



College Station, TX

1101 Texas Ave
College Station, TX 77840

Meeting Agenda City Council Regular

Monday, May 12, 2014

7:00 PM

City Hall Council Chambers

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

Presentation:

- Presentation to the Bicycle, Pedestrian and Greenways Advisory Board proclaiming May as National Bike Month.

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. **14-417** Presentation, possible action, and discussion of minutes for:
 - April 24, 2014 Workshop
 - April 24, 2014 Regular Council Meeting

Attachments: [WKSHP042414 DRAFT Minutes.pdf](#)
[RM042414 DRAFT Minutes.pdf](#)

- 2b. 14-389** 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.
- Attachments: [Peggy Sherman Resume](#)
- 2c. 14-401** Presentation, possible action and discussion regarding the approval of a resolution reappointing Brian Hilton as the Emergency Management Coordinator.
- Attachments: [Resolution.pdf](#)
[Notification.pdf](#)
[Government Code.pdf](#)
- 2d. 14-404** Presentation, possible action, and discussion to award Contract 14-156 to Freese & Nichols, Inc. in the amount of \$249,990 to update the City of College Station's Water System Master Plan.
- Attachments: [Contract.pdf](#)
- 2e. 14-410** Presentation, possible action, and discussion regarding the City's Texas Commission on Environmental Quality (TCEQ) General Permit to Discharge under the Texas Pollutant Discharge Elimination System (TPDES) No. TXR040000.
- Attachments: [Resolution](#)
[Notice of Intent \(NOI\) and Checklist](#)
[2013 Stormwater Management Plan](#)
- 2f. 14-418** Presentation, possible action, and discussion regarding the rejection of all bids submitted for Invitation to Bid (ITB) 14-044, Purchase of Bio-Corridor Area Transformers.
- 2g. 14-421** Presentation, possible action, and discussion concerning the City Internal Auditor's Ringer Library Operations Audit.
- 2h. 14-422** Presentation, possible action, and discussion regarding approval of a contingency transfer in the amount of \$30,000 for the purchase and installation of radio repeaters in front line Fire Department response vehicles.
- Attachments: [Fire Dept Repeater contingency xfer.pdf](#)

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. 14-407** 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 GC General Commercial and OV Corridor Overlay to PDD Planned Development District for approximately 8 acres in the Chimney Hill Retail Plaza Lots 1-4, Block 1, generally located at 701 & 715 University Drive East.

Attachments: [Background Information.docx](#)
[Aerial & SAM.docx](#)
[Proposed Concept Plan.pdf](#)
[Ordinance.docx](#)

- 2. 14-409** Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Chapter 4, "Business Regulations", of the Code of Ordinances of the City of College Station, Texas, by amending Section 4-13 "Oil and Gas Regulations", Subsection A. "Definitions" and Subsection F. "Permit Classifications", Part 4 "Seismic Permit" and amending Chapter 14, "Service Fees", of the Code of Ordinances of the City of College Station, Texas, by amending Section 14-6 "Development Services", Subsection A. "Oil and Gas Development Application Fees" by adding Subpart (5) Seismic Survey Permit fee. A Resolution of the City Council of the City of College Station, Texas, adopting fees related to seismic survey permitting.

Attachments: [Ord Amendment Ch 4 & Ch 14 5-2-2014.docx](#)
 [License Agmt 5-2-2014.docx](#)
 [Resolution 5-2-2014.docx](#)

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 May 12, 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 8th day of May 2014 at 5:00 p.m.


City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on May 8, 2014 at 5:00 p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting. This public notice was removed from the official posting board at the College Station City Hall on the following date and time: _____ by _____

Dated this __ day _____, 2014 By _____

Subscribed and sworn to before me on this the ____ day of _____, 2014.

Notary Public – Brazos County, Texas

My commission expires: _____

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 #: 14-417 **Version:** 1 **Name:** Minutes
Type: Minutes **Status:** Consent Agenda
File created: 4/25/2014 **In control:** City Council Regular
On agenda: 5/12/2014 **Final action:**
Title: Presentation, possible action, and discussion of minutes for:
· April 24, 2014 Workshop
· April 24, 2014 Regular Council Meeting
Sponsors:
Indexes:
Code sections:
Attachments: [WKSHP042414 DRAFT Minutes.pdf](#)
[RM042414 DRAFT Minutes.pdf](#)

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

- April 24, 2014 Workshop
- April 24, 2014 Regular Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Approval

Summary: None

Budget & Financial Summary: None

Attachments:

MINUTES OF THE CITY COUNCIL WORKSHOP
CITY OF COLLEGE STATION
APRIL 24, 2014

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry, Mayor

Council:

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

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 6:03 p.m. on Thursday, April 24, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. Executive Session

There was no Executive Session.

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

There was no Executive Session.

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

2h and 2i: Dave Coleman, Director of Water Services, noted that the City has done an excellent

job with water conservation due to the efforts of Jennifer Nation.

Jennifer Nations, Water Conservation Coordinator, provided some clarification on the Water Conservation Plan and the amendments to Section 9 of the Code of Ordinances, Drought Contingency and Water /Emergency Plan. These may be viewed on the website.

2c: Ben Roper, Director of Technology Services, clarified what this item was really about and how much it would save the City through the transition.

2j: Ben Roper, Director of Technology Services, said this is not specifically related to the ERP project. This will address centralization of electronic storage.

2l: Jeff Kersten, Assistant City Manager, noted the total budget for the project is \$1.5 million, with College Station providing \$225,000 from HOT funds. City Attorney Carla Robinson noted that the Funding Agreement and budget were not in the packet and are now on the dais.

2m: Carla Robinson, City Attorney, noted that a new resolution is on the dais for their consideration tonight.

2n: Carla Robinson, City Attorney, noted that if the Council approves the BVWACS budget tonight, it will be conditioned on the approval of the governing board's approval.

5. Presentation, possible action and discussion regarding the Play for All Inclusive Park/Playground to be located within Stephen C. Beachy Central Park.

David Schmitz, Director of Parks and Recreation, noted this is a destination playground designed for full inclusion of special needs children. The park project is a joint effort of the College Station Rotary Club, the College Station Noontime Lions Club, and the City of College Station.

Staff recommended support of this project.

MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Mooney, the City Council voted seven (7) for and none (0) opposed, to enthusiastically endorse the project. The motion carried unanimously.

6. Presentation, possible action and discussion regarding the installation of radio repeaters in the front line Fire response vehicles.

Eric Hurt, Fire Chief, outlined the current problems with the radio system and the steps being taken to improve radio communications.

Staff recommended the continuation of the plan as outlined in the presentation.

MOTION: Upon a motion made by Councilmember Schultz and a second by Councilmember Mooney, the City Council voted seven (7) for and none (0) opposed, to

proceed with the purchase and installation of the radio repeaters in the front line Fire response vehicles. The motion carried unanimously.

7. Presentation, possible action, and discussion on the upcoming FY 15 Budget process.

Jeff Kersten, Assistant City Manager, updated the Council on the FY15 budget process and reviewed some of the key budget policies. The proposed budget review calendar for FY was also discussed.

8. Council Calendar

- **April 28** **Frank Simpson Children's Education Fund Celebrity Golf Tournament & Dinner at Houston Oaks Country Club - Hockley, Texas, 10:30 a.m.**
- **April 29** **Proclamation Presentation Community Foundation of the Brazos Valley: Caroline and Tom McDonald for the 2014 Tribute Luncheon at CS Hilton, 11:30 a.m.**
- **April 30** **Groundbreaking-Veterinary & Biomedical Education Complex and Grand Opening Thomas G. Hildebrand, DVM '56 Equine Complex at Equine Complex Parking Lot - Shuttle Service, 1:30 p.m.**
- **May 1** **P & Z Workshop/Regular Meeting in Council Chambers, 6:00 p.m. (Liaison, Karl Mooney)**
- **May 2** **Keep Brazos Beautiful 2014 Annual Awards Gala at CS Hilton, 6:00 p.m.**
- **May 3** **11th Anniversary of Derby Day 2014 at CS Hilton, 4:00 p.m.**
- **May 5** **Bicycle, Pedestrian & Greenways Advisory Board Meeting in Council Chambers, 3:00 p.m.**
- **May 12** **Executive Session/Workshop/Regular Meeting at 4:00, 6:00 & 7:00 p.m.**

Council reviewed the calendar.

9. 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 future agenda items.

10. 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, BVWACS, 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.

Councilmember Schultz reported on the RVP tour of the Port of Houston.

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

Councilmember Aldrich reported on the Arts Council.

Mayor Berry reported on the RVP.

11. Adjournment

MOTION: There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 7:38 p.m. on Thursday, April 24, 2014.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
APRIL 24, 2014

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry, Mayor

Council:

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

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 7:46 p.m. on Thursday, April 24, 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.

Presentation proclaiming May 4- 10, 2014 as Municipal Clerks Week.

Mayor Berry presented a proclamation to the staff of the City Secretary's Office, proclaiming May 4-10, 2014 as Municipal Clerks Week.

Citizen Comments

There were no Citizen Comments.

CONSENT AGENDA

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

- **April 10, 2014 Workshop**
- **April 10, 2014 Regular Council Meeting**

2b. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount not to exceed \$645,638.00 for the purposes of providing Project Management services for the replacement of the City's current ERP system. Contract is for 24 months.

2c. Presentation, possible action, and discussion regarding an Inter-Local Agreement with the Brazos Valley Council of Governments for the provision of Broadband Networking Services.

2d. Presentation, possible action, and discussion regarding renewal of Bid No. 12-048 with ProSTAR Industries for the purchase of janitorial supplies in an amount not to exceed \$60,303.66.

2e. Presentation, possible action and discussion of the award of Contract 14-224, for the Annual Crack Sealing of City Streets for an amount not to exceed \$140,000.

2f. Presentation, possible action and discussion of the award of Contract 14-238 for the Annual Concrete joint sealing of City Streets for an amount not to exceed \$148,750.

2g. Presentation, possible action and discussion awarding a bid to Bayer Construction in the amount of \$116,440 for the improvements of the school zones at A&M Consolidated High School.

2h. Presentation, possible action, and discussion to consider Resolution 04-24-14-2h, adopting an updated Water Conservation Plan, as required by TCEQ.

2i. Presentation, possible action, and discussion to consider Ordinance 2014-3568, amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.

2j. Presentation, possible action, and discussion regarding approval of Resolution 04-24-14-2j, declaring intention to reimburse certain expenditures with proceeds from debt for the Electronic Storage Upgrade project.

2k. Presentation, possible action and discussion on approving annual water meter purchases from Aqua Metric Sales Company through the Houston-Galveston Area Council (HGAC) contract (#WM08-12). Based on the attached contract unit pricing, the estimated annual expenditure for water meters is: \$224,499.54.

2l. Presentation, possible action, and discussion on a funding agreement between the City

of College Station and the Research Valley Partnership to provide \$225,000 in Hotel Tax Funds for the Aggies Go to War Exhibit; and approval of the RVP budget for the Aggies Go to War Exhibit project.

2m. Presentation, possible action, and discussion regarding approval of Resolution 04-24-14-2m, authorizing the Mayor to approve the Plan of Finance, the Issuance of New Hope Cultural Education Facilities Finance Corporation Student Housing Revenue Bonds and the project to be acquired with the proceeds of such bonds.

2n. Presentation, possible action, and discussion regarding approval of the Brazos Valley Wide Area Communications System (BVWACS) Operating Budget for FY 15 and authorizing the City's quarterly payments of approximately \$53,602 for an annual total of \$214,406; and approval of the BVWACS Capital Equipment Replacement Reserve Fund Budget for FY 15 and payment of the City's share in the amount of \$63,329.

2o. Presentation, possible action, and discussion on awarding a bid to Vox Construction, LLC. in the amount of \$256,955.82 for the 2014 CDBG Neighborhood Sidewalk Project.

Item 2b was pulled from the Consent Agenda for consideration at a later date.

MOTION: Upon a motion made by Councilmember Schultz and a second by Councilmember Benham, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda, less item 2b. The motion carried unanimously.

3. Adjournment.

MOTION: There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 7:52 p.m. on Thursday, April 24, 2014.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary



Legislation Details (With Text)

File #:	14-389	Version:	1	Name:	Aggieland Humane Society Board Appointments
Type:	Appointment	Status:		Status:	Consent Agenda
File created:	4/8/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	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.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Peggy Sherman Resume				

Date	Ver.	Action By	Action	Result
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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.

Relationship to Strategic Goals:

- Core Services and Infrastructure

Recommendation(s): Our staff is recommending the appointment of Peggy S. Sherman to the Aggieland Humane Society Board of Directors.

Summary:

The Aggieland Humane Society Board of Directors by-laws require City Council appointment of two City representatives as outlined below.

Section 5.02. *The Board of Directors shall consist of fifteen (15) voting members whose nomination and approval shall be conducted in the following manner:*

- A. *Six directors shall be appointed as follows:*
 1. *Two members appointed by the City Council of the City of College Station who may be a citizen, employee, officer, or elected official of the City of College Station. This appointment will be automatically removed from the Board of Directors with the position suspended and left vacant if the entity is not contracted with the Aggieland Humane Society, Inc. for animal housing services....*

On February 27, 2014, Asst. Police Chief Scott McCollum was appointed to the Board to replace Mrs. Chantal Vasali whos term had expired. The City’s other board representative is Former Assistant Chief Larry Johnson. He was appointed to the Brazos Animal Shelter Board by the College Station City Council for a two-year term on September 27, 2012. Due to current commitments, he is no

longer able to serve in this capacity. As such, the Police Department has interviewed Mrs. Sherman and based upon her financial planning background and interest in animal welfare, we find her to be an excellent candidate for this vacant board position.

Budget & Financial Summary: N/A

Attachments: Peggy S. Sherman's resume

PEGGY S. SHERMAN, CFP®
8904 Driftwood Dr. College Station, TX 77845

(979) 402-9572

peggy.sherman@gmail.com

PROFESSIONAL EXPERIENCE

BRIAUD FINANCIAL ADVISORS, College Station, TX

2007 – Current

Financial Advisor

Serve high net worth clients, helping them identify and reach their financial goals.

Responsibilities include:

- Ascertain and analyze client financial information, goals and resources to create comprehensive financial plan addressing cash flow, tax, investment, retirement, risk management and estate planning
- Assist client with plan implementation and monitoring
- Member Financial Planning Software Task Force: assist in development, testing and implementation of proprietary comprehensive financial planning software
- Mentor financial planning associates

RONALD BLUE & CO., Mesa, AZ

2002 – 2007

Senior Financial Planner

Responsibilities included:

- Ascertain and analyze client financial information, goals and resources to create comprehensive financial plan addressing cash flow, tax, investment, retirement, risk management and estate planning
- Assist client with plan implementation and monitoring
- Member Financial Planning Software Task Force: assist in development, testing and implementation of proprietary comprehensive financial planning software
- Manage financial planning software for branch - collaborating with programmers on updates and changes
- Train six employees on financial software, investment analysis, and estate planning tools
- Mentor new planners

THE GEORGE L. GRAZIADIO SCHOOL OF BUSINESS AND MANAGEMENT
PEPPERDINE UNIVERSITY, Culver City, CA

1999 - 2001

Administrative Assistant – Master of Science in Organization Development program

Responsibilities included:

- Schedule and coordinate offsite world-recognized international graduate program
- Process inquiries, applications, records, and research projects
- Develop and maintain applicant, student and alumni databases
- Prepare payment requisitions, correspondence
- Arrange faculty travel in support of program

RONALD BLUE & CO., Orlando, FL

1987 - 1992

Client Planner

Responsibilities included:

- Gather and analyze client financial information and goals
- Develop comprehensive financial plan based on clients goals and circumstances
- Plan implementation/monitoring: process investment recommendations, money management- budgeting
- Coordinate year-end client accounting and income tax preparation
- Direct three member team to meet objectives within time constraints

BDO SEIDMAN, Orlando, FL

1985 – 1987

Tax Paraprofessional

Responsibilities included:

- Gather/organize client year-end information
- Prepare federal, state and ancillary tax forms: Individual, Partnership and S-Corp

EDUCATION

TEXAS A&M UNIVERSITY, College Station, TX
Master of Architecture; Directed studies in Community/Urban Design
Bachelor of Business Administration: Management

COLLEGE FOR FINANCIAL PLANNING, Denver, CO
CFP® Certification Professional Education Program

ACTIVITIES

Habitat for Humanity, Phoenix, AZ
Crown Financial Ministries group leader, Phoenix, AZ and Orlando, FL
Friends of Culver City Dog Park research/networking committee, Culver City, CA
Ballona Creek Renaissance Committee, Culver City, CA
Recorder/Treasurer Town of Hartford, West Virginia, elected to two terms



Legislation Details (With Text)

File #:	14-401	Version:	1	Name:	Emergency Management Coordinator
Type:	Resolution	Status:		Status:	Consent Agenda
File created:	4/15/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action and discussion regarding the approval of a resolution reappointing Brian Hilton as the Emergency Management Coordinator.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution.pdf Notification.pdf Government Code.pdf				

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion regarding the approval of a resolution reappointing Brian Hilton as the Emergency Management Coordinator.

The citizens have elected Nancy Berry as the Mayor for the City of College Station. In accordance with the Disaster Act of 1975 the Mayor assumes the duty as the Emergency Management Director. The Emergency Management Director may designate an Emergency Management Coordinator who shall serve as assistant to the presiding officer of the political subdivision for emergency management puposes when so designated.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure
- Neighborhood Integrity
- Diverse Growing Economy
- Improving Mobility
- Sustainable City

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

Budget & Financial Summary: N/A

Attachments:

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPOINTING AN EMERGENCY MANAGEMENT COORDINATOR FOR THE CITY.

WHEREAS, the City Council recognizes the need to prepare for the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, requiring emergency action; and

WHEREAS, the Texas Division of Emergency Management (TDEM) in accordance with the Texas Disaster Act of 1975, Chapter 418 shall identify the Emergency Management Director and / or Emergency Management Coordinator responsible for the emergency management program, and

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

- PART 1: That the City Council hereby recognizes that Mayor Nancy Berry as the Emergency Management Director (EMD).
- PART 2: That the Mayor / EMD appoints Brian Hilton as the Emergency Management Coordinator for the City.
- PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this _____ day of _____, A.D. 2014.

ATTEST:

APPROVED:

Sherry Mashburn, City Secretary
APPROVED:

Nancy Berry, Mayor

City Attorney

EMERGENCY MANAGEMENT DIRECTOR/COORDINATOR NOTIFICATION

Section 418.101 of the Texas Government Code states: "The presiding officer of the governing body of each political subdivision will notify the Division of Emergency Management of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information." This form is used to make the required notification to TDEM.

The information on this form may be released to those inquiring about local emergency management programs pursuant to the Texas Open Records Act. Hence, TDEM recommends that you provide business addresses and telephone numbers rather than home addresses and telephone numbers.

COUNTY:	Brazos County	(Required)
Jurisdiction:	City of College Station	(City or County Name)
Official's Title:	Mayor	(Mayor/Judge)
Name:	Nancy Berry	(First & Last Name)
Mailing Address:	PO Box 9960	(The best address to receive mail)
City, State, Zip:	College Station, TX 77842	
Office Number:	979-764-3509	
Cell Number:		
Fax Number:	979-764-6377	
E-mail:	nberry@cstx.gov	(Please include – this is a back up for mailing)

EMERGENCY MANAGEMENT PROGRAM APPOINTMENT STATUS

- I HAVE NOT appointed an Emergency Management Coordinator and will personally direct the local emergency management program.
- I HAVE appointed/re-appointed the Emergency Management Coordinator identified below to conduct the emergency management program for this jurisdiction. **The effective date of the appointment is:** 05/14
- We share our EMC with _____ (name of jurisdiction).

If the COUNTY Emergency Management Coordinator has been appointed to other jurisdictions within the county, the County Judge and the participating City Mayors must sign this form. (See second page for additional signature blocks.)

EMERGENCY MANAGEMENT COORDINATOR

	Coordinator	Asst Coordinator
Name:	Brian Hilton	
Mailing Address:	PO Box 9960	
City, State, Zip:	College Station, TX 77842	
Office Phone:	979-764-6210	
Cell Number:	979-255-6210	
Fax Number:	979-393-9922	
E-mail Address:	bhilton@cstx.gov	
Emergency Operations Center Number:		979-821-1000

Judge's or Mayor's Signature

Date

PLEASE RETURN TO:

Texas Division of Emergency Management
Operations Section
PO Box 4087
Austin, TX 78773-0220

Phone: (512) 424-2208 Email: soc@dps.texas.gov

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

CHAPTER 418. EMERGENCY MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 418.001. SHORT TITLE. This chapter may be cited as the Texas Disaster Act of 1975.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.002. PURPOSES. The purposes of this chapter are to:

- (1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;
- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;
- (4) clarify and strengthen the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters;
- (5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;
- (6) authorize and provide for coordination of activities relating to disaster mitigation, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;
- (7) provide an emergency management system embodying all aspects of pre-disaster preparedness and post-disaster response;
- (8) assist in mitigation of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
- (9) provide the authority and mechanism to respond to an energy emergency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts

1997, 75th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 5.03, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1281 (H.B. 1861), Sec. 3, eff. June 19, 2009.

Sec. 418.003. LIMITATIONS. This chapter does not:

(1) limit the governor's authority to apply for, administer, or expend any grant, gift, or payment in aid of disaster mitigation, preparedness, response, or recovery;

(2) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(3) interfere with dissemination of news or comment on public affairs, but any communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster or potential disaster;

(4) affect the jurisdiction or responsibilities of police forces, fire-fighting forces, units of the armed forces of the United States, or of any of their personnel when on active duty, but state, local, and interjurisdictional emergency management plans shall place reliance on the forces available for performance of functions related to disasters;

(5) except as provided by Section 418.184, authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition; or

(6) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution or laws of this state independent of or in conjunction with any provisions of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 1, eff. April 27, 2007.

Sec. 418.004. DEFINITIONS. In this chapter:

(1) "Disaster" means the occurrence or imminent threat of widespread

or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

(2) "Division" means the Texas Division of Emergency Management.

(3) "Energy emergency" means a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply.

(4) "Interjurisdictional agency" means a disaster agency maintained by and serving more than one political subdivision.

(5) "Organized volunteer group" means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.

(6) "Political subdivision" means a county or incorporated city.

(6-a) "Public facility" has the meaning assigned by Section 102, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5122).

(7) "Temporary housing" has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended.

(8) "Joint board" means a board created under Section 22.074, Transportation Code, whose constituent agencies are populous home-rule municipalities as defined by Section 22.071, Transportation Code.

(9) "Department" means the Department of Public Safety of the State of Texas.

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the

system.

(14) "System" means the Texas Statewide Mutual Aid System.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 497, Sec. 1, eff. June 12, 1995; Acts 1997, 75th Leg., ch. 992, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 33, Sec. 1, eff. May 14, 2003; Acts 2003, 78th Leg., ch. 72, Sec. 1, eff. May 16, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 6, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.01, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.08, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.01, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.08, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 185 (H.B. 1998), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.14, eff. September 1, 2009.

Sec. 418.005. EMERGENCY MANAGEMENT TRAINING. (a) This section applies only to an elected law enforcement officer or county judge, or an appointed public officer of the state or of a political subdivision, who has management or supervisory responsibilities and:

(1) whose position description, job duties, or assignment includes emergency management responsibilities; or

(2) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public officer; or

(2) otherwise assumes responsibilities as a public officer, if the

person is not required to take an oath of office to assume the person's duties.

(c) The division shall develop and provide a training course related to the emergency management responsibilities of state-level officers and a training course related to the emergency management responsibilities of officers of political subdivisions. The division shall ensure that the training courses satisfy the requirements of Subsection (b).

(d) The division may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The division shall ensure that at least one course of training approved or provided by the division is available on videotape or a functionally similar and widely available medium at no cost.

(e) The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.

(f) The failure of one or more public officers of the state or a political subdivision to complete the training required by this section does not affect the validity of an action taken by the state or the political subdivision.

(g) The hours spent in a training course required by Subsection (b) may be applied toward the continuing education requirements for county commissioners under Section 81.0025, Local Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 19.01, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.02, eff. September 1, 2009.

Sec. 418.006. CIVIL LIABILITY. An officer or employee of a state or local agency, or a volunteer acting at the direction of an officer or employee of a state or local agency, is considered for purposes of Section 437.222 to be a member of the Texas military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 1408 (H.B. 4409), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.06, eff. September 1, 2013.

SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

Sec. 418.011. RESPONSIBILITY OF GOVERNOR. The governor is responsible for meeting:

- (1) the dangers to the state and people presented by disasters; and
- (2) disruptions to the state and people caused by energy emergencies.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.012. EXECUTIVE ORDERS. Under this chapter, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.013. EMERGENCY MANAGEMENT COUNCIL. (a) The governor by executive order may establish an emergency management council to advise and assist the governor in all matters relating to disaster mitigation, preparedness, response, and recovery.

(b) The emergency management council is composed of representatives of state agencies, boards, commissions, and organized volunteer groups designated by the head of each entity.

(c) The emergency management council shall make recommendations to the Department of Public Safety as to which private emergency organizations, such as the American National Red Cross, the Salvation Army, Radio Amateur Civil Emergency Service, and other similar organizations with the capability to supplement the state's resources in disaster situations, should be authorized to operate certain vehicles as designated emergency vehicles in the case of a disaster.

(d) The emergency management council shall assist the division in identifying, mobilizing, and deploying state resources to respond to major emergencies and disasters throughout the state.

(e) The chief of the division shall establish a workgroup of appropriate emergency management council members, local government officials, and nonprofit organizations to determine if a uniform application form for assistance following a disaster may be developed for use by state agencies and by persons requesting assistance from state agencies. The workgroup shall report its

findings, including recommendations for any necessary statutory changes, to the legislature before September 1, 2014. This subsection expires September 1, 2014.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 5.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.03, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 735 (S.B. 171), Sec. 1, eff. June 14, 2013.

Sec. 418.014. DECLARATION OF STATE OF DISASTER. (a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.

(b) Except as provided by Subsection (c), the state of disaster continues until the governor:

(1) finds that:

(A) the threat or danger has passed; or

(B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster by executive order.

(c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.

(d) An executive order or proclamation issued under this section must include:

(1) a description of the nature of the disaster;

(2) a designation of the area threatened; and

(3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.

(e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.03, eff. September 1, 2009.

Sec. 418.015. EFFECT OF DISASTER DECLARATION. (a) An executive order or proclamation declaring a state of disaster:

(1) activates the disaster recovery and rehabilitation aspects of the state emergency management plan applicable to the area subject to the declaration; and

(2) authorizes the deployment and use of any forces to which the plan applies and the use or distribution of any supplies, equipment, and materials or facilities assembled, stockpiled, or arranged to be made available under this chapter or other law relating to disasters.

(b) The preparedness and response aspects of the state emergency management plan are activated as provided by that plan.

(c) During a state of disaster and the following recovery period, the governor is the commander in chief of state agencies, boards, and commissions having emergency responsibilities. To the greatest extent possible, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or plans, but this chapter does not restrict the governor's authority to do so by orders issued at the time of the disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.016. SUSPENSION OF CERTAIN LAWS AND RULES. (a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 30 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not:

- (1) be larger than forty square feet in size;
- (2) be more than five feet in height; and
- (3) be placed in the right of way.

(d) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

(e) On request of a political subdivision, the governor may waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver or suspension is reasonably necessary to cope with a disaster.

(f) The governor may suspend any of the following requirements in response to an emergency or disaster declaration of another jurisdiction if strict compliance with the requirement would prevent, hinder, or delay necessary action in assisting another state with coping with an emergency or disaster:

- (1) a registration requirement in an agreement entered into under the International Registration Plan under Section 502.091, Transportation Code, to the extent authorized by federal law;

- (2) a temporary registration permit requirement under Section 502.094, Transportation Code;

- (3) a provision of Subtitle E, Title 7, Transportation Code, to the extent authorized by federal law;

- (4) a motor carrier registration requirement under Chapter 643, Transportation Code;

- (5) a registration requirement under Chapter 645, Transportation Code, to the extent authorized by federal law; or

- (6) a fuel tax requirement under the International Fuel Tax Agreement described by 49 U.S.C. Section 31701 et seq., to the extent authorized by federal law.

(g) For the purposes of Subsection (f), "emergency or disaster declaration of another jurisdiction" means an emergency declaration, a major disaster declaration, a state of emergency declaration, a state of disaster declaration, or a similar declaration made by:

- (1) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.); or

- (2) the governor of another state.

(h) To the extent federal law requires this state to issue a special permit under 23 U.S.C. Section 127 or an executive order, a suspension issued

under Subsection (f) is a special permit or an executive order.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.008, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 3, eff. September 1, 2013.

