



College Station, TX

Meeting Agenda City Council Regular

*Phone 888 475 4499 and Webinar ID: 966 2114 0202

Internet: <https://zoom.us/j/96621140202>

April 8, 2021

5:00 PM

1101 Texas Ave, College Station,
TX 77840

***The City uses a third-party vendor to help host the meeting and if the call-in number is not functioning access will be through the internet link only.**

1. Call to Order, Pledge of Allegiance, Invocation, Consider Absence Request.

Speaker Protocol: An individual who wishes to address the City Council regarding any item on the agenda shall register with the City Secretary two (2) hours prior to the start of the meeting. Individuals must register to speak or provide written comments at <https://forms.cstx.gov/Forms/CSCouncil> or provide a name and phone number by calling 979-764-3500. Upon being called to speak an individual must state their name and city of residence, including the state of residence if the city is located out of state. Speakers are encouraged to identify their College Station neighborhood or geographic location. Each speaker's remarks are limited to three (3) minutes. Any speaker addressing the Council through the use of a translator may speak for six (6) minutes. At the (3) minute mark the City Secretary will announce that the speaker must conclude their remarks.

2. Executive Session is closed to the public and will be held in the Administrative Conference Room. The open meeting will resume no earlier than 6:00 pm.

Consultation with Attorney {Gov't Code Section 551.071};

Possible action. The City Council may seek advice from its attorney regarding a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed.

Litigation

- a. Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas
- b. McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas
- c. City of College Station v. Gerry Saum, Individually, and as Independent Executrix of the Estate of Susan M. Wood, Deceased; Cause No. 17-002742-CV-361; In the 361st District Court, Brazos County, Texas
- d. City of College Station v. Brazos Re Investors Group, LLC. Cause No.612-CC; In the County Court at Law No. 1 of Brazos County, Texas.

Legal Advice

a. Legal advice regarding electric utility and Winter Storm Uri.

Personnel {Gov't Code Section 551.074}:

Possible action. The City Council may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer. After executive session discussion, any final action or vote taken will be in public. The following public officer(s) may be discussed:

- a. City Manager
- b. Council Self-Evaluation

Competitive Matters {Gov't Code Section 551.086}:

Possible action. The City Council may deliberate, vote, or take final action on a competitive matter as that term is defined in Gov't Code Section 552.133 in closed session. The following is a general representation of the subject matter to be considered:

- a. Power Supply

3. Reconvene from Executive Session and take action, if any.

4. Hear Visitors

During Hear Visitors an individual may address the City Council on any item which does not appear on the posted agenda. The City Council will listen and receive the information presented by the speaker, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concern shall be directed to the City Manager.

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

6. Consent Agenda

During the Consent Agenda an individual may address the City Council on any Consent Agenda Item. Presentation, discussion, and possible action on 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.

6.1. Presentation, discussion, and possible action of minutes for:

- March 22, 2021 Special Meeting
- March 25, 2021 Workshop Meeting
- March 25, 2021 Regular Meeting

Sponsors: Tanya Smith

- Attachments:**
- 1. SPW032221 DRAFT Minutes
 - 2. WKSHP032521 DRAFT Minutes
 - 3. RM032521 DRAFT Minutes

6.2. Presentation, discussion, and possible action to approve a resolution by the City Council of the City of College Station, Texas, directing publication of notice of intention to issue certificates of obligation, series 2021; and providing an effective date.

Sponsors: Mary Ellen Leonard

- Attachments:**
- 1. Notice Resolution 03.22.21

6.3. Presentation, discussion, and possible action regarding the fiscal year FY21 funding of \$1,629,793 for retirement obligations.

Sponsors: Mary Ellen Leonard

Attachments: None

6.4. Presentation, discussion, and possible action on renewing a General Service Contract with Emergicon, LLC providing ambulance billing, accounts receivable and delinquent account collection services for an annual not-to-exceed amount of \$175,000.

Sponsors: Mary Ellen Leonard

Attachments: 1. Contract 18300157 Ambulance Billing Ren3

6.5. Presentation, discussion, and possible action regarding Change Order 3 in the amount of \$132,489 to the construction contract with CSA Construction, Inc. for the Lick Creek Wastewater Treatment Plant Expansion project.

Sponsors: Emily Fisher

Attachments: 1. Change Order 3

6.6. Presentation, discussion, and possible action regarding Change Order 1 in the amount of \$8,000 to the professional services contract with Jones & Carter, LLC. for the Sandy Point Pump Station Site Improvements Project.

Sponsors: Emily Fisher

Attachments: 1. Change Order #1_SPPS-Well#5 Fence
2. Map

6.7. Presentation, discussion, and possible action regarding a construction contract in the amount of \$112,200 with Norman Construction Services, LLC for the Castle Rock Sidewalk Project.

Sponsors: Emily Fisher

Attachments: 1. Contract on file with the City Secretary's Office
2. Project Location

6.8. Presentation, discussion, and possible action regarding approval of and ratifying an emergency repair contract in the amount of \$232,988 for the Barron Road 24" Water Line emergency repair performed by Elliott Construction, LLC.

Sponsors: Gary Mechler

Attachments: 1. Contract

6.9. Presentation, discussion, and possible action regarding an Interlocal Agreement Between the City of College Station and Rock Prairie Management District No. 2 relating to park facilities.

Sponsors: Aubrey Nettles

Attachments: 1. Interlocal Agreement (Park Use Operation and Maintenance) 3-15-2021

7. Regular Agenda

During the Regular agenda an individual may address the City Council on any Regular Agenda item including those items not posted for Public Hearing. For those items posted for a Public Hearing, if the City Council needs additional information from the general public after the Public Hearing is closed some limited comments may be allowed at the discretion of the Mayor.

- 7.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning an 843 square foot portion of a 10 foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas, and a 1,265 square foot portion of a 15-foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas, and described in the Easement recorded in Volume 305, Page 161.

Sponsors: Erika Bridges

- Attachments:**
1. Glade_Ordinance_3-17-21
 2. Ordinance Exhibit A
 3. Vicinity Map
 4. Location Maps
 5. Application

- 7.2. Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 1,295 square foot Easement lying between Lots 5 & 6, Block 9 of The Knoll Subdivision, according to the replat recorded in Volume 140, Page 458 of the Deed Records of Brazos County, Texas.

Sponsors: Erika Bridges

- Attachments:**
1. Orr_Ordinance_3-17-2021
 2. Ordinance Exhibit A
 3. Vicinity Map
 4. Location Map
 5. Application

- 7.3. Public hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from R Rural to GS General Suburban on approximately 5 acres of land located at 3006 Norton Lane.

Sponsors: Jesse Dimeolo

- Attachments:**
1. Ordinance
 2. Background Information
 3. Vicinity, Aerial, and Small Area Map
 4. Future Land Use Map
 5. Rezoning Map
 6. Rezoning Exhibit
 7. Applicant's Supporting Information

- 7.4. Presentation, discussion, and possible action regarding an ordinance consenting to and extending the Mayor's renewal of a disaster declaration due to public health emergency.

Sponsors: Jeff Capps

- Attachments:**
1. April 8 Disaster Declaration Ordinance Renewal

8. **Council Calendar - Council may discuss upcoming events.**

9. Discussion, review, and possible action regarding the following meetings:

Animal Shelter Board, Arts Council of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Economic Development Corporation, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMMA, BVWACS, Census Committee Group, Compensation and Benefits Committee, Experience Bryan-College Station, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Operation Restart, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Sister Cities Association, Spring Creek Local Government Corporation, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Walk with the Mayor, YMCA, Zoning Board of Adjustments. (Notice of Agendas posted on City Hall bulletin board.)

10. Presentation, discussion, and possible action on future agenda items and review of standing list of Council generated agenda items:

A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjourn.

The City council may adjourn into Executive Session to consider any item listed on the agenda if a matter is raised that is appropriate for Executive Session discussion.

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on April 1, 2021 at 5:00 p.m.



City Secretary

This building is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need accommodations, auxiliary aids, or services such as interpreters, readers, or large print are asked to contact the City Secretary's Office at (979) 764-3541, TDD at 1-800-735-2989, or email adaassistance@cstx.gov at least two business days prior to the meeting so that appropriate arrangements can be made. If the City does not receive notification at least two business days prior to the meeting, the City will make a reasonable attempt to provide the necessary accommodations.

Penal Code § 30.07. Trespass by License Holder with an Openly Carried Handgun.

"Pursuant to Section 30.07, Penal Code (Trespass by License Holder with an Openly Carried Handgun) A Person Licensed under Subchapter H, Chapter 411,

Government Code (Handgun Licensing Law), may not enter this Property with a Handgun that is Carried Openly."

Codigo Penal § 30.07. Traspasar Portando Armas de Mano al Aire Libre con Licencia.

"Conforme a la Seccion 30.07 del codigo penal (traspasar portando armas de mano al aire libre con licencia), personas con licencia bajo del Sub-Capitulo H, Capitulo 411, Codigo de Gobierno (Ley de licencias de arma de mano), no deben entrar a esta propiedad portando arma de mano al aire libre."

**April 8, 2021
Item No. 6.1.
Council Minutes**

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action of minutes for:

- March 22, 2021 Special Meeting
- March 25, 2021 Workshop Meeting
- March 25, 2021 Regular Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Approval

Summary: N/A

Budget & Financial Summary: None

Reviewed & Approved by Legal: No

Attachments:

1. SPW032221 DRAFT Minutes
2. WKSHP032521 DRAFT Minutes
3. RM032521 DRAFT Minutes

MINUTES OF THE CITY COUNCIL SPECIAL WORKSHOP MEETING
CITY OF COLLEGE STATION
MARCH 22, 2021

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Karl Mooney, Mayor

Council:

Bob Brick
John Crompton
Linda Harvell
Elizabeth Cunha
John Nichols
Dennis Maloney

City Staff:

Jeff Capps, Interim City Manager
Jeff Kersten, Assistant City Manager
Carla Robinson, City Attorney
Tanya Smith, City Secretary
Ian Whittenton, Deputy City Secretary

1. Call to Order and Announce a Quorum is Present

With a quorum present, the Special Workshop Meeting of the College Station City Council was called to order by Mayor Mooney at 4:04 p.m. on Monday, March 22, 2021 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. Special Workshop Agenda.

Items below were presented out of order.

2.1. Presentation, discussion, and possible action regarding an industry recruitment with the Brazos Valley Economic Development Corporation. (Presented 5th)

Matt Prochazka, Brazos Valley Economic Development President and CEO, stated that College Station Economic Development staff worked in conjunction with the Brazos Valley Economic Development Corporation to recruit businesses to launch, grow, and locate in College Station. Together the teams have successfully landed a variety of businesses in 2020 and continue to successfully recruit in 2021.

Project Steps

- Lead Generation
- Jurisdictions Informed of Company's Interest

- Available Location Identified in Consultation with Jurisdictions' Staffs
- Respond to RFP; Potential Incentives Offered
- Site Visits
- Finalist/Decision
- Incentives Finalized with Jurisdictions if Offered

Aubrey Nettles, Economic Development Assistant Director, explained that in this presentation, dives into our recruitment efforts, while reviewing 2020, taking an initial glance in 2021, and reviewing the Check Out College Station promotion efforts detailed below.

- Access to the Texas Market
 - ✓ More than 70% of Texas population resides within a 3-hour drive
- Educated Workforce
 - ✓ 62% of the population has a post-secondary degree
- Short Commute to Work
 - ✓ 15-minute travel time across College Station
- Research Collaboration
 - ✓ \$922 million invested annually in research at TAMU
- Elite School District
 - ✓ School district ranks tops 2% in Texas

2.2. Presentation, discussion, and possible action regarding city ordinance Chapter 6 Sec. 6-147 pertaining to the keeping of fowl within the city limits. *(Presented 1st)*

Billy Couch, Chief of Police, stated that Council requested information from staff pertaining to the keeping of fowl in the city limits of College Station. Keeping of a Fowl is allowed according to the following land use zoning: (R) Rural Zone; (WE) Wellborn Estate; and (E) Estate.

Keeping allowed with Permit

- Allowed in all single-family residential zones consistent with the land use regulations
- And, upon issuance of a permit
- And, by meeting other applicable regulations as set forth herein
- \$35 permit required annually
- Currently we have fifteen livestock/ Poultry permits on file in the City

Keeping Fowl in Enclosures

- Must prevent escape upon public streets, highways, alleys, right of way, or parkways of the city, or upon private property of others.
- Enclosure must be 100 feet from any dwelling other than owner's dwelling
- A deviation of the distance can be considered upon proper application before the zoning board of adjustment
- Roosters Prohibited

Quality of Life Considerations

- Predators brought into more densely populated areas
 - Snakes for eggs
 - Bobcat, Fox, Raccoons for chickens
 - Increased risk to area pets
- Potential for Noise/ Odor complaints
- Increased oversight and possible enforcement required

Staff Recommendation

- The ordinance intent is to keep chicken coops on parcels of land that are large enough to maintain them while not impacting the quality of life for those around them.
- Given the few current permits, the limited number of variance requests and inquiries for chicken coops, staff feels the current distances in our ordinance serve the city well.

Majority of Council directed staff to bring back language to move the minimum distance to 50 feet, with an annual review of permitting, and a maximum of 6 fowl.

2.3. Presentation, discussion, and possible action regarding Bee Creek drainage in the area of Brison Park and Dexter Drive. *(Presented 3rd)*

Donald Harmon, Public Works Director, stated that on November 23, 2020, Councilmember Maloney requested this presentation as a future agenda item on the drainage area of Brison Park and Dexter Drive. He reviewed the history of the area, evolution of drainage control and agreements, the existing drainage conditions in the area, and discussed options for drainage improvements.

2.4. Presentation, discussion and possible action on summer events and activities at Wolf Pen Creek. *(Presented 2nd)*

Barbara Moore, Assistant to the City Manager, stated that this item will discuss plans for events and activities at Wolf Pen Creek this summer and the remainder of the year. Both the Parks and Recreation Department and the Tourism Division are working to bring events and activities and Wolf Pen Creek and the city this summer and beyond.

Impacts of COVID

- Events at Wolf Pen Creek were greatly impacted by COVID, with all events planned after March 2020 being cancelled.
- The first events at Wolf Pen Creek since February 2020 were held earlier this month by several student organizations and Greek-Life groups.
- As of March 2021, 4 events have been held at Wolf Pen Creek, with the largest crowd having 750 attendees.
- Difficult to plan summer events with impacts of COVID unknown.

Mrs. Moore explained on possible improvements for a residential solar installation, there is already single-phase infrastructure in place serving the homes. In Wolf Pen Creek, there is only a three-phase loop serving the facilities and no single-phase infrastructure. To install infrastructure to tie solar to the electric system could be costly depending on the location and number of solar installations.

- Average panel is 18.5 square feet.
- Maximum peak output per panel is 350 watts (average ceiling fan used 75-100 watts).
- Output degrades by 0.5% to 1.0% per year.
- Solar panels are usually warranted for 20 to 25 years.
- Inverters warranted for 10 years.
- Installation and material cost: about \$1,000 per panel.
- Drainage
- Erosion control
- Excessive silting

- Flooding near the stage
- Army Corp of Engineers involvement with projects

At 5:07 p.m., the Mayor recessed the Special Workshop Meeting.

The Special Workshop Meeting reconvened at 5:35 p.m.

2.5. Presentation, discussion, and possible action on Resolution No. 03-22-21-2.5 regarding health and safety protocols in response to the COVID-19 pandemic. (Presented 4th)

Brian Piscacek, Assistant to the City Manager, stated that at the March 11, 2021, City Council meeting, Councilman Crompton requested a future agenda item on a resolution to encourage the reinstatement of the statewide mask mandate. With consensus among Council, staff was directed to bring back an item at the next Council meeting to discuss health and safety protocols in response to the continuing pandemic. Texas Governor Greg Abbott issued Executive Order GA-34 on March 2, 2021, and the order went into effect March 10, 2021. The order allows for businesses and other establishments to operate at 100% capacity, rescinds the statewide mask order (GA-29), and prevents local jurisdictions from penalizing failure to wear a face covering.

Mr. Piscacek presented elements of a draft resolution which included affirmation that the threats posed by COVID-19 continue and necessitate adherence to the mitigating protocols, such as wearing a face covering, maintaining proper social distance, and observing good hygiene practices. Also, that the resolution would include that in the interest of the health and public welfare of the College Station community, individuals are strongly encouraged to wear face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household.

At approximately 6:15 p.m., Mayor Mooney opened for Citizens Comments.

Daniel Cortes, College Station, stated that as a resident of College Station he was appalled to read in The Eagle that the city decided to have a presentation and discussion on trying to convince Governor Abbott to take away our freedom of choice again. Mr. Cortes stated that the science does not support wearing masks as a prevention measure. He believes that if you think a mask keeps you healthy, then you wear it, but you have no right to tell him what medical device he needs to wear when he leaves his home.

There being no comments, the Citizens Comments was closed at 6:20 p.m.

Councilmember Cunha left the meeting at 6:32 p.m.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Nichols the City Council voted six (6) for and none (0) opposed, to approve Resolution No. 03-22-21-2.5 regarding health and safety protocols in response to the COVID-19 pandemic. The motion carried unanimously.

3. Adjournment.

There being no further business, Mayor Mooney adjourned the Special Workshop Meeting of the College Station City Council at 7:06 p.m. on Monday, March 22, 2021.

Karl Mooney, Mayor

ATTEST:

Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL WORKSHOP
VIA TELECONFERENCE
CITY OF COLLEGE STATION
MARCH 25, 2021

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Karl Mooney, Mayor

Council:

Bob Brick
John Crompton
Linda Harvell
Elizabeth Cunha
John Nichols
Dennis Maloney

City Staff:

Jeff Capps, Interim City Manager
Jeff Kersten, Assistant City Manager
Carla Robinson, City Attorney
Tanya Smith, City Secretary
Ian Whittenton, 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 Mooney via Teleconference at 4:00 p.m. on Thursday, March 25, 2021, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. Executive Session

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.074-Personnel, §551.086-Competitive Matters, and §551.087-Economic Incentives Negotiations, the College Station City Council convened into Executive Session at 4:01 p.m. on March 11, 2021, in order to continue discussing matters pertaining to:

- A. Consultation with Attorney to seek advice regarding pending or contemplated litigation, to wit:
- Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas; and
 - McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas
 - City of College Station v. Gerry Saum, Individually, and as Independent Executrix of the Estate of Susan M. Wood, Deceased; Cause No. 17-002742-CV-361; In the 361st District Court, Brazos County, Texas

B. Consultation with attorney to receive legal advice; to wit:

- Legal advice regarding electric utility and Winter Storm Uri.
- Legal advice concerning resuming in-person council meetings.

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

- City Manager
- Council Self-Evaluation

E. Deliberation on a competitive matter as that term is defined in Gov't Code Section 552.133; to wit:

- Power Supply

C. Deliberation on an offer of financial or other incentives for a business prospect that the Council seeks to have locate, stay or expand in or near the City; to wit:

- Update on project Apollo Delphi in the Biocorridor

Executive Session recessed at 6:14 p.m.

3. Reconvene from Executive Session and take action, if any.

No vote or action was taken in Executive Session.

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

Items 3.3, 3.7, 3.9, and 3.11 were pulled from Consent for clarification.

(3.3): *Mary Ellen Leonard*, Finance Director, provided a brief overview of the contract structure and associated costs of reading both AMI Electric and manual water meters. This is a not-to-exceed contract with the contract being set at an estimated cost before AMI installation. Once the AMI Installation project has been completed for the Electric utility, the number monthly meter reads will be reduced by approximately 39%.

(3.7): *Steve Wright*, Parks and Recreation Director, stated that after requests by customers to allow multiple cremates per niche space in the columbarium, staff compiled research of practices in multiple municipal cemeteries. Findings stated that the "one cremates per niche" was not within the norm. At the February Parks & Recreation Board, staff recommended the following changes: Article II. Section 10-25 (g) - a maximum of two cremates shall be allowed per columbarium niche and also Section 2-117 - Municipal \$825 Single/\$1445 Double; and Field of Honor \$1650 Single/\$3000 Double.

(3.9): *Jason Schubert*, Planning and Development, stated that the proposed ordinance provides for no parking anytime on the north side of Louise Avenue between College Main Street and Second Street. The parking removal is needed to ensure the Fire Department has adequate fire access to the proposed high-rise project at the corner of College Main Street and Louise Avenue. On-street parking has already been removed on the south side of Louise Avenue in this area and this high-rise project will include parking for their project within their building, and the City's parking garage is located just south of the proposed high-rise.

(3.11): *Mary Ellen Leonard*, Finance Director, stated that the Fiscal and Budgetary Policies are reviewed and adopted by City Council annually with each Approved Annual Budget. As a result

of Winter Storm Uri in February 2021, staff recommended two interim revisions to the Fiscal and Budgetary Policies of the City.

- Section 15.5 Short Term Obligations has been added regarding Debt Management. The existing policy did not address this type of financing. Minor wording changes to the proceeding paragraphs were also made to address this type of financing.
- A paragraph was added to Section 17.2 Enterprise Funds for the establishment of Risk Mitigation Funds in order to reduce rate, delivery, and other service risks in the event of an emergency.

5. Workshop Agenda

5.1 Presentation, discussion, and possible action relating to receiving the annual audit reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2020.

Michael Dehaven, Assistant Finance Director, stated that the City's budgetary policies require that the auditor jointly review the management letter and audit results with the Council within 30 days of receipt by staff.

Shekita Rawls, BKD LLP, presented reports related to the annual audit reports and the 2020 CAFR, which the status of FY20 findings there was no matters reportable.

Results of the Audit

- Unmodified "clean" opinion
- No scope limitations
- No unresolved audit issues
- Open and effective communication with management

Results of Federal Single Audit

Federal Program

- Report on internal control over financial reporting
- Unmodified opinion on compliance
- No findings

Audit Adjustment Recorded and Unrecorded

Recorded Audit Adjustment

- Recognize revenue in fiscal year 2020 in government-wide financial statements.

Unrecorded Proposed Audit Adjustments

- Adjust deferred inflow of resources and beginning fund balance in the General Fund.
- Eliminate interfund receivable/payable reported in the General Fund.

Ms. Rawls went on to explain that the audit resulted in the Financial Statement Opinion and the Internal Control over Financial Reporting and on Compliance and Other Matters being “unmodified,” providing the highest level of assurance that the City’s financial statements are properly stated, and all material grant requirements have been complied with. Staff did a great job in the work performed and working with the outside Auditor preparing the financial statements.

MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to accept the annual audit

reports and Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2020. The motion carried unanimously.

5.3 Presentation, discussion, and possible action relating to potential changes to the Park Land Dedication section of the Unified Development Ordinance, including 1) the number of zones, 2) the distinction between parks, and 3) a timeline for the review of fees.

Michael Ostrowski, Director of Planning and Development, stated that the Council requested staff to bring forward three potential amendments to the existing Park Land Dedication section of the Unified Development Ordinance for the Council's consideration.

Ordinance Overview

Unified Development Ordinance, Sec. 8.8

- Requires dedication of land or a fee-in-lieu, along with a development fee
 - BOTH neighborhood parks (16 zones) and community parks (2 zones)
- Funds can only be spent within zone
- Funds must be spent within 10 years

Steve Wright, Parks and Recreation Director, provided an overview of the park land dedication requirements for the city, as well as provide options relating to the three potential amendments.

These amendments included:

- Reduce the number of park zones.
- Combine the Neighborhood Park and Community Park distinctions to create just one category, Parks.
- Require the review of the fee-in-lieu and improvement fee elements of the ordinance annually.

Through reducing the number of park zones, it will allow park land dedication fees to be used on projects that may be of higher priority for the greater area but are currently restricted. By providing a standard review of the fees it will help ensure that the appropriate costs relating to the acquisition and construction of parks facilities are being collected.

A majority of Council directed staff to move forward as presented with reduced park zones based on criteria, eliminate distinctions of parks, and standard review of fees every 3-5 years.

6. Council Calendar

Council reviewed the calendar.

7. Discussion, review, and possible action regarding the following meetings: Animal Shelter Board, Arts Council of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Economic Development Corporation, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWM, BVWACS, Census Committee Group, Compensation and Benefits Committee, Comprehensive Plan Evaluation Committee, Experience Bryan-College Station, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Operation Restart, Parks and Recreation Board, Planning and Zoning Commission, Research Valley

Technology Council, Regional Transportation Committee for Council of Governments, Sister Cities Association, Spring Creek Local Government Corporation, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Walk with the Mayor, YMCA, Zoning Board of Adjustments, (Notice of Agendas posted on City Hall bulletin board.)

Councilmember Nichols reported on Health Board.

Councilmember Cunha reported on the BPG, Transportation Committee, Community Block Grant, Audit Committee, Chamber Transportation, Library Board and Chamber Day.

Mayor Mooney reported on the Audit Committee, YMCA, Intergovernmental Committee, and the Gulf Coast Strategic Highway Coalition.

8. Adjournment

There being no further business, Mayor Mooney adjourned the Workshop of the College Station City Council at 8:19 p.m. on Thursday, March 25, 2021.

Karl Mooney, Mayor

ATTEST:

Tanya Smith, City Secretary

MINUTES OF THE REGULAR CITY COUNCIL MEETING
VIA TELECONFERENCE
CITY OF COLLEGE STATION
MARCH 25, 2021

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Karl Mooney, Mayor

Council:

Bob Brick
John Crompton
Linda Harvell
Elizabeth Cunha
John Nichols
Dennis Maloney

City Staff:

Jeff Capps, Interim City Manager
Jeff Kersten, Assistant City Manager
Carla Robinson, City Attorney
Tanya Smith, City Secretary
Ian Whittenton, Deputy City Secretary

1. Call to Order and Announce a Quorum is Present and Pledge of Allegiance, Invocation, consider absence request.

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Mooney via Teleconference at 8:26 p.m. on Thursday, March 25, 2021, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. Hear Visitors Comments

No citizens comments at this time.

3. CONSENT AGENDA

3.1. Presentation, possible action, and discussion of minutes for:

- **March 11, 2021 Workshop Meeting**
- **March 11, 2021 Regular Meeting**

3.2. Presentation, discussion, and possible action regarding a renewal of an Annual Price Agreement for the Dielectric Testing of Electric Utility vehicles, tools, and Personal Protective

Equipment (PPE), to Titan Utility Services. The total recommended award is for an amount not to exceed \$132,052.

3.3 Presentation, discussion, and possible action for the award of a contract for Electric and Water Meter Reading Services to Alexander's Contract Services, Inc. in the amount not to exceed \$448,068.58 for one year, with the option to renew two (2) one-year contract renewals.

3.4 Presentation, discussion, and possible action on approving annual water meter purchases from Aqua Metric Sales Company through the Houston-Galveston Area Council (HGAC) contract (#WM09-20). Based on the attached contract unit pricing, the estimated annual expenditure for water meters is: \$174,427.77.

3.5 Presentation, discussion, and possible action on contract renewal 1 for the annual price agreement of Electric Single-Phase Transformers, which will be maintained in electrical inventory and expended as needed. The total recommended award is for Three Hundred Fifty-Eight Thousand, Seven Hundred Seventy dollars and zero cents (\$358,770.00) for the purchase of Electric Single-Phase Transformers from KBS Electric Distribution.

3.6 Presentation, discussion, and possible action regarding the appointment of a representative to the Keep Brazos Beautiful Board.

3.7 Presentation, discussion, and possible action related to Ordinance No. 2021-4247 amending Chapter 10, "Cemeteries," Article II, "City Owned or Maintained Cemeteries," section 10-25, "Purchase Options," of the Code of Ordinances of the City of College Station regarding number of cremates per niche.

3.8 Presentation, discussion, and possible action regarding the rejection of bids and cancelation of bid 20-031 for the Three Phase Transformer for Switch Substation.

3.9 Presentation, discussion, and possible action regarding Ordinance No. 2021-4248 amending Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking Any Time," by removing parking on the north side of Louise Avenue between College Main Street and Second Street.

3.10 Presentation, discussion, and possible action regarding an Interlocal Agreement Between the City of College Station and Rock Prairie Management District No. 2 relating to park facilities.

3.11 Presentation, discussion, and possible action regarding revisions of section 15 Debt Management and section 17 Operating Reserves/Fund Balances of the FY21 Fiscal and Budgetary Policy Statement.

Consent Agenda Item 3.10 pulled to a future meeting.

MOTION: Upon a motion made by Councilmember Harvell and a second by Councilmember Brick the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda, with the exception of Consent Item 3.10. The motion carried unanimously.

4. REGULAR AGENDA

4.1 Public Hearing, presentation, discussion, and possible action on Ordinance No. 2021- 4249 Budget Amendment 2 amending Ordinance No. 2020-4206 which will amend the budget for the 2020-2021 Fiscal Year in the amount of \$1,264,249.

Mary Ellen Leonard, Finance Director, stated that the proposed budget amendment is to increase the FY21 budget appropriations by \$1,264,249 primarily as a result of \$822,000 of grant funds received under the Community Development Block Grant COVID-19 Relief Funds.

Proposed budget amendment:

- PD Hostage Negotiation Vehicle - \$200,000 (Budget Amendment & Interfund Transfer)
- Boyett Street Closure -- \$110,000 (Budget Amendment)
- Wastewater Truck Replacement Cost - \$42,000 (Budget Amendment)
- Community Development Block Grant-CV Funds -- \$822,034 (Budget Amendment)
- Parkland Dedication CIP - \$71,040 (Budget Amendment)
- Prior Year Copier Replacements - \$19,175 (Budget Amendment)
- Water/Wastewater Contingency CIP Transfer - \$225,000 (Interfund Transfer)

Mrs. Leonard explained that the charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover expenditures and after holding a public hearing on such budget amendment. This amendment also includes two Interfund transfers totaling \$425,000 that have no overall budget impact. If approved, the net revised budget appropriations will be \$316,984,759.

At approximately 8:35 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:35 p.m.

MOTION: Upon a motion made by Councilmember Brick and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4249, Budget Amendment No. 2 amending Ordinance No. 2020-4206, which amends the budget for the 2020-2021 Fiscal Year in the amount of \$1,264,249. The motion carried unanimously.

4.2 Public Hearing, presentation, discussion, and possible action approving Ordinance No. 2021-4250 vacating and abandoning a 0.0740-acre portion of a 10-foot Public Utility Easement, said portion lying along the western property line of Lot 12, Block 10 of the Carter Lake Subdivision, Section 5, according to the plat recorded in Volume 3250, Page 271, of the Official Records of Brazos County, Texas.

Debbie Stickles, Planning and Development, stated that the public utility easement abandonment is being requested by the applicant to accommodate future development of the lot. This originally platted easement is no longer needed in this location as the lot line will be shifting with a pending tract replat, and no utilities or thoroughfares require this portion of the easement. Ms. Stickles explained that the 0.0740-acre public utility easement is located along the western property line of Lot 12, Block 10 of the Carter Lake Subdivision, Phase 5 according to the plat recorded in Volume 3250, Page 271, of the Deed Records of Brazos County, Texas.

At approximately 8:38 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:38 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Nichols, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4250, vacating and abandoning a 0.0740-acre portion of a 10-foot Public Utility Easement, said portion lying along the western property line of Lot 12, Block 10 of the Carter Lake Subdivision, Section 5, according to the plat recorded in Volume 3250, Page 271, of the Official Records of Brazos County, Texas. The motion carried unanimously.

4.3 Public Hearing, presentation, discussion, and possible action approving Ordinance No. 2021-4251 vacating and abandoning a 0.138-acre portion of a 10-foot Public Utility Easement, said portion lying along the east property line of Common Area 1, Block 1 of the Traditions Subdivision, Phase 101, according to the plat recorded in Volume 13623, Page 53, of the Official Records of Brazos County, Texas.

Anthony Armstrong, Planning and Development, stated that the public utility easement abandonment is being requested by the applicant as a result of a desired change in the lot layout in this area. This originally platted easement is no longer needed in this location as the lot line will be shifted to better match the constructed detention pond in this area and provide more developable space to the adjacent property. Mr. Armstrong explained that the 0.138-acre public utility easement is located south of the current terminus of South Traditions Drive.

At approximately 8:40 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:40 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Nichols, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4251, vacating and abandoning a 0.138-acre portion of a 10-foot Public Utility Easement, said portion lying along the east property line of Common Area 1, Block 1 of the Traditions Subdivision, Phase 101, according to the plat recorded in Volume 13623, Page 53, of the Official Records of Brazos County, Texas. The motion carried unanimously.

4.4 Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2021-4252 amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to E Estate and NAP Natural Areas Protected on approximately 57 acres of land located at 9500 Rock Prairie Road.

Rachel Lazo, Planning and Development, stated that this request is to rezone approximately 57 acres of land located east of the intersection at Rock Prairie Road and William D. Fitch. The subject property currently has an operating oil and gas well on site and is a planned expansion of the existing Williams Creek Reserve Subdivision. The condition proposed will ensure any future residential development will provide adequate spacing from the wellsite. The subject property generally drains to the northeast within the Carter's Creek drainage basin and contains FEMA Special Flood Hazard Area (SFHA). Drainage improvements and other public infrastructure required with site development shall be designed and constructed in accordance with the B/CS Unified Design Guidelines. The applicant states that the marketability of the tract is limited with the existing R Rural zoning as a low

number of lots could be created that do not support the cost of the required infrastructure. Should the rezoning request be approved, it is anticipated to increase the marketability of the property.

The Planning & Zoning Commission heard this item at their March 4, 2021 regular meeting where they unanimously voted to recommend approval with the following condition: The development of Williams Creek Reserve located on 57 acres on Rock Prairie Road will be limited by the existing McCullough-McCollough Unit 1 oil and gas well located on the property. No residential lots will be located within 300' of the wellhead per International Fire Code requirements or within the Acceptable Separation Distance for Thermal Radiation for People (ASDPNPD) of 483 feet from the 73" x 20' Heater Treater located at the wellsite. This distance was calculated using the Acceptable Separation Distance Assessment Tool provided by the U.S Department of Housing and Urban Development. Staff also recommends approval of the rezoning.

At approximately 8:43 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:43 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4252, amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to E Estate and NAP Natural Areas Protected on approximately 57 acres of land located at 9500 Rock Prairie Road. The motion carried unanimously.

4.5 Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2021-4253 amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural and CI Commercial Industrial to BP Business Park on approximately 10 acres of land located at 4520 Raymond Stotzer Parkway.

Rachel Lazo, Planning and Development, stated that the applicant is requesting to rezone the subject property from R Rural and CI Commercial Industrial to BP Business Park. The property is on the periphery of the BioCorridor, it's the first step towards developing the subject tract and the adjacent parcel to the north as part of a planned campus development. There is an existing Wellborn water line along Raymond Stotzer Frontage Road. There is a City of College Station Water Master Plan line along the north of the subject property that will be extended with platting. The sanitary service for this property will be provided by the City of Bryan and is located along the north property line. Drainage and other public infrastructure required with site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. Existing infrastructure appears to be adequate for the proposed use at this time.

The Planning & Zoning Commission heard this item at their March 4, 2021 regular meeting where they unanimously voted to recommend approval. Staff recommends approval of the rezoning.

At approximately 8:45 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:45 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Brick, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4253, amending Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural and CI Commercial Industrial to BP Business Park on approximately 10 acres of land located at 4520 Raymond Stotzer Parkway. The motion carried unanimously.

4.6 Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2021-4254 amending Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from M-2 Heavy Industrial to CI Commercial Industrial on approximately 2.6 acres of land located at 777 Graham Road.

Rachel Lazo, Planning and Development, stated that this request is to rezone approximately 2.6 acres of land located near the intersection of Graham Road and Victoria Avenue from M-2 Heavy Industrial to CI Commercial Industrial. The subject property was platted, and site planned in 2019 for a business park development. This request is also in effort to provide a similar product while offering a wider spectrum of uses. The proposed zoning allows for industrial and commercial uses, which is compatible with the development on adjacent properties. Given the property’s close proximity to multiple existing industrial uses and a commercial office, the planned business park and any additional commercial uses would be easily incorporated with the existing developments. While this area was zoned M-2 Heavy Industrial about 30 years ago, it has developed with uses less intense than allowed by zoning. The CI Commercial Industrial zoning will increase the number of commercial uses permitted on the property, which would be comparable with existing adjacent uses and allow it to be more compatible with the residential uses in the area. The property can be marketed under the current zoning which allows for intense industrial uses. However, the applicant is proposing to incorporate additional commercial uses, and this is anticipated to increase the marketability of the property.

The Planning & Zoning Commission heard this item at their March 18, 2021 regular meeting where they unanimously voted to recommend approval. Staff recommends approval of the rezoning.

At approximately 8:48 p.m., Mayor Mooney opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:48 p.m.

MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2021-4254, amending Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from M-2 Heavy Industrial to CI Commercial Industrial on approximately 2.6 acres of land located at 777 Graham Road. The motion carried unanimously.

4.7 Presentation, discussion, and possible action regarding a professional services contract with Binkley & Barfield in the amount of \$646,642.50 for the Design of James Parkway and Puryear Drive Rehabilitation and Design of Mabel Clare Thomas Park Improvements and Resolution No. 03-25-21-4.7 declaring intention to reimburse certain expenditures with proceeds from

debt.

