation is being requested. No action on the preliminary list of consent conditions is being requested as they (and other potential conditions) will be discussed at a later date should the legislation be approved.

Budget & Financial Summary: Approximately \$105,000 to establish the two proposed MMD's (some portion of which may be reimbursable), Future Activities of the MMD are funded by the members of the MMD with costs dependent upon selected MMD projects

Reviewed and Approved by Legal: Yes

Attachments:

1. MMD 1 Boundary Map and Legal Description
2. Resolution
3. Proposed Draft Enabling Legislation
4. Preliminary Consent Condition Consideration List

RESOLUTION NO. _____

A RESOLUTION SUPPORTING SPECIAL LEGISLATION FOR THE CREATION OF ROCK PRAIRIE MANAGEMENT DISTRICT NO. 1.

WHEREAS, a municipal management district, to be known as the Rock Prairie Management District No. 1 (the "District") is proposed to be created by the Texas Legislature within the City of College Station, Texas (the "City") for the benefit of the public, including the promotion, development, encouragement, and maintenance of employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the general welfare in the area of the District and the construction of certain infrastructure improvements; and

WHEREAS, the City desires to support legislation for the creation of the District; and

WHEREAS, the Texas Local Government Code provides that land within a city's boundaries may not be included within a municipal management district without the city's written consent;

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

- PART 1: That the facts and opinions in the preamble of this Resolution are true and correct.
- PART 2: That the City Council hereby supports the passage of special legislation in the 83rd Texas Legislature for the creation of the District.
- PART 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND APPROVED the 10th of January, 2013.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:



City Attorney

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

I, the undersigned, City Secretary of the City of College Station, Texas, do hereby certify that the above and foregoing is a true and correct copy of a Resolution of the City Council of College Station, Texas and was passed and adopted on the 10th day of January, 2013, all as same appears of record in the minutes of said City Council and on file in my office.

WITNESS MY HAND AND THE SEAL OF COLLEGE STATION, TEXAS, this 10th day of January, 2013.

By: _____
City Secretary

(SEAL)

By: _____

____. B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Rock Prairie Management District No. 1; providing authority to levy an assessment and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 38__ to read as follows:

CHAPTER 38__. ROCK PRAIRIE MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38__.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of College Station, Texas;
- (3) "County" means Brazos County, Texas;
- (4) "Director" means a board member.
- (5) "District" means Rock Prairie Management District

No. 1.

Sec. 38__.002. NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 38__.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city and the county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant city or county services provided in the district.

Sec. 38__.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district

will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide for water, wastewater, drainage, road and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 38 .005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment; or

(4) legality or operation.

Sec. 38__ .006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

Sec. 38__ .007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 38__ .008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 38__ .009 - 38__ .050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 38__ .051. GOVERNING BODY; TERMS. (a) The district is governed by a board of 11 voting directors who serve staggered terms of four years, with 5 or 6 directors' terms expiring June 1 of each odd-numbered year.

(b) The city by resolution may change the number of voting directors on the board, but only if the governing body of the city determines that the change is in the best interest of the district. The board may not consist of fewer than 7 or more than 15 voting directors.

Sec. 38__.052. APPOINTMENT OF VOTING DIRECTORS. The mayor and members of the governing body of the city shall appoint voting directors. A person is appointed if a majority of the members of the governing body, including the mayor, of the city vote to appoint that person.

Sec. 38__.053. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	_____
<u>2</u>	_____
<u>3</u>	_____
<u>4</u>	_____
<u>5</u>	_____
<u>6</u>	_____
<u>7</u>	_____
<u>8</u>	_____
<u>9</u>	_____
<u>10</u>	_____
<u>11</u>	_____

(b) Of the initial directors, the terms of directors appointed for positions 1 through 5 expire June 1, 2013, and the terms of directors appointed for positions 6 through 11 expire June 1, 2015.

(c) Section 38__.052 does not apply to the appointment of directors under this section.

Sec. 38__.054. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 38__.055. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

[Sections 38__.056 - 38__.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 38__.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 38__.102. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve,

relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 38___.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 38___.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall consist of some or all of the directors. Upon approval by the City, the board may appoint other people to the board of directors of the nonprofit corporation if in the best interest of the district. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 38__ .105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 38__ .106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 38__ .107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 38__108. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

- (1) Chapter 380, Local Government Code; and
- (2) Subchapter A, Chapter 1509, Government Code.

Sec. 38__109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement. The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 38__ .110. ANNEXATION OF LAND. The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

Sec. 38__ .111. APPROVAL BY THE CITY. (a) Except as provided by Subsection (c), the district must obtain the approval of the city for:

(1) the issuance of bonds;

(2) the plans and specifications of an improvement project financed by bonds; and

(3) the plans and specifications of an improvement project related to the use of land owned by the city, an easement granted by the city or a right-of-way of a street, road or highway.

(b) The approval contained under subsection (a)(1) must be a resolution or ordinance of the governing body of the city. The approval obtained under Subsection (a)(2) or (3) may be by an administrative process that does not involve the city's governing body.

(c) If the district obtains the approval of the city's governing body of a capital improvements budget for a period not

to exceed ten years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the city.

Sec. 38___.112. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

[Sections 38___.114 - 38___.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 38___.113. ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of district assessments on property within such zones.

Sec. 38___.152. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 38___.153. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 38___.154. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 38__155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that

the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 38-156. EXEMPTIONS. Organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, are not exempt from the payment assessments, and Section 375.162, Local Government Code, does not apply to such organizations.

Sec. 38-157. NO AD VALOREM TAXES. This district may not impose ad valorem taxes.

[Sections 38__.158- 38__.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 38__.201. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on terms as determined by the board.

(b) The district may issue, without an election, bonds, notes, or other obligations payable wholly or partly from assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

Sec. 38__.202. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

SECTION 2. Rock Prairie Management District No. 1 initially includes all territory contained in the following area:

All that certain tract or parcel of land lying and being situated in the Crawford Burnett league (abstract no. 7), Robert Stevenson league (abstract no. 54) and Thomas Caruthers league (abstract no. 9) in College Station, Brazos County, Texas, generally being an area centered around the intersection of Rock Prairie Road and State Highway no. 6, and the boundary being more particularly described as follows:

Beginning at the intersection of the south right-of-way line of Rock Prairie Road East (60 feet south of surveyed centerline) and the east boundary of Block 7 of the Scott & White Healthcare Subdivision (vol. 10179, pg. 50), being the northeast corner of Lot 1, Block 7 of said subdivision, and from where the City of College Station GPS control monument no. 9 bears S 82° 02' 35" E - 7016.5 feet.

Thence along the east boundary lines of said Scott & White subdivision as follows:

S 2° 42' 34" E - 1023.83 feet, S 50° 49' 32" W - 930.60 feet, S 47° 37' 11" E - 128.13 feet and S 41° 15' 39" W - 1224.44 feet to the northeast right-of-way line of State Highway no. 6;

Thence along the said highway northeast right-of-way lines as follows:

S 34° 27' 26" E - 55.00 feet, S 27° 43' 31" E - 192.30 feet, S 36° 45' 17" E - 383.87 feet and S 42° 27' 25" E - 105.18 feet to a southeast line of that M.D. Wheeler, Ltd. 10.01 acre Tract One (vol. 3007, pg. 341);

Thence along the southeast lines of said M.D. Wheeler Tract One and the southwest lines of 71.52 acre Tract Two as follows:

N 41° 43' 32" E - 194.25 feet, N 21° 27' 46" E - 145.09 feet, S 46° 46' 09" E - 304.24 feet and S 47° 42' 33" E - 177.08 feet to the west corner of that IHD Properties, LLC 2.77 acre Tract One (vol. 10144, pg. 203);

Thence along the north, east and south lines of said IHD Properties tract as follows:

N 72° 19' 02" E - 202.14 feet, S 47° 42' 56" E - 638.83 feet and S 42° 17' 04" W - 175.00 feet to the northeast common corner of the Harley Subdivision (vol. 3961, pg. 236) and Cooper's Subdivision (vol. 4708, pg. 230) in a southwest line of said Wheeler Tract Two;

Thence S 47° 42' 16" E - 1053.70 feet along the northeast line of said Cooper's Subdivision and continuing along the northeast line of the Barker Subdivision (vol. 5101, pg. 182) to its east corner;

Thence S 38° 51' 07" W - 279.95 feet along the southeast line of said Barker Subdivision to its south corner in the northeast line of State Highway no. 6, also being a west corner of the City of College Station 46.60 acre tract (vol. 3310, pg. 321);

Thence crossing said highway and along its southwest right-of-way lines as follows:

S 58° 32' 52" W - 371.50 feet, N 49° 25' 00" W - 238.23 feet, N 43° 42' 22" W - 201.00 feet, N 49° 25' 00" W - 1400.00 feet, N 46° 52' 14" W - 413.20 feet, N 38° 34' 52" W - 507.10 feet, N 32° 13' 53" W - 534.28 feet, N 27° 56' 32" W - 200.56 feet, N 32° 13' 53" W - 400.00 feet, N 35° 05' 29" W - 200.28 feet and N 82° 25' 23" W - 78.10 feet to the westerly north corner of Lot 1, Block 1 of Graham Corner Plaza (vol. 5878, pg. 129) in the southeast line of Graham Road;

Thence N 40° 30' 48" W - 71.60 feet across Graham Road to the east corner of the remainder of the Jack E. Winslow, Jr. 3.0 acre tract (vol. 2291, pg 140 and vol. 2835, pg. 180) in the northwest line of Graham Road (vol. 2086, pg. 58);

Thence N 32° 13' 25" W - 311.17 feet, along the southwest right-of-way line of State Highway no. 6, to the north corner of the said Winslow 3.0 acre tract;

Thence N 43° 01' 34" W - 187.16 feet, continuing along the southwest highway right-of-way to its intersection with the southeast right-of-way line of Birmingham Drive, at the north corner of Lot 1, Block 2 of Belmont Place (vol. 816, pg. 681);

Thence S 56° 19' 13" W - 882.77 feet, along the said southeast line of Birmingham Drive, along the northwest line of said Belmont Place (vol. 816, pg. 681), Belmont Place Section Three (vol. 9485, pg. 231) and across Longmire Drive to the westerly north corner of Lot 3, Block Four of Belmont Place Section Three (vol. 8104, pg. 183);

Thence along the east, south and west lines of said Lot 3, Block Four as follows:

S 76° 46' 03" E - 34.73 feet, S 33° 37' 31" E - 63.93 feet to the beginning of a tangent curve to the right with a radius of 605.00 feet, along said curve through a central angle of 13° 05' 29" to the point of tangency, S 20° 32' 02" E - 77.73 feet to the east corner of Lot 3, S 56° 19' 13" W - 192.21 feet and N 33° 40' 47" W - 302.00 feet to the west corner of Lot 3 in the southeast line of Birmingham Drive;

