



# College Station, TX AMENDED Meeting Agenda City Council Regular

1101 Texas Ave  
College Station, TX 77840

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Thursday, March 13, 2014

7:00 PM

City Hall Council Chambers

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

Hear Visitors: A citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 5:30 pm. Please limit remarks to three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining to conclude your remarks. The City Council will receive the information, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concerns shall be directed to the City Manager. Comments should not personally attack other speakers, Council or staff.

## Consent Agenda

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.

- 2a. **14-300** Presentation, possible action, and discussion of minutes for:
    - February 27, 2014 Workshop
    - February 27, 2014 Regular Council Meeting

**Attachments:** [WKSHP022714 DRAFT Minutes](#)  
[RM022714 DRAFT Minutes](#)

- 2b. **14-290** Presentation, possible action, and discussion on an ordinance amending Chapter 1, Section 1-23, "Creation of a Historic Preservation Committee", of the Code of Ordinances of the City of College Station, Texas, by amending certain sections as set out below; providing a severability clause; declaring a penalty; and providing an effective date.

**Attachments:** [HPC Ordinance Amendment v2 redlined](#)  
[Final Ordinance](#)

- 2c. **14-297** Presentation, possible action and discussion on the cancellation of award with Stuart C. Irby; re-award of the annual purchase of various

transformers and ratification of purchase of emergency transformers. The revised total recommended for re-award is \$546,504.03.

- 2d. 14-307** Presentation, possible action and discussion on the first reading of an ordinance granting a non-exclusive natural gas franchise to Atmos Energy Corporation Mid-Tex Division.

Attachments: [Atmos Franchise Ordinance](#)

## 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. 14-295** Public hearing, presentation, possible action, and discussion regarding a Resolution granting conditional consent to the creation of Brazos County Municipal Utility District No. 1, consisting of approximately 553 acres and located at 17529 State Highway 6 South, in the City's extraterritorial jurisdiction.

Attachments: [Vicinity Map](#)  
[Concept Plan](#)  
[Application](#)  
[Resolution](#)  
[Exhibit A](#)

- 2. 14-296** Public hearing, presentation, possible action, and discussion, regarding an ordinance amending Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the

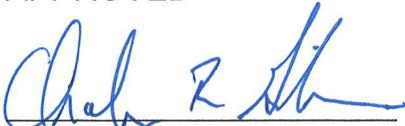
City of College Station, Texas, by changing the zoning district boundaries from R Rural to SC Suburban Commercial for approximately 1.3 acres in the Robert Stevenson League, Abstract No. 54 as described by a deed to Akaal Holdings, LLC recorded in Volume 10876, Page 89 of the office of public records of Brazos County Texas, located at 13913 Wellborn Road.

**Attachments:**      [Background Information](#)  
[Aerial & SAM](#)  
[Draft P&Z Minutes - Feb 20, 2014](#)  
[Ordinance](#)

### **3. Adjourn.**

The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion.

APPROVED

  
City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the 13th day of March, 2014 at 7:00PM at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda.

Posted this 10th day of March, 2014 at 9:00 a.m.

  
City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on March 10, 2014 at 9:00a.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 \_\_\_\_\_, 2014 By \_\_\_\_\_

This 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.



Legislation Details (With Text)

**File #:** 14-300      **Version:** 1      **Name:** Minutes  
**Type:** Minutes      **Status:** Agenda Ready  
**File created:** 2/28/2014      **In control:** City Council Regular  
**On agenda:** 3/13/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion of minutes for:  
· February 27, 2014 Workshop  
· February 27, 2014 Regular Council Meeting  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [WKSHP022714 DRAFT Minutes](#)  
[RM022714 DRAFT Minutes](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion of minutes for:

- February 27, 2014 Workshop
- February 27, 2014 Regular Council Meeting

Relationship to Strategic Goals:  
Good Governance

Recommendation(s): Staff recommends approval.

Summary: Attached are the minutes for the Workshop and Regular Meeting held on February 27, 2014.

Budget & Financial Summary: No fiscal impact.

Attachments:

- Feb 27 Workshop Minutes
- Feb 27 Regular Minutes

MINUTES OF THE CITY COUNCIL WORKSHOP  
CITY OF COLLEGE STATION  
FEBRUARY 27, 2014

STATE OF TEXAS           §  
                                          §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry, Mayor

**Council:**

Blanche Brick  
Steve Aldrich  
Karl Mooney  
John Nichols  
Julie Schultz  
James Benham, absent

**City Staff:**

Kelly Templin, City Manager  
Carla Robinson, City Attorney  
Chuck Gilman, Deputy City Manager  
Sherry Mashburn, City Secretary  
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 Berry at 4:30 p.m. on Thursday, February 27, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

**2. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, and §551.086-Competitive Matters, the College Station City Council convened into Executive Session at 4:30 p.m. on Thursday, February 27, 2014 in order to continue discussing matters pertaining to:

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

- College Station v. Star Insurance Co., Civil Action No. 4:11-CV-02023.

- 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
- Cause No. 13-002978-CV-361, Deluxe Burger Bar of College Station, Inc. D/B/A Café Eccell v. Asset Plus Realty Corporation, City of College Station, Texas and the Research Valley Partnership, Inc., In the 361<sup>st</sup> Judicial District Court, Brazos County, Texas

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

- Legal advice related to the College Station power supply contract

C. Deliberation on a competitive matter as that term is defined in Government Code §552.133; to wit:

- Power Supply

The Executive Session adjourned at 5:45 p.m.

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

No action was required from Executive Session.

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

No consent items were pulled.

**5. Presentation, possible action and discussion regarding the existing Hotel Occupancy Tax Fund Grant Program administered by the Bryan-College Station Convention & Visitors Bureau.**

Shannon Overby, BCS Convention and Visitors Bureau, reported there is a two-part test related to the spending of HOT funds. First, it must “directly enhance and promote tourism and the convention and hotel industry”, and secondly, it must fit into one of eight categories: convention center, convention registration, advertising/promotion, the arts (maximum 15%), historical preservation, sporting events, enhancement of existing sports facilities, or transportation systems.

In 2011, they created the Rewards Program to reward those groups that produced. She noted that in Fiscal Years 2011 and 2012, 21 groups qualified for funding (out of a total of 36 applications). The benefit to this program was that it brought awareness to new groups. However, funds were limited to the CVB budget and were only available to new groups.

In 2013, HOT Grants were created with funding supplied from Bryan and College Station. HOT grants funded eleven organizations for fifteen events. \$292,205 was requested, of which \$131,178 was approved. The estimated visitor spending within the community amounted to over \$28 million. The pros to HOT grants include: allowed HOT funds to be spent for ROI; completely transparent and fair; protected funding partners and the CVB; allowed to incentivize groups to return/stay in BCS; and encouraged events on ‘need’ dates. The cons

include: process was extremely time consuming; no immediate response for client; limited funds; and some organizations went around this system for funding.

A change to the system established Grant Panels, which will meet twice a year. The October panel addressed nine organizations for fifteen events for an estimated economic impact of \$29.5 million. The March panel will address eleven organizations for thirteen events for an estimated economic impact of \$9.5 million. This is a much smoother process with immediate opportunity for questions, discussion, and decisions. Only 25% is given upfront. Again however, there are limited funds with only \$128,000 from College Station. The Grant Panels consist of the CVB Executive Committee (both City Councils, City appointments, and a BVLA appointment), an Arts Council representative, and representatives from City Manager's Offices. The evaluation process includes: room nights generated; need dates; potential for the group to return; and the number of attendees (spectators and participants/registrants).

For the future, it is hoped that available funds can be increased, perhaps with a percentage of the HOT tax collected. They also want to simplify the invoice/payment process with an invoice for the full amount upfront. They will provide quarterly and annual reports showing what was paid out and what is left.

#### **6. Council Calendar**

- **March 3** Bicycle, Pedestrian & Greenways Advisory Board Meeting at 2nd Floor Conference Room 1, 3:00 p.m.
- **March 6** Grand Opening - Hilton Garden Inn at 3081 University Drive East, 4:30 p.m.
- **March 6** P&Z Workshop/Regular Meeting, 5:00/7:00 p.m. (Liaison: Steve Aldrich)
- **March 13** Executive Session/Workshop/Regular Meeting at 4:30, 6:00 & 7:00 p.m.

Council reviewed the calendar. The Empty Bowls event at the Arts Council is March 1 at 10:30 a.m. The Dinner for CASA at the Brazos Center is on March 1 at 6:00 p.m. March 8, 8:00 a.m., is the wall raising for Habitat for Humanity at 1117 Phoenix.

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

There were no items requested for placement on a future agenda.

#### **8. Discussion, review and possible action regarding the following meetings: Animal Shelter Board, Arts Council of Brazos Valley, Arts Council Sub-committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Blinn College Brazos Valley Advisory Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BWACS, Compensation and Benefits Committee, Convention & Visitors Bureau, Design Review Board, Economic Development Committee,**

**Gigabit Broadband Initiative, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Twin City Endowment, Youth Advisory Council, Zoning Board of Adjustments.**

Mayor Berry reported on the Blinn College Advisory Committee.

Councilmember Schultz reported on the RVP and the Legislative Affairs Committee for the Chamber of Commerce.

Councilmember Nichols reported on the Brazos County Health Department.

Councilmember Brick reported on the Transportation Mobility Committee and the Chamber of Commerce Transportation Committee.

## **9. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 6:59 p.m. on Thursday, February 27, 2014.

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

ATTEST:

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
CITY OF COLLEGE STATION  
FEBRUARY 27, 2014

STATE OF TEXAS           §  
                                          §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry, Mayor

**Council:**

Blanche Brick  
Steve Aldrich  
Karl Mooney  
John Nichols  
Julie Schultz  
James Benham, absent

**City Staff:**

Kelly Templin, City Manager  
Carla Robinson, City Attorney  
Chuck Gilman, Deputy City Manager  
Sherry Mashburn, City Secretary  
Tanya McNutt, Deputy City Secretary

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

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Berry at 7:14 p.m. on Thursday, February 27, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

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

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Mooney, the City Council voted six (6) for and none (0) opposed, to approve Councilmember Benham's absence request. The motion carried unanimously.

**Citizen Comments**

Ben Roper, 5449 Prairie Dawn Court, honored the life and sacrifice of Staff Sgt. Brian T. Craig who died in the service of his country on April 13, 2002.

## CONSENT AGENDA

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

- **February 13, 2014 Workshop**
- **February 13, 2014 Regular Council Meeting**

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

**2c. Presentation, possible action, and discussion as it relates to the appointment of a member, representing the City of College Station, to the Aggieland Humane Society board, formerly named the Brazos Animal Shelter.**

**2d. Presentation, possible action, and discussion of construction contract no. 14-155 with Bayer Construction Electrical Contractors, Inc. in the amount of \$353,514.00 for traffic signal improvements at the intersection of Rio Grande and FM 2818, Project No. ST-1307.**

**2e. Presentation, possible action and discussion regarding construction contract no. 14-170 with Kieschnick General Contractors, Inc., in the amount of \$1,156,890.50 for the Royder - Live Oak Sewer Extension Project.**

**2f. Presentation, possible action, and discussion regarding the purchase of services and equipment for upgrading the Audio Visual capabilities of the Council Chambers and approval of the contract with Avinext in the amount of \$120,731.58.**

**2g. Presentation, possible action, and discussion regarding Ordinance 2014-3552, updating water tap fees to reflect current costs.**

**2h. Presentation, possible action, and discussion regarding the ratification to terminate the Spherion Staffing LLC contract (13-370).**

**2i. Presentation, possible action and discussion regarding the second renewal of the annual price agreement for wire and cable with Techline for an amount not to exceed \$809,550.**

**2j. Presentation, possible action, and discussion regarding Resolution 02-27-14-2j, to authorize and designate the City Manager to sign all required Action Plan applications, grant agreements, certifications, evaluations, and other forms and agreements required by the U. S. Department of Housing and Urban Development for all Community Planning and Development Grant Programs for program years 2007 - 2013 on behalf of the City of College Station.**

**2k. Presentation, possible action and discussion regarding approval of an Encroachment Agreement between Explorer Pipeline Co., the City of College Station, Dos Dorado Development, LLC d/b/a 3-D Development and BCS Development Co. permitting an extension of WS Phillips Parkway to encroach into an existing pipeline easement.**

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

## **REGULAR AGENDA**

### **1. Public Hearing, presentation, possible action, and discussion approving Ordinance 2014-3553, vacating and abandoning a 0.207-Acre portion of Hawthorne Street Right-of-Way, which is located at 807 Holleman Drive between Winding Road and Glade Street within the Woodson Village, Fifth Installment Subdivision according to the plat recorded in Volume 316, Page 353 of the Deed Records of Brazos County, Texas.**

Alan Gibbs, City Engineer, briefed the Council on the proposed right-of-way abandonment. This abandonment is conditioned that these lots will be replatted as a single lot.

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

There being no comments, the Public Hearing was closed at 7:24 p.m.

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Aldrich, the City Council voted six (6) for and none (0) opposed, to adopt Ordinance 2014-3553, vacating and abandoning a 0.207-Acre portion of Hawthorne Street Right-of-Way, which is located at 807 Holleman Drive between Winding Road and Glade Street within the Woodson Village, Fifth Installment Subdivision according to the plat recorded in Volume 316, Page 353 of the Deed Records of Brazos County, Texas. The motion carried unanimously.