Sec. 418.017. USE OF PUBLIC AND PRIVATE RESOURCES. (a) The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.

(b) The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services.

(c) The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, subject to the compensation requirements of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.018. MOVEMENT OF PEOPLE. (a) The governor may recommend the evacuation of all or part of the population from a stricken or threatened area in the state if the governor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(b) The governor may prescribe routes, modes of transportation, and destinations in connection with an evacuation.

(c) The governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.019. RESTRICTED SALE AND TRANSPORTATION OF MATERIALS. The governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.0195. DISCONNECTION OF STATE COMPUTER NETWORKS. (a) This section applies only to a computer network used by:

(1) a state agency; or

(2) an entity other than a state agency receiving network security services from the Department of Information Resources under Section 2059.058.

(b) The governor may order the Department of Information Resources to disconnect a computer network from the Internet in the event of a substantial external threat to the computer network.

(c) The authority granted under this section is limited to Internet connectivity services provided exclusively to an entity described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1310 (H.B. 3333), Sec. 1, eff. September 1, 2011.

Sec. 418.020. TEMPORARY HOUSING AND EMERGENCY SHELTER. (a) The governor may enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and may make units available to any political subdivision.

(b) The governor may assist a political subdivision that is the locus of temporary housing or emergency shelters for disaster victims to acquire sites necessary for temporary housing or emergency shelters and to do all things required to prepare the sites to receive and use temporary housing units or emergency shelters by:

- (1) advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source;
- (2) allocating funds made available by a public or private agency; or
- (3) becoming a copartner with the political subdivision for the execution and performance of any temporary housing or emergency shelter project for disaster victims.

(c) Under regulations prescribed by the governor, the governor may temporarily suspend or modify for a period of not more than 60 days any public health, safety, zoning, intrastate transportation, or other law or regulation if by proclamation the governor considers the suspension or modification essential to provide temporary housing or emergency shelter for disaster victims.

(d) Any political subdivision may temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims and may enter into arrangements necessary to prepare or equip the sites to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

(e) A political subdivision that is the locus of temporary housing or emergency shelters for persons moved or evacuated by recommendation or order of the governor may be assisted by any resource available to the state, including the disaster contingency fund, to ensure the political subdivision receives an

advance or reimbursement:

(1) of all expenses, including lost revenue, incurred by the political subdivision associated with the use of public facilities for temporary housing or emergency shelters; and

(2) of the amounts paid for salaries and benefits of permanently employed, straight-time and regular-time personnel of the political subdivision who perform duties associated with the movement or evacuation of persons into, out of, or through the political subdivision.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 185 (H.B. 1998), Sec. 2, eff. September 1, 2009.

Sec. 418.021. FEDERAL AID FOR LOCAL GOVERNMENT. (a) On the governor's determination that a local government of the state has suffered or will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, the governor may apply to the federal government on behalf of the local government for a loan and may receive and disburse the proceeds of an approved loan to the local government.

(b) The governor may determine the amount needed by a local government to restore or resume its governmental functions and certify that amount to the federal government. The amount sought for the local government may not exceed 25 percent of the annual operating budget of the local government for the fiscal year in which the major disaster occurs.

(c) The governor may recommend to the federal government, based on the governor's review, the cancellation of all or part of repayment if in the first three full fiscal years following the major disaster the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.022. AID FOR INDIVIDUALS. (a) On the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, the governor may accept a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed on the grant. The governor may agree with the federal government or any officer or

agency of the United States pledging the state to participate in funding not more than 25 percent of the financial assistance.

(b) The governor may make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot otherwise adequately be met from other means of assistance. The grants may not exceed an aggregate amount in excess of that established by federal statute for an individual or family in any single major disaster declared by the president of the United States.

(c) The governor may designate in the state emergency management plan the Department of Human Services or another state agency to carry out the functions of providing financial aid to individuals or families qualified for disaster relief. The designated agency may employ temporary personnel for those functions to be paid from funds appropriated to the agency, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary positions. The governor may allocate funds appropriated under this chapter to implement the purposes of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.023. CLEARANCE OF DEBRIS. (a) Through the use of any state agency or instrumentality, the governor, acting through members of the Emergency Management Council, may clear or remove debris or wreckage from public or private land or water if it threatens public health or safety or public or private property in a state of disaster declared by the governor or major disaster declared by the president of the United States.

(b) The governor may accept funds from the federal government and use the funds to make grants to a local government for the purpose of removing debris or wreckage from public or private land or water.

(c) Debris or wreckage may not be removed from public or private property until the affected local government, corporation, organization, or individual presents to the governor or member of the Emergency Management Council an unconditional authorization for removal. Debris or wreckage may not be removed from private property until the state is indemnified against any claim arising from removal. In instances where it is not practical and further delay would create a greater risk to public health or safety, the governor, acting through the Emergency Management Council, may remove debris or wreckage from public or private property without an unconditional authorization or indemnification.

(d) If the governor provides for clearance of debris or wreckage under this chapter, state employees or other individuals acting by authority of the governor may enter on private land or water to perform tasks necessary to the removal or clearance operation. Except in cases of wilful misconduct, gross

negligence, or bad faith, a state employee or agent performing his duties while complying with orders of the governor issued under this chapter is not liable for the death of or injury to a person or for damage to property.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 4, eff. Sept. 1, 1997.

Sec. 418.024. RULES. The governor may adopt rules necessary for carrying out the purposes of this chapter, including rules on:

- (1) standards of eligibility for persons applying for benefits;
- (2) procedures for applying for benefits;
- (3) procedures for the administration, investigation, filing, and approval of applications for benefits;
- (4) procedures for the formation of local or statewide boards to pass on applications for benefits; and
- (5) procedures for appeals of decisions relating to applications for benefits.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

Sec. 418.041. ORGANIZATION. (a) The Texas Division of Emergency Management is a division of the department.

(b) The division is managed by a chief appointed by the public safety director of the department, with the approval of the governor. The chief serves at the pleasure of the public safety director. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified:

- (1) a representative of the department;
- (2) a representative of the division;
- (3) a representative of the governor's office of homeland security;
- (4) the presiding officer of the Homeland Security Council; and
- (5) a state agency representative from the emergency management council, selected by the chair of the emergency management council.

(d) The division shall employ other coordinating and planning officers and other professional, technical, secretarial, and clerical personnel necessary to the performance of its functions.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.02, eff. September 1, 2009.

Sec. 418.042. STATE EMERGENCY MANAGEMENT PLAN.

(a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:

- (1) provisions for prevention and minimization of injury and damage caused by disaster;
- (2) provisions for prompt and effective response to disaster;
- (3) provisions for emergency relief;
- (4) provisions for energy emergencies;
- (5) identification of areas particularly vulnerable to disasters;
- (6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (7) provisions for assistance to local officials in designing local emergency management plans;
- (8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;
- (9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
- (10) organization of manpower and channels of assistance;
- (11) coordination of federal, state, and local emergency management activities;
- (12) coordination of the state emergency management plan with the emergency management plans of the federal government;
- (13) coordination of federal and state energy emergency plans;
- (14) provisions for providing information to local officials on activation of the Emergency Alert System established under 47 C.F.R. Part 11;
- (15) a database of public facilities that may be used under Section 418.017 to shelter individuals during a disaster, including air-conditioned facilities for shelter during an extreme heat disaster and fortified structures for shelter during a wind disaster;
- (16) provisions for quickly replenishing the food supplies of area food banks or food pantries following a disaster; and
- (17) other necessary matters relating to disasters.

(b) In preparing and revising the state emergency management plan, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

(c) All or part of the state emergency management plan may be incorporated into regulations of the division or executive orders that have the force and effect of law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 7.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 365 (H.B. 1326), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.04, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.009, eff. September 1, 2011.

Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a) In this section, "critical water or wastewater facility" means a facility with:

(1) water supply, treatment, or distribution equipment that is essential to maintain the minimum water pressure requirements established by the governing body of a municipality or the Texas Commission on Environmental Quality; or

(2) wastewater collection or treatment equipment that is essential to prevent the discharge of untreated wastewater to water in the state.

(b) The division, in cooperation with the emergency management council, local governments, regional entities, health and medical facilities, volunteer groups, private sector partners, the Federal Emergency Management Agency, and other federal agencies, shall develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first five days immediately following a disaster. The annex must include:

(1) plans to make fuel available to, maintain continuing operations of, and assess the backup power available for, all:

(A) hospitals;

(B) prisons;

(C) assisted living facilities licensed under Chapter 247, Health and Safety Code;

(D) institutions licensed under Chapter 242, Health and Safety

Code; and

(E) other critical facilities determined by the division;

(2) provisions for interagency coordination of disaster response efforts;

(3) provisions for the rapid gross assessment of population support needs;

(4) plans for the clearance of debris from major roadways to facilitate emergency response operations and delivery of essential population support supplies and equipment;

(5) methods to obtain food, water, and ice for disaster victims through prearranged contracts or suppliers, stockpiled supplies, or plans to request assistance from federal agencies, as appropriate;

(6) guidelines for arranging temporary points of distribution for disaster relief supplies and standardized procedures for operating those distribution points;

(7) methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals;

(8) provisions, developed in coordination with fuel suppliers and retailers, for the continued operation of service stations to provide fuel to disaster victims and emergency responders; and

(9) provisions for the dissemination of emergency information through the media to aid disaster victims.

(c) The division, in coordination with the Texas Commission on Environmental Quality and electric, gas, water, and wastewater utility providers, shall develop for inclusion in the annex to the state emergency management plan provisions to provide emergency or backup power to restore or continue the operation of critical water or wastewater facilities following a disaster. The provisions must:

(1) establish an online resource database of available emergency generators configured for transport that are capable of providing backup power for critical water or wastewater facilities following a disaster;

(2) include procedures for the maintenance, activation, transportation, and redeployment of available emergency generators;

(3) develop a standardized form for use by a water or wastewater utility provider in developing and maintaining data on the number and type of emergency generators required for the operation of the provider's critical water or wastewater facilities following a disaster; and

(4) include procedures for water or wastewater utility providers to maintain a current list of generators available in surrounding areas through mutual aid agreements, recognized and coordinated statewide mutual aid

programs, and through commercial firms offering generators for rent or lease.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.05, eff. September 1, 2009.

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;
- (7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;
- (8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;
- (9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;
- (10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;
- (12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;
- (13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery;
- (14) develop a plan to raise public awareness and expand the capability of the information and referral network under Section 531.0312;
- (15) improve the integration of volunteer groups, including faith-based organizations, into emergency management plans;

(16) cooperate with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines;

(17) cooperate with state agencies to:

(A) encourage the public to participate in volunteer emergency response teams and organizations that respond to disasters; and

(B) provide information on those programs in state disaster preparedness and educational materials and on Internet websites;

(18) establish a liability awareness program for volunteers, including medical professionals;

(19) define "individuals with special needs" in the context of a disaster; and

(20) do other things necessary, incidental, or appropriate for the implementation of this chapter.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.010, eff. September 1, 2011.

Sec. 418.044. ASSISTANCE IN DEVELOPMENT OF LOCAL PLANS. (a) The division shall take an integral part in the development and revision of local and interjurisdictional emergency management plans. For that purpose, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies. Those personnel shall consult with the subdivisions and agencies on a regularly scheduled basis and shall make field reviews of the areas, circumstances, and conditions to which particular local and interjurisdictional emergency management plans apply and may suggest revisions.

(b) The division shall encourage local and interjurisdictional agencies to seek advice from local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 6, eff. Sept. 1, 1997.

Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may employ or contract with temporary personnel from funds appropriated to the division, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary or contract positions.

(b) The division may enroll, organize, train, and equip a cadre of disaster reservists with specialized skills in disaster recovery, hazard

mitigation, community outreach, and public information to temporarily augment its permanent staff. The division may activate enrolled disaster reservists to support recovery operations in the aftermath of a disaster or major emergency and pay them at a daily rate commensurate with their qualifications and experience. Chapter 654, Chapter 2254, and Subtitle D, Title 10, do not apply in relation to a disaster reservist under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.07, eff. September 1, 2009.

Sec. 418.046. ASSISTANCE TO AVIATORS. (a) The division may provide assistance to private aviators, including partial reimbursement for funds expended, to meet the actual costs of aircraft operation in performing search, rescue, or disaster-related functions requested by the governor or the governor's designee.

(b) Any reimbursement must be limited to the actual cost of aircraft operation not reimbursable from other sources.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.0461. ASSISTANCE TO CIVIL AIR PATROL. The division may provide financial assistance to the Civil Air Patrol, Texas Wing, to support the wing's disaster-related activities that assist the state and state agencies and the wing's training and exercises associated with those activities.

Added by Acts 1995, 74th Leg., ch. 889, Sec. 1, eff. Aug. 28, 1995.

Sec. 418.047. COMMUNICATIONS. (a) In cooperation with other state agencies, the division shall ascertain what means exist for rapid and efficient communication in times of disaster.

(a-1) The division shall coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists, including:

- (1) severe weather advisories;
- (2) AMBER alerts under Subchapter L, Chapter 411; and
- (3) silver alerts under Subchapter M, Chapter 411.

(b) The division shall consider the desirability of supplementing the communication resources or integrating them into a state or state-federal telecommunication or other communication system or network.

(c) In studying the character and feasibility of any system or its parts, the division shall evaluate the possibility of its multipurpose use for general state and local governmental purposes.

(d) The division shall make recommendations to the governor as appropriate.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 8.01, eff. September 1, 2009.

Sec. 418.048. MONITORING WEATHER. The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.08, eff. September 1, 2009.

Sec. 418.050. PHASED REENTRY PLAN. (a) The division shall develop a phased reentry plan to govern the order in which particular groups of people are allowed to reenter areas previously evacuated because of a disaster or threat of disaster. The plan may provide different reentry procedures for different types of disasters.

(b) The phased reentry plan shall:

(1) recognize the role of local emergency management directors in making decisions regarding the timing and implementation of reentry plans for a disaster; and

(2) provide local emergency management directors with sufficient flexibility to adjust the plan as necessary to accommodate the circumstances of a particular emergency.

(c) The division, in consultation with representatives of affected parties and local emergency management directors, shall develop a reentry credentialing process. The division shall include the credentialing process in the phased reentry plan. The Department of Public Safety of the State of Texas shall provide support for the credentialing process.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.09, eff. September 1, 2009.

Sec. 418.0501. REENTRY CREDENTIALING PILOT PROGRAM. (a) The division

shall consider implementing a pilot program for a reentry credentialing process for reentry into areas previously evacuated because of a disaster or threat of disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.051, eff. September 1, 2009.

Redesignated from Government Code, Section 418.050 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(16), eff. September 1, 2011.

Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The communications coordination group shall facilitate interagency coordination and collaboration to provide efficient and effective planning and execution of communications support to joint, interagency, and intergovernmental task forces.

(b) At the direction of the division, the communications coordination group shall assist with coordination and collaboration during an emergency.

(c) The communications coordination group consists of members selected by the division, including representatives of:

- (1) the Texas military forces;
- (2) the Department of Public Safety of the State of Texas;
- (3) the Federal Emergency Management Agency;
- (4) federal agencies that comprise Emergency Support Function No. 2;
- (5) the telecommunications industry, including cable service providers, as defined by Section 66.002, Utilities Code;
- (6) electric utilities, as defined by Section 31.002, Utilities Code;
- (7) gas utilities, as defined by Sections 101.003 and 121.001, Utilities Code;
- (8) the National Guard's Joint Continental United States Communications Support Environment;
- (9) the National Guard Bureau;
- (10) amateur radio operator groups;
- (11) the Texas Forest Service;
- (12) the Texas Department of Transportation;
- (13) the General Land Office;
- (14) the Texas Engineering Extension Service of The Texas A&M University System;
- (15) the Public Utility Commission of Texas;
- (16) the Railroad Commission of Texas;
- (17) the Department of State Health Services;
- (18) the judicial branch of state government;
- (19) the Texas Association of Regional Councils;
- (20) the United States Air Force Auxiliary Civil Air Patrol, Texas

Wing;

- (21) each trauma service area regional advisory council;
- (22) state agencies, counties, and municipalities affected by the emergency, including 9-1-1 agencies; and
- (23) other agencies as determined by the division.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.10, eff. September 1, 2009.

SUBCHAPTER D. FINANCE

Sec. 418.071. STATE POLICY. It is the intent of the legislature and the policy of the state that funds to meet disaster emergencies always be available.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.073. DISASTER CONTINGENCY FUND. (a) The disaster contingency fund consists of money appropriated to the fund.

(b) It is the intent of the legislature that in responding to an emergency or disaster, the first recourse of state and local agencies should be to the funds regularly appropriated to those agencies.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 992 (S.B. 1339), Sec. 1

(c) The purposes for which money in the disaster contingency fund may be used include making funds available to a state or local agency that will use the funds to provide assistance to producers of agricultural products affected by or recovering from a disaster caused by severe drought, wildfire, flood, storm, or hurricane. In this subsection, "agricultural products" includes:

(1) horticultural, viticultural, forestry, dairy, livestock, poultry, and bee products, including products of exotic livestock as defined by Section 161.001, Agriculture Code; and

(2) any farm or ranch product, including a product produced by aquaculture as defined by Section 134.001, Agriculture Code.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1250 (H.B. 2694), Sec. 1, and amended by Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 1

(c) A state or local government entity that participates in disaster preparation or disaster recovery may request and receive funding from the disaster contingency fund to pay for costs incurred by the state or local government entity in preparing for or recovering from a disaster.

(d) The division shall administer the disaster contingency fund and shall develop and implement rules and procedures for providing emergency assistance from the fund. The division shall annually report to the speaker of the house of representatives and the lieutenant governor expenditures from the fund, the overall status of the fund, and any changes to rules and procedures regarding the fund.

(f) A state or local government entity or other eligible entity that receives funding from the disaster contingency fund to pay for costs associated with disaster recovery and that subsequently receives reimbursement from the federal government, an insurer, or another source for those same costs shall reimburse the disaster contingency fund for the reimbursed amounts. In developing rules and procedures under Subsection (d) the governor's division of emergency management shall prescribe accounting and other procedures necessary to efficiently and effectively implement this subsection.

(g) Money in the disaster contingency fund may be used to pay for a disaster risk financing instrument using a parametric index based on affected population to leverage available funds and receive proceeds greater than appropriated amounts to pay for extraordinary expenses.

(h) Money in the disaster contingency fund may be used to provide to a local government entity that is suffering financial hardship as a result of a disaster declared under this chapter funds for the purpose of providing local matching funds for Federal Emergency Management Agency qualifying projects.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 992 (S.B. 1339), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1250 (H.B. 2694), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.05, eff. September 1, 2009.

Sec. 418.074. ACCEPTANCE AND ALLOCATION OF GIFTS AND GRANTS. (a) If the

federal government, another public or private agency, or an individual offers to the state or through the state to a political subdivision services, equipment, supplies, materials, or funds as a gift, grant, or loan for purposes of emergency services or disaster recovery, the governor (if required by the donor) or the presiding officer of the governing body of the political subdivision may accept the offer on behalf of the state or political subdivision, as applicable.

(b) If a gift, grant, or loan is accepted by the state, the governor, or the emergency management council or chief of the division if designated by the governor, may dispense the gift, grant, or loan directly to accomplish the purpose for which it was made or may allocate and transfer to a political subdivision services, equipment, supplies, materials, or funds in the amount the governor or the governor's designee may determine.

(c) Funds received by the state shall be placed in one or more special funds and shall be disbursed by warrants issued by the comptroller on order of the governor or the governor's designee. The governor shall name the designee in a written agreement accepting the funds or in a written authorization filed with the secretary of state. On receipt of an order for disbursement, the comptroller shall issue a warrant without delay.

(d) If the funds are to be used for purchase of equipment, supplies, or commodities of any kind, it is not necessary that bids be obtained or that the purchases be approved by any other agency.

(e) A political subdivision may accept and use all services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the state or political subdivision.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.04, eff. September 1, 2009.

SUBCHAPTER E. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT

Sec. 418.101. ALL POLITICAL SUBDIVISIONS SERVED. (a) Each political subdivision is within the jurisdiction of and served by the division and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) The presiding officer of the governing body of each political subdivision shall notify the division of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish

additional pertinent information that the division requires. The person so designated shall accomplish training prescribed by the division.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 9, eff. Sept. 1, 1997.

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision.

(b) An emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. An emergency management director may exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) An emergency management director may designate a person to serve as emergency management coordinator. The emergency management coordinator shall serve as an assistant to the emergency management director for emergency management purposes.

(d) A person, other than an emergency management director exercising under Subsection (b) a power granted to the governor, may not seize state or federal resources without prior authorization from the division or the state or federal agency having responsibility for those resources.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.02, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.11, eff. September 1, 2009.

Sec. 418.102. COUNTY PROGRAMS. (a) Each county shall maintain an emergency management program or participate in a local or interjurisdictional emergency management program that, except as otherwise provided by this chapter, has jurisdiction over and serves the entire county or interjurisdictional area.

(b) The county program is the first channel through which a municipal corporation or a joint board shall request assistance when its resources are exceeded. Requests that exceed the county capability shall be forwarded to the state as prescribed in the state emergency management plan.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 33, Sec. 2, eff. May 14, 2003.

Sec. 418.103. MUNICIPAL PROGRAMS. (a) The governor shall determine which municipal corporations need emergency management programs of their own and shall recommend that they be established and maintained. The governor shall make the determinations on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration.

(b) The emergency management program of a county must be coordinated with the emergency management programs of municipalities situated in the county but does not apply in a municipality having its own emergency management program.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.104. INTERJURISDICTIONAL PROGRAMS. The governor may recommend that a political subdivision establish and maintain a program and form an interjurisdictional agency jointly with one or more other political subdivisions if the governor finds that the establishment and maintenance of a joint program or participation in it is made necessary by circumstances or conditions that make it unusually difficult to provide disaster mitigation, preparedness, response, or recovery services under other provisions of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997.

Sec. 418.105. LIAISON OFFICERS. (a) Each city that does not have a program and has not made arrangements to secure or participate in the services of an existing program shall designate a liaison officer to facilitate the cooperation and protection of the city in the work of disaster mitigation, preparedness, response, and recovery.

(b) Each county shall provide an office and a liaison officer to coordinate with state and federal emergency management personnel concerning disaster mitigation, preparedness, response, and recovery activities under other provisions of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997.

Sec. 418.106. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT PLANS. (a) Each local and interjurisdictional agency shall prepare and keep current an emergency management plan for its area providing for disaster mitigation, preparedness, response, and recovery.

(b) The plan must provide for:

(1) wage, price, and rent controls and other economic stabilization methods in the event of a disaster; and

(2) curfews, blockades, and limitations on utility use in an area affected by a disaster, rules governing entrance to and exit from the affected area, and other security measures.

(c) The local or interjurisdictional emergency management agency shall prepare in written form and distribute to all appropriate officials a clear and complete statement of the disaster responsibilities of all local agencies and officials and of the disaster channels of assistance.

(d) Each local or interjurisdictional agency shall conduct at least one public meeting each calendar year to exchange information about its emergency management plan. Each agency shall provide written notice of the date, time, and location of the meeting, not later than the fifth day before the meeting, to the pipeline safety section of the gas services division of the Railroad Commission of Texas.

(e) An emergency management plan of an agency is excepted from the requirements of Subsection (d) if:

(1) the emergency management plan contains sensitive information relating to critical infrastructures or facilities; and

(2) the safety or security of those infrastructures or facilities could be jeopardized by disclosure of the emergency management plan.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 557, Sec. 1, eff. Sept. 1, 2003.

Sec. 418.107. LOCAL FINANCE. (a) A political subdivision may make appropriations for emergency management services as provided by law for making appropriations for ordinary expenses.

(b) Political subdivisions may make agreements for the purpose of organizing emergency management service divisions and provide for a mutual method of financing the organization of units on a basis satisfactory to the subdivisions.

(c) A local government entity may render mutual aid to other local government entities under mutual aid agreements or the system.

(d) A political subdivision may issue time warrants for the payment of the cost of any equipment, construction, acquisition, or any improvements for carrying out this chapter. The warrants shall be issued in accordance with Chapter 252, Local Government Code, in the case of a municipality, or Subchapter C, Chapter 262, Local Government Code, in the case of a county.

Time warrants issued for financing permanent construction or improvement for emergency management purposes are subject to the right of the voters to require a referendum vote under Section 252.045 or 262.029, Local Government Code, as applicable.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 30, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 7, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.03, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.03, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.12, eff. September 1, 2009.

Sec. 418.1075. SUSPENSION OF DEADLINES IMPOSED BY LOCAL LAW. (a) Notwithstanding any other law, a deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if:

(1) the territory of the political subdivision is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) the presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, proclaims the political subdivision is unable to comply with the requirement because of the disaster.

(b) The presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, may issue an order ending the suspension of a deadline under this section. A deadline may not be suspended for more than 30 days after the date the presiding officer or governing body, as appropriate, makes the proclamation described by Subsection (a)(2).

Added by Acts 2009, 81st Leg., R.S., Ch. 990 (H.B. 3851), Sec. 2, eff. June 19, 2009.

Sec. 418.108. DECLARATION OF LOCAL DISASTER. (a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.

(b) A declaration of local disaster may not be continued or renewed for a

period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.

(c) An order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary, the county clerk, or the joint board's official records, as applicable.

(d) A declaration of local disaster activates the appropriate recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The appropriate preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

(e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

(f) The county judge or the mayor of a municipality may order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(g) The county judge or the mayor of a municipality may control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

(h) For purposes of Subsections (f) and (g):

- (1) the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county; and
- (2) to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge prevails.

(i) A declaration under this section may include a restriction that exceeds a restriction authorized by Section 352.051, Local Government Code. A restriction that exceeds a restriction authorized by Section 352.051, Local Government Code, is effective only:

- (1) for 60 hours unless extended by the governor; and
- (2) if the county judge requests the governor to grant an extension of the restriction.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts

GOVERNMENT CODE CHAPTER 418. EMERGENCY MANAGEMENT

2003, 78th Leg., ch. 33, Sec. 3, eff. May 14, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 274 (H.B. 3111), Sec. 1, eff. June 9, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 17.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.13, eff. September 1, 2009.

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE. (a) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(d) A local government entity or organized volunteer group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 497, Sec. 2, eff. June 12, 1995; Acts 2003, 78th Leg., ch. 1204, Sec. 2.002, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 8, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.04, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.05, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.08, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.04, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.05, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.08, eff. June 15, 2007.

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE EMERGENCIES. (a)

The division, in consultation with state fire protection agencies and the Texas Commission on Fire Protection, may develop a statewide mutual aid program for fire emergencies.

(b) A program developed under this section:

(1) does not alter the legal obligations of a political subdivision participating in the system; and

(2) must be consistent with the state emergency management plan.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 5.01, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.06, eff. June 15, 2007.

Sec. 418.1101. PLAN FOR CONTINUITY OF FUNCTIONS. (a) The governing body of a political subdivision may at any time adopt a plan for the continuity of functions of the political subdivision to be carried out during a disaster declared as provided by law by the president of the United States or the governor or during another catastrophic event.

(b) The plan may provide for:

(1) delegating any administrative duty of the governing body of the political subdivision or any official or employee of the political subdivision to another appropriate person;

(2) establishing orders of succession for performing essential functions of the political subdivision; and

(3) establishing meeting procedures for the governing body of the political subdivision.

(c) The plan may not provide for the delegation of a duty that the governing body or official is required to perform by the Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 338 (S.B. 61), Sec. 1, eff. June 15, 2007.

Renumbered from Government Code, Section 418.111 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(26), eff. September 1, 2009.

Sec. 418.1102. EXCEPTION TO QUORUM REQUIREMENTS. (a) This section applies to a local governmental entity created and operating under the laws of this state, including a political subdivision, school district, or special district or authority.

(b) Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

(1) the entity's jurisdiction is wholly or partly located in the area

of a disaster declared by the president of the United States or the governor;
and

(2) a majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Added by Acts 2007, 80th Leg., R.S., Ch. 338 (S.B. 61), Sec. 1, eff. June 15, 2007.

Renumbered from Government Code, Section 418.112 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(27), eff. September 1, 2009.

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.112. ADMINISTRATION BY DIVISION. The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.113. DISASTER DISTRICTS. (a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The public safety director of the Department of Public Safety of the State of Texas shall appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee. The chair shall:

(1) inform the state Director of Homeland Security on all matters relating to disasters and emergencies as requested by the state Director of Homeland Security; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and administrative support as required.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE. (a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may

provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 708 (H.B. 3178), Sec. 1, eff. June 14, 2013.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE. (a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1152. SUPERVISION AND CONTROL. When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity; and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1153. DURATION OF AID. The provision of mutual aid assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June

15, 2007.