Thence along the southeast right-of-way lines of Birmingham Drive (vol. 1024, pg. 826) as follows:

S 56° 19' 13" W - 578.30 feet to the beginning of a tangent curve to the left with a radius of 379.78, along said curve through a central angle of 8° 39' 09" to the point of tangency and S 47° 40' 04" W - 248.52 feet to the northeast line of the City of College Station 35.00 acre tract (vol. 692, pg. 506);

Thence along the northeast lines of the said City 35.00 acre tract as follows:

S 48° 01' 03" E - 522.82 feet and S 46° 38' 56" E - 421.66 feet to the northwest right-of-way of Graham Road (vol. 1955, pg. 245);

Thence along the said northwest right-of-way lines of Graham Road as follows:

S 41° 33' 01" W - 18.30 feet, S 42° 04' 18" W - 521.46 feet and S 41° 03' 13" W - 319.08 feet to the southwest line of said 35.00 acre tract;

Thence N 47° 40' 02" W - 1753.06 feet along the said southwest line of the 35.00 acre tract to the west corner of same in the common line of the F.M. and Olive Arnold 50 acre tract (vol. 200, pg. 445) and the Texas Hotel Management Corporation 17.215 acre tract (vol. 3665, pg. 248);

Thence along the said common Arnold and Texas Hotel lines and continuing along the northwest lines of Arnold Road (vol. 5027, pg. 162) as follows:

S 43° 02' 52" W - 190.23 feet, S 42° 48' 34" E - 37.00 feet, S 43° 06' 26" W - 10.80 feet, N 42° 48' 34" W - 37.00 feet, S 43° 06' 26" W - 34.60 feet, S 65° 14' 25" W - 160.32 feet, N 47° 33' 07" W - 32.38 feet, S 63° 10' 11" W - 180.26 feet, to the beginning of a tangent curve to the left with a radius of 405.00 feet, along said curve through a central angle of 17° 37' 25" to the end of said curve, and S 55° 19' 37" W - 5.32 feet to the east corner of the City of College Station 9.93 acre tract (vol. 448, pg. 230);

Thence along the south, west and north boundary of Brian Bachmann Athletic Park (formerly Southwood Athletic Park) and continuing along Rock Prairie Road as follows:

S 41° 59' 07" W - 1027.13 feet along the northwest line of Arnold Road and southeast lines of the said City 9.93 acre tract and the City 15.89 acre tract (vol. 448, pg. 232), N 43° 45' 01" W - 1185.92 feet, along the southwest line of said 15.89 acre tract to the southeast right-of-way line of Rock Prairie Road (80' R.O.W. - vol. 779, pg. 571), N 51° 57' 01" E - 1177.50 feet along said southeast line of Rock Prairie Road to the beginning of a tangent curve to the right with a radius of 1006.62 feet in the southeast boundary of Southwood Terrace Phase 3-C (vol. 523, pg. 431), along said curve through a central angle of 8° 11' 51" to the point of tangency, N 60° 08' 52" E - 1486.99 feet along the southeast boundary of Southwood

Terrace Phase 3-B (vol. 579, pg. 380) and Phase 3-A (vol. 519, pg. 378) to the beginning of a tangent curve to the right with a radius of 960.00 feet, along said curve through a central angle of 18° 38' 31" to the point of tangency, N 78° 47' 23" E - 14.90 feet and N 11° 12' 37" W - 79.72 feet across Rock Prairie Road to the southwest corner of the Remington Subdivision (vol. 1239, pg. 219);

Thence along the west boundary lines of said Remington Subdivision, the northwest boundary of Tract B, Ponderosa Place Section Two (vol. 2680, pg. 321) and Longmire Place (vol. 3377, pg. 155) and along the southwest boundary of Ponderosa Place (vol. 490, pg. 169) as follows:

N 26° 55' 04" W - 252.32 feet, N 17° 18' 19" E - 259.07 feet, N 42° 34' 17" E - 624.79 feet and N 40° 39' 13" W - 796.43 feet to the west corner of Lot 4, Block 21 of Ponderosa Place, in the southeast line of Ponderosa Road;

Thence N 49° 20' 47" E - 1150.00 feet, along the southeast right-of-way line of Ponderosa Road, to the north corner of Lot 1, Block 19 of Ponderosa Place, in the southwest right-of-way of State Highway no. 6;

Thence along the said highway southwest right-of-way lines as follows:

S 40° 39' 13" E - 480.00 feet, S 32° 12' 28" E - 185.04 feet, S 41° 13' 02" E - 80.23 feet and S 17° 22' 13" E -

34.06 feet to the southeast line of Lot 1, Block 20 of Ponderosa Place;

Thence N 78° 53' 01" E - 493.32 feet, across State Highway no. 6 to the west corner of Lot 2-B, Block One of Cornerstone Commercial Section One (vol. 3922, pg. 282) in the southeast right-of-way line of Woodcreek Drive;

Thence along the southeast right-of-way of Woodcreek Drive as follows:

Along the arc of a curve to the right with a radius of 890.00 feet, through a central angle of 9° 52' 07", the chord of which bears N 52° 46' 54" E - 153.10 feet, N 57° 42' 58" E - 318.00 feet to the beginning of a tangent curve to the left with a radius of 835.00 feet, along said curve through a central angle of 8° 00' 00" to the north corner of Lot 1 (vol. 3283, pg. 201);

Thence along the northeast lines of Lot 1 and Lot 2-A of said Cornerstone Commercial Section One as follows:

S 40° 17' 03" E - 155.81 feet to the east common corner of Lot 1 and Lot 2-A and the beginning of a tangent curve to the right with a radius of 600.00 feet, along said arc through a central angle of 16° 01' 29" to the point of tangency, and S 24° 15' 34" E - 280.69 feet to the most easterly corner of said Lot 2-A;

Thence along the south boundary lines of Woodcreek Section 4 (vol. 1315, pg. 217), Section Six South (vol. 2109, pg. 199) and Section Seven (vol. 2580, pg. 113), defining the north boundary lines of the remainder of the Edward Jr. and Beatrice Uvaceck tract (vol. 274, pg. 383 and vol. 321, pg. 664), as follows:

N 24° 13' 07" E - 555.17 feet, N 79° 45' 53" E - 313.69 feet, S 48° 05' 30" E - 216.00 feet, S 44° 28' 03" E - 75.26 feet, S 28° 11' 32" E - 108.12 feet, S 34° 34' 23" E - 162.74 feet, S 39° 46' 00" E - 149.62 feet, S 44° 34' 42" E - 282.83 feet, N 24° 16' 33" E - 134.65 feet and N 68° 52' 20" E - 230.83 feet to the northwest corner of the Riviera Addition (vol. 6607, pg. 97);

Thence S 15° 28' 15" E - 269.56 feet, along the west line of said Riviera Addition, to the north right-of-way line of Rock Prairie Road East (59.0 feet north of surveyed centerline);

Thence S 86° 27' 34" E - 961.09 feet, along said north right-of-way line, to its intersection with an extension of the east boundary of Block 7 of the Scott & White Healthcare Subdivision;

Thence S 2° 42' 34" E - 120.04 feet, across Rock Prairie Road, to the Point of Beginning and containing 437.07 acres of land more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each

house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Preliminary Consent Condition Consideration List

The following are items that Council has identified that may warrant consideration as conditions of granting consent for placement of properties into the Municipal Management District and to its subsequent operation. This list is not exhaustive or binding, but is intended to maintain a record of the preliminary items raised by Council.

- Fees and service taxes to be approved by City Council; in addition to all bond issuances already requiring Council approval
- Council approval on MMD salaries
- Council approval of annual MMD budget
- All MMD meetings posted at City Hall, on the City's website, and Board meetings occurring in City Hall
- All Board meetings recorded (audio and video) and posted on the City's website; similar to other City meetings

January 10, 2013
Regular Agenda Item No. 2
Rock Prairie Municipal Management District 2 (East)

To: David Neeley, City Manager

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

Agenda Caption: Presentation, public hearing, possible action and discussion regarding adoption of a Resolution of the City of College Station supporting Legislation to create the "Rock Prairie Medical District Municipal Management District Number Two", the associated draft legislation and the potential conditions of consent associated with the District

Relationship to Strategic Goals: Core Services and Infrastructure, Financially Sustainable City, Diverse Growing Economy, and Improving Mobility

Recommendation: Staff recommends Council approve the Resolution as presented and receive the preliminary list of consent conditions for later discussion (should the Council forward the draft legislation and should the legislation be approved).

Summary: In October of 2012, the City Council approved an amendment of the City's Comprehensive Plan to include the College Station Medical District Master Plan. To realize the Vision and economic development opportunities realized in the Master Plan, significant barriers to development and successful plan implementation must be overcome. These barriers include, but are not limited to lack of basic infrastructure (potable water, fire flow, sanitary sewer, etc) to serve development in the area and lack of transportation capacity (vehicular, pedestrian, etc) to meet the mobility needs present in the area and the lack of a sufficient management structure to ensure the long-term success of the District.

The approved Master Plan identified a series of financial and management tools necessary to overcome these barriers and to maximize the development potential of the area. A key tool identified in the Master Plan is the use of Municipal Management Districts (MMD). Staff has proposed the establishment of two MMD's in the District. This request addresses MMD 2, which encompasses the area east of the SH6/Rock Prairie Road Bridge and includes most of the undeveloped properties located within the District. The emphasis of the MMD in this area will be on complimenting the TIRZ in funding for select improvement projects as well as the marketing and promotion of the District and limited service enhancements (landscaping, maintenance of public works, etc) and limited improvement projects (signage, public works enhancements, etc).

Funding of the activities of the MMD will come from proceeds raised via ad valorem taxes, assessments and other means as described in the proposed enabling legislation and as voted on by the residents of the MMD and the MMD Board.

At the December 13th Council meeting, the Council conducted a public hearing and provided direction to staff regarding the draft legislation and provided some indication of the types of conditions they may wish to discuss further at the time they consider conditions on their consent to join/form the MMD. All required notices to property owners, TCEQ, Brazos County, and the Governor have been mailed and published so that if approved by Council, the draft legislation may be filed in January.

Action on the Resolution and draft legislation is being requested. No action on the preliminary list of consent conditions is being requested as they (and other potential conditions) will be discussed at a later date should the legislation be approved.