Emily Fisher, Assistant Director of Public Works, stated that this project includes the rehabilitation of James Parkway and Puryear Drive from Francis Dr. south to Kyle Street. It includes design of concrete curb, gutter streets while protecting the existing trees in the area, and utility infrastructure will be replaced where necessary within the project limits. Drainage improvements are included along the streets and throughout the park. A phased park improvement plan for the south side of Thomas Park will also be part of this design contract with assistance from landscape architects, an arborist and public engagement consultants. A combined budget in the amount of \$1,366,000 is currently appropriated in the Streets and Parks Capital Improvement Projects Funds. A combined total of \$137,307 has been expended or committed to date, leaving a combined balance of \$1,228,693 for this contract and related expenditures.

At approximately 9:10 p.m., Mayor Mooney opened for Citizens Comments.

Diane Davis, College Station, came before Council regarding two concerns that she has: she does not want to see the design firm go back to square one and start all over again gathering citizen opinions; and she was told that there would be a public media relations firm that is part of this process that would be dealing with the concerned citizens. The second part makes her feel that the concerned citizens are being “handled”; and not involved in the design process. Ms. Davis also stated that we do not need to start over with public engagement because her group and city staff have been working on this project.

There being no comments, the Citizens Comments was closed at 9:12 p.m.

MOTION: Upon a motion made by Mayor Mooney and a second by Councilmember Nichols, the City Council voted seven (7) for and none (0) opposed, to approve a professional services contract with Binkley & Barfield in the amount of \$646,642.50 for the Design of James Parkway and Puryear Drive Rehabilitation and Design of Mabel Clare Thomas Park Improvements and Resolution No. 03-25-21-4.7 declaring intention to reimburse certain expenditures with proceeds from debt, and authorizing the City Manager and Project Manager to manage the public engagement portion of this contract. The motion carried unanimously.

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

Councilmember Maloney requested an item from Public Communication about opportunities to provide accurate information to the public on the landmarks and geographic features of the city.

6. Adjournment.

There being no further business, Mayor Mooney adjourned the Regular Meeting of the City Council at 9:32 p.m. on Thursday, March 25, 2021.

Karl Mooney, Mayor

ATTEST:

Tanya Smith, City Secretary

April 8, 2021

Item No. 6.2.

Resolution by the City Council of the City of College Station, Texas, directing publication of notice of intention to issue certificates of obligation, series 2021; and providing an effective date.

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action to approve a resolution by the City Council of the City of College Station, Texas, directing publication of notice of intention to issue certificates of obligation, series 2021; and providing an effective date.

Relationship to Strategic Goals:

Good Governance

Financial Sustainability

Core Services & Infrastructure

Improving Mobility

Sustainable City

Recommendation(s): Staff recommends Council approve the attached resolution directing publication of notice of the intention to issue certificates of obligation.

Summary: The City Council is authorized to approve the issuance of certificates of obligation (COs) after approving a resolution directing notices to be published of the intent to issue the COs.

The City of College Station typically issues debt to fund various capital projects identified and approved as a part of the annual budget.

Certificates of Obligation (COs) are based on the full faith and credit of the City and are paid primarily through the debt service portion of the ad valorem tax rate. Certificates of Obligation must include at least one additional revenue stream besides the debt service portion of the tax rate (such as utility revenues). The City's policy for issuing Certificates of Obligation allows more flexibility than issuing General Obligation Bonds, particularly since other revenues are anticipated to assist in debt service.

The City's Financial Advisor and Bond Counsel recommend that the City issue Certificate of Obligations for utility projects instead of Utility Revenue Bonds (URBs); the pledge of the City's ad valorem tax base is a stronger credit than utility revenues and thus lowers the cost of borrowing. This has been the practice of the City since 2008. The Utility systems will cover their associated portion of debt service through utility revenues.

The Certificates will be used to fund street, parks, public facilities, technology, water and wastewater projects, and pay debt issuance costs. The maximum amount of Certificates of Obligation

indebtedness that may be authorized to be sold is \$62,443,000.

At the May 13th meeting, the City Council will consider approval of the sale parameters for the Certificates of Obligation Bonds, appoint a Paying Agent/Registrar, appoint Underwriters, adopt Bond Ordinances and authorized the preparation of the Official Statements for the Certificates of Obligations. If the City is not prepared to issue the Certificates of Obligation at the May 13th meeting, the City Council may postpone adoption of the ordinance for up to ninety days from May 13th.

Budget & Financial Summary: Staff reviewed the impact of the Certificates on the City's ability to meet debt service requirements and the effect they may have on the ad valorem tax rate. The recommendation is to move forward with this issuance. The impact on the tax rate and utility rates will be reviewed annually as part of the financial forecast and budget preparation.

Reviewed & Approved by Legal: No

Attachments:

1. Notice Resolution 03.22.21

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS
COUNTY OF BRAZOS
CITY OF COLLEGE STATION

We, the undersigned officers of the City of College Station, Texas (the "City"), hereby certify as follows:

1. The City Council of the City convened in a regular meeting on April 8, 2021 at the designated meeting place, and the roll was called of the duly constituted officers and members of this City Council, to wit:

Karl Mooney, Mayor
Bob Brick, Place 1 Councilman
John Crompton, Place 2 Councilman
Linda Harvell, Place 3 Councilwoman
Elizabeth Cunha, Place 4 Councilwoman
John Nichols, Place 5 Councilman
Dennis Maloney, Place 6 Councilman

and all of the persons were present except _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the meeting: a written

A RESOLUTION DIRECTING PUBLICATION OF NOTICE OF
INTENTION TO ISSUE CERTIFICATES OF OBLIGATION,
SERIES 2021; AND PROVIDING AN EFFECTIVE DATE.

was duly introduced for the consideration of this City Council. It was then duly moved and seconded that this Resolution; and, after due discussion, the motion prevailed and carried by the following vote:

AYES: _____ NOES: _____

2. That a true, full and correct copy of the aforesaid Resolution described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said Meeting pertaining to the passage of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED ON APRIL 8, 2021.

Tanya D. Smith
City Secretary

Karl Mooney
Mayor

(City Seal)

RESOLUTION NO. _____

A RESOLUTION DIRECTING PUBLICATION OF NOTICE OF INTENTION
TO ISSUE CERTIFICATES OF OBLIGATION, SERIES 2021; AND
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of College Station (the "City") expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described in "Exhibit A" to this Resolution prior to the issuance of the Certificates of Obligation hereinafter described; and

WHEREAS, the City Council hereby finds, considers and declares that the reimbursement of the payment by the City of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the U.S. Treasury Regulations, to reimburse itself for such payments at such time as it issues the hereinafter described Certificates of Obligation; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was considered was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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

Section 1. That attached hereto and marked "Exhibit A" is a form of notice (the "Notice"), the form and substance of which are hereby passed and approved.

Section 2. That the City Secretary shall cause the Notice to be published, in the form attached hereto, in the "*Bryan-College Station Eagle*", a newspaper of general circulation in the City, for two consecutive weeks, the date of the first publication to be before the 45th day before the day tentatively proposed for authorizing the issuance of the Certificates of Obligation as shown in the Notice. Additionally, the Notice shall be posted continuously on the City's website for at least forty-five days before the date tentatively set for final passage of the ordinance or ordinances authorizing the issuance of the Certificates of Obligation.

Section 3. That the facilities and improvements to be financed with proceeds from the proposed Certificates of Obligation are to be used for the purposes described in "Exhibit A" hereto.

Section 4. That all costs to be reimbursed pursuant to this Resolution will be capital expenditures; the proposed Certificates of Obligation shall be issued within 18 months of the later of (i) the date the expenditures are paid or (ii) the date on which the property, with respect to which such expenditures were made, is placed in service; and the foregoing notwithstanding, the Certificates of Obligation will not be issued pursuant to this Resolution on a date that is more than three years after the date any expenditure which is to be reimbursed is paid.

Section 5. That this Resolution shall be effective immediately upon passage and adoption.

PASSED AND APPROVED ON APRIL 8, 2021.

Karl Mooney, Mayor

ATTEST:

Tanya D. Smith, City Secretary

(City Seal)

APPROVED:



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

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

The City Council of the City of College Station will consider the passage of an ordinance or ordinances authorizing the issuance of one or more series of interest bearing certificates of obligation (the "Certificates") in the principal amount not to exceed \$62,443,000 for paying all or a portion of the City's contractual obligations to be incurred in connection with constructing, improving, acquiring and equipping the following projects: (i) streets and roads including related drainage, landscaping, signalization, lighting, pedestrian improvements and signage related thereto; (ii) information technology and communication equipment; (iii) equipment maintenance facility and fleet vehicles; (iv) improvements and extensions to the City's combined waterworks, sewer and electric systems including distribution, transmission, system lines, lift stations, metering, wells, plant improvements, and acquisition of interests in land for such purposes; and (v) the payment of fiscal, engineering and legal fees incurred in connection therewith.

The City proposes to provide for the payment of such Certificates from the levy and collection of ad valorem taxes in the City as provided by law, and from a limited pledge (not to exceed \$1,000) of the surplus revenues of the City's waterworks, sewer and electric systems, remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding), which are payable from all or any part of the net revenues of the City's waterworks, sewer and electric systems. The Certificates are to be issued, and this notice is given, under and pursuant to the provisions of Texas Local Government Code, Chapter 271, Subchapter C.

The City Council tentatively proposes to adopt the ordinance(s) authorizing the Certificates at a meeting to be held at 7:00 P.M. on June 10, 2021 to be held at City Hall, 1101 Texas Avenue, College Station, TX 77840. The ordinance(s) may authorize an authorized officer of the City to effect the sale and delivery of the Certificates on a date or dates subsequent to the adoption of the ordinance(s).

The following information is provided to comply with Tex. H.B. 477, 86 Leg., R.S. (2019). The current principal of all outstanding debt obligations of the City is \$172,266,200. The current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full, is \$223,355,242. The maximum principal amount of the Certificates to be authorized is \$62,443,000 and the estimated combined principal and interest required to pay the Certificates to be authorized on time and in full is \$79,330,230. The maximum interest rate for the Certificates may not exceed the maximum legal interest rate. The maximum maturity date of the Certificates to be authorized is February 15, 2041. The above information excludes \$164,503,800 in principal amount of the following obligations the City has designated as self-supporting and which the City reasonably expects to pay from revenue sources other than ad valorem taxes: General Obligation Refunding Bonds, Series 2010; General Obligation Improvement and Refunding Bonds, Series 2013; General Obligation Improvement and Refunding Bonds, Series 2014; General Obligation Improvement and Refunding Bonds, Series 2016; General Obligation Improvement and Refunding Bonds, Series 2017; General Obligation Refunding Bonds, Series 2020 and Series 2020A and Certificates of Obligation Series 2013, Series 2014, Series 2016, Series 2017, Series 2018, Series 2019 and Series 2020. In the event these self-supporting revenue sources are insufficient to pay debt service, the City is obligated to levy ad valorem taxes to pay such debt obligations. Information regarding the self-supporting debt and all other debt of the City may be obtained by contacting the Director of Fiscal Services at 1101 Texas Avenue, College Station, TX 77840 and by phone at 979-764-3645.

CITY OF COLLEGE STATION, TEXAS

April 8, 2021

Item No. 6.3.

Fiscal Year FY21 funding of \$1,629,793 for retirement obligations.

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the fiscal year FY21 funding of \$1,629,793 for retirement obligations.

Relationship to Strategic Goals:

- Financial Sustainability
- Good Governance

Recommendation(s): Staff recommends approval of the funding authorization to the Public Agency Retirement Services (PARS) OPEB Trust and TMRS in the combined amount of \$1,629,793 for FY21.

Summary: On September 11, 2017, City Council authorized the establishment an Other Post-Employment Benefits Obligation (OPEB) Trust administered by Phase II Systems dba Public Agency Retirement Services (PARS) as part of a plan to proactively address the unfunded liability obligation related to providing healthcare to employees upon retirement.

Based on the most recent actuarial report, the funding of the OPEB obligation should should be substantially reduced for FY 21. As part of the continued obligation funding strategy retirement obligations to TMRS will be funded once the OPEB obligation is substantially reduced.

Budget & Financial Summary: The FY21 approved budget includes \$1,629,793 for Funds for OPEB Trust contributions from the Employee Benefit Fund.

Reviewed & Approved by Legal: No

Attachments:

None

April 8, 2021

Item No. 6.4.

Renewing a General Service Contract with Emergicon, LLC to provide ambulance billing, accounts receivable and delinquent account collection services for an annual not-to-exceed amount of \$175,000.

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on renewing a General Service Contract with Emergicon, LLC providing ambulance billing, accounts receivable and delinquent account collection services for an annual not-to-exceed amount of \$175,000.

Relationship to Strategic Goals:

Good Governance

Financial Sustainability

Recommendation(s): Staff respectfully recommends approval to renew the General Service Contract with Emergicon, LLC.

Summary: Ambulance billing is unique and tedious in that it requires specialized knowledge and training in order to accurately code transports for billing, and it requires a tremendous amount of follow-up work with Medicare, Medicaid and private insurance companies after bills are processed. Over the past three years, Emergicon, LLC has successfully performed the services referenced herein and has annually collected an average of \$2,058,084.51 for the City. This is the third of four (4) possible renewals and is for the period of April 13, 2021, through April 12, 2022.

In December 2017, Purchasing staff formally solicited proposals for automated ambulance billing, accounts receivable and delinquent account collection services. Nine (9) responses were received and evaluated by a committee made up of Fire and Accounting personnel. Upon final evaluation and scoring of all proposals, Emergicon, LLC was considered the highest-ranking firm. City Council approved the contract on April 12, 2018.

Budget & Financial Summary: Funds are available in the General Fund, Fiscal Services, Accounting Division. The fee to be charged for ambulance billing, accounts receivable and collection services is 5% of all dollars collected.

Reviewed & Approved by Legal: No

Attachments:

1. Contract 18300157 Ambulance Billing Ren3



CITY OF COLLEGE STATION
Home of Texas A&M University®

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 18300157R3 PROJECT#: N/A BID/RFP/RFQ#: 18-028

Project Name / Contract Description: Automated Ambulance Billing, Accounts Receivable and Delinquent Account Collection Services

Name of Contractor: Emergicon, L.L.C.

CONTRACT TOTAL VALUE: \$ 175,000.00 **Grant Funded** ☐ Yes ☒ No
If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☒ N/A **Davis Bacon Wages Used** ☐ Yes ☐ No ☒ N/A
Section 3 Plan Incl. ☐ Yes ☐ No ☒ N/A **Buy America Required** ☐ Yes ☐ No ☒ N/A
Transparency Report ☐ Yes ☐ No ☒ N/A

☐ **NEW CONTRACT** ☒ **RENEWAL #** 3 ☐ **CHANGE ORDER #** ☐ **OTHER**

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)
Funds are available in the General Fund, Fiscal Services, Accounting Division. Nine (9) proposals were received in response to RFP 18- 028.
This is the third of four (4) possible renewals available.

CRC Approval Date*: N/A *(If required)** **Council Approval Date*:** 04/08/21 **Agenda Item No*:**

--Section to be completed by Risk, Purchasing or City Secretary's Office Only--

Insurance Certificates: **Performance Bond:** N/A **Payment Bond:** N/A **Info Tech:** N/A

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

DATE

LEGAL DEPARTMENT

DATE

ASST CITY MGR – CFO

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

N/A

MAYOR (if applicable)

DATE

N/A

N/A

CITY SECRETARY (if applicable)

DATE

___ Original(s) sent to CSO on ___

Scanned into Laserfiche on ___

___ Original(s) sent to Fiscal on ___



March 5, 2021

ATTN:
Christopher Turner
Emergicon, LLC
709 W. Broad St., Ste. 100
Foeney, TX 75126

RE: Renewal 3 – Contract 18300157 (RFP 18-028)
Automated Ambulance Billing, Accounts Receivable and Delinquent Account Collection
Services

Dear Mr. Turner,

The City of College Station appreciates the services provided by Emergicon, LLC this past year. We would like to exercise our option to renew the above referenced agreement for the term of April 13, 2021 through April 12, 2022.

If this meets with your company's approval, please confirm your acceptance by return email. With your acceptance, we will begin the execution of this renewal.

Sincerely,

Josie Urrutia, CPPB
Buyer

Attachment

PO Box 9960
1101 Texas Avenue
College Station, TX 77842

www.cstx.gov

RENEWAL 3 ACCEPTANCE

By signing herewith, I acknowledge and agree to renew Contract 18300157 for Automated Ambulance Billing, Accounts Receivable and Delinquent Account Collection Services, in accordance with all terms and conditions previously agreed to and accepted for an amount not to exceed One Hundred Seventy-Five Thousand and No/100 Dollars (\$175,000.00).

I understand this renewal term will be for the period beginning April 13, 2021 through April 12, 2022. This is the third of four (4) possible renewals.

Emergicon, LLC

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

City of College Station

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Asst. City Manager/ CFO
Date: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/15/2021

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 have **ADDITIONAL INSURED** provisions or 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 Swingle, Collins & Associates 13760 Noel Road, Suite 600 Dallas TX 75240	CONTACT NAME: PHONE (A/C, No, Ext): 972-387-3000 E-MAIL ADDRESS: services@swinglecollins.com	FAX (A/C, No): 972-387-3808
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Allmerica Financial Benefit		41840
INSURER B : Hanover Casualty Company		41602
INSURER C : The Hanover American Ins Co		36064
INSURER D : Travelers Casualty & Surety Company		19038
INSURER E : Hanover Insurance Company		22292
INSURER F :		

COVERAGES**CERTIFICATE NUMBER:** 1409567206**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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		OLD-D387712-03	9/28/2020	9/28/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			AWD-D954201-02	9/28/2020	9/28/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			OLD-D387712-03	9/28/2020	9/28/2021	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	WZD-D387654-03	9/28/2020	9/28/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
D E	Cyber Liability Error and Omissions Error and Omissions			106809181 LHD-D387001-03	9/28/2020 9/28/2020	9/28/2021 9/28/2021	AGGREGATE LIMIT 1,000,000 EACH OCCURRENCE 2,000,000 AGGREGATE LIMIT 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is included as Additional Insured as respects General & Auto Liability as required by written contract. 30 days notice of cancellation endorsement is added to General and Auto Liability Policy except *10 days notice for non-payment of premium. Waiver of Subrogation applies as respects Workers Compensation as required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of College Station-Risk Management
P.O. Box 9960
1101 Texas Avenue
College Station TX 77842

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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April 8, 2021
Item No. 6.5.
LCWWTP Expansion Change Order 3

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding Change Order 3 in the amount of \$132,489 to the construction contract with CSA Construction, Inc. for the Lick Creek Wastewater Treatment Plant Expansion project.

Relationship to Strategic Goals:

1. Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: This change order adds work to widen a section of the Raccoon Run trail heading south, away from the plant. This section of trail was taken out of service by the contractor to extend new outfall piping from the plant. Parks requested the trail to be widened from the existing 6-foot wide section to a 12-foot wide section to match some of the other existing trails.

Also included in the change order is the addition of thermal switches which allow monitoring to the return activated sludge and waste activated sludge (RAS/WAS) pumps and work to replace variable frequency drives (VFDs) on the sludge and polymer feed pumps. The manufacturer provides thermal switches on the RAS/WAS pumps; however, there is no way to monitor the temperature of the pumps. The new switches will allow plant operators to monitor the temperatures, as they are critical to prevent damage to the pumps. The VFDs controlling the sludge and polymer feed pumps are older models and are no longer reliable and have become problematic during construction.

Budget & Financial Summary: A total budget of \$40,740,000 is included in the Wastewater Capital Improvements Projects Fund with \$38,975,453 expended or committed to date, leaving a balance of \$1,764,547 for this change order and future expenses.

Reviewed & Approved by Legal: No

Attachments:

1. Change Order 3

April 8, 2021
Item No. 6.6.
SPPS Site Improvements Change Order No. 1

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding Change Order 1 in the amount of \$8,000 to the professional services contract with Jones & Carter, LLC. for the Sandy Point Pump Station Site Improvements Project.

Relationship to Strategic Goals:

1. Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: The change order provides additional design required for a security fence at Well #5. The existing fence at Well #5 does not provide adequate security. The new fence will include a deep footing and appropriate barbed wiring to prevent a breach. The Well #5 project is being combined with the Sandy Point Pump Station Pump Improvements project. The security fence at both locations are intended to be similar in detail.

The addition of the change order places the contract amount over \$100,000, thus requiring Council approval.

Budget & Financial Summary: A combined budget in the amount of \$1,343,929 is included for this project in the Water Capital Improvement Projects Fund. A total of \$99,648 has been expended or committed to date, leaving a balance of \$1,244,281 for this change order and future expenses. Additionally, a portion of this change order will be charged to Well #5 Project.

Reviewed & Approved by Legal: No

Attachments:

1. Change Order #1_SPPS-Well#5 Fence
2. Map

March 4, 2021

Ms. Raquel Gonzales, PE, CFM
City of College Station
1101 Texas Ave South
College Station, Texas 77840

Re: Change Order No. 1
Sandy Point Pump Station Site Improvements
Well #5 Fence Replacement
City Project No. WA1957439
JC No. C0008-0036-00

Dear Ms. Gonzales:

Jones | Carter (JC) understands that the City of College Station intends to replace the existing security fence at Well #5 on Old San Antonio Road as a part of the Sandy Point Pump Station Site Improvements Project. A Change Order for the project is provided for your consideration.

1. Boundary Survey- \$900

The scope includes the following:

- a. Research and plot existing subject tract deeds and adjoiners according to the current Brazos CAD listings.
- b. Locate all found boundary corners sufficient to determine the boundary of the Well #5 subject tract.

2. Topographic Survey-\$2,100

The Scope includes the following:

- a. Topo an approximate 25' wide swath centered on existing perimeter fence.
- b. Locate all visible improvements and utilities within the 25' swath.
- c. Perform an 811 One-Call (a public service) for underground utility locates.
- d. Locate all impervious surfaces and structures within the 25' swath. (sidewalks, driveways, curbs, retaining walls, etc.)
- e. Provide 1-foot contours as based on 100-foot topo increments at 25' wide.
- f. Provide Temporary Benchmark on or near project site with relative elevation.
- g. Reported Elevations will be relative to NAVD88 as obtained by GPS observation and reference City of College Station monumentation.

3. Fencing Design-\$5,000

The scope includes the following:

- a. Replace the existing fence with a 6' fence with grade beam per City detail.
- b. Replace the main gate for site access on Old San Antonio Road with an aluminum cantilever slide gate.
- c. The gate will be manually opened. No card readers or automatic gate openers are included in this scope.



Ms. Raquel Gonzales

Page 2

March 4, 2021

JC thanks the City of College Station for the opportunity to assist with the project. Please let us know if there are any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Kent O'Brien'.

J. Kent O'Brien, PE
Vice President

Attest:

A handwritten signature in blue ink, appearing to read 'Brian P. Dobiyanski'.

Brian P. Dobiyanski, PE
Project Manager

JKO/bpd

\\Jonescarter.Corp\Cfs\Projects\C0008\C0008-0036-00 Sandy Point Pump Station Site Improvemen\Project Management\Job Setup\Change Order 1\CO1 Well 5 Fence-Letter.Docx



EL CAMINO
REAL ESTATES

Well #5

1687

Sandy Point Rd

Sandy Point Rd

Sandy Point Pump
Station Site
Improvements

R TRAIL

DEER CROSSING

Liberty Family Church

1687

Energy Transfer Partners

Britten Rd

Britten Rd

Britten Rd

April 8, 2021
Item No. 6.7.
Castle Rock Sidewalk Project

Sponsor: Emily Fisher, Assistant Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a construction contract in the amount of \$112,200 with Norman Construction Services, LLC for the Castle Rock Sidewalk Project.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Improving Mobility

Recommendation(s): Staff recommends approval

Summary: This project includes the rehabilitation of Castle Rock subdivision sidewalks. It includes removal and replacement of sections of sidewalk that are damaged. Additionally, sections of curb will be replaced where necessary to correct drainage issues throughout the subdivision.

Budget & Financial Summary: Budget in the amount of \$150,000 is included in the Streets Capital Improvement Projects Fund. \$4,384 has been expended or committed to date, leaving a balance of \$145,616 for this contract and future project expenses.

Reviewed & Approved by Legal: No

Attachments:

1. Contract on file with the City Secretary's Office
2. Project Location

1. Contract on file with the City Secretary's Office

Project Location - Castle Rock Sidewalk Project



April 8, 2021

Item No. 6.8.

Barron Road 24" Water Line Repair Construction Contract

Sponsor: Gary Mechler, Director of Water

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding approval of and ratifying an emergency repair contract in the amount of \$232,988 for the Barron Road 24" Water Line emergency repair performed by Elliott Construction, LLC.

Relationship to Strategic Goals:

Core Services and Infrastructure.

Recommendation(s): Staff recommends approval.

Summary: A significant water leak surfaced in recent weeks, and City crews closed traffic and performed initial standard small repairs to a 24" water line under the street pavement on Barron Road just west of SH6 overpass. After initial repairs to the 24" water line, additional leaks arose, and it was determined the ductile iron pipe material from the 1980's had deteriorated and was failing, and it required immediate and full replacement across the Barron Road ROW crossing. Water continues to leak at this location and will continue to do so until these additional emergency repairs are made. The adjacent five businesses are currently being kept in service in the interim. However, there is risk that this section pipe could rupture, causing the five businesses water to be shut off until the emergency repairs are completed. Additionally, eastbound Barron Road currently has a large open excavation, and these lanes are closed to traffic.

With the noted critical and urgent conditions, the City Manager's Office initiated staff to proceed with an emergency repair contract with Elliott Construction on the condition the contract would be brought before City Council for ratification. The attached contract has been executed with Elliott Construction, LLC for \$232,988.00. The subject ratification is for Council's consideration in this item.

Budget & Financial Summary: Funds for this contract are available in the Water Operating Fund. The Operating Fund can support this expense due to the additional operating revenue earned in FY21.

Reviewed & Approved by Legal: No

Attachments:

1. Contract

**CITY OF COLLEGE STATION
STANDARD FORM OF CONSTRUCTION AGREEMENT**

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and Elliott Construction, LLC (the "Contractor") for the construction and/or installation of the following:

Barron Road Water Line Replacement.

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: Two Hundred Thirty- Two Thousand Nine Hundred Eighty-Eight and NO /100 Dollars (\$ 232,988.00).

1.06 Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.

1.07 Contractor. The term "Contractor" shall mean the person(s), partnership, or corporation who has agreed to perform the Work contemplated in this Agreement and the other Contract Documents.

1.08 Contractor's Proposal. The term "Contractor's Proposal" shall mean the document provided by the Contractor in response to, and shall include all information required by the City's Request for Proposal/Invitation to Bid for the Project.

1.09 Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing **prior** to the work being done by the Contractor.

1.10 Final Completion. The term "Final Completion" shall mean that all the Work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.

1.11 Hazardous Substance. The term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which is defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws").

1.12 Environmental Laws. The term "Environmental laws" shall mean collectively, any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws.

1.13 Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.

1.14 Nonconforming work. The term "nonconforming work" shall mean Work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.

1.15 Parties. The "parties" are the City and the Contractor.

1.16 Project. The term "Project" shall mean the construction of an improvement to real property where the Work comprises either whole or a part of such construction and which may include construction by the City or separate contractors.

1.17 Project Manager. The term "Project Manager" shall mean the Contractor's Project Manager. The Project Manager shall assist the City in performing various administrative and oversight duties relating to the Work, subject to limitations in authority that must be verified by Contractor.

1.18 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.

1.19 Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including

retainage, however, shall be withheld until Final Completion and acceptance of the Work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.20 Work. The term "Work" as used in this Agreement shall mean the construction and services required by the Contract Documents and Exhibits, including any duly authorized change orders, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project. The Work includes but is not limited to all labor, parts, supplies, skill, supervision, transportation, services, and other facilities and all other items needed to produce, construct, and fully complete the Project.

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

2. CONTRACT DOCUMENTS

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

- (a) This signed Agreement.
- (b) Addendum to this Agreement.
- (c) General Conditions, as may be applicable.
- (d) Special Conditions, as may be applicable.
- (e) Specifications, including the technical specifications set out at BCS Unified Design Guidelines ("Specifications").
- (f) Plans.
- (g) Instructions to Bidders and any other notices to Bidders or Contractor.
- (h) Performance bond, Payment bonds, Bid bonds and Special bonds.
- (i) Contractor's Proposal.

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

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

2.04 All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the Plans and Specifications and "as built" drawings, are to be returned to the City on request at the completion of the Work. All Contract Documents, models, mockups, or other representations are the property of the City.

2.05 In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions of this paragraph -2.05, however, shall not relieve the Contractor of any of the obligations set forth in paragraphs 8.01. and 8.02 of this Agreement.

3. AWARD OF CONTRACT

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

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

4. CITY'S REPRESENTATIVE

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

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

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

4.04 The City's Representative shall interpret questions concerning the Contract Documents. The City's inspector has authority to reject any of the Work for failure to comply with the Contract Documents and/or applicable laws.

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

5. INDEPENDENT CONTRACTOR

5.01 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the Work. The Contractor shall have ultimate control over the execution of the Work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02 Standard of Care. The Work shall be performed in a good and workmanlike manner, and in accordance with this Agreement, and all applicable laws, codes, and regulations. The construction of the Project is subject to amendments and adjustments to the Contract required by any applicable changes in regulations or requested or approved by in writing by the City. If at any time during the progress of the Work the Contractor becomes aware

of any errors or omissions in the Plans or Specifications for this Project or that the Agreement deviates from applicable legal requirements, Contractor shall promptly provide written notice thereof to the City. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention.

5.03 The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the Work and fulfillment of this Agreement. The Contractor shall be responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. The subletting of any portion or feature of the Work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project site during the progress of the Work, including at all times subcontractors are present at the Project site, a competent English speaking Project Manager and/or superintendent and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager and/or superintendent shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the Work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.04 Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the Work by the Contractor. Any additional work, material, or equipment needed to meet the intent of this provision shall be supplied by the Contractor *without* claim for additional payment, even though not specifically mentioned herein.

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

6. DISORDERLY EMPLOYEES

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

7. HOURS OF WORK

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

8. NATURE OF THE WORK

8.01 It is understood and agreed that the Contractor has, by careful examination, studied and compared the Plans and other Contract Documents, satisfied itself as to the nature and location of the Work, the conditions of the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the Work, the time needed to complete the Work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the

Work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any Work that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02 Any design errors or omissions noted by the Contractor shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. Any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

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

9. POST-AGREEMENT AWARD MEETINGS

9.01 Prior to the commencement of the Work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

- (a)** Schedule for performance of the Work ("Construction Schedule"). Project Schedule contemplated, including the starting and ending date, as well as an indication of the completion of stages of Work hereunder. Such document, once approved by the City and, if applicable, the City's Consultant shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit E**. If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance. The Construction Schedule shall not be modified except by written change order. The Construction Schedule shall not exceed time limits current under the Contract Documents, shall be submitted with each pay application, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- (b)** The names and addresses of all proposed subcontractors in writing.
- (c)** Schedules of the starting and ending dates of subcontractors and the scope of Work contemplated for subcontractors.
- (d)** Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.

(e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof.

(f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

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

10. PROGRESS OF WORK

10.01 The Construction Schedule shall be in a detailed precedence-style critical path method ("CPM") or primavera-type format satisfactory to the City and the Consultant. The Construction Schedule shall also (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance.

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

(a) The Contractor shall submit a Construction Schedule and schedule of values at the initial post-agreement award meeting and subsequent meetings.

(b) City's Representative shall be entitled to make objections to the Contractor's Construction Schedule submitted herein. The Contractor shall promptly resubmit a revised Construction Schedule to City's Representative.

(c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.

(d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the Work with dates at which the Contractor will start the several parts of the Work and the estimated dates of completion of the several parts.

(e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

(f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the Work is not in accordance with the approved Construction Schedule, the City may so inform the Contractor and require the

Contractor to take such action as is necessary to insure completion of the Project within the time specified.

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

10.04 The Contractor shall also prepare a submittal schedule promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Consultant's approval. The Consultant's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (i) be coordinated with the Contractor's Construction Schedule; and (ii) allow the Consultant reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

10.05 In the event the City determines that the performance of the Work, as of a Milestone Date or otherwise, has not progressed or reached the level of completion required by the Contract Documents, the City shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (i) working additional shifts or overtime; (ii) supplying additional manpower, equipment, and facilities; and (iii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The City's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the Construction Schedule.

(a) The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the City under or pursuant to this Subparagraph.

(b) The City may exercise the rights furnished the City under or pursuant to this Subparagraph as frequently as the City deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the Contract Documents.

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

11. SITE CONDITIONS AND MANAGEMENT

11.01 Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02 The Contractor shall be responsible for all power, light, and water required to perform the Work.

11.03 Throughout the progress of the Work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the Work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04 Layout of Work. Except as specifically provided herein, the Contractor shall lay out all Work in a manner acceptable to City's Representative in accordance with applicable City of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all Work in accordance with the Plans and Specifications.

11.05 Lines and Grades. All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the Work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06 The Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as any information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the City and the Consultant any errors, inconsistencies or omissions discovered by or made known to the Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor acknowledges the City does not represent nor warrant the accuracy or completeness of information provided by the City related to existing conditions and locations of existing utilities and services. Such information if provided, is provided to the Contractor as a matter of convenience and does not substitute for the Contractor using due diligence to reasonably observe and or to access space to determine errors, inconsistencies or omissions. In all cases of interconnection of the Work with existing conditions, Contractor shall verify at the site all dimensions relating to such existing conditions.

11.07 Contractor's Structures. The building or locating of structures or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not

damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

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

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

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

12. MATERIALS

12.01 Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02 All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving

unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

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

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

12.04 Materials and supplies shall be new and of good quality. Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

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

12.06 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

12.07 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

12.08 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

12.09 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals.

12.10 The Contractor shall review for compliance with the Contract Documents, approve and submit to the City's Consultant Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the City's Consultant or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the City or of separate contractors.

12.11 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the City and City's Consultant that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

12.12 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the City's Consultant.

12.13 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the City's Consultant's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the City's Consultant in writing of such deviation at the time of submittal and (1) the City's Consultant has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the City's Consultant's approval thereof.

12.14 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the City's Consultant on previous submittals. In the absence of such written notice, the City's Consultant's approval of a resubmission shall not apply to such revisions.

12.15 Contractor shall be liable for and the City may withhold from Contractor's payments any amount of additional fees charged by City's Consultant for excessive resubmittal review.

13. ENTRY, OBSERVATION, TESTING & POSSESSION

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

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

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

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

14. REJECTED WORK

14.01 All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the Work in accordance with the requirements of this Agreement and the other Contract Documents.

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

(a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

(b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

14.03 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City may, without prejudice to other remedies the City may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including City's expenses and compensation for the City's Consultant's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City.

15. SUBCONTRACTING & SUBCONTRACTORS

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

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

16. PAYMENT

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

16.02 Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require ("Schedule of Values"). The Schedule of Values shall not overvalue early job activities and shall follow the trade divisions of the Specifications so far as possible. Modifications must be approved by City. This schedule, unless objected to by the City, shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit F**. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or modification, a statement, backed by the Schedule of Values, showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the Work.

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

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

OR:

☐ **16.04 Retainage.** This section has been removed. No retainage will be deducted.

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

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

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

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

16.09 Unless otherwise provided in the Contract Documents:

- (a) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

(b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances; and

(c) Whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 16.9(b).

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

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

(a) Defective work.

(b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.

(c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.

(d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.

(e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.

(f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.

(g) City's determination of an amount of liquidated damages.

(h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.

(i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

(j) Corrections of mistakes, errors and overpayments in relation to prior pay applications and payments.

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

17. EXTRA WORK CHARGES

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

17.02 City Manager Approval. When the original contract amount plus all change orders is **One Hundred Thousand Dollars (\$100,000)** or less, the City Manager or his designee may approve the written change order in accordance with 17.03 below, provided the change order does not increase the total amount set forth in the Contract to more than **One Hundred Thousand Dollars (\$100,000)**. For such contracts, when a change order results in a total contract amount that exceeds **One Hundred Thousand Dollars (\$100,000)**, the City Council of the City must approve such change order prior to commencement of the services or work.



17.03 For "Extra Work", as defined in Paragraph 1.09 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original Contract price may not be increased by more than **twenty-five percent (25%)**. Written change orders that do not exceed **twenty-five percent (25%)** of the original Contract Amount may be made or approved by the City Manager or his delegate if the change order is equal to or less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract Schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non-included cost.

OR:



17.03 For construction contracts funded in whole or in part by Certificates of Obligations, for "Extra Work," as defined in Paragraph 1.09 and authorized through written change orders, and pursuant to Section 271.060 of the Texas Local Government Code, a contract with an original contract price of \$1 million or more may not be increased by more than **twenty-five percent (25%)**. If a change order for a construction contract funded in whole or in part with certificates of obligation that has an original price of less than \$1 million increases the Contract Amount to \$1 million or more, subsequent change orders may not increase the revised Contract Amount by more than **twenty-five percent (25%)**. Written change orders may be made or approved by the City Manager or his delegate if the change order is equal to or less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract Schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non-included cost.