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a state agency or local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting state agency or local government entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.14, eff. September 1, 2009.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made by the division, the division shall make the claim for the eligible costs of the

responding local government entity on the division's grant application and shall disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) If a local government entity requests mutual aid assistance from another local government entity under the system that requires a response that exceeds 12 consecutive hours, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 708 (H.B. 3178), Sec. 2, eff. June 14, 2013.

SUBCHAPTER F. DISASTER MITIGATION

Sec. 418.121. DUTY OF GOVERNOR. (a) In addition to disaster mitigation measures included in the state, local, and interjurisdictional emergency

management plans, the governor shall as a continuing duty consider steps that could be taken to mitigate the harmful consequences of disasters.

(b) At the direction of the governor and pursuant to any other authority and competence a state agency may have, a state agency shall study matters related to disaster mitigation. This includes agencies charged with responsibility in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards.

(c) The governor shall from time to time make recommendations to the legislature, local governments, and other appropriate public and private entities as may facilitate measures to mitigate the harmful consequences of disasters.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 13, eff. Sept. 1, 1997.

Sec. 418.122. STATE STUDY OF LAND USE AND CONSTRUCTION STANDARDS. (a) The Texas Natural Resource Conservation Commission and other state agencies, in conjunction with the division, shall keep land uses and construction of structures and other facilities under continuing study and shall identify areas that are particularly susceptible to severe land shifting, subsidence, flooding, or other catastrophes.

(b) The studies shall concentrate on means of reducing or avoiding the dangers and consequences of a catastrophe.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.08, eff. Sept. 1, 1995.

Sec. 418.123. RECOMMENDATIONS FOR CHANGES IN LAND USE OR CONSTRUCTION STANDARDS. (a) The division shall recommend to the governor the changes it considers essential if the division believes, on the basis of the studies under Section 418.122 or other competent evidence that:

(1) an area is susceptible to a disaster of catastrophic proportions without adequate warning;

(2) existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and

(3) changes in zoning regulations, other land-use regulations, or building requirements are essential to further the purposes of this subchapter.

(b) The governor shall review the recommendations. If after public

hearing the governor finds the changes are essential, the governor shall make appropriate recommendations to the agencies or local governments with jurisdiction over the area and subject matter.

(c) If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall inform the legislature and request legislative action appropriate to mitigate the impact of the disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.124. SUSPENSION OF LAND USE OR CONSTRUCTION STANDARDS. (a) When the governor makes recommendations under Section 418.123, the governor may suspend the standard or control found to be inadequate to protect the public safety and by rule may place a new standard or control in effect.

(b) The new standard or control remains in effect until rejected by concurrent resolution of both houses of the legislature or amended by the governor.

(c) During the time the new standard or control is in effect, it shall be administered and given effect by all appropriate regulatory agencies of the state and of the local governments to which it applies.

(d) The governor's action under this section is subject to judicial review but is not subject to temporary stay pending litigation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a) The General Land Office shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the office in the event of a weather-related disaster declaration to obtain services for debris removal from beaches as needed following the disaster.

(b) The Texas Department of Transportation shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain services for debris removal from the state highway system as needed following the disaster.

(c) The Texas Department of Housing and Community Affairs shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain temporary or emergency housing as needed following the disaster.

(d) Services obtained under a pre-event contract under this section may

be paid for with money from the disaster contingency fund under Section 418.073.

Added by Acts 2009, 81st Leg., R.S., Ch. 1408 (H.B. 4409), Sec. 3, eff. September 1, 2009.

SUBCHAPTER G. CITIZEN DUTIES AND CLAIMS FOR COMPENSATION

Sec. 418.151. CITIZEN DUTIES. (a) Each person in this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to manage emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster.

(b) This chapter neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state and the common law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.152. COMPENSATION FOR SERVICES AND PROPERTY. (a) Services or the taking or use of property shall be compensated only to the extent that:

- (1) the obligations recognized in this chapter are exceeded in a particular case; and
- (2) the claimant may not be considered to have volunteered services or property without compensation.

(b) Personal services may not be compensated by the state or a subdivision or agency of the state except under statute or ordinance.

(c) Compensation for property may be made only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by the governor or a member of the disaster forces of this state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.153. COMPENSATION CLAIMS. (a) A person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim for compensation with the division in the form and manner required by the division.

(b) Unless the amount of compensation on account of property damage, loss, or destruction is agreed on between the claimant and the division, the amount of compensation is computed in the same manner as compensation due for

taking of property under the condemnation laws of this state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.154. CERTAIN CLAIMS EXCLUDED. This subchapter does not apply to or authorize compensation for:

- (1) the destruction or damaging of standing timber or other property in order to provide a firebreak;
- (2) the release of water or breach of impoundments in order to reduce pressure or other danger from actual or threatened flood; or
- (3) contravention of Article I, Section 17, of the Texas Constitution or statutes pertaining to that section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 418.171. QUALIFICATIONS FOR RENDERING AID. A person who holds a license, certificate, or other permit issued by a state or political subdivision of any state evidencing the meeting of qualifications for professional, mechanical, or other skills may render aid involving the skill in this state to meet an emergency or disaster. This state shall give due consideration to the license, certificate, or other permit.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.172. INSURANCE COVERAGE. (a) Property damage insurance covering state facilities may be purchased by agencies of the state if necessary to qualify for federal disaster assistance funds.

(b) If sufficient funds are not available for the required insurance, an agency may request funding from the disaster contingency fund to purchase the insurance.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.15, eff. September 1, 2009.

Sec. 418.173. PENALTY FOR VIOLATION OF EMERGENCY MANAGEMENT PLAN. (a) A state, local, or interjurisdictional emergency management plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted under the plan is an offense.

(b) The plan may prescribe a punishment for the offense but may not

prescribe a fine that exceeds \$1,000 or confinement in jail for a term that exceeds 180 days.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.174. PERSONAL LIABILITY EXEMPTION OF MEMBER OF EMERGENCY PLANNING COUNCIL OR LOCAL EMERGENCY PLANNING COMMITTEE. A member of the emergency management council established under Section 418.013 or of a local emergency planning committee established to develop an emergency management program in accordance with Subchapter E of this chapter is not personally liable for civil damages for an action arising from the performance of the person's duties on the council or committee.

Added by Acts 1989, 71st Leg., ch. 851, Sec. 1, eff. Aug. 28, 1989.

Sec. 418.175. CERTAIN INFORMATION CONFIDENTIAL. (a) Information that relates to physically or mentally disabled individuals or other individuals with special needs and that is maintained for purposes of emergency management or disaster planning is confidential.

(b) This section applies to information in the possession of any person, including:

- (1) the state, an agency of the state, a political subdivision, or an agency of a political subdivision; or
- (2) an electric, telecommunications, gas, or water utility.

Added by Acts 1999, 76th Leg., ch. 778, Sec. 1, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 1312, Sec. 2, eff. June 21, 2003.

Sec. 418.176. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO EMERGENCY RESPONSE PROVIDERS. (a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

- (1) relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;
- (2) relates to a tactical plan of the provider; or
- (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

(b) In this section and Sections 418.177-418.183, "governmental entity" includes the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both,

and is exempt from ad valorem taxation under Section 11.30, Tax Code.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.177. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO RISK OR VULNERABILITY ASSESSMENT. Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.178. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CONSTRUCTION OR ASSEMBLY OF WEAPONS. (a) In this section, "explosive weapon" has the meaning assigned by Section 46.01, Penal Code.

(b) Information is confidential if it is information collected, assembled, or maintained by or for a governmental entity and:

(1) is more than likely to assist in the construction or assembly of an explosive weapon or a chemical, biological, radiological, or nuclear weapon of mass destruction; or

(2) indicates the specific location of:

(A) a chemical, biological agent, toxin, or radioactive material that is more than likely to be used in the construction or assembly of such a weapon; or

(B) unpublished information relating to a potential vaccine or to a device that detects biological agents or toxins.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.179. CONFIDENTIALITY OF CERTAIN ENCRYPTION CODES AND SECURITY KEYS FOR COMMUNICATIONS SYSTEM. (a) Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to the details of the encryption codes or security keys for a public communications system.

(b) This section does not prohibit a governmental entity from making

available, at cost, to bona fide local news media, for the purpose of monitoring emergency communications of public interest, the communications terminals used in the entity's trunked communications system that have encryption codes installed.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.180. CONFIDENTIALITY OF CERTAIN INFORMATION PREPARED FOR UNITED STATES. Information, other than financial information, in the possession of a governmental entity is confidential if the information:

- (1) is part of a report to an agency of the United States;
- (2) relates to an act of terrorism or related criminal activity; and
- (3) is specifically required to be kept confidential:

(A) under Section 552.101 because of a federal statute or regulation;

(B) to participate in a state-federal information sharing agreement; or

(C) to obtain federal funding.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.181. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CRITICAL INFRASTRUCTURE. Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.182. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO SECURITY SYSTEMS. (a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under Chapter 552.

(c) Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, as defined by Section 61.003,

Education Code, is public information and is not excepted from required disclosure under Chapter 552 unless the security camera:

- (1) is located in an individual personal residence for which the state provides security; or
- (2) is in use for surveillance in an active criminal investigation.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.183. DISCLOSURE OF CERTAIN CONFIDENTIAL INFORMATION. (a) This section applies only to information that is confidential under Sections 418.175-418.182.

(b) At any time during a state of disaster, the executive or administrative head of the governmental entity may voluntarily disclose or otherwise make available all or part of the confidential information to another person or another entity if the executive or administrative head believes that the other person or entity has a legitimate need for the information.

(c) The executive or administrative head of a port, port authority, or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may voluntarily disclose or otherwise make available all or part of the confidential information to another person if the information:

- (1) is shared in connection with a security network or committee, including a federal or state security committee or task force;
- (2) consists of data, video, or other information on an information-sharing device that is shared with a security network; or
- (3) is shared with an emergency operations center.

(d) The disclosure or making available of confidential information by a hospital district to a national accreditation body does not waive or affect the confidentiality of the information.

(e) The disclosure or making available of confidential information under Subsection (b) or (c) does not waive or affect the confidentiality of the information.

(f) A governmental body subject to Chapter 551 is not required to conduct an open meeting to deliberate information to which this section applies. Notwithstanding Section 551.103(a), the governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.184. FIREARMS. (a) A peace officer who is acting in the lawful execution of the officer's official duties during a state of disaster may

disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual.

(b) The peace officer shall return a firearm and any ammunition to an individual disarmed under Subsection (a) before ceasing to detain the individual unless the officer:

- (1) arrests the individual for engaging in criminal activity; or
- (2) seizes the firearm as evidence in a criminal investigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 2, eff. April 27, 2007.

Sec. 418.185. MANDATORY EVACUATION. (a) This section does not apply to a person who is authorized to be in an evacuated area, including a person who returns to the area under a phased reentry plan or credentialing process under Section 418.050.

(b) A county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by order may compel persons who remain in the evacuated area to leave and authorize the use of reasonable force to remove persons from the area.

(c) The governor and a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by a concurrent order may compel persons who remain in the evacuated area to leave.

(d) A person is civilly liable to a governmental entity, or a nonprofit agency cooperating with a governmental entity, that conducts a rescue on the person's behalf for the cost of the rescue effort if:

- (1) the person knowingly ignored a mandatory evacuation order under this section and:
 - (A) engaged in an activity or course of action that a reasonable person would not have engaged in; or
 - (B) failed to take a course of action a reasonable person would have taken;
- (2) the person's actions under Subdivision (1) placed the person or another person in danger; and
- (3) a governmental rescue effort was undertaken on the person's behalf.

(e) An officer or employee of the state or a political subdivision who issues or is working to carry out a mandatory evacuation order under this section is immune from civil liability for any act or omission within the course and scope of the person's authority under the order.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff.

September 1, 2009.

Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. (a) The Department of State Health Services shall establish a program designed to educate the citizens of this state on disaster and emergency preparedness, response, and recovery. Before establishing the program, the department must collaborate with local authorities to prevent state efforts that are duplicative of local efforts. The program must address:

- (1) types of disasters or other emergencies;
- (2) the appropriate response to each type of disaster or emergency, including options for evacuation and shelter;
- (3) how to prepare for each type of disaster or emergency;
- (4) the impact of each type of disaster or emergency on citizens requiring medical assistance or other care;
- (5) ways to respond in a disaster or emergency or to assist the victims of a disaster or emergency; and
- (6) resources and supplies for disaster or emergency recovery.

(b) The executive commissioner of the Health and Human Services Commission, in cooperation with the governor, shall adopt rules to create and administer a disaster and emergency education program established under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.188. POSTDISASTER EVALUATION. Not later than the 90th day after the date a request is received from the division, a state agency, political subdivision, or interjurisdictional agency shall conduct an evaluation of the entity's response to a disaster, identify areas for improvement, and issue a report of the evaluation to the division.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.1881. SHELTER OPERATIONS. The Department of State Health Services shall develop, with the direction, oversight, and approval of the division, an annex to the state emergency management plan that includes provisions for:

- (1) developing medical special needs categories;
- (2) categorizing the requirements of individuals with medical special needs; and

(3) establishing minimum health-related standards for short-term and long-term shelter operations for shelters operated with state funds or receiving state assistance.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING. (a) With the direction, oversight, and approval of the division and the assistance of the Department of State Health Services, health care facilities, county officials, trauma service area regional advisory councils, and other appropriate entities, each council of government, regional planning commission, or similar regional planning agency created under Chapter 391, Local Government Code, shall develop a regional plan for personnel surge capacity during disasters, including plans for providing lodging and meals for disaster relief workers and volunteers.

(b) Entities developing regional plans for personnel surge capacity with regard to lodging shall consult with representatives of emergency responders, infrastructure and utility repair personnel, and other representatives of agencies, entities, or businesses determined by the division to be essential to the planning process.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. (a) In coordination with the division, the Department of Agriculture and the Texas Animal Health Commission shall prepare and keep current an agriculture emergency response plan as an annex to the state emergency management plan. The plan must include provisions for:

(1) identifying and assessing necessary training, resource, and support requirements;

(2) providing information on recovery, relief, and assistance requirements following all types of disasters, including information on biological and radiological response; and

(3) all other information the Department of Agriculture and the Texas Animal Health Commission determine to be relevant to prepare for an all-hazards approach to agricultural disaster management.

(b) The Department of Agriculture and the Texas Animal Health Commission shall include the plan developed under Subsection (a) in an annual report to the legislature and the office of the governor.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff.

September 1, 2009.

Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An entity responsible for the care of individuals with medical special needs shall develop and distribute information on volunteering in connection with a disaster.

(b) The division shall provide information to interested parties and the public regarding how volunteers can be identified and trained to help all groups of people, including those with medical special needs and those who are residents of assisted living facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.192. COMMUNICATIONS BY PUBLIC SERVICE PROVIDERS DURING DISASTERS AND EMERGENCIES. (a) In this section:

(1) "Emergency" means a temporary, sudden, and unforeseen occurrence that requires action by a public service provider to correct the occurrence, inform others of the occurrence, protect lives or property, or temporarily reduce demand for or allocate supply of the provider's products or services to ensure public safety or preserve the integrity of service delivery mechanisms.

(2) "Public service provider" means any person or entity that provides essential products or services to the public that are regulated under the Natural Resources Code, Utilities Code, or Water Code, including:

(A) common carriers under Section 111.002, Natural Resources Code;

(B) telecommunications providers as defined by Section 51.002, Utilities Code; and

(C) any other person or entity providing or producing heat, light, power, or water.

(b) A public service provider may enter into a contract for an emergency notification system described by this section for use in informing the provider's customers, governmental entities, and other affected persons regarding:

(1) notice of a disaster or emergency; and

(2) any actions a recipient is required to take during a disaster or emergency.

(c) The emergency notification system for which a contract is entered into under Subsection (b) must rely on a dynamic information database that:

(1) is capable of simultaneous transmission of emergency messages to all recipients through at least two industry-standard gateways to one or more

telephones or electronic devices owned by a recipient in a manner that does not negatively impact the existing communications infrastructure;

(2) allows the public service provider to:

(A) store prewritten emergency messages in the dynamic information database for subsequent use; and

(B) generate emergency messages in real time based on provider inputs;

(3) allows a recipient to select the language in which the recipient would prefer to receive messages;

(4) transmits the message in the recipient's language of choice to that recipient;

(5) converts text messages to sound files and transmits those sound files to the appropriate device;

(6) assigns recipients to priority groups for notification;

(7) allows for the collection and verification of responses by recipients of emergency messages; and

(8) reads or receives alerts from a commercial mobile alert system established by the Federal Communications Commission or complies with standards adopted for a commercial mobile alert system established by the Federal Communications Commission.

(d) The dynamic information database must comply with:

(1) the Telecommunications Service Priority program established by the Federal Communications Commission; and

(2) the Federal Information Processing Standard 140-2 governing compliant cryptographic modules for encryption and security issued by the National Institute of Standards and Technology.

(e) Before sending a notice described by Subsection (b), a public service provider must:

(1) provide a copy of the notice to the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services at the time of the notice; and

(2) during a disaster declared by the governor or United States government, obtain approval of the notice from the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services during the disaster.

(f) A customer of a public service provider may decline to receive the notices described by Subsection (b) by providing written notice of that decision to the public service provider.

(g) A public service provider shall cooperate with emergency management officials of each political subdivision in which the public service provider

provides services to survey the number of notification systems in place.

(h) The requirements of this section do not apply to:

- (1) a public service provider serving 250,000 or fewer customers; or
- (2) an emergency notification system that is in use by a public service provider on June 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1068 (S.B. 924), Sec. 3(a), eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1052 (H.B. 3096), Sec. 1, eff. June 14, 2013.



Legislation Details (With Text)

File #:	14-404	Version:	1	Name:	City of College Station's Water System Master Plan
Type:	Contract	Status:		Status:	Consent Agenda
File created:	4/21/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action, and discussion to award Contract 14-156 to Freese & Nichols, Inc. in the amount of \$249,990 to update the City of College Station's Water System Master Plan.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Contract.pdf				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion to award Contract 14-156 to Freese & Nichols, Inc. in the amount of \$249,990 to update the City of College Station's Water System Master Plan.

Relationship to Strategic Goals:

- Core Services and Infrastructure

Recommendation: Staff recommends approval of this contract.

Summary: In August 2013, during the FY-14 Budget Hearings, City Council approved an SLA for the Water Services Department to update the Water Master Plan, which is due for its five year update. This master plan update is necessary to ensure our system is in compliance with TCEQ regulations, to schedule rehabilitation projects, and to identify improvements to the system to accommodate new demands. The land use data that will be used to develop the Water System Master Plan Update will be taken from the 5-yr comprehensive plan update that is currently being developed. This coordination of the Water System Master Plan, with the updated comprehensive plan, is necessary to ensure the City is able to provide adequate water service to developing and redeveloping areas in our water service area.

The Water System Master Plan Update will also include the development of an extended period simulation hydraulic model that will allow the City to optimize system hydraulic operation, improve system pressure management, ensure system reliability, and improve/maintain water quality in the distribution system. This evaluation will be performed for two conditions: First on the existing system, and second on the potential build-out of College Station's water service area. This updated model will also help to identify water lines needed as development occurs to serve newly annexed areas (within our water CCN), growth corridors, and existing areas where water lines are in need of replacement/upsizing.

The Water Master Plan update is essential for proper operation of the water system and to accommodate growth, therefore staff recommends approval of this contract.

Budget & Financial Summary: Funds in the amount of \$250,000 were included in the FY14 Water budget for the completion of this master plan update.

Attachments: Contract

CONSULTANT CONTRACT

This Contract is by and between the **City of College Station**, a Texas Municipal Home-Rule Corporation (the "City") and **Freese & Nichols, Inc.** (the "Contractor"), whereby Contractor agrees to perform and the City agrees to pay for the work described herein.

ARTICLE I

1.01 This Contract is for the development of a **Water System Master Plan Update** for the City of College Station (the "Project"). The scope and details of the work to be provided to the City by Contractor are set forth in **Exhibit "A"** to this Contract and are incorporated as though fully set forth herein by reference. Contractor agrees to perform or cause the performance of all the work described in **Exhibit "A."**

1.02 Contractor agrees to perform the work described in **Exhibit "A"** hereto and the City agrees to pay Contractor a fee based on the rates set forth in **Exhibit "B"** to this Contract for the services performed by Contractor. The invoices shall be submitted to the City following the 15th day and the last day of each month. The payment terms are net payable within thirty (30) calendar days of the City's receipt of the invoice. Upon termination of this Contract, payments under this paragraph shall cease, provided, however, that Contractor shall be entitled to payments for work performed in accordance with this Contract before the date of termination and for which Contractor has not yet been paid.

1.03 The total amount of payment, including reimbursements, by the City to Contractor for all services to be performed under this Contract may not, under any circumstances, exceed **Two Hundred Forty-Nine Thousand Nine Hundred Ninety and No/100Dollars (\$249,990.00)**.

1.04 The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Contractor pursuant to this Contract, provided, however, that any such change that in the opinion of Contractor, the City Manager, or the City's Project Manager varies significantly from the scope of the work set out herein and would entail an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Contractor and the City's Project Manager.

1.05 a. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

b. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change

orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and

c. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

1.06 Except as provided in Article VI hereinbelow, the Contractor shall complete all of the work described in Exhibit "A" by the dates set forth below.

[Final Report: 330 **calendar days** after authorization to commence final design]

1.07 **Time is of the essence of this Contract.** The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

1.08 Contractor promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Contractor agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The work of Contractor under this Contract may be authorized by the Project Manager in various phases as set forth in **Exhibit "A."**

1.09 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Contract. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Contract. Contractor shall be liable for any misrepresentations. Any negotiations by the Contractor on the City's behalf are binding on the City only when within the scope of work contained herein and approved by the City.

ARTICLE II

2.01 The City shall direct Contractor to commence work on the Project by sending Contractor a "letter of authorization" to begin work on the Project.

2.02 Upon receipt of the letter of authorization to begin work on the implementation of the Project, Contractor shall meet with the City for the purpose of determining the nature of the Project, including but not limited to the following: meeting with the City's staff to coordinate Project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

2.03 Contractor shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Contractor shall be an independent contractor at all times and is not to be considered either an agent or an employee of the City.

ARTICLE III

3.01 As an experienced and qualified professional, Contractor warrants that the information provided by Contractor reflects high professional and industry standards, procedures, and performances. Contractor warrants the design, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval or acceptance by the City of any of Contractor's work product under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Contractor, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract. Nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the Project's work products prepared by Contractor, its employees, associates, agents, or subcontractors.

3.02 Contractor shall keep the City informed of the progress of the work and shall guard against any defects or deficiencies in its work.

3.03 Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Contractor shall, at no cost to the City, remedy any errors, deficiencies or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable work product.

3.04 Contractor's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, Contractor shall promptly deliver to the City all records, notes, data, memorandum, models, and equipment of any nature that are within

Contractor's possession or control and that are the City's property or relate to the City or its business.

ARTICLE IV

4.01 Indemnity. The Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agents (separately and collectively referred to in this paragraph as "Indemnatee"), from and against any and all claims, losses, damages, causes of action, suits, judgments, settlements made by Indemnatee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Contractor, any of its subcontractors of any tier, or of any employee or invitee of Contractor or of any such subcontractors, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Contractor or by any such subcontractors of any tier, under this Contract.

4.02 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 4.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

4.03 Release. The Contractor releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's work to be performed hereunder. Both the City and the Contractor expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Contractor or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Contractor, or any third party.

ARTICLE V Insurance

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

ARTICLE VI

6.01 At any time, the City may terminate the Project for convenience, in writing. At such time, the City shall notify Contractor, in writing, who shall cease work immediately. Contractor shall be compensated for the services performed. In the event that the City terminates this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred prior to the date of termination.

6.02 No term or provision of this Contract shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of contract by the Contractor. The City may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due the City from the Contractor is determined and paid.

ARTICLE VII

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

7.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City:

City of College Station
Attn: Stephen A. Maldonado Jr., P.E.
P.O. Box 9960
College Station, Texas 77842

Contractor:
Freese & Nichols, Inc.
Attn: Jessica Brown, P.E.
4055 International Plaza, Suite 200
Fort Worth, TX 76109

7.03. Contractor, its employees, associates or subcontractors shall perform all the work hereunder. Contractor agrees that all of its associates, employees, or subcontractors who work on this Project shall be fully qualified and competent to do the work described hereunder. Contractor shall undertake the work and complete it in a timely manner.

7.04 The Contractor shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an unauthorized alien. The Contractor, not the City, must verify eligibility for employment as required by IRCA.

7.05 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

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

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

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

7.09 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

7.10 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.

Freese & Nichols, Inc.

CITY OF COLLEGE STATION

By: SAH, CL
Printed Name: Scott A. Cole
Title: Vice President
Date: 04/17/14

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Assistant City Manager/CFO
Date: _____

Exhibit A

Scope of Services City of College Station Water Master Plan

Task A. Population and Water Demand Projections

- A.1 Project Kick-Off Meeting: Freese and Nichols, Inc. (FNI) will meet with the City to review scope, project team and schedule of the project, and present a data request memorandum.
- A.2 Data Collection: FNI will compile information needed for demand projections and model update from the City including GIS files, as-built drawings, pump station layouts, pump curves, storage tank facility layouts, tank volume curves, recently completed water system improvements, water production data, utility billing data, water quality sampling data, future land use data and population projections.
- A.3 Review and Evaluate Historical Water Usage Data: FNI will review and evaluate the last 5-years of historical water usage overall and by single family residential, multifamily residential, commercial/industrial and selected large users. Based on the review of historical data, FNI will develop design criteria for water demand projections including per-capita consumption rates, non-residential usage factors, maximum day to average day peaking factor, and maximum hour to maximum day peaking factor. FNI will review the City's Water Conservation Plan to ensure consistent planning during the development of water demand projections.
- A.4 Develop and Distribute Existing Demands: FNI will utilize the geocoded data from the City's billing system database to allocate existing demands throughout the City. The data will consist of metered usage fields for each customer account. Demands will be distributed for average day and maximum day conditions.
- A.5 Develop Population and Non-residential Growth Projections: FNI and the City will delineate the buildout water service area using the existing City limits and Water CCN. FNI will utilize information from the City's Comprehensive Plan and develop updated population and non-residential growth projections for 5-year, 10-year and Buildout planning periods. FNI will evaluate the range of densities proposed in the Comprehensive Plan to develop expected and worst case scenarios for projections. The future land use data from the Comprehensive Plan and existing land use will be grouped into categories, used to assign a land use to every parcel and stored in an Access database. Timing will be assigned to the parcels for the three planning periods.
- A.6 Develop Water Demand Projections and Allocate Future Demands throughout the City: Utilizing selected design criteria and land use assumptions, FNI will develop projected

average day, maximum day, and peak hour demands for 5-year, 10-year and Buildout planning periods and distribute the projected water demands by planning area. Large water users will be distributed as point loads. FNI will also coordinate with the Reuse Study on potential customers and remove them from the potable demand distribution. The existing billing data and proposed demand projection criteria will be added to the Access database to calculate demands by parcel for distribution in the model.

- A.7 Evaluate Future Water Supply Needs to Meet Projected Water Demands: FNI will compare the projected demands to the supply currently available and determine amount of additional supply needed and timing. FNI will utilize data from the City and the Brazos G water plan to identify potential supply options to meet the projected buildout demands.
- A.8 Develop Technical Memorandum TM-1 – Population and Water Demand Projections: FNI will prepare a technical memorandum that documents the analysis of historical usage data, and future population and water demand projections. Submit three (3) copies and digital files in PDF format of the draft TM-1, along with the supporting Word, Excel and other electronic files used for the TM.
- A.9 Conduct Workshop on Population and Water Demand Projections (Workshop #1): FNI will prepare for and conduct a workshop with the City on TM-1 and to discuss population and water demand projections.
- A.10 Finalize TM-1 – Population and Water Demand Projections: FNI will revise TM-1 to incorporate comments from workshop. Submit three (3) copies and digital files in PDF format of the final TM-1, along with the supporting Word, Excel and other electronic files used for the TM.

Task B. Water Model Update, Field Testing & Model Calibration

- B.1 Construct the InfoWater Model from the Latest GIS: FNI will utilize the City's latest GIS and as-built drawings for facilities to construct the InfoWater model. The existing distribution system interconnects with Bryan, TAMU and Wellborn will be included in the model and noted if they are manually operated or automatically operated based on a pressure differential. The water model will include the supply/transmission water line and pump station that supply the Dowling Road Pump Station.
- B.2 Obtain and Evaluate SCADA Data: Obtain SCADA data for field testing period and two weeks of typical average day and peak summer usage. SCADA data will be used for model development, development of diurnal curves and model calibration.
- B.3 Develop Summer Diurnal Demand Curves from SCADA Data: FNI will utilize the SCADA data and to develop diurnal curves representing existing 24-hour peak summer water usage patterns.