### **2. Public Hearing, presentation, possible action, and discussion regarding Ordinance 2014-3554, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by rezoning approximately 11.3 acres from PDD Planned Development District and R-4 Multi-Family to PDD Planned Development District for Northpoint Crossing Subdivision Lots 1 & 2, Block 1, North Park Subdivision Lots 2-4, Block 1, a 0.345-acre tract in the J.E. Scott League A-50, and a 0.055-acre tract of abandoned right-of-way recorded in Volume 10778, Page 243 of the Official Records of Brazos County, Texas, generally located at 410 Texas Avenue.**

Jason Schubert, Planning and Development Services, reported that Mixed Use development is only permitted by right in the Northgate and Wolf Pen Creek zoning districts, so a planned development zoning is necessary. There are some modifications to the standard zoning districts to help create a mixed use environment. Staff is only authorized to approve minor changes such as minor building or parking additions, etc. Meritorious modifications include:

- Clarify landscape, parking island, and sidewalk standards along Hensel Street; and
- Add hanging signs that are allowed in Northgate and revising some wayfinding, low profile, light pole, and attached sign standards.

The Planning and Zoning Commission considered this item at their February 6, 2014 meeting and voted 7-0 to recommend approval of the rezoning request.

At approximately 7:40 p.m., Mayor Berry opened the Public Hearing.

Veronica Morgan, 511 University Drive, said she was here to answer any questions. They are not reducing any parking requirements.

There being no further comments, the Public Hearing was closed at 7:42 p.m.

**MOTION:** Upon a motion made by Councilmember Nichols and a second by Councilmember Schultz, the City Council voted six (6) for and none (0) opposed, to adopt Ordinance 2014-3554, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by rezoning approximately 11.3 acres from PDD Planned Development District and R-4 Multi-Family to PDD Planned Development District for Northpoint Crossing Subdivision Lots 1 & 2, Block 1, North Park Subdivision Lots 2-4, Block 1, a 0.345-acre tract in the J.E. Scott League A-50, and a 0.055-acre tract of abandoned right-of-way recorded in Volume 10778, Page 243 of the Official Records of Brazos County, Texas, generally located at 410 Texas Avenue. The motion carried unanimously.

**3. Public Hearing, presentation, possible action, and discussion regarding Ordinance 2014-3555, amending the Comprehensive Plan - Future Land Use & Character Map from Estate to Suburban Commercial for approximately 5.4 acres at 1201 Norton Lane, generally located at the intersection of Norton Lane and Wellborn Road.**

Morgan Hester, Planning and Development Services, explained the proposed amendment to the Comprehensive Plan. The definitions for “Estate”, and “Suburban Commercial” were provided. Comprehensive Plan goals were discussed and several options for action were presented:

- Approval – Accept the applicant’s proposal of amending the Comprehensive Plan to Suburban Commercial Designation;
- Denial – the property will remain Estate as currently designated on the Comprehensive Plan; or
- Propose an alternative land use and character designation for this property.

The Planning and Zoning Commission considered this item at their February 6, 2014 meeting and voted 7-0 to recommend approval of the Comprehensive Plan Amendment.

At approximately 7:49 p.m., Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 7:49 p.m.

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Mooney, the City Council voted five (5) for and one (1) opposed, with Councilmember Nichols voting against, to adopt Ordinance 2014-3555, amending the Comprehensive Plan - Future Land Use & Character Map from Estate to Suburban Commercial for approximately 5.4 acres at 1201 Norton Lane, generally located at the intersection of Norton Lane and Wellborn Road. The motion carried.

**4. Presentation, possible action, and discussion regarding the approval of Ordinance 2014-3556, amending Chapter 4 “Business Regulations” of the College Station Code of**

**Ordinances by amending Section 17 to include “Credit Access Businesses” which would provide registration requirements and credit extension guidelines for credit access businesses.**

David Brower, Community Services, provided an overview of the Payday Lending Ordinance and Credit Access Businesses (CAB). These are defined in Section 393.601 of the Texas Finance Code. CABs offer payday and auto title loans. Payday loans are small cash advances with two-week loan terms. These loans are unsecured, but a postdated check is required. With an auto title loan, the car title is used as collateral and has a one month loan term. If the borrower defaults, the lender can take the car. These types of loan products create cycles of debt. High fees are paid month after month, often with no reduction in the loan principal. There are currently five CABs in College Station, all on Texas Avenue between Harvey Road and Southwest Parkway.

After receiving a call to action from the United Way’s Financial Stability Committee concerning Payday and Auto Title Lending Activities, Council directed staff to bring a Payday Lending Resolution for their consideration, which was passed on January 10, 2013 calling on the State Legislature and Governor to take action to stop usurious lending by CABs that exploit economically vulnerable College Station citizens. The City of Bryan, as well as other Texas municipalities, passed similar resolutions in support of State action; however, the Legislature passed no significant regulation governing CABs during the 2013 Legislature. Legislation from 2011 basically makes sure that lenders make costs clear to borrowers in plain language warnings and requiring reports to the Office of Consumer Credit Commissioner. Data reported to the Texas Office of Consumer Credit Commissioner shows that over \$2.4 million in fees were charged and 269 vehicles repossessed by CABs in the College Station/Bryan metropolitan area in 2012.

The proposed ordinance is crafted from a model provided by the Texas Municipal League. Other cities across the State, including the City of Bryan, Denton, Balcones Heights, Flower Mound, Somerset, El Paso, San Antonio, Houston, Dallas, Austin, and most recently the City of Bellaire have enacted similar legislation. The purpose of this proposed ordinance is to protect the welfare of the citizens of the City of College Station by monitoring CABs in an effort to reduce abusive and predatory lending practices. Under the proposed ordinance:

- A CAB must apply for and receive a certificate of registration from the City;
- A CAB must maintain complete records of all loans made by the business for at least three years and make the records available to the City for inspection upon request;
- The amount of a payday loan may not exceed 20% of the borrower’s gross monthly income;
- The amount of an auto title loan may not exceed the lesser of 3% of the borrower’s gross annual income or 70% of the retail value of the motor vehicle;
- Any loan from a CAB that provides for repayment in installments may not be payable in more than four installments, and the proceeds from each installment must be used to repay at least 25% of the principal amount of the loan. No renewals or refinancing of installment-payment loans are permitted; and
- Any loan from a CAB that provides for a single lump sum repayment may not be refinanced or renewed more than three times, and the proceeds from each refinancing or renewal must be used to repay at least 25% of the principal amount of the loan.

Any loan made to a borrower within seven days of a previous loan being paid by the borrower constitutes a refinancing or renewal.

The CAB is required to ensure that the borrower understands the terms of any agreement and must provide borrowers with a referral sheet to consumer credit counseling agencies and other financial education. There is a fine not to exceed \$500 for each offence. If passed, the City would rely on citizen complaints at first to enforce the ordinance. Citizen education is also key. Standard monitoring practices will be developed.

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Nichols, the City Council voted six (6) for and none (0) opposed, to adopt Ordinance 2014-3556, amending Chapter 4 “Business Regulations” of the College Station Code of Ordinances by amending Section 17 to include “Credit Access Businesses” which would provide registration requirements and credit extension guidelines for credit access businesses. The motion carried unanimously.

**5. Presentation, possible action, and discussion regarding concepts related to a future Comprehensive Plan Amendment for the BioCorridor area.**

Molly Hitchcock, Planning and Development Services, reported on a future amendment to the Biocorridor Comprehensive Plan. Considerations include the Concept Map for the Presidential Corridor Gateway District, Community Assets and Image Corridors, and the Economic Development Master Plan. The existing land use designations include the Business Park and Suburban Commercial, but interest has been expressed for General Commercial.

Jane Kee, Planning and Zoning Commission, stated that we need to look at the larger area; hotels are a consideration, but General Commercial may not be the way to go.

David Neeley stated that if this is going to be an entry-way corridor, we will need to consider the aesthetics for the corridor and need to work with the City of Bryan for consistency.

Council agreed with the staff recommendation to create one special overlay district that can provide guidance to the developers. Planning and Zoning can review requests on a case by case basis.

Jim Jett, 5004 Congressional Court, said he may have initiated this discussion when he approached staff with a proposed zoning change. Everything he has heard from staff and Council has given him a comforting feeling. He likes the overlay concept; the PDD concept in the beginning is a little worrisome.

Ms. Hitchcock said her understanding of the discussion is that General Commercial can be used along SH 47, the ILA can expand out further, and to create an overlay district for this area.

**6. Presentation, possible action and discussion regarding appointments to the following boards and commissions:**

- **Historic Preservation Committee**

The following were appointed to the Historic Preservation Committee: Jerry Cooper, Katherine Edwards, Tina Evans, Linda Harvell, and Louis Hodges.

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Nichols, the City Council voted six (6) for and none (0) opposed, to appoint Louis Hodges as Chair. The motion carried unanimously.

**7. Adjournment.**

**MOTION:** There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 9:00 p.m. on Thursday, February 27, 2014.

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

ATTEST:

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



### Legislation Details (With Text)

<b>File #:</b>	14-290	<b>Version:</b>	1	<b>Name:</b>	HPC ordinance amendment
<b>Type:</b>	Resolution	<b>Status:</b>		<b>Status:</b>	Agenda Ready
<b>File created:</b>	2/20/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	3/13/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action, and discussion on an ordinance amending Chapter 1, Section 1-23, "Creation of a Historic Preservation Committee", of the Code of Ordinances of the City of College Station, Texas, by amending certain sections as set out below; providing a severability lause; declaring a penalty; and providing an effective date.				
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<b>Attachments:</b>	<a href="#">HPC Ordinance Amendment v2 redlined</a> <a href="#">Final Ordinance</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion on an ordinance amending Chapter 1, Section 1-23, "Creation of a Historic Preservation Committee", of the Code of Ordinances of the City of College Station, Texas, by amending certain sections as set out below; providing a severability lause; declaring a penalty; and providing an effective date.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Staff recommends approval.

Summary: With this move, the programming for the Historic Preservation Committee will come under the Parks and Recreation Department. This will allow for increased staff support for their meetings and programs as Historic Programs will be assigned to one of the Recreation Supervisors, and the administrative staff will be able to handle interactions with the public and facilitate the HPC meetings.

The funding for Historic Programs will continue to be part of the Parks and Recreation budget as it is now. Marketing will be expanded to include Historic Preservation in all of the Activity Guides and utilize all of the media methods available to disseminate information.

Parks currently manages and operates the Lunch Lecture Series and plans to continue in that regard. They also will explore adding new programs on Historic topics through the X-Tra Education Program. They will also look at hosting special events that are historically related.

The Historic Marker program will be better advertised, and they will handle that program through their office. Purchasing a new supply of markers is needed at this time and that will be accomplished.

Budget & Financial Summary: None

Attachments: Draft ordinance

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

AN ORDINANCE AMENDING CHAPTER 1, SECTION 1-23, "CREATION OF A HISTORIC PRESERVATION COMMITTEE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1: That Chapter 1, Section 1-23, "Creation of a Historic Preservation Committee", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT "A"**

That Chapter 1, Section 1-23, "Creation of a Historic Preservation Committee", of the Code of Ordinances of the City of College Station, Texas, is hereby amended in its entirety as set out hereafter to read as follows:

**A. Purpose.**

Although the City of College Station, Texas, does not have a long history, it is important that it be collected and preserved. By acting in a timely manner, the City will be able to capture information before it otherwise would become irretrievable.

**B. Membership.**

The committee shall consist of nine (9) members, and where practical may include representation from the Brazos County Historical Society, Texas A&M University, and the College Station City Council.

**~~C.~~ Oversight.**

The committee shall report directly to the Parks and Recreation Board. The Parks and Recreation Board shall appoint members to the committee.

**~~D.C.~~ Term of office.**

The term of office shall be for two (2) years, and the ~~City Council~~Parks and Recreation Board shall appoint members on a staggered basis with five (5) terms expiring in even-numbered years and four (4) terms expiring in odd-numbered years. If a position becomes vacant before the expiration of the position's term, the new appointee shall serve for the balance of the term of his or her predecessor.

The ~~City Council~~Parks and Recreation Board shall appoint all members to fill vacancies. The ~~City Council~~Parks and Recreation Board shall appoint a chairman during the annual appointment process. If a vacancy ~~shall occur~~ in the chairman position, the ~~City Council~~Parks and Recreation Board shall appoint a replacement to serve as Chairman.

**~~E.D.~~ Duties and Responsibilities.**

The duties of this committee shall be to aid in the collection and preservation of the history of the City of College Station and its environs, and to provide for education of citizens on the history of this City. ~~The committee shall also carry out other duties and responsibilities as may be assigned by the City Council. The duties and responsibilities of the committee may be expanded, reduced or otherwise modified only as determined by the City Council upon recommendation of the Parks and Recreation Board.~~ The committee shall semi-annually submit a report to the ~~City Council~~Parks and Recreation Board.

**~~F.E.~~ Meetings.**

The College Station Historic Preservation Committee shall provide for regular and special meetings as necessary to carry on its business, and is authorized to establish its own rules, ~~regulations,~~ and by-laws subject to ratification by the ~~City Council~~Parks and Recreation Board.

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

AN ORDINANCE AMENDING CHAPTER 1, SECTION 1-23, "CREATION OF A HISTORIC PRESERVATION COMMITTEE", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

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- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED:

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

**EXHIBIT "A"**

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**B. Membership.**

The committee shall consist of nine (9) members, and where practical may include representation from the Brazos County Historical Society, Texas A&M University, and the College Station City Council.

**Oversight.** The committee shall report directly to the Parks and Recreation Board. The Parks and Recreation Board shall appoint members to the committee.

**C. Term of office.**

The term of office shall be for two (2) years, and the Parks and Recreation Board shall appoint members on a staggered basis with five (5) terms expiring in even-numbered years and four (4) terms expiring in odd-numbered years. If a position becomes vacant before the expiration of the position's term, the new appointee shall serve for the balance of the term of his or her predecessor.

The Parks and Recreation Board shall appoint all members to fill vacancies. The Parks and Recreation Board shall appoint a chairman during the annual appointment process. If a vacancy occurs in the chairman position, the Parks and Recreation Board shall appoint a replacement to serve as Chairman.