17.04 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the Work shall not excuse the Contractor from

performing all the Work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the Work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the Work and the Contractor shall assume and pay the costs of the performance of the Work as contracted.

(a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.

(b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.

(c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its performance, then the Contractor shall proceed with the Work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.

(d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost (as defined in subsection (g) below) of the Work.

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

(1) The cost of materials shall be determined by the invoices;

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

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

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, workers' compensation, and all other insurance as may be required by law or ordinances or required and agreed to

by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All damages must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned man loading to actual man loading, or any other analysis that is used to show damages indirectly.
- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

18. TIME OF COMPLETION

18.01 The date of beginning, the time for Substantial Completion and Final Completion of Work as specified in this Agreement are of the essence of this Agreement.

18.02 The Work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed may be given orally or set by the City's Representative at the post-award conference.

18.03 The Work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor bid calendar days for the time within which it shall reach Substantial Completion of the Project.

18.04 The Work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

19. SUBSTANTIAL COMPLETION

19.01 The Contractor shall notify City's Representative when, in the Contractor's opinion, the Contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the Work has been Substantially Completed, City's Representative shall inspect the Work for the preparation of a final punch list.

(a) If City's Representative and the City find that the Work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the Work. City's Representative shall not be required to provide a list of unfinished work.

(b) If the City Representative and City find that the Work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

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

20. FINAL COMPLETION

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

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

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

21. DELAYS

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

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

21.03 No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or delay in the progress of the Work, unless such delays (i) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in subsection 21.04 below. The City's reasonable exercise of any of its rights or remedies under the Contract, regardless of the extent or frequency, shall not under any circumstances be construed as interference with the Contractor's performance of the Work.

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

22. EXTENSIONS OF TIME

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

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

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

23. LIQUIDATED DAMAGES

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

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension

thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of Two Hundred and No **/100 DOLLARS (\$200.00)** for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

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

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

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

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

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

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

25.07 The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

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

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

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

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

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

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

26.03 The Contractor and each subcontractors shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.

26.04 No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.

26.05 Payment of Subcontractors. The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the Work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the

Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

26.06 Affidavit of Bills Paid. Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

27. INSURANCE

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

During the term of this Agreement Contractor's insurance policies shall meet the minimum requirements of this section.

27.02 Types. Contractor shall have the following types of insurance:

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

27.03 General Requirements Applicable to All Policies. The following General requirements applicable to all policies shall apply:

- (a) Only licensed Insurance Carriers authorized 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) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of College Station.
- (e) The City of College Station, its agents, 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 agents, officials, employees or volunteers.

27.04 Commercial General Liability. The following Commercial General Liability requirements shall apply:

- (a) General Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. 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 the City's review and acceptance.
- (e) The coverage shall not exclude 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.

27.05 Business Automobile Liability. The following Business Automobile Liability requirements shall apply:

- (a) Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000.00 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 autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00, where such exposures exist.

27.06 Excess Liability. The following Excess Liability requirements shall apply:

Unless otherwise agreed in writing, 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 Agreement, 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.

27.07 Additional Insured.

Those policies set forth in Paragraphs 27.04, 27.05, and 27.06 shall contain an endorsement listing the City as Additional Insured and further providing that the Contractor's policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form acceptable to the City. Waiver of subrogation in a form acceptable to the City shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit C, and approved by the City before Work commences.

27.08 Builder's Risk

Until the Work is completed and accepted by the City, the Contractor shall purchase and maintain builder's risk insurance upon the entire Work at the Project site to the full insurable value thereof. The builder's risk insurance shall also cover portions of the Work stored off site after written approval of the City of the value established in the approval, and also portions of the Work in transit. This insurance shall include the interests of the City, the Contractor, subcontractors and sub-subcontractors in the Work and shall insure against the perils of fire, wind, storm, hail, lightning and extended coverage including flood and earthquake and shall include all-risk insurance for physical loss or damage, including, without duplication of coverage, theft, vandalism and malicious mischief. The insurance shall cover reasonable compensation for City's Consultant's services and expenses required as a result of an insured loss. This must be an all-risk policy incorporating the following language:

Permission is given for the Project insured hereunder to become occupied, the insurance remaining in full force and effect until such time as the Project has been accepted by the City, all as currently approved by the Texas Board of Insurance Commissioners

When permissible by law, the Certificate of Insurance must include the names of the insured Contractor and the City. The deductible under the policy, including that for flood shall not exceed \$100,000.00 without the written approval of the City.

27.09 Workers' Compensation/Employer's Liability Insurance. The following Workers' Compensation Insurance requirements shall apply.

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers' Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- (b) Workers' Compensation/ Employer's Liability insurance shall include the following terms:
 - 1. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required.
 - 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 - 3. Texas must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

“A. Definitions:

Certificate of coverage (“certificate”) – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers’ Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person’s or entity’s employees providing services on a project, for the duration of the project.

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

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

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

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

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

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

- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all*

persons providing services on the project; and

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

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

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

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

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

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

(2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the Contractor:

(a) A certificate of coverage, prior to the other person beginning work on the project; and

(b) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that

materially affects the provision of coverage of any person providing services on the project; and

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

J. By signing this Agreement, 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 Agreement void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

27.09 Certificates of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved form, and shall contain the following provisions and warranties:

- (a)** The company is authorized 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 Department of Insurance or ISO.
- (c)** Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

28. BOND PROVISIONS

28.01 Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$50,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such bonds shall be executed in accordance with all requirements of Chapter 3503 of the Texas Insurance Code, all other applicable law, and the following:

- (a)** The Contractor shall execute performance and payment bonds for the full Contract Amount.
- (b)** The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.
- (c)** The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit B, together with valid

original powers of attorney, **at the time of execution of this Agreement by Contractor and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit B**.

(d) The performance and payment bonds shall remain in effect for a period of one (1) year after Final Completion of the Work and shall be extended for any warranty work to cover the warranty period.

(e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

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

29. SURETY

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

(a) The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the Work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

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

29.02 Should the cost to complete the Work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the Project site, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived

from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

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

30. COMPLIANCE WITH LAW

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

30.02 The Contractor shall perform and require all subcontractors to perform the Work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

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

31. SAFETY PRECAUTIONS

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

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

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

31.04 Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in section 1.11, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as defined in section 1.12). **In the event Contractor engages in any of the activities prohibited in this section 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every**

kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this section 31.04.

31.05 In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

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

31.07 It is the Contractor's responsibility to comply with all Environmental Laws (as defined in section 1.10 of this Agreement) based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

32. TRENCH SAFETY

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

32.01 The Contractor must comply with the requirements of Subchapter 756 of the Tex. Health & Safety Code Ann. §756.022-023, and the requirements of 29 C.F.R., Subpart P – Excavations (sections 1926.650 et. seq.) of the Occupational Safety and Health Administration Standards, as amended.

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

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty, responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

33. INDEMNITY

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

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

- (a) The City is damaged due to the act, omission, mistake, fault or default of the Contractor.
- (b) In the event of any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.
- (c) In the event of any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.
- (d) In the event of any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.
- (e) The removal of all debris related to the Work.
- (f) The acts and omissions of the subcontractors it hired.
- (g) The Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.

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

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

33.05 The indemnity provisions provided herein shall survive the termination or expiration of this Agreement.

33.06 The indemnification obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor under workers compensation acts, disability benefit acts or other employee benefit acts. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

34. RELEASE

34.01 The Contractor assumes full responsibility for the Work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's Work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City. There shall be no additional release or hold harmless provision other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

35. PERMITS AND LICENSES

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

36. ROYALTIES AND LICENSING FEES

36.01 THE CONTRACTOR SHALL PAY ALL ROYALTIES AND LICENSING FEES. THE CONTRACTOR SHALL HOLD THE CITY HARMLESS AND INDEMNIFY THE CITY FROM THE PAYMENT OF ANY ROYALTIES, DAMAGES, LOSSES OR EXPENSES INCLUDING ATTORNEY'S FEES FOR SUITS, CLAIMS OR OTHERWISE, GROWING OUT OF INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS, MATERIALS AND METHODS USED IN THE PROJECT. IT SHALL DEFEND ALL SUITS OR CLAIMS FOR INFRINGEMENT OF ANY PATENT RIGHTS. FURTHER, IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE DESIGN, SERVICE, PROCESS, OR PRODUCT

SPECIFIED IS AN INFRINGEMENT OF A PATENT, IT SHALL PROMPTLY GIVE SUCH INFORMATION TO CITY'S REPRESENTATIVE.

37. BREACH OF CONTRACT & DAMAGES

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

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

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

38. TERMINATION FOR CAUSE

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

- (a) If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or
- (b) If a receiver, trustee, or liquidator of any of the property or income of the Contractor is appointed; or
- (c) If the Contractor fails to prosecute the Work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or
- (d) If the Contractor fails to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or
- (e) If the Contractor fails for any reason other than the failure by City's Representative to make payments called upon when due; or
- (f) If the Contractor abandons the Work.

- (g) If the Contractor commits a material default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

39. TERMINATION FOR CONVENIENCE

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

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

40. RIGHT TO COMPLETE

40.01 If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the Work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the Work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

41. CLOSE OUT

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

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the Work as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the Work terminated by the notice of termination;

(d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;

(f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the Work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred; and/or

42. TERMINATION CONVERSION

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

43. HIRING

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

44. ASSIGNMENT

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

45. EFFECTIVE DATE

45.01 This Agreement goes into effect when duly approved by all the parties hereto and is contingent upon Contractor obtaining the bonds required herein.

46. OTHER TERMS

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

46.02 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof added by Contractor to this Agreement as exhibits that conflict with such laws, or that conflict with the terms and conditions herein

excluding the additions by Contractor. In either case, the applicable law or the applicable provision of this Agreement excluding such conflicting addition by Contractor shall prevail. The parties understand this section comprises part of this Agreement without necessity of additional consideration.

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

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

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

46.06 Mediation. After receipt of a written notice of a claim, the City may elect to refer the matter to the City's Consultant, City's Representative or another party for review. Contractor will attend meetings called to review and discuss the claims and mitigation of the problem, and shall furnish any reasonable factual backup for the claim requested. The City may also elect to defer consideration of the claim until the Work is completed, in which case the same review options shall be available to the City at the completion of the Work. At any stage, the City, at its sole discretion, is entitled to refer a claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under City's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

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

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

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

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

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

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

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

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

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

46.16 Verification No Boycott Israel. To the extent this Contract is considered a contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract.

List of Exhibits

- A. Wage Rates
- B. Performance & Payment Bonds
- C. Certificates of Insurance
- D. Plans & Specifications
- E. Construction Schedule
- F. Schedule of Values

ELLIOTT CONSTRUCTION, LLC

By: Ben Elliott

Printed Name: Ben Elliott

Title: Member

Date: 3/23/2021

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

John A. Haislet

City Attorney

Date: 3/23/2021

[Signature]

Assistant City Manager/CFO

Date: 3/23/2021

EXHIBIT A
DAVIS BACON WAGE RATES

DAVIS BACON WAGE RATES

"General Decision Number: TX20210007 01/01/2021

Superseded General Decision Number: TX20200007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift/Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/01/2021

* SUTX2011-006 08/03/2011

Rates	Fringes
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ELECTRICIAN	\$ 26.35
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FORM BUILDER/FORM SETTER

Paving & Curb	\$ 12.94
Structures	\$ 12.87

LABORER

Asphalt Raker.....	\$ 12.12
Flagger	\$ 9.45
Laborer, Common	\$ 10.50
Laborer, Utility	\$ 12.27

Pipelay	\$ 12.79
Work Zone Barricade	
Servicer	\$ 11.85

PAINTER (Structures)	\$ 18.34
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POWER EQUIPMENT OPERATOR:

Agricultural Tractor	\$ 12.69
Asphalt Distributor	\$ 15.55
Asphalt Paving Machine	\$ 14.36
Boom Truck	\$ 18.36
Broom or Sweeper	\$ 11.04
Concrete Pavement	
Finishing Machine	\$ 15.48
Crane, Hydraulic 80 tons	
or less	\$ 18.36
Crane, Lattice Boom 80	
tons or less	\$ 15.87
Crane, Lattice Boom over	
80 tons	\$ 19.38
Crawler Tractor	\$ 15.67
Directional Drilling	
Locator	\$ 11.67
Directional Drilling	
Operator	\$ 17.24
Excavator 50,000 lbs or	
Less	\$ 12.88
Excavator over 50,000 lbs	\$ 17.71
Foundation Drill, Truck	
Mounted	\$ 16.93
Front End Loader, 3 CY or	
Less	\$ 13.04
Front End Loader, Over 3 CY	\$ 13.21
Loader/Backhoe	\$ 14.12
Mechanic	\$ 17.10
Milling Machine	\$ 14.18
Motor Grader, Fine Grade	\$ 18.51
Motor Grader, Rough	\$ 14.63
Pavement Marking Machine	\$ 19.17
Reclaimer/Pulverizer	\$ 12.88
Roller, Asphalt	\$ 12.78
Roller, Other	\$ 10.50
Scraper	\$ 12.27
Spreader Box	\$ 14.04
Trenching Machine, Heavy	\$ 18.48

Servicer	\$ 14.51
----------	----------

Steel Worker

Reinforcing	\$ 14.00
Structural	\$ 19.29

TRAFFIC SIGNAL INSTALLER

Traffic Signal/Light Pole

Worker\$ 16.00

TRUCK DRIVER

Lowboy-Float.....\$ 15.66

Off Road Hauler.....\$ 11.88

Single Axle.....\$ 11.79

Single or Tandem Axle Dump

Truck\$ 11.68

Tandem Axle Tractor w/Semi

Trailer.....\$ 12.81

WELDER.....\$ 15.97

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. 107350998

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

THAT WE, Elliott Construction, LLC

, as Principal, hereinafter called “Contractor” and the other subscriber hereto Travelers Casualty and Surety Company of America, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Two Hundred Thirty-Two Thousand Nine Hundred Eighty-Eight and NO /100 Dollars (\$232,988.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for Barron Road Water Line Replacement

all of such Work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal’s competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty (30) days from the acceptance of the Work is intended for the City’s benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be

Contract No. 21300432
Construction Agreement Over \$50,000
Form 08-28-19

done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the Work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom. Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond and it does hereby waive notice of any such change in Contract Time or Contract Sum.

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

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

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

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

Bond No. 107350998

FOR THE CONTRACTOR:

ELLIOTT CONSTRUCTION, LLC

ATTEST & SEAL: (if a corporation) **(SEAL)**
WITNESS: (if not a corporation)

(Name of Contractor)

By: Bethany A. Lepper

By: Scott E. Nichols

Name: Bethany A. Pepper

Name: Sec # 211, 2 ff

Title: Postkeeper

Title: Manager member

Date: March 22, 2021

Date: March 22, 2021

FOR THE SURETY:
ATTEST/WITNESS (SEAL)

Travelers Casualty and Surety Company of America
(Full Name of Surety)

By: AK

One Tower Square

Name: Robbie Martin

Hartford, CT 06183

Title: Vice-President

(Address of Surety for Notice)

Date: March 22, 2021

By: Ami Kelland

Name: Tina McLelland

Title: Attorney-in-Fact

Date: March 22, 2021

FOR THE CITY:

REVIEWED:

**THE FOREGOING BOND IS ACCEPTED ON
BEHALF OF THE CITY OF COLLEGE STATION,
TEXAS:**

John A. Haislet

City Attorney

City Manager

NOTE: Date of bonds must be on or after the date of execution by City.

Contract No. 21300432
Construction Agreement Over \$50,000
Form 08-28-19



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

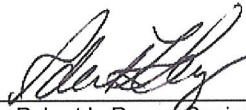
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Steve Burleson, Staci Gross, Robbie Martin, Josh Andrajack, Brenda Bledsoe, Garland R. Martin, Tina McLelland, and Connie M. Dubski** of **Wichita Falls, Texas**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January, 2019**.



State of Connecticut

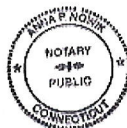
By: 
Robert L. Raney, Senior Vice President

City of Hartford ss.

On this the **17th** day of **January, 2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June, 2021**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **22nd** day of **March**, 2021




Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.**

TEXAS STATUTORY PAYMENT BOND

Bond No. 107350998

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

THAT WE, Elliott Construction, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto Travelers Casualty and Surety Company of America, a corporation organized and existing under the laws of the State of Connecticut, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Two Hundred Thirty-Two Thousand Nine Hundred Eighty-Eight and NO /100 Dollars (\$ 232,988.00) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 22 day of March, 2021, for Barron Road Water Line Replacement, referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond, and it does hereby waive notice of any such change in Contract Time or Contract Sum. A copy of surety agent's "Power of Attorney" must be attached hereto.

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

Bond No. 107350998

FOR THE CONTRACTOR:

ELLIOTT CONSTRUCTION

ATTEST & SEAL: (if a corporation) (SEAL)
WITNESS: (if not a corporation)

(Name of Contractor)

By: Bethany A. Lepper
Name: Bethany A. Lepper
Title: Bookkeeper
Date: March 22, 2021

By: Scott Elliott
Name: Scott Elliott
Title: Managing member
Date: March 22, 2021

FOR THE SURETY:
ATTEST/WITNESS (SEAL)

By: Robbie Martin
Name: Robbie Martin
Title: Vice-President
Date: March 22, 2021

Travelers Casualty and Surety Company of America
(Full Name of Surety)

One Tower Square
Hartford, CT 06183
(Address of Surety for Notice)

By: Tina McLelland
Name: Tina McLelland
Title: Attorney-in-Fact
Date: March 22, 2021

FOR THE CITY:

REVIEWED:

**THE FOREGOING BOND IS ACCEPTED ON
BEHALF OF THE CITY OF COLLEGE STATION,
TEXAS:**

John A. Haislet
City Attorney

City Manager

NOTE: Date of bonds must be on or after the date of execution by City.

Contract No. 21300432
Construction Agreement Over \$50,000
Form 08-28-19

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

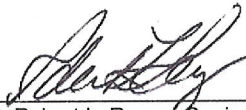
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Steve Burleson, Staci Gross, Robbie Martin, Josh Andrajack, Brenda Bledsoe, Garland R. Martin, Tina McLelland, and Connie M. Dubski of Wichita Falls, Texas**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th day of January, 2019**.



State of Connecticut

By: 
Robert L. Raney, Senior Vice President

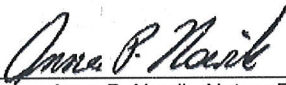
City of Hartford ss.

On this the **17th day of January, 2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th day of June, 2021**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **22nd** day of **March**, 2021




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.

Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.



*St. Paul Travelers Bond
1301 E. Collins Blvd
Richardson TX 75081
Phone: 800-842-0612
Fax: 214-570-6405*

IMPORTANT NOTICE

TO OBTAIN INFORMATION OR MAKE A COMPLAINT:

You may contact Travelers Casualty & Surety Company of America, Travelers Casualty & Surety Company, Travelers Indemnity Company, Standard Fire Insurance Company and/or Farmington Casualty Company for information or to make a complaint at:

Travelers Bond
Attn: Claims
1500 Market Street
West Tower, Suite 2900
Philadelphia, PA 19102

(267) 675-3057
(267) 675-3102 Fax

You may contact the Texas Department of Insurance to obtain the information on companies, coverages, rights or complaints at:

Texas Department of Insurance
P.O. Box 149104
Austin, TX 78714-9104

(800) 252-3439

ATTACH THIS NOTICE TO YOUR BOND. This notice is for information only and does not become a part or a condition of the attached document and is given to comply with Section 2253-021, Government Code, and Section 53.202, Property Code, effective September 1, 2001.



ELLICON-02

SADAMS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/18/2021

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 have ADDITIONAL INSURED provisions or 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 Boley-Featherston Insurance 701 Lamar Street Wichita Falls, TX 76301	CONTACT NAME: Sandra Adams	
	PHONE (A/C, No, Ext): (940) 723-7111	FAX (A/C, No): (940) 723-7531
INSURED Elliott Construction, LLC P. O. Box 3788 Bryan, TX 77805	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: FCCI Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		
NAIC #		
10178		

COVERAGES

CERTIFICATE NUMBER:

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC OTHER:			CPP100058266 00	7/1/2020	7/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			CA100058267	7/1/2020	7/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ EXCESS LIAB ☐ OCCUR ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			UMB100058268	7/1/2020	7/1/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y/N ☒ N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC0100058269	7/1/2020	7/1/2021	☒ PER STATUTE ☐ 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
A	Installation / Build			CPP100058266 00	7/1/2020	7/1/2021	Installation Floater \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Barron Road Water Line Replacement

CERTIFICATE HOLDER

CANCELLATION

City of College Station
it's agents, officials, employees & volunteers
Attn: Risk Management
PO Box 9960
College Station, TX 77842

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



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Boley-Featherston Insurance		NAMED INSURED Elliott Construction, LLC P. O. Box 3788 Bryan, TX 77805	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Additional

The Auto, Umbrella and General Liability policies include a blanket additional insured endorsement that provides additional insured status to any person or organization when there is a written contract that requires such status.

The General Liability policy includes a blanket additional insured endorsement that provides additional insured status in regard to completed operations to any person or organization when there is a written contract that require such status.

The Auto, General Liability, Umbrella and Workers Compensation policies include a blanket waiver of subrogation endorsement that provides waiver of subrogation to any person or organization when there is a written contract that requires such status.

The general liability and auto policies contains a special endorsement with "Primary and Noncontributory" wording.

Cancellation applies as per policy terms and conditions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET NOTIFICATION TO OTHERS OF CANCELLATION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
 BUSINESSOWNERS COVERAGE FORM
 COMMERCIAL CRIME COVERAGE FORM
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 COMMERCIAL INLAND MARINE COVERAGE PART
 COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM
 COMMERCIAL OUTPUT POLICY
 COMMERCIAL PROPERTY COVERAGE PART
 FARM COVERAGE PART
 FARM UMBRELLA COVERAGE FORM
 GARAGE COVERAGE FORM
 LIQUOR LIABILITY COVERAGE PART
 PRODUCT WITHDRAWAL COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium we will mail notice of cancellation to any person or organization to whom you have agreed in a written contract that notice of cancellation of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the name and address of such person or organization, after the first Named Insured shown in the Declarations receives notice from us of the cancellation of this policy; and,
2. We receive such written request at least 45 days before the effective date of cancellation.

We will mail such notice at least 30 days before the effective date of the cancellation.

Irrespective of any of the provisions above, nothing herein is intended to vest any right in the person or organization to be given notice, and said person or organization shall have no rights under this policy if he/it does not receive notice per this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TEXAS WAIVER OF TRANSFER OF RIGHTS OF
RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Any person/organization against whom rights of recovery are waived in a written contract that specifically mentions such waiver as applying to this Commercial Umbrella policy.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition under **Section IV – Conditions** is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED PRIMARY / NON CONTRIBUTORY COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

The following replaces SECTION IV – CONDITIONS, Paragraph 5. “Other Insurance” subsection a.:

- a. This insurance is excess over and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

The above will apply to additional insureds unless a written contract specifically requires that this insurance be primary and noncontributing as to the additional insured. The written contract must be currently in effect or become effective during the term of this policy and must be executed prior to the “bodily injury”, “property damage” or “personal and advertising injury.”

When this insurance is excess, we will have no duty under Coverage A or B to defend the insured against any “suit” if any other insurer has a duty to defend the insured against that “suit”. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET NOTIFICATION TO OTHERS OF CANCELLATION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
 BUSINESSOWNERS COVERAGE FORM
 COMMERCIAL CRIME COVERAGE FORM
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 COMMERCIAL INLAND MARINE COVERAGE PART
 COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM
 COMMERCIAL OUTPUT POLICY
 COMMERCIAL PROPERTY COVERAGE PART
 FARM COVERAGE PART
 FARM UMBRELLA COVERAGE FORM
 GARAGE COVERAGE FORM
 LIQUOR LIABILITY COVERAGE PART
 PRODUCT WITHDRAWAL COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium we will mail notice of cancellation to any person or organization to whom you have agreed in a written contract that notice of cancellation of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the name and address of such person or organization, after the first Named Insured shown in the Declarations receives notice from us of the cancellation of this policy; and,
2. We receive such written request at least 45 days before the effective date of cancellation.

We will mail such notice at least 30 days before the effective date of the cancellation.

Irrespective of any of the provisions above, nothing herein is intended to vest any right in the person or organization to be given notice, and said person or organization shall have no rights under this policy if he/it does not receive notice per this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO FIRST CHOICE COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

NOTE: The following are additions, replacements and amendments to the Business Auto Coverage Form, and will apply unless excluded by separate endorsement(s) to the Business Auto Coverage Form.

With respect to coverages provided by this endorsement, the provisions of the Business Auto Coverage Form apply unless modified by this endorsement.

The Business Auto Coverage Form is amended as follows:

SECTION II -- COVERED AUTOS LIABILITY COVERAGE is amended as follows:

A. Paragraph 1. Who Is An Insured in section **A. Coverage** is amended by the addition of the following:

- d. Any legally incorporated subsidiary of yours in which you own more than 50% of the voting stock on the effective date of this coverage form. However, "insured" does not include any subsidiary that is an "insured" under any other liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limits of insurance. In order for such subsidiaries to be considered Insured under this policy, you must notify us of such subsidiaries within 60 days of policy effective date.
- e. Any organization you newly acquire or form during the policy period, other than a partnership or joint venture, and over which you maintain sole ownership or a majority interest. However, coverage under this provision:
 - (1) Does not apply if the organization you acquire or form is an "insured" under another liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limits of insurance;
 - (2) Does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - (3) Is afforded only for the first 90 days after you acquire or form the organization or until the end of the policy period, whichever comes first.
- f. Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.
- g. Any "employee" of yours using:
 - (1) a covered "auto" you do not own, hire or borrow, or a covered "auto" not owned by an "employee" or a member of his or her household, while performing duties related to the conduct of your business or your personal affairs; or
 - (2) an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business. However, your "employee" does not qualify as an insured under this paragraph (2) while using a covered "auto" rented from you or from any member of the "employee's" household

- h. Your members, if you are a limited liability company, while using a covered "auto" you do not own, hire or borrow, while performing duties related to the conduct of your business or your personal affairs.
- B. Paragraphs (2) and (4) under section 2. **Coverage Extensions, a. Supplementary Payments** are deleted and replaced by the following:
- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" solely at our request, including actual loss of earnings up to \$500 a day because of time off from work.
- C. Paragraph 5. under section B. **Exclusions** is deleted and replaced by the following:
5. **Fellow Employee**
- "Bodily injury" to:
- a. Any fellow "employee" of the "insured" arising out of and in the course of a fellow "employee's" employment or while performing duties related to the conduct of your business. However, this exclusion does not apply to your "employees" that are officers or managers if the "bodily injury" results from the use of a covered "auto" you own, hire or borrow. Coverage is excess over any other collectible insurance; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph a. above.

SECTION III – PHYSICAL DAMAGE COVERAGE is amended as follows:

- A. Paragraph 4. Coverage Extensions** under section **A. Coverage** is deleted and replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a total maximum of \$1,500 for temporary transportation expense incurred by you due to covered loss to any covered auto. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 24 hours after a loss and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for hired "autos";**
- (2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for hired "autos"; or**
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for hired "autos".**

However, the most we will pay for any expenses for loss of use to any one vehicle is \$75 per day, to a total maximum of \$1,500.

- B. The following is added to paragraph 4. Coverage Extensions under section A. Coverage:**

c. Fire Department Service Charge

When a fire department is called to save or protect a covered "auto", its equipment, its contents, or occupants from a covered cause of loss, we will pay up to \$1,000 for your liability for fire department service charges assumed by contractor or agreement prior to loss.

No deductible applies to this additional coverage.

d. Auto Loan/Lease Gap Coverage

The following provisions apply:

- (1) If a long term leased "auto", under an original lease agreement, is a covered "auto" under this coverage form and the lessor of the covered "auto" is named as an additional insured under this policy, in the event of a total loss to the leased covered "auto", we will pay any unpaid amount due on the lease, less the amount paid under the Physical Damage Coverage Section of the policy; and less any:
 - (a) Overdue lease or loan payments including penalties, interest, or other charges resulting from overdue payments at the time of the "loss";
 - (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (c) Security deposits not refunded by the lessor;
 - (d) Costs for extended warranties, Credit Life Insurance, Health Accident or Disability Insurance purchased with the loan or lease; and
 - (e) Carry-over balances from previous loans or leases.
- (2) If an owned "auto" is a covered "auto" under this coverage form and the loss payee of the covered "auto" is named a loss payee under this policy, in the event of a total loss to the covered "auto", we will pay any unpaid amount due on the loan, less the amount paid under the Physical Damage Coverage Section of the policy; and less any:
 - (a) Overdue loan payments at the time of the "loss";
 - (b) Costs for extended warranties, Credit Life Insurance, Health Accident or Disability Insurance purchased with the loan; and
 - (c) Carry-over balances from previous loans.

C. Paragraph 3. under section B. Exclusions is deleted and replaced by the following:

3. We will not pay for "loss" due and confined to:
 - a. Wear and tear, freezing, mechanical or electrical breakdown
 - b. Blowouts, punctures or other road damage to tires

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

However, this exclusion does not include the discharge of an airbag in a covered "auto" you own that inflates due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b** and **A.1.c.** but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated

We will pay up to a maximum of \$1,000 for any one "loss".

D. Section D. Deductible is deleted and replaced by the following:

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations subject to the following:

Any Comprehensive Coverage deductible shown in the Declarations does not apply to:

- (1) "Loss" caused by fire or lightning; and
- (2) "Loss" arising out of theft of your vehicle if your vehicle is equipped with an active GPS tracking system.

- (3) Glass damage if repaired rather than replaced.

SECTION IV – BUSINESS AUTO CONDITIONS is amended as follows:

- A.** The following is added to paragraph **a.** under section **A. Loss Conditions, 2. Duties in the Event of Accident, Claim, Suit or Loss**:

This duty applies when the "accident", claim, "suit" or "loss" is first known to:

- (a) You, if you are an individual;
- (b) A partner, if you are a partnership;
- (c) An executive officer or insurance manager, if you are a corporation; or
- (d) A member or manager, if you are a limited liability company.

- B.** Condition **5. Transfer of Rights of Recovery against Others to Us** under section **A. Loss Conditions** is deleted and replaced by the following:

5. Transfer of Rights of Recovery against Others to Us

If a person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, if the insured has waived rights to recover through a written contract, or if your work was commenced under a letter of intent or work order, subject to a subsequent reduction in writing of such a waiver with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this coverage form.

- C.** The following is added to Condition **2. Concealment, Misrepresentation or Fraud** under section **B. General Conditions**:

However, if you unintentionally fail to disclose any hazards at the inception of your policy, we will not deny coverage under this coverage form because of such failure. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

- D.** Paragraph **b.** of Condition **5. Other Insurance** under section **B. General Conditions** is deleted and replaced by the following:

- b.** For **Hired Auto Physical Damage Coverage**, the following are deemed to be covered "autos" you own;
 - (1) Any covered "auto" you lease, hire, rent or borrow; and
 - (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto", nor is any "auto" you hire from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AUTOMATIC INSURED – BUSINESS AUTO POLICY
PRIMARY/NON-CONTRIBUTING WHEN REQUIRED BY CONTRACT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement is subject to the terms, conditions, exclusions and any other provisions of the BUSINESS AUTO COVERAGE FORM or any endorsement attached thereto unless changes or additions are indicated below.

For the purpose of this endorsement, Section II.A.1. Who Is An Insured is amended by adding the following:

1. Any person or organization when you and such person have agreed in writing in a contract signed and executed by you prior to the loss for which coverage is sought, that such person or organization be added as an "insured" on your auto policy. Such person or organization shall be an "insured" to the extent your negligent actions or omissions impose liability on such "insured" without fault on its part.
2. This insurance is primary and non-contributory to other liability coverages of the person or organization being added to this policy as an "insured" when so required in a written contract or agreement that is executed prior to the loss for which coverage is sought.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET NOTIFICATION TO OTHERS OF CANCELLATION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
 BUSINESS OWNERS COVERAGE FORM
 COMMERCIAL CRIME COVERAGE FORM
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 COMMERCIAL INLAND MARINE COVERAGE PART
 COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM
 COMMERCIAL OUTPUT POLICY
 COMMERCIAL PROPERTY COVERAGE PART
 FARM COVERAGE PART
 FARM UMBRELLA COVERAGE FORM
 GARAGE COVERAGE FORM
 LIQUOR LIABILITY COVERAGE PART
 PRODUCT WITHDRAWAL COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium we will mail notice of cancellation to any person or organization to whom you have agreed in a written contract that notice of cancellation of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the name and address of such person or organization, after the first Named Insured shown in the Declarations receives notice from us of the cancellation of this policy; and,
2. We receive such written request at least 45 days before the effective date of cancellation.

We will mail such notice at least 30 days before the effective date of the cancellation.

Irrespective of any of the provisions above, nothing herein is intended to vest any right in the person or organization to be given notice, and said person or organization shall have no rights under this policy if he/it does not receive notice per this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FIRST CHOICE CONTRACTORS LIABILITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

NOTE: The following are additions, replacements and amendments to the Commercial General Liability Coverage Form, and will apply unless excluded by separate endorsement(s) to the Commercial General Liability Coverage Form.

The **COMMERCIAL GENERAL LIABILITY COVERAGE FORM** is amended as follows:

SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE is amended as follows:

1. Extended "Property Damage"

Exclusion 2.a., Expected or Intended Injury, is replaced with the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

2. Non-owned Watercraft

Exclusion 2.g. (2) (a) is replaced with the following:

- (a) Less than 51 feet long; and

3. Property Damage Liability – Borrowed Equipment

The following is added to Exclusion 2.j. (4):

Paragraph (4) of this exclusion does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations. The most we will pay for "property damage" to any one borrowed equipment item under this coverage is \$25,000 per "occurrence". The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

4. Limited Electronic Data Liability

Exclusion 2.p. is replaced with the following:

- p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

The most we will pay under Coverage A for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is \$10,000.

We have no duty to investigate or defend claims or "suits" covered by this Limited Electronic Data Liability coverage.

The following definition is added to **SECTION V – DEFINITIONS** of the Coverage Form:

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

For purposes of this **Limited Electronic Data Liability** coverage, the definition of "Property Damage" in **SECTION V – DEFINITIONS** of the Coverage Form is replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it;
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For purposes of this insurance, "electronic data" is not tangible property.

SECTION I – COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY is amended as follows:

Paragraph 2.e. Exclusions – the Contractual Liability Exclusion is deleted.

SECTION I – COVERAGES, the following coverages are added:

COVERAGE D. VOLUNTARY PROPERTY DAMAGE

1. Insuring Agreement

We will pay, at your request, for "property damage" caused by an "occurrence", to property of others caused by you, or while in your possession, arising out of your business operations. The amount we will pay for damages is described in **SECTION III LIMITS OF INSURANCE**.

2. Exclusions

This insurance does not apply to:

"Property Damage" to:

- a. Property at premises owned, rented, leased or occupied by you;
- b. Property while in transit;
- c. Property owned by, rented to, leased to, loaned to, borrowed by, or used by you;
- d. Premises you sell, give away, or abandon, if the "property damage" arises out of any part of those premises;
- e. Property caused by or arising out of the "products-completed operations hazard";
- f. Motor vehicles;
- g. "Your product" arising out of it or any part of it; or
- h. "Your work" arising out of it or any part of it.

3. Deductible

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. We will then pay the amount of loss in excess of \$250 up to the applicable limit of insurance.

4. Cost Factor

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance afforded under COVERAGE D is excess over any other valid and collectible property or inland marine insurance (including the deductible applicable to the property or inland marine coverage) available to you whether primary, excess, contingent or any other basis.

Coverage D covers unintentional damage or destruction, but does not cover disappearance, theft, or loss of use.

The insurance under COVERAGE D does not apply if a loss is paid under COVERAGE E.

COVERAGE E. CARE, CUSTODY OR CONTROL

1. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages because of "property damage" caused by an "occurrence", to property of others while in your care, custody, or control or property of others as to which you are exercising physical control if the "property damage" arises out of your business operations. The amount we will pay for damages is described in SECTION III LIMITS OF INSURANCE.

2. Exclusions

This insurance does not apply to:

"Property Damage" to:

- a. Property at premises owned, rented, leased or occupied by you;
- b. Property while in transit;
- c. Premises you sell, give away, or abandon, if the "property damage" arises out of any part of those premises;
- d. Property caused by or arising out of the "products-completed operations hazard";
- e. Motor vehicles;
- f. "Your product" arising out of it or any part of it; or
- g. "Your work" arising out of it or any part of it.

3. Deductible

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. We will then pay the amount of loss in excess of \$250 up to the applicable limit of insurance.

4. Cost Factor

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance afforded under COVERAGE E is excess over any other valid and collectible property or inland marine insurance (including the deductible applicable to the property or inland marine coverage) available to you whether primary, excess, contingent or any other basis.

The insurance under COVERAGE E does not apply if a loss is paid under COVERAGE D.

COVERAGE F. LIMITED PRODUCT WITHDRAWAL EXPENSE

1. Insuring Agreement

- a. If you are a "seller", we will reimburse you for "product withdrawal expenses" associated with "your product" incurred because of a "product withdrawal" to which this insurance applies.