- B.4 Identify and Map Pressure Recorder Locations: FNI will meet with the City to identify up to 12 locations for field testing based on model calibration needs and areas of concern from City. Two pressure testing recorders will be furnished by FNI, and 10 recorders will be provided by the City.
- B.5 Conduct Summer Pressure Testing: FNI will coordinate with the City in performing pressure testing for a one week period. FNI will prepare procedures for field testing showing proposed locations of testing, required SCADA data during testing period, and assistance from utility. FNI will set up the pressure recorders for 2 FNI recorders for the desired recording interval and download and process the field testing data. The City will install and remove the pressure recorders on the designated fire hydrants and provide data from the 10 City pressure recorders. The City will provide meter readings for the interconnects that are currently read monthly for a minimum of daily readings during the field testing period.
- B.6 Develop Protocol for Pump Performance Testing: FNI will develop a protocol outlining the pump curve field testing for the Dowling Road Pump Station. The protocol will outline the testing methodology, pump parameters to be measured, pump testing combinations, equipment required and system operating conditions during testing.
- B.7 Conduct Field Pump Curve Testing at Dowling Road Pump Station: FNI will conduct the field pump testing at the Dowling Road Pump Station, measuring flow and head conditions at a minimum of three operating points for each pump to allow the development of an updated field pump curve that can be used for representation of the range of anticipated operating conditions. FNI will summarize results and compare differences between original factory curves vs. actual field pump curves.
- B.8 Conduct EPS Model Calibration: FNI will conduct a 24-hour extended period simulation model calibration by adjusting c-factors, peaking factors, diurnal curves, and demand distribution until modeling results match the field pressure measurements and pump/tank operation. FNI will provide comparison graphs and mapping to document model calibration results.
- B.9 Develop Technical Memorandum TM-2 – Hydraulic Field Testing and Model Calibration: FNI will prepare a technical memorandum that documents model update, field testing and calibration. Submit three (3) copies and digital files in PDF format of the draft TM-2, along with the supporting Word, Excel and other electronic files used for the TM.
- B.10 Meet with City to Review TM-2 and Water Model Calibration Results: FNI will prepare mapping showing comparison of water pressure testing results and SCADA data vs. model pressure results for water model calibration and meet with the City to demonstrate results.
- B.11 Finalize TM-2 – Hydraulic Field Testing and Model Calibration: FNI will revise TM-2 to incorporate comments from workshop. Submit three (3) copies and digital files in PDF

format of the final TM-2, along with the supporting Word, Excel and other electronic files used for the TM.

Task C. Existing System Hydraulic Analysis

- C.1 Perform Average Day EPS Modeling of Existing System: FNI will utilize SCADA data from typical average day demand system operation to develop an existing system average day EPS simulation. FNI will conduct EPS modeling of the existing water system for average day operating conditions to evaluate tank cycling, system pressures and deficiencies within the existing water system. FNI will prepare graphs that document system operations and mapping that documents system pressures for the existing system average day EPS scenario.
- C.2 Perform Maximum Day EPS Modeling of Existing System: FNI will utilize SCADA data from typical maximum day demand system operation to develop an existing system maximum day EPS simulation. This scenario will include the maximum hour demand condition. FNI will conduct EPS modeling of the existing water system for maximum day operating conditions to evaluate tank cycling, system pressures, and deficiencies within the existing water system. FNI will prepare graphs that document system operations and mapping that documents system pressures for the existing system maximum day EPS scenario.
- C.3 Conduct Fire Flow Analysis for Existing System: Utilize water system model to conduct fire flow analysis under existing maximum day demands to identify areas with less than adequate fire flow capacity. A minimum fire flow of 1,000 gpm will be used for analysis. The City will provide fire flow requirements for customers with required fire flows greater than 2,000 gpm, where available. Mapping of available fire flows will be overlaid on the existing water system mapping.
- C.4 Evaluate TCEQ Capacity Requirements Compliance: FNI will evaluate the system for compliance with the TCEQ Chapter 290 water system capacity requirements. FNI will analyze well production capacity, pumping capacity, elevated storage capacity, and total storage capacity to determine if any deficiencies exist.
- C.5 Perform Water Age Modeling for Existing System: FNI will conduct water age modeling for the existing water system for up to two different operational scenarios using the operational controls developed in the previous task. FNI will run the EPS water age model for adequate simulation duration to ensure a repeating pattern of water age. FNI will use the EPS model to investigate potential operational modifications to reduce water age in areas of concern, including overlaying water quality sampling data locations and results. FNI will prepare large scale color-coded mapping showing the water age throughout the system.
- C.6 Identify Capacity and Operational Criteria for System Improvements: FNI will develop target design criteria with the City including maximum velocities and headloss gradients,

minimum and maximum pressures, tank drain/fill rates, and storage volumes based on desired level of service. At the Existing System Workshop in Task C.8, the City and FNI will finalize the design criteria (velocity, C factors, demand factors, pressures, fireflow requirements, etc.), and the design criteria will be included in the Water Master Plan Report.

- C.7 Prepare Mapping and Presentation for Existing Distribution System Evaluation Workshop: FNI will develop mapping and a presentation for the workshop on the existing system analysis, including system deficiencies, such as low/high pressures, pipeline velocity/headloss, fire flow availability and high water age.
- C.8 Workshop with the City on Existing Distribution System Evaluation (Workshop #2): FNI will meet with the City to discuss the results of the existing system evaluation and identify potential level of service targets.

Task D. Renewal Program Planning for Water Lines

- D.1 Review Work Orders to Develop History of Repair Records within Study Area: FNI will obtain and review existing work order history in the selected study area to determine trends in maintenance repairs and meet with operation personnel to gain better understanding of operation problems, repair problems and pressure problems.
- D.2 Develop Criteria and Scoring System for Condition Assessment: FNI will develop a draft scoring system and meet with the City to finalize assessment categories and weighting of each category.
- D.3 Identify Water Line Replacement Candidates using Scoring System: FNI will utilize the information developed from pipe material, pipe age, work order history, street rehabilitation project information, and hydraulic analysis to develop priority ranking template. FNI will provide a map to the City showing the results of implementing the scoring system and discuss potential modifications of the scoring system and the minimum score to be used to determine water line replacement candidates.
- D.4 Utilize Water Model to Size Replacement Lines: FNI will use the water model to determine the necessary size of the lines identified for replacement based on future demands.
- D.5 Develop Renewal CIP and Incorporate into Water Master Plan: FNI will group the lines selected for renewal into projects and incorporate the projects into the overall CIP for the Water Master Plan.
- D.6 Incorporate Condition Assessment and Renewal Program for Study Area into Master Plan Report: FNI will incorporate the results of the condition assessment into the Master Plan Report that will include project costs and recommended ranking of importance of system rehabilitation.

Task E. Future System Analysis

- E.1 Evaluate Need for Additional Pressure Planes: Analyze ground elevations in future service area and modeling results to determine if there is a need for additional pressure plane(s). If it is determined that additional pressure planes are needed, FNI will present mapping showing proposed water system pressures throughout City under new pressure plane boundary alternatives vs. single pressure plane operation.
- E.2 Evaluate Pumping, Storage, and Production Capacity for Future Needs: FNI will analyze and develop existing vs. recommended capacity charts for pumping, ground and elevated storage, and groundwater production capacity throughout the city based on criteria developed for system improvements, including minimum TCEQ capacity requirements identified in Chapter 290.
- E.3 Utilize Buildout Model to Determine Sizing of Water System Improvements: FNI will utilize the Buildout EPS scenario with projected demands to evaluate alternatives to meet future water demands. Determine sizing of water system transmission, elevated and ground storage, and pumping facilities needed to serve Buildout demands using the EPS model analyses under average day and maximum day demand conditions. The minimum line size for recommended piping improvements will be 12-inches, with the exception of dead end looping or water age related improvements.
- E.4 Prepare for and Conduct Workshop with City to Present Results of Future System Analysis (Workshop #3): FNI will prepare mapping and presentation and conduct a workshop with the City to discuss results of the future system analysis and alternatives analyzed.
- E.5 Utilize 5-year and 10-year Water System Model Scenarios to Determine Phasing of Water System Improvements: FNI will utilize the interim 5-year and 10-year average day and maximum day EPS model scenarios to determine phasing of water system improvements. System improvements will include transmission, storage, pumping and distribution system related needs. The first five years of the recommended CIP will be phased yearly, and the subsequent years will be phased by planning period (10-year and Buildout).
- E.6 Evaluate Impact of Future Conservation on Sizing and Timing of System Improvements: FNI will utilize the conservation demand scenario developed in Task A to determine if additional water conservation impacts the sizing and/or timing of proposed system improvements.
- E.7 Perform Water Age Modeling for Future System: FNI will conduct water age modeling for up to two future operational scenarios defined jointly by FNI and the City to

document the impact of recommended improvements on water age in the distribution system.

Task F. Capital Improvement Plan, Master Plan Report and Presentation

- F.1 Develop Draft Capital Improvement Plan (CIP) Costs, Phasing Plan and Mapping: FNI will develop costs for each proposed project, draft CIP scheduling of projects based upon water system modeling requirements, project drivers (such as growth, regulatory, system renewal, etc.) and mapping showing project locations. Costs will be in Year 2015 dollars and will include engineering and contingencies. Project will be phased by fiscal year for the first five years and by planning period for subsequent projects.
- F.2 Prepare for and Conduct Workshop with City on Draft Capital Improvement Plan (Workshop #4): FNI will prepare mapping and a presentation and conduct a workshop with the City to discuss draft CIP, project phasing, results of prioritization and analyze alternative completion dates as necessary.
- F.3 Revise and Finalize Water System CIP: FNI will revise EPS modeling and hydraulic analysis based on City's comments from workshop and will develop a final water system CIP with costs for each proposed project, descriptions, drivers/justification, CIP scheduling of projects based upon revised water system modeling requirements and mapping showing project locations.
- F.4 Prepare Draft Master Plan Report: FNI will prepare a Master Plan Report discussing assumptions, methodologies and findings for population and water demand projections, field testing and model calibration, existing and future system hydraulic analyses, and recommended Capital Improvement Plan including schedule and costs of improvements. Deliver 5 copies of the draft report to City.
- F.5 Meet with City to Review Draft Master Plan Report: Meet with City to discuss the draft Master Plan Report, project phasing and analyze alternative completion dates as necessary.
- F.6 Revise Master Plan Report to Incorporate City's Comments: FNI will revise the report based on City's comments and submit 15 final hard copies and five CDs with an electronic copy in PDF format of the Master Plan Report to the City. FNI will also deliver the supporting Word, Excel and other electronic files used for the TM.
- F.7 Conduct Water Master Plan Report Presentation: FNI will develop a presentation and attend the Water Master Plan presentation to City Council.
- F.8 Deliver GIS Mapping and Modeling Files to the City: FNI will deliver the water model and GIS files to the City.

Task G. Model Training Workshops and Operations Manual

- G.1 Prepare Model Training Presentation and Materials: FNI will submit the proposed model training agenda to the City in advance for review and comment on the City. FNI will develop the presentation and additional material needed for conducting water model training. The presentation will cover the set-up of the City's water model, updating the model and examples of potential scenarios that the City would model. FNI will also upgrade the City's existing InfoWater license from a single seat 6,000 link floating license to a single seat Unlimited link floating license.
- G.2 Conduct Water System Model Training: FNI will conduct two (2) full-days of model training for City staff. The training workshops will be conducted at City of College Station's office and will include hands-on instruction using the City's water model.

Summary of Deliverables

- TM-1: Population and Demand Projections and Allocation
- TM-2: Hydraulic Field Testing and Model Calibration
- Water Master Plan Report
- Water System Model
- Upgraded InfoWater license (from 6,000 links to unlimited links)

Summary of Workshops

- Workshop #1: Demand Projections
- Workshop #2: Existing System Evaluation
- Workshop #3: Future System Analysis
- Workshop #4: Draft Capital Improvement Plan

Responsibilities of City

- Install the pressure recorders in the distribution system during field testing.
- Provide data from the City's 10 pressure recorders during the field testing period, along with SCADA data.

Exhibit B

Payment Terms

SELECT ONE:

Payment is a fixed fee in the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Base Tasks		
A	Population & Demand Projections	\$44,513
B	Water Model Update, Field Testing & Model Calibration	\$35,835
C	Existing System Hydraulic Analysis	\$29,924
D	Renewal Program Planning for Water Lines	\$25,257
E	Future System Analysis	\$44,096
F	Capital Improvement Plan, Master Plan Report and Presentation	\$54,707
G	Model Training	\$15,658
TOTAL - All Tasks (A - G)		\$249,990

Exhibit C

Insurance Requirements

I. The Contractor agrees to maintain the types and amounts of insurance required in this Contract throughout the term of the Contract. The following insurance policies shall be required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Workers' Compensation
- D. Professional Liability

II. For each of these policies, the Contractor's insurance coverage shall be primary with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance carried or obtained by the City, its officials, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City *before* work commences.

III. The Contractor shall include all subcontractors as Additional Insureds under its policies, or shall furnish separate certificates and endorsements for each subcontractor. Coverages for subcontractors shall be subject to all requirements stated herein.

IV. General Requirements Applicable to All Policies.

- A. Only insurance carriers licensed and admitted to do business in the State of Texas shall be accepted.
- B. Deductibles shall be listed on the certificate of insurance and are acceptable only on an "occurrence" basis for property damage only.
- C. "Claims made" policies are not accepted, except for Professional Liability insurance.
- D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station by certified mail, return receipt requested.
- E. Upon request, certified copies of all insurance policies shall be furnished to the City.
- F. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following provisions and warranties:
 - 1. The insurance company is licensed and admitted to do business in the State of Texas

2. The insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
 3. All endorsements and coverages are included according to the requirements of this Contract
 4. The form of notice of cancellation, termination, or change in coverage provisions is specified in this attachment
- G. The City of College Station, its officials, employees, and volunteers are to be named Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverages shall contain no special limitations on the scope of protection afforded the City, its officials, employees, and volunteers.

V. **Commercial General Liability** requirements:

- A. Coverage shall be written by a carrier with an "A: VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence per project for bodily injury and property damage with a \$2,000,000 annual aggregate limit.
- C. Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall include but not be limited to premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); and where exposures exist, Explosion, Collapse and Underground coverage.
- F. The City shall be named as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

VI. **Business Automobile Liability** requirements:

- A. Coverage shall be written by a carrier with an "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- D. The coverage shall include owned, leased or rented autos, non-owned autos, any autos and hired autos.

VII. **Workers Compensation Insurance** requirements:

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, *all* employees of the Contractor, the Contractor, *all*

employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy, either directly through their employer's policy (the Contractor's, or subcontractor's policy) or through an executed coverage agreement on an approved DWC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors *must* use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

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

"A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

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

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which

furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

*C. The Contractor must provide a certificate of coverage to the governmental entity **prior** to being awarded the contract.*

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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

F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
- (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
- (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (4) obtain from each other person with whom it contracts, and provide to the Contractor:*
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and*
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

J. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be

covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

VIII. Professional Liability requirements:

- A. Coverage shall be written by a carrier with a “A:VIII” or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City upon request.
- C. For “claims made” policies, a 24-month extended reporting period shall be required.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/07/2014

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

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

PRODUCER Ames & Gough 8300 Greensboro Drive Suite 980 McLean, VA 22102 1-703-827-2277	CONTACT NAME: PHONE (A/C, No, Ext): 703-827-2277 E-MAIL ADDRESS: admin@amesgough.com FAX (A/C, No): 703-827-2279
	INSURER(S) AFFORDING COVERAGE INSURER A: TRAVELERS IND CO OF AMER 25666 INSURER B: CHARTER OAK FIRE INS CO 25615 INSURER C: TRAVELERS IND CO 25658 INSURER D: TRAVELERS PROP CAS CO OF AMER 25674 INSURER E: CONTINENTAL CAS CO 20443 INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 39183806 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	X	X	PACP3C749897	10/23/13	10/23/14	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	X	X	8101179R51A	10/23/13	10/23/14	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ 10000	X	X	CUP4C453408	10/23/13	10/23/14	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N/A		X	UB3974T65A	10/23/13	10/23/14	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	PROFESSIONAL LIABILITY		X	AEH 00 821 44 22	10/23/13	10/23/14	Per Claim 5,000,000 Annual Aggregate 10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Project: College Station Master Plan
 The City and its employees, officers, officials, agents and volunteers are included as additional insureds with respects to General and Auto Liability. Waiver of Subrogation applies to General, Auto, and Workers Compensation as required by written contract and allowed by law.

CERTIFICATE HOLDER City of College Station P. O. Box 9960 College Station, TX 77842 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Legislation Details (With Text)

File #:	14-410	Version:	1	Name:	Stormwater Management Plan
Type:	Resolution	Status:		Status:	Consent Agenda
File created:	4/21/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding the City's Texas Commission on Environmental Quality (TCEQ) General Permit to Discharge under the Texas Pollutant Discharge Elimination System (TPDES) No. TXR040000.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Resolution 2013 Stormwater Management Plan Notice of Intent (NOI) and Checklistv2.pdf				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding the City's Texas Commission on Environmental Quality (TCEQ) General Permit to Discharge under the Texas Pollutant Discharge Elimination System (TPDES) No. TXR040000.

Relationship to Strategic Goals: (Select all that apply)

- Core Services and Infrastructure
- Sustainable City

Recommendation(s): Staff recommends approval of a resolution authorizing the Mayor to sign the resolution to endorse the program submitted to TCEQ.

Summary: This item outlines the City's proposed 5-year (2013-2018) Stormwater Management Plan (SWMP) meeting the minimum standards required by TCEQ.

The State mandates designated cities implement a program to eliminate stormwater pollution. The State has defined minimum standards the program must satisfy. The program contains a framework of actions over a 5-year period to comply with these standards. Within that framework, general best management practices are undertaken throughout the 5-year period. There is an annual requirement to give status updates to TCEQ which provides an opportunity to adjust our program if necessary.

The referenced state mandate was adopted at the December 11, 2013 TCEQ agenda, becoming effective December 13, 2013. The City of College Station is identified as a regulated entity under this permit and is required to submit a SWMP to TCEQ by June 11, 2014. This proposed SWMP was developed in collaboration with several City Departments largely as a continuation of activities already in place. The SWMP has been distributed to many citizens and the local development

community for review and comment.

The City's first 5-year (2007-2012) SWMP was initially approved by Council Resolution 1-24-2008-2j on January 24, 2008.

Budget & Financial Summary: No foreseen additional significant costs as the majority of activities are currently standard practices and budgeted for.

Attachments:

1. Resolution
2. Notice of Intent (NOI) and Checklist
3. Stormwater Management Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM FOR THE CITY OF COLLEGE STATION TO MANAGE THE QUALITY OF DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Agency under the National Pollutant Discharge Elimination system has delegated responsibility in this matter to the State of Texas under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code; and

WHEREAS, the State of Texas under the Texas Pollutant Discharge Elimination System has a delegated responsibility in this matter to its municipalities; and

WHEREAS, Municipal Separate Storm Sewer System refers to a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned by the city of College station and designed or used for collecting or conveying stormwater and not combined with sanitary sewer. This term does not include separate storm sewers in very discrete areas, such as individual buildings as long as they are not physically connected to the public storm sewer system; and

WHEREAS, the City of College Station (“City” hereinafter) must submit a Notice of Intent and a Stormwater Management Program to the Texas Commission on Environmental Quality before June 11, 2014 to be in compliance with General Permit No. TXR040000 issued on December 13, 2013 as part of the Texas Pollutant Discharge Elimination System; and

WHEREAS, the College Station City Council authorizes the City Manager to execute any documents related to the Stormwater Management Program including but not limited to the Notice of Intent; and

WHEREAS, the City of College Station is dedicated to protecting the health and safety of its citizens by managing the quality of the discharges from the Municipal Separate Storm Sewer System; and

WHEREAS, the furtherance of such objective, the City will develop and implement a Stormwater Management Program within five (5) years from December 13, 2013; now, therefore,

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

PART 1: The City will prepare and submit a Notice of Intent to the Texas Commission on Environmental Quality stating the City’s intent to comply with General Permit No. TXR040000 issued on December 13, 2013.

PART 2: The City Manager is authorized to execute any documents related to the Stormwater Management Program including but not limited to the Notice of Intent.

PART 3: The City will develop and implement a Stormwater Management Program within five (5) years from December 13, 2013. The program will include additional ordinances and standards for all construction activities along with new development standards and stormwater quality educational components.

PART 4: The City will enforce the Stormwater Management Program through plan review and construction inspections.

PART 5: This resolution shall be effective immediately upon its adoption.

ADOPTED this _____ day of _____, A.D. 2014.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:

City Attorney

Stormwater Management Program

Prepared in accordance with
TPDES General Permit TXR040000



CITY OF COLLEGE STATION

2013

Contents

Definitions.....	3
Introduction.....	7
Regulatory Requirements	7
Stormwater Management Program.....	7
Impaired Water Bodies and Total Maximum Daily Load Requirements	8
Best Management Practices.....	10
MCM 1. Public Education, Outreach, and Involvement.....	12
MCM 2. Illicit Discharge detection and Elimination.....	13
MCM 3. Construction Site Stormwater Runoff Control.....	14
MCM 4. Post-Construction stormwater Management in New Development and Redevelopment.....	15
MCM 5. Pollution Prevention and Good Housekeeping for Municipal Operations	16

Definitions

Arid Areas - Areas with an average annual rainfall of less than ten (10) inches.

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

Clean Water Act (CWA) - The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et. seq.

Common Plan of Development or Sale - A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development or sale is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

Construction Activity - Soil disturbance, including clearing, grading, and excavating; and not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

- a) **Small Construction Activity** is construction activity that results in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land.
- b) **Large Construction Activity** is construction activity that results in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land.

Construction Community – Local contractors, developers, engineers, and architects.

Construction Site Operator - The entity or entities associated with a small or large construction project that meet(s) either of the following two criteria:

- a) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of this general permit; or
- b) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the Stormwater Pollution Prevention Plan (SWPPP) or comply with other permit conditions).

Control Measure - Any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

Conveyance - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Discharge –When used without a qualifier, refers to the discharge of stormwater runoff or certain non-stormwater discharges as allowed under the authorization of this general permit.

Final Stabilization - A construction site where either of the following conditions are met:

- a) All soil disturbing activities at the site have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- b) For individual lots in a residential construction site by either:
 1. The homebuilder completing final stabilization as specified in condition (a) above; or
 2. The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.
- c) For construction activities on land used for agricultural purposes (for example pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.
- d) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:
 1. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and
 2. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

Illicit Connection - Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge - Any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges pursuant to this general permit or a separate authorization and discharges resulting from emergency fire fighting activities.

Impaired Water - A surface water body that is identified on the latest approved CWA §303(d) List as not meeting applicable state water quality standards. Impaired waters include waters with approved or established total maximum daily loads (TMDLs) and those where a TMDL has been proposed by TCEQ but has not yet been approved or established.

Industrial Activity - Any of the ten (10) categories of industrial activities included in the definition of “stormwater discharges associated with industrial activity” as defined in 40 Code of Federal Regulations (CFR) §122.26(b)(14)(i)-(ix) and (xi).

MS4 Operator - For the purpose of this permit, the public entity or the entity contracted by the public entity, responsible for management and operation of the small municipal separate storm sewer system that is subject to the terms of this general permit.

Municipal Separate Storm Sewer System (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- a) Owned or operated by the U.S., a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under the CWA §208 that discharges to surface water in the state;
- b) That is designed or used for collecting or conveying stormwater;
- c) That is not a combined sewer; and
- d) That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR §122.2.

Outfall - A point source at the point where a small MS4 discharges to waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S.

Permittee - The MS4 operator authorized under this General Permit No TXR040000.

Point Source - (from 40 CFR § 122.22) any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant(s) of Concern – For the purpose of this permit, includes biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids (TSS), turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from an MS4. (Definition from 40 CFR § 122.32(e)(3)).

Redevelopment - Alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation.

Semiarid Areas - Areas with an average annual rainfall of at least ten (10) inches, but less than 20 inches.

Small Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- a) Owned or operated by the U.S., a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under CWA § 208;
- b) Designed or used for collecting or conveying stormwater;
- c) Which is not a combined sewer;
- d) Which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2; and

- e) Which was not previously regulated under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) individual permit as a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. For the purpose of this permit, a very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to a small MS4 that is also operated by that public entity.

Stormwater and Stormwater Runoff - Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Associated with Construction Activity - Stormwater runoff from an area where there is either a large construction or a small construction activity.

Stormwater Management Program (SWMP) - A comprehensive program to manage the quality of discharges from the municipal separate storm sewer system.

Structural Control (or Practice) - A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Urbanized Area (UA) - An area of high population density that may include multiple small MS4s as defined and used by the U.S. Census Bureau in the 2000 and the 2010 Decennial census.

Waters of the United States - (According to 40 CFR § 122.2) Waters of the United States or waters of the U.S. means:

- a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b) All interstate waters, including interstate wetlands;
- c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - 3. Which are used or could be used for industrial purposes by industries in interstate commerce;
- d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- f) The territorial sea; and
- g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the U.S. This exclusion applies only to manmade bodies of water which neither

were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

Introduction

Regulatory Requirement

The 1972 amendments to the Federal Water Pollution Control Act, later referred to as the Clean water Act (CWA), prohibit the discharge of any pollutant to navigable waters of the U.S. from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act establishes environmental programs, including the NPDES program, to protect the Nation's waters and directs the U.S. Environmental Protection Agency (EPA) to issue rules on how to implement this law. Under the NPDES program, a municipal stormwater plan was developed in two phases.

Phase I of the EPA municipal stormwater program was promulgated in 1990 under the authority of the Clean Water Act. Phase I relied on NPDES permit coverage to address stormwater runoff from medium and large municipal separate storm sewer systems (MS4s), serving populations of 100,000 and greater.

The Stormwater Phase II rule, promulgated December 8, 1999 to the Texas Commission on Environmental Quality (TCEQ), was the next step in the EPA's efforts to preserve, protect, and improve the nation's water resources from polluted stormwater runoff. TCEQ reissued the Texas Pollution Discharge Elimination System General Permit TXR040000 on December 13, 2013. The reissued permit categorizes MS4 operators by levels based on the population served within the 2010 Urbanized Area (UA). The City of College station is defined as a level 3 MS4. Level 3 operators serve a population between 40,000 and 100,000. The intent of the MS4 permit is to implement programs and practices to control polluted stormwater runoff. This program requires that the City of College Station:

- Reduce the discharge of pollutants to the maximum extent practicable (MEP);
- Protect water quality;
- Satisfy the appropriate water quality requirements of the Clean Water Act; and
- Manage stormwater quality activities through the Stormwater Management Program (SWMP).

Stormwater Management Program

The City of College Station has updated the SWMP in accordance with the requirements of the reissued TPDES General Permit TXR040000 for obtaining authorization for stormwater discharges and certain non-stormwater discharges. The SWMP has been developed to facilitate the City's efforts in reducing stormwater pollutants from the City's MS4 to the maximum extent practicable.

The City of College Station is required to develop a SWMP that describes specific actions that will be taken over a five-year period to reduce pollutants and protect the City's stormwater quality to the maximum extent practicable. The specific activities to be implemented are best management practices (BMPs). The SWMP must also set measurable goals and provide a schedule for the implementation of the BMPs. BMPs must be developed for each of the six minimum control measures (MCMs) that are required by the Phase II Rules.

The six MCMs are:

1. Public Education, Outreach, and Involvement;
2. Illicit Discharge Detection and Elimination;

3. Construction Site Stormwater Runoff Control;
4. Post-Construction Stormwater Management in New Development and Redevelopment;
5. Pollution Prevention and Good Housekeeping for Municipal Operations; and
6. Authorization for Construction Activities where the Small MS4 is the Site Operator (Optional).

Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements

The Environmental Protection Agency recently listed three (3) stream segments within the Brazos Basin as impaired. These segments have been published on the Clean Water Act (CWA) Section 303(d)(1) list as having Escherichia Coli (E. coli). Entities within the watershed have worked to develop a Total Maximum Daily Load or TMDL for the pollutant. TMDL is the total amount of a substance that a water body can assimilate (take in) and still meet the Texas Surface Water Quality Standards. The Implementation Plan (I-Plan) identifies measurable goals and a schedule that seeks to meet the requirements of both Part III Section B of the TPDES Permit and the TMDL.