Budget & Financial Summary: Approximately \$105,000 to establish the two proposed MMD's (some portion of which may be reimbursable), Future Activities of the MMD are funded by the members of the MMD with costs dependent upon selected MMD projects

Reviewed and Approved by Legal: Yes

Attachments:

1. MMD 2 Boundary Map and Legal Description
2. Resolution
3. Proposed Draft Enabling Legislation
4. Preliminary Consent Condition Consideration List

RESOLUTION NO. _____

A RESOLUTION SUPPORTING SPECIAL LEGISLATION FOR THE CREATION OF ROCK PRAIRIE MANAGEMENT DISTRICT NO. 2.

WHEREAS, a municipal management district, to be known as the Rock Prairie Management District No. 2 (the "District") is proposed to be created by the Texas Legislature within the City of College Station, Texas (the "City") for the benefit of the public, including the promotion, development, encouragement, and maintenance of employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the general welfare in the area of the District and the construction of certain infrastructure improvements; and

WHEREAS, the City desires to support legislation for the creation of the District; and

WHEREAS, the Texas Local Government Code provides that land within a city's boundaries may not be included within a municipal management district without the city's written consent;

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

- PART 1: That the facts and opinions in the preamble of this Resolution are true and correct.
- PART 2: That the City Council hereby supports the passage of special legislation in the 83rd Texas Legislature for the creation of the District.
- PART 3: That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND APPROVED the 10th of January, 2013.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:



City Attorney

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

I, the undersigned, City Secretary of the City of College Station, Texas, do hereby certify that the above and foregoing is a true and correct copy of a Resolution of the City Council of College Station, Texas and was passed and adopted on the 10th day of January, 2013, all as same appears of record in the minutes of said City Council and on file in my office.

WITNESS MY HAND AND THE SEAL OF COLLEGE STATION, TEXAS, this 10th day of January, 2013.

By: _____
City Secretary

(SEAL)

By: _____

____. B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Rock Prairie Management District No. 2; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 38__ to read as follows:

CHAPTER 38__. ROCK PRAIRIE MANAGEMENT DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38__.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of College Station, Texas;
- (3) "County" means Brazos County, Texas;
- (4) "Director" means a board member.
- (5) "District" means Rock Prairie Management District

No. 2.

Sec. 38__ .002. NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 38__ .003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city and the county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant city or county services provided in the district.

Sec. 38__ .004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by

landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide for water, wastewater, drainage, road and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 38 .005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment or tax;

or

(4) legality or operation.

Sec. 38__.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

Sec. 38__.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 38__.008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 38__.009 - 38__.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 38___.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of 5 voting directors who serve staggered terms of four years, with 2 or 3 directors' terms expiring June 1 of each odd-numbered year.

(b) The Board by resolution may change the number of voting directors on the board, but only if the Board determines that the change is in the best interest of the District and such change is approved by the city. The board may not consist of fewer than 5 or more than 15 voting directors.

Sec. 38___.052. APPOINTMENT OF VOTING DIRECTORS. The mayor and members of the governing body of the city shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, of the city vote to appoint that person.

Sec. 38___.053. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
1	_____
2	_____
3	_____
4	_____
5	_____

(b) Of the initial directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2013, and the terms of directors appointed for positions 4 and 5 expire June 1, 2015.

(c) Section 38__.052 does not apply to the appointment of directors under this section.

Sec. 38__.054. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 38__.055. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

[Sections 38__.056 - 38__.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 38__.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 38__.102. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve,

relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 38__ .103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 38__ .104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall consist of some or all of the directors. Upon approval by the City, the board may appoint other people to the board of directors of the nonprofit corporation if in the best interest of the district. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 38__ .105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 38__ .106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 38__ .107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 38__108. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

- (1) Chapter 380, Local Government Code; and
- (2) Subchapter A, Chapter 1509, Government Code.

Sec. 38__109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement. The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 38__ .110. ANNEXATION OF LAND. The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

Sec. 38__ .111. APPROVAL BY THE CITY. (a) Except as provided by Subsection (c), the district must obtain the approval of the city for:

(1) the issuance of bonds;

(2) the plans and specifications of an improvement project financed by bonds; and

(3) the plans and specifications of an improvement project related to the use of land owned by the city, an easement granted by the city or a right-of-way of a street, road or highway.

(b) The approval contained under subsection (a)(1) must be a resolution or ordinance of the governing body of the city. The approval obtained under Subsection (a)(2) or (3) may be by an administrative process that does not involve the city's governing body.

(c) If the district obtains the approval of the city's governing body of a capital improvements budget for a period not

to exceed ten years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the city.

Sec. 38___.112. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

[Sections 38___.113 - 38___.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 38___.151. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of district taxes or assessments on property within such zones.

Sec. 38___.152. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 38___.153. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 38___.154. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under

this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 38__155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 38-156. EXEMPTIONS. Organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, are not exempt from the payment assessments, and Section 375.162, Local Government Code, does not apply to such organizations.

[Sections 38__.157 - 38__.200 reserved for expansion]

SUBCHAPTER E. TAXES AND BONDS

Sec. 38__.201. ELECTIONS REGARDING TAXES AND BONDS. (a) The district may issue, without an election, bonds, notes, and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 38__.203.

(b) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to

obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 38__.202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election held in accordance with Section 38__.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 38__.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the

provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 38__.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on terms as determined by the board.

(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

Sec. 38__.205. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 38__.206. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

SECTION 2. Rock Prairie Management District No. 2 initially includes all territory contained in the following area:

All that certain tract or parcel of land lying and being situated in the Thomas Caruthers league (abstract no. 9) and Robert Stevenson league (abstract no. 54) in College Station, Brazos County, Texas, generally being the area between State Highway no. 6 and Rock Prairie Road East, from Medical Avenue to William D. Fitch Parkway, save and except all of Lot 1, Rock Prairie Baptist Church (vol. 7312, pg. 207) lying south of the south right-of-way of Rock Prairie Road East, and the boundary being more particularly described as follows:

Beginning at the intersection of the south right-of-way line of Rock Prairie Road East (60 feet south of surveyed centerline) and the east boundary of Block 7 of the Scott & White Healthcare Subdivision (vol. 10179, pg. 50), being the northeast corner of Lot 1, Block 7 of said subdivision, and from where City of College Station GPS control monument no. 9 bears S 82° 02' 35" E - 7016.5 feet.

Thence N 2 ° 42' 34" W - 120.04 feet along an extension of the said east boundary line of Block 7, to a point in the north right-of-way line of Rock Prairie Road East;

Thence along the north right-of-way lines of Rock Prairie Road East (59.0 feet north of the surveyed centerline) as follows:

S 86° 27' 34" E - 1771.13 feet, S 85° 02' 05" E - 1228.54 feet and S 84° 23' 02" E - 10.29 feet to a right-of-way offset point in the common line of the Dale and Reba Conrad 26.25 acre tract (vol. 460, pg. 505) and the Flying Ace Ranch, Ltd. 26.245 acre tract (vol. 3767, pg. 237);

Thence S 24° 22' 52" W - 1.58 feet along said common tract line to another offset point in the north right-of-way line of Rock Prairie Road East;

Thence along the north right-of-way lines of Rock Prairie Road East (57.5 feet north of the surveyed centerline) as follows:

S 84° 23' 02" E - 606.93 feet, S 82° 02' 02" E - 1453.40 feet, S 77° 01' 02" E - 1052.59 feet, S 76° 28' 02" E - 2876.58 feet, S 69° 53' 32" E - 2812.30 feet to the beginning of a tangent curve to the right with a radius of 1057.50 feet, along said curve through a central angle of 11° 43' 34" to a point in the old northeast prescriptive right-of-way fenceline, and S 69° 17' 50" E - 269.35 feet along said fenceline to the southeast line of the Hartzell Elkins 35.37 acre tract (vol. 1920, pg. 323) and northwest line of William D. Fitch Parkway;

Thence across Rock Prairie Road East as follows:

S 42° 32' 30" W - 32.00 feet to the south corner of said Elkins tract, called to be in the centerline of the road, S 19° 52' 04" W - 36.01 feet to the east corner of the College Station Independent School District 44.535 acre tract (vol. 8413, pg. 291) at the old right-of-way fence corner post, and S 41° 51' 48" W - 170.08 feet along the southeast line of said C.S.I.S.D. tract and northwest line of Fitch Parkway to its intersection with the south right-of-way chamfer of Rock Prairie Road East;

Thence along the south right-of-way lines of Rock Prairie Road East (57.5 feet south of the surveyed centerline) as follows:

N 5° 38' 11" W - 67.56 feet, N 53° 08' 10" W - 112.88 feet to the beginning of a tangent curve to the left with a radius of 942.50 feet, along said curve through a central angle of 16° 45' 22" to the point of tangency, and N 69° 53' 32" W - 551.37 feet to the common line of said C.S.I.S.D. tract and the Brazos Valley Solid Waste Management Agency, Inc. 76.00 acre Tract II (vol. 9857, pg. 186);

Thence S 41° 51' 48" W - 1842.68 feet along said common tract line to its southwest end in a northeast line of the B.V.S.W.M.A. 179.99 acre Tract I;

Thence S 48° 05' 47" E - 941.57 feet, along the common line of said Tract I and the C.S.I.S.D. tract to their common corner in the northwest right-of-way of William D. Fitch Parkway;

Thence S 41° 51' 48" W - 1425.30 feet, along said northwest right-of-way line, to the south corner of the said B.V.S.W.M.A. Tract I;

Thence S 41° 51' 48" W - 1066.80 feet, continuing along said northwest right-of-way line of William D. Fitch Parkway, to the east common corner of the City of College Station 140.29 acre Tract One (vol. 3900, pg. 188) and Spring Meadows Phase I (vol. 5106, pg. 284);

Thence along the southern boundaries of multiple City of College Station tracts (vol. 3900, pgs. 188 & 223, vol. 5056, pg. 43) as follows:

N 73° 00' 00" W - 496.40 feet, S 51° 00' 00" W - 175.05 feet, N 76° 00' 00" W - 200.00 feet, S 41° 51' 44" W - 51.88 feet, N 70° 46' 00" W - 157.10 feet, S 41° 51' 44" W - 262.67 feet, N 82° 55' 43" W - 700.87 feet, S 41° 52' 26" W - 650.00, N 48° 08' 02" W - 412.47 feet, S 66° 47' 54" W - 827.57 feet, N 47° 45' 25" W - 129.90 feet, S 28° 59' 29" W - 2.01 feet, S 41° 48' 43" W - 336.13 feet, S 48° 45' 08" E - 440.00 feet and S 53° 00' 00" W - 1304.90 feet to the northeast right-of-way line of State Highway no. 6;

Thence along the northeast right-of-way lines of said highway as follows:

N 49° 25' 00" W - 438.00 feet, N 55° 07' 38" W - 201.00 feet, N 49° 25' 00" W - 751.78 feet to the west corner of the City of College Station 36.9 acre tract (vol. 4329, pg. 134), and N 49° 25' 00" W - 1025.93 feet to the south corner of Barron Park Subdivision (vol. 939, pg. 209);

Thence along the southeast, northeast and northwest lines of Lots 1 and 2 of said Barron Park Subdivision as follows:

S 41° 09' 46" E - 1353.16 feet, N 49° 12' 46" W - 88.68 feet to the south corner of the City of College Station 100.64 acre tract (vol. 6927, pg. 226), N 54° 07' 24" W - 291.11 feet, N 64° 27' 21" W - 117.03 feet, N 54° 53' 54" W - 24.95 feet, N 53° 19' 32" W - 113.87 feet, N 49° 26' 59" W - 190.11 feet and S 41° 09' 38" W - 1286.04 feet to the common corner of said Lot 2 and Lot 3 in the northeast right-of-way line of State Highway no. 6;

Thence along the said northeast right-of-way lines of said highway as follows:

N 47° 46' 18" W - 537.86 feet to the southwest common corner of Lot 3 of said Barron Park Subdivision and that City of College Station 46.60 acre tract (vol. 3310, pg. 321), N 47° 46' 48" W - 65.34 feet, N 55° 07' 37" W - 201.00 feet, N 49° 25' 00" W - 600.00 feet and N 44° 08' 33" W - 147.79 feet to the

southwest common corner of said 46.60 acre tract and the Barker Subdivision (vol. 5101, pg. 182);

Thence N 38° 51' 07" E - 279.95 feet along the southeast line of said Barker Subdivision to its east corner;

Thence N 47° 42' 16" W - 1053.70 feet along the northeast line of said Barker Subdivision and continuing along the northeast line of Cooper's Subdivision (vol. 4708, pg. 230) to its north corner, also being the east corner of the Harley Subdivision (vol. 3961, pg. 236) and the south corner of that IHD Properties, LLC 2.77 acre Tract One (vol. 10144, pg. 203);

Thence along the south, east and north lines of said IHD Properties tract as follows:

N 42° 17' 04" E - 175.00 feet, N 47° 42' 56" W - 638.83 feet and S 72° 19' 02" W - 202.14 feet to the northeast line of said Harley Subdivision and a southwest line of that M.D. Wheeler, Ltd. 71.52 acre Tract Two (vol. 3007, pg. 341);

Thence along the southwest lines of said Wheeler Tract Two and continuing along the southeast lines of the Wheeler 10.01 acre Tract One as follows:

N 47° 42' 33" W - 177.08 feet, N 46° 46' 09" W - 304.24 feet, S 21° 27' 46" W - 145.09 feet and S 41° 43' 32" W - 194.25 feet, returning to the northeast right-of-way line of State Highway no. 6;

Thence along the said highway northeast right-of-way lines as follows:

N 42° 27' 25" W - 105.18 feet, N 36° 45' 17" W - 383.87 feet, N 27° 43' 31" W - 192.30 feet and N 34° 27' 26" W - 55.00 feet to the southeast line of Block 4 of the said Scott & White Healthcare Subdivision;

Thence along the east boundary lines of said Scott & White subdivision as follows:

N 41° 15' 39" E - 1224.44 feet, N 47° 37' 11" W - 128.13 feet, N 50° 49' 32" E - 930.60 feet and N 2° 42' 34" W - 1023.83 feet to the Point of Beginning and containing 1308.51 acres of land more or less.

SAVE and EXCEPT the following tract:

Beginning at the intersection of the south right-of-way line of Rock Prairie Road East (57.5 feet south of the surveyed centerline) and the west line of Lot 1 of Rock Prairie Baptist Church (vol. 7312, pg. 207), from where City of College Station GPS control monument no. 9 bears S 78° 01' 24" E - 3240.0 feet.

Thence S 82° 02' 02" E - 414.05 feet along said south right-of-way line, parallel and 7.50 feet south of the north line of said Lot 1, to its intersection with the east line of said Lot 1;

Thence S 20° 22' 54" E - 600.82 feet along the east line of Lot 1 to its southeast corner;

Thence N 82° 02' 02" W - 699.33 feet along the south line of Lot 1 to its southwest corner;

Thence N 7° 57' 58" E - 528.77 feet along the west line of Lot 1 to the Point of Beginning and containing 6.76 acres of land more or less.

Leaving a net acreage for this described tract of 1301.76 acres more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation,

reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Preliminary Consent Condition Consideration List

The following are items that Council has identified that may warrant consideration as conditions of granting consent for placement of properties into the Municipal Management District and to its subsequent operation. This list is not exhaustive or binding, but is intended to maintain a record of the preliminary items raised by Council.

- Fees and service taxes to be approved by City Council; in addition to all bond issuances already requiring Council approval
- Council approval on MMD salaries
- Council approval of annual MMD budget
- All MMD meetings posted at City Hall, on the City's website, and Board meetings occurring in City Hall
- All Board meetings recorded (audio and video) and posted on the City's website; similar to other City meetings

January 10, 2013
Regular Agenda Item No. 3
ABHR Engagement Letter

To: David Neeley, City Manager

From: Carla Robinson, City Attorney

Agenda Caption: Presentation, possible action, and discussion regarding approval of an engagement letter between the City of College Station and Allen Boone Humphries Robinson, LLP in the amount of \$105,000 to provide services to the City in connection with the creation of two municipal management districts related to the Medical District and authorizing the City Manager to execute the engagement letter on behalf of the City Council.

Relationship to Strategic Goals:

1. Financially Sustainable City
2. Core Services and Infrastructure
3. Diverse Growing Economy

Recommendation(s): Staff recommends approval of the engagement letter and authorization for the City Manager to execute the contract.

Summary: Should the City Council decide to proceed with the creation of Municipal Management District No. 1 (MMD1) and Municipal Management District No. 2 (MMD2), several steps will be required to establish the Districts. These steps include drafting the legislation creating the districts; coordinating testimony at legislative hearings; working with legislators, their staff, the Texas Legislative Council, House and Senate Committees and the Governor to pass and sign the legislation; preparing and filing or publishing all required notices to the public, the County, the Governor, and the Texas Commission on Environmental Quality (TCEQ); and attending meetings of property owners and interested parties regarding the Districts' creation. Allen Boone Humphries Robinson LLP, a law firm located in Houston, Texas, has a practice devoted solely to public law and finance and has extensive experience obtaining special legislation creating a number of municipal management districts state wide. The scope of engagement with the City includes the services outlined above. The flat fee for the provision of these services for the creation of MMD1 and MMD2 is a total of \$105,000. The engagement letter also provides that the City may, if it desires, request additional services at its option for an hourly rate. Should the City Council decide not to proceed with the special legislation the City will be responsible for paying a pro rata portion of the fee for the work already performed.

Budget & Financial Summary: It is anticipated that all or a portion of these costs may be reimbursed by the MMDs when development agreements are negotiated and executed. Until then, these expenses are proposed to be paid out of the Economic Development Fund. The budget appropriation for this expenditure will be included on the first budget amendment.

Reviewed and Approved by Legal: Yes

Attachments: Available at the meeting.

January 10, 2013
Regular Agenda Item No. 4
Public Hearing and Consideration of Budget Amendment #1

To: David Neeley, City Manager

From: Jeff Kersten, Executive Director, Business Services

Agenda Caption: Public Hearing, presentation, possible action, and discussion on an ordinance Budget Amendment #1 amending ordinance number 3443 which will amend the budget for the 2012-2013 Fiscal Year in the amount of \$2,070,602.

Recommendation(s): Staff recommends the City Council hold the public hearing on Budget Amendment #1 and approve the budget amendment ordinance.

Summary: The proposed budget amendment is to increase the appropriations for the items listed below by \$2,070,602. The charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover increased expenditures and after holding a public hearing on such budget amendment. A number of items have been identified that need to be considered in a budget amendment. Attached is a list of the items in the proposed budget amendment.

Budget & Financial Summary: The City has resources or can reasonably expect resources to cover each of the appropriations in this budget amendment. The attached list has the complete description of the items included in the proposed budget amendment.

Attachments:

1. Budget Amendment #1 Detail List,
2. Ordinance

FY13 Budget Amendment #1 Detail Listing

The proposed budget amendment is to increase the appropriations for the items listed below by \$2,070,602.

1. Brazos Valley Bowl presented by Blinn College - \$25,000 (Budget Amendment)

This item will appropriate budget in the Hotel Tax Fund for expenses directly related to the 2012 National Junior College Athletic Association (NJCAA) Football Bowl Game held in Bryan/College Station on December 1, 2012. The authorization of the expenditure of these funds for this purpose was approved by Council on December 8, 2011, and Council subsequently approved a funding agreement with the Brazos Valley Bowl Association on November 19, 2012. The event was held December 1, 2012, and funds for this item were expended from the Hotel Tax Fund balance.

2. Assistance to Firefighters Grant - \$7,816 (Budget Amendment)

The Fire Department has been awarded the Assistance to Firefighters Grant Program– Fire Prevention and Safety Grant in the amount of \$7,816 with a matching requirement of \$1,954. These grants are awarded to governmental organizations that are recognized for their experience and expertise with respect to fire prevention or firefighter safety programs and activities. These funds will be used for the purchase of equipment and supplies for the Fire Department. This item will appropriate the budget in the Fire Department budget for the expenditures. The grant funds received will offset the expenditures.

3. Economic Development Funding for new districts – \$105,000 (Budget Amendment)

This item will appropriate budget in the Economic Development fund for the legal expenses associated with the creation of two Municipal Management Districts (MMD) related to the Medical District. It is anticipated that all or a portion of these costs may be reimbursed by the MMDs when development agreements are negotiated and executed. Until then, these expenses are proposed to be paid out of the Economic Development Fund.

4. Replacement of Vehicle #4187 – \$44,000 (Budget Amendment)

This item will appropriate budget in the Equipment Replacement Fund for the replacement of a wrecked Police Department vehicle that was not originally scheduled for replacement in FY13.

5. One-time Budget Distribution - \$577,516 (Budget Amendment)

On December 18, 2012, the City Council approved a proposal to share a portion of budgetary savings from the FY2012 budget with employees through a one-time budget savings distribution. At that time it was indicated that a budget amendment would be necessary to provide the budget appropriation for this item. Resources have been identified and are available in the various applicable operating funds for this expenditure.