The amount of such reimbursement is limited as described in SECTION III - LIMITS OF INSURANCE. No other obligation or liability to pay sums or perform acts or services is covered.

- a. This insurance applies to a "product withdrawal" only if the "product withdrawal" is initiated in the "coverage territory" during the policy period because:
 - (1) You determine that the "product withdrawal" is necessary; or
 - (2) An authorized government entity has ordered you to conduct a "product withdrawal".
- c. We will reimburse only those "product withdrawal expenses" which are incurred and reported to us within one year of the date the "product withdrawal" was initiated.
- d. The initiation of a "product withdrawal" will be deemed to have been made only at the earliest of the following times:
 - (1) When you have announced, in any manner, to the general public, your vendors or to your employees (other than those employees directly involved in making the determination) your decision to conduct a "product withdrawal" This applies regardless of whether the determination to conduct a "product withdrawal" is made by you or is requested by a third party;
 - (2) When you received, either orally or in writing, notification of an order from an authorized government entity to conduct a "product withdrawal"; or
 - (3) When a third party has initiated a "product withdrawal" and you communicate agreement with the "product withdrawal", or you announce to the general public, your vendors or to your employees (other than those employees directly involved in making the determination) your decision to participate in the "product withdrawal", whichever comes first.
- e. "Product withdrawal expenses" incurred to withdraw "your products" which contain:
 - (1) The same "defect" will be deemed to have arisen out of the same "product withdrawal"; or
 - (2) A different "defect" will be deemed to have arisen out of a separate "product withdrawal" if newly determined or ordered in accordance with paragraph 1.b of this coverage.

2. Exclusions

This insurance does not apply to "product withdrawal" expenses arising out of:

- a. Any "product withdrawal" initiated due to:
 - (1) The failure of "your products" to accomplish their intended purpose, including any breach of warranty of fitness, whether written or implied. This exclusion does not apply if such failure has caused or is reasonably expected to cause "bodily injury" or physical damage to tangible property.
 - (2) Copyright, patent, trade secret or trademark infringements;
 - (3) Transformation of a chemical nature, deterioration or decomposition of "your product", except if it is caused by:
 - (a) An error in manufacturing, design, processing or transportation of "your product"; or
 - (b) "Product tampering".
 - (4) Expiration of the designated shelf life of "your product".
- b. A "product withdrawal", initiated because of a "defect" in "your product" known to exist by the Named Insured or the Named Insured's "executive officers", prior to the inception date of this Coverage Part or prior to the time "your product" leaves your control or possession.
- c. Recall of any specific products for which "bodily injury" or "property damage" is excluded under Coverage A - Bodily Injury And Property Damage Liability by endorsement.
- d. Recall of "your products" which have been banned from the market by an authorized government entity prior to the policy period.
- e. The defense of a claim or "suit" against you for "product withdrawal expenses".

3. For the purposes of the insurance afforded under COVERAGE F, the following is added to 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition under SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

e. Duties In The Event Of A "Defect" Or A "Product Withdrawal"

- (1) You must see to it that we are notified as soon as practicable of any actual, suspected or threatened "defect" in "your products", or any governmental investigation, that may result in a "product withdrawal". To the extent possible, notice should include:
 - (a) How, when and where the "defect" was discovered;
 - (b) The names and addresses of any injured persons and witnesses; and
 - (c) The nature, location and circumstances of any injury or damage arising out of use or consumption of "your product".
- (2) If a "product withdrawal" is initiated, you must:
 - (a) Immediately record the specifics of the "product withdrawal" and the date it was initiated;
 - (b) Send us written notice of the "product withdrawal" as soon as practicable; and
 - (c) Not release, consign, ship or distribute by any other method, any product, or like or similar products, with an actual, suspected or threatened defect.
- (3) You and any other involved insured must:
 - (a) Immediately send us copies of pertinent correspondence received in connection with the "product withdrawal";
 - (b) Authorize us to obtain records and other information; and
 - (c) Cooperate with us in our investigation of the "product withdrawal".

4. For the purposes of this Coverage F, the following definitions are added to the Definitions Section:

- a. "Defect" means a defect, deficiency or inadequacy that creates a dangerous condition.
- b. "Product tampering" is an act of intentional alteration of "your product" which may cause or has caused "bodily injury" or physical injury to tangible property.

When "product tampering" is known, suspected or threatened, a "product withdrawal" will not be limited to those batches of "your product" which are known or suspected to have been tampered with.
- c. "Product withdrawal" means the recall or withdrawal of "your products", or products which contain "your products", from the market or from use, by any other person or organization, because of a known or suspected "defect" in "your product", or a known or suspected "product tampering", which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property.
- d. "Product withdrawal expenses" means those reasonable and necessary extra expenses, listed below paid and directly related to a "product withdrawal":
 - (1) Costs of notification;
 - (2) Costs of stationery, envelopes, production of announcements and postage or facsimiles;
 - (3) Costs of overtime paid to your regular non-salaried employees and costs incurred by your employees, including costs of transportation and accommodations;
 - (4) Costs of computer time;
 - (5) Costs of hiring independent contractors and other temporary employees;
 - (6) Costs of transportation, shipping or packaging;
 - (7) Costs of warehouse or storage space; or

- (8) Costs of proper disposal of "your products", or products that contain "your products", that cannot be reused, not exceeding your purchase price or your cost to produce the products; but "product withdrawal expenses" does not include costs of the replacement, repair or redesign of "your product", or the costs of regaining your market share, goodwill, revenue or profit.
- e. "Seller" means a person or organization that manufactures, sells or distributes goods or products. "Seller" does not include a "contractor" as defined elsewhere in this endorsement.

The insurance under COVERAGE F does not apply if a loss is paid under COVERAGE G.

COVERAGE G. CONTRACTORS ERRORS AND OMISSIONS

1. Insuring Agreement

If you are a "contractor", we will pay those sums that you become legally obligated to pay as damages because of "property damage" to "your product", "your work" or "impaired property", due to faulty workmanship, material or design, or products including consequential loss, to which this insurance applies. The damages must have resulted from your negligent act, error or omission while acting in your business capacity as a contractor or subcontractor or from a defect in material or a product sold or installed by you while acting in this capacity. The amount we will pay for damages is described in SECTION III LIMITS OF INSURANCE.

We have no duty to investigate or defend claims or "suits" covered by this Contractors Errors or Omissions coverage.

This coverage applies only if the "property damage" occurs in the "coverage territory" during the policy period.

This coverage does not apply to additional insureds, if any.

Supplementary Payments – Coverage A and B do not apply to Coverage G. Contractors Errors and Omissions.

2. Exclusions

This insurance does not apply to:

- a. "Bodily injury" or "personal and advertising injury".
- b. Liability or penalties arising from a delay or failure to complete a contract or project, or to complete a contract or project on time.
- c. Liability because of an error or omission:
 - (1) In the preparation of estimates or job costs;
 - (2) Where cost estimates are exceeded;
 - (3) In the preparation of estimates of profit or return on capital;
 - (4) In advising or failure to advise on financing of the work or project; or
 - (5) In advising or failing to advise on any legal work, title checks, form of insurance or suretyship.
- d. Any liability which arises out of any actual or alleged infringement of copyright or trademark or trade dress or patent, unfair competition or piracy, or theft or wrongful taking of concepts or intellectual property.
- e. Any liability for damages:
 - (1) From the intentional dishonest, fraudulent, malicious or criminal acts of the Named Insured, or by any partner, member of a limited liability company, or executive officer, or at the direction of any of them; or
 - (2) Which is in fact expected or intended by the insured, even if the injury or damage is of a different degree or type than actually expected or intended.

- f. Any liability arising out of manufacturer's warranties or guarantees whether express or implied.
- g. Any liability arising from "property damage" to property owned by, rented or leased to the insured.
- h. Any liability incurred or "property damage" which occurs, in whole or in part, before you have completed "your work." "Your work" will be deemed completed at the earliest of the following times:
 - (1) When all of the work called for in your contract or work order has been completed;
 - (2) When all the work to be done at the job site has been completed if your contract calls for work at more than one job site; or
 - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service or maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as complete.

- i. Any liability arising from "property damage" to products that are still in your physical possession.
- j. Any liability arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
 - (1) Providing engineering, architectural or surveying services to others; and
 - (2) Providing or hiring independent professionals to provide engineering, architectural or surveying services in connection with construction work you perform.

Professional services include the preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications. Professional services also include supervisory or inspection activities performed as part of any related architectural or engineering activities.

But, professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with construction work you perform.

- k. Your loss of profit or expected profit and any liability arising therefrom.
 - l. "Property damage" to property other than "your product," "your work" or "impaired property."
 - m. Any liability arising from claims or "suits" where the right of action against the insured has been relinquished or waived.
 - n. Any liability for "property damage" to "your work" if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.
 - o. Any liability arising from the substitution of a material or product for one specified on blueprints, work orders, contracts or engineering specifications unless there has been written authorization, or unless the blueprints, work orders, contracts or engineering specifications were written by you, and you have authorized the changes.
 - p. Liability of others assumed by the insured under any contract or agreement, whether oral or in writing. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.
3. **For the purposes of Coverage G, the following definition is added to the Definitions section:**
- a. "Contractor" means a person or organization engaged in activities of building, clearing, filling, excavating or improvement in the size, use or appearance of any structure or land. "Contractor" does not include a "seller" as defined elsewhere in this endorsement.

4. Deductible

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. The limits of insurance will not be reduced by the application of the deductible amount.

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit", and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

5. Cost Factor

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance under COVERAGE G does not apply if a loss is paid under COVERAGE F.

COVERAGE H. LOST KEY COVERAGE

1. Insuring Agreement

We will pay those sums, subject to the limits of liability described in SECTION III LIMITS OF INSURANCE in this endorsement and the deductible shown below, that you become legally obligated to pay as damages caused by an "occurrence" and due to the loss or mysterious disappearance of keys entrusted to or in the care, custody or control of you or your "employees" or anyone acting on your behalf. The damages covered by this endorsement are limited to the:

- a. Actual cost of the keys;
- b. Cost to adjust locks to accept new keys; or
- c. Cost of new locks, if required, including the cost of installation.

2. Exclusions

This insurance does not apply to:

- a. Keys owned by any insured, employees of any insured, or anyone acting on behalf of any insured;
- b. Any resulting loss of use; or
- c. Any of the following acts by any insured, employees of any insured, or anyone acting on behalf of any insured:
 - 1) Misappropriation;
 - 2) Concealment;
 - 3) Conversion;
 - 4) Fraud; or
 - 5) Dishonesty.

3. Deductible

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$1,000. The limits of insurance will not be reduced by the application of the deductible amount.

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

EXPANDED COVERAGE FOR TENANT'S PROPERTY AND PREMISES RENTED TO YOU

The first paragraph after subparagraph (6) in Exclusion j., Damage to Property is amended to read as follows:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGE A and B is amended as follows:

All references to SUPPLEMENTARY PAYMENTS – COVERAGES A and B are amended to SUPPLEMENTARY PAYMENTS – COVERAGES A, B, D, E, G, and H.

1. Cost of Bail Bonds

Paragraph 1.b. is replaced with the following:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. Loss of Earnings

Paragraph 1.d. is replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

SECTION II – WHO IS AN INSURED is amended as follows:

1. Incidental Malpractice

Paragraph 2.a.(1)(d) is replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services. However, this exclusion does not apply to a nurse, emergency medical technician or paramedic employed by you to provide medical services, unless:
 - (i) You are engaged in the occupation or business of providing or offering medical, surgical, dental, x-ray or nursing services, treatment, advice or instruction; or
 - (ii) The "employee" has another insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

2. Broadened Who Is An Insured

The following are added to Paragraph 2.:

Subsidiaries

e. Your subsidiaries if:

- (1) They are legally incorporated entities; and
- (2) You own more than 50% of the voting stock in such subsidiaries as of the effective date of this policy. If such subsidiaries are not shown in the Declarations, you must report them to us within 180 days of the inception of your original policy.

Additional Insureds

- f. Any person or organization described in paragraphs g. through k. below whom you are required to add as an additional insured on this policy under a written contract or agreement in effect during the term of this policy, provided the written contract or agreement was executed prior to the "bodily injury", "property damage" or "personal and advertising injury" for which the additional insured seeks coverage.

However, the insurance afforded to such additional insured(s):

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured;
- (3) Will not be broader than that which is afforded to you under this policy;
- (4) Is subject to the conditions described in paragraphs g. through k. below; and
- (5) Nothing herein shall extend the term of this policy.

g. Owner, Lessor or Manager of Premises

If the additional insured is an owner, lessor or manager of premises, such person or organization shall be covered only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you and subject to the following additional exclusions:

- (1) Any "occurrence" that takes place after you cease to occupy those premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

h. State or Governmental Agency or Subdivision or Political Subdivision – Permits or Authorizations

If the additional insured is the state or any political subdivision, the state or political subdivision shall be covered only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit or authorization. This insurance does not apply to:

- (1) "Bodily injury", "property damage", or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

i. Lessor of Leased Equipment

If the additional insured is a lessor of leased equipment, such lessor shall be covered only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

j. Mortgagee, Assignee, or Receiver

If the additional Insured is a mortgagee, assignee, or receiver of premises, such mortgagee, assignee or receiver of premises is an additional insured only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

k. Vendor

If the additional insured is a vendor, such vendor is an additional insured only with respect to "bodily injury" or "property damage" caused by "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- (1) The insurance afforded to the vendor does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in absence of the contract or agreement.
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in "your product" made intentionally by the vendor;
- (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - i. The exceptions contained in Subparagraphs d. or f.; or
 - ii. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

3. Newly Formed or Acquired Organizations

Paragraph 3. is amended as follows:

- a. Coverage under this provision is afforded until the end of the policy period.
- d. Coverage A does not apply to product recall expense arising out of any withdrawal or recall that occurred before you acquired or formed the organization.

SECTION III – LIMITS OF INSURANCE is amended as follows:

1. Paragraph 2. is replaced with the following:

- 2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - c. Damages under Coverage B;
 - d. Voluntary "property damage" payments under Coverage D;
 - e. Care, Custody or Control damages under Coverage E.; and
 - f. Lost Key Coverage under Coverage H.

2. Paragraph 5. is replaced with the following:

- 5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A;
 - b. Medical expenses under Coverage C;
 - c. Voluntary "property damage" payments under Coverage D;
 - d. Care, Custody or Control damages under Coverage E;
 - e. Limited Product Withdrawal Expense under Coverage F;
 - f. Contractors Errors and Omissions under Coverage G.; and
 - g. Lost Key Coverage under Coverage H.

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

3. Paragraph 6. is replaced with the following:

- 6. Subject to Paragraph 5. above the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you,

or in the case of damage by fire or explosion, while rented to you or temporarily occupied by you with permission of the owner.

The Damage to Premises Rented to You Limit is the higher of the Each Occurrence Limit shown in the Declarations or the amount shown in the Declarations as Damage To Premises Rented To You Limit.

4. Paragraph 7. is replaced with the following:

7. Subject to Paragraph 5. above, the higher of \$10,000 or the Medical Expense Limit shown in the Declarations is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

5. Paragraph 8. is added as follows:

8. Subject to Paragraph 5. above, the most we will pay under Coverage D. Voluntary Property Damage for loss arising out of any one "occurrence" is \$1,500. The most we will pay in any one-policy period, regardless of the number of claims made or suits brought, is \$3,000.

6. Paragraph 9. is added as follows:

9. Subject to Paragraph 5. above, the most we will pay under Coverage E. Care, Custody or Control for "property damage" arising out of any one "occurrence" is \$1,000. The most we will pay in any one-policy period, regardless of the number of claims made or suits brought, is \$5,000.

7. Paragraph 10. is added as follows:

10. Subject to Paragraph 5. above, the most we will pay under Coverage F. Limited Product Withdrawal Expense for "product withdrawal expenses" in any one-policy period, regardless of the number of insureds, "product withdrawals" initiated or number of "your products" withdrawn is \$10,000.

8. Paragraph 11. is added as follows:

11. Subject to Paragraph 5. above, the most we will pay under Coverage G. Contractors Errors and Omissions for damage in any one-policy period, regardless of the number of insureds, claims or "suits" brought, or persons or organizations making claim or bringing "suits" is \$10,000.

For errors in contract or job specifications or in recommendations of products or materials to be used, this policy will not pay for additional costs of products and materials to be used that would not have been incurred had the correct recommendations or specifications been made.

9. Paragraph 12. is added as follows:

12. Subject to Paragraph 5. above, the most we will pay under Coverage H., Lost Key Coverage for damages arising out of any one occurrence is \$50,000.

10. Paragraph 13. is added as follows:

13. The General Aggregate Limit applies separately to:

- a. Each of your projects away from premises owned by or rented to you; or
- b. Each "location" owned by or rented to you.

"Location" as used in this paragraph means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

11. Paragraph 14. is added as follows:

14. With respect to the insurance afforded to any additional insured provided coverage under this endorsement:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or

- b. Available under the applicable Limits of Insurance shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:

1. Subparagraph 2.a. of Duties In The Event Of Occurrence, Offense, Claim, or Suit is replaced with the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. This requirement applies only when the "occurrence" or offense is known to the following:

- (1) An individual who is the sole owner;
- (2) A partner, if you are a partnership or joint venture;
- (3) An "executive officer" or insurance manager, if you are a corporation;
- (4) A manager, if you are a limited liability company;
- (5) A person or organization having proper temporary custody of your property if you die;
- (6) The legal representative of you if you die; or
- (7) A person (other than an "employee") or an organization while acting as your real estate manager.

To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

2. The following is added to Subparagraph 2.b. of Duties In The Event Of Occurrence, Offense, Claim, or Suit:

The requirement in 2.b.applies only when the "occurrence" or offense is known to the following:

- (1) An individual who is the sole owner;
- (2) A partner or insurance manager, if you are a partnership or joint venture;
- (3) An "executive officer" or insurance manager, if you are a corporation;
- (4) A manager or insurance manager, if you are a limited liability company;
- (5) Your officials, trustees, board members or insurance manager, if you are a not-for-profit organization;
- (6) A person or organization having proper temporary custody of your property if you die;
- (7) The legal representative of you if you die; or
- (8) A person (other than an "employee") or an organization while acting as your real estate manager.

3. The following is added to paragraph 2. of Duties in the Event of Occurrence, Offense, Claim or Suit:

- e. If you report an "occurrence" to your workers compensation carrier that develops into a liability claim for which coverage is provided by the Coverage Form, failure to report such an "occurrence" to us at the time of the "occurrence" shall not be deemed a violation of paragraphs a., b., and c. above. However, you shall give written notice of this "occurrence" to us as soon as you become aware that this "occurrence" may be a liability claim rather than a workers compensation claim.

4. Paragraph 6. is replaced with the following:

- 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Any error or omission in the description of, or failure to completely describe or disclose any premises, operations or products intended to be covered by the Coverage Form will not invalidate or affect coverage for those premises, operations or products, provided such error or omission or failure to completely describe or disclose premises, operations or products was not intentional.

You must report such error or omission to us as soon as practicable after its discovery. However, this provision does not affect our right to collect additional premium charges or exercise our right of cancellation or nonrenewal.

5. The following is added to paragraph 8. Transfer Of Rights Of Recovery Against Others To Us:

However, we waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" included in the "products-completed operations hazard" under the following conditions:

- a) Only when you have agreed in writing to waive such rights of recovery in a contract or agreement;
- b) Only as to the person/entity as to whom you are required by the contract to waive rights of recovery; and
- c) Only if the contract or agreement is in effect during the term of this policy, and was executed by you prior to the loss.

6. Paragraph 10. is added as follows:

10. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in the applicable state(s).

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –
AUTOMATIC STATUS WHEN REQUIRED IN CONTRACT OR AGREEMENT –
ONGOING OPERATIONS AND PRODUCTS-COMPLETED OPERATIONS
(TEXAS LIMITED SOLE NEGLIGENCE)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE (OPTIONAL)

Name of Additional Insured Persons or Organizations

(As required by written contract or agreement per Paragraph A. below.)

Locations of Covered Operations

(As per the written contract or agreement, provided the location is within the "coverage territory".)

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

A. **Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement in effect during the term of this policy that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above; and
3. The particular person or organization, if any, scheduled above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" occurring after the execution of the contract or agreement described in Paragraph 1. above and caused, in whole or in part, by:

- a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured; or
- c. "Your work" performed for the additional insured and included in the "products-completed operations hazard" if such coverage is specifically required in the written contract or agreement.

With respect to liability of the additional insured for "bodily injury" of an employee or agent of a named insured or the employee of a named insured's subcontractor, coverage shall apply for the partial or sole negligence of the additional insured, but only if such coverage is specifically required in the written contract or agreement.

However, the insurance afforded to such additional insured(s) described above:

- a. Only applies to the extent permitted by law;
 - b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured;
 - c. Will not be broader than that which is afforded to you under this policy; and
 - d. Nothing herein shall extend the term of this policy.
- B. The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 2. Supervisory, inspection, architectural or engineering activities.
- C. This insurance is excess over any other valid and collectible insurance available to the additional insured whether on a primary, excess, contingent or any other basis; unless the written contract or agreement requires that this insurance be primary and non-contributory, in which case this insurance will be primary and non-contributory relative to insurance on which the additional insured is a Named Insured.
- D. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph A.1.; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

- E. **Section IV – Commercial General Liability Conditions** is amended as follows:

The Duties In The Event of Occurrence, Offense, Claim or Suit condition is amended to add the following additional conditions applicable to the additional insured:

An additional insured under this endorsement must as soon as practicable:

1. Give us written notice of an "occurrence" or an offense which may result in a claim or "suit" under this insurance, and of any claim or "suit" that does result;
2. Send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions; and
3. Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover the additional insured for a loss we cover under this endorsement and agree to make available all such other insurance. However, this condition does not affect Paragraph C. above.

We have no duty to defend or indemnify an additional insured under this endorsement until we receive from the additional insured written notice of a claim or "suit".

- F. This endorsement does not apply to any additional insured or project that is specifically identified in any other additional insured endorsement attached to the Commercial General Liability Coverage Form.

**SCHEDULE OF COVERAGES
INSTALLATION FLOATER COVERAGE**

(The entries required to complete this schedule
will be shown below or on the "schedule of coverages".)

PROPERTY COVERED (check one)

"Limit"

☒ **Blanket Coverage**

Jobsite Limit \$ 500,000

Catastrophe Limit \$ 500,000

☐ **Scheduled Locations Coverage**

Loc.
No.

"Jobsite"

"Limit"

Catastrophe Limit _____

"Limit"

COVERAGE EXTENSIONS

Additional Debris Removal Expenses \$ 5,000

Emergency Removal 10 days

Limited Fungus Coverage \$ 15,000

SUPPLEMENTAL COVERAGES

Pollutant Cleanup And Removal \$ 10,000

Sewer Backup \$ 5,000

Temporary Storage Locations \$ 10,000

Transit \$ 10,000

DEDUCTIBLE

Deductible Amount

\$ 1,000

COINSURANCE (check one)☒ Waived

☐ 100% ☐ 90% ☐ 80% ☐ Other _____ %

ADDITIONAL INFORMATION

IM 7105 01 12

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule**1. (X) Blanket Waiver**

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:**All Texas Operations****3. Premium:**

The premium charge for this endorsement shall be 2 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Refer to Premium Calculation Page

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **07-01-20**

Policy No. **WC0100058269-00**

Endorsement No.

Insured **Elliott Construction LLC**

Premium \$ **Included**

Insurance Company **FCCI Insurance Company**

Countersigned By _____

WC 42 03 04 B

(Ed. 6-14)

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BLANKET NOTIFICATION TO OTHERS OF CANCELLATION

This endorsement adds the following to Part Six of the policy:

Part Six-Conditions**Blanket Notification to Others of Cancellation**

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium we will mail notice of cancellation to any person or organization to whom you have agreed in a written contract that notice of cancellation of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the name and address of such person or organization, after the first Named Insured shown in the Information Page receives notice from us of the cancellation of this policy; and,
2. We receive such written request at least 45 days before the effective date of cancellation.

We will mail such notice at least 30 days before the effective date of the cancellation.

Irrespective of any of the provisions above, nothing herein is intended to vest any right in the person or organization to be given notice, and said person or organization shall have no rights under this policy if he/it does not receive notice per this endorsement.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **07-01-20** Policy No. **WC0100058269-00**

Endorsement No.

Insured **Elliott Construction LLC**

Premium \$ **Incl.**

Insurance Company **FCCI Insurance Company**

Countersigned By _____

EXHIBIT D
PLANS AND SPECIFICATIONS

EXHIBIT E
CONSTRUCTION SCHEDULE

EXHIBIT F
SCHEDULE OF VALUES

Elliott Construction LLC

P.O. Box 3788 Bryan, Tx 77805

3/16/2021

Project:	Barron Road Water Line Replacement	Prepared By:	Ben Elliott
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Title:	Construction Quantities	Sheet:	1 of 1
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Item No.	Item Description	Quantity	Unit	Unit Price	Item Cost
1	Mobilize	1	LS	\$3,800.00	\$3,800.00
2	Bond (if needed)	1	LS	\$4,800.00	\$4,800.00
3	Traffic Control	1	LS	\$2,000.00	\$2,000.00
4	24 Inch C900 DR 18 PVC Pipe (non-struct)	184	LF	\$280.00	\$51,520.00
5	18 Inch C900 DR 18 PVC Pipe (structural)	80	LF	\$240.00	\$19,200.00
6	36 Inch Steel Casing - Open Cut (sturctural)	105	LF	\$365.00	\$38,325.00
7	24 Inch Butterfly Valve	2	EA	\$11,895.00	\$23,790.00
8	18 Inch Butterfly Valve	1	EA	\$7,150.00	\$7,150.00
9	24 Inch 45 Degree Bend	4	EA	\$2,815.00	\$11,260.00
10	18 Inch 45 Degree Bend	2	EA	\$1,880.00	\$3,760.00
11	24 Inch Tee	1	EA	\$4,405.00	\$4,405.00
12	24x18 Inch Reducer	1	EA	\$2,380.00	\$2,380.00
13	Connect to Existing 24 Inch Water Line	2	EA	\$3,985.00	\$7,970.00
14	Connect to Existing 18 Inch Water Line	1	EA	\$3,280.00	\$3,280.00
15	Remove Existing Fire Hydrant	1	EA	\$550.00	\$550.00
16	Remove & Replace Road	131	SY	\$240.00	\$31,440.00
17	Remove & Replace Sidewalk	500	SF	\$16.00	\$8,000.00
18	Backfill Existing Hole w/ Stabe Sand	205	Tons	\$26.00	\$5,330.00
17	Trench and Excavation Safety	264	LF	\$2.00	\$528.00
18	Irrigation Allowance	1	LS	\$3,500.00	\$3,500.00
				Total:	\$232,988

April 8, 2021

Item No. 6.9.

Rock Prairie Management District No. 2 ILA Relating to Park Facilities

Sponsor: Aubrey Nettles, Assistant Director of Economic Development

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an Interlocal Agreement Between the City of College Station and Rock Prairie Management District No. 2 relating to park facilities.

Relationship to Strategic Goals:

- Diverse & Growing Economy
- Core Services & Infrastructure

Recommendation(s): Staff recommends approval of the Interlocal Agreement with Rock Prairie Management District No. 2.

Summary: Rock Prairie Municipal Management District No. 2 was created to provide certain improvements and services to the property located within the district, as well as to promote and maintain employment, housing, recreation, tourism, entertainment, economic development, safety and public welfare within the District. For property located within the boundaries of the Interlocal Agreement, the District will develop and dedicate parks to the City through the standard development dedication process.

Additionally, the District will maintain and program parks and related facilities. The District agrees at its sole cost and expense to perform the day-to-day operation and maintenance of the parks and park facilities and to perform ordinary repairs and maintenance. The District has the right to receive any and all revenue collected from District-programmed activities held within these parks and park facilities.

The initial term of the Interlocal Agreement is for 50 years. This agreement can be renewed for one more additional 50 year term.

Budget & Financial Summary: There should be no negative impact to the City of College Station. The District agrees at its sole cost and expense to perform the day-to-day operation and maintenance of the park and park facilities and to perform ordinary repairs and maintenance. The District has the right to receive any and all revenue collected from District programmed activities held within these park and park facilities.

Reviewed & Approved by Legal: No

Attachments:

1. Interlocal Agreement (Park Use Operation and Maintenance) 3-15-2021

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF COLLEGE STATION AND
ROCK PRAIRIE MANAGEMENT DISTRICT NO. 2**

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

THIS INTERLOCAL AGREEMENT (“Agreement”) is by and between the CITY OF COLLEGE STATION, TEXAS (the “City”), a municipal corporation and home-rule city located in Brazos County, Texas, and ROCK PRAIRIE MANAGEMENT DISTRICT NO. 2 (the “District”), a political subdivision of the State of Texas created by an Act of the 83rd Texas Legislature under the terms and provisions of Article III, Sections 52 and 52-a and Article XVI, Section 59 of the Texas Constitution, and operating pursuant to Chapter 3909, Special District Local Laws Code and Chapter 375, Texas Local Government Code, as amended. The City and the District are collectively referred to herein as the “Parties,” and each individually referred to as “Party.”

WHEREAS, the Parties are both political subdivisions of the State of Texas and are authorized by the Interlocal Cooperation Act, Texas Government Code, Chapter 791, to enter into a joint agreement for the performance of certain governmental functions or services; and

WHEREAS, the District is authorized by Chapter 3909, Special District Local Laws Code, as amended (the “Act”), to promote the health, safety, welfare and enjoyment of the public by providing, among other things, water, wastewater, drainage, parking, recreational and road facilities; and

WHEREAS, the District was created to provide certain improvements and services to the land and other property located therein, as well as to promote, develop, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety and the public welfare within the District; and

WHEREAS, the District is further authorized by the Act and the provisions of Chapter 375, Local Government Code, as amended, to undertake certain improvement projects, which may consist of the construction, acquisition, improvement, relocation, operation, maintenance, or provision of, among other things: landscaping; lighting, banners, and signs; streets and sidewalks; pedestrian skywalks, crosswalks, and tunnels; marinas, pedestrian malls; parks, plazas, lakes, rivers, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; and other similar improvements; and

WHEREAS, each Party is authorized to individually perform certain governmental functions and services related to public health and welfare and other governmental functions in which the contracting Parties are mutually interested; and

WHEREAS, in furtherance of its purpose, the District or the District's developer will construct dedicated park(s) on land within the boundaries of the District, and on any land that is annexed into the boundaries of the District with the consent of the City; and

WHEREAS, the Park (hereinafter defined) will be developed by the District and/or the District's developer and dedicated to the City through the standard development and dedication process; and

WHEREAS, the Park will be maintained for the enjoyment and benefit of the residents of the City, residents of the District and the general public (collectively, the "Benefited Parties"); and

WHEREAS, the District may also employ a person or company to actively program events and activities in the Park; and

WHEREAS, the City and the District have determined that it is in the best interest of each Party to enter into this Agreement pursuant to which the City and the District agree that the District shall use, operate, and maintain the Park and the Park Facilities (hereinafter defined); and

NOW, THEREFORE for and in consideration of the mutual promises, covenants, and benefits herein set forth; the City and the District do hereby contract and agree as follows:

GENERAL TERMS AND CONDITIONS

1. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.
2. Term. The initial term of this Agreement is for Fifty (50) years after the Effective Date. This Agreement, with the mutual written consent of both Parties may be renewed for one (1) additional consecutive Fifty (50) year terms for a total of one hundred (100) years.
3. Termination. Either Party may terminate this Agreement for cause or convenience after providing the other Party 180 days' written notice.
4. Park Dedication. The District or District's developer will dedicate parkland as required per the City's Unified Development Ordinance through the development process to include neighborhood park(s) and/or community park(s), as generally depicted on Exhibit "A" attached hereto and incorporated herein (collectively, the "Park"). All dedications will become public parkland owned by the City. As required, all development plans, including amenities and equipment, must be approved by the City.
5. Park Operation and Maintenance. (a) Subject to the terms and conditions set forth in this Agreement, the City hereby grants to the District the right to operate and maintain the Park and related facilities, and the District hereby agrees to operate and maintain the Park and related facilities, including those recreational improvements and facilities permitted under the Act and Chapter 375, Local Government Code, as amended (the "Park Facilities"). The City and District agree that the "Park Facilities" shall include any water well constructed and operated in the Park for irrigation purposes (the "Well"), including irrigation, filling and refilling of the

ponds and lakes in the Park, to serve the Park, Park Facilities and other recreational areas within the District. The Parties agree that the District will operate the Well and have the right to use the water produced from the Well in order to serve the Park, Park Facilities and other recreational areas within the District at no additional cost to the District other than regulatory permit fees associated therewith.

(b) The District agrees at its sole cost and expense (i) to perform the day-to-day operation and maintenance of the Park and the Park Facilities, including, without limitation, seeding, watering and maintenance of all landscaped areas, pruning and cutting all trees and shrubbery, removing all trash and debris; and painting or other external care of all buildings and improvements in a manner and with such frequency as is consistent with safety and good property management, and to present at all times the appearance of a neat, attractive and well-kept area, (ii) to keep the Park and the Park Facilities in good repair, (iii) to replace Park Facilities worn by ordinary use with similar or upgraded facilities as reasonably necessary; provided that such replacement costs do not exceed \$50,000.00 (collectively, "Ordinary Repairs and Maintenance"), and (iv) to contract with and determine consultants and vendors necessary for the operation and maintenance described in this Agreement. The Park shall be maintained to meet required City maintenance standards for City parks.

(c) The District shall be responsible for all Ordinary Repairs and Maintenance. The City must approve, in writing, and prior to installation or replacement of any equipment installed in the Park and the City must review and approve in writing the construction plans prior to construction. Any changes to equipment during maintenance must be approved in writing by the City.

(d) Any repairs, modifications or replacement of the Park and/or Park Facilities outside the scope of the Ordinary Repairs and Maintenance (collectively, "Major Repairs") shall be shared equally between the City and the District. The City must approve, in writing, any and all repairs, modifications, or replacement of the Park and/or Park Facilities outside the scope of Ordinary Repairs and Maintenance and prior to any such repair, modification, or replacement being made. Notwithstanding the foregoing, any repair, maintenance and/or replacement of the lake in the Park and the Well shall be solely the responsibility of the District.

(e) The City has the right to perform routine inspections of the Park and Park Facilities.

(f) The District agrees that it shall not perform any act or permit any activity that could materially diminish the value of the Park or the Park Facilities. The District further agrees to perform all acts necessary to preserve and protect the value of the Park and the Park Facilities and to utilize the Park and the Park Facilities in furtherance of the provision of recreation and beautification of the Park. The District agrees that all Park activity and programming shall be conducted in a manner consistent and promotes the well-being of the City's citizens and the general public.

(g) Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

6. Access to the Park and Park Facilities. The City hereby grants to the District, its representatives, contractors, agents and employees, a non-exclusive easement in and to the Park and the Park Facilities for the purpose of performing its obligations under this Agreement. The Park shall be open to the Benefited Parties for outdoor recreational purposes, and the District shall not restrict access to the Park or the Park Facilities or the use thereof on the basis of race, color, sex, national origin, or location of residence.
7. Park Programming. If necessary, the District at its sole cost will design and implement Park programming for the Park and coordinate for City approval. Any event shall meet all City ordinances and/or County ordinances, including but not limited to, any requirement for a special event permit.
8. Park Revenue. The District shall have the right to receive any and all revenues collected from all District programming and activities held at the Park and Park Facilities. All revenue received from District Park programs shall only be expended for Park purposes. The District upon written request shall provide the City within thirty (30) days an accounting of all funds received and spent from District Park Programming. District shall establish and maintain a reasonable accounting system that enables City to readily identify revenue and costs associated with Park programs. City shall have the right to audit, to examine, and to make copies of all financial and related records pertaining to this Agreement. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, City may terminate this Agreement with seven (7) days written notice and recoup the costs of the audit work from the District.
9. Insurance. The District shall, at its sole cost and expense, procure and maintain, during the term of this Agreement, comprehensive general public liability insurance against claims for personal injury, death, or property damage occurring in, upon, or about the Park and the Park Facilities or relating to or arising out of the construction, operation, maintenance, or management of the Park and the Park Facilities. The types and amounts of coverage shall be comparable to those maintained by the City or the District for other parks it owns or operates, and shall be sufficient to fully cover the replacement value of the Park Facilities. The City shall be named as an additional insured therein and shall be provided with proof of such insurance upon execution of this Agreement and subsequently upon request. The District shall provide the City with thirty (30) days prior written notice of any amendment to or cancellation of any insurance policy.
10. Indemnification. Subject to the limitations as to damages and liability under the Texas Tort Claims Act, and without waiving its governmental immunity, the City and District agree to hold harmless the other Party, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused, or asserted to be caused, directly or indirectly by the other Party, or any of its officers, agents or employees as a result of its performance under this Agreement.
11. Amendment. The terms and conditions of this Agreement may be amended upon the mutual written consent of both Parties. Mutual consent will be demonstrated approval of the

governing body of each Party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both Parties.