The City of College Station is subject to the requirements of the approved TMDL, and must include in its SWMP controls targeting the pollutant of concern along with any additional or modified controls required in Part II Section D of the MS4 permit (TVR040000). The SWMP and required annual reports must include information on implementing any focused controls required, described below:

Targeted Controls - The City of College Station's SWMP includes a detailed description of all targeted controls that identify areas of focused efforts or additional BMPs that will be implemented to reduce the pollutant of concern.

Measurable Goal – For each targeted control, the SWMP includes measurable goals and an implementation schedule describing BMPs to be implemented each year of the permit term.

Identification of Benchmark Goal – The SWMP identifies the Waste Load Allocation (WLA) as the benchmark goal per the TMDL.

Impairment for Bacteria – Since the pollutant of concern has been identified as bacteria, the city of College station elects to implement the BMPs outlined in the I-Plan.

Monitoring or Assessment of Progress – The permittee shall monitor or assess progress in achieving benchmark goals and determine the effectiveness of BMPs, and shall include documentation of this monitoring or assessment in the SWMP and annual reports. In addition, the SWMP must include methods to be used.

- 1) The permittee may use either of the following methods to evaluate progress toward the benchmark goal and improvements in water quality:
 - a) **Evaluating Program Implementation Measures** – The permittee may evaluate and report progress towards the benchmark goal by describing activities and BMPs implemented, by identifying the appropriateness of the BMPs, and by evaluating the success of implementing the measurable goals. The permittee may assess progress by using program implementation indicators such as:
 - i) Number of sources identified or eliminated;
 - ii) Decrease in number of illegal dumping;
 - iii) Increase in illegal dumping reports;
 - iv) Number of educational opportunities conducted;
 - v) Reductions in SSOs; or
 - vi) Increase in illegal discharge detection through dry screening, etc.;

- b) Assessing Improvements in Water Quality – The permittee may assess improvements in water quality by using available data segment and assessment units of water bodies from other reliable sources, or by purposing and justifying a different approach such as collecting additional in stream outfall monitoring data, etc. Data may be required from TCEQ, local river authorities, partnerships, and other local efforts as appropriate.

Progress towards achieving the benchmark goal shall be reported in the annual report. Annual reports shall report the benchmark goal and the year(s) during the permit term that the MS4 conducted additional sampling or other assessment.

Observing No Progress Towards the Benchmark Goal – If, by the end of the third year from the effective date of the permit, the permittee observes no progress toward the benchmark goal either from program implementation or water quality assessments, the permittee shall identify alternative focused BMPs that address new or increased efforts towards benchmark goals.

City of College Station Stormwater Management Program

BMP 1. Coordinate and expand existing water quality monitoring in the watershed and conduct a watershed bacteria source survey.

Measurable Goals	Schedule		Monitoring/ Assessment of Progress
Identify personnel to train and lead volunteers. Provide support in water quality monitoring via equipment cost, material cost, or personnel time. Develop and distribute volunteer material. Assist in data entry through DataViewer.	Year 1	Initiate water quality monitoring support. Submit PAR ¹ to Texas Stream Team Coordinator.	1. Number of educational opportunities conducted. 2. PAR support contributions (Quarterly submissions to Texas Stream Team) 3. Report total PAR support in annual report.
	Year 2	Continue water quality monitoring support. Submit PAR to Texas Stream Team Coordinator.	
	Year 3 and Beyond	Continue water quality monitoring. Utilize project findings in directing future BMPs.	

BMP 2. Work to improve OSSF identification, inspection, pre-installation planning, education, operation, maintenance, and tracking of all OSSFs in the watershed to minimize the potential negative water quality impacts from malfunctioning systems.

Measurable Goals	Schedule		Monitoring/ Assessment of Progress
Transfer GIS information as needed to BCHD for use in the OSSF identification efforts. OSSF identification and documentation will begin as funding and personnel time exists.	Year 1	Develop a standard operating procedure for collecting and disseminating GIS information to all entities ² . Deliver E&O materials concerning OSSF maintenance.	1. Number of educational opportunities conducted (annually). 2. Report progress of OSSF identification in annual report.
	Year 2	Continue to deliver GIS information to all entities and E&O materials. Evaluate operating procedures and adjust to streamline transfer of information.	
	Year 3 and Beyond	Continue delivery of GIS information and E&O materials.	

BMP 3. Additional illicit discharge and dumping efforts to be implemented.

Measurable Goals	Schedule		Monitoring/ Assessment of Progress
Currently, the SWMP addresses IDDE through dry weather screening and	Year 1	Develop educational materials for establishing a neighborhood storm drain screen watch program.	1. Number of published educational material on neighborhood storm drain screening program. 2. Record number of neighborhood screen watch activities.
	Year 2	Initiate storm drain screen watch program.	
	Year 3 and Beyond	Continue neighborhood storm drain screen watch.	

¹PAR – Partner Activity Report identifies the type of support (e.g., material cost, supply cost, personnel time)

²Transfer of GIS information will be coordinated between the City of Bryan, City of College Station, and the Brazos County Health Department

City of College Station Stormwater Management Program

BMP 4. Implement sanitary sewer overflow (SSO) initiative as appropriate across the watershed.			
Measurable Goals	Schedule		Monitoring/ Assessment of Progress
Meet the 2012 Wastewater Master Plan initiatives that are scheduled.	Year 1	Establish SSO initiative.	1. Number of educational opportunities conducted. 2. Number of SSOs identified and repaired. 3. Reduction in SSOs.
	Year 2	Implement SSO initiative (pending funding). Develop repair/ replacement priorities list according to the SSO initiative criteria. Document repairs and replacement of sewer system (annually).	
	Year 3 and Beyond	Continue or modify SSO initiative.	

BMP 5. Continue existing and work to establish new mechanisms that encourage and promote future development and redevelopment that will mitigate adverse water quality impacts in the watershed.			
Measurable Goals	Schedule		Monitoring/ Assessment of Progress
Implement and promote mechanisms such as existing ordinance amendments, new ordinance development, establish recognition programs for exceptional work in environmental stewardship, and continue to protect riparian areas (existing green spaces near creeks) from future development.	Year 1	Develop and assess a feasible local environmental awards/ recognition program.	1. Number of educational opportunities conducted. 2. Number of awards/recognitions granted annually.
	Year 2	If feasible, establish local environmental awards/recognition program.	
	Year 3 and Beyond	Continue local environmental awards/recognition program if feasible. Work to establish or develop ordinances to better protect instream water quality.	

MCM 1. Public Education, Outreach, and Involvement

Objective:

To develop, implement and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater. The City will also assess program elements that were described in the previous permit, modify as necessary, and develop and implement elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the maximum extent practicable (MEP).

1. Public Education, Outreach, and Involvement		Frequency
Public Education	Develop a list of topics to address in educational materials.	Annually
	Continue involvement in Brazos Clean Water.	
	Update the City stormwater website.	Quarterly
	Broadcast public service announcements.	
	Distribute utility bill inserts and newsletters on designated topics.	
Public Involvement	Continue providing volunteer support in the Adopt-a-Greenway program.	Annually
	Identify local groups that may be interested in Adopt-a-Greenway program.	
	Invite identified groups to join Adopt-a-Greenway program.	
	Identify local groups that may be interested in Adopt-a-Street program.	
	Invite identified groups to join Adopt-a-Street program.	
	Identify areas for storm drain stenciling.	
	Invite volunteers to participate in storm drain stenciling.	
	Establish a volunteer program for conducting stormwater quality monitoring or dry weather screening.	
	Identify areas that are safe for volunteers to conduct stormwater monitoring.	
Develop a schedule for volunteer monitoring.		
	Invite groups to participate in volunteer monitoring program.	

MCM 2. Illicit Discharge Detection and Elimination

Objective:

Assess current illicit discharge detection and elimination program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the maximum extent practicable (MEP).

2. Illicit Discharge Detection and Elimination		Frequency
MS4 Mapping	Maintain a map of the City's storm sewer system, surface waters, and high risk facilities.	Continuous
	Maintain a map of the City's sanitary sewer system with locations of sanitary sewer leaks and overflows.	
	Regularly update the City storm sewer map with new drainage structures and outfalls.	
Staff Training	Train staff to update MS4 maps.	Annually
	Train inspection and outfall screening personnel on the identification of septic system discharge locations and internal tracking and reporting mechanisms.	
	Train inspection and outfall screening personnel on the identification, tracking, and reporting of sanitary sewer leaks.	
	Train staff in the receiving of illicit discharge reports.	
Source Investigation and Elimination	Identify high risk facilities in the City.	Annually
	Conduct perimeter checks of high risk facilities to ensure there is no pollutant runoff.	Semi annually
	Regularly conduct dry weather screening in the identified areas.	Monthly
	Eliminate onsite sewage and gray water discharge that pose potential health and safety issues.	Continuous
	Use internal Work Order system to track reported discharge, investigate public reports, and corrective actions.	
	Conduct necessary sewer system maintenance and repairs.	
	Review internal procedures for tracing sanitary sewer leaks.	Annually
	Identify large above and below ground storage tanks within City limits.	
	Follow internal procedures for tracking, investigating, and reporting sanitary sewer overflows.	
	Create follow up procedures for illicit discharge investigations to ensure corrective actions have been taken.	
	Review and update master plan for projects designed to eliminate sanitary sewer overflows.	
Public Reporting of Illicit Discharge	Maintain a stormwater/illicit discharge hotline for public reporting.	Continuous
	Create internal procedures for receiving stormwater hotline calls.	
	Publish a list on allowed non-stormwater discharge that may be observed.	
	Investigate illicit discharge reports made by the public.	
Legal Authority	Review and update City ordinance prohibiting illicit discharge.	Annually

MCM 3. Construction Site Stormwater Runoff

Objective:

Develop, implement and enforce a program requiring operators of small and large construction activities to select, install, and maintain stormwater control measures that prevent illicit discharges to the MEP.

3. Construction Site Stormwater Runoff		Frequency
Legal Authority	Review and update ordinance to regulate construction activity.	Annually
Construction Plans Review	Review construction plans for compliance with stormwater regulations and necessary erosion controls.	
	Maintain a record of reviewed and approved construction site plans.	
	Report on the number of construction site plans reviewed annually.	
Construction Related Public Reporting	Develop educational material instructing the public on how to report construction site violations.	Continuous
	Develop internal procedures for tracking and responding to public complaints.	
	Investigate public complaints of construction sites.	
Construction Site Inspection and Compliance	Develop a schedule for construction site inspection.	Continuous
	Inspect construction sites according to schedule.	
	Inspect sites for illicit discharge and appropriate washout areas as part of site inspection.	
	Issue enforcement actions to sites not found to be in compliance.	
	Conduct follow up inspections to ensure corrective action is taken.	
	Maintain a record of inspection reports and enforcement actions from construction site stormwater inspections.	
	Maintain records of construction site compliance.	

MCM 4. Post-Construction Stormwater Management in New Development and Redevelopment

Objective:

Develop, implement and enforce a program, to the extent allowable under state and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment standards.

4. Post-Construction Stormwater Management		Frequency
Legal Authority	Develop a list of post development stormwater quality issues that require City regulation, including structural and non-structural BMPs.	Annually
	Create and adopt guidelines to ensure long-term operation and maintenance of post-development structural and non-structural BMPs.	
	Issue enforcement actions to new development not in compliance with post-construction stormwater regulations.	As Needed
	Maintain a record of enforcement actions taken.	
	Review construction plans to determine compliance with post-construction runoff regulations.	Continuous
	Train staff on post-construction runoff regulations and final inspection procedures.	Annually
	Distribute post-construction design and permitting guidelines to the engineering community.	
	Keep a log of City-owned structural stormwater controls.	

MCM 5. Pollution Prevention and Good Housekeeping

Objective:

Develop and implement an operation and maintenance program, include an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from activities and municipally owned areas including but not limited to parks and open space maintenance; street, road or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicles and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.

Assess program elements that have been described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharges of pollutants from the MS4 to the MEP.

5. Pollution Prevention and Good Housekeeping		Frequency
City Inventory	Maintain an inventory of City-owned industrial facilities.	Annually
	Maintain an inventory of City owned and operated parking areas.	
	Maintain an inventory of litter collection areas.	
	Maintain an inventory of areas designated for herbicide and pesticide application.	
	Maintain an inventory of City-owned landscaping areas.	
	Maintain an inventory of City-owned vehicles.	
	Maintain an inventory of City-owned facilities that require a Spill Prevention Control and Countermeasures Plan.	
	Maintain a map of City-owned facilities and permanent stormwater controls.	
Good Housekeeping	Determine industrial stormwater permit requirements for City-owned facilities.	Annually
	Train staff in good housekeeping and pollution prevention practices.	
	Identify pollutants that could be discharged from operations and maintenance activities.	
	Evaluate operations and maintenance procedures to minimize discharge of pollutants.	
	Apply herbicides and pesticides according to manufacturer recommendations and any applicable regulations.	Continuous
	Identify areas where catch basins, surface inlets, or storm drain manholes should be cleaned.	Annually
	Implement an inlet and storm drain cleaning program according to the developed inspection schedule.	
	Implement street sweeping according to existing schedule.	Existing schedule
	Implement sweeping of City-owned parking lots.	
	Assess current roadway activities to determine if alternate practices would benefit stormwater quality.	Annually
	Identify facilities that require Spill Prevention Control and Countermeasures (SPCC) plans.	
	Maintain SPCC plans in identified facilities.	
	Wash City vehicles in approved areas to prevent wash water entering the storm drains.	Continuous
	Conduct routine inspection on all vehicles according to manufacturer specifications, also inspecting vehicle for the presence of fluid leaks.	Continuous
Regularly inspect problem areas and high risk facilities for pollutant discharge.	Semi annually	



TCEQ Notice of Intent (NOI) for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) under the TPDES Phase II MS4 General Permit (TXR040000)

IMPORTANT:

- Use the [INSTRUCTIONS](#) to fill out each question in this form.
- Use the [CHECKLIST](#) to make certain you filled out all required information. Incomplete applications WILL delay approval or result in automatic denial.
- Once processed your authorization can be viewed at: http://www2.tceq.texas.gov/wq_dpa/index.cfm

APPLICATION FEE:

- You must pay the **\$100** Application Fee to TCEQ for the paper application to be complete.
- Payment and NOI must be mailed to separate addresses.
- Did you know you can pay on line?
 - Go to <https://www3.tceq.texas.gov/epay/index.cfm>
 - Select Fee Type: GENERAL PERMIT MS4 PHASE II STORM WATER DISCHARGE NOI APPLICATION
- **Provide your payment information below, for verification of payment:**
 - Mailed Check/Money Order No.: _____
Name Printed on Check: _____
 - EPAY Voucher No.: _____
 - Is the Payment Voucher copy attached? Yes

One (1) copy of the NOI and Stormwater Management Program (SWMP) with the completed SWMP Cover Sheet MUST be submitted with the original NOI and SWMP.

Is the copy attached? Yes

RENEWAL: Is this NOI a Renewal of an existing Phase II MS4 General Permit Authorization?

(Note: An authorization cannot be renewed after June 11, 2014.)

- Yes The existing authorization number is: TXR04 0008
(If an authorization number is not provided, a new number will be assigned.)
- No

1) OPERATOR (Applicant)

- a. If the applicant is currently a customer with TCEQ, what is the Customer Number (CN) issued to this entity? You may search for your CN at:
<http://www12.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>
CN 600732598
- b. What is the Legal Name of the entity (applicant) applying for this permit?
City of College Station
(The exact legal name must be provided.)
- c. What is the name and title of the person signing the application? The person must be an executive official meeting signatory requirements in 30 TAC 305.44(a).
Prefix (Mr. Ms. Miss): Mr.
First/Last Name: Kelly Templin Suffix: _____
Title: City Manager Credential: _____
- d. What is the contact information for the Operator Contact (Responsible Authority)? The mailing address must be recognized by the US Postal Service. You may verify the address at:
<https://tools.usps.com/go/ZipLookupAction!input.action>
Phone Number: (979) 764-3570 Ext: _____ Fax Number: (979) 764-3496
E-mail: pnicolson@cstx.gov
Mailing Address: P.O. Box 9960
Internal Routing (Mail Code, Etc.): _____
City: College Station State: TX ZIP Code: 77842
If outside USA: Territory: _____ Country Code: _____ Postal Code: _____
- e. Indicate the type of Customer (The instructions will help determine your customer type):
 Federal Government State Government County Government
 City Government Other Government
- f. Number of Employees:
 0-20; 21-100; 101-250; 251-500; or 501 or higher

2) BILLING ADDRESS

The Operator is responsible for paying the annual fee. The annual fee will be assessed to authorizations active on September 1 of each year. TCEQ will send a bill to the address provided in this section. The Operator is responsible for terminating the permit when it is no longer needed.

Is the billing address the same as the Operator Address?

Yes, go to Section 3).

No, complete section below

Phone Number: _____ Ext: _____ Fax Number: _____

E-mail: _____

Mailing Address: _____

Internal Routing (Mail Code, Etc.): _____

City: _____ State: _____ ZIP Code: _____

Mailing Information if outside USA:

Territory: _____ Country Code: _____ Postal Code: _____

3) REGULATED ENTITY (RE) INFORMATION

If the site of your business is part of a larger business site or if other businesses were located at this site before yours, a Regulated Entity Number (RN) may already be assigned for the larger site. Use the RN assigned for the larger site. Search TCEQ's Central Registry to see if the larger site may already be registered as a regulated site at:

<http://www12.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.RNSearch>.

If the site is found, provide the assigned Regulated Entity Reference Number and provide the information for the site to be authorized through this application below. The site information for this authorization may vary from the larger site information.

- a. TCEQ issued RE Reference Number (RN): RN 105475347
- b. Name that is used to identify the small MS4 (Example: City of XXX MS4)
City of College Station MS4
- c. Provide a brief description of the regulated MS4 boundaries: (Example: Area within the City of XXXX limits that is located within the xxx (e.g. Dallas) urbanized area):
Area within the City of College Station limits located within the College Station-Bryan urbanized area.
- d. County where the largest residential population exists within the regulated MS4 boundaries:
Brazos

Is the MS4 located within additional counties?

Yes – If Yes, what county (or counties)?

No

- e. Latitude: 30.582866 N Longitude: -96.295823 W

4) GENERAL CHARACTERISTICS

- a. Is the project/site located on Indian Country Lands?
 Yes – If Yes, you must obtain authorization through EPA, Region 6.
 No
- b. What is applicant's Standard Industrial Classification (SIC) code?
SIC Code: 9111
- c. What is the category or level of the MS4 based on the population served?
 Level 1: Operators of traditional small MS4s that serve a population of less than 10,000 within an urbanized area (UA).
 Level 2: Operators of traditional small MS4s that serve a population of at least 10,000 but less than 40,000 within an UA.

This category also includes all non-traditional small MS4s such as counties, drainage districts, transpiration entities, military bases, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of population served within the UA, unless the non-traditional MS4 can demonstrate that it meets the criteria for a waiver from permit coverage based on the population served.

Level 3: Operators of traditional small MS4s that serve a population of at least 40,000 but less than 100,000 within an UA.

Level 4: Operators of traditional small MS4s that serve a population of 100,000 or more within an UA.

d. Has TCEQ "designated" the small MS4 as needing coverage under this general permit?

Yes

No - If No and no portion of the small MS4 is located within an UA as determined by the 2000 or 2010 Decennial Census by the U.S Bureau of Census requiring a NOI be submitted, the operator is not eligible for coverage under this general permit through the NOI.

e. What is your annual reporting year?

Calendar year

MS4 general permit year

Fiscal year – If Fiscal year, what is the last day of the fiscal year? _____

f. Stormwater Management Program (SWMP)

1. I certify that the SWMP submitted with this Notice of Intent has been developed according to the provisions of this general permit TXR040000.

Yes

No – If No, the application is considered incomplete and may be returned.

2. I certify that the SWMP Cover Sheet is completed and attached to the front of the SWMP.

Yes

No – If No, the application is considered incomplete and may be returned.

3. Who is the person responsible for implementing or coordinating implementation of the SWMP? (Note: All contact information requested below is required.)

First/Last Name: Patricia Nicolson

Title: Engineering Program Specialist Company: City of College Station

Phone Number: (979) 764-3570 Ext: _____ Fax Number: (979) 764-3496

E-mail: pnicolson@cstx.gov

Mailing Address: P.O. Box 9960

Internal Routing (Mail Code, Etc.): _____

City: College Station State: TX ZIP Code: 77842

g. 7th Minimum Control Measure (MCM) for Municipal Construction Activities

1. Is the MCM for authorization to discharge stormwater from municipal construction activities included with the attached SWMP?

Yes – If Yes, what are the boundaries within which those activities will occur?

(Note: If the boundaries are located outside of the urbanized area, then the entire SWMP must also incorporate the additional areas.)

No _____

2. Is the discharge or potential discharge from regulated construction activities within the Recharge Zone, Contributing Zone, or Contributing Zone within the Transition Zone of the Edwards Aquifer?
- Yes – If Yes, please note that a copy of the agency approved Water Pollution Abatement Plan (WPAP) required by the Edward Aquifer Rule (30 TAC Chapter 213) must be either included or referenced in the construction stormwater pollution prevention plan(s).
- No

h. Discharge Information

1. What is the name of the water body (ies) receiving stormwater from the MS4?
Carters Creek, Burton Creek, White Creek, Lick Creek, Spring Creek, Alum Creek, Bee Creek, Wolf Pen Creek, Hudson Creek.
2. What is the classified segment(s) that receives discharges, directly or indirectly, from the small MS4?
1209C Carters Creek, 1209L Burton Creek

3. Are any of the surface water body (ies) receiving discharges from the small MS4 on the latest EPA-approved Clean Water Act (CWA) §303(d) list of impaired waters?
- Yes – If Yes:
 What is the name of the impaired water body (ies) receiving the discharge from the small MS4?
Carters Creek, Burton Creek

What are the pollutants of concern?
bacteria

No

4. Is the discharge into any other MS4 prior to discharge into surface water in the state?
- Yes – If Yes, what is the name of the MS4 Operator?

- No

i. Edwards Aquifer

Is the discharge or potential discharge from the MS4 within the Recharge Zone, Contributing Zone, or Contributing Zone within the Transition Zone of the Edwards Aquifer?

- Yes - If Yes, complete certification below by checking "Yes".
- No

I certify that a copy of the TCEQ approved WPAP required by the Edwards Aquifer Rule (30 TAC Chapter 213) is either included or referenced in the SWMP.

Yes

j. Public Participation Process

The Office of Chief Clerk will send the operator or person responsible for publishing, the notice of the executive director's preliminary determination of the NOI and SWMP, in a newspaper of general circulation in the county where the small MS4 is located. If multiple

counties, notice must be published at least once in the newspaper of general circulation in the county containing the largest resident population.

The applicant must file with the Chief Clerk a copy of an affidavit of the publication within 60 days of receiving the written instructions from the Office of Chief Clerk.

1. I will comply with the Public Participation requirements described in Part II.E.12 of the general permit.

Yes

No – If No, coverage under this general permit is not obtainable.

2. Who is the person responsible for publishing notice of the executive director's preliminary determination on the NOI and SWMP? (Note: All contact information requested below is required.)

First/Last Name: Patricia Nicolson
Title: Engineering Program specialist Company: City of College Station
Phone Number: (979) 764-3570 Ext: _____ Fax Number: (979) 764-3496
E-mail: pnicolson@cstx.gov
Mailing Address: P.O. Box 9960
Internal Routing (Mail Code, Etc.): _____
City: College Station State: TX ZIP Code: 77842

3. What is the name and location of the public location where copies of the NOI and SWMP, as well as the executive director's general permit and fact sheet, may be reviewed?

Name of Public Place: City Hall- Planning & Development Services
Address of Public Place: 1101 Texas Avenue, College Station, TX 77842
County of Public Place: Brazos

5) CERTIFICATION

Check Yes to the certifications below. Failure to indicate Yes to **ALL** items may result in denial of coverage under the general permit.

- a. I certify that I have obtained a copy and understand the terms and conditions of the Phase II (Small) MS4 General Permit TXR040000. Yes
- b. I certify that the small MS4 qualifies for coverage under the general permit TXR040000. Yes
- c. I understand that a Notice of Termination (NOT) must be submitted when this authorization is no longer needed. Yes
- d. I understand that authorization active on September 1st of each year will be accessed an Annual Water Quality Fee. Yes

NOTICE OF INTENT CHECKLIST (TXR040000)

- Did you complete everything? Use this checklist to be sure!
- Are you ready to mail your form to TCEQ? Go to the General Information Section of the Instructions for mailing addresses.

This checklist is for use by the operator to ensure a complete application. Missing information may result in denial of coverage under the general permit. (See NOI process description in the Instructions)

Application Fee:

If paying by Check:

- Check was mailed **separately** to the TCEQs Cashier's Office. (See Instructions for Cashier's address and Application address.)
- Check number and name on check is provided in this application.

If using ePay:

- The voucher number is provided in this application or a copy of the voucher is attached.

AUTHORIZATION NUMBER:

- Authorization number provided – if this application is for renewal of an existing authorization.

OPERATOR INFORMATION - Confirm each item is complete:

- Customer Number (CN) issued by TCEQ Central Registry
- Legal name as filed to do business in Texas (Call TX SOS 512/463-5555)
- Name and title of responsible authority signing the application
- Mailing address is complete & verifiable with USPS. www.usps.com
- Phone numbers/e-mail address
- Type of operator (entity type)
- Number of employees
- Billing address is complete & verifiable with USPS. <http://www.usps.com>

REGULATED ENTITY (RE) INFORMATION ON PROJECT OR SITE - Confirm each item is complete:

- MS4/Regulated Entity Name
- Site description
- Latitude and longitude <http://www.tceq.texas.gov/gis/sqmaview.html>
- County
- Site/project physical address. Do not use a rural route or post office box.
- Business description

GENERAL CHARACTERISTICS - Confirm each item is complete:

- Indian Country Lands –the facility is not on Indian Country Lands
- Standard Industrial Classification (SIC) Code www.osha.gov/oshstats/sicser.html
- Level of MS4
- Qualifying TCEQ "Designated" small MS4
- Annual Reporting Year
- 7th Minimum Control Measurement (MCM) for Municipal Construction Activities
- Discharge information
- Edwards Aquifer rule
- Public participation information

CERTIFICATION

- Certification statements have been checked indicating "Yes"
- Signature meets 30 Texas Administrative Code (TAC) 305.44 and is original.
- Stormwater Management Program (SWMP), and completed SWMP Cover Sheet are attached to the NOI.

STORMWATER MANAGEMENT PROGRAM (SWMP) COVER SHEET
Confirm Each Minimum Control Measure (MCM) Below is Included in the SWMP

This cover sheet **MUST** be completed by indicating the page number where the requested item will be found in the SWMP. Provide the page number to the left of each item.

This cover sheet **MUST** be attached to the front of the SWMP.

Operator:

Operator name on NOI: City of College Station

Assessment of program elements:

Program elements that were described in the previous permit have been assessed and modified as necessary. New elements have been developed and implemented as necessary.

N/A, If newly regulated MS4.

MCM 1: Public Education, Outreach, and Involvement

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

12

1. SWMP includes a stormwater education and outreach program to educate public employees, business, and the general public about hazards associated with the illegal discharges and improper disposal of waste and about the impacts stormwater can have on water quality, and steps they can take to reduce pollutants in stormwater.

12

2. Defines the goals and objectives of the program based on high-priority community-wide issues.

12

3. Identifies the target audiences.

12

4. Appropriate educational material is developed or used.

12

5. Education material is distributed.

12

SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM. Examples of possible BMPs include, but are not limited to, the following:

- Classroom Education
- Use of media
- Education/Outreach for Commercial Activities
- Lawn and garden activities
- Promotional giveaways
- Water conservation practices for homeowners
- Outreach programs tailored to specific communities and children
- Stormwater educational materials
- Educational displays, pamphlets, booklets, and utility stuffers
- Webpage
- Storm drain stenciling
- Speakers to community groups
- Encouragement of proper lawn and garden care
- Encouragement of low impact development
- Support of pollution prevention for businesses

12

- Encouragement of water conservation practices
- Encouragement of pet waste management
- Stormwater hotlines

12

6. SWMP includes a program that complies with state and local public notice requirements.

12

7. May include using public input in the implementation of the program.

12

8. May include opportunities for citizen to participate in implementation of control measures.

12

9. Ensure the public easily can find information about the SWMP.

12

SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM. Examples of possible BMPs include, but are not limited to, the following:

- Stakeholder meetings
- Community hotline
- Coordination with school groups/scouting
- Listserver
- Stream cleanup and monitoring
- Adopt-A-Stream programs
- Incentives for businesses to participate, such as web links
- Volunteer monitoring
- Watershed Organization
- Storm drain stenciling programs
- Advisory/partner committees
- Mailing list development and use
- Reforestation programs
- Wetland plantings
- Coordinate volunteer programs.