**D. Duties and Responsibilities.**

The duties of this committee shall be to aid in the collection and preservation of the history of the City of College Station and its environs, and to provide for education of citizens on the history of this City. The duties and responsibilities of the committee may be expanded, reduced or otherwise modified only as determined by the City Council upon recommendation of the Parks and Recreation Board. The committee shall semi-annually submit a report to the Parks and Recreation Board.

**E. Meetings.**

The College Station Historic Preservation Committee shall provide for regular and special meetings as necessary to carry on its business, and is authorized to establish its own rules and by-laws subject to ratification by the Parks and Recreation Board.



Legislation Details (With Text)

**File #:** 14-297      **Version:** 1      **Name:** Purchase of Various Transformers  
**Type:** Bid Award      **Status:** Agenda Ready  
**File created:** 2/24/2014      **In control:** City Council Regular  
**On agenda:** 3/13/2014      **Final action:**  
**Title:** Presentation, possible action and discussion on the cancellation of award with Stuart C. Irby; re-award of the annual purchase of various transformers and ratification of purchase of emergency transformers. The revised total recommended for re-award is \$546,504.03.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion on the cancellation of award to Stuart C. Irby and re-award of the annual purchase of various transformers and ratification of emergency transformers, which will be maintained in electrical inventory and expended as needed. The revised total recommended for award is \$546,504.03.

**Relationship to Strategic Goals:** Core Services and Infrastructure

**Recommendation(s):** Recommend award to the lowest responsible bidder providing the best value to the City as follows:

<u>Vendor</u>	<u>Original Award</u>	<u>Requested Change</u>
Stuart C. Irby	\$ 157,404.55	Cancel Award (-\$157,404.55)
HD Supply	\$ 208,847.36	No Change
Texas Electric Cooperatives	\$ 23,740.00	No Change
Techline	\$ 71,407.00	+ \$128,510.00
Priester-Mell & Nicholson	\$ 34,152.00	+ \$47,070.00
Wesco	\$ 13,553.67	No Change
KBS	\$ 19,224.00	No Change
<b>TOTAL</b>	<b>\$528,328.58</b>	<b>+ \$18,175.45</b>
<b>ADJUSTED TOTAL</b>		<b>\$546,504.03</b>

**Summary:** On November 14, 2013, Council approved Item 2i to the lowest responsible bidder by line item. Following Council approval several orders were placed against the blanket purchase orders which had been issued. On February 19, 2014 ten transformers ordered from Stuart C. Irby were received at the Electric Warehouse. Upon inspection staff discovered the transformers did not meet

the City's requirements. After speaking with representatives at Stuart C. Irby, City staff has determined that none of the transformers awarded to Stuart C. Irby will meet the City's needs.

Staff recommends canceling the award to Stuart C. Irby in the amount of \$157,404.55, and re-awarding the effected line items to the next lowest bidders. Techline will be awarded three line items for the additional amount of \$128,510.00. Priester-Mell & Nicholson will be awarded two line items for the additional amount of \$47,070.00. These changes will result in a net increase of \$18,175.45.

Due to the time sensitive projects involving the ten transformers that were received, but could not be used, staff issued an emergency purchase order to Techline in the amount of \$17,800.00. This amount is included in the requested changes above, but will be subtracted from the final blanket purchase order. Staff is requesting the ratification of this emergency purchase order.

**Budget & Financial Summary:** Funds are budgeted and available in the Electrical Fund. Various projects may be expensed as supplies are pulled from inventory and issued.

**Reviewed and Approved by Legal:** N/A

**Attachments:** None



Legislation Details (With Text)

<b>File #:</b>	14-307	<b>Version:</b>	1	<b>Name:</b>	Atmos Franchise
<b>Type:</b>	Franchises	<b>Status:</b>		<b>Status:</b>	Agenda Ready
<b>File created:</b>	3/4/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	3/13/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action and discussion on the first reading of an ordinance granting a non-exclusive natural gas franchise to Atmos Energy Corporation Mid-Tex Division.				
<b>Sponsors:</b>					
<b>Indexes:</b>	Atmos, Franchise				
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Atmos Franchise Ordinance</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion on the first reading of an ordinance granting a non-exclusive natural gas franchise to Atmos Energy Corporation Mid-Tex Division.

Relationship to Strategic Goals:

- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s): Approve the first reading of the franchise ordinance.

Summary: On March 25, 2004 Council passed ordinance 2705 granting a non-exclusive natural gas franchise to TXU Gas Company which was set to expire on December 31, 2013. In the summer of 2004, Atmos Energy acquired the distribution and transmission assets of TXU Gas Company and assumed its franchise with the city. This new franchise agreement with Atmos is active until December 31, 2023 and per section 10 of the ordinance cannot be assigned without the approval of the City Council.

Budget & Financial Summary: The city will receive a franchise fee of five percent (5%).

Attachments: Franchise Ordinance

ORDINANCE NO: \_\_\_\_\_

**AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; RESERVING MUNICIPAL AUTHORITY; PROVIDING FOR INDEMNITY TO THE MUNICIPALITY AND INSURANCE BY ATMOS ENERGY CORPORATION; REQUIRING BOOK AND RECORD KEEPING; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PROVIDING AN EFFECTIVE DATE AND TERM; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.**

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

SECTION 1. DEFINITIONS:

- 1.1 “City” shall mean the City of College Station, Texas, a Home-Rule Municipal Corporation operating under the laws of the State of Texas.
- 1.2 “City Council” shall mean the governing body of the City.
- 1.3 “City Manager” shall mean the City Manager of the City, or his or her duly authorized representative.
- 1.4 “Company” shall mean the Mid-Tex Division of the Atmos Energy Corporation, a corporation organized and existing under and by virtue of the laws of the State of Texas and Virginia, authorized to transact and actually transacting business in the State of Texas, acting by and through its duly authorized legal representatives.
- 1.5 “Customer” shall mean any person or organization being billed for gas services, including transportation, whether used by him or her, or by others.

- 1.6 “Emergency” is defined as sudden and unforeseeable damage or malfunction of a portion of the Company’s System that creates a threat to life, health, or property.
- 1.7 “Franchise” shall mean this Ordinance, and all rights and obligations established herein.
- 1.8 “Gas” shall mean natural gas and any synthetic gas distributed by the Company through its System.
- 1.9 “Gross Revenues” shall mean:
- (a) All revenues billed by the Company from the sale of gas to all classes of customers (excluding gas sold to another non-affiliate gas utility in the City for resale to its customers within the City) within the City including base rate revenues and revenues from the Company’s purchased gas adjustment tariff;
  - (b) All revenues received by the Company from the transportation of gas through the System to customers located within the City (excluding gas transported to another non-affiliate gas utility in the City for resale to its customers within the City);
  - (c) The value of gas transported by the Company for Transport Customers through the System (excluding gas sold to another non-affiliate gas utility in the City for resale to its customers within the City), with the value of such gas to be established by utilizing the Company’s monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division as reasonably near the time as the transportation services is performed;
  - (d) Contributions in aid of construction; and
  - (e) “Gross Revenues” shall also include state gross receipts tax and the following “miscellaneous charges”: to connect, disconnect or reconnect gas and charges to handle returned checks from consumers within the City.

(f) “Gross Revenues” shall not include:

- i. revenues billed but not ultimately collected or received by the Company;
- ii. the revenue of any affiliate or subsidiary of the Company;
- iii. sales tax and franchise fees paid to the City;
- iv. interest or investment income earned by the Company; and
- v. monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the Public Rights-of-Way.

1.10 “Public Rights-of-Way” shall mean the area on, below, or above a public roadway, highway, street, sidewalk, alley, waterway, or utility easement of the City, as they now exist or may hereafter be constructed, opened, laid out, or extended within the present limits of the City, or in such territory as may hereafter be added to, consolidated or annexed to the City.

1.11 “System” shall mean all the Company’s pipes, pipelines, gas mains, laterals, feeders, regulators, meters, fixtures, connections and any other equipment or instrumentalities used in or incident to providing delivery, transportation, distribution, supply and sales of natural gas for heating, lighting, power, and any other purpose for which natural gas may now or hereafter be used, located within the corporate limits of the City.

1.12 “Transport Customer” shall mean any person or entity for which the Company transports gas through the System to Customers for delivery or consumption within the City.

## SECTION 2. GRANT OF AUTHORITY:

2.1 The City hereby grants to the Company, its successors and assigns, consent to use and occupy the Public Rights-of-Way, for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon all or any portion of the System to deliver, transport, and distribute gas in, out of, and through the City for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the City corporate limits, as such limits may be amended from time to time during the term of this franchise, said consent being granted for a term ending December 31, 2023.

2.2 The provisions set forth in this Ordinance represent the terms and conditions under which the Company shall construct, operate, and maintain the System. In granting this franchise, the City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, nor any of its rights and powers under and by virtue of present or future ordinances of the City. The Company, by its acceptance of this Franchise, agrees that all such lawful regulatory powers and rights as the same may be from time to time vested in the City shall be in full force and effect and subject to the exercise thereof by the City at any time.

## SECTION 3. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION OF COMPANY FACILITIES:

3.1 The Company is hereby authorized to lay, maintain, construct, operate, and replace its pipes, mains, laterals, and other equipment to minimize interference with traffic, place or cause to be placed appropriate barriers to mark excavations or obstructions, and restore to as good a condition as before commencement of work all Public Rights-of-Way that it may disturb. Before any work is commenced, the Company must obtain any permits required by the City for construction within the Public Rights-of-Way in accordance with the ordinances or process in place at the time the work is performed. Under no circumstances shall the Company be required

to pay for any permit. It shall not be necessary for the Company to obtain permits for the laying of service lines from the mainline pipes of the Company to its Customers if no work will take place in Public Rights-of-Way. It shall not be necessary for the Company to obtain a permit in advance of resolving an Emergency. In the event of an Emergency, the Company shall notify the City Manager no later than ten (10) days after the last day of the Emergency, along with information that describes the circumstances of the Emergency.

3.2 In determining the location of the facilities of the City and other users of Public Rights-of-Way, the City shall minimize interference with then existing System facilities and shall instruct other users of Public Rights-of-Way to minimize interference with existing System facilities. The placement of all System facilities shall be subject to the City's approval. In the event of a conflict between the location of the Company's proposed facilities and the location of the existing facilities of the City or other users of Public Rights-of-Way within Public Rights-of-Way that cannot otherwise be resolved, the City or an authorized agent of the City shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way.

3.3 The Company or contractors working on behalf of the Company shall not be required to pay fees for permits that must be obtained from the City for street cutting, street excavation or other work in Public Rights-of-Way in connection with the Company's operations. A copy of the City's annual capital improvements plan ("CIP") shall be made available on the City's website or upon request. The City should notify the Company's local representative of any major change to the CIP. When required by City to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, the Company shall do so as soon as practically possible with respect to the scope of the project. In no event shall the Company be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to the Company by the City.

3.4 If the City, constructs or alters its sewers, drainage, water lines, other utilities, or the grade or alignment of the Public Rights-of-Way, so as to conflict with System facilities, the Company shall remove or relocate its mains, laterals, and other facilities lying within Public

Rights-of-Way that are in conflict, at its own expense, unless such work is for the primary purpose of beautification.. However, if such work is being performed because of a private development project, the private developer shall be required to reimburse the Company for the cost of removal or relocation of its facilities. Schedules for this work shall be developed by the designated representatives of the Company and the City. If such representatives cannot agree on the schedule, the City Manager, after consultation with the Company, shall establish a schedule. This schedule shall provide for a minimum of thirty (30) days between the time the schedule is furnished to the Company and the time that any specific work to be done by the Company covered in the schedule is to begin. When the Company is required by the City to relocate its facilities, the City shall work with the Company to obtain a safe and suitable alternative location. The Company shall not be required to relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from the Company.

3.5 When the Company is required by the City to remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way to accommodate a request by City, and costs of utility removals or relocations are eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by the Company as a result of such removal or relocation, and such reimbursement is required to be handled through the City, the Company costs and expenses shall be included in any application by the City for reimbursement if the Company submits its cost and expense documentation to the City prior to the filing of the application. The City shall provide reasonable written notice to the Company of the deadline for the Company to submit documentation of the costs and expenses of such relocation to the City. In the event that the City does not provide sufficient written notice to Atmos Energy as set forth in this paragraph, the City shall be responsible for fifty percent (50%) of the cost of the removal or relocation of Atmos Energy's facilities.

3.6 When the Company is required to remove or relocate its mains, laterals or other facilities to accommodate construction by the City without reimbursement from the City, the Company shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of the Company to seek or recover a surcharge from Customers for the cost of relocation

pursuant to applicable state and/or federal law. The City shall not oppose recovery of relocation costs when the Company is required by the City to perform relocation. The City shall not require that the Company document request for reimbursement as a pre-condition to recovery of such relocation costs. Notwithstanding any provision of this Franchise, the City shall have the right to participate and challenge any other capital costs or expenses of the Company and request full documentation to the full extent provided by state law.

3.7 If the City abandons any Public Rights-of-Way in which the Company has facilities, such abandonment shall be conditioned on the Company's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse the Company for all removal or relocation expenses if the Company agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests the Company to remove or relocate its facilities and the Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

3.8 If a meter is installed in or near the Public Rights-of-Way, the Company agrees to discuss with the City Engineer or his delegate the aesthetics of the meter placement. If agreement cannot be reached, the Company may install standard equipment.

3.9 The Company shall be required to extend distribution mains in any street up to one hundred (100) feet for any one residential customer, provided, however, if the Company determines the anticipated connected load will prohibit the Company a reasonable return on its investment as may be allowed by statute, law, or regulation and the provision of service is not economically feasible, the cost of such extension shall be borne by the customer. The Company shall not be required to extend transmission mains in any Public Rights-of-Way or to make a tap on any transmission main within the City unless the Company agrees to such extension by a written agreement between the Company and a customer.

3.10 The Company hereby agrees that it will not arbitrarily refuse to provide service to any Customer that it is economically feasible for the Company to serve if the Customer to be benefitted will pay the cost thereof or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the Company's investment, after making the customary allowance for depreciation.

3.11 The Company shall furnish reasonably adequate service to Customers as reasonable rates and charges therefor, and the Company shall maintain its System in good order and condition. Such rates shall be established in accordance with all applicable statutes and ordinances. The Company shall maintain on file with the City copies of its current tariffs, schedules or rates and charges and service rules and regulations applicable to the City. The rates and charges collected from Customers shall be subject to revision and change by either the City or the Company in the manner provided by law.

#### **SECTION 4. INDEMNITY & INSURANCE:**

**4.1 IN CONSIDERATION OF THE GRANTING OF THIS FRANCHISE, THE COMPANY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES, BOARDS AND COMMISSIONS (THE "INDEMNITEES") FROM AND AGAINST ALL SUITS, ACTIONS OR CLAIMS OF INJURY TO ANY PERSON OR PERSONS, OR DAMAGES TO ANY PROPERTY BROUGHT OR MADE FOR OR ON ACCOUNT OF ANY DEATH, INJURIES TO, OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR FOR DAMAGE TO OR LOSS OF PROPERTY ARISING OUT OF, OR OCCASIONED BY THE COMPANY'S INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS IN CONNECTION WITH THE COMPANY'S OPERATIONS, EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY DETERMINED BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM THE SOLE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES. IN THE**

**EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE CITY AND THE COMPANY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY NECESSARY CONSENT TO SUIT OR GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY OF THE DEFENSES OF THE PARTIES UNDER TEXAS LAW. FURTHER, IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE CITY AND THE COMPANY, RESPONSIBILITY FOR ALL COSTS OF DEFENSE SHALL BE APPORTIONED BETWEEN THE CITY AND THE COMPANY BASED UPON THE COMPARATIVE FAULT OF BOTH.**

4.2 The Company's insurance of its obligations and risks undertaken pursuant to this franchise may be in the form of self-insurance to the extent permitted by applicable law, under a Company plan of self-insurance maintained in accordance with sound accounting and risk-management practices.

SECTION 5. NON-EXCLUSIVE FRANCHISE: The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and the City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for the City and the inhabitants thereof.

SECTION 6. PAYMENTS TO CITY:

6.1 Except as provided in Section 6.3 below, the Company, its successors and assigns, agrees to pay and the City agrees to accept, on or before the 15<sup>th</sup> day of May, August, November, 2014 and February, 2015, and on or before the same days of each succeeding year during the term of this Franchise the last payment of the initial term being made on the 15<sup>th</sup> day of February, 2024, a sum of money which shall be equivalent to five percent (5%) of the Gross Revenues received by the Company during the preceding calendar quarter.

6.2 The initial payment for the rights and privileges herein provided shall be for the privilege period January 1 through March 31, 2014, and each succeeding payment shall be for the privilege period of the calendar quarter preceding the quarter in which the payment is made.

6.3 The franchise fee amounts based on CIAC shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year. The franchise fee amounts that are due based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC recorded within the corporate limits of the City during the preceding calendar year. The final payment of franchise fee amounts based on CIAC will be April 30, 2024.

6.4 Payments received after the due date shall be subject to interest charged at the rate for Customer deposits under the Texas Utilities Code Section 183.003 in effect for the time period involved, from such due date until payment is received by the City.

6.5 The Company shall provide a report with each payment which sets forth the total, in dollars and cents, of the Gross Revenues. At a minimum, the report will show, by Customer class, Gross Revenues and resulting franchise fee attributable to the sale of gas and other miscellaneous charges. In addition, the report will show the amount of franchise fee collected from transportation customers attributable to the value of gas transported for the customers.

6.6 It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that the City may now impose or hereafter levy and collect from the Company or the Company's agents, excepting only the usual general or special ad valorem taxes that the City is authorized to levy and impose upon real and personal property. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then the City agrees

that it will apply so much of said sums of money paid as may be necessary to satisfy the Company's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

6.7 If the Company should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in the Company's Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public rights-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due the City under this Ordinance, then the franchise fee to be paid by the Company to the City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and Company may grant, in its sole reasonable discretion, such waiver.

6.8 The Company may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.

6.9 The City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of the Company's rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the Company's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by the Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by the Company.

6.10 The City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by the Company.

## SECTION 7. BOOKS AND RECORDS:

7.1 The Company shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this Franchise. All such books of accounts and records shall be kept at the Company's principal office. Upon request of the City, the Company shall present any and all records, accounts and books for inspection relative to the Gross Revenues of the Company within the corporate limits of the City. The City may, if it sees fit, upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein. The Company shall make available to the auditor such personnel and records as the City may request in order to complete such audit, and shall make no charge to the City therefore. The Company shall assist the City in its review by providing all requested information no later than fifteen (15) days after receipt of a request.

7.2 The City may conduct an audit or other inquiry or may pursue a cause of action in relation to the payment of the franchise fee only if such audit, inquiry or pursuit of a cause of action concerns a payment made less than two (2) years before the commencement of such audit, inquiry or pursuit of a cause of action. Each party shall bear its own costs of any audit or inquiry, unless, if after receiving written notice from the City of the City's intent to perform an audit, the Company fails to provide data, documents, reports, or information required to be furnished or fails to reasonably cooperate with the City during an audit properly performed, the Company shall be liable for payment of the City's reasonable and necessary expenses (including reasonable attorney's fees) incurred in obtaining such data, documents, reports or information.

7.3 In the event that a dispute arises regarding an audit performed on the Company's books and records, the Company agrees to participate in mediation in an attempt to resolve the dispute. The Company agrees that it will consult with the City and the parties will mutually agree on a mediator to preside over the mediation.

7.4 The Company shall keep and maintain complete books, records, accounts, documents and papers pertaining to the Company's System and all the underlying books, records and working

papers on which the Gross Revenue calculations were based in accordance with the Company's record retention policy or for a period of four (4) years, whichever is greater.

#### SECTION 8. TERMINATION:

8.1 Right to Terminate: In addition to any rights set out elsewhere in this Franchise, the City reserves the right to terminate the Franchise and all rights and privileges pertaining thereto, in the event that the Company violates any material provision of the Franchise.

8.2 Procedures for Termination: The City may, at any time, terminate this Franchise for a continuing material violation by the Company of any of the substantial terms hereof. In such event, the City shall give to the Company written notice, specifying all grounds on which termination or forfeiture is claimed, by registered mail, addressed and delivered to the Company at the address set forth herein. The Company shall have sixty (60) days after the receipt of such notice within which to cease such violation and comply with the terms and provisions hereof. In the event the Company fails to cease such violation or otherwise comply with the terms hereof, then the Company's Franchise is subject to termination under the following provisions; provided, however, that, if the Company commences work or other efforts to cure such violations within thirty (30) days after receipt of written notice and shall thereafter prosecute such curative work with reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the Franchise will not be terminated.

8.3 Termination shall be declared only by written decision of the City Council after a public proceeding whereby the Company is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. The Company shall be provided at least fifteen (15) business days' prior written notice of any public hearing concerning the termination of the Franchise. In addition, ten (10) days notice by one time publication shall be given of the date, time and place of any public hearing to interested members of the public, which notice shall be paid for by the Company.

8.4 The City, after full public hearing, and upon finding material violation or failure to comply, may terminate the Franchise or excuse the violation or failure to comply, upon a showing by the Company of mitigating circumstances or upon a showing of good cause of said violation or failure to comply as may be determined by the City Council.

8.5 Nothing herein stated shall preclude the Company from appealing the final decision of the City Council to a court or regulatory authority having jurisdiction. The effective date of such termination shall be either when the appeal is dismissed, withdrawn or when a court order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this Franchise shall remain in effect for all purposes.

8.6 Nothing herein stated shall prevent the City from seeking to compel compliance by suit in any court of competent jurisdiction if the Company fails to comply with the terms of this franchise after due notice and the providing of adequate time for the Company to comply with said terms.

**SECTION 9. NO THIRD PARTY BENEFICIARIES:** The Franchise is made for the exclusive benefit of the City and the Company, and nothing herein is intended to or shall confer any right, claim or benefit in favor of any third party.

**SECTION 10. SUCCESSORS AND ASSIGNS:** No assignment or transfer shall be made in whole or in part except in the case of assignment or transfer to an affiliate, parent, or subsidiary of the Company without approval of the City Council. Notice of said transfer or assignment shall be provided to the City. City shall grant approval unless the assignee is materially weaker than Company. For the purpose of this Section, “materially weaker” means that the long term unsecured debt rating of the assignee is less than investment grade as rated by both S&P and Moody’s. If the assignee is materially weaker, the City may request additional documents and information reasonably related to the transaction and the legal, financial, and technical qualifications of the assignee. City agrees that said approval shall not be unreasonably withheld or delayed. Upon approval, the rights, privileges and franchise herein granted to the Company shall extend to and include all successors and assigns. The terms, conditions, provisions,

requirements and agreements contained in this Franchise shall be binding upon the successors and assigns of the Company.

SECTION 11. SEVERABILITY: This Ordinance and every provision hereof shall be considered severable, and the invalidity and unconstitutionality of any other portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance. If any term or provision of this ordinance is held to be illegal, invalid or unenforceable, the legality, validity or unenforceability of the remaining terms or provisions of this Ordinance shall not be affected thereby.

SECTION 12. ACCEPTANCE OF FRANCHISE: In order to accept this Franchise, the Company must file with the City Secretary its written acceptance of this Franchise within sixty (60) days after its final passage and approval by City. If such written acceptance of this Franchise is not filed by the Company, the franchise ordinance shall be rendered null and void.

SECTION 13. REPEAL: When this Franchise becomes effective, all previous ordinances of City granting franchises for gas delivery purposes that were held by the Company shall be automatically canceled and annulled, and shall be of no further force and effect.

SECTION 14. PARAGRAPH HEADINGS. CONSTRUCTION: The paragraph headings contained in this Ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this Ordinance and this Ordinance shall not be construed either more or less strongly against or for either party.

SECTION 15. NOTICES: Any notices required to be sent to the parties under this Franchise shall be sent to the following:

CITY

City Manager

P.O. Box 9960

College Station, Texas 77842

COMPANY

Public Affairs Manager

297 N. Earl Rudder Freeway

Bryan, Texas 77802

SECTION 16. EFFECTIVE DATE: If the Company accepts this Ordinance, it becomes effective after sixty (60) days following its second and final passage by the City Council pursuant to Section 105 of the College Station City Charter.

PRESENTED AND GIVEN first reading on the 13<sup>th</sup> day of March, 2014, at a regular meeting of the City Council of the City of College Station, Texas; and given a second reading and PASSED AND APPROVED on this the 27<sup>th</sup> day of March, 2014.

ATTEST:

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City Secretary

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Nancy Berry, Mayor  
City of College Station, Texas

STATE OF TEXAS §  
COUNTY OF BRAZOS §  
CITY OF COLLEGE STATION §

I, SHERRY MASHBURN, City Secretary of the City of College Station, Brazos County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed by the City Council of the City of COLLEGE STATION, Texas, at a regular session, held on the 27<sup>th</sup> day of March, 2014, as it appears of record in the Minutes in Book \_\_\_\_\_, page \_\_\_\_\_.

WITNESS MY HAND AND SEAL OF SAID CITY, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

---

City Secretary  
City of College Station, Texas



### Legislation Details (With Text)

<b>File #:</b>	14-295	<b>Version:</b>	1	<b>Name:</b>	Consent Resolution - Brazos County MUD No. 1
<b>Type:</b>	Resolution	<b>Status:</b>		<b>Status:</b>	Agenda Ready
<b>File created:</b>	2/24/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	3/13/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Public hearing, presentation, possible action, and discussion regarding a Resolution granting conditional consent to the creation of Brazos County Municipal Utility District No. 1, consisting of approximately 553 acres and located at 17529 State Highway 6 South, in the City's extraterritorial jurisdiction.				
<b>Sponsors:</b>	Planning & Development Services				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Vicinity Map</a> <a href="#">Concept Plan</a> <a href="#">Application</a> <a href="#">Resolution</a> <a href="#">Exhibit A</a>				

Date	Ver.	Action By	Action	Result
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Public hearing, presentation, possible action, and discussion regarding a Resolution granting conditional consent to the creation of Brazos County Municipal Utility District No. 1, consisting of approximately 553 acres and located at 17529 State Highway South, in the City's extraterritorial jurisdiction.

**Relationship to Strategic Goals:** Diverse Growing Economy

**Recommendation(s):** Staff recommends approval of the Resolution granting conditional consent of the Municipal Utility District (MUD)

**Summary:** This Resolution grants conditional consent to the creation of a MUD in the City's extraterritorial jurisdiction (ETJ). The City's consent is needed for the applicant to pursue approval of the MUD through the Texas Commission on Environmental Quality. The proposed MUD will develop, operate, maintain, and issue bonds for financing the construction of needed infrastructure (water, sewer, drainage, streets, etc.) for the proposed district and levy and assess a tax on property within the proposed district to pay operational and maintenance expenses associated with such infrastructure.

The applicant proposes a MUD to support the following development:

- Approximately 1,380 single-family lots,
- Approximately 27 acres of general commercial,
- Approximately 16 acres of business/technology business park,
- Approximately 14 acres for a CSISD learning facility,
- Approximately 73 acres of detention/greenways,
- Approximately nine acres of parks/open space, and
- Over five miles of walking trails

The City Council recently adopted a policy regarding the creation, operation, and dissolution of MUDs located within the City limits or the ETJ. The policy provides the following prerequisites for consideration when evaluating applications for MUDs located in the ETJ:

1. Whether the City has already made plans to annex or provide municipal services to the area proposed for inclusion in the District within the next five years, and
2. Whether the proposed area for the District lies in the ETJ of two or more cities

The determination regarding both considerations above is negative. Therefore, the City Council should give consideration to granting conditional consent as outlined in Sections II.D and II.E of the City's adopted policy.