12. Utilities for the Park and Park Facilities. The District shall pay, or cause to be paid the cost of all utilities furnished to the Park and the Park Facilities, including but not limited to, electricity, gas, water, sewer and telephone and internet services. The District reserves the right to contest the validity or amount of any such utilities, and defer payment of any amounts disputed in good faith pending such contest.
13. No Assignment. Except as otherwise provided below, this Agreement may not be assigned by either Party hereto without the prior written consent of the non-assigning Party.
14. Choice of Law and Venue. This Agreement is governed in accordance with the laws of the State of Texas. Venue shall be in Brazos County, Texas.
15. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Agreement as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Agreement or by reform by a court of competent jurisdiction.
16. Waiver. Failure of any Party, at any time, to enforce a provision of this Agreement, in no way constitutes a waiver of that provision, nor in anyway affects the validity of this Agreement, any part of this Agreement, or the right of the Party thereafter to enforce each and every provision of this Agreement. No term of this Agreement will be deemed waived or breach excused unless such waiver is in writing and signed by the Party claiming to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
17. Headings. The section headings of this Agreement are for convenience and shall neither amplify nor detract from the text of this Agreement.
18. No Third Party Beneficiaries. This Agreement is not intended to create and does not create any rights in or benefits to any third party. The City and District will act independently in carrying out their respective obligations under this Agreement, and neither Party confers any rights or assumes any responsibility to a third party in connection with this Agreement.
19. Relation of Parties. It is the intention of the Parties that District is independent of the City and not an employee, agent, joint venturer, or partner of City and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between District and City or City and any of the District's representatives.

- If to the City:
- City of College Station
Economic Development Department
P.O. Box 9960
College Station, TX 77842-9960 Telephone: 979-764-3423
Email address: anettles@cstx.gov
- If to the District:
- Rock Prairie Management District No. 2
c/o Schwartz, Page & Harding, L.L.P.
1300 Post Oak Boulevard, Suite 1400
Houston, Texas 77056
Attn: President, Board of Directors
Telephone: (713) 623-4531
Email address: ccole@sphllp.com

21. Entire Agreement. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

Page 150 of 224

IN WITNESS WHEREOF, this Agreement has been executed in multiple counterparts, each of equal dignity, as of the Effective Date.

THE CITY OF COLLEGE STATION, TEXAS

Mayor

ATTEST/SEAL:

City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged on _____, 2021, by _____, _____ of City of College Station, Texas, on behalf of the City.

Notary Public, State of Texas

**ROCK PRAIRIE MANAGEMENT
DISTRICT NO. 2**

By: _____
Uri Geva
President, Board of Directors

STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on this _____ day of _____, 2021, by Uri Geva, President of the Board of Directors of Rock Prairie Management District No. 2, a political subdivision of the State of Texas, on behalf of said political subdivision.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:

Rock Prairie Management District No. 2
c/o Schwartz, Page & Harding, L.L.P.
1300 Post Oak Boulevard, Suite 1400
Houston, Texas 77056

April 8, 2021

Item No. 7.1.

Ordinance vacating and abandoning 843 square foot portion of a 10 foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas, and a 1,265 square foot portion of a 15-foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas and described in the Easement recorded in Volume 305, Page 161.

Sponsor: Erika Bridges

Reviewed By CBC: City Council

Agenda Caption:Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning an 843 square foot portion of a 10 foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas, and a 1,265 square foot portion of a 15-foot Sewer Easement located within Lot 2, Block 3 of The Glade, First Installment Subdivision, according to the plat recorded in Volume 213, Page 359, of the Deed Records of Brazos County, Texas, and described in the Easement recorded in Volume 305, Page 161.

Relationship to Strategic Goals:

- Core Services and Infrastructure
- Diverse & Growing Economy

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

Summary: The City's current Woodson Village Rehabilitation Project includes abandonment and relocation of a 12-inch sanitary sewer line within a portion of the 10-foot and 15-foot Sanitary Sewer Easements to a recently dedicated 10-foot Water/Wastewater Easement. Upon completion of the sanitary sewer line relocation project, the portions of 10-foot and 15-foot Sanitary Sewer Easements will no longer be necessary.

Budget & Financial Summary: N/A

Reviewed & Approved by Legal: No

Attachments:

1. Glade_Ordinance_3-17-21
2. Ordinance Exhibit A
3. Vicinity Map
4. Location Maps
5. Application

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING AN 843 SQUARE FOOT PORTION OF A 10 FOOT SEWER EASEMENT, SAID PORTION LYING WITHIN LOT 2, BLOCK 3, OF THE GLADE, FIRST INSTALLMENT SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 213, PAGE 359 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, AND A 1,265 SQUARE FOOT PORTION OF A 15 FOOT SEWER EASEMENT, SAID PORTION LYING WITHIN LOT 2, BLOCK 3, OF THE GLADE, FIRST INSTALLMENT SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 213, PAGE 359 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, AND DESCRIBED IN THE EASEMENT RECORDED IN VOLUME 305, PAGE 161 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of an 843 square foot portion of a 10 foot Sewer Easement, said portion lying within Lot 2, Block 3, of The Glade, First Installment Subdivision, according to the Plat recorded in Volume 213, Page 359 of the Deed Records of Brazos County, Texas, and a 1,265 square foot portion of a 15 foot Sewer Easement, said portion lying within Lot 2, Block 3, of The Glade, First Installment Subdivision, according to the Plat recorded in Volume 213, Page 359 of the Deed Records of Brazos County, Texas and described in the Easement recorded in Volume 305, Page 161 of the Deed Records of Brazos County, Texas, as described in **Exhibit “A”**, attached hereto (such portion hereinafter referred to as the “Easements”); and

WHEREAS, no portion of the dedicated Easement recorded in Volume 15112, Page 232, of the Official Records of Brazos County, Texas, shall be abandoned; and

WHEREAS, in order for the Easements to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the Easements described in **Exhibit “A”** attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Easements will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the Easements.
3. There is no anticipated future public need or use for the Easements.

4. Abandonment of the Easements will not impact access for all public utilities to serve current and future customers.

PART 2: That the Easements as described in Exhibit "A" be abandoned and vacated by the City only upon completion of the following conditions:

1. The City shall retain the Easements until such time that the City installs a new sanitary sewer line.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2021.

ATTEST:

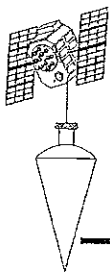
APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

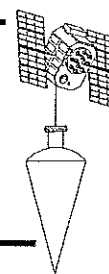


STRONG **SURVEYING, LLC**

FIRM NO. 10093500

Email: curtis@strongsurveying.com

1722 Broadmoor Ste. 105
Bryan, Texas 77802
Phone: (979) 776 – 9836
Fax: (979) 731 – 0096



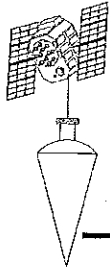
FIELD NOTES
CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.019 OF ONE ACRE
(843 SQ. FT.)
BEING A PORTION OF THE
10' WIDE SEWER EASEMENT
OUT OF LOT 2, BLOCK 3
THE GLADE, FIRST INSTALLMENT
VOLUME 213, PAGE 359
CRAWFORD BURNETT SURVEY, A -7
CITY OF COLLEGE STATION, BRAZOS COUNTY TEXAS
MARCH 29, 2019

All that certain lot, tract or parcel of land being 0.019 of one acre (843 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a portion of the 10 foot wide sewer easement as depicted on plat of The Glade, First Installment of record in Volume 213, Page 359, Deed Records of Brazos County, Texas, and being on and across the Called 0.273 acre tract as described in deed from Mary Ann Andrews to Matthew B. Milburn, of record in Volume 8103, Page 280, Official Records of Brazos County, Texas, said 0.019 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the northeast right-of-way line of Glade Street, a 60 feet wide right-of-way as depicted on Plat of record in Volume 213, Page 359, Deed Records, Brazos County for the most southerly corner of this parcel, said corner also being located in the south line of said 10 foot wide sewer easement, the southwest line of said Called 0.273 acre tract, and the southwest line of Lot 2, Block 3, The Glade First Installment as depicted on Plat of Record in Volume 213, Page 359, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most westerly corner of the City of College Station Called 0.030 acre Water/Wastewater easement as described in Volume 15122, Page 232 Official Records, Brazos County Texas, bears S 48°37'39" E a distance of 35.06 feet;

THENCE N 48°37'39" W along the northeast line of said Glade Street, the southwest line of said Called 0.273 acre tract, and the southwest line of said Lot 2 a distance of 12.67 feet to a point for the most westerly corner of this parcel, from which a 1/2" iron rod found for the most westerly corner of said Lot 2 bears N 48°37'39" W a distance of 22.26 feet, and the calculated most westerly corner of said Called 0.273 acre tract bears N 48°37'39" W a distance of 27.27 feet;

THENCE N 79°14'07" E across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 94.71 feet to a point located in the southeast line of said Called 0.273 acre tract for the most northeasterly corner of this parcel, said corner also being located in the southeast line of said Called 0.030 acre easement, said corner also being located in the northwest line of the David A. Erlandson and Gwyneth E. Erlandson Called All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract, as described in Volume 1103, Page 198 Official Records, Brazos County, from which



STRONG SURVEYING, LLC

FIRM NO. 10093500

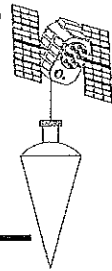
Email: curtis@strongsurveying.com

1722 Broadmoor Ste. 105

Bryan, Texas 77802

Phone: (979) 776 - 9836

Fax: (979) 731 - 0096



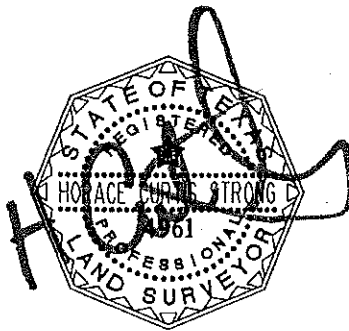
a 1/2" iron rod with cap stamped "RPLS 4961" found for the most easterly corner of said Called 0.030 acre tract bears N 41°40'52" E a distance of 54.66 feet, from which a 1/2" iron rod found for the most easterly corner of said Called 0.273 acre tract bears N 41°40'52" E a distance of 64.66 feet;

THENCE S 41°40'52" W along the southeast line of said called 0.273 acre tract, the southeast line of said Called 0.030 acre easement, and the northwest line of said All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract a distance of 16.41 feet to a point for the most southeasterly corner of this parcel, from which a 1/2" iron rod found for the most southerly corner of said Called 0.273 acre tract bears S 41°40'52" W a distance of 58.36 feet;

THENCE S 79°14'07" W across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 73.93 feet to the PLACE OF BEGINNING CONTAINING AN AREA OF 0.019 OF ONE ACRE OF LAND (843 Sq. Ft.) MORE OR LESS

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 120 and no. 220 (N 61°34'30" E).

See survey plat dated March 2019



NOTES:

Bearings are State Plane, Central Zone
NAD83(CORS) datum, based on City of CS GPS
control monuments no. 120 and no. 220 (N 61°34'30" E).

All existing utility lines and some existing easements may not be shown



**STRONG
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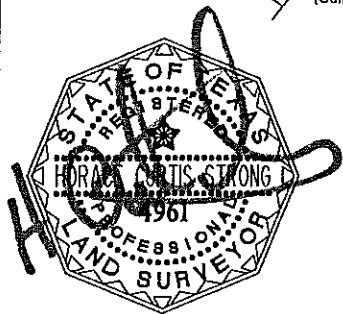
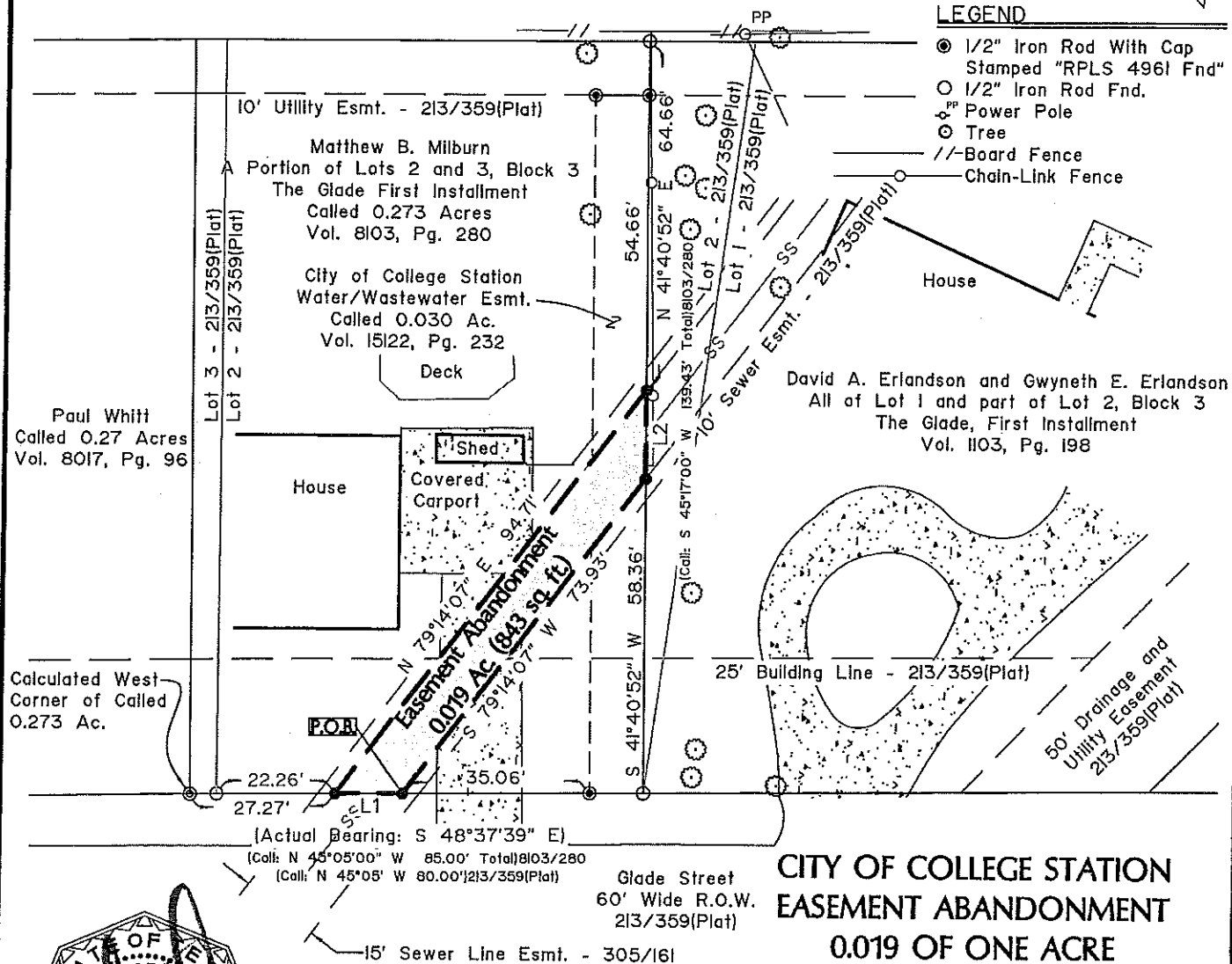


Scale: 1"=30'

Holk Square, LLC
Lots 1, 2, 3, 4, 5, and 6, Block 1
Glade East, Section One
Vol. 14747, Pg. 246

LEGEND

- 1/2" Iron Rod With Cap Stamped "RPLS 4961 Fnd"
- 1/2" Iron Rod Fnd.
- PP Power Pole
- ⊙ Tree
- Board Fence
- - - Chain-Link Fence



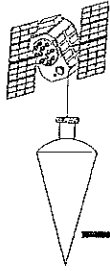
LINE	BEARING	DISTANCE
L1	N 48°37'39" W	12.67'
L2	S 41°40'52" W	16.41'

**CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.019 OF ONE ACRE
(843 SQ. FT.)**

**BEING A PORTION OF THE
10' WIDE SEWER EASEMENT
OUT OF LOT 2, BLOCK 3
THE GLADE, FIRST INSTALLMENT
VOLUME 213, PAGE 359**

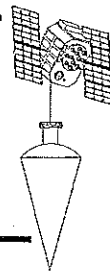
**CRAWFORD BURNETT SURVEY, A-7
CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS
MARCH 29, 2019**

I. H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat represents the results of a survey performed on the ground during the month of August, 2018 and is true and correct to the best of my knowledge.



STRONG
SURVEYING, LLC
FIRM NO. 10093500

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Bryan, Texas 77802
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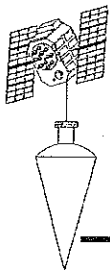
FIELD NOTES
CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.029 OF ONE ACRE
(1,265 SQ. FT.)
BEING A PORTION OF THE
CITY OF COLLEGE STATION
15 FOOT WIDE EASEMENT
VOLUME 305, PAGE 161
CRAWFORD BURNETT SURVEY, A -7
CITY OF COLLEGE STATION, BRAZOS COUNTY TEXAS
MARCH 28, 2019

All that certain lot, tract or parcel of land being 0.029 of one acre (1,265 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a portion of the 15 foot wide sewer easement as described in deed from Steve Holik to the City of College Station, Texas, of record in Volume 305, Page 161, Deed Records of Brazos County, Texas, and being on and across the Called 0.273 acre tract as described in deed from Mary Ann Andrews to Matthew B. Milburn, of record in Volume 8103, Page 280, Official Records of Brazos County, Texas, said 0.029 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the northeast right-of-way line of Glade Street, a 60 feet wide right-of-way as depicted on Plat of record in Volume 213, Page 359, Deed Records, Brazos County for the most southerly corner, said corner also being located in the south line of said 15 foot wide sewer easement, the southwest line of said Called 0.273 acre tract, and the southwest line of Lot 2, Block 3, The Glade First Installment as depicted on Plat of Record in Volume 213, Page 359, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most westerly corner of the City of College Station Called 0.030 acre Water/Wastewater easement as described in Volume 15122, Page 232 Official Records, Brazos County bears S 48°37'39" E a distance of 31.88 feet;

THENCE N 48°37'39" W along the northeast line of said Glade Street, the southwest line of said Called 0.273 acre tract, and the southwest line of said Lot 2 a distance of 19.00 feet to a point for the most westerly corner of this parcel, from which a 1/2" iron rod found for the most westerly corner of said Lot 2 bears N 48°37'39" W a distance of 19.11 feet, and the calculated most westerly corner of said Called 0.273 acre tract bears N 48°37'39" W a distance of 24.12 feet;

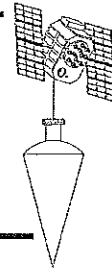
THENCE N 79°13'40" E across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 99.89 feet to a point located in the southeast line of said Called 0.273 acre tract for the most northeasterly corner of this parcel, said corner also being located in the southeast line of said Called 0.030 acre easement, said corner also being located in the northwest line of the David A. Erlandson and Gwyneth E. Erlandson Called All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract, as described in Volume 1103, Page 198 Official Records, Brazos County, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most easterly corner of said Called 0.030 acre tract bears N 41°40'52" E a distance of 50.56 feet, a



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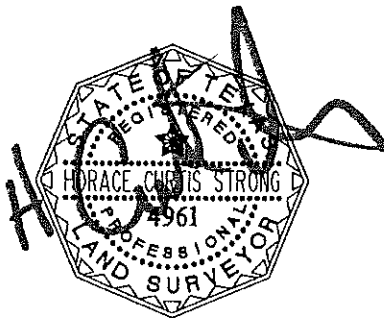
1/2" iron rod found for the most easterly corner of said Called 0.273 acre tract bears N 41°40'52" E a distance of 60.56 feet;

THENCE S 41°40'52" W along the southeast line of said called 0.273 acre tract, the southeast line of said Called 0.030 acre easement, and the northwest line of said All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract a distance of 24.61 feet to a point for the most southeasterly corner of this parcel, from which a 1/2" iron rod found for the most southerly corner of said Called 0.273 acre tract bears S 41°40'52" W a distance of 54.26 feet;

THENCE S 79°13'40" W across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 68.72 feet to the PLACE OF BEGINNING CONTAINING AN AREA OF 0.029 OF ONE ACRE OF LAND (1,265 Sq. Ft.) MORE OR LESS

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 120 and no. 220 (N 61°34'30" E).

See survey plat dated March 2019



NOTES:

Bearings are State Plane, Central Zone
NAD83(CORS) datum, based on City of CS GPS
control monuments no. 120 and no. 220 (N 61°34'30" E).

All existing utility lines and some existing easements may not be shown



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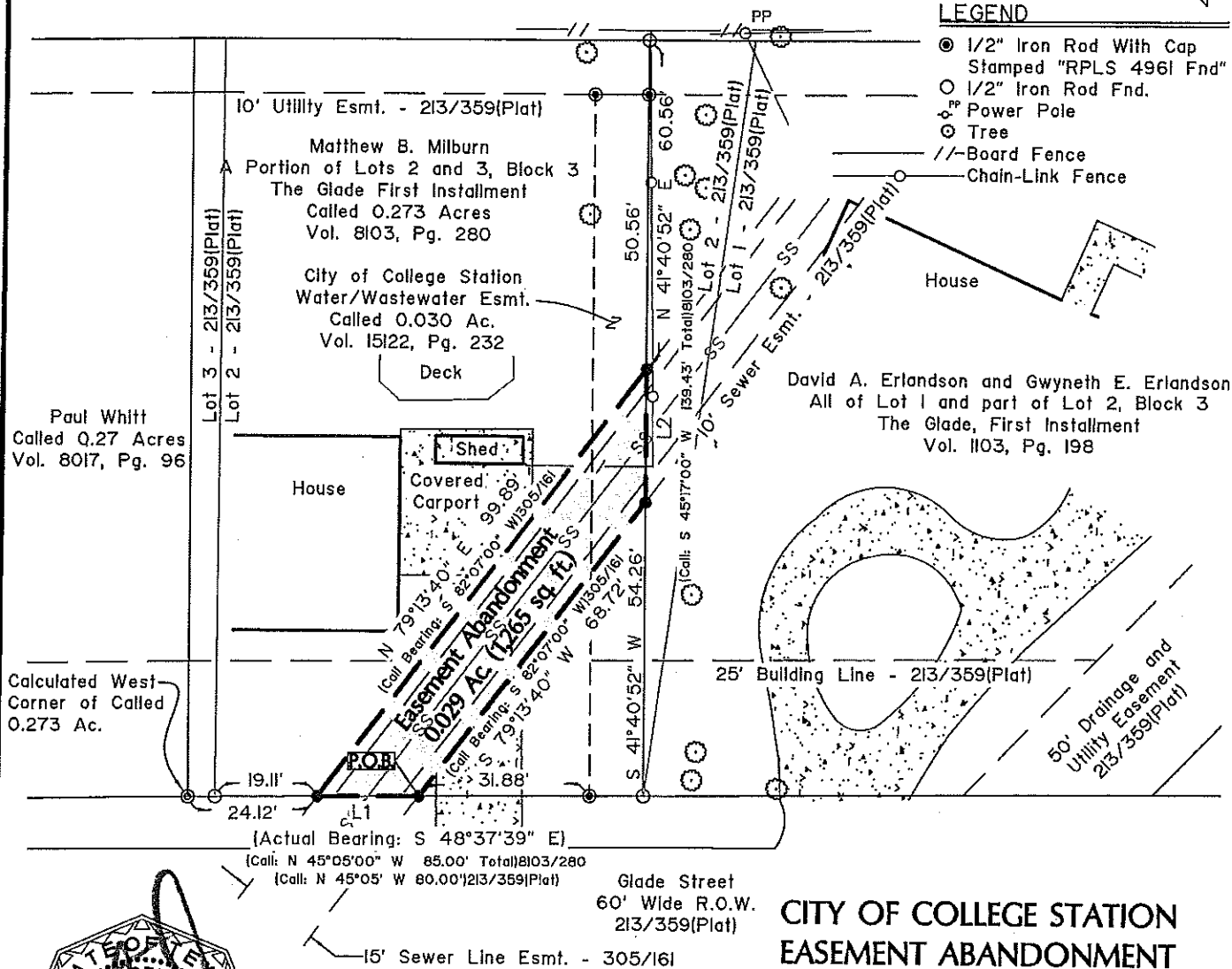


Scale: 1"=30'

Holik Square, LLC
Lots 1, 2, 3, 4, 5, and 6, Block 1
Glade East, Section One
Vol. 14747, Pg. 246

LEGEND

- 1/2" Iron Rod With Cap Stamped "RPLS 4961 Fnd"
- 1/2" Iron Rod Fnd.
- PP Power Pole
- Tree
- Board Fence
- - - Chain-Link Fence



CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.029 OF ONE ACRE
(1,265 SQ. FT.)

BEING A PORTION OF THE
CITY OF COLLEGE STATION
15 FOOT WIDE EASEMENT

VOLUME 305, PAGE 161

CRAWFORD BURNETT SURVEY, A-7

CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS

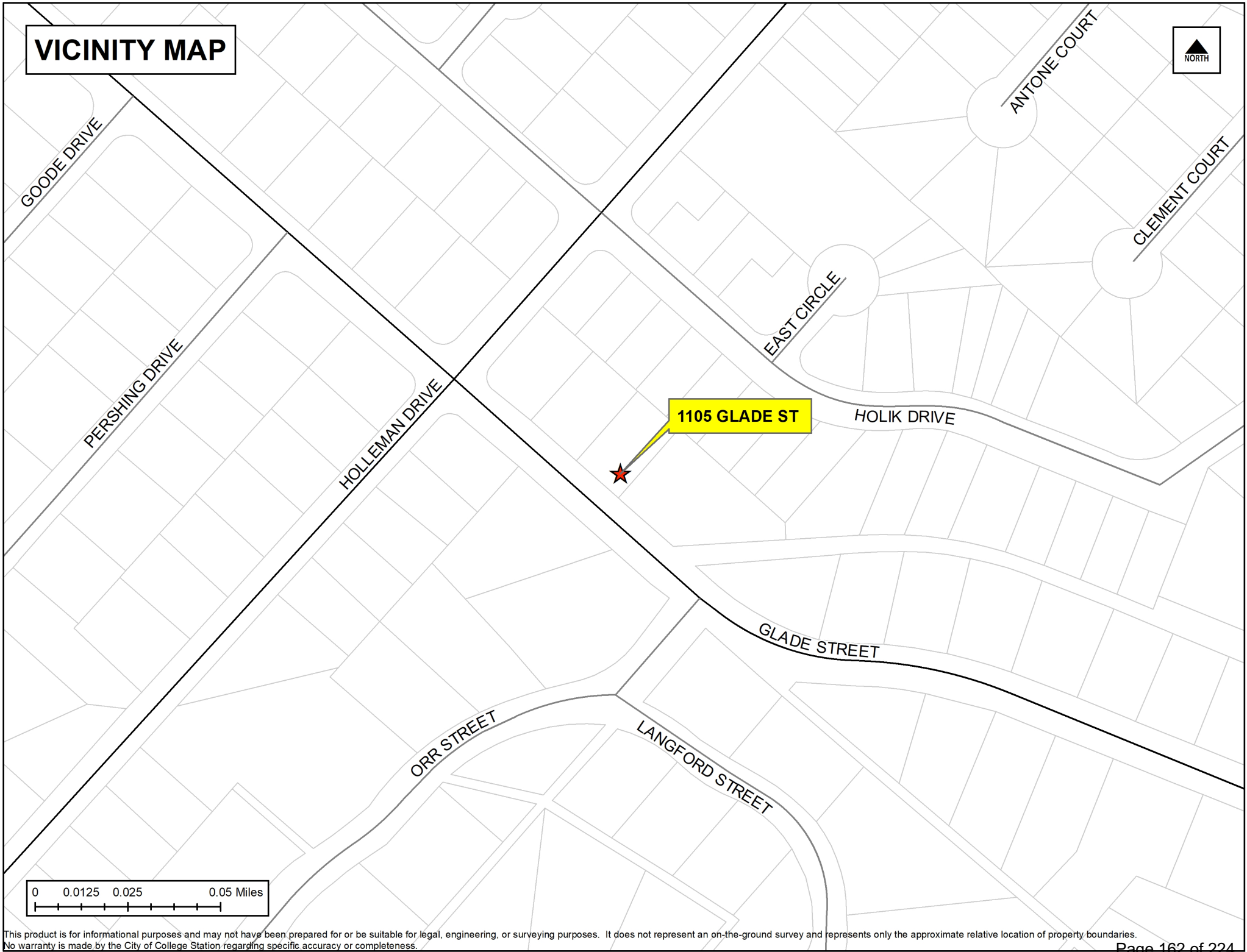
MARCH 28, 2019



I. H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat represents the results of a survey performed on the ground during the month of August, 2018 and is true and correct to the best of my knowledge.

LINE	BEARING	DISTANCE
L1	N 48°37'39" W	19.00'
L2	S 41°40'52" W	24.61'

VICINITY MAP



0 0.0125 0.025 0.05 Miles

LOCATION MAP

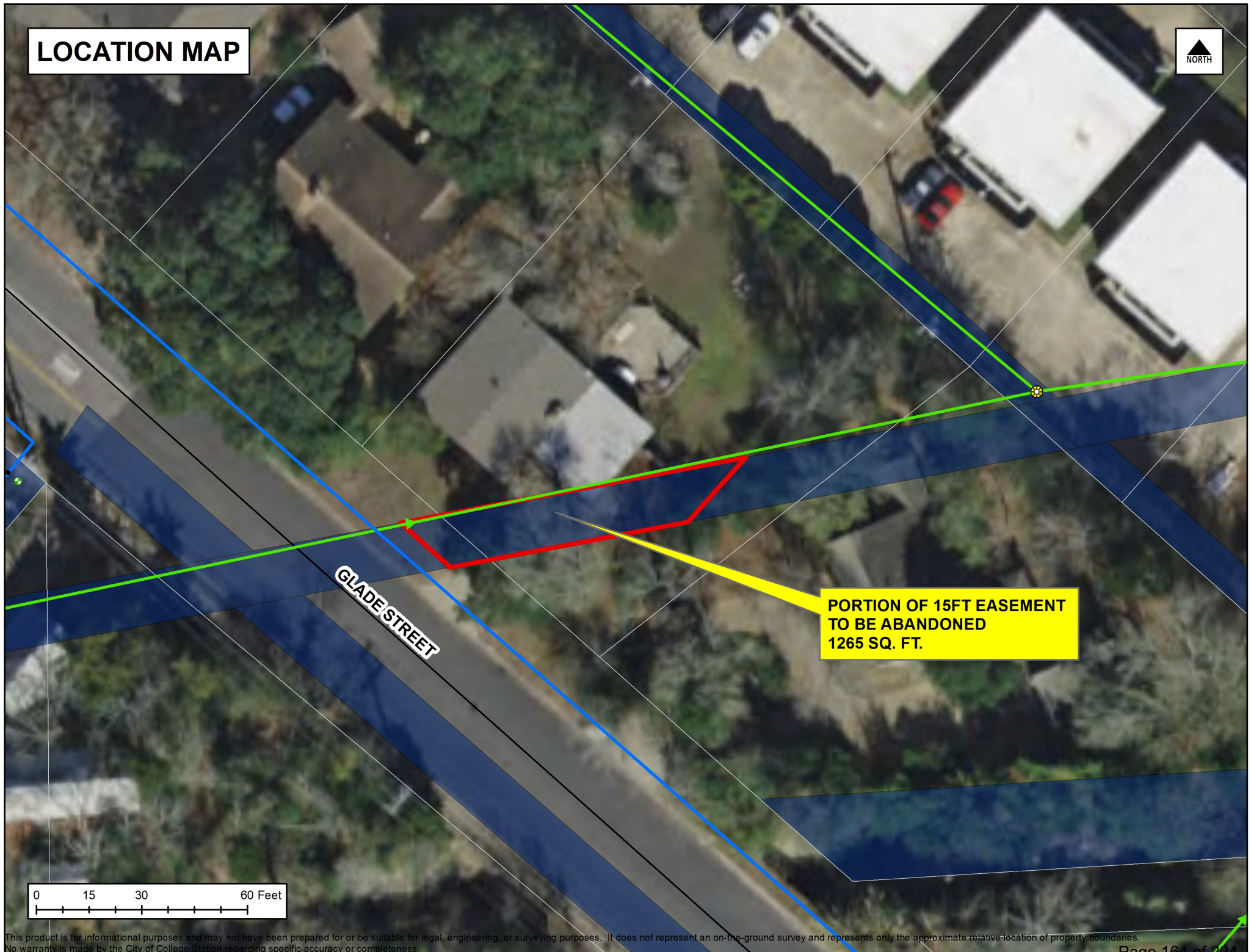
NORTH

GLADE STREET

PORTION OF 10FT EASEMENT
TO BE ABANDONED
843 SQ. FT.

0 15 30 60 Feet

LOCATION MAP



0 15 30 60 Feet

FOR OFFICE USE ONLY

CASE NO.: _____
 DATE SUBMITTED: _____
 TIME: _____
 STAFF: _____

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☐ Abandonment of Public Right-of-Way/Easement Application Fee. (Refer to the Planning and Development Fee Schedule for all applicable fees)
- ☐ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☐ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☐ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☐ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

A portion of Lots 2 and 3, Block 3, The Glade First Installment (known as 1105 Glade Street, BCAD Property ID: 27993)

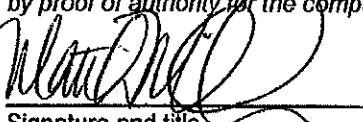
APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name Ashley Dorsett, Land Agent for COCS E-mail adorsett@cstx.gov
 Street Address P.O. Box 9960
 City College Station State Texas Zip Code 77842
 Phone Number (979) 764-5031 Fax Number (979) 764-3489

PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name Matthew B. Milburn E-mail milburn.matt@gmail.com
 Street Address: 5220 Traffic Way, Apt #4
 City Atascadero State CA Zip Code 93422
 Phone Number (979) 220-2916 Fax Number n/a

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


 Signature and title _____

1/22/19
 Date _____

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:
there is an existing 10' platted PUE (213/359 plat) at the rear of the subject property, as well as a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.
8. That there is no current public need or use for the easement or right-of-way because:
there is a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.
9. That there is no anticipated future public need or use for the easement or right-of-way because:
there is a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.
10. That all public utilities have access to serve current and future customers because:
there is an existing 10' platted PUE (213/359 plat) at the rear of the subject property and a public right-of-way along the front of the subject property.
11. Such public right-of-way/easement has been and is being used as follows:
for a sanitary sewer line. The existing line will be abandoned in place, with the line and service to be rerouted along the eastern property line once the new water/wastewater easement is dedicated and the new infrastructure is completely installed and operational.

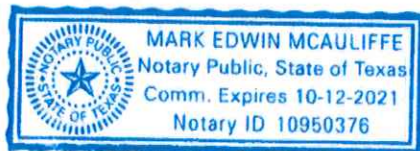
I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.


 Signature and title *Land Agent, City of College Station*

01/24/19
 Date

STATE OF TEXAS §
 § ACKNOWLEDGEMENT
 COUNTY OF BRAZOS §

Subscribed and sworn to before me, a Notary Public, this *24* day of *January*, *2019* by *Ashley Dorsett*




 Notary Public in and for
 the State of Texas

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:
there is an existing 10' platted PUE (213/359 plat) at the rear of the subject property, as well as a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.

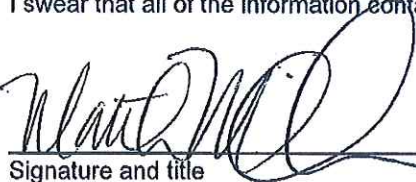
8. That there is no current public need or use for the easement or right-of-way because:
there is a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.

9. That there is no anticipated future public need or use for the easement or right-of-way because:
there is a water/wastewater easement to be dedicated along the eastern property line in lieu of the wastewater easement being abandoned.

10. That all public utilities have access to serve current and future customers because:
there is an existing 10' platted PUE (213/359 plat) at the rear of the subject property and a public right-of-way along the front of the subject property.

11. Such public right-of-way/easement has been and is being used as follows:
for a sanitary sewer line. The existing line will be abandoned in place, with the line and service to be rerouted along the eastern property line once the new water/wastewater easement is dedicated and the new infrastructure is completely installed and operational.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.


Signature and title *landowner*

1/22/19
Date

California
STATE OF ~~TEXAS~~ §
COUNTY OF BRAZOS § ACKNOWLEDGEMENT
§

Subscribed and sworn to before me, a Notary Public, this 22 day of _____, 2009 by _____

Notary Public in and for
the State of Texas

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of San Luis Obispo)
 On January 22, 2019 before me, Mark Montanez,
 Date Here Insert Name and Title of the Officer
 personally appeared Matthew B. Milburn
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Application for Abandonment of
a Public Right-of-Way/Easement

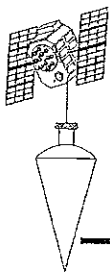
Location: 1105 Glade Street, College Station, Texas

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in

part of Lot 2, Block 3, The Glade First Installment (1105 Glade Street)

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.

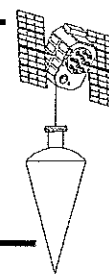


STRONG **SURVEYING, LLC**

FIRM NO. 10093500

Email: curtis@strongsurveying.com

1722 Broadmoor Ste. 105
Bryan, Texas 77802
Phone: (979) 776 – 9836
Fax: (979) 731 – 0096



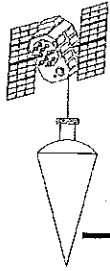
FIELD NOTES
CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.019 OF ONE ACRE
(843 SQ. FT.)
BEING A PORTION OF THE
10' WIDE SEWER EASEMENT
OUT OF LOT 2, BLOCK 3
THE GLADE, FIRST INSTALLMENT
VOLUME 213, PAGE 359
CRAWFORD BURNETT SURVEY, A -7
CITY OF COLLEGE STATION, BRAZOS COUNTY TEXAS
MARCH 29, 2019

All that certain lot, tract or parcel of land being 0.019 of one acre (843 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a portion of the 10 foot wide sewer easement as depicted on plat of The Glade, First Installment of record in Volume 213, Page 359, Deed Records of Brazos County, Texas, and being on and across the Called 0.273 acre tract as described in deed from Mary Ann Andrews to Matthew B. Milburn, of record in Volume 8103, Page 280, Official Records of Brazos County, Texas, said 0.019 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the northeast right-of-way line of Glade Street, a 60 feet wide right-of-way as depicted on Plat of record in Volume 213, Page 359, Deed Records, Brazos County for the most southerly corner of this parcel, said corner also being located in the south line of said 10 foot wide sewer easement, the southwest line of said Called 0.273 acre tract, and the southwest line of Lot 2, Block 3, The Glade First Installment as depicted on Plat of Record in Volume 213, Page 359, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most westerly corner of the City of College Station Called 0.030 acre Water/Wastewater easement as described in Volume 15122, Page 232 Official Records, Brazos County Texas, bears S 48°37'39" E a distance of 35.06 feet;

THENCE N 48°37'39" W along the northeast line of said Glade Street, the southwest line of said Called 0.273 acre tract, and the southwest line of said Lot 2 a distance of 12.67 feet to a point for the most westerly corner of this parcel, from which a 1/2" iron rod found for the most westerly corner of said Lot 2 bears N 48°37'39" W a distance of 22.26 feet, and the calculated most westerly corner of said Called 0.273 acre tract bears N 48°37'39" W a distance of 27.27 feet;

THENCE N 79°14'07" E across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 94.71 feet to a point located in the southeast line of said Called 0.273 acre tract for the most northeasterly corner of this parcel, said corner also being located in the southeast line of said Called 0.030 acre easement, said corner also being located in the northwest line of the David A. Erlandson and Gwyneth E. Erlandson Called All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract, as described in Volume 1103, Page 198 Official Records, Brazos County, from which



STRONG SURVEYING, LLC

FIRM NO. 10093500

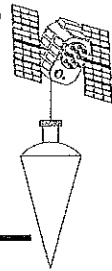
Email: curtis@strongsurveying.com

1722 Broadmoor Ste. 105

Bryan, Texas 77802

Phone: (979) 776 - 9836

Fax: (979) 731 - 0096



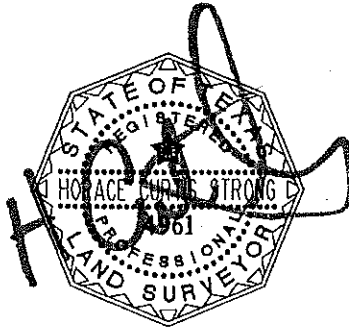
a 1/2" iron rod with cap stamped "RPLS 4961" found for the most easterly corner of said Called 0.030 acre tract bears N 41°40'52" E a distance of 54.66 feet, from which a 1/2" iron rod found for the most easterly corner of said Called 0.273 acre tract bears N 41°40'52" E a distance of 64.66 feet;

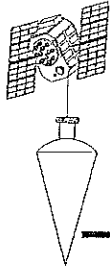
THENCE S 41°40'52" W along the southeast line of said called 0.273 acre tract, the southeast line of said Called 0.030 acre easement, and the northwest line of said All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract a distance of 16.41 feet to a point for the most southeasterly corner of this parcel, from which a 1/2" iron rod found for the most southerly corner of said Called 0.273 acre tract bears S 41°40'52" W a distance of 58.36 feet;

THENCE S 79°14'07" W across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 73.93 feet to the PLACE OF BEGINNING CONTAINING AN AREA OF 0.019 OF ONE ACRE OF LAND (843 Sq. Ft.) MORE OR LESS

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 120 and no. 220 (N 61°34'30" E).

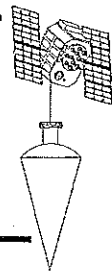
See survey plat dated March 2019





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SURVEYING, LLC
FIRM NO. 10093500

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Email: curtis@strongsurveying.com



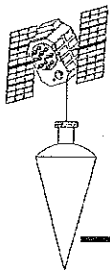
FIELD NOTES
CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.029 OF ONE ACRE
(1,265 SQ. FT.)
BEING A PORTION OF THE
CITY OF COLLEGE STATION
15 FOOT WIDE EASEMENT
VOLUME 305, PAGE 161
CRAWFORD BURNETT SURVEY, A -7
CITY OF COLLEGE STATION, BRAZOS COUNTY TEXAS
MARCH 28, 2019

All that certain lot, tract or parcel of land being 0.029 of one acre (1,265 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a portion of the 15 foot wide sewer easement as described in deed from Steve Holik to the City of College Station, Texas, of record in Volume 305, Page 161, Deed Records of Brazos County, Texas, and being on and across the Called 0.273 acre tract as described in deed from Mary Ann Andrews to Matthew B. Milburn, of record in Volume 8103, Page 280, Official Records of Brazos County, Texas, said 0.029 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the northeast right-of-way line of Glade Street, a 60 feet wide right-of-way as depicted on Plat of record in Volume 213, Page 359, Deed Records, Brazos County for the most southerly corner, said corner also being located in the south line of said 15 foot wide sewer easement, the southwest line of said Called 0.273 acre tract, and the southwest line of Lot 2, Block 3, The Glade First Installment as depicted on Plat of Record in Volume 213, Page 359, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most westerly corner of the City of College Station Called 0.030 acre Water/Wastewater easement as described in Volume 15122, Page 232 Official Records, Brazos County bears S 48°37'39" E a distance of 31.88 feet;

THENCE N 48°37'39" W along the northeast line of said Glade Street, the southwest line of said Called 0.273 acre tract, and the southwest line of said Lot 2 a distance of 19.00 feet to a point for the most westerly corner of this parcel, from which a 1/2" iron rod found for the most westerly corner of said Lot 2 bears N 48°37'39" W a distance of 19.11 feet, and the calculated most westerly corner of said Called 0.273 acre tract bears N 48°37'39" W a distance of 24.12 feet;

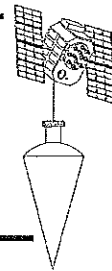
THENCE N 79°13'40" E across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 99.89 feet to a point located in the southeast line of said Called 0.273 acre tract for the most northeasterly corner of this parcel, said corner also being located in the southeast line of said Called 0.030 acre easement, said corner also being located in the northwest line of the David A. Erlandson and Gwyneth E. Erlandson Called All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract, as described in Volume 1103, Page 198 Official Records, Brazos County, from which a 1/2" iron rod with cap stamped "RPLS 4961" found for the most easterly corner of said Called 0.030 acre tract bears N 41°40'52" E a distance of 50.56 feet, a



STRONG SURVEYING, LLC

FIRM NO. 10093500

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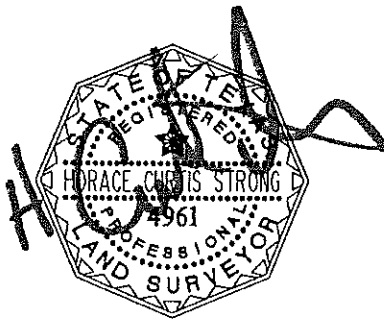
1/2" iron rod found for the most easterly corner of said Called 0.273 acre tract bears N 41°40'52" E a distance of 60.56 feet;

THENCE S 41°40'52" W along the southeast line of said called 0.273 acre tract, the southeast line of said Called 0.030 acre easement, and the northwest line of said All of Lot 1 and part of Lot 2, Block 3, The Glade, First Installment tract a distance of 24.61 feet to a point for the most southeasterly corner of this parcel, from which a 1/2" iron rod found for the most southerly corner of said Called 0.273 acre tract bears S 41°40'52" W a distance of 54.26 feet;

THENCE S 79°13'40" W across said Called 0.273 acre tract, said Lot 2, and said Called 0.030 acre easement a distance of 68.72 feet to the PLACE OF BEGINNING CONTAINING AN AREA OF 0.029 OF ONE ACRE OF LAND (1,265 Sq. Ft.) MORE OR LESS

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 120 and no. 220 (N 61°34'30" E).

See survey plat dated March 2019



Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1105 Glade Street, College Station, Texas

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.

NOTES:

Bearings are State Plane, Central Zone
NAD83(CORS) datum, based on City of CS GPS
control monuments no. 120 and no. 220 (N 61°34'30" E).

All existing utility lines and some existing easements may not be shown



**STRONG
SURVEYING**
Firm No. 10093500 email: curtis@strongsurveying.com

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Fax: (979) 731-0096

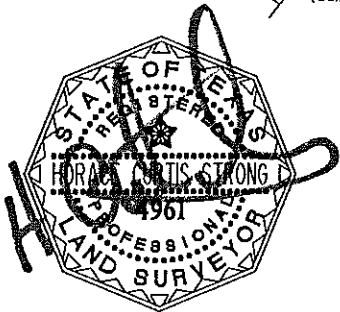
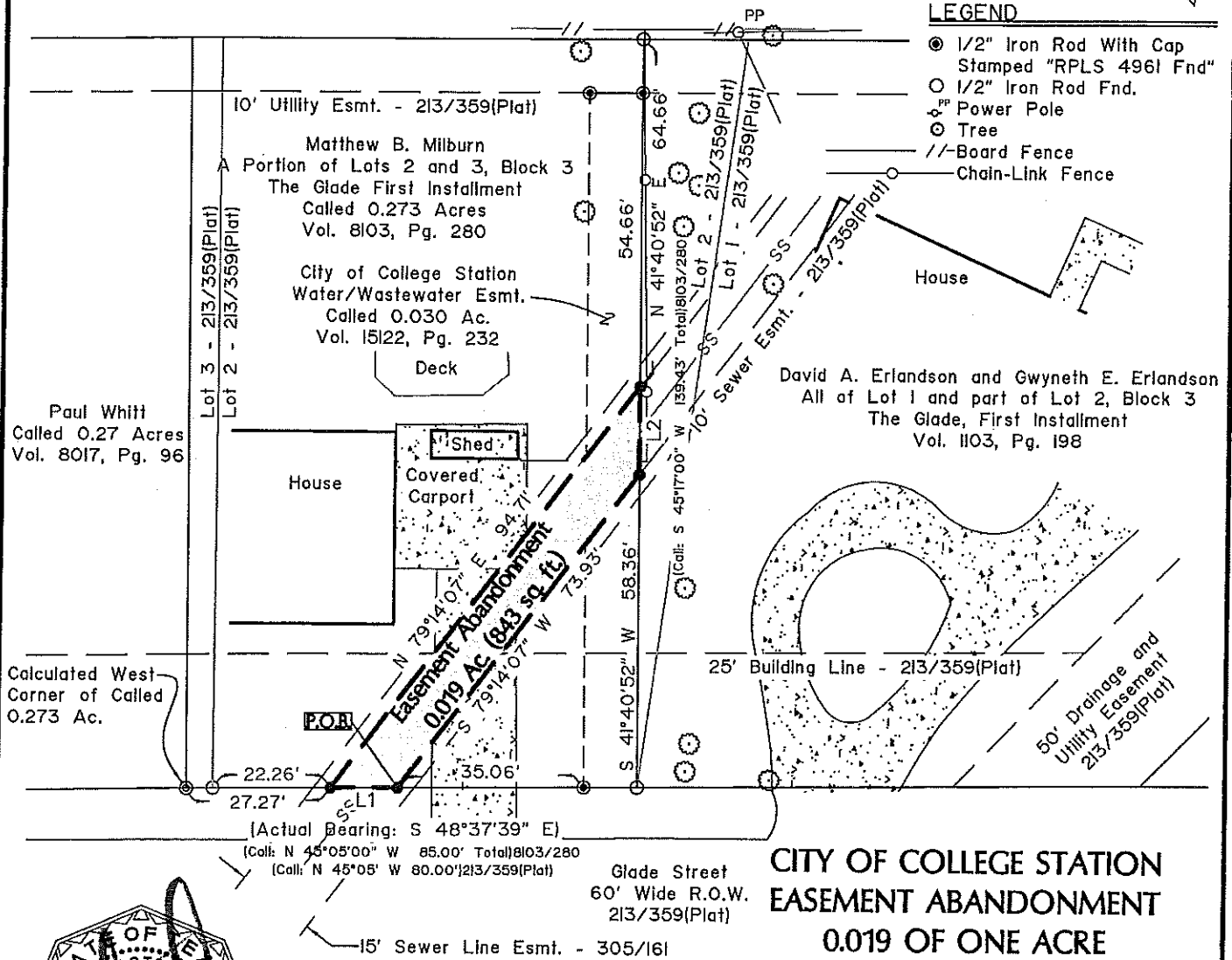


Scale: 1"=30'

Holk Square, LLC
Lots 1, 2, 3, 4, 5, and 6, Block 1
Glade East, Section One
Vol. 14747, Pg. 246

LEGEND

- 1/2" Iron Rod With Cap Stamped "RPLS 4961 Fnd"
- 1/2" Iron Rod Fnd.
- PP Power Pole
- ⊙ Tree
- Board Fence
- - - Chain-Link Fence



LINE	BEARING	DISTANCE
L1	N 48°37'39" W	12.67'
L2	S 41°40'52" W	16.41'

**CITY OF COLLEGE STATION
EASEMENT ABANDONMENT
0.019 OF ONE ACRE
(843 SQ. FT.)**

**BEING A PORTION OF THE
10' WIDE SEWER EASEMENT
OUT OF LOT 2, BLOCK 3
THE GLADE, FIRST INSTALLMENT
VOLUME 213, PAGE 359**

**CRAWFORD BURNETT SURVEY, A-7
CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS
MARCH 29, 2019**

I. H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat represents the results of a survey performed on the ground during the month of August, 2018 and is true and correct to the best of my knowledge.

Bearings are State Plane, Central Zone
NAD83(CORS) datum, based on City of CS GPS
control monuments no. 120 and no. 220 (N 61°34'30" E).

STRONG SURVEYING
Firm No. 10093500 email: strong@strongsurveying.com

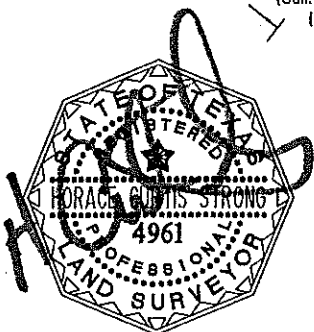
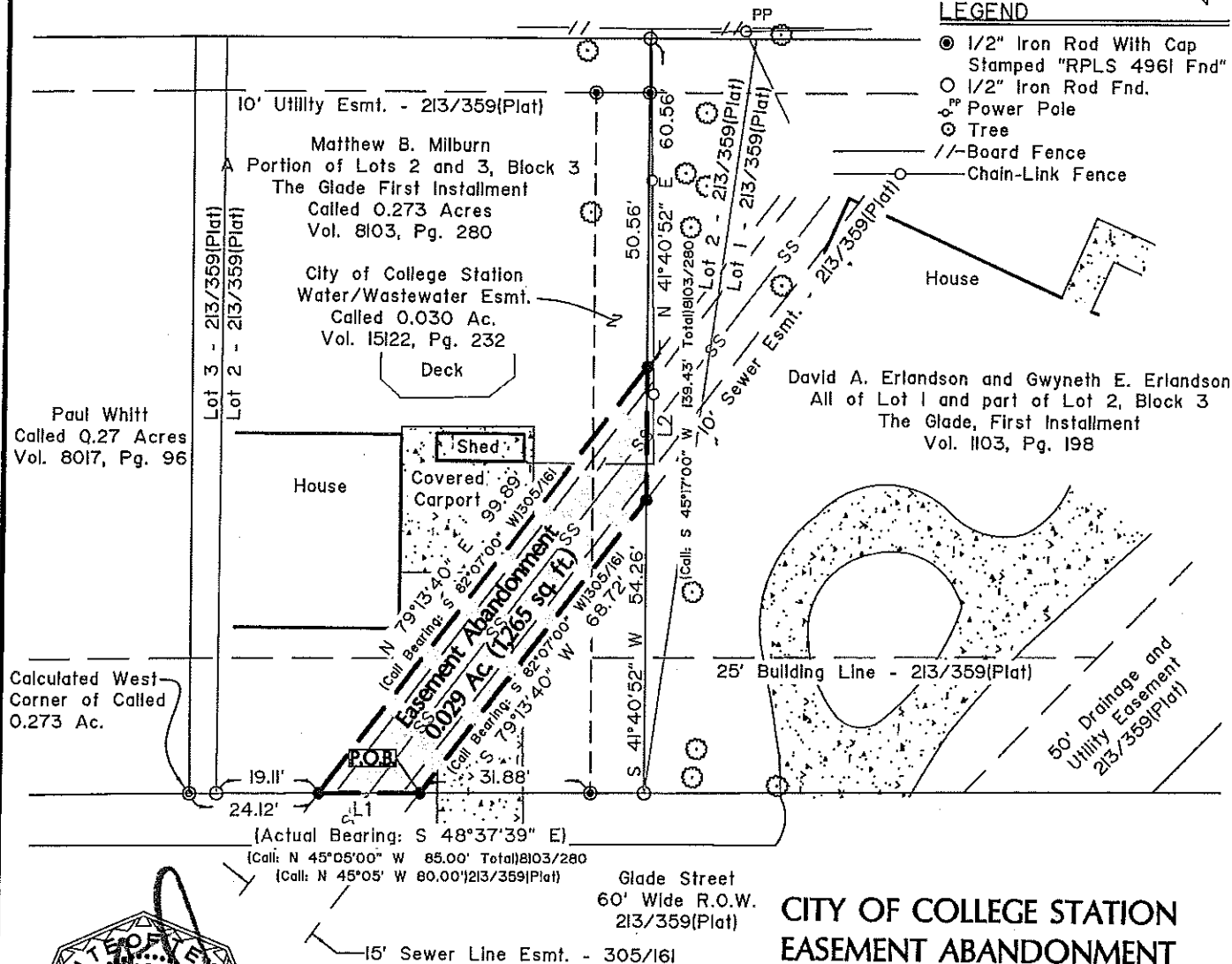
1722 Broadmoor, Suite 105
Bryan, Texas 77802
Phone: (979) 776-9836
Fax: (979) 731-0096
curtis@strongsurveying.com



Scale: 1"=30'

Holik Square, LLC
Lots 1, 2, 3, 4, 5, and 6, Block 1
Glade East, Section One
Vol. 14747, Pg. 246

- 1/2" Iron Rod With Cap
Stamped "RPLS 4961 End"
- 1/2" Iron Rod End.
- ⊕^{PP} Power Pole
- ⊙ Tree
- //—Board Fence
- Chain-Link Fence



I, H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat represents the results of a survey performed on the ground during the month of August, 2018 and is true and correct to the best of my knowledge.

BEING A PORTION OF THE
CITY OF COLLEGE STATION
15 FOOT WIDE EASEMENT

VOLUME 305, PAGE 161
CRAWFORD BURNETT SURVEY, A-7
CITY OF COLLEGE STATION, BRAZOS COUNTY, TEXAS
MARCH 28, 2019

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1105 Glade Street, College Station, Texas

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: 
Title: Project Specialist

VERIZON TELEPHONE COMPANY

By: 
Title: Manager

SUDDENLINK COMMUNICATIONS

By: 
Title: Sr. Supervisor - Operations

BRYAN TEXAS UTILITIES

By: 
Title: ENGINEERING SUPERV.

Application for Abandonment of a Public Right-of-Way / Easement

Location: Lot 11R-A, Block 5, Greens Prairie Center PH 2A

EXHIBIT NO.4

The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to present and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X



City Engineer
City of College Station

X



Building Official
City of College Station

X



Zoning Official
City of College Station

X



Fire Marshal
City of College Station

X



Electric Department
City of College Station

X



Water Services Department
City of College Station

X



Public Works Director
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1105 Glade Street, College Station, Texas

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: David A. Erlandson
ADDRESS: 1107 Glade Street
College Station, TX 77840

NAME: Quyn Erlandson
ADDRESS: 1107 Glade Street
College Station, TX 77840

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

April 8, 2021

Item No. 7.2.

Ordinance vacating and abandoning a 1,295 square foot Easement lying between Lots 5 & 6, Block 9 of The Knoll Subdivision, according to the replat recorded in Volume 140, Page 458 of the Deed Records of Brazos County, Texas.

Sponsor: Erika Bridges

Reviewed By CBC: City Council

Agenda Caption:Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 1,295 square foot Easement lying between Lots 5 & 6, Block 9 of The Knoll Subdivision, according to the replat recorded in Volume 140, Page 458 of the Deed Records of Brazos County, Texas.

Relationship to Strategic Goals:

- Core Services and Infrastructure
- Diverse & Growing Economy

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

Summary: The City's current Woodson Village Rehabilitation Project includes abandonment and relocation of a 6-inch sanitary sewer line within a 1,295 square foot Easement to a recently dedicated 20-foot wide Public Utility Easement. Upon completion of the sanitary sewer line relocation project, the 1,295 square foot Easement will no longer be necessary.

Budget & Financial Summary: N/A

Reviewed & Approved by Legal: No

Attachments:

1. Orr_Ordinance_3-17-2021
2. Ordinance Exhibit A
3. Vicinity Map
4. Location Map
5. Application

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING A 1,295 SQUARE FOOT EASEMENT, SAID EASEMENT LYING BETWEEN LOTS 5 & 6, BLOCK 9, OF THE KNOLL SUBDIVISION, ACCORDING TO THE REPLAT RECORDED IN VOLUME 140, PAGE 458 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of a 1,295 square foot Easement, said easement lying between Lots 5 & 6, Block 9, of The Knoll Subdivision, according to the replat recorded in Volume 140, Page 458, of the Deed Records of Brazos County, Texas, as described in **Exhibit “A”**, attached hereto (such portion hereinafter referred to as the “Easement”); and

WHEREAS, no portion of the dedicated Easement recorded in Volume 15445, Page 103, of the Official Records of Brazos County, Texas, shall be abandoned;

WHEREAS, in order for the Easement to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the Easement described in **Exhibit “A”** attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Easement will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the Easement.
3. There is no anticipated future public need or use for the Easement.
4. Abandonment of the Easement will not impact access for all public utilities to serve current and future customers.

PART 2: That the Easement as described in Exhibit “A” be abandoned and vacated by the City only upon completion of the following conditions:

1. The City shall retain the Easement until such time that the City installs a new sanitary sewer line.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2021.

ATTEST:

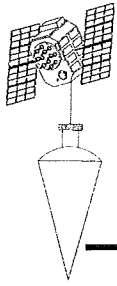
APPROVED:

City Secretary

Mayor

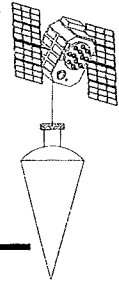
APPROVED:

City Attorney



STRONG
SURVEYING, LLC
FIRM NO. 10093500

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Bryan, Texas 77802
Phone: (979) 776 – 9836
Fax: (979) 731 – 0096
Email: curtis@strongsurveying.com



Proposed 12' Wide Easement Abandonment
1207 Orr Street Tract
Crawford Burnett Survey, A-7
College Station, Texas
19 November 2018

All that certain lot, tract or parcel of land being a 12 foot wide easement and being 0.037 of one acre (1,295 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a tract of land situated between Lot 5, Block 9, The Knoll, a subdivision located in the City of College Station according to a revised plat of record in Volume 140, Page 458, Deed Records of Brazos County, Texas, and Lot 6, Block 9, of said The Knoll Subdivision, said 12 foot wide easement being further described as a Save and Except 12 foot wide easement out of the Called 0.48 acre tract from Phil D. Jones and Marcia G. Jones to Jason King and Debra McKeown of record in Volume 14721, Page 159, Official Records of Brazos County, Texas, said 0.037 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the southeast right-of-way line of Orr Street (50 foot wide right-of-way width) as depicted on plat of record in Volume 140, Page 458 for the most northwesterly corner, said point being the most northerly corner of said Called 12 foot wide easement, said corner also being the most westerly corner of said Lot 5, Block 9, a concrete monument found for reference bears N 41°25'41" E a distance of 16.01 feet;

THENCE S 74°36'55" E along the northeast line of said 12 foot wide easement and the southwest line of said Lot 5 a distance of 133.75 feet to a point for the most easterly corner, said corner being an interior angle corner in said 12 foot wide easement, said corner also being the most southerly corner of said Lot 5, a 1/2" iron rod found for reference bears N 68°26'08" E a distance of 2.70 feet;

THENCE S 41°05'03" W across said 12 foot wide easement to a point for the most southeasterly corner, said corner being an interior angle corner in said 12 foot wide easement, said corner also being the most easterly corner of said Lot 6, a 1/2" iron rod with cap stamped "RPLS 4961" set for the most southerly corner of said Called 0.48 acre tract bears S 41°05'03" W a distance of 73.00 feet;

THENCE N 74°36'55" W along the southwest line of said 12 foot wide easement and the northeast line of said Lot 6 a distance of 133.75 feet to a point located in the southeast right-of-way line of said Orr Street for the most westerly corner, said corner being the most westerly corner of said 12 foot wide easement, said corner also being the most northerly corner of said Lot 6, a 1/2" iron rod with cap stamped "RPLS 4961" set for the most westerly corner of said Called 0.48 acre tract bears S 41°05'03" W a distance of 15.00 feet;

NOTES:

Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 120 and no. 220 (N 61°34'30" E).

1. All existing utility lines and some existing easements may not be shown.

2. ● Denotes A 1/2" Iron Rod With Cap Stamped (RPLS 4961) Set.

3. All setback lines are in accordance with the current City of College Station Zoning Ordinances - Zone (GS), unless otherwise noted.

A 1/2" Iron Rod With Cap Stamped (ATM OFFSET) Fnd. For Reference
Bears: N 80°06'54" E - 1.72'

P.O.B.

Orr Street
50' Wide ROW
140/458

Frank Eckles
Called 0.4479 Ac.
Parts of Lots 6 & 7, Block 9
The Knoll Subdivision
14896/289

A 1/2" Iron Rod Fnd. For Reference
Bears: N 84°29'10" E - 1.68'

LINE	BEARING	DISTANCE
L1	S 41°05'03" W	13.32'
L2	N 41°05'03" E	13.32'
L3	S 41°05'03" W	15.00'

I. H. Curtis Strong, Registered Professional Land Surveyor No. 4961 do hereby certify that the above plat represents the results of a survey performed on the ground during the month of August, 2018 and is true and correct to the best of my knowledge.

STRONG SURVEYING
Firm No. 10093500 email: curtis@strongsurveying.com
1722 Broadmoor, Suite 105
Bryan, Texas 77802
Phone (979) 776-9836
Fax (979) 731-0096

R=224.04'
A=16.01'
D=4°05'43"
L=16.01'
CH=N 41°25'41" E

Jason King and Debra McKeown
All of Lot 5 and Part of Lot 6, And The
12.00' Easement Between Said Lots, Block 9
The Knoll

Called 0.48 Ac., Save and Except the
Portion Lying in the 12' Easement
1472/159

Concrete Monument Fnd.
A 1/2" Iron Rod Fnd. For Reference
Bears: N 68°26'08" E - 2.70'

Proposed Easement Abandonment 0.037 Ac (1,295 sq. ft.)
Lot 5 - 140/458
Lot 6 - 140/458
S 74°36'55" E 133.75'
N 74°36'55" W 133.75'
S 74°36'55" E 133.75'
N 74°36'55" W 133.75'
12' Esmt. - 140/458

LEGEND

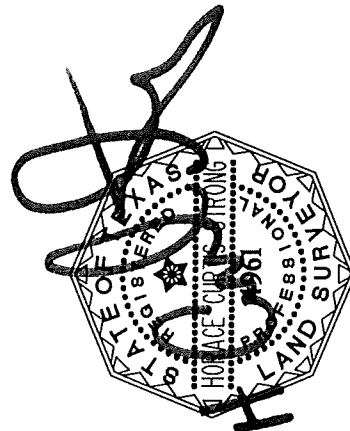
- PP Power Pole
- GW Guy Wire
- SS Sanitary Sewer Manhole
- GM Gas Meter
- Tree

CITY OF COLLEGE STATION EASEMENT ABANDONMENT OF A

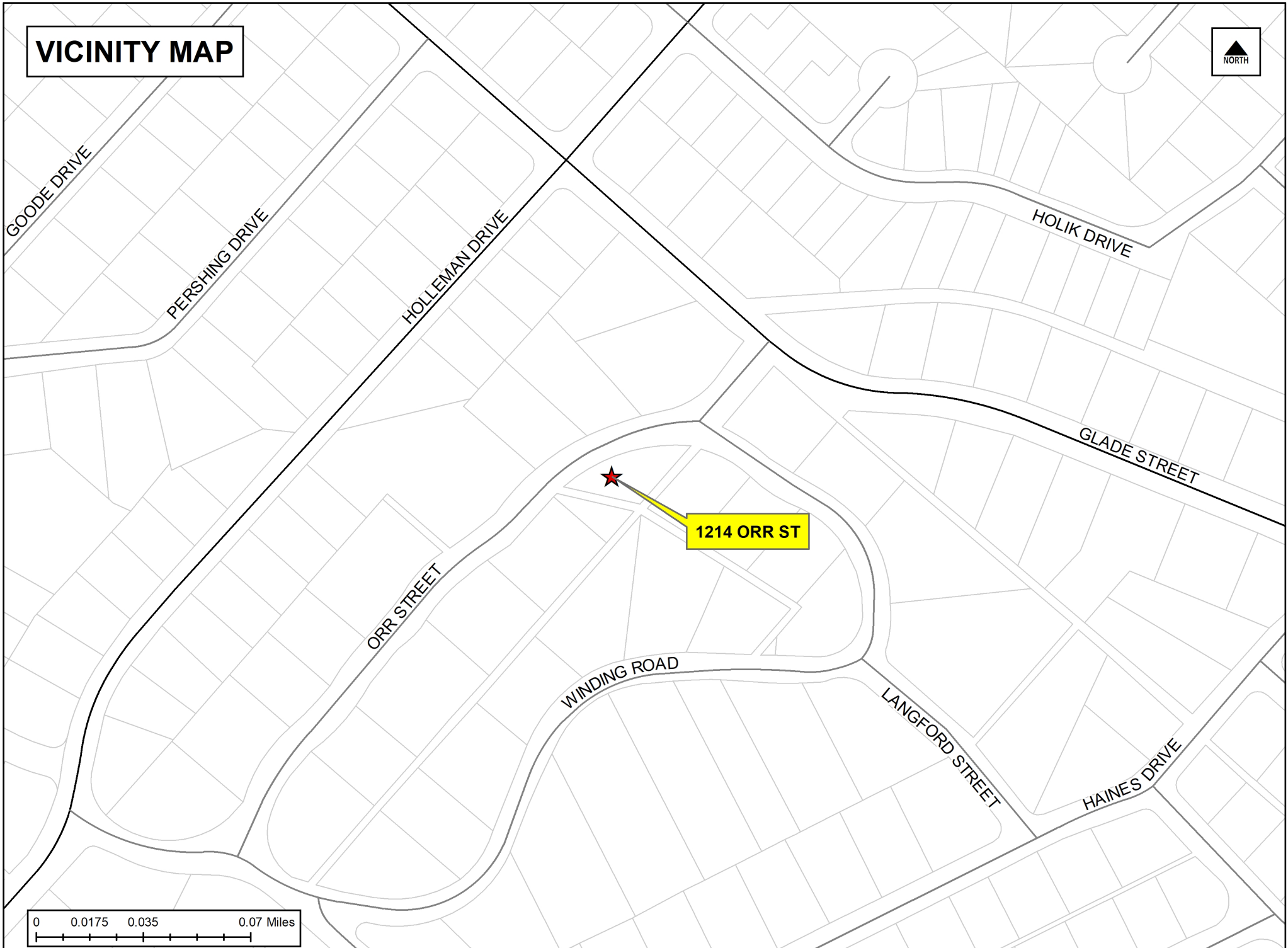
**12' WIDE EASEMENT BETWEEN LOTS 5 & 6
BEING 0.037 OF ONE ACRE (1,295 SQ.FT.)
THE KNOLL**

VOLUME 140, PAGE 458

CRAWFORD BURNETT SURVEY, A-7
COLLEGE STATION, BRAZOS COUNTY, TEXAS
SCALE 1"=30' NOVEMBER 19, 2018



VICINITY MAP



LOCATION MAP



HOLLEMAN DRIVE

GLADE STREET

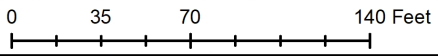
LANGFORD STREET

ORR STREET

EASEMENT TO BE ABANDONED
1295 SQ. FT.

Q36B1C017

Q36B1C013



FOR OFFICE USE ONLY	
CASE NO.:	ABAN2019-000001
DATE SUBMITTED:	1/18/19
TIME:	3:30
STAFF:	JA

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☒ Abandonment of Public Right-of-Way/Easement Application Fee. (Refer to the Planning and Development Fee Schedule for all applicable fees)
- ☒ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☐ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☒ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☐ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☒ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

1214 Orr Street, please see attached legal description

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

Name Jason King E-mail jsnmking@gmail.com
 Street Address 1214 Orr Street
 City College Station State TX Zip Code 77840
 Phone Number 404.565.9612 Fax Number _____

PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name Jason King and Debra McKeown E-mail jsnmking@gmail.com
 Street Address: 1214 Orr Street
 City College Station State TX Zip Code 77840
 Phone Number 404.565.9612 Fax Number _____

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

Jason King Home Owner
 Signature and title

18 JAN '19
 Date

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:
All affected properties have access to a RoW for a public alley running E to W & located S & perpendicular to proposed abandoning RoW. Public utilities can access existing RoW or proposed PUE to be relocated to property line & replace current RoW to be abandoned. Public utilities have been notified of this proposal & conditions of this abandonment.
8. That there is no current public need or use for the easement or right-of-way because:
Both Atmos residential gas & City of College Station Sewer lines are proposed to be moved as a condition of this abandonment. Both the City & Atmos have been notified of this proposal and conditions of this abandonment. Atmos has terminated the gas line; it is no longer being used.
9. That there is no anticipated future public need or use for the easement or right-of-way because:
Applicant is proposing a PUE that will be relocated to the property line and replace the current right of way to be abandoned.
10. That all public utilities have access to serve current and future customers because:
a right of way for a public alley which runs E to W, is located S & perpendicular to proposed abandoning RoW. Public utilities can utilize either this existing RoW or proposed PUE that will be relocated to the property line & replace the current RoW to be abandoned. Public utilities have been notified of this proposal & conditions of this abandonment.
11. Such public right-of-way/easement has been and is being used as follows:
Atmos residential gas and CoCS have a gas line route and sewer line main utilizing this right of way. Both lines are proposed to be moved as is a condition of this abandonment. Both the City and Atmos have been notified of this proposal and conditions of this abandonment. Atmos has terminated the gas line; it is no longer in use.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.

[Signature] Home Owner
 Signature and title

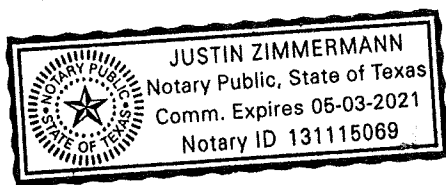
18 Jan '19
 Date

STATE OF TEXAS
 COUNTY OF BRAZOS

§
 §
 §

ACKNOWLEDGEMENT

Subscribed and sworn to before me, a Notary Public, this 18th day of January, ~~2009~~ ²⁰¹⁹ by
Jason McKelvey



[Signature]
 Notary Public in and for
 the State of Texas

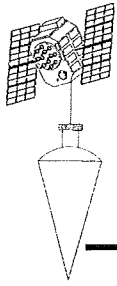
Application for Abandonment of
a Public Right-of-Way/Easement

Location: _____

EXHIBIT NO. 1

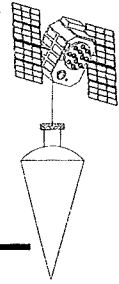
Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.



STRONG
SURVEYING, LLC
FIRM NO. 10093500

1722 Broadmoor Ste. 105
Bryan, Texas 77802
Phone: (979) 776 – 9836
Fax: (979) 731 – 0096
Email: curtis@strongsurveying.com



Proposed 12' Wide Easement Abandonment
1207 Orr Street Tract
Crawford Burnett Survey, A-7
College Station, Texas
19 November 2018

All that certain lot, tract or parcel of land being a 12 foot wide easement and being 0.037 of one acre (1,295 Sq. Ft.) situated in the CRAWFORD BURNETT SURVEY, Abstract No. 7, College Station, Brazos County, Texas, and being a tract of land situated between Lot 5, Block 9, The Knoll, a subdivision located in the City of College Station according to a revised plat of record in Volume 140, Page 458, Deed Records of Brazos County, Texas, and Lot 6, Block 9, of said The Knoll Subdivision, said 12 foot wide easement being further described as a Save and Except 12 foot wide easement out of the Called 0.48 acre tract from Phil D. Jones and Marcia G. Jones to Jason King and Debra McKeown of record in Volume 14721, Page 159, Official Records of Brazos County, Texas, said 0.037 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a point located in the southeast right-of-way line of Orr Street (50 foot wide right-of-way width) as depicted on plat of record in Volume 140, Page 458 for the most northwesterly corner, said point being the most northerly corner of said Called 12 foot wide easement, said corner also being the most westerly corner of said Lot 5, Block 9, a concrete monument found for reference bears N 41°25'41" E a distance of 16.01 feet;

THENCE S 74°36'55" E along the northeast line of said 12 foot wide easement and the southwest line of said Lot 5 a distance of 133.75 feet to a point for the most easterly corner, said corner being an interior angle corner in said 12 foot wide easement, said corner also being the most southerly corner of said Lot 5, a 1/2" iron rod found for reference bears N 68°26'08" E a distance of 2.70 feet;

THENCE S 41°05'03" W across said 12 foot wide easement to a point for the most southeasterly corner, said corner being an interior angle corner in said 12 foot wide easement, said corner also being the most easterly corner of said Lot 6, a 1/2" iron rod with cap stamped "RPLS 4961" set for the most southerly corner of said Called 0.48 acre tract bears S 41°05'03" W a distance of 73.00 feet;

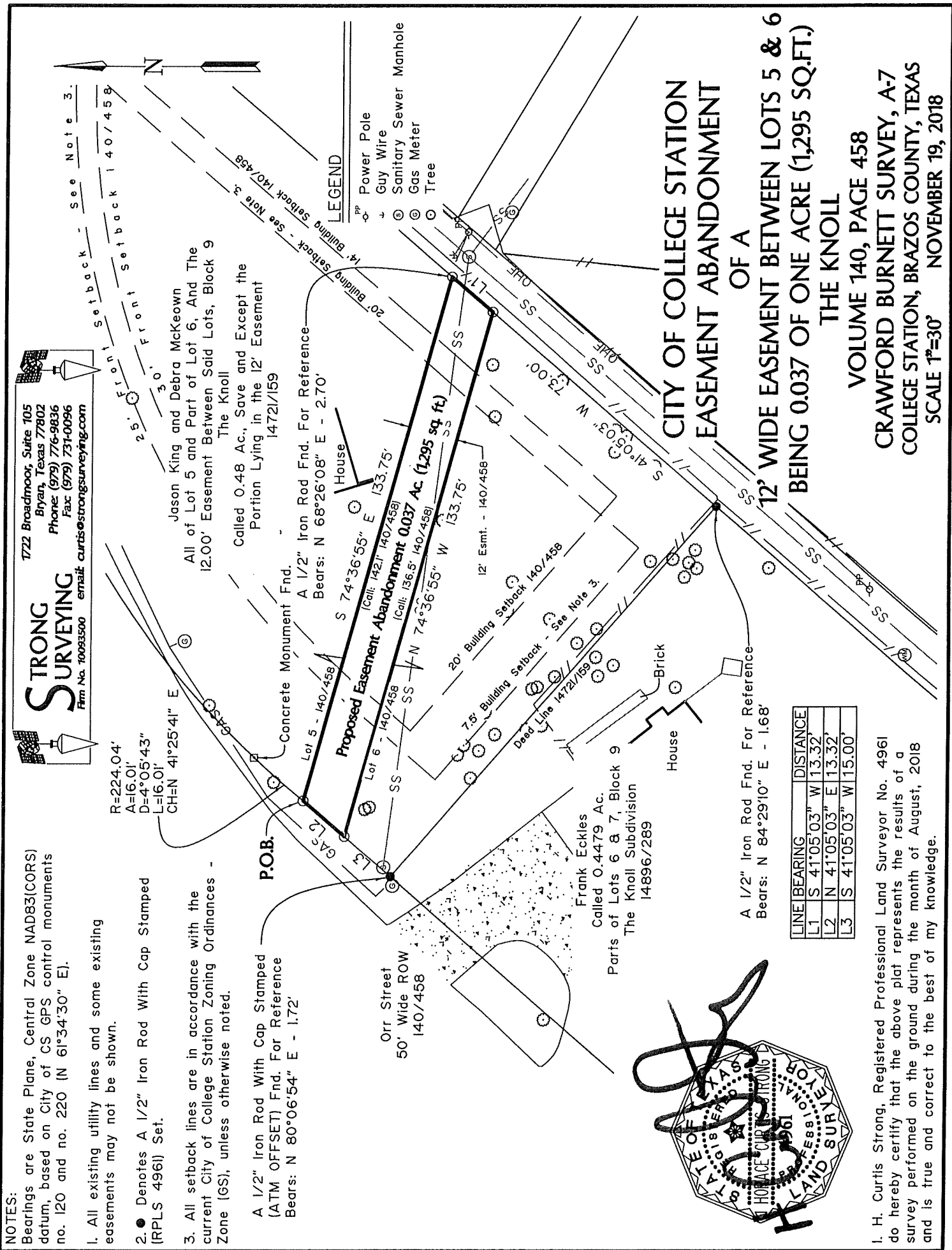
THENCE N 74°36'55" W along the southwest line of said 12 foot wide easement and the northeast line of said Lot 6 a distance of 133.75 feet to a point located in the southeast right-of-way line of said Orr Street for the most westerly corner, said corner being the most westerly corner of said 12 foot wide easement, said corner also being the most northerly corner of said Lot 6, a 1/2" iron rod with cap stamped "RPLS 4961" set for the most westerly corner of said Called 0.48 acre tract bears S 41°05'03" W a distance of 15.00 feet;

Application for Abandonment of
a Public Right-of-Way/Easement

Location: _____

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.



Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1214 Orr St. College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: [Signature]
Title: Project Specialist

VERIZON TELEPHONE COMPANY

By: [Signature]
Title: Director - Engineering

SUDDENLINK COMMUNICATIONS

By: [Signature]
Title: Construction Supervisor

BRYAN TEXAS UTILITIES

By: [Signature]
Title: Electrical Engineer

Application for Abandonment of a Public Right-of-Way / Easement

Location: 1214 Orr Street

EXHIBIT NO.4

The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to present and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X 

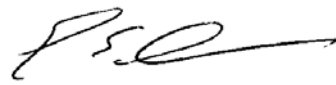
City Engineer
City of College Station

X 

Building Official
City of College Station

X 

Zoning Official
City of College Station

X 

Fire Marshal
City of College Station

X 

Electric Department
City of College Station

X 

Water Services Department
City of College Station

X 

Public Works Director
City of College Station

Location: 1214 ORR ST C.S. TX 77840

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

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Journal compilation © 2006 Blackwell Publishing Ltd

[illegible][illegible]

April 8, 2021

Item No. 7.3.

Ordinance amending Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from R Rural to GS General Suburban on approximately 5 acres of land located at 3006 Norton Lane.

Sponsor: Jesse Dimeolo

Reviewed By CBC: City Council

Agenda Caption:Public hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from R Rural to GS General Suburban on approximately 5 acres of land located at 3006 Norton Lane.

Relationship to Strategic Goals:

- Diverse & Growing Economy

Recommendation(s): The Planning and Zoning Commission heard this item at their March 18, 2021 regular meeting where they voted unanimously to recommend approval. Staff also recommends approval of the rezoning.

Summary: This request is to rezone approximately 5 acres of mostly undeveloped land located between William D Fitch Parkway, Wellborn Road, and Barron Road from R Rural to GS General Suburban. The tract was originally zoned R Rural upon annexation to the City in 1995. This zoning request is in effort to provide additional single-family housing supply to this area of the city.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The subject tract is designated on the Comprehensive Plan Future Land Use and Character Map as General Suburban and on the Concept Map as Growth Area IV. The Comprehensive Plan states that the General Suburban portion within Growth Area IV is suitable for high-density single-family lots, townhomes, and duplexes. The proposed zoning permits single-family detached homes, allowing the property to be developed consistent with the Comprehensive Plan.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The existing R Rural zoning allows for a mix of large acreages and large-lot residential developments, which is partially compatible with the development in the surrounding area. Given the property’s proximity to Southern Trace subdivision and City View Southwest commercial properties, and its designation of Growth Area IV in the Comprehensive Plan, a rezoning which allows for higher-density single-family lots supports the planned growth in the area. The continuation of high-density single-family is compatible with the adjacent Southern Trace development.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The size and location of the subject property is suitable for residential uses. The site has adequate space to meet the minimal dimensional standards for the GS General Suburban district. The proposed lots will have frontage to and take access directly from a new extension of Jeanne Drive. It is adjacent to other high-density single-family and commercial developments. There is no floodplain on the property.

4. Whether there is available water, sanitary sewer, storm water, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

College Station Utilities has indicated that they have sufficient infrastructure in the area and intend to provide domestic water and fire flow to the tract. College Station Utilities has sanitary sewer mains in the adjacent area that is able to be brought to and through the property and adequate capacity to provide wastewater service.

The subject property generally drains to the northwest and the southeast corners. The tract is not encumbered by FEMA Special Flood Hazard Area (SFHA). Downstream detention will be provided to accommodate full build-out. Additional drainage improvements and other public infrastructure required with site development shall be designed and constructed in accordance with the B/CS Unified Design Guidelines.

The subject property has access to Jeanne Drive, which is constructed as a minor collector but not designated as one on the City's Thoroughfare Plan. A Traffic Impact Analysis (TIA) was not required as part of the rezoning request due to the applicant showing anticipated peak trip rate to be less than the 150 threshold. At this time, infrastructure is adequate for the uses permitted by the proposed General Suburban zoning district.

5. The marketability of the property:

The applicant has stated that the current R Rural zoning is not the highest and best use for the property. The market price of the land exceeds the allowed use of the property and therefore is not marketable without a rezoning.

Budget & Financial Summary: N/A

Reviewed & Approved by Legal: No

Attachments:

1. Ordinance
2. Background Information
3. Vicinity, Aerial, and Small Area Map
4. Future Land Use Map
5. Rezoning Map
6. Rezoning Exhibit
7. Applicant's Supporting Information

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 4 “ZONING DISTRICTS,” SECTION 4.2, “OFFICIAL ZONING MAP” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES FROM R RURAL TO GS GENERAL SUBURBAN ON APPROXIMATELY 5 ACRES OF LAND LOCATED AT 3006 NORTON LANE AS DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”**, and **Exhibit “B”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance 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) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 8th day of April, 2021.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” 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 R Rural to GS General Suburban:

**METES AND BOUNDS DESCRIPTION
OF A
4.9977 ACRE TRACT
ROBERT STEVENSON LEAGUE, A-54
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL OF THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE ROBERT STEVENSON LEAGUE, ABSTRACT NO. 54, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING ALL OF A CALLED 5.00 ACRE TRACT OF LAND AS DESCRIBED AS TRACT ONE IN A DEED TO KD HOMEBUILDERS, LLC RECORDED IN VOLUME 16014, PAGE 39 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (O.P.R.B.C.T.).

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

BEGINNING AT A 1/2 INCH IRON ROD FOUND (Y:10188354.68, X:3566504.44) MARKING THE MOST WESTERLY SOUTH CORNER OF SAID 5.00 ACRE TRACT, THE SOUTHEAST CORNER OF A CALLED 4.819 ACRE TRACT OF LAND AS DESCRIBED IN A DEED TO CHRISTOPHER A. DALE AND WIFE, JANETTE C. DALE RECORDED IN VOLUME 3489, PAGE 295 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND THE MOST NORTHERLY CORNER OF A CALLED 4.84 ACRE TRACT OF LAND AS DESCRIBED IN A DEED TO PRESTON CHAMBLEE AND CHERYL CHAMBLEE RECORDED IN VOLUME 1327, PAGE 331 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (O.R.B.C.T.); FOR REFERENCE, A 1/2 INCH IRON ROD WITH RED PLASTIC CAP FOUND MARKING THE COMMON CORNER OF SAID 4.819 ACRE TRACT AND SAID 4.84 ACRE TRACT AND THE NORTHEAST CORNER OF A TRACT OF LAND AS DESCRIBED AS TRACT TWO IN SAID DEED, 16014/339 (O.P.R.B.C.T.) BEARS: S 79° 21' 07" W A DISTANCE OF 453.58 FEET (DEED CALL: S 80° 36' 10" W – 453.62 FEET, 3498/295, O.P.R.B.C.T.); COORDINATES AND BEARING SYSTEM SHOWN HEREIN ARE NAD83 (TEXAS STATE PLANE CENTRAL ZONE GRID NORTH) BASED ON THE PUBLISHED COORDINATES OF THE CITY OF COLLEGE STATION CONTROL MONUMENT CS94-137 AND AS ESTABLISHED BY GPS OBSERVATION; DISTANCES SHOWN HEREIN ARE GRID DISTANCES UNLESS OTHERWISE NOTED, AREAS SHOWN HEREIN AS MEASURED ARE CALCULATED FROM GRID DISTANCES, TO OBTAIN SURFACE DISTANCES (NOT SURFACE AREAS) MULTIPLY BY A COMBINED SCALE FACTOR OF 1.00010094726273 (CALCULATED USING GEOID12B);

THENCE: N 08° 58' 05" W ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SAID 4.819 ACRE TRACT FOR A DISTANCE OF **401.04 FEET** (DEED CALL: N 07° 41' W – 402 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED ‘KERR 4502’ SET ON THE SOUTH LINE OF A 20’ WIDE COMMON AREA AS SHOWN ON THE PLAT OF SOUTHERN TRACE SUBDIVISION, PHASE 2 RECORDED IN VOLUME 7906, PAGE 209 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS MARKING THE MOST NORTHERLY WEST CORNER OF THIS HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER OF SAID 4.819 ACRE TRACT; FOR REFERENCE, A 1/2 INCH IRON ROD WITH CAP STAMPED ‘K MCCLURE RPLS 5650’ FOUND ON THE SOUTH LINE OF SAID SUBDIVISION BEARS: N 86° 03' 52" W A DISTANCE OF 764.35 FEET;

THENCE: S 86° 03' 52" E ALONG THE SOUTH LINE OF SAID SUBDIVISION, AT A DISTANCE OF 250.94 FEET PASS A 1/2 INCH IRON ROD FOUND MARKING THE MOST SOUTHERLY EAST CORNER OF SAID SOUTHERN TRACE PHASE 2 AND THE MOST WESTERLY CORNER OF COMMON AREA 1 AS SHOWN ON

THE PLAT OF CITYVIEW SOUTHWEST SUBDIVISION RECORDED IN VOLUME 14698, PAGE 88 IF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, CONTINUING ALONG THE SOUTH LINE OF SAID CITYVIEW SUBDIVISION FOR A TOTAL DISTANCE OF **340.19 FEET** (DEED CALL: S 84° 53.5' E – 335 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE MOST NORTHERLY EAST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 48° 26' 06" E ALONG THE SOUTHEAST LINE OF SAID CITYVIEW SUBDIVISION FOR A DISTANCE OF **503.74 FEET** (DEED CALL: S 47° 08.4' E – 505.75 FEET, 16014/39, O.P.R.B.C.T.) TO A POINT IN A 10 INCH TREATED FENCE POST FOUND MARKING THE MOST EASTERLY CORNER OF THIS HEREIN DESCRIBED TRACT AND THE NORTH CORNER OF LOT 7, BLOCK 2, WESTMINSTER SUBDIVISION PHASE ONE AS SHOWN ON THE PLAT RECORDED IN VOLUME 2016, PAGE 61 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 63° 04' 33" W ALONG THE NORTHWEST LINE OF SAID LOT 7, AT A DISTANCE OF 0.67 FEET PASS A 1/2 INCH IRON ROD FOUND, CONTINUING FOR A TOTAL DISTANCE OF **265.15 FEET** (DEED CALL: S 64° 37' W – 264.54 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE COMMON CORNER OF SAID 5.00 ACRE TRACT AND SAID 4.84 ACRE TRACT; FOR REFERENCE, A 1/2 INCH IRON ROD FOUND MARKING THE WEST CORNER OF LOT 5 OF SAID BLOCK 2 BEARS: S 63° 04' 33" W A DISTANCE OF 549.76 FEET (TOTAL PLAT CALL: S 66° 21' 06" W – 814.74 FEET, 2016/61, O.P.R.B.C.T.);

THENCE: N 78° 57' 08" W ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SAID 4.84 ACRE TRACT FOR A DISTANCE OF **425.25 FEET** (DEED CALL: N 78° 03' W – 425.0 FEET, 16014/39, O.P.R.B.C.T.) TO THE **POINT OF BEGINNING** CONTAINING **4.9977 ACRES OF LAND** (AS MEASURED BY GRID DISTANCES), MORE OR LESS, AS SURVEYED ON THE GROUND OCTOBER 2020.

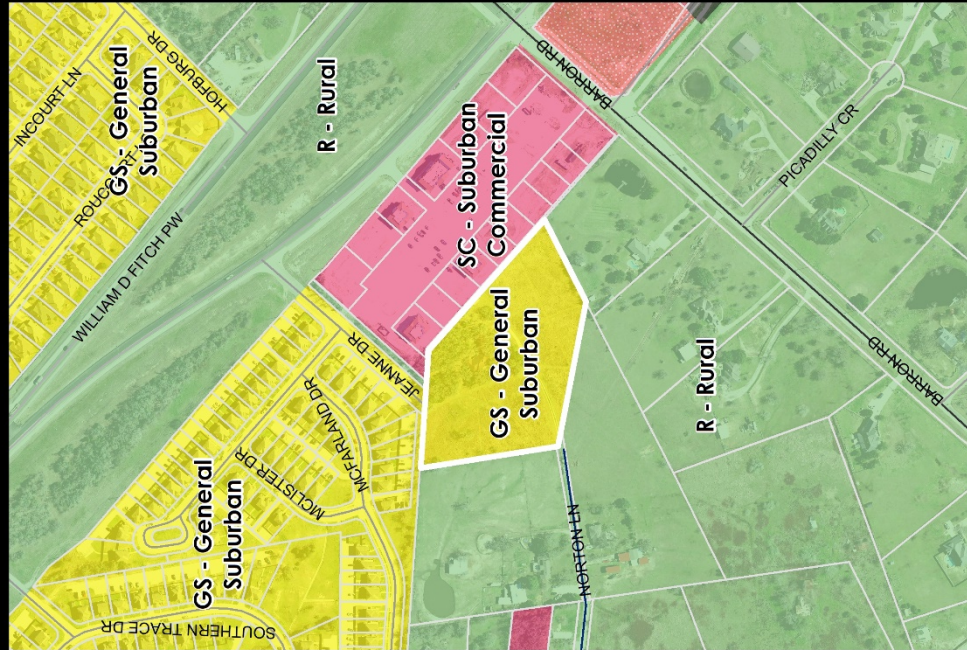
SEE PLAT PREPARED OCTOBER 2020 FOR MORE DESCRIPTIVE INFORMATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 4502
DATE: 10/02/2020

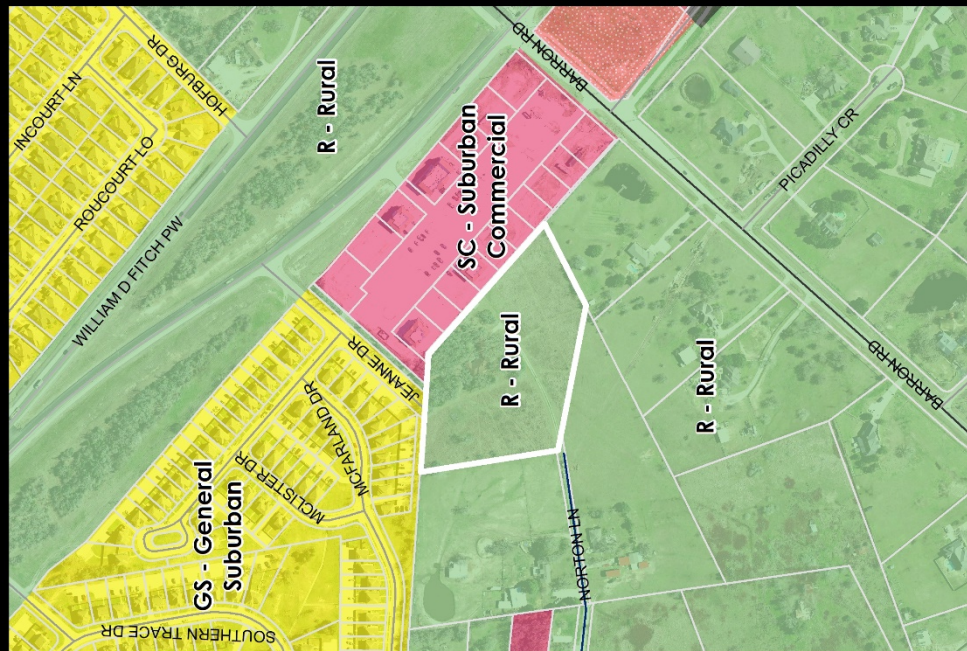
KERR SURVEYING, LLC | 409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
979-268-3195 | BRAD@KERRSURVEYING.NET | TBPELS FIRM# 10018500

Exhibit B

PROPOSED Zoning



EXISTING Zoning



BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: March 18, 2021
Advertised Council Hearing Date: April 8, 2021

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

Southern Trace
City View Southwest Subdivision

Property owner notices mailed: 24
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

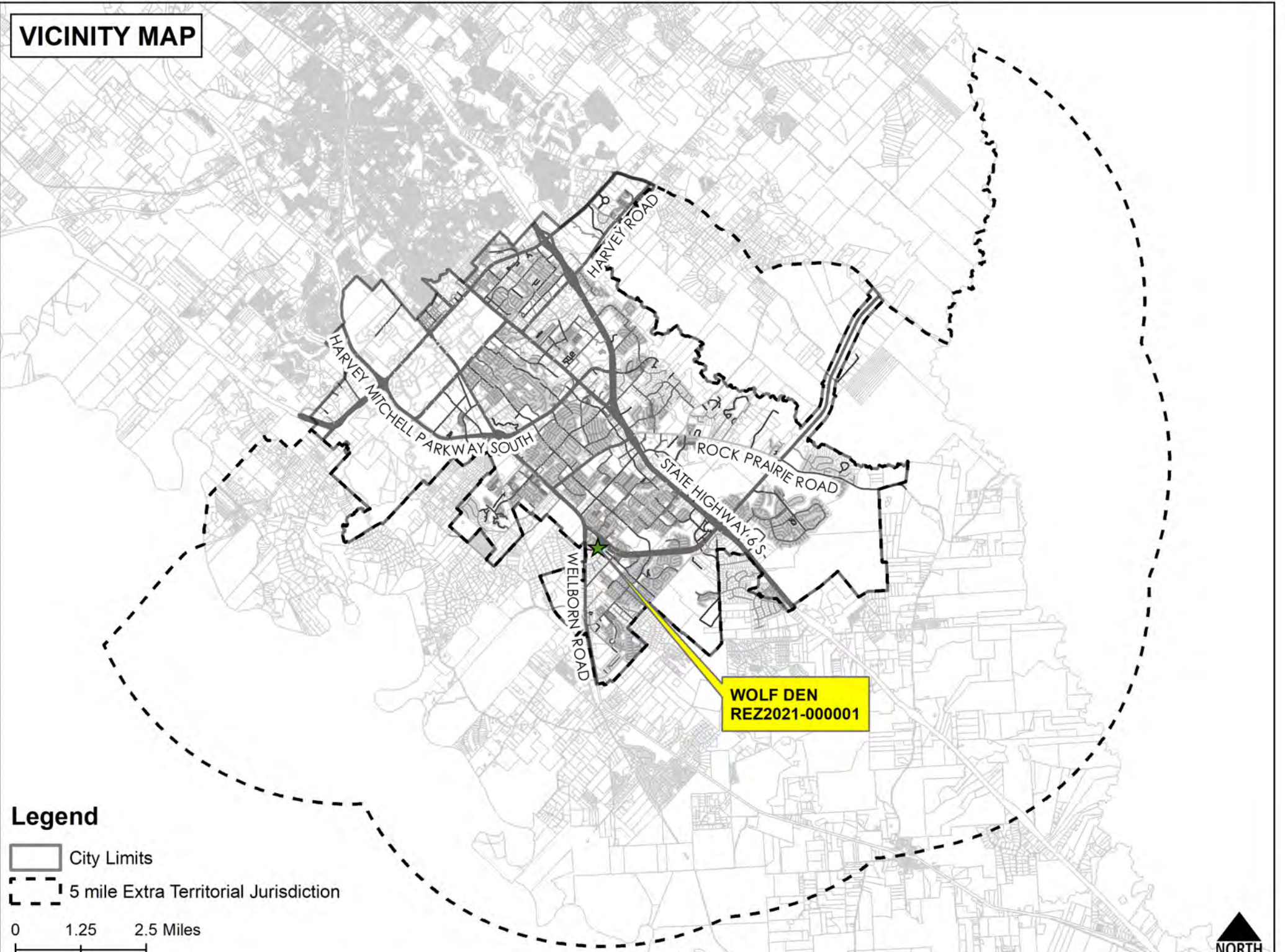
ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	General Suburban	GS General Suburban	Southern Trace Phase 2
South	General Suburban & Estate	R Rural	Westminster Phase 1
East	Suburban Commercial	SC Suburban Commercial	City View Southwest Commercial Properties
West	General Suburban	R Rural	Unplatted rural properties

DEVELOPMENT HISTORY

Annexation: June 1995
Zoning: Property zoned A-O Agricultural Open upon Annexation
1995 – A-O Agricultural Open renamed R Rural
Final Plat: Unplatted
Site development: Vacant

VICINITY MAP

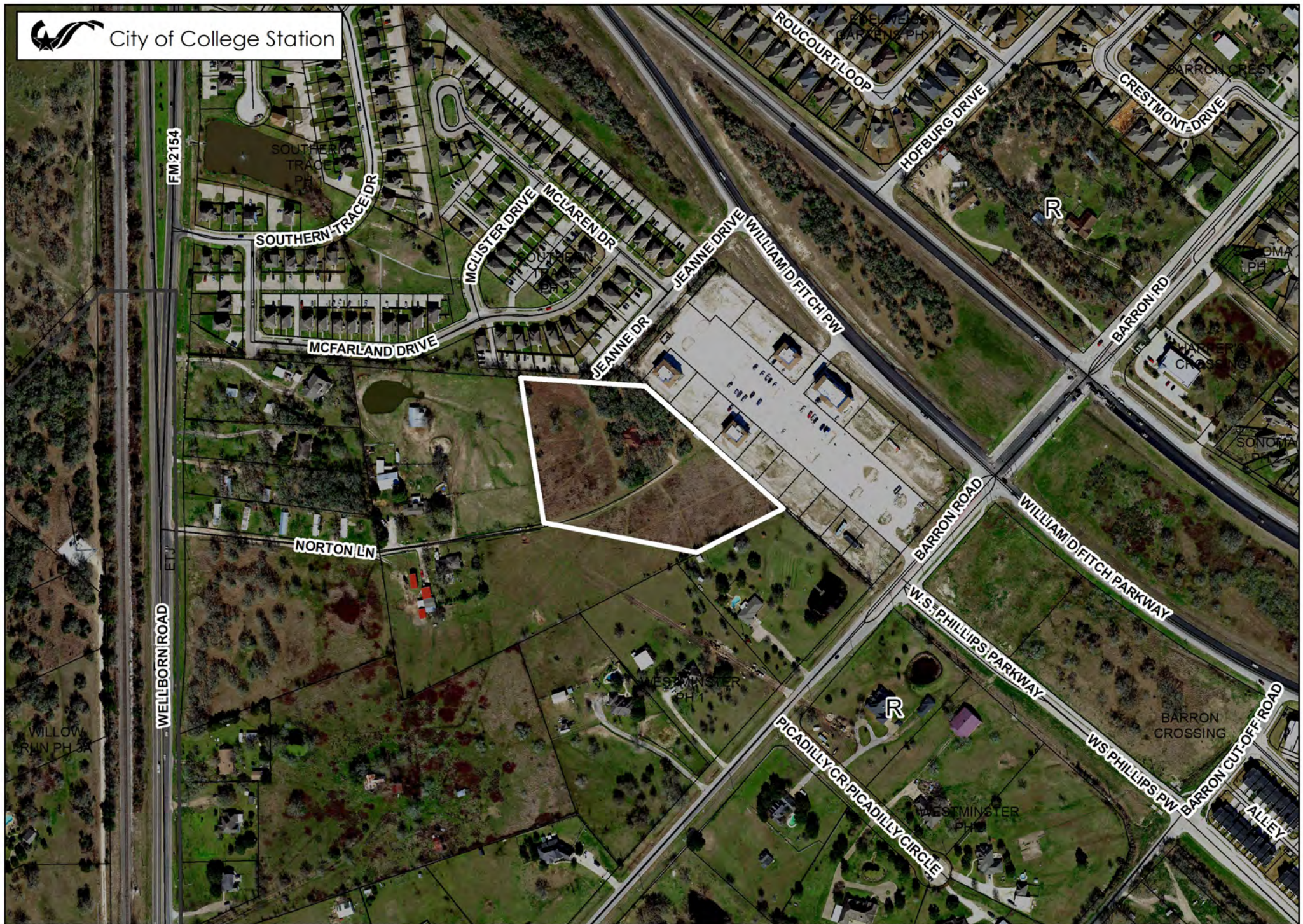


Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.25 2.5 Miles



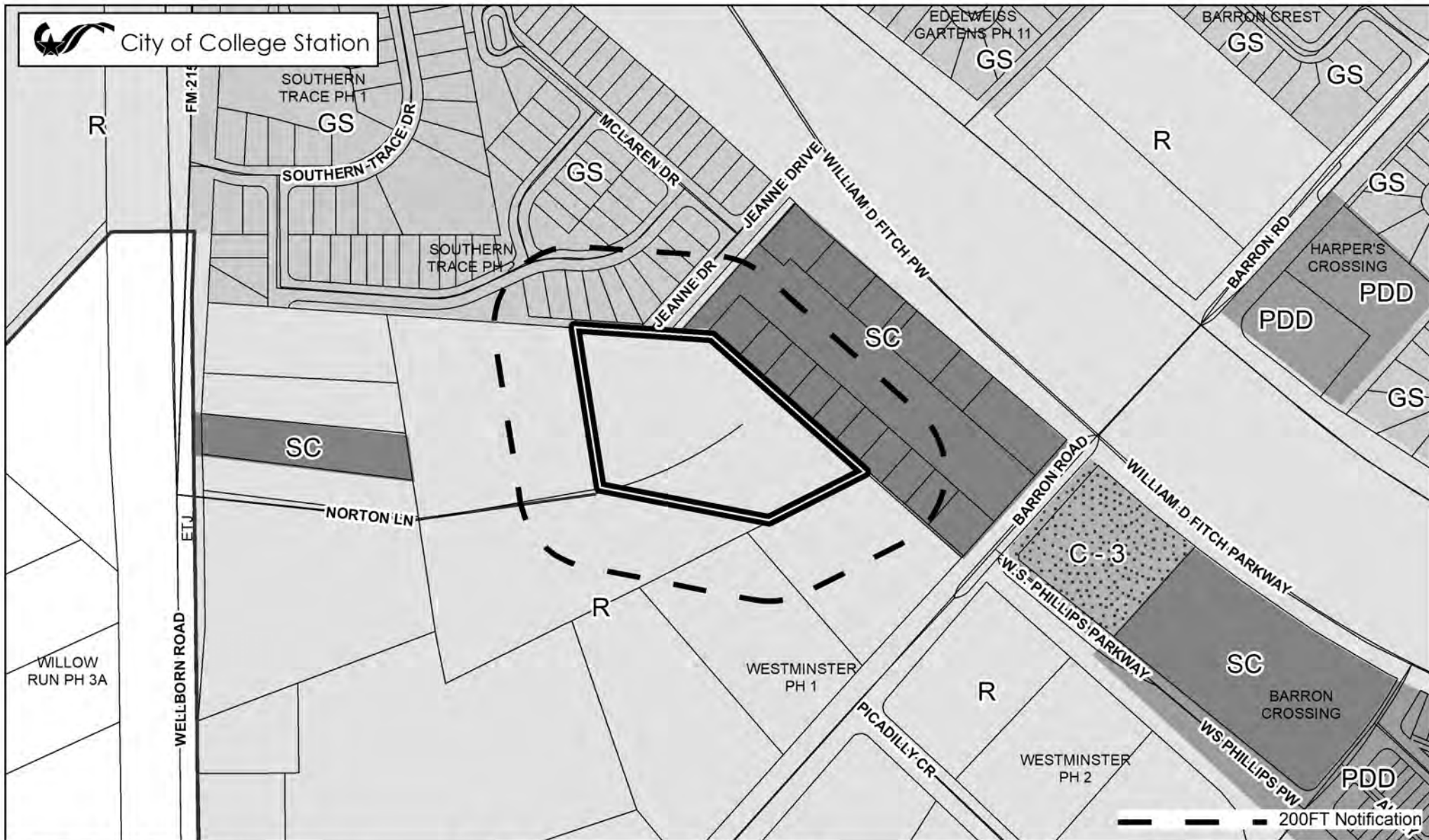


0 340 680 Feet

WOLF DEN

Case:
REZ2021-000001

REZONING



ZONING DISTRICTS (In Grayscale)

Residential		
R	Rural	MF Multi-Family
WE	Wellborn Estate	MU Mixed-Use
E	Estate	MHP Manufactured Home Pk.
WRS	Wellborn Restricted Suburban	
RS	Restricted Suburban	
GS	General Suburban	
D	Duplex	
T	Townhome	

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
KO	Krenak Tap Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial



0 340 680 Feet

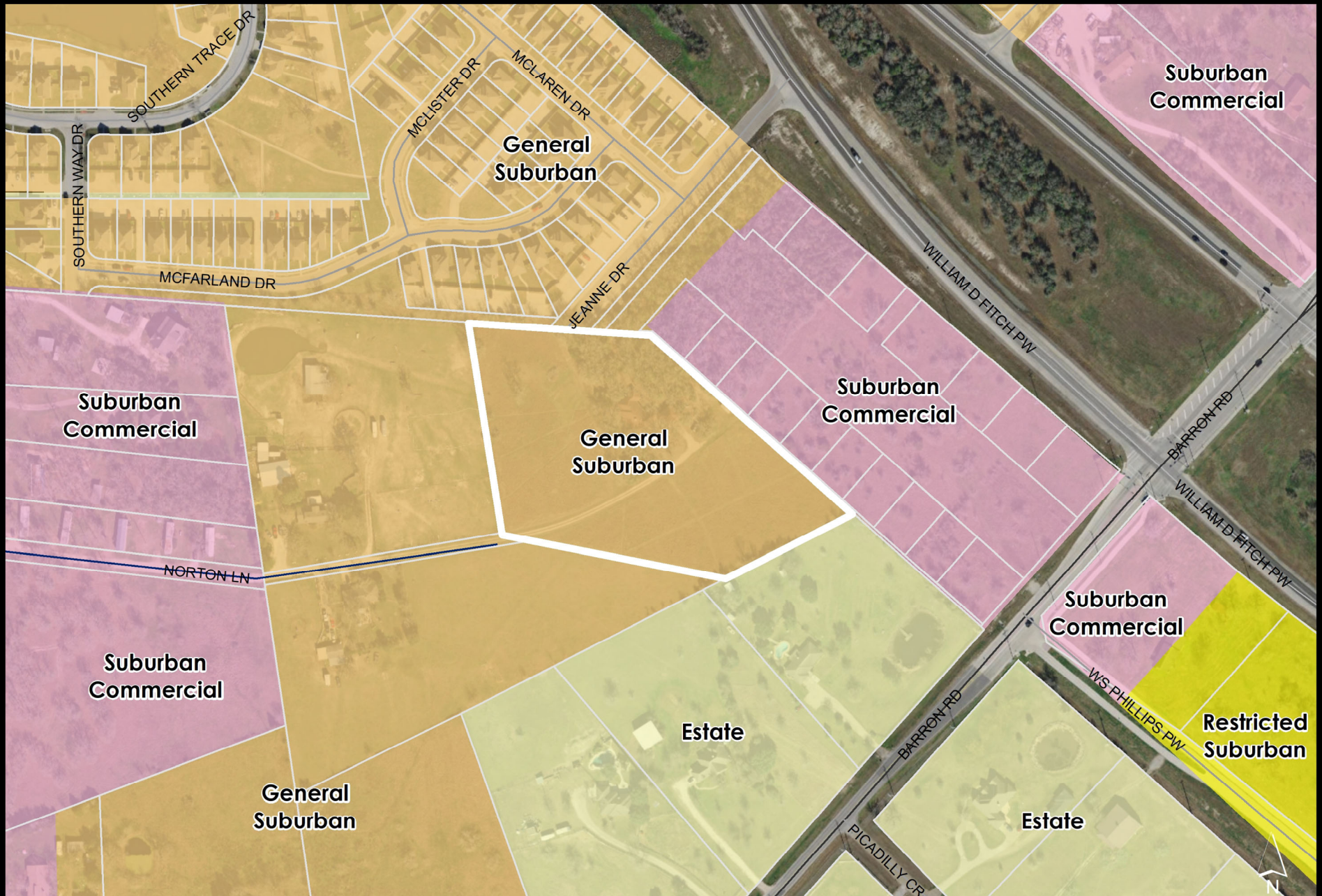
WOLF DEN

Case:
REZ2021-000001

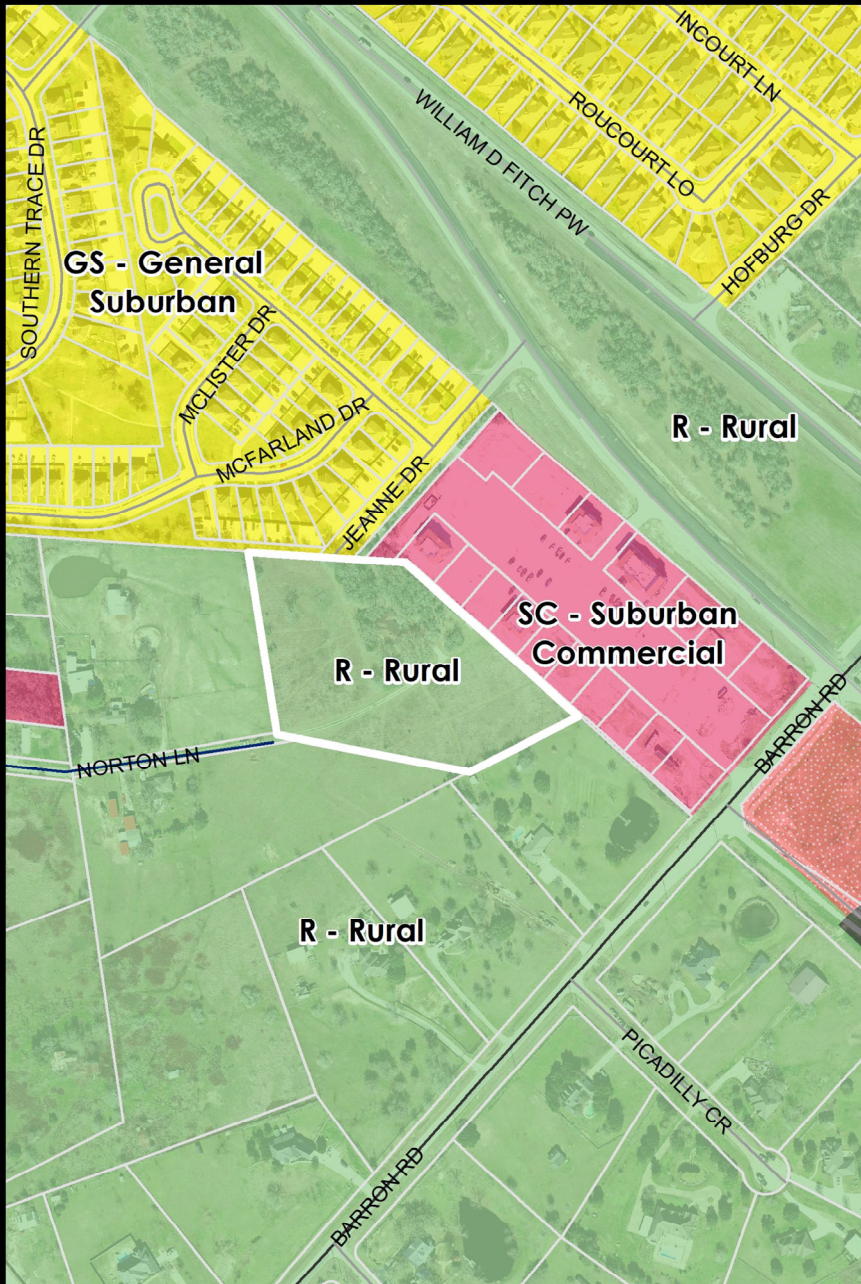
REZONING

EXISTING

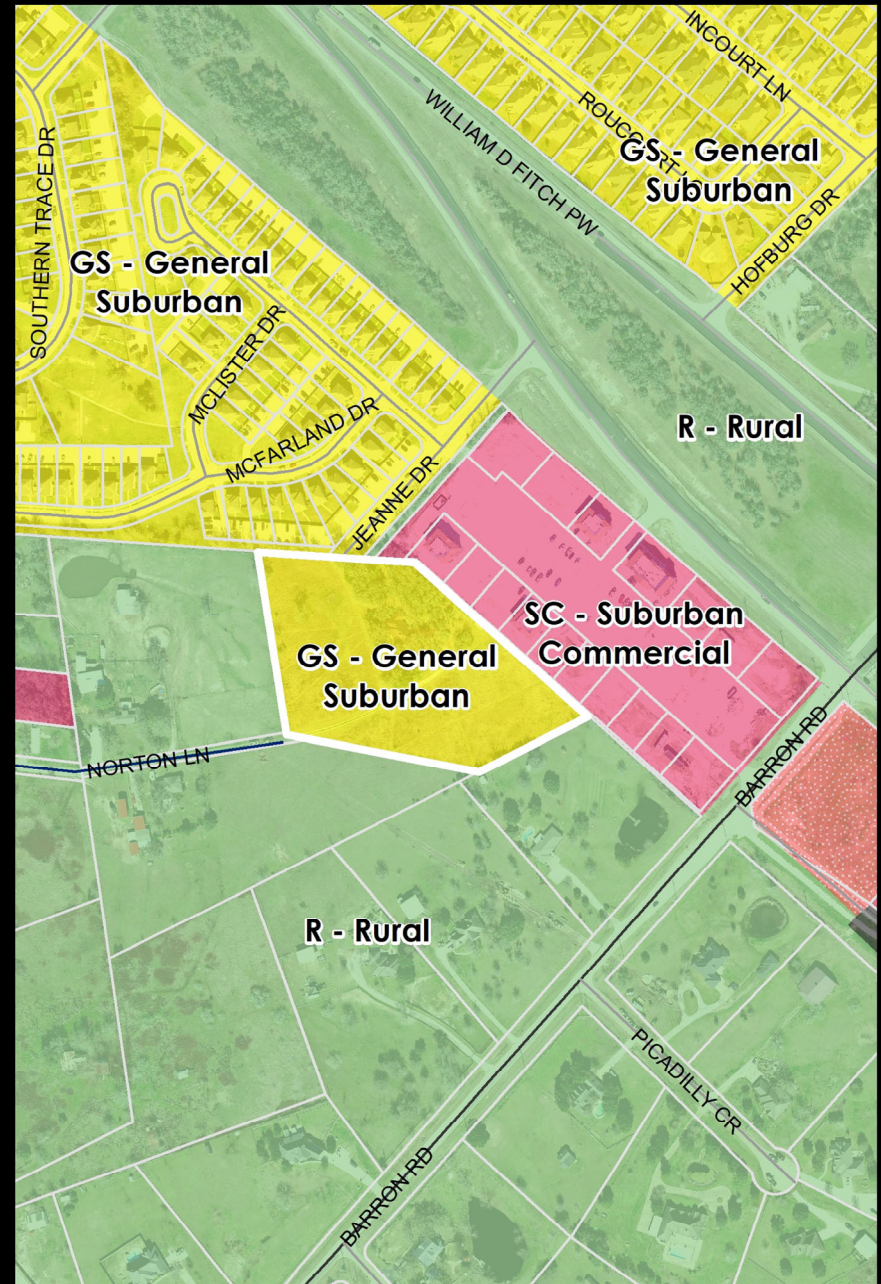
Future Land Use

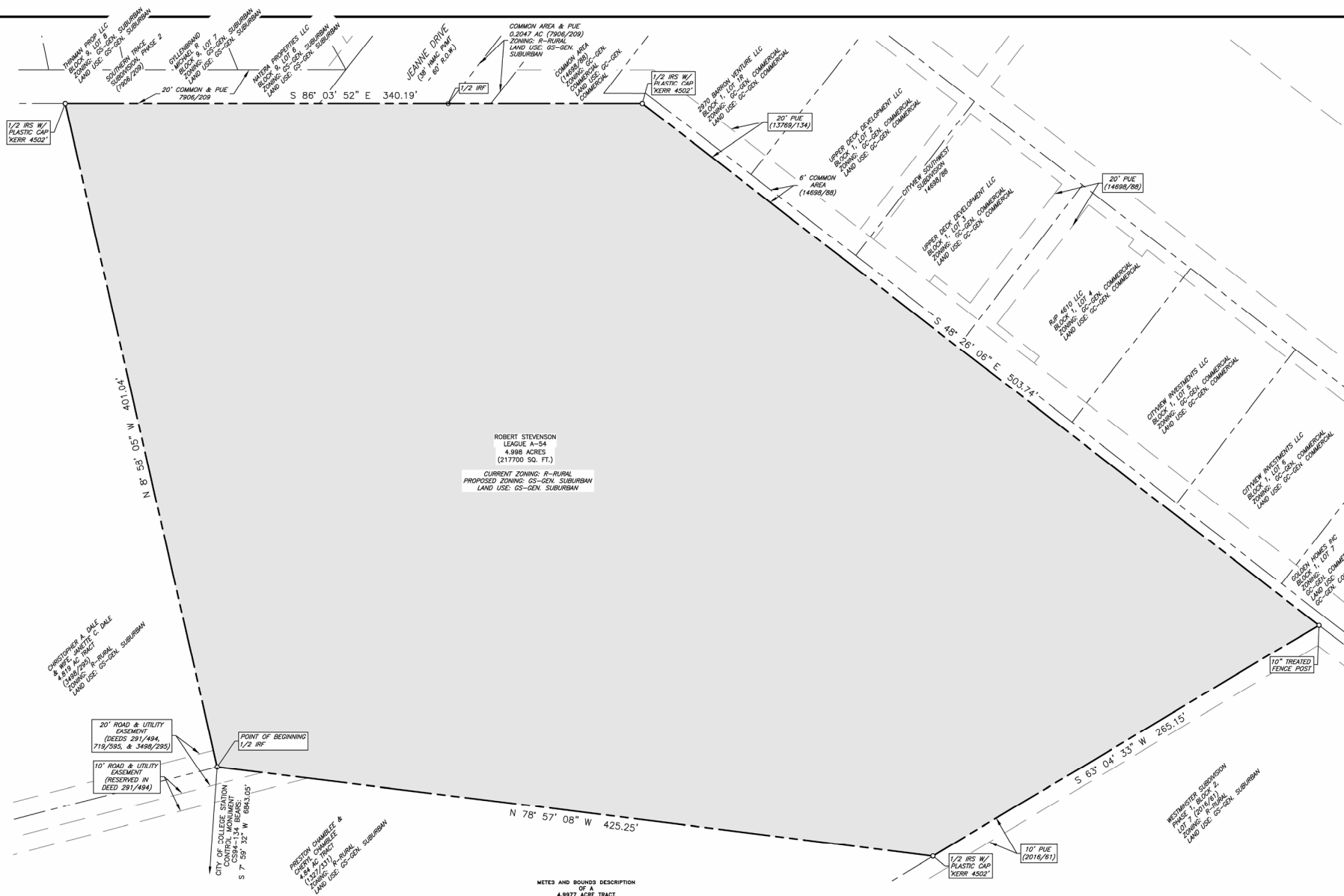


EXISTING Zoning



PROPOSED Zoning





METES AND BOUNDS DESCRIPTION OF ALL OF THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE ROBERT STEVENSON LEAGUE, ABSTRACT NO. 54, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING ALL OF A CALLED 5.00 ACRE TRACT OF LAND AS DESCRIBED AS TRACT ONE IN A DEED TO KD HOMEBUILDERS, LLC RECORDED IN VOLUME 16014, PAGE 39 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (O.P.R.B.C.T.).

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

BEGINNING AT A 1/2 INCH IRON ROD FOUND (Y:10188354.68, X:3568504.44) MARKING THE MOST WESTERLY SOUTH CORNER OF SAID 5.00 ACRE TRACT, THE SOUTHEAST CORNER OF A CALLED 4.819 ACRE TRACT OF LAND AS DESCRIBED IN A DEED TO CHRISTOPHER A. DALE AND WIFE, JANETTE C. DALE RECORDED IN VOLUME 3489, PAGE 299 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND THE MOST NORTHERLY CORNER OF A CALLED 4.84 ACRE TRACT OF LAND AS DESCRIBED IN A DEED TO PRESTON CHAMBERLAIN AND CHERYL CHAMBERLAIN RECORDED IN VOLUME 1327, PAGE 331 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (O.P.R.B.C.T.); FOR REFERENCE, A 1/2 INCH IRON ROD WITH RED PLASTIC CAP FOUND MARKING THE COMMON CORNER OF SAID 4.819 ACRE TRACT AND SAID 4.84 ACRE TRACT AND THE NORTHEAST CORNER OF A TRACT OF LAND AS DESCRIBED AS TRACT TWO IN SAID DEED, 16014/239 (O.P.R.B.C.T.) BEARS: S 7° 21' 07" W A DISTANCE OF 453.58 FEET (DEED CALL: S 80° 36' 10" W - 453.62 FEET, 3488/295, O.P.R.B.C.T.); COORDINATES AND BEARING SYSTEM SHOWN HEREIN ARE NAD83 (TEXAS STATE PLANE CENTRAL ZONE GRID NORTH) BASED ON THE PUBLISHED COORDINATES OF THE CITY OF COLLEGE STATION CONTROL MONUMENT C394-137 AND AS ESTABLISHED BY GPS OBSERVATION. DISTANCES SHOWN HEREIN ARE GRID DISTANCES UNLESS OTHERWISE NOTED. AREAS SHOWN HEREIN AS MEASURED ARE CALCULATED FROM GRID DISTANCES. TO OBTAIN SURFACE DISTANCES (NOT SURFACE AREAS) MULTIPLY BY A COMBINED SCALE FACTOR OF 1.0001004756273 (CALCULATED USING GEOID12B).

THENCE: N 08° 58' 06" E ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SAID 4.819 ACRE TRACT FOR A DISTANCE OF 401.04 FEET (DEED CALL: N 07° 41' W - 402 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "KERR 4502" SET ON THE SOUTH LINE OF A 20' WIDE COMMON AREA AS SHOWN ON THE PLAT OF SOUTHERN TRACE SUBDIVISION, PHASE 2 RECORDED IN VOLUME 7904, PAGE 209 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS MARKING THE MOST NORTHERLY WEST CORNER OF THIS HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER OF SAID 4.819 ACRE TRACT; FOR REFERENCE, A 1/2 INCH IRON ROD WITH CAP STAMPED "X" MODULINE RPLS 5650" FOUND ON THE SOUTH LINE OF SAID SUBDIVISION BEARS: N 86° 03' 52" W A DISTANCE OF 764.35 FEET;

THENCE: S 86° 03' 52" E ALONG THE SOUTH LINE OF SAID SUBDIVISION, AT A DISTANCE OF 220.94 FEET PASS A 1/2 INCH IRON ROD FOUND MARKING THE MOST SOUTHERLY EAST CORNER OF SAID SOUTHERN TRACE PHASE 2 AND THE MOST WESTERLY CORNER OF COMMON AREA 1 AS SHOWN ON THE PLAT OF CITYVIEW SUBDIVISION RECORDED IN VOLUME 14698, PAGE 88 IF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, CONTINUING ALONG THE SOUTH LINE OF SAID CITYVIEW SUBDIVISION FOR A TOTAL DISTANCE OF 340.19 FEET (DEED CALL: S 84° 53.5" E - 335 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "KERR 4502" SET MARKING THE MOST NORTHERLY EAST CORNER OF THIS HEREIN DESCRIBED TRACT;

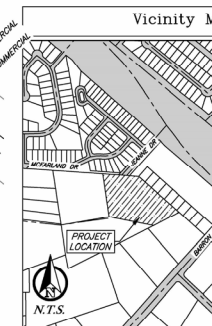
THENCE: S 48° 26' 06" E ALONG THE SOUTHEAST LINE OF SAID CITYVIEW SUBDIVISION FOR A DISTANCE OF 503.74 FEET (DEED CALL: S 47° 08.4" E - 505.75 FEET, 16014/39, O.P.R.B.C.T.) TO A POINT IN A 10 INCH TREATED FENCE POST FOUND MARKING THE MOST EASTERLY CORNER OF THIS HEREIN DESCRIBED TRACT AND THE NORTH CORNER OF LOT 7, BLOCK 2, WESTMINSTER SUBDIVISION PHASE ONE AS SHOWN ON THE PLAT RECORDED IN VOLUME 2016, PAGE 61 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 63° 04' 33" W ALONG THE NORTHWEST LINE OF SAID LOT 7, AT A DISTANCE OF 0.67 FEET PASS A 1/2 INCH IRON ROD FOUND, CONTINUING FOR A TOTAL DISTANCE OF 265.15 FEET (DEED CALL: S 64° 37' W - 264.54 FEET, 16014/39, O.P.R.B.C.T.) TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "KERR 4502" SET MARKING THE COMMON CORNER OF SAID 5.00 ACRE TRACT AND SAID 4.84 ACRE TRACT; FOR REFERENCE, A 1/2 INCH IRON ROD FOUND MARKING THE WEST CORNER OF LOT 5 OF SAID BLOCK 2 BEARS: S 63° 04' 33" W A DISTANCE OF 549.76 FEET (TOTAL PLAT CALL: S 66° 21' 06" W - 814.74 FEET, 2016/61, O.P.R.B.C.T.);

THENCE: N 78° 57' 08" W ALONG THE COMMON LINE OF SAID 5.00 ACRE TRACT AND SAID 4.84 ACRE TRACT FOR A DISTANCE OF 425.25 FEET (DEED CALL: N 78° 03' W - 425.0 FEET, 16014/39, O.P.R.B.C.T.) TO THE POINT OF BEGINNING CONTAINING 4.997 ACRES OF LAND (AS MEASURED BY GRID DISTANCES), MORE OR LESS, AS SURVEYED ON THE GROUND OCTOBER 2020.

General Notes

- Coordinates and Bearing System are based on the Texas State Plane Central Zone Grid published coordinates of the Control Monument C394-137 and GPS observation.
- Distances shown hereon are as otherwise noted. To obtain surface distances a combined scale factor of 1.0001 using GEOID12B).
- Iron rods will be set at all angles unless stated otherwise.
- This lot is not within the 100-YR the DPTM for Brazos County, Texas area, Map No. 45041U35252, effect.
- Building setback lines Per City Ordinance.
- The topography shown is from survey.
- All utilities shown hereon are approximate.
- No fences shall be located across drainage easements.
- The easement to Wellborn Water does not apply to this tract.
- The blanket easement to Wellborn 254/323, does apply to this tract.
- The access easement in deed, 1247/776, does apply to this tract.
- The public utility easement to the 9075/13, does not cross this tract.
- The public utility easement to the 9274/229, does apply to this tract.
- The temporary construction easement applies to this tract of construction.



Rezoning

Wolf De Subdivi

Block 1 Lots 1-5, Block 2 Lot 7
Being Robert Stevenson League A-54
~4.997 Acres
College Station, Brazos County, Texas
January 2021

Owner:
K.D. Homebuilders, LLC
3010 E Villa Maria Rd
Bryan, TX 77803-5015

Surveyor:
Kerr Surveying, LLC
409 N. Texas Ave
Bryan, TX 77803
Firm No. 10016500
RPLS No. 4502
Job No. 20-522

Applicant's Supporting Information

Wolf Den Rezoning

Address: 3006 Norton Lane

Legal Description: A005401, R STEVENSON (ICL), TRACT 72, 5 ACRES

Applicant: J4 Engineering

Property Owner: KD Homebuilders LLC

List the changed or changing conditions in the area or in the City which make this zone change necessary.

This is a growing area of College Station that is very attractive to residential buyers. This property is zoned for College Station High and has Spring Creek Elementary essentially next door. Brewster Pointe and Bridgewood Subdivisions have both seen recent expansions for these same conditions. With neighboring subdivisions growing, this property has become ideal for addition residential development.

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

Residential development of this property is compatibility with surrounding properties. Southern Trace Subdivision borders this property to the northwest. Cityview Subdivision is a commercial development to the northeast which has a landscape buffer and screening fence already in place along the common property line. The remaining surrounding properties are all residential uses.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

The current land use plan for this property is General Suburban which allows residential development.

Explain the suitability of the property for uses permitted by the rezoning district requested.

As noted above, Southern Trace Subdivision is a residential development that borders this property to the northwest. In addition, this is a second-tier property that does not border a major roadway and as a result would typically be developed as residential. It has good access to William D. Fitch via Jeanne Drive.

Explain the suitability of the property for uses permitted by the current zoning district.

The property is suitable for development under the current zoning which allows estate type lots of 1-3 acres. With the changing conditions in the area and the high marketability of the proposed zoning under the land use plan, this type of development is not attractive.

Explain the marketability of the property for uses permitted by the current zoning district.

The current zoning is Rural which is not the highest and best use for the property. As a result, the market price of the land exceeds the allowed use of the property and therefore is not marketable without a rezoning.

April 8, 2021

Item No. 7.4.

Ordinance Extending Mayoral Renewal of Disaster Declaration

Sponsor: Jeff Capps, Deputy City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance consenting to and extending the Mayor's renewal of a disaster declaration due to public health emergency.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Staff recommend that Council adopt the ordinance.

Summary: On March 17, 2020, the Mayor of College Station issued a proclamation declaring a state of disaster for the City of College Station resulting from the threat of a public health emergency resulting from coronavirus disease 2019, now designated SARSCoV2, (COVID-19).

On March 18, 2020, the Mayor of College Station issued an order closing all bars, limiting restaurants to only take-out, drive-through, or delivery services and amended the declaration to limit gatherings to less than ten (10) people in the best interest of the public health, safety and welfare to protect life in College Station in response to COVID-19.

On March 23, 2020, the College Station City Council adopted an Extension of Disaster Ordinance with Ordinance No. 2020-4164 extending the March 17, 2020, Disaster Declaration and extending the Mayor's Order of March 18, 2020.

On March 23, 2020, the Mayor of College Station issued a Second Mayoral Order mandating the citizens of College Station to shelter in place until Tuesday, April 7, 2020. On March 30, 2020, the College Station City Council adopted an ordinance consenting and approving the Second Mayoral Order.

On April 21, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On April 23, 2020, the College Station City Council consented with Ordinance 2020-4169 to the Mayor's April 21, 2020, Disaster Declaration Renewal.

On May 22, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On May 28, 2020, the College Station City Council consented with Ordinance 2020-4181 to the Mayor's May 22, 2020, Disaster Declaration Renewal.

On June 22, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On June 25, 2020, the College Station City Council consented with Ordinance 2020-4195 to the Mayor's June 22, 2020, Disaster Declaration Renewal.

On June 25, 2020, the Mayor of College Station issued a Third Mayoral Order mandating face

coverings for commercial entities until Friday, July 10, 2020. On July 9, 2020, the College Station City Council consented with Ordinance No. 2020-4197 to the Third Mayoral Order of June 25, 2020, mandating commercial entities to require face coverings.

On July 22, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On July 23, 2020, the College Station City Council consented with Ordinance 2020-4203 to the Mayor's July 22, 2020, Disaster Declaration Renewal.

On August 13, 2020, the Mayor of College Station issued a Fourth Mayoral Order delegating authority to the Texas A&M University President to approve gatherings over 10 people on state lands and facilities it owns or controls.

On August 21, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On August 27, 2020, the College Station City Council consented with Ordinance 2020-4209 to the Mayor's August 21, 2020, Disaster Declaration Renewal.

On September 21, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On September 24, 2020, the College Station City Council consented with Ordinance 2020-4211 to the Mayor's September 21, 2020, Disaster Declaration Renewal.

On October 20, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On October 22, 2020, the College Station City Council consented with Ordinance 2020-4220 to the Mayor's October 20, 2020, Disaster Declaration Renewal.

On November 20, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On November 23, 2020, the College Station City Council consented with Ordinance 2020-4226 to the Mayor's November 20, 2020, Disaster Declaration Renewal.

On December 7, 2020, the Mayor of College Station issued a renewal to the Disaster Declaration. On December 10, 2020, the College Station City Council consented with Ordinance 2020-4231 to the Mayor's December 7, 2020, Disaster Declaration Renewal.

On January 8, 2021, the Mayor of College Station issued a renewal to the Disaster Declaration. On January 14, 2021, the College Station City Council consented with Ordinance 2021-4239 to the Mayor's January 8, 2021, Disaster Declaration Renewal.

On February 8, 2021, the Mayor of College Station issued a renewal to the Disaster Declaration. On February 11, 2021, the College Station City Council consented with Ordinance 2021-4240 to the Mayor's February 8, 2021, Disaster Declaration Renewal.

On March 8, 2021, the Mayor of College Station issued a renewal to the Disaster Declaration. On March 11, 2021, the College Station City Council consented with Ordinance 2021-4246 to the Mayor's March 8, 2021, Disaster Declaration Renewal.

On April 6, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020,

April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, November 20, 2020, December 7, 2020, January 8, 2021, February 8, 2021, and March 8, 2021. The conditions necessitating the declaration of a state of disaster and mayoral orders continue to exist. The Council needs to consent to and approve the Mayor's Disaster Declaration renewal.

Budget & Financial Summary: N/A

Reviewed & Approved by Legal: No

Attachments:

1. April 8 Disaster Declaration Ordinance Renewal

ORDINANCE NO. _____

DISASTER DECLARATION RENEWAL AND EXTENSION ORDINANCE

WHEREAS, on March 17, 2020, the Mayor of College Station issued a proclamation declaring a state of disaster for the City of College Station resulting from the threat of a public health emergency resulting from coronavirus disease 2019, now designated SARS-CoV2, (COVID-19); and

WHEREAS, on March 18, 2020, the Mayor of College Station issued an order closing all bars, limiting restaurants to only take-out, drive-through, or delivery services and amended the declaration to limit gatherings to less than ten (10) people in the best interest of the public health, safety and welfare to protect life in College Station in response to COVID-19; and

WHEREAS, on March 23, 2020, the College Station City Council adopted an Extension of Disaster Ordinance with Ordinance No. 2020-4164 extending the March 17, 2020, Disaster Declaration and extending the Mayor's Order of March 18, 2020; and

WHEREAS, on March 23, 2020, the Mayor of College Station issued a Second Mayoral Order mandating the citizens of College Station to shelter in place until Tuesday, April 7, 2020; and

WHEREAS, on March 30, 2020, the College Station City Council consented with Ordinance No. 2020-4166 to the Second Mayoral Order of March 23, 2020, mandating the citizens of College Station to shelter in place until Tuesday, April 7, 2020; and

WHEREAS, on April 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, the order and amended disaster declaration proclaimed by the Mayor on March 18, 2020, both consented to and extended by the City Council on March 23, 2020, in Ordinance No. 2020-4164; and

WHEREAS, on April 23, 2020, the College Station City Council consented with Ordinance 2020-4169 to the Mayor's April 21, 2020, Disaster Declaration Renewal; and

WHEREAS, on May 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, and April 21, 2020; and

WHEREAS, on May 28, 2020, the College Station City Council consented with Ordinance 2020-4181 to the Mayor's May 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on June 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, and May 22, 2020; and

WHEREAS, on June 25, 2020, the College Station City Council consented with Ordinance 2020-4195 to the June 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on June 25, 2020, the Mayor of College Station issued a Third Mayoral Order mandating commercial entities to require face coverings from: 6:00 A.M., Monday, June 29, 2020, and ending at 11:59 P.M., Friday, July 10, 2020; and

WHEREAS, on July 9, 2020, the College Station City Council consented with Ordinance No. 2020-4197 to the Third Mayoral Order of June 25, 2020, mandating commercial entities to require face coverings; and

WHEREAS, on July 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, and June 22, 2020; and

WHEREAS, on July 23, 2020, the College Station City Council consented with Ordinance 2020-4203 to the June 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on August 13, 2020, the Mayor of College Station issued a Fourth Mayoral Order delegating authority to the Texas A&M University President to approve gatherings over 10 people on state lands and facilities it owns or controls; and

WHEREAS, on August 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, and July 22, 2020; and

WHEREAS, on August 27, 2020, the College Station City Council consented with Ordinance 2020-4209 to the June 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on September 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020 and August 21, 2020; and

WHEREAS, on September 24, 2020, the College Station City Council consented with Ordinance 2020-4211 to the September 21, 2020, Disaster Declaration Renewal; and

WHEREAS, on October 20, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020; and September 21, 2020, and

WHEREAS, on October 22, 2020, the College Station City Council consented with Ordinance 2020-4220 to the October 20, 2020, Disaster Declaration Renewal; and

WHEREAS, on November 20, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, and

WHEREAS, on November 23, 2020, the College Station City Council consented with Ordinance 2020-4226 to the November 20, 2020, Disaster Declaration Renewal; and

WHEREAS, on December 7, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, and November 20, 2020, and

WHEREAS, on December 10, 2020, the College Station City Council consented with Ordinance 2020-4231 to the November 20, 2020, Disaster Declaration Renewal; and

WHEREAS, on January 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, November 20, 2020 and December 7, 2020, and

WHEREAS, on January 14, 2021, the College Station City Council consented with Ordinance 2021-4239 to the January 8, 2021, Disaster Declaration Renewal; and

WHEREAS, on February 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, November 20, 2020, December 7, 2020, and January 8, 2021, and

WHEREAS, on February 11, 2021, the College Station City Council consented with Ordinance 2021-4240 to the February 8, 2021, Disaster Declaration Renewal; and

WHEREAS, on March 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, November 20, 2020, December 7, 2020, January 8, 2021, and February 8, 2021, and

WHEREAS, on March 11, 2021, the College Station City Council consented with Ordinance 2021-4246 to the March 8, 2021, Disaster Declaration Renewal; and

WHEREAS, on April 6, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020,

September 21, 2020, October 20, 2020, November 20, 2020, December 7, 2020, January 8, 2021, February 8, 2021, and March 8, 2021, and

WHEREAS, said state of disaster requires that certain emergency measures be taken pursuant to the Texas Government Code, Chapter 418; and the following regulations shall take effect immediately upon issuance, and shall remain in effect until the state of disaster is terminated or as stated below; and

WHEREAS, the conditions necessitating declaration of a state of disaster and mayoral orders continue to exist; and

WHEREAS, said state of disaster requires that certain emergency measures be taken pursuant to the Texas Government Code, Chapter 418; and the following regulations shall take effect immediately upon issuance, and shall remain in effect until the state of disaster is terminated or as stated below; and

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

1. That the state of disaster renewal proclaimed by the Mayor on April 6, 2021, as set out in **Exhibit A** is consented to and extended by the College Station City Council and shall continue until terminated by the College Station City Council.
2. This Ordinance is passed as an emergency measure and pursuant to local authority for emergency measures and shall become effective on the 8th day of April, 2021.

PASSED AND ADOPTED, this 8th day of April, 2021.

APPROVED:

Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney

EXHIBIT A

DISASTER RENEWAL PROCLAIMED BY THE MAYOR ON APRIL 6, 2021



DECLARATION OF DISASTER RENEWAL

WHEREAS, on March 17, 2020, the Mayor of College Station issued a proclamation declaring a state of disaster for the City of College Station resulting from the threat of a public health emergency resulting from coronavirus disease 2019, now designated SARS-CoV2, (COVID-19); and

WHEREAS, on March 18, 2020, the Mayor of College Station issued an order closing all bars, limiting restaurants to only take-out, drive-through, or delivery services and amended the declaration to limit gatherings to less than ten (10) people in the best interest of the public health, safety and welfare to protect life in College Station in response to COVID-19; and

WHEREAS, on March 23, 2020, the College Station City Council adopted an Extension of Disaster Ordinance with Ordinance No. 2020-4164 extending the March 17, 2020, Disaster Declaration and extending the Mayor's Order of March 18, 2020; and

WHEREAS, on March 23, 2020, the Mayor of College Station issued a Second Mayoral Order mandating the citizens of College Station to shelter in place until Tuesday, April 7, 2020; and

WHEREAS, on March 30, 2020, the College Station City Council consented with Ordinance No. 2020-4166 to the Second Mayoral Order of March 23, 2020, mandating the citizens of College Station to shelter in place until Tuesday, April 7, 2020; and

WHEREAS, on April 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, the order and amended disaster declaration proclaimed by the Mayor on March 18, 2020, both consented to and extended by the City Council on March 23, 2020, in Ordinance No. 2020-4164; and

WHEREAS, on April 23, 2020, the College Station City Council consented with Ordinance 2020-4169 to the Mayor's April 21, 2020, Disaster Declaration Renewal; and

WHEREAS, on May 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, and April 21, 2020; and

WHEREAS, on May 28, 2020, the College Station City Council consented with Ordinance 2020-4181 to the Mayor's May 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on June 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, and May 22, 2020; and

WHEREAS, on June 25, 2020, the College Station City Council consented with Ordinance 2020-4195 to the June 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on June 25, 2020, the Mayor of College Station issued a Third Mayoral Order mandating commercial entities to require face coverings from: 6:00 A.M., Monday, June 29, 2020, and ending at 11:59 P.M., Friday, July 10, 2020; and

WHEREAS, on July 9, 2020, the College Station City Council consented with Ordinance No. 2020-4197 to the Third Mayoral Order of June 25, 2020, mandating commercial entities to require face coverings; and

WHEREAS, on July 22, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, and June 22, 2020; and

WHEREAS, on July 23, 2020, the College Station City Council consented with Ordinance 2020-4203 to the July 22, 2020, Disaster Declaration Renewal; and

WHEREAS, on August 13, 2020, the Mayor of College Station issued a Fourth Mayoral Order delegating authority to the Texas A&M University President to approve gatherings over 10 people on state lands and facilities it owns or controls; and

WHEREAS, on August 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020; and July 22, 2020, and

WHEREAS, on August 27, 2020, the College Station City Council consented with Ordinance 2020-4209 to the August 21, 2020, Disaster Declaration Renewal; and

WHEREAS, on September 21, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020; July 22, 2020, and August 21, 2020, and

WHEREAS, on September 24, 2020, the College Station City Council consented with Ordinance 2020-4211 to the September 21, 2020, Disaster Declaration Renewal; and

WHEREAS, on October 20, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, and September 21, 2020, and

WHEREAS, on October 22, 2020, the College Station City Council consented with Ordinance 2020-4220 to the October 20, 2020, Disaster Declaration Renewal; and

WHEREAS, on November 20, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, and

WHEREAS, on November 23, 2020, the College Station City Council consented with Ordinance 2020-4226 to the November 20, 2020, Disaster Declaration Renewal; and

WHEREAS, on December 7, 2020, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020; July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, and November 20, 2020, and

WHEREAS, on December 10, 2020, the College Station City Council consented with Ordinance 2020-4231 to the December 7, 2020, Disaster Declaration Renewal; and

WHEREAS, on January 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, November 20, 2020, and December 7, 2020, and

WHEREAS, on January 14, 2021, the College Station City Council consented with Ordinance 2021-4239 to the January 8, 2021, Disaster Declaration Renewal; and

WHEREAS, on February 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, November 20, 2020, December 7, 2020, and January 8, 2021, and

WHEREAS, on February 11, 2021, the College Station City Council consented with Ordinance 2021-4240 to the February 8, 2021, Disaster Declaration Renewal; and

WHEREAS, on March 8, 2021, the Mayor of College Station issued a proclamation pursuant to §418.014 of the Texas Government Code renewing the state of disaster proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, and October 20, 2020, November 20, 2020, December 7, 2020, January 8, 2021, and February 8, 2021, and

WHEREAS, on March 11, 2021, the College Station City Council consented with Ordinance 2021-4246 to the March 8, 2021, Disaster Declaration Renewal; and

WHEREAS, said state of disaster requires that certain emergency measures be taken pursuant to the Texas Government Code, Chapter 418; and the following regulations shall take effect

immediately upon issuance, and shall remain in effect until the state of disaster is terminated or as stated below; and

WHEREAS, the conditions necessitating declaration of a state of disaster and mayoral orders continue to exist; and

WHEREAS, said state of disaster requires that certain emergency measures be taken pursuant to the Texas Government Code, Chapter 418; and the following regulations shall take effect immediately upon issuance, and shall remain in effect until the state of disaster is terminated or as stated below; and

NOW, THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF COLLEGE STATION:

1. Pursuant to §418.014 of the Texas Government Code the state of disaster is hereby renewed as proclaimed by the Mayor on March 17, 2020, April 21, 2020, May 22, 2020, June 22, 2020, July 22, 2020, August 21, 2020, September 21, 2020, October 20, 2020, November 20, 2020 December 7, 2020, January 8, 2021, February 8, 2021 and March 8, 2021 are renewed, until terminated by the College Station City Council.
2. Pursuant to §418.108(b) of the Texas Government Code, the state of disaster shall continue for a period of not more than seven days from the date of this declaration, unless continued or renewed by the City Council of College Station.
3. Pursuant to §418.108(c) of the Texas Government Code, this declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. That this proclamation shall take effect on April 6, 2021.

DECLARED this 6th day of April, 2021.

APPROVED:



Mayor

ATTEST:



City Secretary

APPROVED:



City Attorney