12

SWMP includes measureable goals, and the method of measurement, for addressing stormwater quality

12

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 2: Illicit Discharge Detection and Elimination

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

13

1. Description of program that will be used to detect, investigate and eliminate illicit discharges

13

2. MS4 map:

- a. Location of all small MS4 outfalls operated by the MS4 and that discharge into waters of the U.S.
- b. Location and name of all surface waters receiving discharge from the MS4s outfalls.
- c. Priority areas, if applicable.

13

3. Methods for informing and training MS4 field staff.

13

4. Procedures for tracing the source of an illicit discharge.

13

5. Procedures for removing the source of the illicit discharge.

13

6. Facilitate public reporting of illicit discharges of water quality impacts associated with discharges into or from the small MS4.

13

7. Procedures for responding to illicit discharges and spills.

13

8. Inspections in response to complaints.

13

Additional Requirements for Level 2, 3, and 4 small MS4s:

For Level 2, 3, and 4 small MS4, procedures to prevent and correct leaking on-site sewage disposal systems.

13

Additional Requirements for Level 3 and 4 small MS4s:

Follow-up investigation after the illicit discharge has been eliminated.

Additional Requirements for Level 4 small MS4s:

1. Procedures for identifying and creating a list of priority areas within the small MS4s likely to have illicit discharges.
2. Implement a dry weather field screening program to assist in detecting and eliminating illicit discharges to the small MS4.

13

SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM.

Examples of possible BMPs may include the following:

- List of non-stormwater discharges that will not be considered illicit
- Procedures to address illegal dumping
- Hazardous materials disposal opportunities
- Industrial/Business connections
- Addressing wastewater connections to MS4
- Addressing recreational sewage (boats/camping/etc.)
- System inspections
- Dye testing
- Recycling programs
- Informing public/employees/businesses of hazards associated with illicit discharges
- Identification of illicit discharges
- Used oil collection centers
- Public outreach and education programs regarding illicit discharges
- Publicize and facilitate public reporting

13

SWMP includes measureable goals, and the method of measurement, for addressing stormwater quality.

13

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 3: Construction Site Stormwater Runoff Control

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

14

1. Description of program that will be developed, implemented and enforced, to address stormwater runoff from construction once acre and greater (including larger common plan).

14

2. Ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state and local law.

14

3. Program requires construction site operators to implement erosion and sediment control – BMPs to minimize the discharge of pollutants.

a. Program requires soil stabilization measures, and implementation of BMPs to control pollutants from equipment and vehicle washing and other wash waters.

b. Program requires operators to minimize exposure to stormwater of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials.

c. Minimize the discharge of pollutants from spills and leaks. As an alternative, ensure that the construction site has developed a stormwater pollution prevention plan in accordance with the TPDES Construction General Permit TXR150000.

14

4. Program prohibits illicit discharges such as wash out wastewater, fuels, oils, soaps, solvents, and dewatering activities.

14

5. Procedures for construction site plan review to consider water quality impacts.

14

6. Procedures for construction site inspections and enforcement of control measures, to the extent allowable under state and local law.

14

7. Procedures for receipt and consideration of information submitted by the public.

14

8. Procedures for MS4 staff training.

Additional Requirements for Level 3, and 4 small MS4s:

14

Includes an inventory of all permitted active construction sites greater than one acre or less than one acre if part of a larger common plan of development.

14

SWMP lists BMPs used to fulfill this MCM. Examples may include:

- Requirement to comply with TPDES CGP
- Notification to discharger of responsibilities under TPDES CGP
- Hire staff to review construction site plans
- Provide a web page for public input on construction activities
- Require overall construction site waste management
- Perform site inspections and enforcement
- Provide education and training for construction site operators
- Notify dischargers of requirement to obtain TPDES permit coverage
- Mechanism to prohibit discharges into MS4 where necessary

14

SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.

14

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 4: Post-Construction Stormwater Management in New Development and Redevelopment

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

- 1. Description of program that will be developed, implemented and enforced, to address stormwater runoff from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale.
- 2. Ordinance or other regulatory mechanism is in place or planned which will regulate discharges from new development and redevelopment projects.
- 3. Establish, implement, and enforce a requirement that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality.
- 4. Document and maintain records of enforcement actions.
- 5. Long-term operation and maintenance of post construction stormwater control measures is addressed.
- 6. Operation and maintenance is documented.

Additional Requirements for Level 4 small MS4s:

- 1. Develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained.
- 2. Inspections are documented.

SWMP lists BMPs used to fulfill this MCM. Examples may include:

- Local ordinance in place or planned
- Guidance document for developers to utilize
- Specific BMPs established for particular watersheds
- List of appropriate BMPs provided to operators
- Elimination of curbs and gutters is encouraged
- Zoning takes into account stormwater issues
- Incentives for use of permeable choices, such as porous pavement
- Requirements for wet ponds or other BMPs for certain size sites
- Xeriscaping

SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 5: Pollution Prevention and Good Housekeeping for Municipal Operations

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

16

1. An operation and maintenance (O&M) program, including an employee training component, in place or scheduled, to reduce/prevent pollution from municipal activities and municipally owned areas included but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.

16

2. Develop and maintain an inventory of the MS4's facilities and stormwater controls.

16

3. Inform or train staff involved in good housekeeping practices.

16

4. Waste from the MS4 is removed and properly disposed.

16

5. Contractors hired by the MS4 must be required to comply with operating procedures.

a. MS4 develop contractor oversight procedures.

16

6. MS4 evaluates O&M activities for their potential to discharge pollutants in stormwater for road and parking lot maintenance, bridge maintenance, cold weather operations, and right-of-way maintenance etc.

a. MS4 identifies pollutants of concern that could be discharged from the O&M activities.

b. MS4s develop and implement pollution prevention measures that will reduce discharge of pollutants from O&M activities.

c. MS4s inspects pollution prevention measures at MS4 facilities.

16

7. MS4 maintains structural controls.

Additional requirements for Level 3 and 4 small MS4s:

16

1. Storm sewer system O&M.

a. MS4 develops and implements an O&M program to reduce the collection of pollutants in catch basins and other surface structures.

b. MS4 develops a list of potential problem areas for increased inspection (for example, areas with recurrent illegal dumping).

16

2. Implement an O&M program to reduce discharge of pollutants from roads that might include a street sweeping and cleaning program, or inlet protection. The program includes an implementation schedule and a waste disposal procedure.

16

3. MS4 map identify MS4 facilities and stormwater controls.

16

4. MS4 assess its facilities for their potential to discharge pollutants into stormwater.

a. The MS4 identifies high priority facilities that have a high potential to generate stormwater pollutants. At a minimum, facilities include the MS4s maintenance yards, hazardous waste facilities, fuel storage locations, and any other facilities at which chemicals or other materials have a high potential to be discharge in stormwater.

b. The MS4 documents the result of the assessments.

16

5. The MS4 develops stormwater management Standard Operation Procedures for high priority facilities.

16

6. The MS4 implements stormwater controls at high priority facilities that address:

a. Good housekeeping

16

- b. De-icing and anti-icing storage
- c. Fueling operations and vehicle maintenance
- d. Equipment and vehicle washing

16

7. The MS4 develops and implements an inspection program that includes high priority facilities.

Additional requirements for Level 4 small MS4s:

MS4 has an application and management program for pesticides, herbicides, and fertilizers that address:

- a. Evaluating materials and activities used at public open spaces.
- b. Implementing the following practices to minimize generating pollutants related to landscaping.
 - i. Education for applicators and distributors
 - ii. Encouragement of non-chemical solutions for pest management
- c. Development of schedules that minimizes discharge of pollutants.
- d. Ensuring collection and proper disposal of unused pesticides, herbicides, and fertilizers.

16

SWMP lists BMPs used to fulfill this MCM. Examples may include:

- BMPs which address fleet vehicle maintenance/washing
- BMPs which address parking lot and street cleaning
- Catch basin and storm drain system cleaning
- Landscaping and lawn care (e.g. xeriscaping)
- Waste materials management
- Road salt application and storage practices
- Used oil recycling
- Pest management practices
- Fire training facilities
- BMPs which address roadway and bridge maintenance
- Golf course maintenance/waste disposal
- Disposal of cigarette butts
- Park maintenance (e.g., providing trash bags)

16

SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.

16

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 6: Industrial Stormwater Sources

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for Level MS4 only:

Program to identify and control industrial stormwater sources that at least includes:

- a. MS4 landfills, other treatment, storage, or disposal facilities for municipal waste, hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to Emergency Planning and Community Right-to-Know Act (EPCRA).
- b. Priorities and procedures for inspections and for implementing control measures for such discharges.

Optional 7th MCM: Municipal Construction Activities (only available within the regulated area where the MS4 operator meets the definition of construction site operator)

Page # (s) – Provide the page number (s) to the left of each item.

If this MCM is applicable, the SWMP includes the following information:

1. Description of how construction activities will generally be conducted so as to take into consideration local conditions of weather, soils, and other site specific considerations.

2. Description of the area that this MCM will address and where the MS4 operator's construction activities are covered (e.g. within the boundary of the urbanized area, the corporate boundary, a special district boundary, an extra territorial jurisdiction, or other similar jurisdictional boundary).

3. If the area included in this MCM includes areas outside of the UA, then all MCMs will be implemented over those additional areas as well.

4. Description provided for one of the following:
a. How contractor activities will be supervised or overseen to ensure that the Stormwater Pollution Prevention Plan (SWP3) requirements are properly implemented at the construction site(s); or
b. How the MS4 operator will make certain that contractors have a separate authorization for stormwater discharges if needed.

5. General description of how a construction SWP3 will be developed for each construction site.

6. Records of municipal construction activities authorized under this optional MCM.



Legislation Details (With Text)

File #:	14-418	Version:	1	Name:	Bio-Corridor Area Transformers
Type:	Bid Award	Status:		Status:	Consent Agenda
File created:	4/25/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding the rejection of all bids submitted for Invitation to Bid (ITB) 14-044, Purchase of Bio-Corridor Area Transformers.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding the rejection of all bids submitted for Invitation to Bid (ITB) 14-044, Purchase of Bio-Corridor Area Transformers.

Relationship to Strategic Goals: (Select all that apply)

- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s):

Staff recommends approval of the rejection of all bids, and the recommendation of no award for ITB 14-044.

Summary:

On March 18, 2014 seven (7) sealed bids were received and opened for two (2) 3000 kVA pad-mounted transformers. The bid also included an alternate of two (2) 2500 kVA pad-mounted transformers. After receiving and opening the bids the project engineers submitted updated electric load data and plans showing their load being less the previously submitted. The transformers now required for the project are available for purchase through the previously approved annual purchase of distribution transformers, ITB #13-101, which was awarded by Council on November 14, 2013, Item 2i.

Budget & Financial Summary:

The rejection of bid 14-044 will have no impact on the Electrical budget. Transformers are purchased under an annual blanket agreement and funds are budgeted and approved in the Electric Department Capital Improvement Project budget for these purchases as needed.

Attachments:



Legislation Details (With Text)

File #:	14-421	Version:	1	Name:	Library Audit
Type:	Report	Status:		Status:	Consent Agenda
File created:	4/25/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action, and discussion concerning the City Internal Auditor's Ringer Library Operations Audit.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion concerning the City Internal Auditor's Ringer Library Operations Audit.

Relationship to Strategic Goals: (Select all that apply)

- Good Governance
- Core Services and Infrastructure

Recommendation(s): The audit committee accepted the audit report and recommended implementation of the thirteen recommendations contained in the report.

Summary:

Reasons for the Audit: This audit was conducted per direction of the City of College Station Audit Committee. The Audit Committee requested assurance and consultation services in regards to: (1) how efficiently and effectively the Larry J. Ringer Library is being managed, (2) how to best spend the library redesign bond money, and (3) whether the Bryan-College Station interlibrary agreement is still in the best interest of the City of College Station.

Results from the Audit:

Library performance. We found that the majority of patrons are satisfied with the materials, services and programs being offered by the library. Nevertheless, we found several areas in which the library's effectiveness and efficiency could be improved. Specifically, we found that staff do not take full advantage of the technology available to them, there is an insufficiency in policies, procedures, and performance standards, and there is considerable amounts of down-time during the non-busy season.

Library redesign. We found that the library has insufficient space to adequately meet the needs of the community. Nearly all areas of the library need expansion or redesign, but the areas that should be given highest priority are the book drop, the library commons, library furnishings, and a children's area.

Bryan-College Station inter-library agreement. The Bryan-College Station inter-library agreement provides a major benefit for the City of College Station by effectively increasing the Ringer Library's collection and allowing for reduced expenses through shared costs. However, we found that one area of the inter-library agreement (the Twin City Inter-library loan program) places disproportionate costs on College Station, and a few other areas create unnecessary principal-agent issues.

Report Distribution: A full copy of the Ringer Library Operations Audit is on file in the City Secretary's Office. This report along with other reports conducted by the City Auditor's Office can be found at: <http://cstx.gov/index.aspx?page=2734>

Budget & Financial Summary: None

Attachments: None



Legislation Details (With Text)

File #:	14-422	Version:	1	Name:	Contingency Transfers for Radio Repeaters
Type:	Presentation	Status:		Status:	Consent Agenda
File created:	4/28/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding approval of a contingency transfer in the amount of \$30,000 for the purchase and installation of radio repeaters in front line Fire Department response vehicles.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Fire Dept Repeater contingency xfer.pdf				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a contingency transfer in the amount of \$30,000 for the purchase and installation of radio repeaters in front line Fire Department response vehicles.

Relationship to Strategic Goals:

1. Core Services and Infrastructure

Recommendation: Staff recommends approval of a contingency transfer in the amount of \$30,000 for the purchase and installation of radio repeaters in front line Fire Department response vehicles.

Summary: On April 24, 2014, Council gave direction for the use of contingency funds for the purchase and installation of radio repeaters in front line Fire Department response vehicles. Contingency transfers greater than \$15,000 require Council approval and therefore this item is being brought forth at this time.

Budget & Financial Summary: Contingency funds are budgeted on an annual basis for use on unforeseen items of a critical nature. If this item is approved, \$30,000 will be transferred from General Fund contingency for the purchase and installation of the radio repeaters. There is currently a balance of \$281,943 in General Fund contingency.

Reviewed and Approved by Legal: Yes.

Attachments: Contingency Transfer

REQUEST FOR CONTINGENCY TRANSFER

DATE: 5/12/14

FROM: CONTINGENCY ACCOUNT: 001-9111-999-10-10

AMOUNT: \$30,000

TO: ACCOUNT NUMBER: 001-4251-562-22-90

AMOUNT: \$30,000

JUSTIFICATION OF NEED FOR TRANSFER:

- 1. Why is this request of such an emergency nature that it must be made immediately?**
The current radio system has problems transmitting from inside many local buildings which creates a safety issue for the Fire Fighters. The installation of repeaters in all of the Fire Department front line vehicles will reduce the problem and will increase Fire Fighter safety as well as the reliability of critical communications.
- 2. Why was the item not budgeted in the normal budgetary process?**
At the time the budget was developed, solutions were being investigated and the availability and cost of a solution was not known.
- 3. Justification as to why the transfer cannot be made within the division or department?**
Sufficient budget is not available in the department to cover the expenditure.

Council Approval Required: Yes

Date Approved by Council: _____

Requested by : Fire Department

Budget Review: _____

Approved: _____
Department Head

Approved: _____
Budget Officer

Approved: _____
City Manager



Legislation Details (With Text)

File #: 14-407 **Version:** 1 **Name:** Chimney Hill Redevelopment Rezoning
Type: Rezoning **Status:** Agenda Ready
File created: 4/21/2014 **In control:** City Council Regular
On agenda: 5/12/2014 **Final action:**

Title: 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 GC General Commercial and OV Corridor Overlay to PDD Planned Development District for approximately 8 acres in the Chimney Hill Retail Plaza Lots 1-4, Block 1, generally located at 701 & 715 University Drive East.

Sponsors:

Indexes:

Code sections:

Attachments: [Background Information.pdf](#)
[Aerial & SAM.pdf](#)
[Proposed Concept Plan.pdf](#)
[Ordinance.pdf](#)

Date	Ver.	Action By	Action	Result
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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 GC General Commercial and OV Corridor Overlay to PDD Planned Development District for approximately 8 acres in the Chimney Hill Retail Plaza Lots 1-4, Block 1, generally located at 701 & 715 University Drive East.

Relationship to Strategic Goals: Diverse Growing Economy

Recommendation(s): The Planning and Zoning Commission gave consideration to this item at their May 1, 2014 meeting and a report of their recommendation will be provided with the presentation. Staff recommends approval of the request with the condition that an additional right-turn lane be provided on southbound Tarrow Street at the intersection University Drive East and that the rezoning ordinance is not effective unless a deed executed for purchase of the property is recorded in the Official Records of Brazos County, Texas on or before September 15, 2014.

Summary: This request is to rezone the property from GC General Commercial and OV Corridor Overlay to PDD Planned Development District to enable the redevelopment of the property into a mixed-use development. The Unified Development Ordinance provides the following review criteria for zoning map amendments:

Review Criteria

1. Consistency with the Comprehensive Plan;
2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
3. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment;
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;
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; and
6. Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use.

The subject property is designated as General Commercial on the Comprehensive Plan's Future Land Use and Character Map and is within the area identified as the Hospitality Corridor along University Drive East. The proposed project seeks to redevelop an aging shopping center along one of the College Station's primary image corridors. The site was originally constructed in the late 1970s and the proposed project will retain mostly ground floor commercial while allowing for residential uses in the northeast corner of the site and on the upper floors of the main building. A hotel use is also permitted in the area designated for residential use.

The subject property is surrounded by thoroughfares and developed property zoned GC General Commercial. The proposed development will continue the commercial nature of the immediate vicinity while allowing residential uses in which the parking will be accommodated within a parking garage. Given the amount of access and proximity to major thoroughfares, commercial uses remain suitable for this centrally located property. A greater intensity of uses though is commonly needed to support the costs associated with a redevelopment project of this nature. While marketable as a commercial-only property, the opportunity provided by redevelopment allows for the creation of a unique, destination-based development along one of the City's main corridors. The existing OV Corridor Overlay that begins at Earl Rudder Freeway and ends on this property at Tarrow Street will be removed as part of this request. This will allow the project to reduce setbacks and create a more pedestrian-friendly environment internally.

There is a 12-inch water line along East Tarrow, a 20-inch water line along Tarrow Street, and an 8-inch sanitary sewer line off East Tarrow to serve the property. Some of the infrastructure and easements on the site will need to be abandoned and/or relocated for the redevelopment to occur. Storm drainage is to Burton Creek and post-development flows will not be able to exceed pre-development flows.

Access to the subject tract will be via Tarrow Street/East Tarrow, a four-lane Minor Arterial, and University Drive East, a six-lane Major Arterial. A Traffic Impact Analysis (TIA) was submitted as part of this rezoning application. Based on the analysis, an additional right-turn lane is required on Tarrow Street for the southbound approach to University Drive East as it falls below the acceptable level of service with the forecasted and site-generated traffic. A right-turn deceleration lane will be required for the proposed consolidated driveway from University Drive East due to the anticipated volume of right turns into the site.

Review of Concept Plan

The applicant has provided the following information related to the purpose and intent of the

proposed zoning district:

“The purpose and intent of the PDD is to encourage the redevelopment of an existing underperforming retail center along the University Drive Hospitality Corridor. The new development will provide a destination for residents and visitors to shop, dine, live, and recreate in a more urban environment. Introducing high density residential land uses and more urban development standards will incent the major reinvestment of an underutilized property in a prominent area of College Station.”

The Concept Plan proposes to demolish the existing buildings and construct a vertical mixed use building and four one-story buildings in phases that orient toward an interior plaza. A parking garage will be attached to the vertical mixed-use building and provide additional parking. The two driveways along University Drive East will be consolidated into one with a right-turn deceleration lane provided. The existing driveway location on East Tarrow with left-turn lane will remain and three new driveways are proposed along Tarrow Street with one aligning with the former Albertson’s shopping center driveway and another with Arguello Drive.

Base Zoning and Meritorious Modifications

The development will utilize GC General Commercial and R-6 High Density Multi-Family as the base zoning districts.

Permitted Uses

GC General Commercial uses along with multi-family land uses as allowed in R-6 High Density Multi-Family Permitted are permitted in addition to a pedestrian-oriented outdoor plaza designed for community events that include a pavilion, tower architectural feature, outdoor sales, display and other park-like amenities.

Density

The maximum residential density is 30 units per acre as per the R-6 High Density Multi-Family zoning district.

Setbacks

Instead of standard zoning setbacks, the applicant has proposed:

Minimum Front Setback (along University Drive East)	20 feet (normally 25 feet)
Minimum Side Setback (between buildings)	7.5 feet
Minimum Side Street Setback (along East Tarrow)	15 feet
Minimum Rear Setback (along Tarrow Street)	10 feet (normally 15 feet)

Height

Building height will be regulated by GC General Commercial and R-6 High Density Multi-Family base zoning districts. Building heights will range between one and seven stories.

Parking

Parking for residential uses will be 1 parking space per bed. Non-residential parking will be 1 parking space per 250 gross square feet with no increase for more intense commercial uses as defined by the Unified Development Ordinance. Up to 20% of the parking spaces within the parking garage may be compact spaces.

Other Meritorious Modifications

Off-Street Parking Standards: Minimum parking lot setback is reduced to 8 feet along Tarrow Street

with double landscape islands not being required every seven parking spaces.

Right-of-Way Dedication: No additional right-of-way is anticipated for University Drive East, East Tarrow, or Tarrow Street unless needed for the additional turn-lane mitigation.

Non-Residential Architecture Standards: Accessory buildings and parking garages are exempt from the requirements except that parking garages may be constructed of a pre-cast concrete product and painted to complement abutting buildings.

Signage

The sign regulations for the base zoning districts of GC General Commercial and R-6 High Density Multi-Family will be utilized for this development with the following modifications:

- Signs may be approved administratively by staff with appeals to staff's interpretations to be considered by the Design Review Board;
- Wayfinding signage (UDO Section 12-7.5.AA Campus Wayfinding Signs) is permitted for this development and may also be located at street intersections including driveways with parking;
- In addition to one freestanding sign, low profile signs are allowed at one per building;
- Light pole signage may be utilized within the interior plaza area only and is limited to a maximum of 14 light pole signs with 36 square feet per light pole. These signs are not in lieu of freestanding signage, are intended as development identification and special event signage, will not be utilized for tenant signage, and do not count against attached signage limitations;
- Apartment Identification signage is allowed with two detached signs - one placed at University Drive East and East Tarrow and a second placed at University Drive East and Tarrow Street only advertising the subdivision, development, or area. No commercial tenant advertising shall occur on the Apartment Identification signs; and
- Attached signage is permitted for all residential and non-residential buildings.
 - o The residential portion of the public entry façade shall be calculated in the allowance for attached signage square footage.
 - o The facades of the commercial-only buildings along University Drive East are to be included in the public entry façade calculation.

Budget & Financial Summary: N/A

Reviewed and Approved by Legal: Yes

Attachments:

1. Background Information
2. Aerial & Small Aerial Map (SAM)
3. Proposed Concept Plan
4. Ordinance

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: May 1, 2014
Advertised Council Hearing Dates: May 12, 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:

Chimney Hill HOA
Villas of Chimney Hill HOA

Property owner notices mailed: 23
Contacts in support: None at the time of staff report.
Contacts in opposition: None at the time of staff report.
Inquiry contacts: Two

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North (across Tarrow Street)	Suburban Commercial	GC General Commercial	Office buildings
South (across University Dr. E)	General Commercial	GC General Commercial with OV Corridor Overlay	Shopping center and restaurants
East (across East Tarrow Street)	General Commercial	GC General Commercial with OV Corridor Overlay	Hotel
West (across Tarrow Street)	General Commercial	GC General Commercial	Bank, shopping center including former Albertson's grocery

DEVELOPMENT HISTORY

Annexation: 1956
Zoning: GC General Commercial with OV Corridor Overlay
Final Plat: 1975 with replats in 1984 & 1985
Site development: Existing shopping center to be demolished as part of redevelopment.