6. Encumbrance Roll - \$1,311,270 (Budget Amendment)

Several expenditures were not completed in FY2012 due to timing issues. These purchases were budgeted and encumbered in FY2012, but were not received until FY2013. The General Fund purchases include \$100,169 for the Brazos Transit grant, Fire Station 6 equipment, as well as funds for various professional service and maintenance commitments. Other funds include: \$22,692 for the Economic Development Master Plan; \$66,500 for Hotel Tax Fund commitments; \$34,116 for the security cameras project in the Northgate Parking Fund; \$933,525 for Electric Fund switch station and entergy tie-in; \$139,000 for an ambulance purchase in the Equipment Replacement Fund; and \$15,268 in engineering services in the Drainage Utility Fund. The encumbrance roll increases the budget appropriation in each on the appropriate funds.

ORDINANCE NO. _____

AN ORDINANCE (BUDGET AMENDMENT 1) AMENDING ORDINANCE NUMBER 3443 WHICH WILL AMEND THE BUDGET FOR THE 2012-2013 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS THEREIN PROVIDED.

WHEREAS, the City Council of the City of College Station, Texas, approved its Budget Ordinance for the 2012-2013 Fiscal Year on September 13, 2012; and

WHEREAS, the City Council of the City of College Station, Texas, desires to amend the approved Budget Ordinance; and

WHEREAS, this amendment was prepared and presented to the City Council and a public hearing held thereon as prescribed by law and the Charter of the City of College Station, Texas, after notice of said hearing having been first duly given; now, therefore,

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

Part 1: That Part 1 of the Budget Ordinance for the 2012-2013 Fiscal Year is amended to read as follows:

"**PART 1:** That the proposed budget as amended by the City Council of the City of College Station, which is made a part hereof to the same extent as if set forth at length herein, is hereby adopted and approved, a copy of which is on file in the Office of the City Secretary in College Station Texas. Amended appropriations for fiscal year 2012-2013 for the General Fund are \$64,172,340; for the Economic Development Fund are \$433,749; for the Court Security Fee Fund are \$67,758; for the Juvenile Case Manager Fee Fund are \$104,871; for the Recreation Fund are \$1,033,655; for the Hotel Tax Fund are \$6,031,426; for the Northgate Parking Fund are \$1,252,215; for the Electric Fund are \$99,046,174; for the Water Fund are \$16,709,507; for the Wastewater Fund are \$16,099,713; for the Sanitation Fund are \$8,168,804; for the Property Casualty Fund are \$988,905; for the Employee Benefits Fund are \$9,656,868; for the Equipment Replacement Fund are \$2,956,813; for the Utility Customer Service Fund \$2,292,190 for the Fleet Maintenance Fund are \$1,692,901; for the Electric CIP Fund are \$13,231,439; and for the Drainage Utility Fund are \$2,139,101. All other appropriations as originally adopted and amended by the City Council remain in full force and effect."

Part 2: That this ordinance shall become effective immediately after passage and approval.

PASSED and APPROVED this _____ day of _____ 2013.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

Carla A. Robinson

City Attorney

January 10, 2013
Regular Agenda Item No. 5
3800 State Highway 6 South

To: David Neeley, City Manager

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

Agenda Caption: Public hearing, presentation, discussion, and possible action regarding an amendment to Chapter 12, "Unified Development Ordinance", Section 4.2, "Official Zoning Map" of the Code of Ordinances of the City of College Station, Texas by rezoning 1.24 acres located at 3800 State Highway 6 South from CI Commercial Industrial to GC General Commercial.

Relationship to Strategic Goals: Diverse Growing Economy

Recommendation(s): The Planning and Zoning Commission considered this item at their December 6, 2012 meeting and voted 6-0 to recommend approval of the rezoning request. Staff also recommended approval of the request.

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

REVIEW CRITERIA

- 1. Consistency with the Comprehensive Plan:** The subject property is designated as General Commercial on the Comprehensive Plan Future Land Use and Character Map. The proposed rezoning is consistent with this designation in addition to the land use designations surrounding the subject tract which include General Commercial and Business Park.
- 2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:** The proposed rezoning will enable the development of commercial uses, such as Personal Service Shops, closest to State Highway 6 and will be consistent with the zoning and land uses of properties to the north and south. The back portion of the property will maintain the existing CI Commercial Industrial zoning, which is consistent with the property and land use to the west.
- 3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment:** The proposed land uses permitted through the rezoning are well suited for this site, given its proximity to State Highway 6 and also to the adjacent commercial and light industrial uses.
- 4. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The current CI Commercial Industrial zoning district is better suited at the back of the property, due to the presence of State Highway 6 and its associated high level of activity at the front portion of the property.

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 existing zoning of CI Commercial Industrial makes the property less marketable than it would be as GC General Commercial. The subject property is also located between an existing commercial site and a vacant property zoned for commercial uses.

6. Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:

There are existing 6- and 12-inch water mains serving this property. There is also an existing 8-inch sanitary sewer line which currently provides service to the site. Drainage is mainly to the north within the Bee Creek Drainage Basin. Access to the site is available via State Highway 6 or Pinon Drive. Existing infrastructure appears to be adequate for the proposed use.

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Background Information
2. Aerial & Small Area Map (SAM)
3. Draft Planning & Zoning Commission Minutes – December 6, 2012
4. Ordinance

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: December 6, 2012
 Advertised Council Hearing Dates: January 10, 2013

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

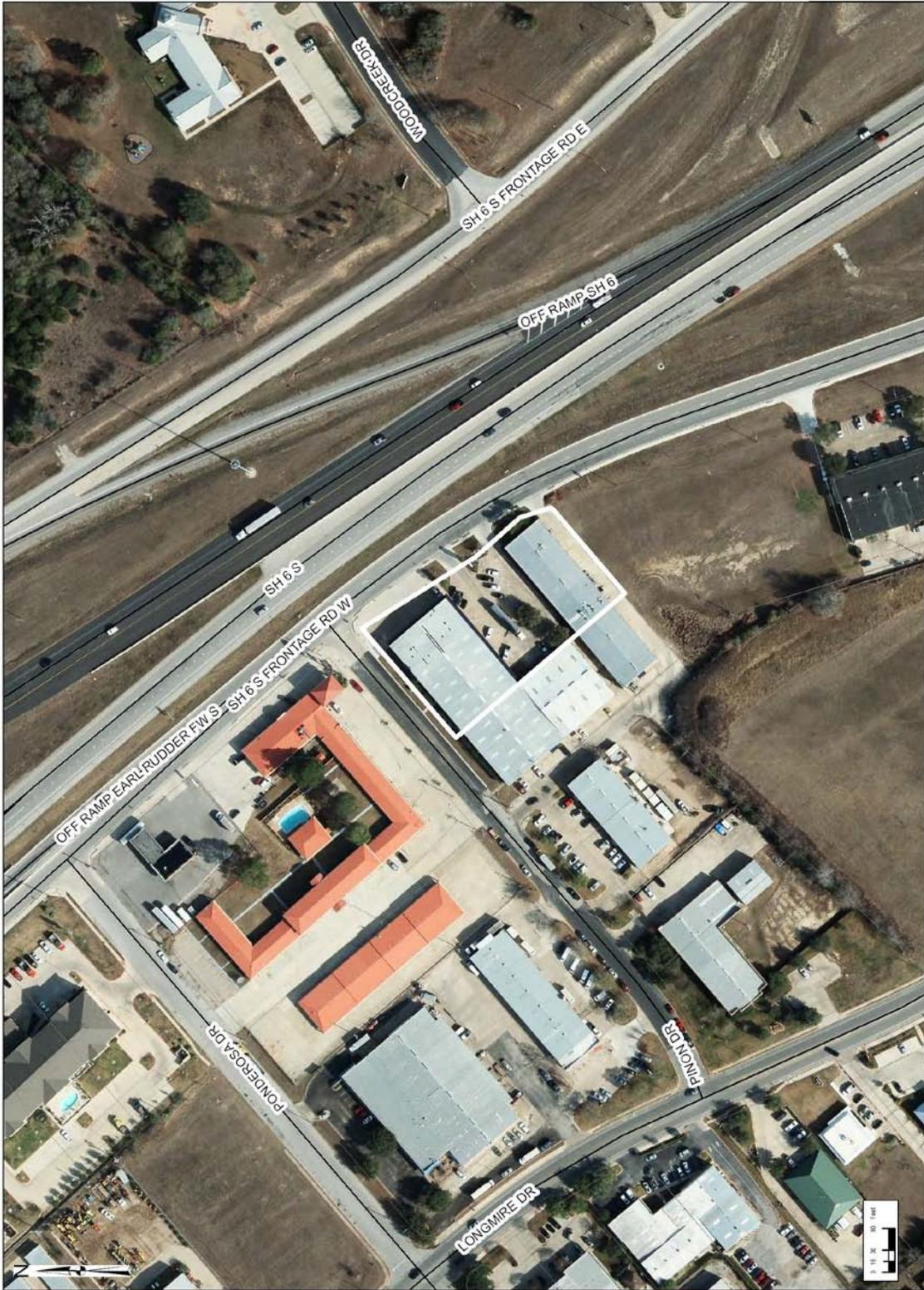
Property owner notices mailed: Seven.
 Contacts in support: None at the time of this report.
 Contacts in opposition: None at the time of this report.
 Inquiry contacts: None at the time of this report.