It is important to note that the applicant has agreed to comply with the City's adopted MUD policy, including the conditions for consent. The City's policy addresses the City Council's consent related to issuance of bonds by the District, development agreements designed to extend the City's planning authority over the land contained within the District, and Strategic Partnership Agreements that outline the terms for annexation.

**Compliance with the Comprehensive Plan:** Chapter Two, Community Character, of the Comprehensive Plan recognizes this area as the "Speedway District" and calls for a transition into a master-planned general suburban area that could involve a mix of uses including, but not limited to, general commercial, office, business park, or single-family residences. Chapter Eight, Growth Management & Capacity, of the Comprehensive Plan recognizes the Speedway District's potential to provide area for future growth.

Staff believes that the proposed uses on the attached concept plan are consistent with the Comprehensive Plan.

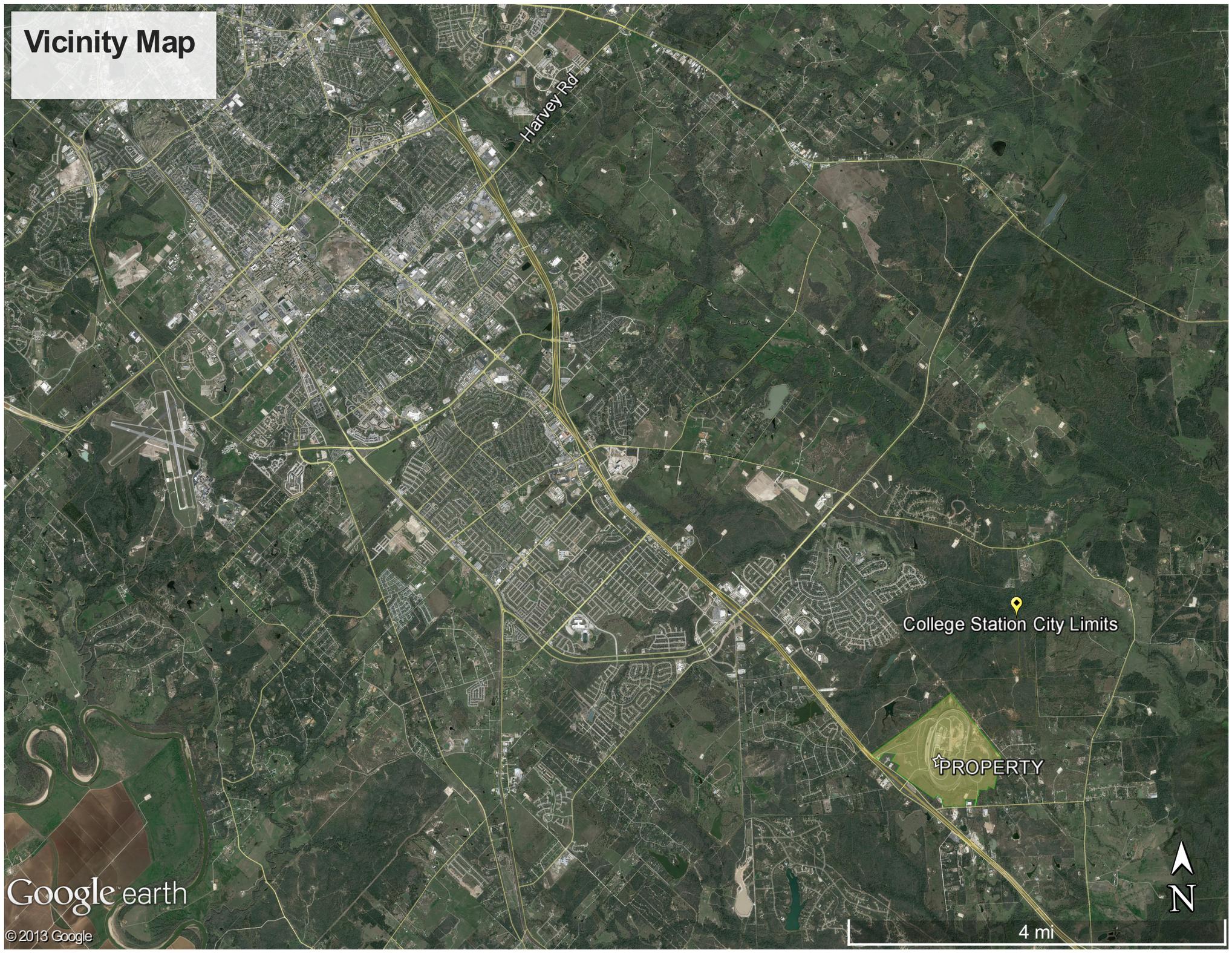
**Budget & Financial Summary:** N/A

**Reviewed and Approved by Legal:** Yes

**Attachments:**

1. Vicinity Map
2. Concept Plan
3. Application
4. Resolution
5. Exhibit A

# Vicinity Map



Harvey Rd

College Station City Limits

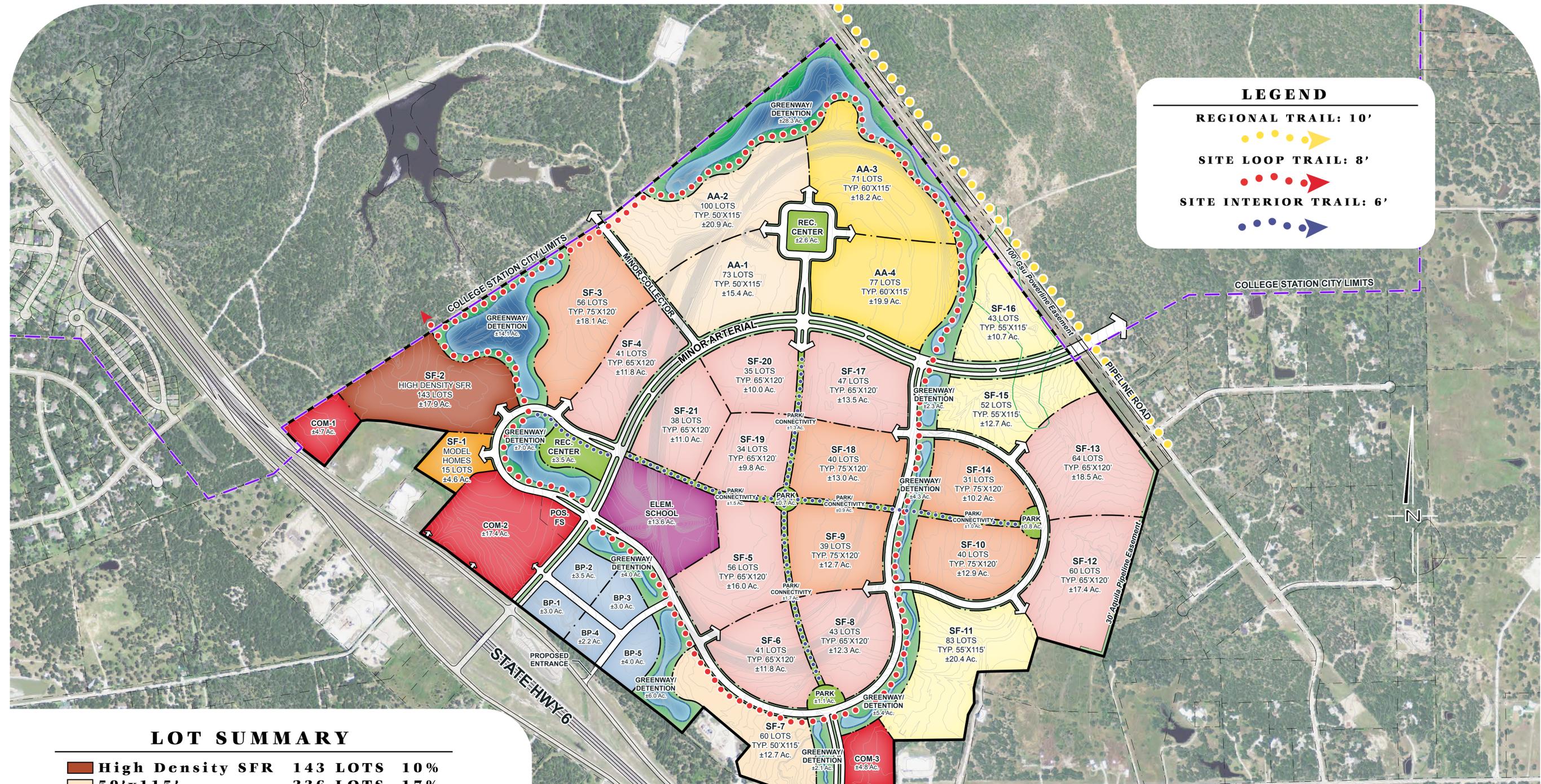
PROPERTY

Google earth

© 2013 Google

4 mi





**LEGEND**

**REGIONAL TRAIL: 10'**

**SITE LOOP TRAIL: 8'**

**SITE INTERIOR TRAIL: 6'**

**LOT SUMMARY**

	<b>High Density SFR</b>	<b>143 LOTS</b>	<b>10 %</b>
	<b>50'x115'</b>	<b>236 LOTS</b>	<b>17 %</b>
	<b>55'x115'</b>	<b>181 LOTS</b>	<b>13 %</b>
	<b>60'x115'</b>	<b>151 LOTS</b>	<b>11 %</b>
	<b>65'x120'</b>	<b>462 LOTS</b>	<b>34 %</b>
	<b>75'x120'</b>	<b>209 LOTS</b>	<b>15 %</b>

**TOTAL 1382 LOTS**

**TOTAL NET RESIDENTIAL: 352.4 Ac**

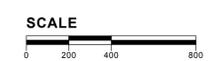
**TOTAL DETENTION: 73.5 Ac**

a conceptual development plan for  
**± 552.9 Ac COLLEGE STATION TRACT**

prepared for  
**GRID RACEPLEX HOLDING, LTD**

**KERRY R. GILBERT & ASSOCIATES, INC.** Land Planning Consultants

23501 Cinco Ranch Blvd.  
 Suite A-250  
 Katy, Texas 77494  
 (281) 579-0340  
 Fax (281) 579-8212



**OCTOBER 23, 2013**  
 KGA #1-331

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<b>FOR OFFICE USE ONLY</b>	
CASE NO.:	_____
DATE SUBMITTED:	_____
TIME:	_____
STAFF:	_____

## MUNICIPAL UTILITY DISTRICT (MUD) PETITION APPLICATION

### MINIMUM SUBMITTAL REQUIREMENTS:

- Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- Land use plan for the property located within the proposed MUD.
- Preliminary plan including existing facilities, proposed facilities, and any area of the proposed MUD located within the 100-year flood plain. If the proposed MUD contains land within the 100-year flood plan, provide a narrative indicating how the flood plain will be impacted by the proposed development.
- A petition signed by persons holding title to land representing a total value of more than 50% of the appraised value of all the land within the proposed MUD.
- Provide engineering report including description of existing area, conditions, topography, and proposed improvements.
- Provide a market study, not more than six (6) months old as of the date of the petition, that indicates projections in residential units per year for specific years for the proposed development. The market study should include all proposed development, residential and/or commercial uses.
- Copy of the petitioner's financial statement and a description of the petitioner's experience with MUDs. If the petitioner and developer are not the same, provide documentation explaining the relationship between the petitioner and developer.
- Documentation that all lien holders consent to the formation of the proposed MUD.
- If the petitioner is a corporation, trust, or joint venture, provide documentation that the person signing the petition is authorized to sign on behalf of the corporation, trust, or joint venture.
- A table summarizing the overlapping tax rate of all existing taxing entities (city, county, school, district, ESD, etc.) and the proposed MUD tax, demonstrating the total anticipated tax rate over the life of the MUD.
- Legal description of property.
- Vicinity Map.
- Boundary map showing metes and bounds.
- Survey closure computation sheet.

Within six (6) months after consent to the creation of a district is given by the City, or within three (3) months after the district is created by the Texas Commission on Environmental Quality or its successor agency, whichever is later, the owner or the developer of the land within the district must pay \$30,000 pursuant to Chapter 14, "Service Fees", to reimburse the City for expenses relating to processing the petition to create the district.

Additional information may be required of the applicant. If so, the applicant will be informed of any extra information.

Proposed Name of MUD Brazos County Municipal Utility District No. 1

Address 17777 State Hwy 6 South, College Station, TX 77845

Total Acreage of Proposed MUD ~552.002 acres

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name Grid Raceplex Holdings, Ltd. (c/o Wm. Mather) E-mail billm@gridre.com  
Street Address 17777 State Hwy 6 South  
City College Station State TX Zip Code 77845  
Phone Number 979-690-2500 Fax Number 866-660-2621

PROPERTY OWNER'S INFORMATION (Please attach an additional sheet for multiple owners):

Name McAlister Opportunity Fund 2012, LP E-mail paul@mcalisterinv.com  
Street Address 2211 Norfolk Street, Suite 803  
City Houston State TX Zip Code 77098  
Phone Number 713-535-2257 Fax Number 713-535-2259

1. Is the proposed MUD located inside the City limits or in the City's Extraterritorial Jurisdiction (ETJ)?

ETJ

2. Number of current property owners located within the proposed MUD: One

3. Provide the name of the entity that currently holds the water Certificate of Convenience and Necessity (CCN) for the property located within the proposed MUD. If more than one entity holds the water CCN, please provide a breakdown of the CCN acreage for each certificate holder.

College Station Utilities holds the water CCN for the property located within the proposed MUD.