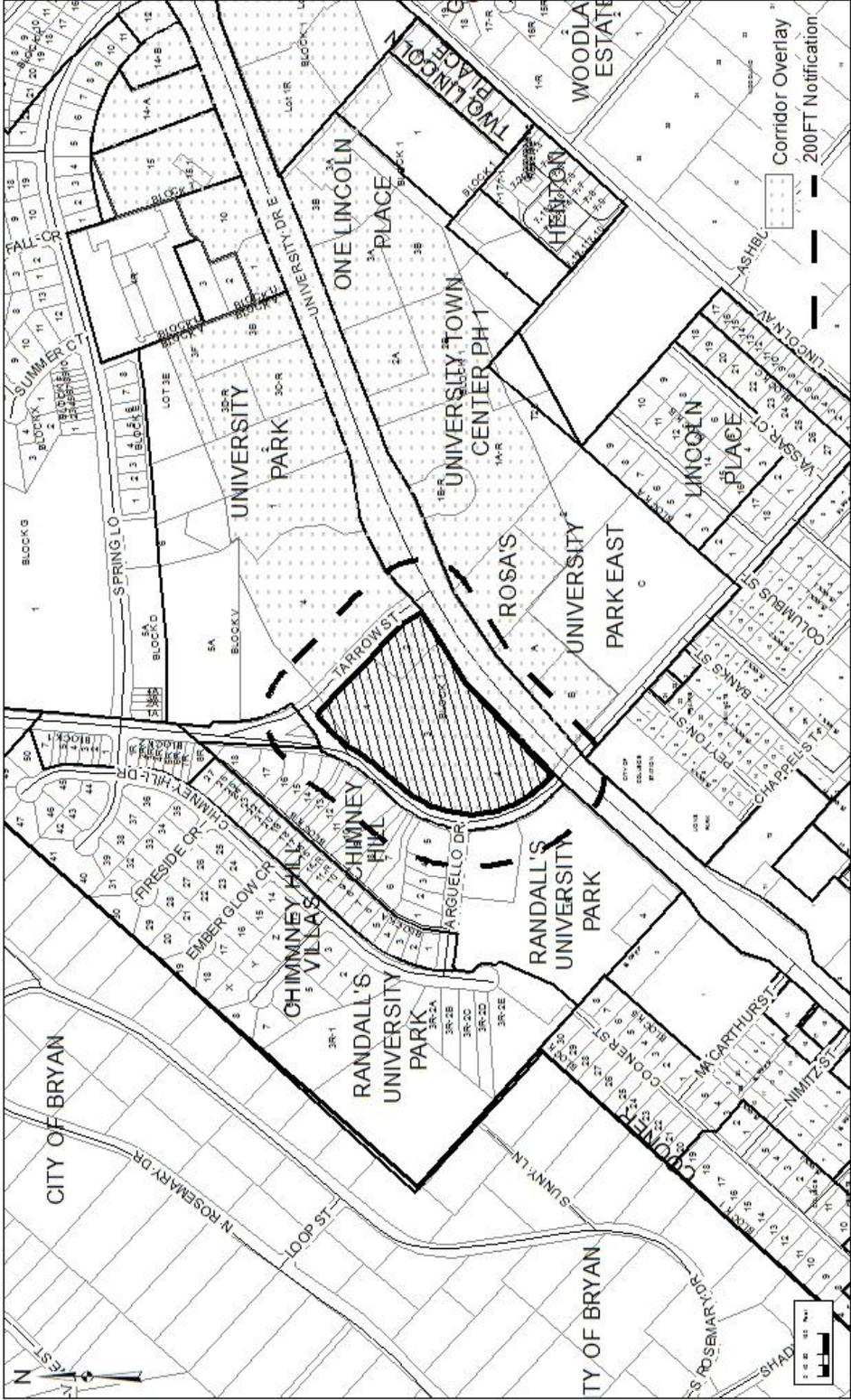
Case: 14-076

REZONING

CHIMNEY HILL REDEVELOPMENT
701 UNIVERSITY DR

DEVELOPMENT REVIEW





Zoning Districts	Multi-Family	BPI	Business Park Industrial	PDD	Planned Development District
R - 4	Multi-Family	NAP	Business Park Industrial	WPC	Wolf Pen Creek Dev. Corridor
R - 6	High Density Multi-Family	C-3	Natural Areas Protected	NG - 1	Core Northgate
MHP	Manufactured Home Park	M-1	Light Commercial	NG - 2	Transitional Northgate
O	Office	M-2	Light Industrial	NG - 3	Residential Northgate
SC	Suburban Commercial	C-U	Heavy Industrial	OV	Corridor Overlay
GC	General Commercial	R & D	College and University	RDD	Redevelopment District
R - 1B	Single Family Residential	P-MID	Research and Development	RD	Green Isd. Overlay
D	Duplex		Planned Midlevel Development		
T	Townhouse				

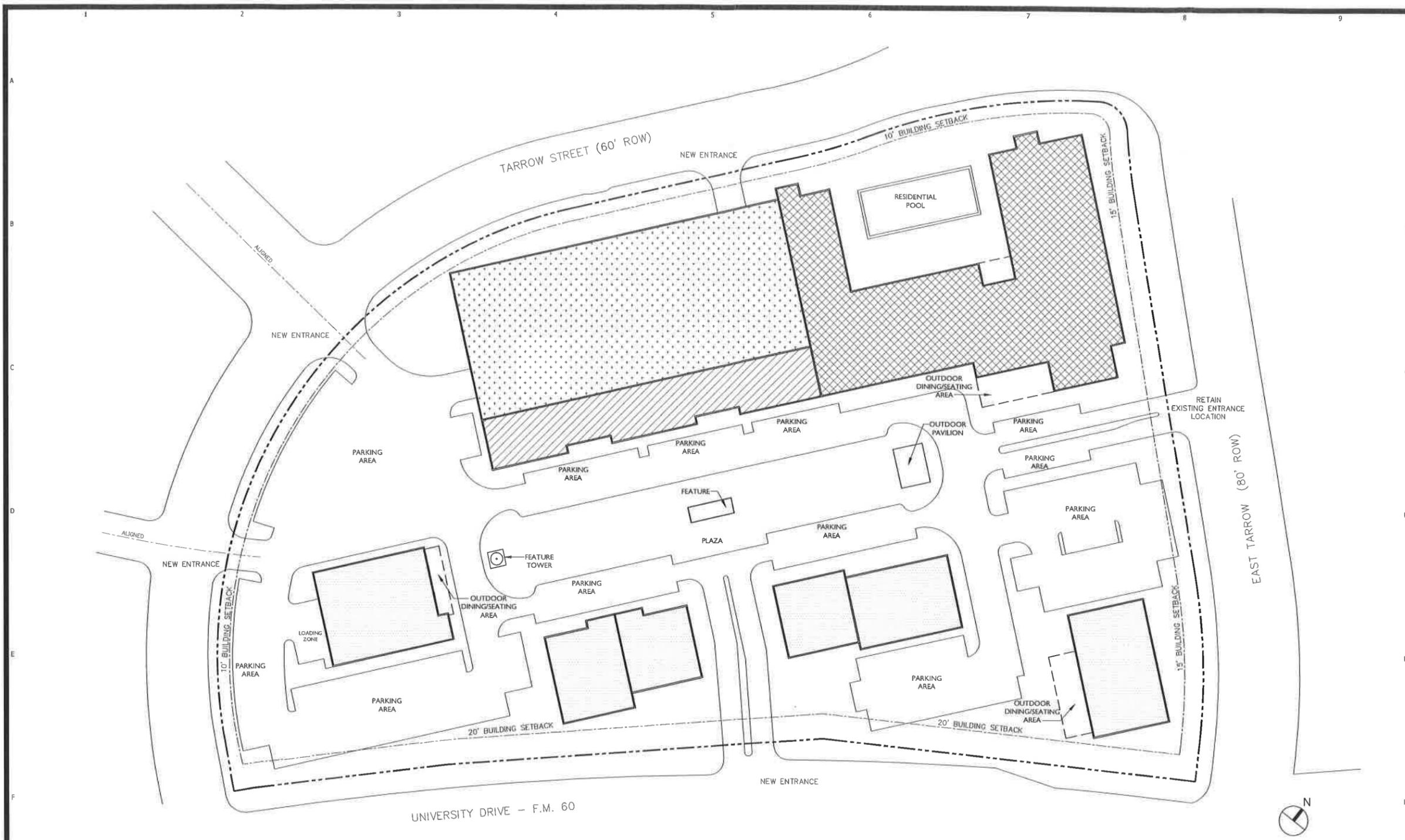
CHIMNEY HILL REDEVELOPMENT
701 UNIVERSITY DR E

DEVELOPMENT REVIEW

REZONING

Case: 14-076





**CHIMNEY HILL DEVELOPMENT
CONCEPT PLAN**
COLLEGE STATION, TEXAS

LEGEND	VICINITY MAP	LEGAL DESCRIPTION	TITLE BLOCK		
<p> MIXED USE: 1ST FLOOR GENERAL COMMERCIAL WITH MULTIFAMILY ABOVE</p> <p> HIGH DENSITY RESIDENTIAL/HOTEL USES ON GRADE</p> <p> 1 STORY GENERAL COMMERCIAL</p> <p> STRUCTURED PARKING</p>		<p>7.9512 ACRES LYING IN THE RICHARD CARTER LEAGUE, ABSTRACT NO. 8, BRAZOS COUNTY, TEXAS, BEING ALL OF LOTS 1, 3 AND 4, OF BLOCK 1, RESUBDIVISION PLAT OF CHIMNEY HILL RETAIL PLAZA, AS RECORDED IN VOLUME 807, PAGE 543, O.R.B.C.T., AND BEING ALL OF LOT 2, OF BLOCK 1, CHIMNEY HILL RETAIL PLAZA, AS RECORDED IN VOLUME 705, PAGE 621, O.R.B.C.T.</p>	<p>APPLICANT</p> <p>PM REALTY GROUP 1000 MAIN STREET, SUITE 2400 HOUSTON TX, 77002 TEL. 713 209 5800</p>	<p>ARCHITECT</p> <p>PAGE SOUTHERLAND PAGE, INC. 1100 LOUISIANA, SUITE 1 HOUSTON, TX 77002 TEL. 713 871 8484</p>	<p>DEVELOPER</p> <p>PM REALTY GROUP 1000 MAIN STREET, SUITE 2400 HOUSTON TX, 77002 TEL. 713 209 5800</p>

14-76
4-17-14
9:35
PK

ORDINANCE NO. _____

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 AFFECTING LOTS ONE(1), THREE (3), AND FOUR (4), BLOCK ONE (1), CHIMNEY HILL RETAIL PLAZA SUBDIVISION, AN ADDITION TO THE CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 807, PAGE 543, OF THE OFFICIAL RECORDS, BRAZOS COUNTY, TEXAS; 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 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", further described in Exhibit "B", in accordance with the Concept Plan shown in Exhibit "C", and as shown graphically in Exhibit "D", 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.
- PART 4: Said Ordinance will not become effective unless a deed executed for purchase of the property is recorded in the Official Records of Brazos County, Texas on or before September 15, 2014.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2014

APPROVED:

MAYOR

ATTEST:

City Secretary

ORDINANCE NO. _____

Page 2

APPROVED:

City Attorney

EXHIBIT "A"

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

The following property is rezoned from GC General Commercial and OV Corridor Overlay to PDD Planned Development District:

Lots One (1), Three (3) and Four (4), Block One (1), Chimney Hill Retail Plaza Subdivision, an addition to the City of College Station, Brazos County, Texas, according to the plat recorded in Volume 807, Page 543, of the Official Records. Brazos County, Texas

EXHIBIT “B” Rezoning Description

The purpose and intent of the PDD is to encourage the redevelopment of an existing underperforming retail center along the University Drive Hospitality Corridor. The new development will provide a destination for residents and visitors to shop, dine, live, and recreate in a more urban environment. Introducing high density residential land uses and more urban development standards will incent the major reinvestment of an underutilized property in a prominent area of College Station.

The Concept Plan proposes to demolish the existing buildings and construct a vertical mixed use building and four one-story buildings in phases that orient toward an interior plaza. A parking garage will be attached to the vertical mixed use building and provide additional parking. The two driveways along University Drive East will be consolidated into one with a right-turn deceleration lane provided. The existing driveway location on East Tarrow with left-turn lane will remain and three new driveways are proposed along Tarrow Street with one aligning with the former Albertson’s shopping center driveway and another with Arguello Drive.

Base Zoning and Meritorious Modifications

The development will utilize GC General Commercial and R-6 High Density Multi-Family as the base zoning districts.

Permitted Uses

GC General Commercial uses along with multi-family land uses as allowed in R-6 High Density Multi-Family Permitted are permitted in addition to a pedestrian-oriented outdoor plaza designed for community events that include a pavilion, tower architectural feature, outdoor sales, display and other park-like amenities. A hotel use is also permitted in the area designated for residential.

Density

The maximum residential density is 30 units per acre as per the R-6 High Density Multi-Family zoning district.

Setbacks

Instead of standard zoning setbacks, the applicant has proposed:

Minimum Front Setback (along University Drive East):	20 feet
Minimum Side Setback (between buildings):	7.5 feet
Minimum Side Street Setback (along East Tarrow):	15 feet
Minimum Rear Setback (along Tarrow Street):	10 feet

Height

Building height will be regulated by GC General Commercial and R-6 High Density Multi-Family base zoning districts. Building heights will range between one and seven stories.

Parking

Parking for residential uses will be 1 parking space per bed. Non-residential parking will be 1 parking space per 250 gross square feet with no increase for more intense commercial uses as defined by the Unified Development Ordinance. Up to 20% of the parking spaces within the parking garage may be compact spaces.

Off-Street Parking Standards: Minimum parking lot setback is reduced to 8 feet along Tarrow Street with double landscape islands not being required every seven parking spaces.

Right-of-Way Dedication: No additional right-of-way is anticipated for University Drive East, East Tarrow, or Tarrow Street unless needed for the additional turn-lane mitigation.

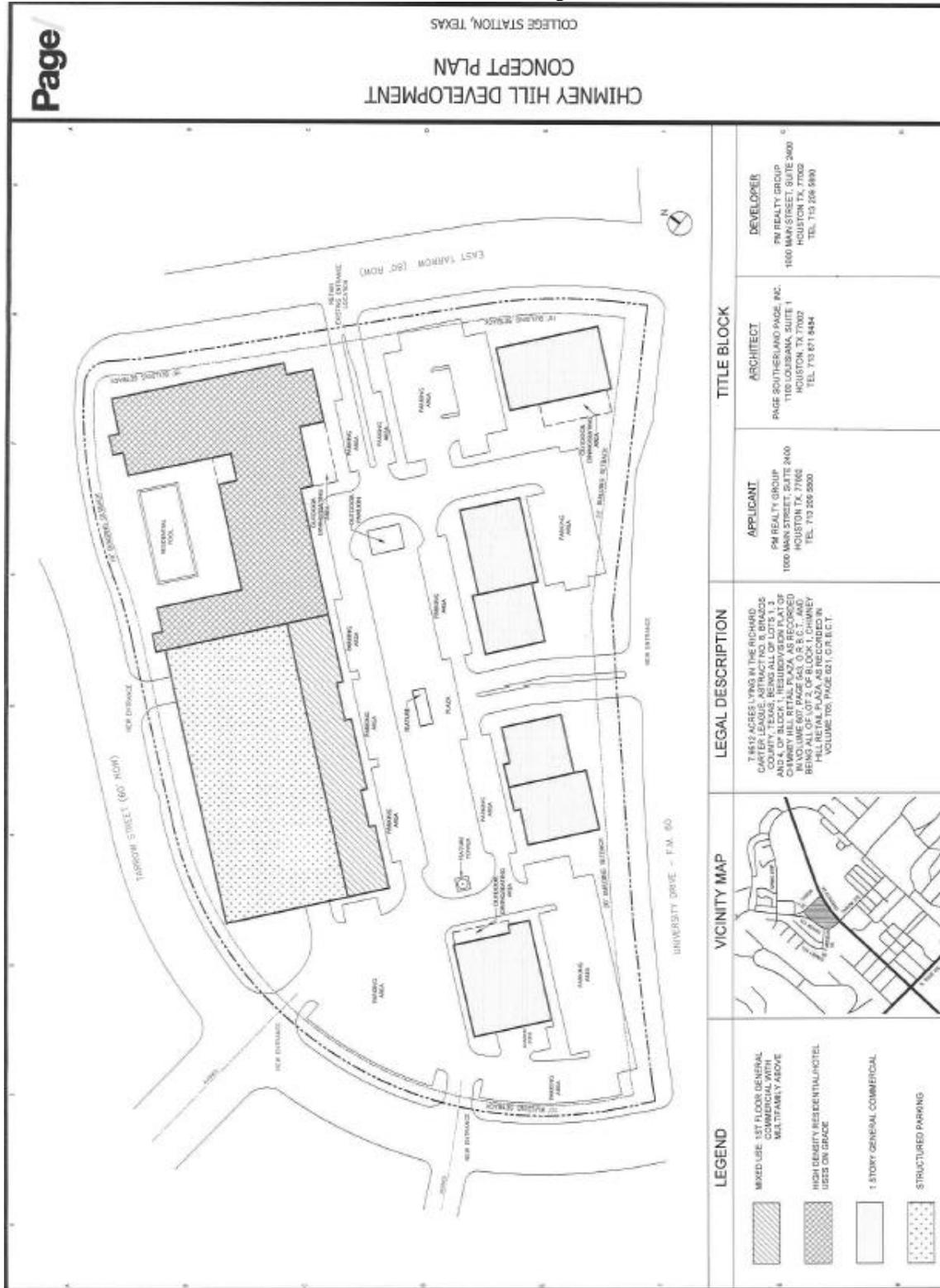
Non-Residential Architecture Standards: Accessory buildings and parking garages are exempt from the requirements except that parking garages may be constructed of a pre-cast concrete product and painted to complement abutting buildings.

Signage

The sign regulations for the base zoning districts of GC General Commercial and R-6 High Density Multi-Family will be utilized for this development with the following modifications:

- Signs may be approved administratively by staff with appeals to staff's interpretations to be considered by the Design Review Board;
- Wayfinding signage (UDO Section 12-7.5.AA Campus Wayfinding Signs) is permitted for this development and may also be located at street intersections including driveways with parking;
- In addition to one freestanding sign, low profile signs are allowed at one per building;
- Light pole signage may be utilized within the interior plaza area only and is limited to a maximum of 14 light pole signs with 36 square feet per light pole. These signs are not in lieu of freestanding signage, are intended as development identification and special event signage, will not be utilized for tenant signage, and do not count against attached signage limitations;
- Apartment Identification signage is allowed with two detached signs – one placed at University Drive East and East Tarrow and a second placed at University Drive East and Tarrow Street only advertising the subdivision, development, or area. No commercial tenant advertising shall occur on the Apartment Identification signs; and
- Attached signage is permitted for all residential and non-residential buildings.
 - The residential portion of the public entry façade shall be calculated in the allowance for attached signage square footage.
 - The facades of the commercial-only buildings along University Drive East are to be included in the public entry façade calculation.

EXHIBIT "C" Concept Plan

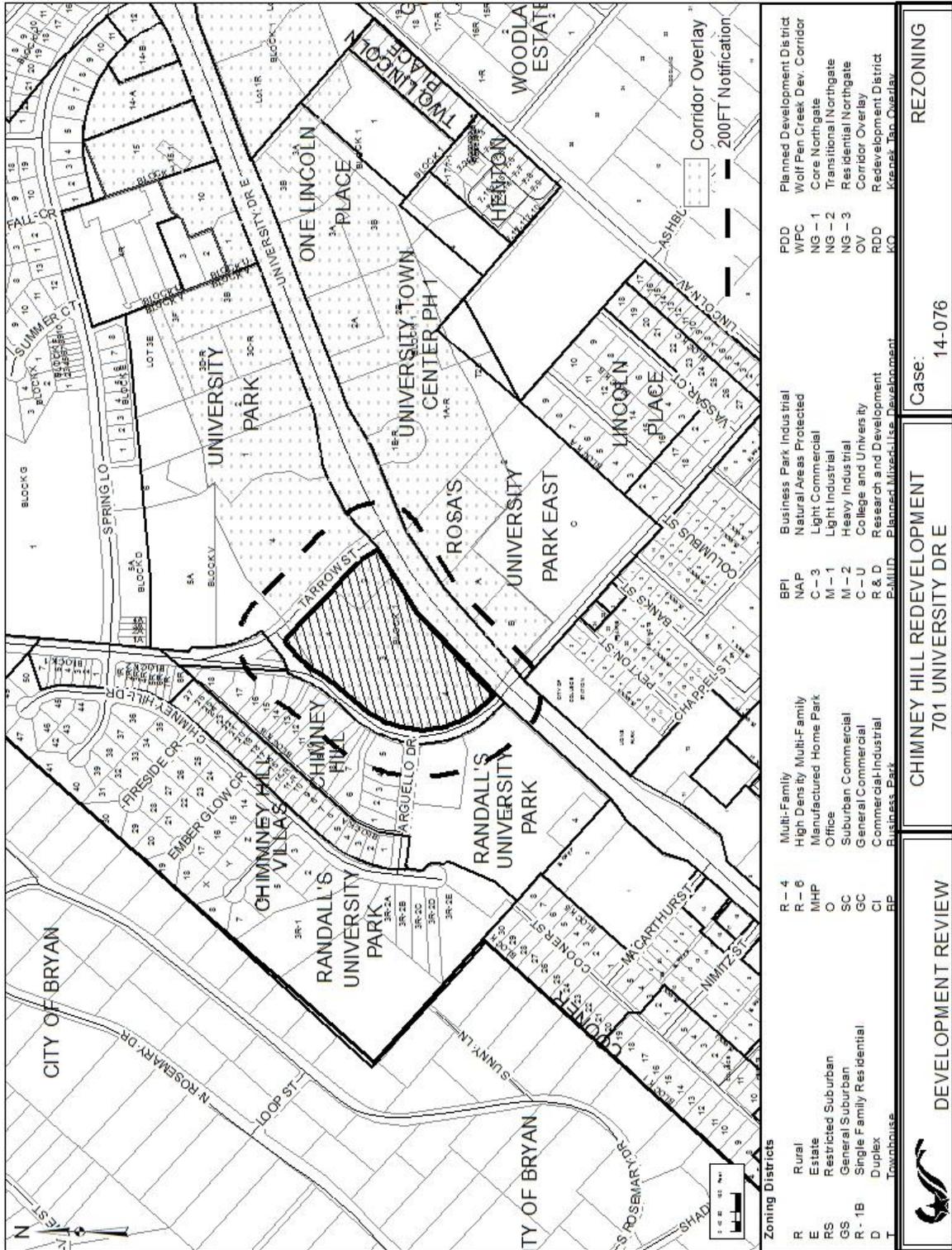


Page

CHIMNEY HILL DEVELOPMENT
CONCEPT PLAN
COLLEGE STATION, TEXAS

LEGEND	VICINITY MAP	LEGAL DESCRIPTION	APPLICANT	ARCHITECT	DEVELOPER
<p>MIXED USE: 1ST FLOOR GENERAL COMMERCIAL ABOVE MULTIFAMILY ABOVE</p> <p>HIGH DENSITY RESIDENTIAL/HOTEL USES ON GRAZE</p> <p>1 STORY GENERAL COMMERCIAL</p> <p>STRUCTURED PARKING</p>		<p>7.8519 ACRES LYING IN THE RICHARD CARTER LEASE, ABSTRACT NO. 8, BENDIS COUNTY, TEXAS, BEING ALL OF LOTS 1, 2 AND 3, BLOCK 1, CHIMNEY HILL, AS RECORDED IN VOLUME 607, PAGE 543, O.R.S.C.T., AND BEING ALL OF LOT 2, OF BLOCK 1, CHIMNEY HILL, AS RECORDED IN VOLUME 607, PAGE 543, O.R.S.C.T.</p>	<p>PM REALTY GROUP 1000 MAIN STREET, SUITE 2400 HOUSTON, TX, 77002 TEL. 713 255 5900</p>	<p>PAGE SOUTHERLAND PAGE, INC. 1100 LOUISIANA, SUITE 1 HOUSTON, TX, 77002 TEL. 713 871 8484</p>	<p>PM REALTY GROUP 1500 MAIN STREET, SUITE 2400 HOUSTON, TX, 77002 TEL. 713 255 5900</p>

EXHIBIT "D"



CHIMNEY HILL REDEVELOPMENT
701 UNIVERSITY DR E

DEVELOPMENT REVIEW

REZONING

Case: 14-076



Legislation Details (With Text)

File #:	14-409	Version:	1	Name:	Seismic Survey Regulations and Fee
Type:	Resolution	Status:		Status:	Agenda Ready
File created:	4/21/2014	In control:		In control:	City Council Regular
On agenda:	5/12/2014	Final action:		Final action:	
Title:	<p>Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Chapter 4, "Business Regulations", of the Code of Ordinances of the City of College Station, Texas, by amending Section 4-13 "Oil and Gas Regulations", Subsection A. "Definitions" and Subsection F. "Permit Classifications", Part 4 "Seismic Permit" and amending Chapter 14, "Service Fees", of the Code of Ordinances of the City of College Station, Texas, by amending Section 14-6 "Development Services", Subsection A. "Oil and Gas Development Application Fees" by adding Subpart (5) Seismic Survey Permit fee.</p> <p>A Resolution of the City Council of the City of College Station, Texas, adopting fees related to seismic survey permitting.</p>				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ord Amendment Ch 4 & Ch 14 5-2-2014.pdf License Agmt 5-2-2014.pdf Resolution 5-2-2014.pdf				

Date	Ver.	Action By	Action	Result
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Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Chapter 4, "Business Regulations", of the Code of Ordinances of the City of College Station, Texas, by amending Section 4-13 "Oil and Gas Regulations", Subsection A. "Definitions" and Subsection F. "Permit Classifications", Part 4 "Seismic Permit" and amending Chapter 14, "Service Fees", of the Code of Ordinances of the City of College Station, Texas, by amending Section 14-6 "Development Services", Subsection A. "Oil and Gas Development Application Fees" by adding Subpart (5) Seismic Survey Permit fee.

A Resolution of the City Council of the City of College Station, Texas, adopting fees related to seismic survey permitting.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure
- Neighborhood Integrity
- Diverse Growing Economy
- Sustainable City

Recommendation(s): Staff recommends approval of the ordinance amendments and associated standard form License Agreement, and approval of resolution setting the Seismic Survey Permit fee.

Summary: This item is to consider proposed ordinance amendments and a License Agreement which would establish detailed local regulations for permitting Oil and Gas Seismic Surveys, as well as a resolution to set the fee.

Seismic Surveys are geologic or geophysical activities to determine the potential location of subterranean mineral deposits for oil and gas exploration by using an energy source and receivers. Staff contents the current Oil and Gas Regulations, which were adopted in 1991 and that have only minimal regulation of Seismic Surveys, are not adequate to protect public and private interests.

There are current requests for the City to permit Seismic Surveys on City Rights-of-Way, City-owned properties, and private properties in the City. These requests include using vibroseis trucks which utilize a specialized pad to vibrate the ground at numerous locations (known as source points) including public streets, as well as public and private properties. This vibration is the energy source which sends waves to a numerous grid of receivers. Staff is concerned that these vibrations, if not properly regulated, may risk damage to public roads, public and private utilities, and public and private buildings.

City staff has surveyed other cities and entities for best practice regulations. In summary, the proposed ordinance amendments and License Agreement would:

1. Prohibit all explosives as source points
2. Prohibit source points in City Rights-of-Way and City-owned properties within City Limits
3. Enable permitting of source points and receivers on private properties, if:
 - a. The source point property owner provides written consent and waiver of City liability
 - b. Limits the vibroseis trucks to mini-truck weight category
 - c. Limit vibrations to peak particle velocity <0.35 in/sec and frequency to the range of 8-90 Hz
 - d. Require vibroseis technicians to monitor and enforce the established “not to exceed” peak particle velocity and frequency limits when operating within 300 feet of residential, commercial, or other types of sensitive structures
 - e. Require a minimum of 10 foot source point setback from public infrastructure
 - f. Require a minimum of 350 foot source point setback from water and irrigation wells
4. Enable permitting of receivers on City Rights-of-Way on the conditions that:
 - a. Receivers shall not be placed on public road pavement or sidewalks
 - b. No road or lane closures will be permitted for standard operations
 - c. Clearing trees and vegetation greater than 1-inch caliper is prohibited
5. Permittee will also be required to:

- a. Pay application fee
- b. Enter a License Agreement
- c. Provide a specific map of source and receiver points
- d. Provide Insurance
- e. Provide \$100,000 Security
- f. Settle all legitimate claims expediently
- g. Indemnify the City

Budget & Financial Summary: N/A

Legal Review: Yes

Attachments:

- 1. Ordinance Amendments
- 2. License Agreement
- 3. Fee Resolution

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SECTION 4-13 "OIL AND GAS REGULATIONS", SUBSECTION A. "DEFINITIONS" AND SUBSECTION F. "PERMIT CLASSIFICATIONS", PART 4 "SEISMIC PERMIT", AS SET OUT BELOW; AND AMENDING CHAPTER 14, "SERVICE FEES", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING SECTION 14-6 "DEVELOPMENT SERVICES", SUBSECTION A. "OIL AND GAS DEVELOPMENT APPLICATION FEES" BY ADDING SUBPART (5) SEISMIC SURVEY PERMIT FEE, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That **Chapter 4, "BUSINESS REGULATIONS", Section 4-13, "OIL AND GAS REGULATIONS", Subsection A. "Definitions" and Subsection F. "Permit Classifications", Part 4 "Seismic Permit"** of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A"** and **Exhibit "B"**, attached hereto and made a part of this ordinance for all purposes.

PART 2: That **Chapter 14, "SERVICE FEES", Section 14-6 "DEVELOPMENT SERVICES", Subsection A. "OIL AND GAS DEVELOPMENT APPLICATION FEES"** of the Code of Ordinances of the City of College Station, Texas, be amended by adding Subpart (5) Seismic survey permit fee, as set out in **Exhibit "C"**, attached hereto and made a part of this ordinance for all purposes.

PART 3: 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 4: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station..

PASSED, ADOPTED and APPROVED this _____ day of _____, 2014.

APPROVED:

Mayor

ORDINANCE NO. _____

ATTEST:

City Secretary

APPROVED:

City Attorney

ORDINANCE NO. _____

EXHIBIT "A"

That Chapter 4, "BUSINESS REGULATIONS", Section 4-13, "OIL AND GAS REGULATIONS", Subsection A. "Definitions" of the Code of Ordinances of the City of College Station, Texas, hereby is amended to read as follows:

A. **Definitions.**

Oil and gas industry words or phrases not defined herein shall have the meaning customarily attributable thereto by reasonable and prudent oil and gas industry operators.

1. **Abandonment** means "abandonment" as defined by the Commission and includes the restoration of the drill site as required by this Ordinance.
2. **Approved type and approved design** means improvements, equipment, or facilities of a type or design approved by the Commission, Fire Department, or Consultant.
3. **Area** means the property within a radius of one thousand (1,000) feet of the oil or gas operation.
4. **Blowout preventer** means a mechanical, hydraulic, pneumatic, or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe or other tubular goods to completely close the top of the casing and prevent blowout.
5. **Cellar** means an excavation around and above the top joint of the well casing.
6. **City** means the City of College Station, Texas.
7. **City Attorney** means the City Attorney of the City.
8. **City Code** means the Code of Ordinances of the City.
9. **City Engineer** means the City Engineer of the City.
10. **City Planner** means the City Planner of the City.
11. **City Secretary** means the City Secretary of the City.
12. **Commission** means the Texas Railroad Commission.
13. **Completion of drilling and re-working** means the date work is completed after the thirty (30) day period of drilling or re-working, and the crew is released by completing their work, contract, or by their employer.
14. **Consultant** means a person familiar with and educated in the oil and gas industry who has been retained by City.
15. **Council** means the City Council of the City.

ORDINANCE NO. _____

16. **Derrick** means any portable framework, tower, mast, or structure required or used in connection with drilling, re-working, operating, or maintaining a well.
17. **Desertion** means the cessation of the operation at any drill site without compliance with the provisions of this Ordinance relating to suspended operations, idle wells, or abandonment.
18. **Disposal** well means any well drilled or intended to be drilled, including solutions and liquids containing solids in suspension, produced from any such well.
19. **Drilling** means any digging or boring of a new well to explore, develop, or produce oil, gas, or other hydrocarbons, or to inject gas, water, or any other fluid or substance into the earth.
20. **Drilling equipment** means the derrick, all parts and appurtenances to such structure, and every piece of apparatus, machinery, or equipment used, erected, or maintained for use in connection with drilling.
21. **Drill site** means the premises used during the drilling or re-working of a well located there.
22. **Exploration** means geologic or geophysical activities, ~~including~~ excluding seismic surveys, related to the search for oil, gas, or other subsurface hydrocarbons related to a specific operation or oil well.
23. **Fire Department** means the Fire Department of the City.
24. **Fluids** means any gas or liquid.
25. **Gas** means any fluid, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.
26. **Gas well** means any well drilled, to be drilled, or used for the intent or actual production of natural gas.
27. **High impact area** means any residential, administrative, professional, or commercial neighborhood zone where there is an existing residential, administrative, professional, or commercial neighborhood use in the area of the proposed oil or gas operation.
28. **Lessee** means a person who has executed an oil or gas lease or sublease, or the owner of the land or minerals, or his heirs, who conducts or carries on any oil or gas exploration, development, and operation thereof, or a person conducting the operation for himself or others.
29. **Lessor** means the owner of surface or mineral rights who has executed a lease.