ADJACENT LAND USES

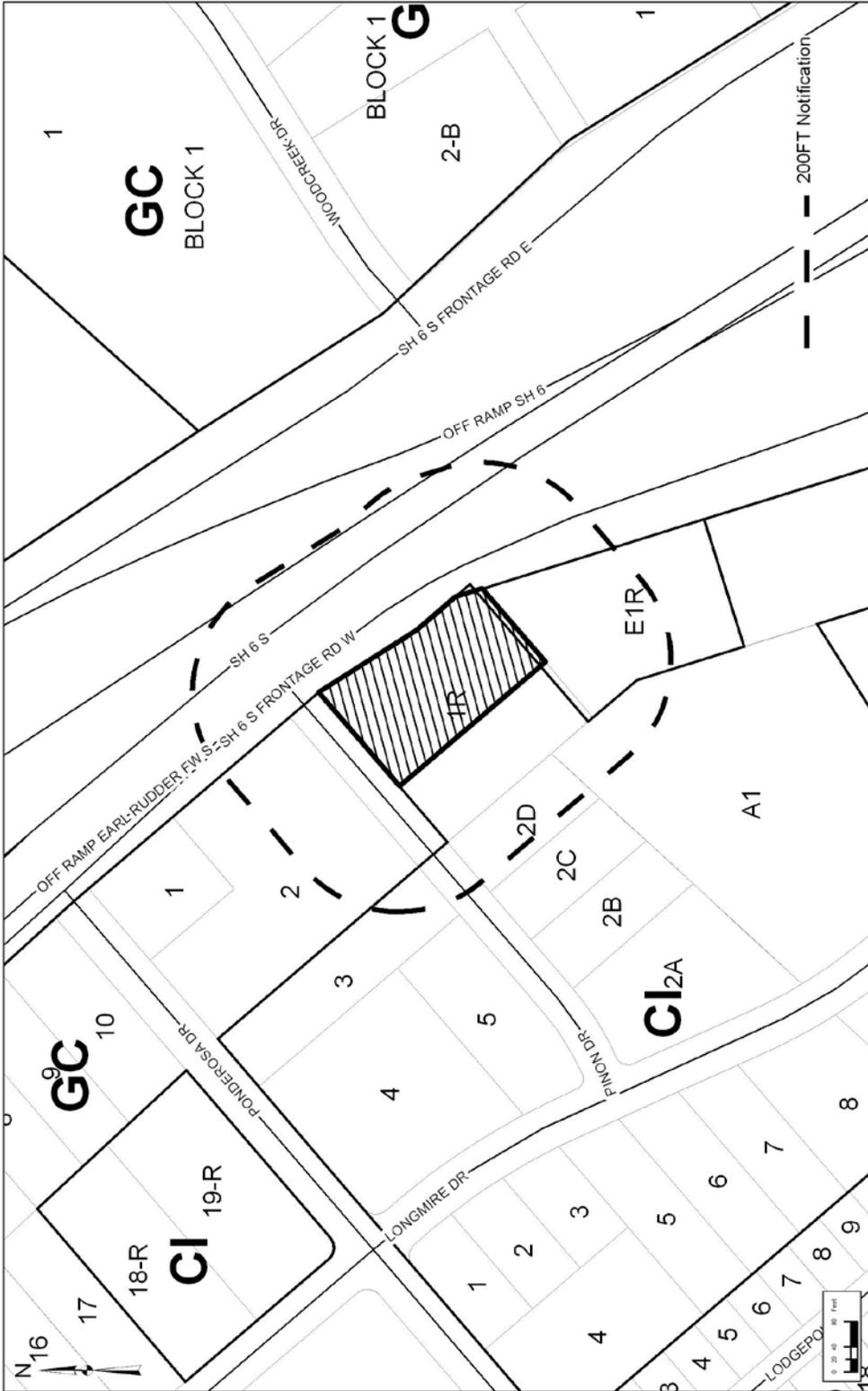
Direction	Comprehensive Plan	Zoning	Land Use
North (Across Pinon Drive)	General Commercial	GC General Commercial	Hotel
South	General Commercial	GC General Commercial	Offices
East (Across State Highway 6)	Suburban Commercial	GC General Commercial	Place of Worship
West	Business Park	CI Commercial Industrial	Vacant

DEVELOPMENT HISTORY

Annexation: February 1971 and October 1980
Zoning: A-O Agricultural-Open upon annexation
 C-1 General Commercial in March 1974
 C-2 Commercial Industrial in May 1987
Final Plat: Ponderosa Place, 1979
 Replat in April 2008
Site development: The property contains three buildings currently being used for warehouses and retail sales



Case: 12-236	3800 STATE HIGHWAY 6 S	REZONING
DEVELOPMENT REVIEW		



Zoning Districts

A-O	Agricultural Open	R-3	Townhouse	C-3	Light Commercial	WPC	Wolf Pen Creek Dev. Corridor
A-OR	Rural Residential Subdivision	R-4	Multi-Family	M-1	Light Industrial	NG-1	Core Northgate
R-1	Single Family Residential	R-6	High Density Multi-Family	M-2	Heavy Industrial	NG-2	Transitional Northgate
R-1B	Single Family Residential	R-7	Manufactured Home Park	C-U	College and University	NG-3	Residential Northgate
R-2	Duplex Residential	O	Office	R & D	Research and Development	OV	Corridor Overlay
		GC	General Commercial	P-MUD	Planned Mixed-Use Development	RDD	Redevelopment District
		CI	Commercial-Industrial	PDD	Planned Development District	KO	Krenek Tap Overlay

DEVELOPMENT REVIEW | **3800 STATE HIGHWAY 6 S** | **Case: 12-236** | **REZONING**

**DRAFT MINUTES
PLANNING & ZONING COMMISSION
Regular Meeting
December 6, 2012, 7:00 p.m.
City Hall Council Chambers
College Station, Texas**

COMMISSIONERS PRESENT: Mike Ashfield, Jodi Warner, Jim Ross, Bo Miles, Vergel Gay, Brad Carrier

COMMISSIONERS ABSENT: Jerome Rektorik

CITY COUNCIL MEMBERS PRESENT: Jess Fields

CITY STAFF PRESENT: Bob Cowell, Lance Simms, Jennifer Prochazka, Jason Schubert, Morgan Hester, Erika Bridges, Joe Guerra, Adam Falco, Jordan Wood, and Brittany Caldwell

1. **Call Meeting to Order**

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

Regular Agenda

6. Public hearing, presentation, discussion, and possible action regarding a zoning amendment request from CI Commercial Industrial to GC General Commercial for approximately 1.2 acres on Lot 1R, Block 20 of the Ponderosa Place Subdivision located at 3800 State Highway 6 South. **Case # 12-00500236 (T. Rogers) (Note: Final action on this item is scheduled for the Thursday, January 10, 2013 City Council Meeting – subject to change.)**

Staff Planner Rogers presented the rezoning and recommended approval.

There was general discussion amongst the Commission and Staff regarding the rezoning.

Commissioner Miles asked why only the front portion of the building was being rezoned.

Jason Seal, Clarke and Wyndham, stated that the reason the applicant is requesting to rezone the front portion of the property is because of the configuration of the building; the back of the building is configured for industrial uses and the front of the building is configured for retail uses.

Chairman Ashfield opened the public hearing.

No one spoke during the public hearing.

Chairman Ashfield closed the public hearing.

Commissioner Warner motioned to approve the rezoning. Commissioner Gay seconded the motion, motion passed (6-0).

8. Adjourn.

The meeting was adjourned at 7:10 p.m.

ORDINANCE NO. _____

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

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

PART 1: That Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", and as shown graphically in Exhibit "B", 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 10th day of January, 2013

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 CI Commercial Industrial to GC General Commercial:

Being all that certain tract or parcel of land lying and being situated in the ROBERT STEVENSON SURVEY in College Station, Brazos County, Texas and being part of Tract 1R, Block 20 according to the Replat of Tract "E" PONDEROSA PLACE SECTION TWO and Lot 1, Block 20 PONDEROSA PLACE, SECTION 4-A as recorded in Volume 8955, Page 136 of the Official Records of Brazos County, Texas (O.R.B.C.) and being more particularly described by metes and bounds as follows:

BEGINNING: at the intersection of the southwest right-of-way line of State Highway No. 6 South Frontage Road West (width varies) and the southeast right-of-way line of Pinon Street (based on a 60-foot width) and being the north corner of Tract 1R, Block 20;

THENCE: along the southwest right-of-way line of said State Highway No. 6 South Frontage Road West for the following three (3) calls:

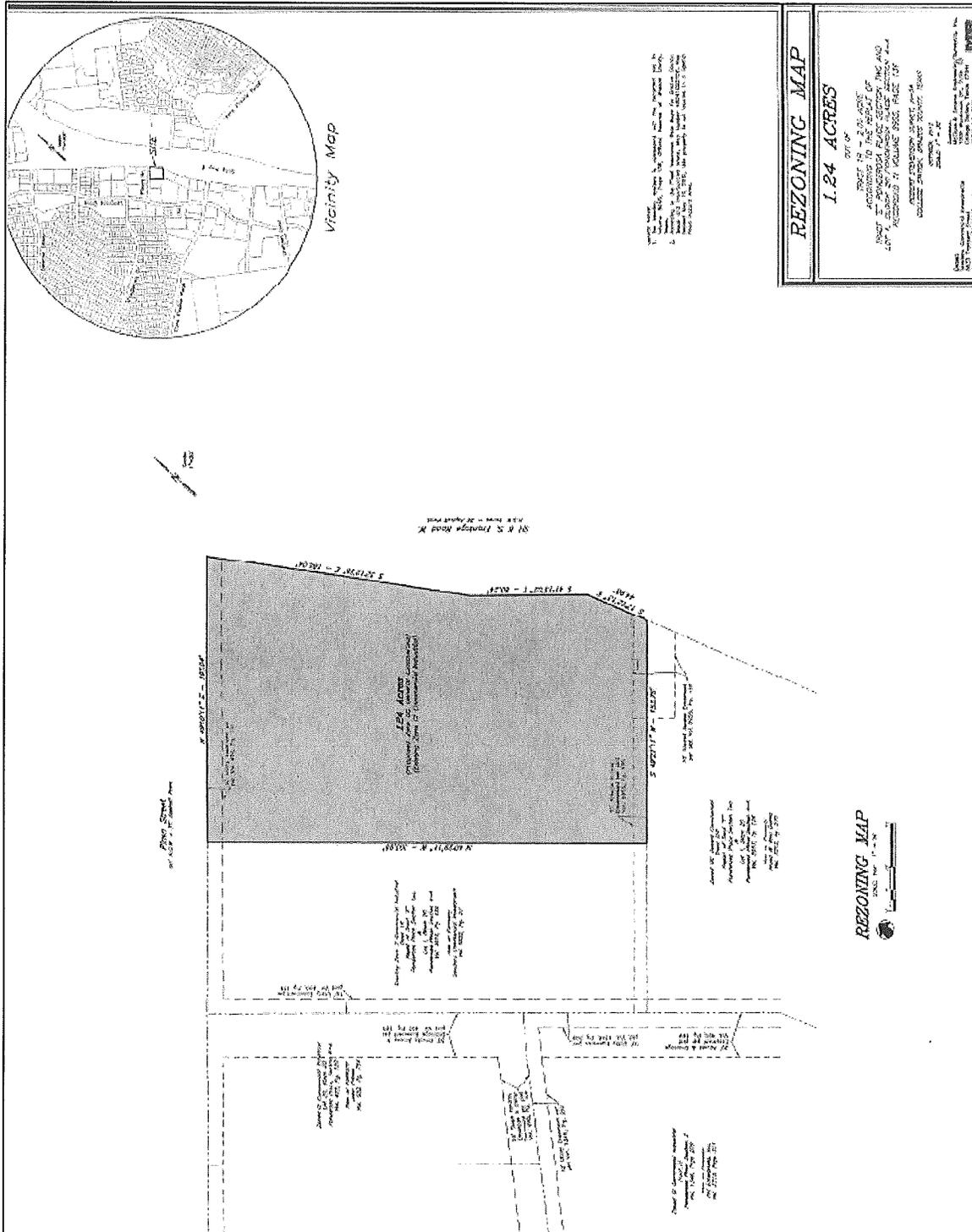
- 1) S 32° 12' 28" E for a distance of 185.04 feet for corner,
- 2) S 41° 13' 02" E for a distance of 80.24 feet for corner and
- 3) S 17° 22' 13" E for a distance of 44.98 feet for corner marking the common most easterly corner of said Tract 1R and Tract E1R of said Replat;

THENCE: S 49° 21' 11" W along the common line of said Tract 1R and said Tract E1R for a distance of 153.76 feet for corner;

THENCE: N 40° 29' 11" W through the interior of said Tract 1R for a distance of 303.96 feet to the beforesaid southeast right-of-way line of Pinon Street;

THENCE: N 49° 10' 11" E along the said southeast line of Pinon Street, said line being common with the northwest line of Lot 1R for a distance of 197.04 feet to the POINT OF BEGINNING and containing 1.24 acres of land, more or less.