4. Provide the name of the entity that currently holds the wastewater Certificate of Convenience and Necessity (CCN) for the property located within the proposed MUD. If more than one entity holds the wastewater CCN, please provide a breakdown of the CCN acreage for each certificate holder.

None - it is anticipated that College Station Utilities will provide wastewater services.

5. Are you requesting an exemption to the policy that the City will serve the MUD with water and wastewater services?

Yes

No

6. Provide a brief description of the general nature of the work that will be performed by the MUD.

*The proposed MUD will (in accordance with Article 16, Section 59, of the Texas Constitution & more specifically Texas Water Code chapters 49 & 54) develop, operate, maintain and issue bonds for financing the construction of the facilities (e.g. water, wastewater, drainage, and roads) for the district and to levy and assess a tax on all taxable property in the district to pay the principal and interest on such bonds and to pay operational and maintenance expenses associated with such facilities.*

7. Describe the benefits of the proposed MUD.

*The delivery and operation of water and wastewater facilities for (1) 1,239 single family residential lots ~ 143 higher density single family residential lots (e.g. townhomes, senior living), (2) ~26.9 acres of general commercial & ~15.7 acres for business/technology business park, (3) ~13.6 acres for a future CSISD learning facility, ~73.5 acres of detention/greenways, and approximately (i) nine-(9) acres of neighborhood parks / open space, (ii) two (2) recreation centers on ~6.1 acres combined, and ~5.5 miles of walking and biking trails.*

8. Provide evidence that the value of the property located in the proposed MUD will be increased.

*The 2013 ad valorem tax value is \$5.4 million and over the time to redevelopment the total ad valorem tax value projected is approximately \$513.7 million (projection from Jones & Carter, Inc. prepared Due Diligence Phase Services Report (the "Feasibility Report") dated November 22, 2013 on the proposed MUD. The Feasibility Report states that "From an economic and engineering standpoint, this Project is both practical and feasible.")*

9. Provide details demonstrating that the proposed MUD will be consistent with the City's Comprehensive Plan.

*The Concept Plan (attached) is consistent with City's Comprehensive Plan designates the site as "an area recognized as unique & deserving of additional attention or protection" (referred as the Speedway District) being "promotion of the speedway while transitioning the speedway into a master-planned General Suburban area..." which is intense level of development activities that "will tend to consist of high-density single-family residential lots (minimum 5,000 square feet). Townhomes, duplexes, and neighborhood commercial and office uses may also be permitted in growth areas."*

10. Demonstrate the community benefits related to the creation of the proposed MUD.

*The proposed MUD will provide for the development of residential housing & amenities for a portion of the significant projected population increase for the City and County that is complimentary to the City's current architectural and development standards and while not burdening the City's capital with the customary financial commitment for such infrastructure.*

11. Name all lien holders of the property within the proposed MUD or provide a separate affidavit stating all lien holders.

*None*

12. Provide the existing and projected population within the proposed MUD.

*The existing population of the proposed MUD is zero (0) and utilizing a factor of 3.25 people per residential unit the population could reach ~1,700.*

13. Provide cost estimates for the proposed improvements planned by the MUD and a cost summary for anticipated bond issue requirements.

*According to the Jones & Carter, Inc. November 22, 2013 Feasibility Report, over the time to redevelopment the total estimated cost of the facilities and related engineering and issuance costs is approximately \$83.4 million and the total estimated of the anticipated reimbursable portion is approximately \$44.2 million.*

14. Provide the projected tax rate for the proposed MUD.

*The projected tax rate for the proposed MUD is approximately \$1.00 per \$100 of value.*

15. Provide a narrative regarding the viability of obtaining water and/or wastewater service from a utility other than the City of College Station. Please limit the discussion to utility providers within two miles of the proposed MUD.

*Wellborn Special Utility District is the only other viable utility provider within two miles of the proposed MUD and it has not been investigated if this utility provider has the capacity to provide utility service to the proposed MUD. Another viable option for delivery of wastewater service is the construction of and operation of wastewater facilities within or near the proposed MUD.*

16. Provide an evaluation of the effect the proposed MUD will have on existing land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural run-off rates, storm drainage, and water quality.

*These issues are to be addressed in detail in the preliminary engineering report that is required to be included in the District Creation submittal package to the TCEQ. In accordance with generally accepted engineering practices, the proposed improvements will include detention facilities and drainage channels which will be designed to mitigate significant issues pertaining to storm water run-off, subsidence and groundwater issues. The domestic water & wastewater quality will be maintained by College Station Utilities.*

I have read, understand, and fully acknowledge the City's adopted policy regarding the establishment of Municipal Utility Districts and intend to fully comply with said policy.  Yes  No

*The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement from the owner. If there is more than one owner, all owners must sign the application or the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.*

  
\_\_\_\_\_  
Signature and title  
as Manager of MOF 2012 G+LLC  
as General Partner of  
McAlister Opportunity Fund 2012 LP

\_\_\_\_\_  
Date  
February 6, 2014

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, GRANTING CONDITIONAL CONSENT TO THE FORMATION OF BRAZOS COUNTY MUNICIPAL DISTRICT NO. 1 WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION

WHEREAS, the owner of land within the proposed boundaries of Brazos County Municipal Utility District No. 1 (the "District"), such land referred to herein as the "Land", has filed a Petition Requesting Consent to the Creation of a Municipal Utility District (the "Petition") requesting consent from the City of College Station (the "City") to creation of the District to include approximately 553 acres, described on Exhibit A attached hereto; and

WHEREAS, the City is empowered under state law to exercise authority over municipal utility districts located within the City's extraterritorial jurisdiction; and

WHEREAS, the Land proposed to be included in the District lies within the extraterritorial jurisdiction of the City; and

WHEREAS, the District proposes to construct the infrastructure including water, sanitary sewer, drainage, road and other services necessary for development of the Land; and

WHEREAS, the City desires to grant its conditional consent to creation of the District and the inclusion within the District of the Land within the City's extraterritorial jurisdiction in the event that the District is created.

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

PART 1: That the City Council hereby grants its consent to the creation of the District and the inclusion within the District of Land described in Exhibit A attached hereto within the City's extraterritorial jurisdiction subject to and specifically conditioned upon the following:

- A. That the term "consent" as used in this Resolution has the meaning provide in Section 42.042 (d), Texas Local Government Code, to wit, authorization to initiate proceedings to create the District as provided by law.
- B. That the consent granted in this Resolution is conditioned upon the District's compliance with the regulations applicable to municipal utility districts contained in the Code of Ordinances, City of College Station, Texas, including compliance with the written policies adopted by the City Council of the City of College Station regarding municipal utility districts.

C. That the consent granted in this Resolution is subject to the requirement that the District receive the City Council's consent before the District issues bonds or refunds bonds.

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

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

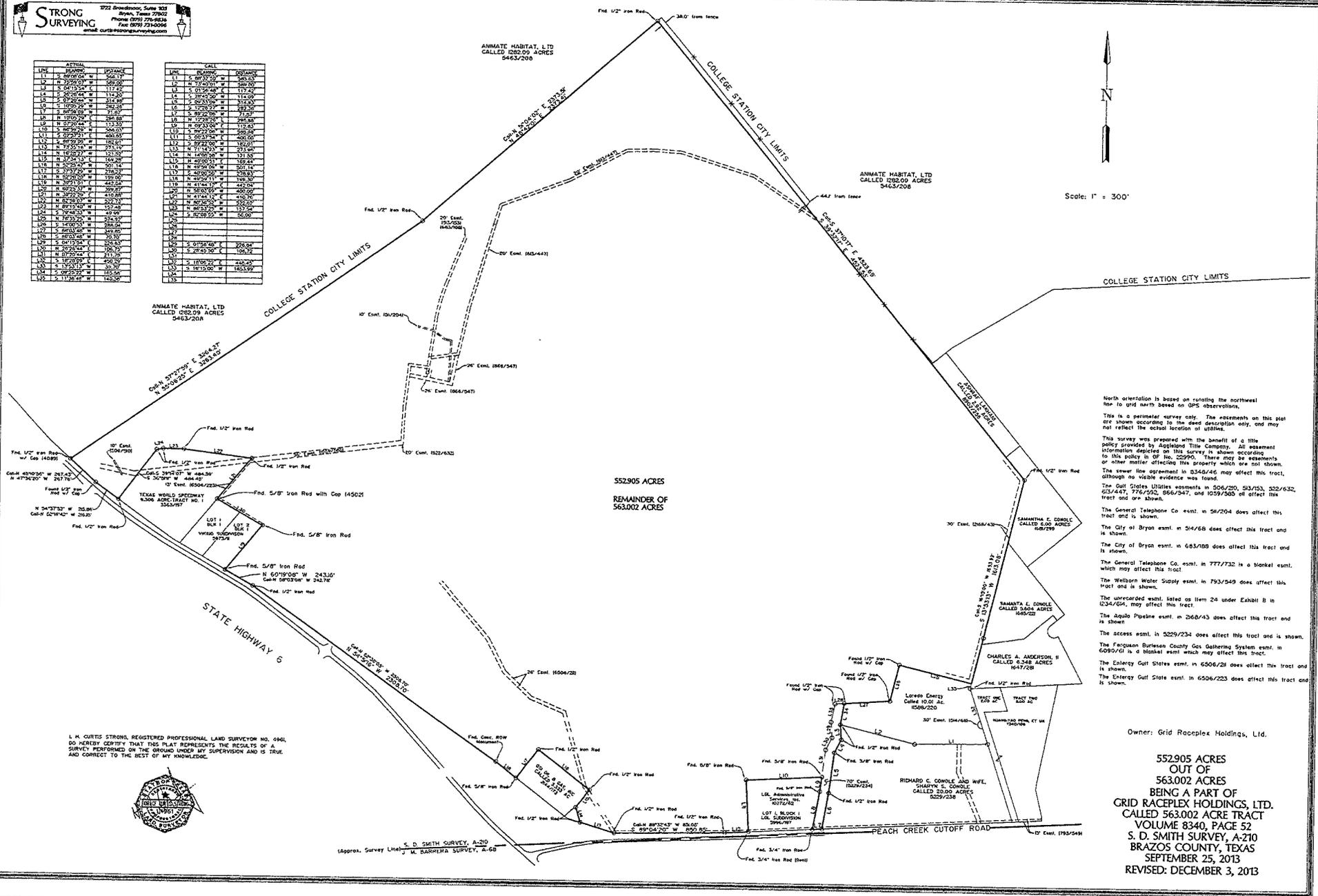
APPROVED:

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

**EXHIBIT "A"**

**STRONG SURVEYING**  
 1922 Broadway, Suite 302  
 Bryan, Texas 77802  
 Phone (979) 776-8634  
 Fax (979) 771-5064  
 email: curtis@strongsurveying.com

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N 89°00'00" W	546.71	L1	N 89°00'00" W	546.71
L2	N 89°00'00" W	546.71	L2	N 89°00'00" W	546.71
L3	N 89°00'00" W	546.71	L3	N 89°00'00" W	546.71
L4	N 89°00'00" W	546.71	L4	N 89°00'00" W	546.71
L5	N 89°00'00" W	546.71	L5	N 89°00'00" W	546.71
L6	N 89°00'00" W	546.71	L6	N 89°00'00" W	546.71
L7	N 89°00'00" W	546.71	L7	N 89°00'00" W	546.71
L8	N 89°00'00" W	546.71	L8	N 89°00'00" W	546.71
L9	N 89°00'00" W	546.71	L9	N 89°00'00" W	546.71
L10	N 89°00'00" W	546.71	L10	N 89°00'00" W	546.71
L11	N 89°00'00" W	546.71	L11	N 89°00'00" W	546.71
L12	N 89°00'00" W	546.71	L12	N 89°00'00" W	546.71
L13	N 89°00'00" W	546.71	L13	N 89°00'00" W	546.71
L14	N 89°00'00" W	546.71	L14	N 89°00'00" W	546.71
L15	N 89°00'00" W	546.71	L15	N 89°00'00" W	546.71
L16	N 89°00'00" W	546.71	L16	N 89°00'00" W	546.71
L17	N 89°00'00" W	546.71	L17	N 89°00'00" W	546.71
L18	N 89°00'00" W	546.71	L18	N 89°00'00" W	546.71
L19	N 89°00'00" W	546.71	L19	N 89°00'00" W	546.71
L20	N 89°00'00" W	546.71	L20	N 89°00'00" W	546.71
L21	N 89°00'00" W	546.71	L21	N 89°00'00" W	546.71
L22	N 89°00'00" W	546.71	L22	N 89°00'00" W	546.71
L23	N 89°00'00" W	546.71	L23	N 89°00'00" W	546.71
L24	N 89°00'00" W	546.71	L24	N 89°00'00" W	546.71
L25	N 89°00'00" W	546.71	L25	N 89°00'00" W	546.71
L26	N 89°00'00" W	546.71	L26	N 89°00'00" W	546.71
L27	N 89°00'00" W	546.71	L27	N 89°00'00" W	546.71
L28	N 89°00'00" W	546.71	L28	N 89°00'00" W	546.71
L29	N 89°00'00" W	546.71	L29	N 89°00'00" W	546.71
L30	N 89°00'00" W	546.71	L30	N 89°00'00" W	546.71
L31	N 89°00'00" W	546.71	L31	N 89°00'00" W	546.71
L32	N 89°00'00" W	546.71	L32	N 89°00'00" W	546.71
L33	N 89°00'00" W	546.71	L33	N 89°00'00" W	546.71
L34	N 89°00'00" W	546.71	L34	N 89°00'00" W	546.71
L35	N 89°00'00" W	546.71	L35	N 89°00'00" W	546.71



Scale: 1" = 300'

North orientation is based on rotating the northwest corner to grid north based on GPS observations.

This is a perimeter survey only. The easements on this plat are shown according to the deed description only, and may not reflect the actual location of utilities.

This survey was prepared with the benefit of a title policy provided by Regalston Title Company. All easement information depicted on this survey is shown according to this policy in OP No. 25990. There may be easements or other matter affecting this property which are not shown.

The sewer line agreement in 0348/46 may affect this tract, although no visible evidence was found.

The Gulf States Utilities easements in 506/20, 513/23, 502/632, 612/447, 776/552, 866/547, and 0191/260 all affect this tract and are shown.

The General Telephone Co easmt in 56/204 does affect this tract and is shown.

The City of Bryan easmt in 54/668 does affect this tract and is shown.

The City of Bryan easmt in 683/188 does affect this tract and is shown.

The General Telephone Co. easmt in 777/732 is a blanket easmt. which may affect this tract.

The Wallborn Water Supply easmt in 793/549 does affect this tract and is shown.

The unrecorded easmt. listed as Item 24 under Exhibit B in 0284/66, may affect this tract.

The Aquila Pipeline easmt in 268/43 does affect this tract and is shown.

The access easmt. in 0229/234 does affect this tract and is shown.

The Ferguson Burleson County Gas Gathering System easmt. in 6090/40 is a blanket easmt which may affect this tract.

The Entergy Gulf States easmt. in 6506/28 does affect this tract and is shown.

The Entergy Gulf States easmt. in 6506/223 does affect this tract and is shown.

Owner: Grid Raceplex Holdings, Ltd.

**552,905 ACRES  
 OUT OF  
 563,002 ACRES  
 IS A PART OF  
 GRID RACEPLEX HOLDINGS, LTD.  
 CALLED 563,002 ACRE TRACT  
 VOLUME 8340, PAGE 52  
 S. D. SMITH SURVEY, A-210  
 BRAZOS COUNTY, TEXAS  
 SEPTEMBER 25, 2013  
 REVISED: DECEMBER 3, 2013**

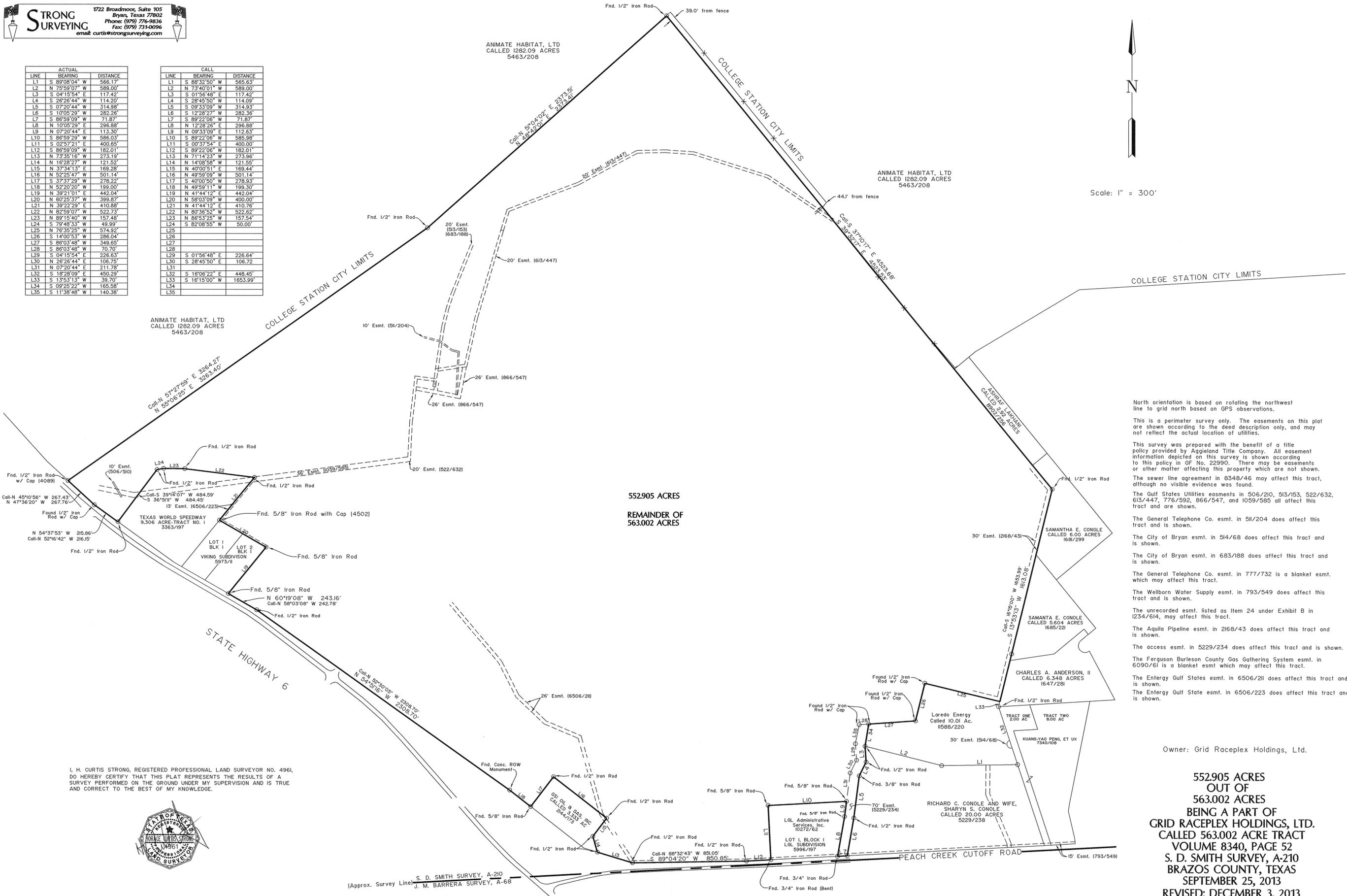
I, L. A. CURTIS STRONG, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 0461, DO HEREBY CERTIFY THAT THIS PLAT REPRESENTS THE RESULTS OF A SURVEY PERFORMED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



S. D. SMITH SURVEY, A-210  
 (Approx. Survey Lines)  
 M. BARRERA SURVEY, A-60

LINE	BEARING	DISTANCE
L1	S 89°08'04" W	566.17'
L2	N 75°59'07" W	589.00'
L3	S 04°15'54" E	117.42'
L4	S 26°26'44" W	114.20'
L5	S 07°20'44" W	314.99'
L6	S 10°05'29" W	282.26'
L7	S 86°59'09" W	71.87'
L8	N 10°05'29" E	296.88'
L9	N 07°20'44" E	113.30'
L10	S 86°59'29" W	586.03'
L11	S 02°57'21" E	400.65'
L12	S 86°59'09" W	182.01'
L13	N 73°35'16" W	273.19'
L14	N 16°28'27" W	121.52'
L15	N 37°34'13" E	169.28'
L16	N 52°25'47" W	501.14'
L17	S 37°37'29" W	278.22'
L18	N 52°20'20" W	199.00'
L19	N 39°21'01" E	442.04'
L20	N 60°25'37" W	399.87'
L21	N 39°22'29" E	410.88'
L22	N 82°59'07" W	522.73'
L23	N 89°15'40" W	157.48'
L24	S 79°48'33" W	49.99'
L25	N 76°35'25" W	574.92'
L26	S 14°00'53" W	286.04'
L27	S 86°03'48" W	348.65'
L28	S 86°03'48" W	70.70'
L29	S 04°15'54" E	226.63'
L30	N 26°26'44" E	106.72'
L31	N 07°20'44" E	211.78'
L32	S 18°28'09" E	450.29'
L33	S 13°53'13" W	39.70'
L34	S 09°25'22" W	165.58'
L35	S 11°38'48" W	140.38'

LINE	BEARING	DISTANCE
L1	S 88°32'50" W	565.63'
L2	N 73°40'01" W	589.00'
L3	S 01°56'48" E	117.42'
L4	S 28°45'50" W	114.09'
L5	S 09°33'09" W	314.93'
L6	S 12°28'27" W	282.36'
L7	S 89°22'06" W	71.87'
L8	N 12°28'26" E	296.88'
L9	N 09°33'09" E	112.63'
L10	S 89°22'06" W	585.98'
L11	S 00°37'54" E	400.00'
L12	S 89°22'06" W	182.01'
L13	N 71°14'23" W	273.96'
L14	N 14°08'58" W	121.55'
L15	N 40°00'51" E	169.44'
L16	N 49°59'09" W	501.14'
L17	S 40°00'50" W	278.93'
L18	N 49°59'11" W	199.30'
L19	N 41°44'12" E	442.04'
L20	N 58°03'09" W	400.00'
L21	N 41°44'12" E	410.76'
L22	N 80°36'52" W	522.62'
L23	N 86°53'26" W	157.54'
L24	S 82°08'55" W	50.00'
L25		
L26		
L27		
L28		
L29	S 01°56'48" E	226.64'
L30	S 28°45'50" W	106.72'
L31		
L32	S 18°06'22" E	448.45'
L33	S 16°15'00" W	1653.99'
L34		
L35		



552.905 ACRES  
 REMAINDER OF  
 563.002 ACRES



Scale: 1" = 300'

North orientation is based on rotating the northwest line to grid north based on GPS observations.

This is a perimeter survey only. The easements on this plat are shown according to the deed description only, and may not reflect the actual location of utilities.

This survey was prepared with the benefit of a title policy provided by Aggieldand Title Company. All easement information depicted on this survey is shown according to this policy in GF No. 22990. There may be easements or other matter affecting this property which are not shown.

The sewer line agreement in 8348/46 may affect this tract, although no visible evidence was found.

The Gulf States Utilities easments in 506/210, 513/153, 522/632, 613/447, 776/592, 866/547, and 1059/585 all affect this tract and are shown.

The General Telephone Co. esmt. in 511/204 does affect this tract and is shown.

The City of Bryan esmt. in 514/68 does affect this tract and is shown.

The City of Bryan esmt. in 683/188 does affect this tract and is shown.

The General Telephone Co. esmt. in 777/732 is a blanket esmt. which may affect this tract.

The Wellborn Water Supply esmt. in 793/549 does affect this tract and is shown.

The unrecorded esmt. listed as Item 24 under Exhibit B in 1234/614, may affect this tract.

The Aquila Pipeline esmt. in 2168/43 does affect this tract and is shown.

The access esmt. in 5229/234 does affect this tract and is shown.

The Ferguson Burleson County Gas Gathering System esmt. in 6090/61 is a blanket esmt which may affect this tract.

The Entergy Gulf States esmt. in 6506/211 does affect this tract and is shown.

The Entergy Gulf State esmt. in 6506/223 does affect this tract and is shown.

Owner: Grid Raceplex Holdings, Ltd.

552.905 ACRES  
 OUT OF  
 563.002 ACRES  
 BEING A PART OF  
 GRID RACEPLEX HOLDINGS, LTD.  
 CALLED 563.002 ACRE TRACT  
 VOLUME 8340, PAGE 52  
 S. D. SMITH SURVEY, A-210  
 BRAZOS COUNTY, TEXAS  
 SEPTEMBER 25, 2013  
 REVISED: DECEMBER 3, 2013

I, H. CURTIS STRONG, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4961,  
 DO HEREBY CERTIFY THAT THIS PLAT REPRESENTS THE RESULTS OF A  
 SURVEY PERFORMED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE  
 AND CORRECT TO THE BEST OF MY KNOWLEDGE.



(Approx. Survey Line) S. D. SMITH SURVEY, A-210  
 J. M. BARRERA SURVEY, A-68



### Legislation Details (With Text)

<b>File #:</b>	14-296	<b>Version:</b>	1	<b>Name:</b>	BCS Sikh Association Rezoning
<b>Type:</b>	Rezoning	<b>Status:</b>		<b>Status:</b>	Agenda Ready
<b>File created:</b>	2/24/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	3/13/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Public hearing, presentation, possible action, and discussion, regarding an ordinance amending Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to SC Suburban Commercial for approximately 1.3 acres in the Robert Stevenson League, Abstract No. 54 as described by a deed to Akaal Holdings, LLC recorded in Volume 10876, Page 89 of the office of public records of Brazos County Texas, located at 13913 Wellborn Road.				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Background Information</a> <a href="#">Aerial &amp; SAM</a> <a href="#">Draft P&amp;Z Minutes - Feb 20, 2014</a> <a href="#">Ordinance</a>				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Public hearing, presentation, possible action, and discussion, regarding an ordinance amending Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to SC Suburban Commercial for approximately 1.3 acres in the Robert Stevenson League, Abstract No. 54 as described by a deed to Akaal Holdings, LLC recorded in Volume 10876, Page 89 of the office of public records of Brazos County Texas, located at 13913 Wellborn Road.

**Relationship to Strategic Goals:** Diverse Growing Economy

**Recommendation(s):** The Planning and Zoning Commission considered this item at their February 20, 2014 meeting and voted 6-1 to recommend approval of the rezoning.

**Summary:** This request is to rezone the property from R Rural to SC Suburban Commercial.

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 Suburban Commercial on the Comprehensive Plan Future Land Use and Character Map. The proposed rezoning is consistent with this designation.
- 2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:** The proposed rezoning will allow for the development permitted in SC Suburban Commercial, both the zoning district and the land use designation. This request is to introduce a commercial land use and character into an area that is otherwise suburban and single-family in character. The request would enable a land use that is more intense than surrounding land

uses and enable traffic generation and other service demands in excess of current land uses.

- 3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment:** The current zoning designation of R Rural permits development of single-family lots. Although the minimum lot requirement is which more conducive to more intense uses, the configuration of the property will make development and access to the property more complicated.
- 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 zoning designation of R Rural permits large-lot single-family development. Although the property is surrounded by other single-family development, it is located along Wellborn Road, a major arterial on the City of College Station's Thoroughfare Plan.
- 5. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment:** The applicant states that although there is no market for the property as it is currently zoned, the property is marketable for commercial development as it is located along a major thoroughfare.
- 6. Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use:** Water service to the tract may be provided by an existing 12-inch water main running along the east side of Wellborn Road. Domestic and fire flow demands may necessitate future water main extensions at the time of site development. These utilities will be required to be designed and constructed in accordance with the BCS Unified Design Guidelines.

There is currently an 8-inch sanitary sewer main along the east side of Wellborn Road available to serve the property. Although the proposed Suburban Commercial zoning will be creating more density, preliminary analysis of the system has indicated that there is available capacity to serve this type of development.

The subject tract is located in the Hopes Creek drainage basin. No portion of the property has been designated FEMA Special Flood Hazard Area. Development of the subject tract will be required to meet the requirements of the City's Storm Water Design Guidelines, and site development impacts on the drainage system will be evaluated further at that time.

Currently on the subject property is a manufactured structure currently serving as the home for the BCS Sikh Association which generates minimal vehicles per day (VPD). The proposed Suburban Commercial zoning may generate up to 650 VPD. TxDOT's 2009 traffic counts along Wellborn Road in this area are 4,800 VPD. The City's travel demand model projected to 2011 indicates a volume of 10,500 VPD. Adding the possible trip generation of 650 VPD to 10,500 VPD, the volumes on Wellborn Road could become 11,150 VPD. Wellborn Road in this area has a capacity of approximately 20,000 VPD with a level of Service (LOS) "D" of approximately 16,666 VPD.

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

**Reviewed and Approved by Legal:** Yes

**Attachments:**

1. Background Information
2. Aerial & Small Area Map (SAM)
3. Draft P&Z Minutes
4. Ordinance



**NOTIFICATIONS**

Advertised Commission Hearing Date: February 20, 2014  
Advertised Council Hearing Dates: March 13, 2014

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:

Southern Trace HOA

Property owner notices mailed:

Contacts in support: None at the time of the report.

Contacts in opposition: None at the time of the report.

Inquiry contacts: None at the time of the report.

**ADJACENT LAND USES**

<b>Direction</b>	<b>Comprehensive Plan</b>	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	Estate	R Rural	Single-Family Residential
<b>South</b>	Estate	R Rural	Single-Family Residential
<b>East</b>	Estate	R Rural	Single-Family Residential
<b>West</b> (ETJ - across FM 2154)	Rural	N/A - ETJ	Single-Family Residential – Willow Run Phase 3A

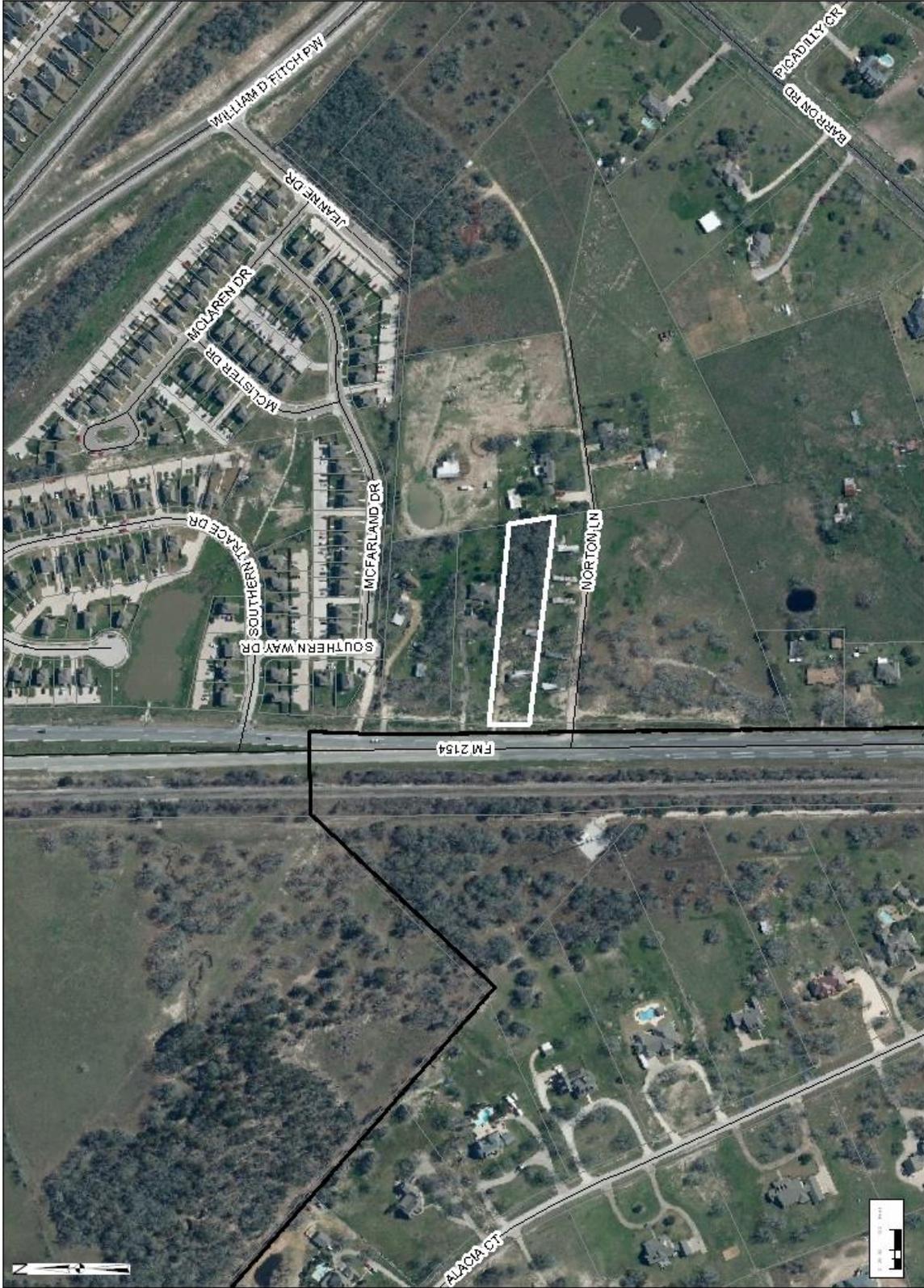
**DEVELOPMENT HISTORY**

**Annexation:** June 1995

**Zoning:** R Rural

**Final Plat:** This property is unplatted.

**Site development:** A manufactured structure is currently on site home to the BCS Sikh Association.



REZONING

Case: 14-007

BCS SIKH ASSOCIATION CHURCH  
13913 FM 2154

DEVELOPMENT REVIEW





Zoning Districts	R - 4	R - 6	MHP	O	SC	GC	CI	BP	Multi-Family	High Density Multi-Family	Manufactured Home Park	Office	Suburban Commercial	General Commercial	Commercial-Industrial	Business Park	R - 1B	D	T	BPI	Business Park Industrial	Natural Areas Protected	Light Commercial	Light Industrial	Heavy Industrial	College and University	R&D	Planned Mixed-Use Development	PDD	WPC	Planned Development District
R	Rural																			C-3	Business Park Industrial									Planned Development District	
E	Estate																			M-1	Natural Areas Protected									Wolf Pen Creek Dev. Corridor	
RS	Restricted Suburban																			M-2	Light Commercial									Core Northgate	
GS	General Suburban																			M-2	Light Industrial									Transitional Northgate	
R-1B	Single Family Residential																			M-2	Heavy Industrial									Residential Northgate	
D	Duplex																			C-U	College and University									Corridor Overlay	
T	Townhouse																			R&D	Research and Development									Redevelopment District	
																				P-MUD	Planned Mixed-Use Development									Krenek Tap Overlay	

**DEVELOPMENT REVIEW**

BCS SIKH ASSOCIATION CHURCH  
13913 FM 2154

Case: 14-007

**REZONING**

**MINUTES**  
**PLANNING & ZONING COMMISSION**  
**Regular Meeting**  
**February 20, 2014, 7:00 p.m.**  
**City Hall Council Chambers**  
**College Station, Texas**

---

**COMMISSIONERS PRESENT:** Bo Miles, Jodi Warner, Jerome Rektorik, Jim Ross, Brad Corrier, Jane Kee, Casey Oldham

**COMMISSIONERS ABSENT:** None

**CITY COUNCIL MEMBERS PRESENT:** Julie Schultz

**CITY STAFF PRESENT:** Lance Simms, Molly Hitchcock, Alan Gibbs, Jason Schubert, Carol Cotter, Danielle Singh, Morgan Hester, Brittany Caldwell, Robin Cross, and Timothy Green

1. Public hearing, presentation, possible action, and discussion regarding an ordinance amending Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to SC Suburban Commercial for approximately 1.3 acres in the Robert Stevenson League, Abstract No. 54 as described by a deed to Akaal Holdings, LLC recorded in Volume 10876, Page 89 of the office of public records of Brazos County Texas, located at 13913 Wellborn Road. **Case #14-00900007 (M. Hester) (Note: Final action on this item is scheduled for the March 13, 2014 City Council meeting – subject to change)**

Staff Planner Hester presented the rezoning and recommended approval.

Chairman Miles opened the public hearing.

No one spoke during the public hearing.

Chairman Miles closed the public hearing.

**Chairman Miles motioned to recommend approval of the rezoning. Commissioner Rektorik seconded the motion, motion passed (6-1). Commissioner Kee was in opposition.**

**Approved:**

**Attest:**

---

Bo Miles, Chairman  
Planning & Zoning Commission

---

Brittany Caldwell, Admin. Support Specialist  
Planning & Development Services

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

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

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

PART 1: That Chapter 12, "Unified Development Ordinance," Section 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 "B", attached hereto and made a part of this ordinance for all purposes.

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

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 13<sup>th</sup> day of March, 2014

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 R Rural to SC Suburban Commercial:

**METES AND BOUNDS DESCRIPTION  
OF A  
1.273 ACRE TRACT  
ROBERT STEVENSON LEAGUE, A-54  
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE ROBERT STEVENSON LEAGUE, ABSTRACT NO. 54, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE REMAINDER OF A CALLED 1.315 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO AKAAL HOLDINGS. L.L.C. RECORDED IN VOLUME 10876, PAGE 89 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

**BEGINNING** AT A 1/2 INCH IRON ROD FOUND ON THE EAST LINE OF FM 2154 - WELLBORN ROAD (R.O.W. VARIES) MARKING THE NORTHWEST CORNER OF SAID REMAINDER OF 1.315 ACRE TRACT AND THE SOUTHWEST CORNER OF THE REMAINDER OF A CALLED 1.303 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO CLENDEN E. ADAMS AND DANA D. ADAMS RECORDED IN VOLUME 9515, PAGE 17 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID IRON ROD FOUND MARKING THE NORTHEAST CORNER OF A CALLED 0.05 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO THE STATE OF TEXAS RECORDED IN VOLUME 6997, PAGE 77 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

**THENCE:** S 82° 16' 40" E ALONG THE COMMON LINE OF SAID REMAINDER OF 1.315 ACRE TRACT AND SAID REMAINDER OF 1.303 ACRE TRACT FOR A DISTANCE OF 503.05 FEET (DEED CALL BEARING: S 82° 17' 00" E, 10876/89) (DEED CALL: S 83° 51' 32" E - 502.96 FEET, 6997/77) TO A 3/8 INCH IRON ROD FOUND ON THE WEST LINE OF A CALLED 4.819 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO CHRISTOPHER A. DALE AND WIFE, JANETTE C. DALE RECORDED IN VOLUME 3498, PAGE 295 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID IRON ROD FOUND MARKING THE NORTHEAST CORNER OF THE REMAINDER OF SAID 1.315 ACRE TRACT AND THE SOUTHEAST CORNER OF THE REMAINDER OF SAID 1.303 ACRE TRACT;

**THENCE:** S 07° 31' 00" E ALONG THE COMMON LINE OF SAID REMAINDER OF 1.315 ACRE TRACT AND SAID 4.819 ACRE TRACT FOR A DISTANCE OF 119.97 FEET (DEED CALL: S 07° 31' 00" E - 120.00 FEET, 10876/89) (THIS LINE USED FOR BEARING ORIENTATION HONORING THE DEED CALL BEARING AS SHOWN IN SAID DEED, 10876/89) TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID REMAINDER OF 1.315 ACRE TRACT AND THE NORTHEAST CORNER OF THE REMAINDER OF A CALLED 1.00 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO BERNICE M. RILEY RECORDED IN VOLUME 751, PAGE 518 OF THE DEED

RECORDS OF BRAZOS COUNTY, TEXAS;

**THENCE:** N 80° 40' 07" W ALONG THE COMMON LINE OF SAID REMAINDER OF 1.315 ACRE TRACT AND SAID REMAINDER OF 1.00 ACRE TRACT FOR A DISTANCE OF 522.95 FEET (DEED CALL BEARING: N 80° 35' 30" W, 10876/89)(DEED CALL: N 82° 15' 27" W - 523.16 FEET, 6997/77) TO A 1/2 INCH IRON ROD FOUND ON THE EAST LINE OF FM 2154 MARKING THE SOUTHWEST CORNER OF SAID REMAINDER OF 1.315 ACRE TRACT AND THE NORTHWEST CORNER OF SAID REMAINDER OF 1.00 ACRE TRACT. SAID IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID 0.05 ACRE TRACT;

**THENCE:** N 01° 02' 29" E ALONG THE EAST LINE OF FM 2154 FOR A DISTANCE OF 101.76 FEET (DEED CALL: N 00° 32' 20" W - 101.19 FEET, 6997/77) TO THE **POINT OF BEGINNING** CONTAINING 1.273 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND OCTOBER, 2013. SEE PLAT PREPARED OCTOBER, 2013, FOR MORE DESCRIPTIVE INFORMATION.

BRAD KERR  
REGISTERED PROFESSIONAL  
LAND SURVEYOR No. 4502

C:/WORK/MAB/13-722

EXHIBIT "B"