ORDINANCE NO. _____

30. **Maintenance** means the repair or replacement of any machinery, equipment, apparatus, structure, facility, or parts used in connection with an oil or gas operation, site, drill site, or any other work necessary to reduce fire hazards or hazards to employees, public health, safety, and welfare.
31. **New well** means a new well bore or new hole established at the ground surface and shall not include re-working of an existing well which is not abandoned.
32. **Oil or gas operation** means construction, maintenance, or use, of any installation, facility, or structure, directly or indirectly, to carry out or facilitate one (1) or more of the following functions: repair, development, drilling, re-working, production, storage, processing, extraction, enhanced recovery, stimulation, abandonment, or shipping of oil or gas from the subsurface of the earth, including site development.
33. **Oil or gas operation site** means the physical location where oil or gas operations are conducted.
34. **Oil well** means any well drilled, to be drilled, or used for the intended or actual production of liquid petroleum or petroleum products or enhanced recovery.
35. **Operator** means any person drilling, maintaining, operating, pumping, or in control of a well. If the operator is not the lessee under an oil or gas lease of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. If no oil or gas lease exists relating to any premises affected by this article, the owner of the fee estate in the premises shall be deemed an operator.
36. **Outer boundary line** means a situation in which several contiguous parcels of land in one (1) or different ownerships are operated as a single oil or gas lease or operating unit, or the exterior limits of the land included in a lease or unit. In determining the contiguity of any such parcel, all public rights-of-way crossing through or within the lease boundaries shall be part of the leased tract or unit.
37. **Owner** means a person who owns the legal or equitable title in and to the surfaces of the drill site or oil or gas operation site.
38. **Permit** means a drilling permit issued or sought to be issued under this Ordinance authorizing the drilling of an oil or gas well or other oil operations.
39. **Permittee** means a person to whom is issued a permit authorizing oil or gas operations, and his heirs, administrators, executors, successors, and assigns.
40. **Person** means both the singular and the plural and means a natural person, corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

ORDINANCE NO. _____

41. **Planning and Zoning Commission** means the Planning and Zoning Commission of the City.
42. **Processing** means the use of oil operations for gauging, recycling, compressor repressuring, injection, reinjection, dehydration, stimulation, separation (including but not limited to separation of liquids from gas), shipping and transportation, and gathering oil, gas, other hydrocarbon substances, water or any combination thereof.
43. **Project Review Committee (PRC)** means a committee composed of the following persons or their designated alternate: Director of Planning, City Engineer, and the Planning and Zoning Commission Chairman.
44. **Residence** means a house, duplex, apartment, townhouse, condominium, mobile home, or other building used for dwelling purposes.
45. **Re-working** means reoccupation or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) horizontal feet from the existing well bore, or replacement of well liners or casings.
46. **Right-of-way** means public rights-of-way including streets, easements, and other property in the City dedicated to public use and benefit.
47. **Rural area** means an area characterized by open space involving a proposed drill site of not less than twenty-five (25) acres with no operations to be conducted within one thousand (1,000) feet of a residence, hospital, or school.
48. **Seismic survey** means the geologic or geophysical activities necessary to determine the potential location of subterranean mineral deposits using vibroseis equipment.
49. **Seismic source** means the device, such as a vibroseis truck or explosives, which generates controlled seismic energy used to perform a seismic survey.
50. **Seismic source point** means a specific location at which the seismic source device generates controlled seismic energy used to perform a seismic survey.
51. **Seismic receiver** means the device which receives and records the reflected energy waves from the seismic source points used to perform a seismic survey.
52. **Seismic receiver point** means the specific location where a seismic receiver receives and records the reflected energy waves from the seismic source points used to perform a seismic survey.
53. **Source of ignition** means any flame, arc, spark, heated object, or surface capable of igniting liquids, gases, or vapors.
54. **Street** means any street, highway, sidewalk, alley, avenue, recessed parking area, or other public right-of-way, including the entire right-of-way.

ORDINANCE NO. _____

55. **Sump** or **sump pit** means an earthen pit, commonly known as a "mud pit," lined or unlined for the discharge of oil field wastes.
56. **Tank** means a container, covered or uncovered, used to hold or store fluids in conjunction with drilling or production of oil, gas, or other hydrocarbons.
57. **Department of Water Resources** means the Texas Department of Water Resources.
58. **Urban area** means any area characterized by business and commercial use, where the proposed drill site is at least three hundred (300) feet from a commercial use as defined by the City Zoning Ordinance.
59. **Well** means a hole(s) or bore(s) to any horizon, formation, or strata for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water, or for use as an injection well for secondary recovery or disposal or production of oil, gas, or other hydrocarbons from the earth.
60. **Well servicing** means maintenance work performed in any existing well bore which does not involve drilling or re-working.

ORDINANCE NO. _____

EXHIBIT “B”

That Chapter 4, “BUSINESS REGULATIONS”, Section 4-13, “OIL AND GAS REGULATIONS”, Subsection F, “Permit Classifications”, Part 4 “Seismic Permit” of the Code of Ordinances of the City of College Station, Texas, hereby is amended to read as follows:

4. Seismic survey permit.

- a. A permit is required for all seismic surveys performed on any property-within the City.
- b. To obtain a permit, the Operator must submit an application to the City, must pay the permit fee as established by resolution of the City Council, and execute a License Agreement on a form approved by the City Attorney. The City Manager or his/her designee is authorized to negotiate and execute the License Agreement on behalf of the City.
- c. The term of the permit shall be for a period of one (1) year.
- d. It is a violation of this ordinance to conduct a seismic survey in the City without a valid, existing Permit and License Agreement with the City.
- e. Application.

The application for a permit will require the following information to be provided by the Operator:

- (1) Name and address of the Operator. If the Operator is a corporation, the state of incorporation. If the Operator is a limited partnership, the name and address of the general partner(s).
- (2) Name, address, telephone number, and email address of two individuals who will be the 24-hour emergency contact for the City.
- (3) Name, address, telephone number, and email address of a point of contact for members of the public and/or media.
- (4) Seismic Project Route Plan Sheets on 24x36 tax maps that identify all utilities, streets, properties, the location of source points, and the location of receiver points.
- (5) Traffic Control Plan in compliance with the Texas Manual on Uniform Traffic Control Devices.

ORDINANCE NO. _____

- (6) A list of the type, weight, and specifications of the vibroseis equipment and/or vehicles to be used in the seismic survey.
- (7) A certificate of insurance evidencing the insurance required under the License Agreement which names the City as an additional insured.
- (8) A security instrument that secures the Operator's obligations to repair any damage caused by the seismic survey to sidewalks, rights of way, easements, water/sewer/electric infrastructure, or other public property or infrastructure.

f. Prohibitions

- (1) Under no circumstances may explosive charges, including, but not limited to, pentolite or dynamite, be used in any way as a seismic source or related to the preparation and/or operation of conducting a seismic survey in the City, including public and private properties, City Rights-of-Way, and on City-owned properties.
- (2) Seismic source points shall not be permitted within City Rights-of-Way, or on City-owned properties within City Limits.
- (3) Clearing trees and vegetation, associated with Seismic survey operations, greater than a one-inch caliper is prohibited in City Rights-of-Way and on any City-owned properties.

g. Violations

It is a violation of this ordinance to conduct seismic surveys:

- (1) In the City without a valid, existing Permit and License Agreement with the City;
- (2) Using pentolite, dynamite, or any other type of explosive;
- (3) If source point activity encroaches upon the minimum established setbacks;
- (4) If the peak particle velocity or frequency exceed the allowed parameters pursuant to the License Agreement;

ORDINANCE NO. _____

- (5) Using City Rights-of-Way, or City-owned properties within the City Limits for seismic source points.
 - (6) Using public streets, sidewalks, or drainage ditches for seismic receiver points and/or using other public property without prior written permission from the City; or
 - (7) That violate any of the terms or conditions of the License Agreement.
- h. Provisions of this Section 13 “Oil and Gas Regulations” shall apply as appropriate, and the Seismic survey permit subsection shall prevail if any conflicts arise.

ORDINANCE NO. _____

EXHIBIT “C”

That Chapter 14, “SERVICE FEES”, Section 14-6 “DEVELOPMENT SERVICES”, Subsection A. “OIL AND GAS DEVELOPMENT APPLICATION FEES” of the Code of Ordinances of the City of College Station, Texas, hereby is amended by adding the following:

(5) Seismic survey permit fee.

STATE OF TEXAS §
COUNTY OF BRAZOS §

SEISMIC SURVEY LICENSE AGREEMENT

This non-exclusive License Agreement for temporary seismic survey operations is made and entered into this ___ day of _____ 20__ by and between the City of College Station, Texas (“City”) a home rule municipal corporation and _____, (“Licensee”) a _____ duly formed and operating pursuant to the laws of the State of Texas.

WHEREAS, Licensee desires to conduct seismic surveys in the City of College Station, for evaluation related to the exploration and production of oil and natural gas; and

WHEREAS, Licensee will obtain or has obtained a seismic survey permit in accordance with Chapter 4 “Business Regulations”, Section 4-13 “Oil and Gas Regulations” of the City of College Station Code of Ordinances and will obtain or has obtained consent and indemnity waivers from private property owners whose property will be used as source points for seismic testing; and

WHEREAS Licensee desires to obtain a Seismic Survey License from the City in order to conduct seismic survey operations within the City in furtherance of same; and

NOW THEREFORE in consideration of the mutual covenants contained herein the City and Licensee agree as follows:

1. Non-exclusive License and Permit Fee

In consideration for the City granting the Licensee a revocable, non-exclusive seismic survey license, the Licensee will pay a permit fee of **\$5,000.00**. A specific License is required for each survey and the License is not assignable. The Licensee is granted the privilege to construct, deconstruct, repair, operate, and maintain seismic survey source and receiver equipment on private property, where Licensee has obtained permission from surface and mineral interest owners, and receiver equipment on City Rights-of-Way. The total fee is due before commencement of operations. The fee is not refundable if the agreement is terminated due to a breach by the Licensee. Upon the full execution by both parties of this Seismic Survey License Agreement, said Agreement shall also serve as the Seismic Survey Permit.

2. Term

This license is valid for one (1) year beginning on the date of approval of this License by the City. All energy source operations shall be completed within ninety (90) consecutive calendar days, beginning on the date of commencement of operations. Once operations have commenced, in the event Licensee is rendered unable, wholly or in part, by circumstances beyond the Licensee’s control, to complete operations within the remaining term of the License, then the time for completion may be extended, at the discretion of the City Engineer or his designee, for a period of time not to exceed six (6) months, upon written request by the applicant setting forth full particulars of the circumstances causing the delay which were not within the control of the applicant and which the applicant could not have avoided by the exercise of due diligence and care.

3. Prohibitions

Licensee is prohibited from the following:

- a. Under no circumstances may explosive charges, including, but not limited to, pentolite or dynamite, be used in any way as a seismic source or related to the preparation and/or operation of conducting a seismic survey in the City, including public and private properties, City Rights-of-Way, and on City-owned properties.
- b. Seismic source points shall not be permitted within City Rights-of-Way, or on City-owned properties within City limits.
- c. Clearing trees and vegetation, associated with Seismic survey operations, greater than a one-inch caliper is prohibited in City Rights-of-Way and on any City-owned properties.

4. Special Conditions

Licensee's operations shall be conducted in accordance with the highest industry standards and practices and in a prudent and careful manner. Licensee further agrees to comply with the following minimum conditions:

- a. Licensee will notify the City Engineer or his designee, by calling the Planning and Development Services Department at (979) 764-3570 at least three (3) business days before commencement of testing operations (i.e. use of vibroseis equipment). Licensee will provide the City with the name, address, email address, and telephone number of at least two (2) individuals who will be a 24-hour emergency contact for the City.
- b. Vibroseis equipment will be used to provide the source signal. Pentolite, dynamite, or any other type of explosive is prohibited.
- c. At each source point, vibroseis equipment will be set back a minimum of ten (10) feet from any water, sanitary sewer, drainage, electric, gas, or any public infrastructure improvements as well as 350 feet from all water and irrigation wells. Additional setbacks may be required for sensitive features, as necessary.
- d. In order to protect water, sanitary sewer, drainage, electric, gas, and any public utility infrastructure, as well as private property, in locations where testing will take place within 300 feet of residential, commercial, or any other type of sensitive structure, Licensee shall employ qualified vibroseis technician(s) to utilize vibroseis equipment on the job to ensure vibration level or peak particle velocity will not and does not exceed 0.35 inches per second and the frequency shall not exceed the range of 8-90 hertz. If peak particle velocity or frequency levels are exceeded, vibroseis technicians will notify the City Engineer and cease all operations until corrections are made. Licensee will maintain all documentation of monitoring activities for a period of at least two (2) years and make said documentation available upon request for inspection by the City.
- e. Receivers, e.g. geophones, may not be placed in City-owned roadway pavement, sidewalks, or drainage culverts. The City Engineer or his designee, must approve of the specific location for each receiver placed on City Rights-of-Way. Cables placed within rights of way must be arranged so they do not create a hazardous condition. No cables shall cross roadways or sidewalks and shall not be anchored in any way to the roadway. Bridges and drainage culverts shall be the only method to cross roadways.
- f. Licensee shall obtain water well, underground hazardous waste storage / disposal site, and water, sewer, oil, gas, and chemical pipeline location maps and conduct all engineering calculations necessary to confirm all operations meet standards established by the governing engineering codes and criteria. Information obtained by the Licensee shall be used by the surveying teams and operations manager to ensure compliance with the terms and conditions of this agreement and

that safe operating distances are maintained. Seismic Project Route Plan Sheets shall be submitted with the application for this License Agreement, on 24x36 tax maps that identify all utilities, streets, properties, the location of source points, and the location of receiver points. The City will assist with the identification of City owned utilities.

- g. All seismic survey operations shall be limited to the areas determined by the Seismic Project Route Plan Sheets at a scale acceptable to the City Engineer.
- h. The Licensee shall receive prior approval from the City Engineer or his designee, before any variance from the Seismic Project Route Plan Sheet is made. The Licensee shall provide at least three (3) business day's notification allowing consideration and response for each request.
- i. No road or lane closures shall be permitted, and there shall be no disruption in traffic for route operations associated with this Permit. In the unforeseen event that traffic control becomes necessary and is approved by the City Engineer, all costs shall be borne by the Licensee. Signs, barricades, and flagmen (and/or off duty peace officers) must be maintained as necessary to protect the traveling public in accordance with City and state standards, including the Texas Manual on Uniform Traffic Control Devices. The operations shall not unreasonably interfere with the flow of traffic. All geophones shall be on one side of the rights-of-way only, at any given time, and must be as far from the road pavement as practical. Licensee shall comply with the traffic control plan submitted to the City, identifying routes of vibroseis trucks as well as the dates and times that testing will be conducted. The City may require modification of the dates and times of testing to reduce or eliminate interference with schools, interference with public events, or traffic congestion.
- j. Licensee shall provide the City with a list of the types, weight, and specifications of vehicles to be used in the seismic survey. Vibroseis trucks shall be of the mini-vibe category with the total maximum loaded allowed truck weight limit of 17,000 lbs.
- k. The Licensee shall be responsible to obtain permission, as required by law, from property owners before entering upon or crossing private property. The Licensee must obtain written permission from all private property owners whose property is used for receiver or source points. The written permission shall be in a format that is acceptable to the City.
- l. The Licensee shall maintain a daily log of energy source tests performed by qualified vibroseis technicians showing date, location, energy source used, drive level, operator, and all other related information including seismic and pre- and post-test survey. A copy of the log and survey covering the entire test area, within City limits, will be provided to the City no later than thirty (30) days after testing is complete. Licensee will maintain all documentation of monitoring activities for a period of at least two (2) years and make said documentation available upon request for inspection by the City.
- m. The Licensee shall place newspaper advertisements in the official newspaper of the City of not less than three (3) inches by four (4) inches explaining the work to be performed, the location of the proposed work, and a toll-free telephone number where residents may call for more information. Said advertisements shall be placed continuously during the two-week period immediately before actual operations commence in the testing area. The toll-free telephone number provided by the applicant shall be answered during hours of operation while work is ongoing in the City, and an answering machine shall be installed to receive after-hour calls. The City shall review and approve the advertisement prior to publication by the Licensee. Advertisement cost will be at the expense of the Licensee. Licensee shall also provide the City with a name, address, email address, and telephone number of a point of contact for the public and the media.
- n. Although sources points are prohibited in City Rights-of-Way, Licensee shall restore all City streets, roads, sidewalks, public infrastructure, or other property to their original condition, free from any damage, including, but not limited to, any ruts or injury to vegetation, during or at the close of operations. Licensee shall repair, or compensate the City for the full cost of repairing, any City streets, roads, water lines, sanitary sewer infrastructure, electrical infrastructure, or other

public infrastructure damaged by Licensee in the course of the seismic survey. All debris, stakes, and flagging generated in connection with the seismic survey shall be removed by Licensee as quickly as reasonably possible and damage to City infrastructure shall be repaired, if reasonably practicable, prior to any further seismic testing. Any costs incurred by the City, including the cost of the time spent by City employees, relating to damage caused by the seismic survey shall be paid by Licensee within thirty (30) days of invoice or drawn from the security instrument required by this License Agreement.

- o. Wet weather, flood, or soil conditions may prohibit access to public or private property by Licensee. The City's City Engineer may temporarily halt seismic survey operations when conditions so require. The City's City Engineer may require the installation of erosion control measures if the Licensee disturbs the existing condition of public property. Licensee may not track mud or debris onto City streets, sidewalks, or rights of way and the City may require the Licensee to clean up after Licensee's violation of this provision.
- p. Water holding facilities, dams, levees, water control structures, creeks, sloughs, tanks, or springs may not be disturbed or altered.
- q. The City may require reasonable alternatives to disturbance in high resource value areas. All precautions, including consultation with the City Engineer, shall be taken to avoid disturbance of fish, wildlife, endangered or critical plant resources during seismic survey operations. Particular caution shall be taken to avoid and protect sensitive habitats, such as wetlands and bottomland hardwoods. Activities affecting these species and habitats may require coordination with other state and federal agencies.
- r. The applicant shall notify the City's City Engineer or designee, within three (3) business days after the occurrence of any violation of these permit requirements.
- s. Licensee is responsible for and shall settle all reasonable and legitimate claims, demands, and causes of action relating to property or persons arising out of, or as a result of, Licensee's operations under this Agreement and shall handle all such claims in an expedient manner.
- t. Testing may only be conducted from 8:00 a.m. to 8:00 p.m. (Central Time), on Monday through Friday, and from 10:00 a.m. to 8:00 p.m. on Saturday, and 1:00 p.m. to 7:00 p.m. on Sunday. City Engineer may notify Licensee of specific dates or times when special events require testing to cease temporarily.
- u. Licensee shall furnish to the City Engineer a schedule of each week's operations plans.

5. Indemnification

LICENSEE, ON BEHALF OF ITSELF, ITS AGENTS, EMPLOYEES, CONTRACTORS, SUCCESSORS AND ASSIGNS, CONTRACTS TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES, VOLUNTEERS, CONSULTANTS, AND CONTRACTORS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, EXPENSES, COSTS, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, CONTRACT OR ANY OTHER BASIS OF EVERY KIND AND CHARACTER WHATSOEVER INCLUDING, BUT NOT LIMITED TO, ALL REASONABLE COSTS OF DEFENSE, SUCH AS FEES AND CHARGES OF ATTORNEYS, INCLUDING THE TIME OF CITY ATTORNEYS, EXPERT WITNESSES, AND OTHER PROFESSIONALS INCURRED BY THE CITY FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY THE LICENSEE UNDER THIS LICENSE AGREEMENT. SUCH INDEMNITY SHALL APPLY REGARDLESS OF WHETHER THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, OR LIABILITY ARISE IN WHOLE OR IN PART

FROM THE NEGLIGENCE OF THE CITY, ANY OTHER PARTY INDEMNIFIED
HEREUNDER, THE LICENSEE, OR ANY THIRD PARTY.

6. Release

THE LICENSEE ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO OR DEATH OF ANY PERSON AND ANY LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY, ALLEGED TO BE CAUSED BY, ARISING OUT OF, OR IN CONNECTION WITH THE LICENSEE'S WORK TO BE PERFORMED HEREUNDER. THIS RELEASE SHALL APPLY REGARDLESS OF WHETHER SAID CLAIMS, DEMANDS, AND CAUSES OF ACTION ARE COVERED IN WHOLE OR IN PART BY INSURANCE AND REGARDLESS OF WHETHER SUCH INJURY, DEATH, LOSS, OR DAMAGE WAS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE CITY, ANY OTHER PARTY RELEASED HEREUNDER, THE LICENSEE, OR ANY THIRD PARTY.

- a. Licensee further acknowledges: that the City has not made any independent investigation or verification of information regarding subsurface structures and facilities furnished to Licensee and makes no representation or warranties as to the accuracy or completeness of such information. Licensee expressly acknowledges that the City makes no warranty or representation, express or implied or arising by operation of law, including but not limited to; any warranty of fitness for a particular use or purpose of such subsurface information.
- b. Licensee will secure Waivers of City Liability from private property owners whose property will be used as a source point for seismic testing before seismic survey operations shall be permitted on the respective private properties within the City limits boundaries. The waivers shall be in a standard form pre-approved by the City.

7. Insurance and Security

- a. Licensee will provide insurance as required by Exhibit "A" "Insurance Requirements". Control of Well and Environmental Pollution Liability insurance will not be required. Prior to conducting the seismic survey, Licensee will deliver to the City a certificate of insurance evidencing the insurance and naming the City as an additional insured.
- b. Licensee shall provide a security instrument that secures Licensee's obligations under this License Agreement including the obligation to repair or compensate the City for the cost of repairing damage to City streets, sidewalks, rights of way, easements, water/sanitary sewer/electric infrastructure, or other public property or infrastructure damage caused by Licensee in the course of conducting the seismic survey. The security instrument may be in the form of cash or an irrevocable letter of credit issued by a bank or surety approved by the City. A certificate of deposit may be substituted for the letter of credit. Any certificate shall be issued by a bank approved by the City, payable to the order of the City to secure the obligations described

above, and shall be pledged to the bank with evidence of delivery provided to the City. Interest on the certificate shall be payable to Licensee. The amount of the security instrument shall be one hundred thousand U.S. Dollars (\$100,000.00). If in the reasonable determination of the City's City Engineer the cost of repairing damage to City infrastructure exceeds the amount of such security, the City Engineer may suspend the license and halt Licensee's seismic survey operations until Licensee increases the amount of security to fully cover the amount of any current or reasonably anticipated future damages. The security shall not be released until the City Engineer determines that any damage caused by Licensee has been satisfactorily repaired and/or paid for.

8. No Waiver

Nothing in this License Agreement is intended or should be construed as absolving Licensee of any legal claim for damage City may be entitled to assert resulting from negligence or wrongful conduct of Licensee, or its agents, employees, or subcontractors. No express or implied waiver of any claim is intended.

9. Miscellaneous

- a. Ownership. The City makes no warranty as to ownership of either the mineral estate or the surface estate for the locations used for surveys. Licensee assumes all responsibility for determining and acquiring permission to conduct its operations from the necessary parties.
- b. Compliance with Law. Licensee shall comply with all federal, state, and local laws, rules, or regulations that are applicable to its seismic survey operations.
- c. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
- d. Texas law to apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of College Station, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.
- e. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.
- f. Amendments. No amendment, modification, or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.
- g. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- h. No Waiver. City's failure to take action to enforce this Agreement in the event of Licensee's default or breach of any covenant, condition, or stipulation herein on one occasion shall not be treated as a waiver and shall not prevent City from taking action to enforce this Agreement on subsequent occasions.
- i. Notices. City and Licensee hereby designate the following individuals to receive any notices required to be submitted pursuant to the terms of this Agreement:

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

LICENSEE

- j. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.
- k. Additional Terms and Conditions. Additional terms and conditions may be attached, before execution, as an exhibit to this Agreement.
- l. Incorporation of Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.
- m. Headings. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs.
- n. Gender and Number. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, unless the context requires otherwise.

List of Attached Exhibits:

- Exhibit "A" – Insurance Requirements
- Exhibit "B" – Licensee's Certificates of Insurance
- Exhibit "C" – Seismic Project Route Plan Sheets
- Exhibit "D" – Additional Terms and Conditions *(if any)*

[Licensee]

CITY OF COLLEGE STATION

By: _____
Printed Name: _____
Title: Director
Date: _____

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Assistant City Manager/CFO
Date: _____

Exhibit "A"
INSURANCE REQUIREMENTS

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

I. Standard Insurance Policies Required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Umbrella / Excess Liability
- D. Workers' Compensation

II. General Requirements Applicable to All Policies:

- A. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
- B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- C. "Claims Made" policies are not accepted.
- D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
- E. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
- F. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

III. Commercial General Liability

- A. General Liability insurance shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
- C. Coverage shall be at least as broad as ISO form GC 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

- E. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

IV. *Business Automobile Liability*

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

V. *Excess Liability*

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

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

VII. *Workers Compensation Insurance*

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Licensee, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy: either directly through

their employer's policy (the Licensee's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

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

D. *Definitions:*

Certificate of coverage ("certificate") – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

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

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

- E. The Licensee shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Licensee providing services on the project, for the duration of the project.*
- F. The Licensee must provide a certificate of coverage to the governmental entity prior to beginning work.*
- G. If the coverage period shown on the Licensee's current certificate of coverage ends during the duration of the project, the Licensee must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- H. The Licensee shall obtain from each person providing services on a project, and provide to the governmental entity:*

 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - (2) no later than seven calendar days after receipt by the Licensee, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- I. The Licensee shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- J. The Licensee shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Licensee knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- K. The Licensee shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- L. The Licensee shall contractually require each person with whom it contracts to provide services on a project, to:*

 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
 - (2) provide to the Licensee, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*

- (3) *provide the Licensee, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (4) *obtain from each other person with whom it contracts, and provide to the Licensee:*
 - (a) *A certificate of coverage, prior to the other person beginning work on the project; and*
 - (b) *A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
- (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
- (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
- (7) *Contractually require each person with whom it contracts to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*

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

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

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

- A. The company is licensed and admitted to do business in the State of Texas.
- B. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.

- C. All endorsements and insurance coverages according to requirements and instructions contained herein.
- D. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
- E. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

Exhibit "B"
LICENSEE'S CERTIFICATES OF INSURANCE

Exhibit "C"
SEISMIC PROJECT ROUTE PLAN SHEETS

Exhibit "D"
ADDITIONAL TERMS AND CONDITIONS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AMENDING RESOLUTION NO. 08-27-09-02 ADOPTED ON AUGUST 27, 2009, SETTING FEES ESTABLISHED IN CHAPTER 14 "SERVICE FEES", FOR THE ISSUANCE OF SEISMIC SURVEY PERMITS.

WHEREAS, on August 27, 2009, the City Council adopted by Resolution No. 08-27-09-02, Exhibit B, which contained a fee schedule establishing fees to be paid for services related to development in the City effective October 1, 2010; and

WHEREAS, the City Council of the City of College Station, Texas, desires to amend Resolution No. 08-27-09-02, Exhibit B, to set fees established in Chapter 14 "Service Fees", for the issuance of seismic survey permits, as provided in Exhibit "A" herein; now, therefore,

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

- PART 1: That the City Council hereby amends Resolution No. 08-27-09-02, Exhibit B, to set those fees established in Chapter 14 "Service Fees", for the issuance of seismic survey permits.
- PART 2: That the additional fees described above are as set out in Exhibit "A" herein.
- PART 3: That all other provisions contained in Resolution No. 08-27-09-02 shall remain in full force and effect.
- PART 4: That said additional fees provided for in Exhibit "A" shall take effect on May 22, 2014.

ADOPTED this 12th day of May, A.D. 2014.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit "A"

Case Type	Fee Effective May 22, 2014
Seismic Survey Permit	\$5,000