EXHIBIT "B"



January 10, 2013
Regular Agenda Item No. 6
Airport Zoning Reference Ordinance Amendment

To: David Neeley, City Manager

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

Agenda Caption: Public hearing, presentation, possible action and discussion regarding an ordinance amending Chapter 12 "Unified Development Ordinance", Article 2 "Development Review Bodies" and Article 5 "District Purpose Statements and Supplemental Standards", of the Code of Ordinance of the City of College Station related to referencing the Easterwood Field Airport Zoning Ordinance and eliminating a duplicate Section in Article 5.

Relationship to Strategic Goals: Sustainable City

Recommendation: The Planning & Zoning Commission recommended approval (4-0) of the proposed ordinance at their December 20, 2012 meeting. Staff also recommends approval.

Summary: In 1983, a revised Easterwood Field Airport Zoning Ordinance was adopted by the Easterwood Field Joint Airport Zoning Board to protect the air space surrounding Easterwood Airport from growth and development in the general vicinity. The main purpose is to limit the height of objects from projecting into its air space and limiting the operations and functionality of the airport. Height limitations are based on the location of the property in relation to the airport and its runways. Height is measured by combining the ground elevation (above mean sea level) with the height of the proposed structure. Therefore, no specific maximum building height is described as it is coupled with ground elevation. Over the years, the ordinance has had limited application due to a lack of development around the airport. This amendment proposes to provide references regarding airport zoning in the Unified Development Ordinance (UDO) to increase awareness of its requirements as development opportunities have increased with the BioCorridor and Northgate Districts.

Supplementary notes are being added to reference possible height limitations in each of the UDO dimensional standards tables (Section 12-5.2 "Residential Dimensional Standards", Section 12-5.4 "Non-Residential Dimensional Standards", Section 12-5.6 "Retired Dimensional Standards", and Section 12-5.9 "Design District Dimensional Standards"). In addition, the Zoning Board of Adjustment (ZBA) is identified as the body authorized to decide airport zoning variances and the Administrator to administer and enforce the regulations. Also, Section 12-5.3 "Non-Residential Zoning Districts" is deleted and replaced as was intended with the ordinance that adopted the new non-residential zoning districts (Ordinance 2012-3450) and the remaining sections of Article 5 are renumbered accordingly.

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE", ARTICLE 2 "DEVELOPMENT REVIEW BODIES" AND ARTICLE 5 "DISTRICT PURPOSE STATEMENTS AND SUPPLEMENT STANDARDS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Chapter 12, "Unified Development Ordinance," Article 2 "Development Review Bodies", and Article 5 "District Purpose Statements and Supplement Standards", to the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", Exhibit "B", and Exhibit "C", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than Twenty-Five Dollars (\$25.00) or more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 10th day of January, 2013.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

Carla A. Robinson

City Attorney

EXHIBIT "A"

That **Chapter 12, "Unified Development Ordinance", Article 2 "Development Review Bodies", of the Code of Ordinances of the City of College Station, Texas**, is hereby amended by adding subsection 4. "Easterwood Field Airport Zoning" to Section 12-2.3. "Zoning Board of Adjustment", D. "Powers and Duties"; by amending Section 12-2.5. "Design Review Board", D. "Powers and Duties", 4. "Northgate District Standards Waivers"; and by adding subsection c. to Section 12-2.8. "Administrator", B. "Powers and Duties", 5. "Other Duties", to read as follows:

Sec. 12-2.3. - Zoning Board of Adjustment.

D. Powers and Duties.

4. Easterwood Field Airport Zoning.

To hear and decide requests for appeals, special exemptions, and variances related to the Easterwood Field Airport Zoning Ordinance.

Sec. 12-2.5. - Design Review Board.

D. Powers and Duties.

4. Northgate District Standards Waivers.

The Design Review Board shall hear and decide requests to vary from the standards in the Northgate Districts (NG) subsection of the Design Districts Section of Article 5 of this UDO as limited to the possible Waivers authorized by that subsection.

Sec. 12-2.8. - Administrator.

B. "Powers and Duties.

5. Other Duties.

c. The Administrator shall administer and enforce the regulations of the Easterwood Field Airport Zoning Ordinance.

EXHIBIT "B"

That Chapter 12, "Unified Development Ordinance," Article 5 "District Purpose Statements and Supplement Standards", Section 12-5.2. "Residential Dimensional Standards"; Section 12-5.5. "Non-Residential Dimensional Standards", as renumbered in EXHIBIT "C" to Section 12-5.4.; Section 12-5.7. "Retired Dimensional Standards", as renumbered in EXHIBIT "C" to Section 12-5.6.; and Section 12-5.10. "Design District Dimensional Standards", as renumbered in EXHIBIT "C" to Section 12-5.9, of the Code of Ordinances of the City of College Station, Texas, are hereby amended to read as follows:

Sec. 12-5.2. - Residential Dimensional Standards.

The following table establishes dimensional standards that shall be applied within the Residential Zoning Districts, unless otherwise identified in this UDO.

	Residential Zoning Districts									
	A-0	A-OR	R-1 (I)	R-1B	R-2	R-3	R-4	R-6	R-7	Accessory Structures
Min. Lot Area per Dwelling Unit (DU)	5 Acres	1 Acre	5,000 SF	8,000 SF	3,500 SF	2,000 SF	None	None		
Min. Lot Width	None	None	50'	None	35'/DU(E)	None	None	None		
Min. Lot Depth	None	None	100'	None	100'	None	None	None		
Min. Front Setback (H)	50'	50'	25'(D)	25'(D)	25'(D)	25'(D)	25'(D)	25'(D)		
Min. Side Setback	20'	20'	7.5'	7.5'(C)	7.5'(C)	(A)	(A)(B)	(A)(B)		
Min. Street Side Setback	15'	15'	15'	15'	15'	15'	15'	15'	(L)	
Min. Side Setback between Structures (B)			15'	15'	15'	7.5'	7.5'	7.5'		Refer to Section 12-6.5 Accessory Uses (L)
Min. Rear Setback (I)	50'	50'	20'	20'	20'(F)	20'	20'	20'		
Max. Height	35' (G) (K) (L)	35' (G) (K) (L)	2.5 Stories/ 35' (G) (K) (L)	2.5 Stories/ 35' (G) (K) (L)	2.5 Stories/ 35' (G) (K) (L)	35' (G) (K) (L)	(G) (L)	(G) (L)		
Max. Dwelling Units/Acre	0.2	1.0	8.0	6.0	12.0	14.0	20.0	30.0	10.0	N/A

Notes:

- (A) A minimum side setback of 7.5 feet is required for each building or group of contiguous buildings.
- (B) Lot line construction on interior lots with no side yard or setback is allowed only where the building is covered by fire protection on the site or by dedicated right-of-way or easement.
- (C) Zero lot line construction of a residence is allowed where property on both sides of a lot line is owned and/or developed simultaneously by single party. Development under lot line construction requires prior approval by the Zoning Official. In no case shall a single-family residence or duplex be built within 15 feet of another primary structure. See Article 8, Subdivision Design and Improvements, for more information.
- (D) Minimum front setback may be reduced to 15 feet when approved rear access is provided, or when side yard or rear yard parking is provided.

- (E) The minimum lot width for a duplex dwelling may be reduced to 30 feet per dwelling unit when all required off-street parking is provided in the rear or side yard.
- (F) Minimum rear setback may be reduced to 15 feet when parking is provided in the front yard or side yard.
- (G) Shall abide by Section 12-7.2.H, Height.
- (H) Reference Section 12-7.2.D.1.e for lots created by plat prior to July 15, 1970 and designated as Neighborhood Conservation in the Comprehensive Plan Future Land Use and Character Map.
- (I) Reference Section 12-7.2.D.1.b for lots with approved rear access.
- (J) For areas within a Single-Family Overlay District, reference the Neighborhood Prevailing Standards Overlay Districts Section in Article 5 or the Ordinance authorizing the rezoning for Neighborhood Conservation Overlay Districts.
- (K) Public, civic, and institutional structures shall have a maximum building height of 50 feet in these districts.
- (L) Reference Easterwood Field Airport Zoning Ordinance regarding height limitations.

Sec. 12-5.4. - Non Residential Dimensional Standards.

The following table establishes dimensional standards that shall be applied within the Non-Residential Zoning Districts, unless otherwise identified in this UDO:

	Non-Residential Zoning Districts						
	O	SC	GC	CI	BP	BPI	NAP
Min. Lot Area	None	None	None	None	None	None	N/A
Min. Lot Width	24'	50'	24'	24'	100'	100'	N/A
Min. Lot Depth	100'	100'	100'	100'	200'	200'	N/A
Min. Front Setback	25'	25'	25'	25'	25' (E)	25' (E)	N/A
Min. Side Setback	(A)(B)	(A)(B)	(A)(B)	(A)(B)	(A)(B)	(A)(B)	N/A
Min. St. Side Setback	15'	15'	15'	15'	15' (E)	15' (E)	N/A
Min. Rear Setback	15'	20'	15'	15'	15' (E)	15' (E)	N/A
Max. Height	(C)(F)	2 Stories / 35' (D)(F)	(C)(F)	(C)(F)	(C)(F)	(C)(F)	(F)

Notes:

- (A) A minimum side setback of 7.5 feet shall be required for each building or group of contiguous buildings.
- (B) Lot line construction on interior lots with no side yard or setback is allowed only where the building is covered by fire protection on the site or separated by a dedicated public right-of-way or easement of at least 15 feet in width.
- (C) See Section 12-7.2.H, Height.
- (D) Maximum building height is 2 stories and 35', measured at the highest point of the roof or roof peak. Section 12-7.2.H, Height applies to buildings over one-story.

- (E) Buildings shall be setback a minimum of 50 feet from all public streets adjacent the perimeter of the business park development, as shown on the approved Preliminary Plan document.
- (F) Reference Easterwood Field Airport Zoning Ordinance regarding height limitations.

Sec. 12-5.6. - Retired Dimensional Standards.

The following table establishes dimensional standards that shall be applied within the Retired Zoning Districts, unless otherwise identified in this UDO:

	Retired Zoning Districts			
	C-3	R&D	M-1	M-2
Min. Lot Area	None	20,000 SF	None	None
Min. Lot Width	24'	100'	100'	None
Min. Lot Depth	100'	200'	200'	None
Min. Front Setback	25'	30'	25'	25'
Min. Side Setback	(A)(B)	30' (B)	(A)(B)	(A)(B)
Min. St. Side Setback	15'	30'	15'	25'
Min. Rear Setback	15'	30'(D)	15'	15'
Max. Height	(C) (E)	(C) (E)	(C) (E)	(C) (E)

Notes:

- (A) A minimum side setback of 7.5 feet shall be required for each building or group of contiguous buildings.
- (B) Lot line construction on interior lots with no side yard or setback is allowed only where the building is covered by fire protection on the site or separated by a dedicated public right-of-way or easement of at least 15 feet in width.
- (C) See Section 12-7.2.H, Height.
- (D) When abutting non-residentially zoned or used land, the rear setback may be reduced to 20 feet.
- (E) Reference Easterwood Field Airport Zoning Ordinance regarding height limitations.

Sec. 12-5.8. -Design District Dimensional Standards.

The following table establishes dimensional standards that shall be applied within the Design Districts, unless otherwise identified in this UDO:

	NG-1	NG-2	NG-3	WPC
Minimum Lot Area	None	None	None	2,400 SF
Minimum Lot Width	None	None	None	24'
Minimum Lot Depth	None	None	None	100'
Minimum Front Setback	None	None	None	25' (H)
Minimum Side Setback	None	None	None	None (A)
Minimum Side Street Setback	None	None	None	15'
Minimum Rear Setback	None	None	None	15'

Minimum Setback from Back of Curb (B)	10'	10'	10'	None
Maximum Setback from Back of Curb (B)	20' (C) (D) (E)	25' (C) (D) (E)	20' (C) (D) (E)	None
Maximum Height	(J)	(J)	(J)	(J)
Minimum Number of Stories	2 Stories (G)	2 Stories (G)	2 Stores (G)	None
Minimum Floor to Area Ratio (FAR)	1 : 1 (F) (I)	0.75 : 1 (F) (I)	1 : 1 (F) (I)	None

Notes:

- (A) Lot line construction on interior lots is allowed where access to the rear of the building is provided on the site or by dedicated right-of-way or easement.
- (B) Minimum/maximum setback from the back of any curb, including lots with single frontage, lots with double frontage, and corner lots with multiple frontages.
- (C) If the width of any public easement or right-of-way is in excess of the maximum setback, the maximum setback will be measured from the edge of the public easement or right-of-way.
- (D) Maximum setback from back of curb for University Drive is 25 feet, Wellborn is 35 feet and 100 feet for South College.
- (E) When café seating is between the café's building and a right-of-way, the building may be setback a maximum of 35 feet.
- (F) This area calculation shall not include any lot area encumbered by required easements, setbacks, sidewalks, detention, or area dedicated to civic features. The area of a porch or arcade fronting a public street is included in the calculation of lot coverage.
- (G) The 2-story requirement shall not apply to structures existing on or before April 2, 2006.
- (H) Minimum front setback may be reduced to fifteen feet (15') when approved rear access is provided or when side yard or rear yard parking is provided.
- (I) Places of Worship are exempt from the Floor to Area Ratio (FAR) requirement in all NG Districts.
- (J) Reference Easterwood Field Airport Zoning Ordinance regarding height limitations.

EXHIBIT "C"

That **Chapter 12, "Unified Development Ordinance", Article 5 "District Purpose Statements and Supplemental Standards", Section 12-5.3 "Non-Residential Zoning Districts"** of the Code of Ordinances of the City of College Station, Texas, is hereby deleted in its entirety.

That Sections 12-5.1. through 12-5.13. of Chapter 12, "Unified Development Ordinance", Article 5 "District Purpose Statements and Supplemental Standards", are hereby renumbered respectively as follows:

- Section 12-5.1. – Residential Zoning Districts.
- Section 12-5.2. – Residential Dimensional Standards.
- Section 12-5.3. - Non-Residential Zoning Districts.
- Section 12-5.4. - Non-Residential Dimensional Standards.
- Section 12-5.5. - Retired Districts.
- Section 12-5.6. - Retired Dimensional Standards.
- Section 12-5.7. - Planned Districts (P-MUD and PDD).
- Section 12-5.8. - Design Districts.
- Section 12-5.9. - Design District Dimensional Standards.
- Section 12-5.10. - Overlay Districts.
- Section 12-5.11. - Single-Family Overlay Districts.
- Section 12-5.12. - Historic Preservation Overlay District.

January 10, 2013
Regular Agenda Item No. 7
Twin City Endowment Board Appointment

To: David Neeley, City Manager

From: City Secretary's Office

Agenda Caption: Presentation, possible action, and discussion regarding an appointment to the Twin City Endowment Board of Directors.

Staff Recommendation: Staff recommends that Council appoint an individual with a background in investment banking, law, or business.

Summary: The Twin City Endowment is a 501 c (6) entity with the purpose of providing economic development incentives to prospective development, though recent activity has been limited to providing an annual contribution to the Research Valley Partnership to help offset their administrative and overhead costs.

While the organization is wholly independent from each of the Cities of College Station and Bryan, Brazos County, Texas A&M University and the BCS Chamber of Commerce, each of those bodies appoints one member each to the Board of Directors. Each Board Member is appointed for a three year term and may not serve more than two consecutive terms per the Corporation's bi-laws. The appointee must be a resident of the city which appoints them and may not be an elected officer or employee of College Station or Bryan, the county, or the Chamber of Commerce. The Board currently meets quarterly in large part to manage the Corporation's assets.

The current College Station appointee is Mr. Wayne Rife, who recently informed the city that he had moved outside of the city limits creating the current vacancy.

Budget & Financial Summary: None

Attachments: None

January 10, 2013
Regular Agenda Item No. 8
Nomination to the Brazos Valley Groundwater
Conservation District Board

To: David Neeley, City Manager

From: David Coleman, Director Water Services Department

Agenda Caption: Presentation, possible action, and discussion regarding an appointment to the Brazos Valley Groundwater Conservation District Board of Directors, subject to confirmation by the Brazos County Commissioners Court.

Relationship to Strategic Goals: Core Services and Infrastructure & Sustainable City

Recommendation: Staff recommends approval of the Resolution.

Summary: Mr. Steve Beachy is presently serving as the College Station representative on the Board of Directors of the Brazos Valley Groundwater Conservation District. As shown in the attached letter, Mr. Beachy has tendered his resignation, effective January 31, 2013. The new member must be nominated by the City to fill Mr. Beachy's term, which expires on December 31, 2014. As required by House Bill 1784, section 2.11(3), the City's nominee must be confirmed by the Brazos County Commissioners Court.

Staff recommends that Mr. Bill Harris be nominated – he is the former Director of the Texas Water Resources Institute at Texas A&M, and is a recognized expert in the field of water resources. He is well versed in the importance of groundwater issues to the City, has proven over many years to use sound judgment and to always be fair minded, and will be dedicated to represent the best interests of College Station and our water needs. Mr. Harris has indicated his willingness to accept this nomination, if City Council so decides.

For these reasons, Staff recommends approval of the Resolution that will nominate Mr. Harris to the groundwater District Board.

Budget & Financial Summary: Not applicable.

Reviewed and Approved by Legal: Yes

Attachments:

Resignation letter
Resolution

December 13, 2012

**Judge Duane Peters
Brazos County
200 South Texas Avenue
Suite 332
Bryan, TX 77803**

Dear Judge Peters,

I am submitting my resignation as a member of the Brazos Valley Groundwater Conservation District Board effective January 31, 2013. I appreciate your confidence in me to serve on this important Board. However, my family must come first at this point and I must step aside from these duties.

The District has made significant progress over the past few years. It has a strong and competent staff; good administrative plans, policies and procedures; and excellent financial standing. There remain many important tasks to accomplish in the future. Strong leadership and the continued support of the Commissioners Court are essential for their timely completion to the benefit of the citizens of the District.

It has been an honor to have served in this capacity representing the citizens of Brazos County. Thank you for your time, service and support through the years.

Sincerely,



**Stephen C. Beachy
1101 Neal Pickett
College Station, Texas 77840**

(979) 693-5147

Copy: Mayor Nancy Berry

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPOINTING MR. BILL HARRIS AS THE CITY'S REPRESENTATIVE TO THE BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT BOARD OF DIRECTORS.

WHEREAS, The City Council of the City of College Station strives through its *Vision Statements* to provide high quality, customer focused basic city services at a reasonable cost, including effective water services; and

WHEREAS, The City Council of the City of College Station adopted, as part of the Comprehensive Plan, Utility *Goal #1* that states "College Station should continue to provide the quantity and quality of utilities needed to assure public health, safety, and accommodation of growth"; and

WHEREAS, House Bill 1784, section 2.11(d) establishes one seat on the Brazos Valley Groundwater Conservation District Board to be a representative of the City of College Station, which must be appointed by the City Council and approved by the Brazos County Commissioners Court; and

WHEREAS, Mr. Steve Beachy, the City's current representative on the Brazos Valley Groundwater Conservation District Board, is resigning and a new representative must be appointed; and

WHEREAS, The City Council is confident that Mr. Harris will fairly and accurately represent the interests of College Station and all municipalities and water users within the Brazos Valley District, and the City Council pledges that Mr. Harris will give adequate time and resources to fulfill every obligation and duty of Board membership; now, therefore,

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

PART 1: That the City Council hereby agrees that membership on the Brazos Valley Groundwater Conservation District Board is essential in meeting the City's Utility Goals.

PART 2: That the City Council hereby accepts Mr. Steve Beachy's resignation, effective January 11, 2013, and hereby appoints Mr. Bill Harris as the City's representative to fill the voting member position representing the City of College Station with the Brazos Valley Groundwater Conservation District Board of Directors, effective January 12, 2013.

PART 3: That this Resolution shall take effect immediately.

PART 4: That the City Council hereby requests the Brazos County Commissioners Court approve this appointment.

ADOPTED this ____ day of January, A.D. 2013.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney