



College Station, TX

City Hall
1101 Texas Ave
College Station, TX 77840

Meeting Agenda - Final

City Council Regular

Thursday, May 24, 2018

6:00 PM

City Hall Council Chambers

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

Hear Visitors: During this time a citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 5:30 PM on the day of the Council meeting. Upon stepping to the podium the speaker must state their name and city of residence, including the state of residence if the city is located out of state. Each speaker's remarks are limited to three minutes. A series of timer lights will change from green to yellow and an alarm will sound after two and one-half minutes to signal thirty seconds remaining to conclude the remarks. At three minutes the timer light will change to red and the final alarm will sound. The speaker must then conclude the remarks. 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 concerns shall be directed to the City Manager. Comments should not personally attack other speakers, Council or staff.

Consent Agenda

At the discretion of the Mayor, individuals may be allowed to speak on a Consent Agenda Item. Individuals who wish to address the City Council on a consent agenda item not posted as a public hearing shall register with the City Secretary prior to the Mayor's reading of the agenda item. Registration forms are available in the lobby and at the desk of the City Secretary.

2. Presentation, possible action, and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.

- 2a. [18-0347](#) Presentation, possible action, and discussion of minutes for:
 - May 14, 2018 Workshop
 - May 14, 2018 Regular

Sponsors:

Smith

Attachments:

[RM051418 DRAFT Minutes.docx](#)

[WKSHP051418 DRAFT Minutes.docx](#)

- 2b. [18-0319](#) Presentation, possible action, and discussion regarding the renewal of a contract with the Texas Department of State Health Services (DSHS), Vital Statistics and a Data Use Agreement for access to Confidential

Information.

Sponsors:

Smith

Attachments:

[2018 Draft Texas Department of State Health Services \(DSHS\), Vital Statistics.](#)

2c. [18-0303](#)

Presentation, possible action, and discussion regarding the approval for purchase of new grounds maintenance equipment for the Parks and Recreation Department from Professional Turf Products in the amount of \$135,814.39.

Sponsors:

Kelbly

Attachments:

[City of College Station 4-9-2018 B](#)

2d. [18-0332](#)

Presentation, possible action, and discussion regarding approval of a Semi-Annual Report on Small Area Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02, and System-Wide Impact Fees for Water, Wastewater, and Roadway.

Sponsors:

Cotter

Attachments:

[Semi-Annual Report](#)

2e. [18-0307](#)

Presentation, possible action, and discussion regarding a three (3) year Engineering Services and Materials Contract 18300472 with SEL Engineering Services, Inc. for \$1,200,000 for electrical engineering services.

Sponsors:

Crabb

2f. [18-0339](#)

Presentation, possible action, and discussion regarding an ordinance repealing and terminating the Medical District Tax Increment Reinvestment Zone (TIRZ #18).

Sponsors:

Nettles

Attachments:

[Ordinance to Dissolve TIRZ18](#)

[TIRZ18 MAP](#)

2g. [18-0335](#)

Presentation, possible action, and discussion regarding approval of real estate contract 18300523 that will authorize the purchase of property needed for Fire Station No. 7 for \$600,000.

Sponsors:

Wozniak

2h. [18-0326](#)

Presentation, possible action, and discussion regarding approval of a resolution adopting the second restatement of the interlocal agreement with the City of Bryan, City of Brenham, Brazos County, Washington County, Texas A&M University, and Grimes County to provide for the construction, acquisition, implementation, operation, and maintenance of the Brazos Valley Wide Area Communications System (BVWACS).

Sponsors:

Provazek

Attachments: [College Packet.pdf](#)
 [BVWACS ILA Resolution.docx](#)

- 2i. [18-0327](#) Presentation, possible action, and discussion regarding approval of a General Services Agreement with ASAP Security Solutions for the acquisition and installation of a video surveillance system, placing cameras and video management in the Northgate District and in the Northgate Parking Garage for a total amount of \$337,182.47.

Sponsors: Provazek

Attachments: [18300495 ASAP Security Services.pdf](#)

Regular Agenda

Individuals who wish to address the City Council on an item posted as a public hearing shall register with the City Secretary prior to the Mayor's announcement to open the public hearing. A speaker who wishes to include computer-based information while addressing the Council must provide the electronic file to the City Secretary by noon of the Council meeting day when the presentation is planned. The Mayor will recognize individuals who wish to come forward to speak for or against the item. Upon stepping to the podium the speaker must state their name and city of residence, including the state of residence if the city is located out of state. On items related to land use and those that would directly impact the speaker's residence or neighborhood, the speaker is encouraged to identify their College Station neighborhood. Each speaker's remarks are limited to three minutes. A series of timer lights will change from green to yellow and an alarm will sound after two and one-half minutes to signal thirty seconds remaining to conclude the remarks. At three minutes the timer light will change to red and the final alarm will sound. The speaker must then conclude the remarks. After a public hearing is closed, there shall be no additional public comments. If Council needs additional information from the general public, some limited comments may be allowed at the discretion of the Mayor.

1. [18-0308](#) Public Hearing, presentation, possible action, and discussion on Budget Amendment #2 amending Ordinance No. 3936 which will amend the budget for the 2017-2018 Fiscal Year in the amount of \$4,129,094 and presentation, possible action and discussion on interfund transfer totaling \$229,700.

Sponsors: Leonard

Attachments: [FY18 Budget Amendment #2 Ordinance](#)
 [FY18 BA - rev CK](#)

2. [18-0333](#) Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from PDD Planned Development District and

SC Suburban Commercial to WC Wellborn Commercial for approximately 4 acres of land located approximately 0.1 miles south from the intersection of FM 2154 and Greens Prairie Road West.

Sponsors:

Paz

Attachments:

[Background Information](#)

[Aerial & SAM](#)

[Rezoning Map](#)

[Ordinance](#)

3. [18-0334](#)

Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to WC Wellborn Commercial for approximately 4.4 acres on FM 2154 approximately 0.5 miles south of the intersection of FM 2154 and Greens Prairie Road West.

Sponsors:

Paz

Attachments:

[Background Information](#)

[SAM and Aerial](#)

[Rezoning Map](#)

[Ordinance](#)

4. [18-0343](#)

Public Hearing, presentation, possible action, and discussion regarding the College Station Business Center Development Plan (formerly known as the Spring Creek Corporate Campus), including the planning and future development of approximately 250 acres of City-owned property generally located along the east side of State Highway 6 South, north of W.D. Fitch Parkway, and south of Lick Creek.

Sponsors:

Ruiz

5. Presentation, possible action, and discussion 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.

6. Adjourn.

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

I certify that the above Notice of Meeting was posted at College Station City Hall, 1101

Texas Avenue, College Station, Texas, on May 18, 2018 at 5:00 p.m.


for 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."



Legislation Details (With Text)

File #: 18-0347 **Version:** 1 **Name:** Minutes
Type: Minutes **Status:** Consent Agenda
File created: 5/15/2018 **In control:** City Council Regular
On agenda: 5/24/2018 **Final action:**
Title: Presentation, possible action, and discussion of minutes for:
• May 14, 2018 Workshop
• May 14, 2018 Regular
Sponsors: Tanya Smith
Indexes:
Code sections:
Attachments: [RM051418 DRAFT Minutes.pdf](#)
[WKSHP051418 DRAFT Minutes.pdf](#)

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

- May 14, 2018 Workshop
- May 14, 2018 Regular

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Approval

Summary: N/A

Budget & Financial Summary: None

Attachments:

- May 14, 2018 Workshop
- May 14, 2018 Regular

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
MAY 14, 2018

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Karl Mooney, Mayor

Council:

Bob Brick
Jerome Rektorik
Linda Harvell
Barry Moore - absent
John Nichols
James Benham

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

Call to Order and Announce a Quorum is Present

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Mooney at 6:04 p.m. on Monday, May 14, 2018 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

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

The Arts Council presents on selected College Arts Scholarship winners.

Chris Dyer, CEO of The Arts Council, noted that there was one College Station recipient of a \$3,000 scholarship, graduating from A&M Consolidated High School and one College Station recipient of a \$5,000 scholarship, graduating from A&M Consolidated High School. The two recipients are Charlotte Brumbelow is pursuing a Theatre degree from the University of Texas and Anna Miller is pursuing a Music Education degree from the University of Oklahoma.

Presentation proclaiming May 20 – 26 as National Public Works Week.

Mayor Mooney presented a proclamation to the Public Works Department, proclaiming May 20-26, 2018 as National Public Works Week.

Presentation proclaiming May as National Bike Month.

Mayor Mooney presented a proclamation to representatives of the Bicycle, Pedestrian and Greenways Committee and the College Station Department's Bicycle Unit, proclaiming May as National Bike Month.

Hear Visitors Comments

Lisa Halperin, College Station, came before Council to speak about the UDO meeting and how staff only spoke on the positive changes. Mrs. Halperin felt that the presentation was exceptional but it was misleading. The city needs to do better in getting feedback for the citizens.

Hugh Lindsay, College Station, came before Council to speak on the yellow bicycles being abandoned in inappropriate or dangerous locations across the city. Mr. Lindsay stated that there needs to be a process in place to keep up with these bicycles so the city can identify when they become abandoned.

CONSENT AGENDA

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

- **April 26, 2018 Workshop Meeting**
- **April 26, 2018 Regular Meeting**

2b. Presentation, possible action, and discussion regarding a service and extended warranty contract with IPS Group, Inc. upgrading Northgate on-street single space parking meters for the one-time fee of \$109,450 and for monthly on-going operating and credit card transaction fees related to parking meters not to exceed \$15,000 per year.

2c. Presentation, possible action, and discussion on a construction contract with Jamail and Smith Construction, LP, in the amount of \$128,736.11 for improvements to Gabbard Park.

2d. Presentation, possible action, and discussion on a professional services contract with Hawkins Architecture in the amount of \$199,410 for the renovations and rebuild of park structures located in Bee Creek Park and Stephen C. Beachy Central Park.

2e. Presentation, possible action, and discussion on a purchase order and proposal (RFP 18-062) from Fouts Brothers Inc. to purchase one (1) Light Rescue Response Vehicle for \$124,722.

2f. Presentation, possible action, and discussion on approval of an Interlocal Agreement for cooperative purchasing activities between the City of College Station and the City of Grapevine.

2g. Presentation, possible action, and discussion regarding renewal of an annual contract to Larry Young Paving for the repaving of utility cuts as needed for an amount not to exceed \$100,000.

2h. Presentation, possible action, and discussion regarding approval of the Brazos Valley Wide Area Communications System (BVWACS) Operating Budget for FY 2019 and authorizing the City's quarterly payments of approximately \$42,525.75 for an annual total not to exceed of \$170,103.03; and approval of the BVWACS Capital Equipment Replacement Reserve Fund Budget for FY 2019 and payment of the City's share not to exceed \$58,795.30.

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

REGULAR AGENDA

1. Presentation, possible action, and discussion to consider repealing Resolution No. 03-22-18-2d, naming the building located at 2275 Dartmouth, College Station, Texas, “The Bob and Wanda Meyer Community Center,” and to consider renaming said building.

David Schmitz, Director of Parks & Recreation, stated that this project was on the Parks and Recreation Advisory Board agenda on February 13, 2018, receiving 6-1 approval to name the building the “Bob and Wanda Meyer Senior Community Center.” After Council took action on March 22, 2018, to name the building the “Bob and Wanda Meyer Community Center,” the Senior Advisory Committee and Parks and Recreation Advisory Board requested that Council revisit the official naming. The Parks and Recreation Advisory Board subsequently took action on April 10, 2018, receiving 7-1 approval to name the building the “Bob and Wanda Meyer Senior and Community Center.

Renaming of the building located at 2275 Dartmouth College Station, Texas, should meet all criteria and guidelines as laid out in the naming policy:

- Programming of the facility will have a priority emphasis on senior programming.

MOTION: Upon a motion made by Councilmember Brick and a second by Councilmember Harvell, the City Council voted four (4) for and two (2) opposed, with Councilmembers Rektorik and Benham voting against, to repealing Resolution No. 03-22-18-2d, naming the building located at 2275 Dartmouth, College Station, Texas, “The Bob and Wanda Meyer Community Center,” and approving Resolution No. 05-14-18-01 to rename building to say “The Bob and Wanda Meyer Senior and Community Center.” The motion carried.

2. Public Hearing, presentation, possible action, and discussion regarding Ordinance No. 2018-4009 amending the College Station Comprehensive Plan by amending the Bicycle, Pedestrian, and Greenways Master Plan.

Venessa Garza, Planning & Development, presented an update on how the City has grown and changes have occurred that warrant evaluating additional needs of the community. Over the past year and a half, staff has led the process to update the Plan. A staff resource team and the Bicycle, Pedestrian, and Greenways Advisory Board were a part of the process to create recommendations based on public input received. Public engagement consisted of a community meeting in February 2017 along with online input using an interactive map and survey. Mrs. Garza stated that hundreds of comments received were reviewed and a second round of online comments were sought for recommended changes. Staff also met with the Texas Department of Transportation, the City of Bryan, and Texas A&M University to review proposed changes to ensure coordination and connectivity across the region. As a component of the City’s Comprehensive Plan, this planning effort provides goals and strategies and focuses around the need to improve connectivity and accessibility; increase safety; increase bicycling and walking; and encourage environmental stewardship.

The Bicycle, Pedestrian and Greenways Advisory Board considered this item at their April 9, 2018 meeting and voted 5-0 to recommend approval. The Planning and Zoning Commission considered this item at their April 19, 2018 meeting and voted 7-0 to recommend approval.

At approximately 7:23 p.m., Mayor Mooney opened the Public Hearing.

Joe Guerra, College Station, stated he was in support and endorses the Master Plan.

Johnny Coopersmith, College Station, stated that the quality of the staff is impressive, and having safe infrastructure for bicycles and walking will help keep cars off the roadways.

There being no further comments, the Public Hearing was closed at 7:26 p.m.

MOTION: Upon a motion made by Councilmember Nichols and a second by Councilmember Benham, the City Council voted six (6) for and none (0) opposed, to adopt Ordinance No. 2018-4009 amending the College Station Comprehensive Plan by amending the Bicycle, Pedestrian, and Greenways Master Plan. The motion carried.

3. Presentation, possible action, and discussion regarding an appointment to the Research Valley Partnership (RVP).

MOTION: Upon a motion made by Mayor Mooney and a second by Councilmember Brick, the City Council voted six (6) for and none (0) opposed, to appoint Johnny Burns to the Research Valley Partnership (RVP). The motion carried unanimously.

4. Presentation, possible action, and discussion 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 Benham requested future agenda item to review all dockless vehicle sharing regulations.

5. Adjournment.

There being no further business, Mayor Mooney adjourned the Regular Meeting of the City Council at 7:37 p.m. on Monday, May 14, 2018.

Karl Mooney, Mayor

ATTEST:

Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL WORKSHOP
CITY OF COLLEGE STATION
MAY 14, 2018

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Karl Mooney, Mayor

Council:

Bob Brick
Jerome Rektorik
Linda Harvell
Barry Moore - absent
John Nichols
James Benham - absent

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 at 3:30 p.m. on Monday, May 14, 2018 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, §551.072-Real Estate, and §551.074-Personnel, the College Station City Council convened into Executive Session at 3:30 p.m. on Monday, May 14, 2018 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

- Maura Juarez Garcia v. Andres Garcia and City of College Station; Cause No. 18-000419-CV-85; In the 85th District Court, Brazos County, Texas.

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

- Legal issues concerning use of HUD funds for rehabilitation/reconstruction of property located generally near Barron Cut off Road and W.S. Phillips Parkway in College Station.
- Legal advice concerning municipal regulation of property owner restrictions on dog breeds.
- Legal advice related to ongoing matters concerning the Arts Council of Brazos Valley's relocation from City facilities.

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

- Properties located generally within the area bound by FM 2154, Greens Prairie Road W, Royder Road and Greens Prairie Trail in College Station, Texas.

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

- City Secretary
- Council Self-evaluation
- City Manager

The Executive Session recessed at 5:10 p.m.

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

No action was required from Executive Session.

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

Item 2b was pulled from Consent for clarification.

(2b): *Debbie Eller*, Director of Community Services, provided an explanation of how the previous upgrade in 2013 took the meters to series MK3 but only included an upgrade to the meter internals with the old housings being reused. This contract included retrofitting the meter housing and upgrading the internals to the new MK5 meter mechanisms. These meters are expected to last 5 to 7 years. There are currently 106 meters in operation. Nine meters will be held in inventory to be used as back-up. The gross revenue should be a little over \$100,000 per year, and the combined monthly operating cost is not expected to exceed \$15,000 annually.

5. Presentation, possible action, and discussion regarding the 2017 Incentives Compliance Report by the Research Valley Partnership.

Jennifer Prochazka, Economics Development Manager, introduced Chuck Martinez, Executive Vice-President of Business Development, Research Valley Partnership.

Chuck Martinez, Executive Vice-President of Business Development, updated Council on the seven (7) projects under agreement being monitored for compliance by RVP for Brazos County, the City of Bryan, and the City of College Station:

Advanta US

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	A	Required	Actual
	\$2,300,000	\$2,415,775	\$2,800,000	\$2,804,274	20	25

- November 2016 announcement to establish global biotech R&D center in College Station. January 2018 facility ribbon cutting ceremony.
- \$80,000 average annual salary requirement: \$90,718 in 2017

Axis Pipe & Tube

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	BCAD	Required	Actual
	\$10,545,000	\$11,472,493	\$120,000,000	\$262,073,740	285	204

- 2017 performance exceeds contracts' benchmark valuation + salary formula

Fujifilm Diosynth Biotechnologies Texas @ Biocorridor

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	BCAD	Required	Actual
	\$0.00	\$12,000,000	\$70,000,000	\$26,045,160	0	153

- Achieved completion of improvements construction by DEC 31, 2016 – TAMUS transferred facility ownership in MAR 2017 (\$84M valuation); BCAD 2017 valuation reflects partial facility complex and only real property – Company reports \$73,236,000 improvements (real + personal property) in 2017. BCAD review of 2018 valuation in progress.

LSPI

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	BCAD	Required	Actual
	\$1,500,000	\$1,697,142	\$0.00	\$4,489,720	24	28

- NOV 2017 facility ribbon cutting (met DEC 2017 requirement)
- \$62.4M facility investment (met \$25M requirement)

Nutrabolt

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	BCAD	Required	Actual
	\$3,000,000	\$16,726,790	\$9,000,000	\$9,319,300	75	140

- Improvements exclude value of land: \$1,393,920

ViaSat

2017	<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
	Required	Actual	Required	BCAD	Required	Actual
	\$0.00	N/A	\$0.00	\$1,498,460	0	26

- JAN 19th 2017 groundbreaking
- APR 10th 2018 ribbon cutting of \$33M facility (exceeds \$20M investment requirement)

Wayfair

2017

<u>Payroll</u>		<u>Investment Value</u>		<u>Employment</u>	
Required	Actual	Required	BCAD	Required	Actual
\$0.00	\$10,243,419	\$350,000	\$1,199,940	0	337

- 1st incentive grant released with \$1.98M company investment
- 2nd incentive grant eligible for release after March 2018

6. Presentation, possible action, and discussion regarding controlled burn and controlled burn permits.

Eric Dotson, CS Fire Marshall, updated Council on how the last year the Fire Department, on several instances, had to manage citizen complaints and concerns related to controlled burns. There is a cost to developers if COCS disallows controlled burns. Staff is seeking guidance on possible ordinance amendment and fee resolution.

Options

1. Not allow controlled burns in the city limits of College Station
2. Allow controlled burns as we have been
3. Allow controlled burns as we have been with added permit fees and costs associated with a response from the Fire Department
4. Mechanical Trench Burning
 - Pros
 - Little to no smoke
 - Burns greater variety of green fuels
 - Reduces the fire risk and outbreak of insect problem
 - Fire is contained and easily extinguished
 - Cons
 - Requires a permit for each location from TCEQ which adds an expense
 - Expense of equipment
 - Requires a large trench for the burning

Proposal

- Considering the amount the fire department spends on resources for these permits we propose a fee for burn permits.
 - Our adopted International Fire Code 2015 and burn permit already have language allowing us to charge a fee.
- We are working with Bryan Fire Department to be consistent on the fee.
 - Bryan has been charging for burn permits for years their fees are:
 - Commercial
 - 10 Days \$200
 - 30 Days \$500
 - Residential
 - 10 Day \$50
 - 30 Day \$100
 - Bryan Fire Department is planning to change to the proposal we are offering:
 - Commercial – 10 Days \$500 plus costs of resources if used.
 - Residential – 10 Days \$ 50 plus cost of resources if used.

- If mechanical trench burning is the best option then the same fees would apply.

A consensus of Council directed staff to move forward with revising controlled burn and controlled burn permits as proposed by staff.

7. Council Calendar

Council reviewed the calendar.

8. Discussion, review and possible action regarding the following meetings: Animal Shelter Board, Annexation Task Force, Arts Council of Brazos Valley, Arts Council Sub-committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Blinn College Brazos Valley Advisory Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BVWACS, Compensation and Benefits Committee, Experience Bryan-College Station, Design Review Board, Economic Development Committee, FBT/Texas Aggies Go to War, 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, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Sister Cities Association, Transportation and Mobility Committee, TAMU Economic Development, TAMU Student Senate, Texas Municipal League, Twin City Endowment, Walk with the Mayor, YMCA, Youth Advisory Council, Zoning Board of Adjustments.

Councilmember Rektorik reported on the RVP.

Mayor Mooney reported on the Chamber of Commerce Washington D.C. trip.

9. Adjournment

There being no further business, Mayor Mooney adjourned the workshop of the College Station City Council at 5:51 p.m. on Monday, May 14, 2018.

Karl Mooney, Mayor

ATTEST:

Tanya Smith, City Secretary

Legislation Details (With Text)

File #:	18-0319	Version:	1	Name:	Texas Department of State Health Services (DSHS), Vital Statistics, Data Use Agreement
Type:	Agreement	Status:			Consent Agenda
File created:	5/7/2018	In control:			City Council Regular
On agenda:	5/24/2018	Final action:			
Title:	Presentation, possible action, and discussion regarding the renewal of a contract with the Texas Department of State Health Services (DSHS), Vital Statistics and a Data Use Agreement for access to Confidential Information.				
Sponsors:	Tanya Smith				
Indexes:					
Code sections:					
Attachments:	2018 Draft Texas Department of State Health Services (DSHS), Vital Statistics, Data Use Agreement.				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding the renewal of a contract with the Texas Department of State Health Services (DSHS), Vital Statistics and a Data Use Agreement for access to Confidential Information.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Staff recommends approval.

Summary: Staff received an email from DSHS, Vital Statistics, containing a Contract Renewal and a Data Use Agreement (DUA) for the access to the state's Vital Event Electronic Registration System; currently known as the TER System. Within the DUA was a Security and Privacy Initial Inquiry (SPI) form. The SPI form is something new this year that is required in order to execute the contract. This is a generic form that is used by the states IT Division for all IT connected contracts. It is our understanding that a new security form specifically for these contracts is being developed, but we do not have an expected date of completion. The term of this contract will begin on September 1, 2018 and end August 31, 2023.

Budget & Financial Summary: N/A

Attachments:

1. Draft Texas Department of State Health Services (DSHS), Vital Statistics, Data Use Agreement

DEPARTMENT OF STATE HEALTH SERVICES



Contract number HHSREV100000798 (the "Contract"), is entered into by Department of State Health Services ("DSHS") Vital Statistics Section and City of College Station ("Contractor"). DSHS and Contractor are collectively referred to herein as the "Parties."

- I. **Purpose of the Contract.** DSHS agrees to provide access to the DSHS Vital Event Electronic Registration System for the purpose of issuing individual birth certificates.
- II. **Term of the Contract.** This Contract will begin on September 1, 2018, and end on August 31, 2023.
- III. **Authority.** The Parties enter into this Contract under the authority of Texas Health and Safety Code Chapter 191 and Texas Government Code Chapter 791.
- IV. **Statement of Work.**
 - A. DSHS agrees to provide on-line computer services in support of Contractor from 7:00 a.m. to 6:00 p.m. (CST) Monday through Friday, except holidays. In the event of an emergency or computer application error, DSHS may temporarily suspend services without advance notice.
 - B. Contractor may search DSHS databases, locate data, and issue Certifications of Birth to authorized individuals requesting such data. The certifications will be in a format formally approved by DSHS. Contractor will take reasonable efforts to ensure use of the DSHS Vital Event Electronic Registration System is not abused by its staff. Abuse of the access to confidential information in the DSHS Vital Event Electronic Registration System may be cause for termination of this Contract in accordance with Section IX.K.
 - C. Contractor will acquire the necessary data processing equipment, communications, hardware or software, and purchase "bank note" paper, as specified by DSHS. DSHS will assist in connection of the equipment, furnish software program and provide technical assistance, if necessary.
 - D. Contractor will complete the DSHS Vital Event Electronic Registration System registration forms as specified by DSHS. Contractor will remain in compliance with any requirements specified by DSHS for accessing the DSHS Vital Event Electronic Registration System. Contractor will not be required to pay an additional fee pursuant to this Subsection.
 - E. Contractor acknowledges that records may not be located in the searching process instituted by Contractor, or records which are located may have errors due to:

1. Normal key-entry errors in spellings;
2. Accidental failure on the part of the DSHS to update a file for an amendment or paternity determination; and
3. The event year does not exist on the system.

F. Contractor will notify DSHS in writing, at least monthly of errors or suspected errors that exist on the database information.

G. Contractor is to maintain an inventory control and account for each document produced on "bank note" paper, including voided documents.

H. Contractor will issue Certificates of Birth utilizing remote access to the DSHS system in conformance with Health and Safety Code Chapters 191, 192 and 195, as well as 25 Tex. Admin. Code Chapter 181.

I. The Parties are required to comply with all applicable state and federal laws relating to the privacy and confidentiality of this data and records, which includes Texas Government Code Section 552.115.

J. The Parties will use confidential records and information obtained under this Contract only for purposes as described in this Contract and as otherwise allowed by law.

V. Fees.

Contractor agrees to pay DSHS ONE DOLLAR AND EIGHTY-THREE CENTS (\$1.83) for each Certification of Vital Record printed as a result of searches of the database. Contractor agrees to charge the same base search fee for a birth certificate as DSHS. Additional fees may only be charged as authorized by Texas Health and Safety Code Chapter 191 and 25 Tex. Admin. Code Chapter 181.

VI. Billing.

A. DSHS will send an itemized billing to Contractor on a monthly basis for each Certification of Birth printed. This billing will be sent through the U.S. Postal Service to the Contractor at:

Name: City of College Station

Address: P.O. Box 9960
College Station, TX 77842

B. Contractor will direct any billing inquiries either by phone to 512-776-7206 or email to vsubusinessservices@dshs.state.tx.us.

VII. Payment Method.

- A. Contractor will remit payment to DSHS within thirty days after a billing is received by them. Payment by the Contractor will be considered made on the date postmarked.
- B. Contractor will send payments to DSHS at:
- Texas Department of State Health Services
Cash Receipts Branch MC 2096
P.O. Box 149347
Austin, TX 78714-9347
- C. Contractor will make payment to DSHS out of its current revenues.

VIII. Representatives. The following will act as the Representative authorized to administer activities under this Contract on behalf of their respective Party.

City of College Station	DSHS
City of College Station City Secretary's Office Attn: Tanya D. Smith P.O. Box 9960 College Station, TX 77842 Phone: (979) 764-3500 Email: tdsmith@cstx.gov	Texas Department of State Health Services Contract Management Section Attn: Tina Walker Mail Code 1990 P.O. Box 149347 Austin, TX 78714-9347 Phone: (512) 776-2732 Email: tina.walker@dshs.texas.gov

IX. General Terms and Conditions.

- A. **Governing Law.** Regarding all issues related to this Contract's formation, performance, interpretation, and any issues that may arise in any dispute between the parties, the Contract will be governed by and construed in accordance with the laws of the State of Texas.
- B. **Amendment.** This Contract may be modified by written amendment signed by the Parties.
- C. **Confidentiality.**
The Parties are required to comply with all applicable state and federal laws relating to the privacy and confidentiality of records that contain Personal Identifying Information (PII) or Personally Sensitive Information (PSI) or other information or records made confidential by law, including Tex. Bus. & Comm. Code Section 521.002. The attached Data Use Agreement (Attachment A) applies to this Contract.

- D. Exchange of Personal Identifying Information.** This Contract concerns personal identifying information. Except as prohibited by other law, Contractor and DSHS may exchange PII without consent, in accordance with Chapter 191 of the Health and Safety Code.
- E. Records Retention.** DSHS will retain records in accordance with DSHS State of Texas Records Retention Schedule at <http://www.dshs.texas.gov/records/schedules.shtm>, Department Rules and other applicable state and federal statutes and regulations governing medical, mental health, and substance abuse information.
- F. Severability.** If any provision of this Contract is construed to be illegal or invalid, the illegal or invalid provision will be deemed stricken and deleted to the same extent and effect as if never incorporated, but all other provisions will continue.
- G. Notice.** Any notice required or permitted to be given under this Contract will be in writing and sent to the respective Party's Representative in Section VIII. Notice will be deemed to have been received by a Party on the third business day after the date on which it was mailed to the Party at the address specified in writing by the Party to the other Party, or, if sent by certified mail, on the date of receipt.
- H. Waiver.** Acceptance by either Party of partial performance or failure to complain of any action, non-action or default under this Contract will not constitute a waiver of either Party's rights under the Contract.
- I. Assignment.** Neither DSHS nor Contractor will transfer, assign, or sell its interest, in whole or in part, in this Contract without prior written consent by both Parties.
- J. Suspension of Services Under This Contract.** In the event of an emergency or information technology system failure, DSHS may temporarily suspend services without advance notice. Use of services for purposes inconsistent with applicable law may also result in a suspension of services.
- K. Termination.**
- 1. Convenience.** This Contract may be terminated by mutual agreement of the Parties. Either Party may terminate this Contract without cause by giving 30 days written notice of its intent to terminate to the non-terminating Party.
 - 2. Cause.** This Contract may be terminated for cause by either Party for breach or failure to perform an essential requirement of the Contract. Use of services for purposes inconsistent with applicable law may be cause for Contract termination.
 - 3. Notice of Termination.** Written notice may be sent by any method that provides verification of receipt, which will be calculated from the date of receipt by the non-terminating Party's Representative provided in Section VIII.

Contract Number: HHSREV100000798

- 4. Equitable Settlement.** At the end of the Term of this Contract or termination as provided for in this Section, the Parties will equitably settle their respective accrued interests or obligations incurred prior to termination.

By signing below, the Parties agree that this Contract constitutes the entire legal and binding agreement between them. The Parties acknowledge that they have read the Contract and agree to its terms, and that the persons whose signatures appear below have the authority to execute this Contract on behalf of their respective Party.

DEPARTMENT OF STATE HEALTH SERVICES

CITY OF COLLEGE STATION

Mandall Hall mo

Manda Hall, M.D.
Associate Commissioner
Department of State Health Services

Date 4/16/18

Karl Mooney
Mayor
City of College Station

Date: _____

THE FOLLOWING ATTACHMENTS ARE ATTACHED AND INCORPORATED AS PART OF THE CONTRACT HHSREV100000798:

ATTACHMENT A- DATA USE AGREEMENT

ATTACHMENT A – DATA USE AGREEMENT

DATA USE AGREEMENT BETWEEN THE TEXAS HEALTH AND HUMAN SERVICES ENTERPRISE AND CITY OF COLLEGE STATION (“CONTRACTOR”)

This Data Use Agreement (“DUA”) is incorporated into System Agency Contract No. HHSREV100000798 (the “Base Contract”) between the Texas Department of State Health Services (“System Agency”) and City of College Station (“Contractor”).

ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

ATTACHMENT 1. The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with Contractor, and describe Contractor’s rights and obligations with respect to the Confidential Information and the limited purposes for which the Contractor may create, receive, maintain, use, disclose or have access to Confidential Information. 45 CFR 164.504(e)(1)-(3). This DUA also describes System Agency’s remedies in the event of Contractor’s noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of System Agency, its programs or clients as described in the Base Contract.

As of the Effective Date of the Contract, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

ARTICLE 2. DEFINITIONS

For the purposes of this DUA, **capitalized, underlined terms have the meanings set forth in the following:** Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

“**Authorized Purpose**” means the specific purpose or purposes described in the Scope of Work of the Base Contract for Contractor to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by System Agency in writing in advance.

“**Authorized User**” means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

(2) For whom Contractor warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Contractor or that Contractor may create, receive, maintain, use, disclose or have access to on behalf of System Agency that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

"Legally Authorized Representative" of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; Estates Code Ch. 752 and Texas Prob. Code § 3.

ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

Section 3.01 *Obligations of Contractor*

Contractor agrees that:

(A) Contractor will exercise reasonable care and no less than the same degree of care Contractor uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. *45 CFR 164.502(b)(1); 45 CFR 164.514(d)*

(B) Contractor will not, without System Agency's prior written consent, disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors of Contractor who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to Contractor's management, to carry out the Authorized Purpose or as Required by Law.

System Agency, at its election, may assist Contractor in training and education on specific or unique System Agency processes, systems or requirements. Contractor will produce evidence of completed training to System Agency upon request. *45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101*

(C) Contractor will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. Contractor will maintain evidence of sanctions and produce it to System Agency upon request. *45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)*

(D) Contractor will not, without prior written approval of System Agency, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying System Agency so that System Agency may have the opportunity to object to the disclosure or access and seek appropriate relief. If System Agency objects to such disclosure or access, Contractor will refrain from disclosing or providing access to the Confidential Information until System Agency has exhausted all alternatives for relief. *45 CFR 164.504(e)(2)(ii)(A)*

(E) Contractor will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from System Agency or as expressly permitted by the Base Contract. *45 CFR 164.502(d)(2)(i) and (ii)* Contractor will not engage in prohibited marketing or sale of Confidential Information. *45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002*

(F) Contractor will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of Contractor without requiring that Subcontractor first execute the Form Subcontractor Agreement, Attachment 1, which ensures that the Subcontractor will comply with the identical terms, conditions, safeguards and restrictions as contained in this DUA for PHI and any other relevant Confidential Information and which permits more strict limitations; and *45 CFR 164.502(e)(1)(1)(ii); 164.504(e)(1)(f) and (2)*

(G) Contractor is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. *45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.*

(H) If Contractor maintains PHI in a Designated Record Set, Contractor will make PHI available to System Agency in a Designated Record Set or, as directed by System Agency, provide PHI to the Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. Contractor will make other Confidential Information in Contractor's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. *45 CFR 164.524 and 164.504(e)(2)(ii)(E)*

(I) Contractor will make PHI as required by HIPAA available to System Agency for amendment and incorporate any amendments to this information that System Agency directs or agrees to pursuant to the HIPAA. *45 CFR 164.504(e)(2)(ii)(E) and (F)*

(J) Contractor will document and make available to System Agency the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. *45 CFR 164.504(e)(2)(ii)(G) and 164.528*

(K) If Contractor receives a request for access, amendment or accounting of PHI by any Individual subject to this DUA, it will promptly forward the request to System Agency; however, if it would violate HIPAA to forward the request, Contractor will promptly notify of the request and of Contractor's response. Unless Contractor is prohibited by law from forwarding a request, System Agency will respond to all such requests, unless System Agency has given prior written consent for Contractor to respond to and account for all such requests. *45 CFR 164.504(e)(2)*

(L) Contractor will provide, and will cause its Subcontractors and agents to provide, to System Agency periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to

data transfers and the handling and disposal of Confidential Information. *45 CFR 164.308; 164.530(c); 1 TAC 202*

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, Contractor may use or disclose PHI for the proper management and administration of Contractor or to carry out Contractor's legal responsibilities if: *45 CFR 164.504(e)(ii)(1)(A)*

(1) Disclosure is Required by Law, provided that Contractor complies with Section 3.01(D);

(2) Contractor obtains reasonable assurances from the Person to whom the information is disclosed that the Person will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify Contractor in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. *45 CFR 164.504(e)(4)(ii)(B)*

(N) Except as otherwise limited by this DUA, Contractor will, if requested by System Agency, use PHI to provide data aggregation services to System Agency, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. *45 CFR 164.504(e)(2)(i)(B)*

(O) Contractor will, on the termination or expiration of this DUA or the Base Contract, at its expense, return to System Agency or Destroy, at System Agency's election, and to the extent reasonably feasible and permissible by law, all Confidential Information received from System Agency or created or maintained by Contractor or any of Contractor's agents or Subcontractors on System Agency's behalf if that data contains Confidential Information. Contractor will certify in writing to System Agency that all the Confidential Information that has been created, received, maintained, used by or disclosed to Contractor, has been Destroyed or returned to System Agency, and that Contractor and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, Contractor acknowledges and agrees that it may not Destroy any Confidential Information if federal or state law, or System Agency record retention policy or a litigation hold notice prohibits such Destruction. If such return or Destruction is not reasonably feasible, or is impermissible by law, Contractor will immediately notify System Agency of the reasons such return or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return of the Confidential Information not feasible for as long as Contractor maintains such Confidential Information. *45 CFR 164.504(e)(2)(ii)(J)*

(P) Contractor will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. *45 CFR 164.306; 164.530(c)*

(Q) If Contractor accesses, transmits, stores, or maintains Confidential Information, Contractor will complete and return to System Agency at infosecurity@hhsc.state.tx.us the System Agency information security and privacy initial inquiry (SPI) at Attachment 2. The SPI identifies basic privacy and security controls with which Contractor must comply to protect System Agency Confidential Information. Contractor will comply with periodic security controls compliance assessment and monitoring by System Agency as required by state and federal law, based on the type of Confidential Information Contractor creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. Contractor's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. Contractor will update its security controls assessment whenever there are significant changes in security controls for System Agency

Confidential Information and will provide the updated document to System Agency. System Agency also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. *45 CFR 164.306*

(R) Contractor will establish, implement and maintain any and all appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as Contractor has such Confidential Information in its actual or constructive possession. *45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards)*

(S) Contractor will designate and identify, subject to System Agency approval, a Person or Persons, as Privacy Official *45 CFR 164.530(a)(1)* and Information Security Official, each of whom is authorized to act on behalf of Contractor and is responsible for the development and implementation of the privacy and security requirements in this DUA. Contractor will provide name and current address, phone number and e-mail address for such designated officials to System Agency upon execution of this DUA and prior to any change. *45 CFR 164.308(a)(2)*

(T) Contractor represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. *45 CFR 164.502; 164.514(d)*

(U) Contractor and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to System Agency, as directed, upon request.

(V) Contractor will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the DUA. *45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1)*

(W) Contractor will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by Contractor on behalf of System Agency for System Agency's review and approval within 30 days of execution of this DUA and upon request by System Agency the following business day or other agreed upon time frame. *45 CFR 164.308; 164.514(d)*

(X) Contractor will make available to System Agency any information System Agency requires to fulfill System Agency's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. Contractor will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary, or other federal or state law. *45 CFR 164.504(e)(2)(i)(I)*

(Y) Contractor will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form. A secure transmission of electronic Confidential Information in motion includes secure File Transfer Protocol (SFTP) or Encryption at an appropriate level or otherwise protected as required by rule, regulation or law. System Agency Confidential Information at rest requires Encryption unless there is adequate administrative, technical, and physical security, or as otherwise

protected as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security or Encryption must be produced to System Agency no later than 48 hours after System Agency's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of System Agency Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. *45 CFR 164.312; 164.530(d)*

(Z) Contractor will comply with the following laws and standards *if applicable to the type of Confidential Information and Contractor's Authorized Purpose*:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;
- The Privacy Act of 1974;
- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and
- Any other State or Federal law, regulation, or administrative rule relating to the specific System Agency program area that Contractor supports on behalf of System Agency.

ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

Section 4.01. Breach or Event Notification to System Agency. 45 CFR 164.400-414

(A) Contractor will cooperate fully with System Agency in investigating, mitigating to the extent practicable and issuing notifications directed by System Agency, for any Event or Breach of Confidential Information to the extent and in the manner determined by System Agency.

(B) Contractor's obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to System Agency's satisfaction (the "incident response period"). *45 CFR 164.404*

(C) Breach Notice:

1. Initial Notice.

System Agency Data Use Agreement V.8.3 HIPAA Omnibus Compliant April 1, 2015

a. For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by System Agency in writing, initially report to System Agency's Privacy and Security Officers via email at: privacy@SystemAgencyC.state.tx.us and to the System Agency division responsible for this DUA; and *IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in System AgencyC-CMS Contracts for information exchange.*

b. Report all information reasonably available to Contractor about the Event or Breach of the privacy or security of Confidential Information. *45 CFR 164.410*

c. Name, and provide contact information to System Agency for, Contractor's single point of contact who will communicate with System Agency both on and off business hours during the incident response period.

2. 48-Hour Formal Notice. No later than 48 consecutive clock hours after Discovery, or a time within which Discovery reasonably should have been made by Contractor of an Event or Breach of Confidential Information, provide formal notification to the State, including all reasonably available information about the Event or Breach, and Contractor's investigation, including without limitation and to the extent available: *For (a) - (m) below: 45 CFR 164.400-414*

a. The date the Event or Breach occurred;

b. The date of Contractor's and, if applicable, Subcontractor's Discovery;

c. A brief description of the Event or Breach, including how it occurred and who is responsible (or hypotheses, if not yet determined);

d. A brief description of Contractor's investigation and the status of the investigation;

e. A description of the types and amount of Confidential Information involved;

f. Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the individual and if applicable the, Legally authorized representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by Contractor at that time;

g. Contractor's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for System Agency approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

h. Contractor's recommendation for System Agency's approval as to the steps Individuals or Contractor on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation Contractor's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

i. The steps Contractor has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

j. The steps Contractor has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

- k. Identify, describe or estimate of the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;
- l. A reasonable schedule for Contractor to provide regular updates to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by System Agency, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and
- m. Any reasonably available, pertinent information, documents or reports related to an Event or Breach that System Agency requests following Discovery.

Section 4.02 *Investigation, Response and Mitigation. For A-F below: 45 CFR 164.308, 310 and 312; 164.530*

- (A) Contractor will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by System Agency for incident response purposes and for purposes of System Agency's compliance with report and notification requirements, to the satisfaction of System Agency.
- (B) Contractor will complete or participate in a risk assessment as directed by System Agency following an Event or Breach, and provide the final assessment, corrective actions and mitigations to System Agency for review and approval.
- (C) Contractor will fully cooperate with System Agency to respond to inquiries and proceedings by state and federal authorities, Persons and Individuals about the Event or Breach.
- (D) Contractor will fully cooperate with System Agency's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by System Agency in a Corrective Action Plan if directed by System Agency under the Base Contract.

Section 4.03 *Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)*

- (A) System Agency may direct Contractor to provide Breach notification to Individuals, regulators or third-parties, as specified by System Agency following a Breach.
- (B) Contractor must obtain System Agency's prior written approval of the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities. Notice letters will be in Contractor's name and on Contractor's letterhead, unless otherwise directed by System Agency, and will contain contact information, including the name and title of Contractor's representative, an email address and a toll-free telephone number, for the Individual to obtain additional information.
- (C) Contractor will provide System Agency with copies of distributed and approved communications.
- (D) Contractor will have the burden of demonstrating to the satisfaction of System Agency that any notification required by System Agency was timely made. If there are delays outside of Contractor's control, Contractor will provide written documentation of the reasons for the delay.

(E) If System Agency delegates notice requirements to Contractor, System Agency shall, in the time and manner reasonably requested by Contractor, cooperate and assist with Contractor's information requests in order to make such notifications and reports.

ARTICLE 5. SCOPE OF WORK

Scope of Work means the services and deliverables to be performed or provided by Contractor, or on behalf of Contractor by its Subcontractors or agents for System Agency that are described in detail in the Base Contract. The Scope of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

ARTICLE 6. GENERAL PROVISIONS

Section 6.01 *Ownership of Confidential Information*

Contractor acknowledges and agrees that the Confidential Information is and will remain the property of System Agency. Contractor agrees it acquires no title or rights to the Confidential Information.

Section 6.02 *System Agency Commitment and Obligations*

System Agency will not request that Contractor create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by System Agency.

Section 6.03 *System Agency Right to Inspection*

At any time upon reasonable notice to Contractor, or if System Agency determines that Contractor has violated this DUA, System Agency, directly or through its agent, will have the right to inspect the facilities, systems, books and records of Contractor to monitor compliance with this DUA. For purposes of this subsection, System Agency's agent(s) include, without limitation, the System Agency Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

Section 6.04 *Term; Termination of DUA; Survival*

This DUA will take effect with the Base Contract, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA is updated automatically concurrent with such extension or amendment.

(A) System Agency may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve Contractor of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by System Agency.

(D) If System Agency determines that Contractor has violated a material term of this DUA; System Agency may in its sole discretion:

1. Exercise any of its rights including but not limited to reports, access and inspection under this DUA or the Base Contract; or
2. Require Contractor to submit to a corrective action plan, including a plan for monitoring and plan for reporting, as System Agency may determine necessary to maintain compliance with this DUA; or

3. Provide Contractor with a reasonable period to cure the violation as determined by System Agency; or

4. Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Travis County, Texas.

Before exercising any of these options, System Agency will provide written notice to Contractor describing the violation and the action it intends to take.

(E) If neither termination nor cure is feasible, System Agency shall report the violation to the Secretary.

(F) The duties of Contractor or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to System Agency, as required by this DUA.

Section 6.05 *Governing Law, Venue and Litigation*

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Travis County, Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

Section 6.06 *Injunctive Relief*

(A) Contractor acknowledges and agrees that System Agency may suffer irreparable injury if Contractor or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) Contractor further agrees that monetary damages may be inadequate to compensate System Agency for Contractor's or its Subcontractor's failure to comply. Accordingly, Contractor agrees that System Agency will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

Section 6.07 *Indemnification*

To the extent permitted by law, Contractor will indemnify, defend and hold harmless System Agency and its respective Executive Commissioner, employees, Subcontractors, agents (including other state agencies acting on behalf of System Agency) or other members of its Workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by Contractor or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure and continues to apply even in the event insurance coverage required, if any, in the DUA or Base Contract is denied, or coverage rights are reserved by any insurance carrier. Upon demand, Contractor will reimburse System Agency for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party to the extent caused by and which results from the Contractor's failure to meet any of its obligations under this DUA. To the extent permitted

by law, Contractor's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

Section 6.08 *Insurance*

(A) Contractor represents and warrants that it maintains either self-insurance or commercial insurance with policy limits sufficient to cover any liability arising from any acts or omissions by Contractor or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce under this DUA. Contractor warrants that System Agency will be a loss payee and beneficiary for any such claims. .

(B) Contractor will provide System Agency with written proof that required insurance coverage is in effect, at the request of System Agency.

Section 6.09 *Fees and Costs*

Except as otherwise specified in this DUA or the Base Contract, including but not limited to requirements to insure or indemnify System Agency, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

Section 6.10 *Entirety of the Contract*

This Data Use Agreement is incorporated by reference into the Base Contract and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced.

Section 6.11 *Automatic Amendment and Interpretation*

Upon the effective date of any amendment or issuance of additional regulations to HIPAA, or any other law applicable to Confidential Information, this DUA will automatically be amended so that the obligations imposed on System Agency or Contractor remain in compliance with such requirements. Any ambiguity in this DUA will be resolved in favor of a meaning that permits System Agency and Contractor to comply with HIPAA or any other law applicable to Confidential Information.

ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM
System Agency CONTRACT NUMBER HHSREV100000798

The DUA between System Agency and Contractor establishes the permitted and required uses and disclosures of Confidential Information by Contractor.

Contractor has subcontracted with _____ (SUBContractor) for performance of duties on behalf of CONTACTOR which are subject to the DUA. SUBContractor acknowledges, understands and agrees to be bound by the identical terms and conditions applicable to Contractor under the DUA, incorporated by reference in this Agreement, with respect to System Agency Confidential Information. Contractor and SUBContractor agree that System Agency is a third-party beneficiary to applicable provisions of the subcontract.

System Agency has the right but not the obligation to review or approve the terms and conditions of the subcontract by virtue of this Subcontractor Agreement Form.

Contractor and SUBContractor assure System Agency that any Breach or Event as defined by the DUA that SUBContractor Discovers will be reported to System Agency by Contractor in the time, manner and content required by the DUA.

If Contractor knows or should have known in the exercise of reasonable diligence of a pattern of activity or practice by SUBContractor that constitutes a material breach or violation of the DUA or the SUBContractor's obligations Contractor will:

1. Take reasonable steps to cure the violation or end the violation, as applicable;
2. If the steps are unsuccessful, terminate the contract or arrangement with SUBContractor, if feasible;
3. Notify System Agency immediately upon reasonably discovery of the pattern of activity or practice of SUBContractor that constitutes a material breach or violation of the DUA and keep System Agency reasonably and regularly informed about steps Contractor is taking to cure or end the violation or terminate SUBCONTACTOR's contract or arrangement.

This Subcontractor Agreement Form is executed by the parties in their capacities indicated below.

CONTRACTOR

SUBCONTRACTOR

BY: _____
NAME: _____
TITLE: _____
DATE: _____, 201 .

BY: _____
NAME: _____
TITLE: _____
DATE: _____



HHS Enterprise Data Use Agreement - Attachment 2
SECURITY AND PRIVACY INITIAL INQUIRY (SPI)

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses in sections B and C prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers in Sections B and C below prior to performing any work on behalf of any HHS agency. For existing contracts or renewals with "No" responses, there must be an action plan for remediation of Section B and C within 30 calendar days for HIPAA related contracts and 90 calendar days from the date the form is signed for all non-HIPAA contracts.

SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)

1. Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? IF NO, STOP. THE SPI FORM IS NOT REQUIRED.	☒ Yes ☐ No																																				
2. Entity or Applicant/Bidder Legal Name	Legal Name: City of College Station Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): 534 Procurement/Contract#: 13-034 R#1 A#1 Address: PO Box 9960 City: College Station State: Texas ZIP: 77845 Telephone #: (979) 764-5016 Email Address: ytorre@cstx.gov																																				
3. Number of Employees, at all locations, in Applicant Bidder's Workforce "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee.	Total Employees: 5																																				
4. Number of Subcontractors (if Applicant/Bidder will not use subcontractors, enter "0")	Total Subcontractors: 0																																				
5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder (Privacy and Security Official may be the same person.)	<table border="0"> <tr> <td colspan="3">A. Security Official:</td> </tr> <tr> <td colspan="3">Legal Name: Sindhu Menon</td> </tr> <tr> <td colspan="3">Address: 310 Krenek Tap Rd</td> </tr> <tr> <td>City: College Station</td> <td>State: TX</td> <td>ZIP: 77840</td> </tr> <tr> <td colspan="3">Telephone #:</td> </tr> <tr> <td colspan="3">Email Address: smenon@cstx.gov</td> </tr> <tr> <td colspan="3">B. Privacy Official:</td> </tr> <tr> <td colspan="3">Legal Name: Same as above</td> </tr> <tr> <td colspan="3">Address:</td> </tr> <tr> <td>City:</td> <td>State:</td> <td>ZIP:</td> </tr> <tr> <td colspan="3">Telephone #:</td> </tr> <tr> <td colspan="3">Email Address:</td> </tr> </table>	A. Security Official:			Legal Name: Sindhu Menon			Address: 310 Krenek Tap Rd			City: College Station	State: TX	ZIP: 77840	Telephone #:			Email Address: smenon@cstx.gov			B. Privacy Official:			Legal Name: Same as above			Address:			City:	State:	ZIP:	Telephone #:			Email Address:		
A. Security Official:																																					
Legal Name: Sindhu Menon																																					
Address: 310 Krenek Tap Rd																																					
City: College Station	State: TX	ZIP: 77840																																			
Telephone #:																																					
Email Address: smenon@cstx.gov																																					
B. Privacy Official:																																					
Legal Name: Same as above																																					
Address:																																					
City:	State:	ZIP:																																			
Telephone #:																																					
Email Address:																																					

6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply) • Health Insurance Portability and Accountability Act (HIPAA) data • Criminal Justice Information Services (CJIS) data • Internal Revenue Service Federal Tax Information (IRS FTI) data • Centers for Medicare & Medicaid Services (CMS) • Social Security Administration (SSA) • Personally Identifiable Information (PII)	HIPAA ☒	CJIS ☐	IRS FTI ☐	CMS ☐	SSA ☐	PII ☒
Other (Please List)						
7. Number of Storage Devices for HHS Confidential Information (as defined in the HHS Data Use Agreement (DUA)) Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business.						Total # (Sum a-d) 4
a. Devices. Number of personal user computers, devices or drives, including mobile devices and mobile drives.						4
b. Servers. Number of Servers that are not in a data center or using Cloud Services.						0
c. Cloud Services. Number of Cloud Services in use.						0
d. Data Centers. Number of Data Centers in use.						0
8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year:						Select Option
a. 499 individuals or less b. 500 to 999 individuals c. 1,000 to 99,999 individuals d. 100,000 individuals or more						☒ a. ☐ b. ☐ c. ☐ d.
9. HIPAA Business Associate Agreement						Yes or No
a. Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered HHS agency for a HIPAA-covered function?						☒ Yes ☐ No
b. Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "No" if not applicable, such as for agencies not covered by HIPAA.)						☐ Yes ☒ No
10. Subcontractors. If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "No" for both 'a.' and 'b.' to indicate "N/A."						Yes or No
a. Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form?						☐ Yes ☒ No
b. Will Applicant/Bidder obtain written approval from an HHS agency before entering into any agreements with subcontractors to handle HHS Confidential Information on behalf of Applicant/Bidder?						☐ Yes ☒ No

11. Does Applicant/Bidder have any Optional Insurance currently in place? Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.	☒ Yes ☐ No
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Section B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)

For any questions answered "No", an Action Plan for Compliance with a timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA related items is 30 calendar days, PII related items is 90 calendar days.

1. Written Policies & Procedures. Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum:	Yes or No
a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of HHS Confidential Information?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of HHS Confidential Information on behalf of an HHS agency?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three): i. Immediate breach notification to the HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA; ii. Following a documented breach response plan, in accordance with the DUA and applicable law; & iii. Notifying Individuals and Reporting Authorities whose HHS Confidential Information has been breached, as directed by the HHS agency?	☐ Yes ☒ No

<u>Action Plan for Compliance with a Timeline:</u> Will begin writing policy	<u>Compliance Date:</u> 9/15/18
e. Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
f. Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
g. Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by an HHS agency?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
h. Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed HHS Confidential Information in violation of the DUA, the Base Contract or applicable law?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
i. Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of HHS Confidential Information within 60 days of identification of a need for update?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18

j. Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the HHS Confidential Information, except for an Authorized Purpose, without express written authorization from an HHS agency or as expressly permitted by the Base Contract?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
k. If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit HHS Confidential Information outside of the United States of America, will Applicant/Bidder obtain the express prior written permission from the HHS agency and comply with the HHS agency conditions for safeguarding offshore HHS Confidential Information?	☐ Yes ☒ No
<u>Action Plan for Compliance with a Timeline:</u> N/A	<u>Compliance Date:</u>
l. Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
m. Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of HHS Confidential Information?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u> In development	<u>Compliance Date:</u> 9/15/18
n. Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of HHS pursuant to the DUA, or to publish HHS Confidential Information without express prior approval of the HHS agency?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
2. Does Applicant/Bidder have a current Workforce training program? Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling HHS Confidential Information, (2) a requirement to complete training before access is given to HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training.	☒ Yes ☐ No

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
3. Does Applicant/Bidder have Privacy Safeguards to protect HHS Confidential Information in oral, paper and/or electronic form? "Privacy Safeguards" means protection of HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to HHS Confidential Information, whether oral, written or electronic?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle HHS Confidential Information from the list of Authorized Users?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

Section C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)

This section is about your electronic system. If your business **DOES NOT** store, access, or transmit HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.

No Electronic Systems

☐

For any questions answered "No", an Action Plan for Compliance with a timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA related items is 30 calendar days, PII related items is 90 calendar days.

1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store HHS Confidential Information are maintained **IN** the United States (no offshoring) unless **ALL** of the following requirements are met?

- a. The data is encrypted with FIPS 140-2 compliant encryption
- b. The offshore provider does not have access to the encryption keys
- c. The Applicant/Bidder maintains the encryption key within the United States
- d. The Application/Bidder has obtained the express prior written permission of the HHS agency

*For more information regarding FIPS 140-2 encryption products, please refer to:
<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm>*

- ☒ Yes
☐ No

Action Plan for Compliance with a Timeline:

In development

Compliance Date:

9/15/18

2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?

- ☒ Yes
☐ No

Action Plan for Compliance with a Timeline:

Compliance Date:

3. Does Applicant/Bidder monitor and manage access to HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access HHS Confidential Information, and access is limited to Authorized Users)?

- ☒ Yes
☐ No

Action Plan for Compliance with a Timeline:

Compliance Date:

4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store HHS Confidential Information.

If yes, upon request must provide evidence such as a screen shot or a system report.

- ☒ Yes
☐ No

Action Plan for Compliance with a Timeline:

Compliance Date:

5. Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain HHS Confidential Information have a unique user name (account) and private password?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
6. Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store HHS Confidential Information?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
7. Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access HHS Confidential Information, and remote access is limited to Authorized Users). <i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 compliant encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i> <i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm</i>	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
8. Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.)	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
9. Does Applicant/Bidder secure physical access to computer, paper, or other systems containing HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

10. Does Applicant/Bidder use encryption products to protect HHS Confidential Information that is <u>transmitted</u> over a public network (e.g., the Internet, WiFi, etc.). If yes, upon request must provide evidence such as a screen shot or a system report. <i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 compliant encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i> <i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm</i>	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u> The file is sent to County as password protected. There is a desire to send it as encrypted.	<u>Compliance Date:</u> 9/15/18
11. Does Applicant/Bidder use encryption products to protect HHS Confidential Information <u>stored</u> on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)? If yes, upon request must provide evidence such as a screen shot or a system report. <i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 compliant encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i> <i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm</i>	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u> 12/30/18
12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of HHS Confidential Information with a subcontractor (e.g. cloud services, social media, etc.) unless HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

15. Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store HHS Confidential Information?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
16. Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store HHS Confidential Information contain up-to-date anti-malware and antivirus protection?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
17. Does the Applicant/Bidder review system security logs on computing systems that access or store HHS Confidential Information for abnormal activity or security concerns on a regular basis?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
18. Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for HHS Confidential Information ensure that HHS Confidential Information is destroyed so that it is unreadable or undecipherable?	☒ Yes ☐ No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

Section D: Signature and Submission

Please sign the form digitally, if possible. If you can't, provide a handwritten signature.

1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify HHS of this immediately.

2. Signature 	3. Title 	4. Date:
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To **submit** the completed, signed form:

- Email the form as an attachment to the appropriate HHS Contract Manager.

Section E: To Be Completed by HHS Agency Staff:

Agency(s): HHSC: ☐ DADS: ☐ DFPS: ☐ DSHS: ☐		Requesting Department(s):											
Legal Entity Tax Identification Number (TIN) (Last four Only): <table><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>												PO/Contract(s) #:	
Contract Manager:		Contract Manager Email Address:		Contract Manager Telephone #:									

INSTRUCTIONS FOR COMPLETING THE SECURITY AND PRIVACY INITIAL INQUIRY (SPI)

Attachment 2 to the HHS Enterprise Data Use Agreement

Below are instructions for Applicants, Bidders and Contractors for Health and Human Services requiring the Attachment 2, Security and Privacy Inquiry (SPI) to the Data Use Agreement (DUA). Instruction item numbers below correspond to sections on the SPI form.

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses in sections B and C prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers in Sections B and C below prior to performing any work on behalf of any HHS agency. For existing contracts or renewals with "No" responses, there must be an action plan for remediation of Section B and C within 30 calendar days for HIPAA related contracts and 90 days for others from the date the form is signed

SECTION A. APPLICANT /BIDDER INFORMATION

Item #1. *Only contractors that access, transmit, store, and/or maintain Confidential Information will complete and email this form as an attachment to the appropriate HHS Contract Manager.*

Item #2. Entity or Applicant/Bidder Legal Name. *Provide the legal name of the business (the name used for legal purposes, like filing a federal or state tax form on behalf of the business, and is not a trade or assumed named "dba"), the legal tax identification number (last four numbers only) of the entity or applicant/bidder, the address of the corporate or main branch of the business, the telephone number where the business can be contacted regarding questions related to the information on this form and the website of the business, if a website exists.*

Item #3. Number of Employees, at all locations, in Applicant/Bidder's workforce. *Provide the total number of individuals, including volunteers, subcontractors, trainees, and other persons who work for the business. If you are the only employee, please answer "1."*

Item #4. Number of Subcontractors. *Provide the total number of subcontractors working for the business. If you have none, please answer "0" zero.*

Item #5. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year. *Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle HHS Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

Item #5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder. *As with all other fields on the SPI, this is a required field. This may be the same person and the owner of the business if such person has the security and privacy knowledge that is required to implement the requirements of the DUA and respond to questions related to the SPI. In 4.A. provide the name, address, telephone number, and email address of the person whom you have designated to answer any security questions found in Section C and in 4.B. provide this information for the person whom you have designated as the person to answer any privacy questions found in Section B. The business may contract out for this expertise; however, designated individual(s) must have knowledge of the business's devices, systems and methods for use, disclosure, creation, receipt, transmission and maintenance of HHS Confidential Information and be willing to be the point of contact for privacy and security questions.*

Item #6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder Will Create, Receive, Maintain, Use, Disclose or Have Access to: *Provide a complete listing of all HHS Confidential Information that the Contractor will create, receive, maintain, use, disclose or have access to. The DUA section Article 2, Definitions, defines HHS Confidential Information as:*

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Client Information;*
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;*
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;*

- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

Definitions for the following types of confidential information can be found the following sites:

- Health Insurance Portability and Accountability Act (HIPAA) - <http://www.hhs.gov/hipaa/index.html>
- Criminal Justice Information Services (CJIS) - <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>
- Internal Revenue Service Federal Tax Information (IRS FTI) - <https://www.irs.gov/pub/irs-pdf/p1075.pdf>
- Centers for Medicare & Medicaid Services (CMS) - <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html>
- Social Security Administration (SSA) - <https://www.ssa.gov/regulations/>
- Personally Identifiable Information (PII) - <http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf>

Item #7. Number of Storage devices for HHS Confidential Information. The total number of devices is automatically calculated by exiting the fields in lines a - d. Use the <Tab> key when exiting the field to prompt calculation, if it doesn't otherwise sum correctly.

- **Item 7a. Devices.** Provide the number of personal user computers, devices, and drives (including mobile devices, laptops, USB drives, and external drives) on which your business stores or will store HHS Confidential Information.
- **Item 7b. Servers.** Provide the number of servers not housed in a data center or "in the cloud," on which HHS Confidential Information is stored or will be stored. A server is a dedicated computer that provides data or services to other computers. It may provide services or data to systems on a local area network (LAN) or a wide area network (WAN) over the Internet. If none, answer "0" (zero).
- **Item 7c. Cloud Services.** Provide the number of cloud services to which HHS Confidential Information is stored. Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than on a local server or a personal computer. If none, answer "0" (zero.)
- **Item 7d. Data Centers.** Provide the number of data centers in which you store HHS Confidential Information. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. If none, answer "0" (zero).

Item #8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Confidential Information during one year. Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.

Item #9. HIPAA Business Associate Agreement.

- **Item #9a.** Answer "yes" if your business will use, disclose, create, receive, transmit, or store information relating to a client/consumer's healthcare on behalf of the Department of State Health Service, the Department of Disability and Aging Services, or the Health and Human Services commission for treatment, payment, or operation of Medicaid or Medicaid clients. If your contract does not include HIPAA covered information, respond "no."
- **Item #9b.** Answer "yes" if your business has a notice of privacy practices (a document that explains how you protect and use a client/consumer's healthcare information) displayed either on a website (if one exists for your business) or in your place of business (if that location is open to clients/consumers or the public). If your contract does not include HIPAA covered information, respond "no."

Item #10. Subcontractors. If your business responded "0" to question 3 (number of subcontractors), Answer "no" to Items 9a and 9b to indicate not applicable.

- **Item #10a.** Answer "yes" if your business requires that all subcontractors sign Attachment 1 of the DUA.
- **Item #10b.** Answer "yes" if your business obtains HHS approval before permitting subcontractors to handle HHS Confidential Information on your business's behalf.

Item #11. Optional Insurance. Answer "yes" if applicant has optional insurance in place to provide coverage for a Breach or any

other situations listed in this question. If you do not have this optional coverage, answer "no."

SECTION B. PRIVACY RISK ANALYSIS AND ASSESSMENT

Reasonable and appropriate written Privacy and Security policies and procedures are required, even for sole proprietors who are the only employee, to demonstrate how your business will safeguard HHS Confidential Information and respond in the event of a Breach of HHS Confidential Information. To ensure that your business is prepared, all of the items below must be addressed in your written Privacy and Security policies and procedures.

For any question Section B or Section C question that is answered "no", an explanation of how compliance will be corrected and a date when compliance will be complete in the designated areas below the question.

Item #1. Answer "yes" if you have written policies in place for each of the areas (a-o).

- **Item #1a.** Answer "yes" if your business has written policies and procedures that identify everyone, including subcontractors, who are authorized to use HHS Confidential Information. The policies and procedures should also identify the reason why these Authorized Users need to access the HHS Confidential Information and this reason must align with the Authorized Purpose described in the Scope of Work or description of services in the Base Contract with the HHS agency.
- **Item #1b.** Answer "yes" if your business has written policies and procedures that require your employees (including yourself), your volunteers, your trainees, and any other persons whose work you direct, to comply with the requirements of HIPAA, if applicable, and other confidentiality laws as they relate to your handling of HHS Confidential Information. Refer to the laws and rules that apply, including those referenced in the DUA and Scope of Work or description of services in the Base Contract.
- **Item #1c.** Answer "yes" if your business has written policies and procedures that limit the HHS Confidential Information you disclose to the minimum necessary for your workforce and subcontractors (if applicable) to perform the obligations described in the Scope of Work or service description in the Base Contract. (e.g., if a client/consumer's Social Security Number is not required for a workforce member to perform the obligations described in the Scope of Work or service description in the Base Contract, then the Social Security Number will not be given to them.) If you are the only employee for your business, policies and procedures must not include a request for, or use of, HHS Confidential Information that is not required for performance of the services.
- **Item #1d.** Answer "yes" if your business has written policies and procedures that explain how your business would respond to an actual or a suspected breach of HHS Confidential Information. The written policies and procedures, at a minimum, must include the three items below. If any response to the three items below are no, answer "no."
 - **Item #1di.** Answer "yes" if your business has written policies and procedures that require your business to immediately notify HHS, the HHS Agency, regulatory authorities, or other required Individuals or Authorities of a Breach as described in Article 4, Section 4 of the DUA.
Refer to Article 4, Section 4.01:
***Initial Notice of Breach** must be provided in accordance with HHS and DUA requirements with as much information as possible about the Event/Breach and a name and contact who will serve as the single point of contact with HHS both on and off business hours. Time frames related to Initial Notice include:*
 - *within one hour of Discovery of an Event or Breach of Federal Tax Information, Social Security Administration Data, or Medicaid Client Information*
 - *within 24 hours of all other types of HHS Confidential Information **48-hour Formal Notice** must be provided no later than 48 hours after Discovery for protected health information, sensitive personal information or other non-public information and must include applicable information as referenced in Section 4.01 (C) 2. of the DUA.*
 - **Item #1dii.** Answer yes, if your business has written policies and procedures require you to have and follow a written breach response plan as described in Article 4 Section 4.02 of the DUA.
 - **Item #1diii.** Answer "yes", if your business has written policies and procedures require you to notify Reporting Authorities and Individuals whose HHS Confidential Information has been breached as described in Article 4 Section 4.03 of the DUA.
- **Item #1e.** Answer "yes", if your business has written policies and procedures requiring annual training of your entire workforce on matters related to confidentiality, privacy, and security, stressing the importance of promptly reporting any

Event or Breach, outlines the process that you will use to require attendance and track completion for employees who failed to complete annual training.

- **Item #1f.** Answer "yes", if your business has written policies and procedures requiring you to allow individuals (clients/consumers) to access their individual record of HHS Confidential Information, and allow them to amend or correct that information, if applicable.
- **Item #1g.** Answer "yes", if your business has written policies and procedures restricting access to HHS Confidential Information to only persons who have been authorized and trained on how to handle HHS Confidential Information
- **Item #1h.** Answer "yes", if your business has written policies and procedures requiring sanctioning of any subcontractor, employee, trainee, volunteer, or anyone whose work you direct when they have accessed HHS Confidential Information but are not authorized to do so, and that you have a method of proving that you have sanctioned such an individuals. If you are the only employee, you must demonstrate how you will document the noncompliance, update policies and procedures if needed, and seek additional training or education to prevent future occurrences.
- **Item #1i.** Answer "yes", if your business has written policies and procedures requiring you to update your policies within 60 days after you have made changes to how you use or disclose HHS Confidential Information.
- **Item #1j.** Answer "yes" if your business has written policies and procedures requiring you to restrict attempts to take de-identified data and re-identify it or restrict any subcontractor, employee, trainee, volunteer, or anyone whose work you direct, from contacting any individuals for whom you have HHS Confidential Information except to perform obligations under the contract, or with written permission from HHS.
- **Item #1k.** Answer "yes" if your business has written policies and procedures prohibiting you from using, disclosing, creating, maintaining, storing or transmitting HHS Confidential Information outside of the United States.
- **Item #1l.** Answer "yes", if your business has written policies and procedures requiring your business to cooperate with HHS agencies or federal regulatory entities for inspections, audits, or investigations related to compliance with the DUA or applicable law.
- **Item #1m.** Answer "yes" if your business has written policies and procedures requiring your business to use appropriate standards and methods to destroy or dispose of HHS Confidential Information. Policies and procedures should comply with HHS requirements for retention of records and methods of disposal.
- **Item #1n.** Answer "yes" if your business has written policies and procedures prohibiting the publication of the work you created or performed on behalf of HHS pursuant to the DUA, or other HHS Confidential Information, without express prior written approval of the HHS agency.

Item #2. Answer "yes" if your business has a current training program that meets the requirements specified in the SPI for you, your employees, your subcontractors, your volunteers, your trainees, and any other persons under you direct supervision.

Item #3. Answer "yes" if your business has privacy safeguards to protect HHS Confidential Information as described in the SPI.

Item #4. Answer "yes" if your business maintains current lists of persons in your workforce, including subcontractors (if applicable), who are authorized to access HHS Confidential Information. If you are the only person with access to HHS Confidential Information, please answer "yes."

Item #5. Answer "yes", if your business and subcontractors (if applicable) monitor for and remove from the list of Authorized Users, members of the workforce who are terminated or are no longer authorized to handle HHS Confidential Information. If you are the only one with access to HHS Confidential Information, please answer "yes".

SECTION C. SECURITY RISK ANALYSIS AND ASSESSMENT

This section is about your electronic systems. If you DO NOT store HHS Confidential Information in electronic systems (e.g., laptop, personal computer, mobile device, database, server, etc.), select the "No Electronic Systems" box and respond "yes" for all questions in this section.

Item #1. Answer "yes" if your business does not "offshore" or use, disclose, create, receive, transmit or maintain HHS Confidential Information outside of the United States. If you are not certain, contact your provider of technology services (application, cloud, data center, network, etc.) and request confirmation that they do not off-shore their data.

Item #2. Answer "yes" if your business uses a person or company who is knowledgeable in IT security to maintain or oversee the configurations of your business's computing systems and devices. You may be that person, or you may hire someone who can provide that service for you.

Item #3. Answer "yes" if your business monitors and manages access to HHS Confidential Information (i.e., reviews systems to ensure that access is limited to Authorized Users; has formal processes for granting, validating, and reviews the need for remote access to Authorized Users to HHS Confidential Information, etc.). If you are the only employee, answer "yes" if you have implemented a process to periodically evaluate the need for accessing HHS Confidential Information to fulfill your Authorized Purposes.

Item #4. Answer "yes" if your business has implemented a system for changing the password a system initially assigns to the user (also known as the default password), and requires users to change their passwords at least every 90 days, and prohibits the creation of weak passwords for all computer systems that access or store HHS Confidential Information (e.g., a strong password has a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numbers, where possible). If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:
<http://windows.microsoft.com/en-us/windows/change-password-policy-settings#1TC=windows-7>

Item #5. Answer "yes" if your business assigns a unique user name and private password to each of your employees, your subcontractors, your volunteers, your trainees and any other persons under your direct control who will use, disclose, create, receive, transmit or maintain HHS Confidential Information.

Item #6. Answer "yes" if your business locks the access after a certain number of failed attempts to login and after 15 minutes of user inactivity on all computing devices that access or store HHS Confidential Information. If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:
<http://windows.microsoft.com/en-us/windows/change-password-policy-settings#1TC=windows-7>

Item #7. Answer "yes", if your business secures, manages, and encrypts remote access, such as: using Virtual Private Network (VPN) software on your home computer to access HHS Confidential Information that resides on a computer system at a business location or, if you use wireless, ensuring that the wireless is secured using a password code. If you do not access systems remotely or over wireless, answer "yes."

Item #8. Answer "yes" if your business updates the computer security settings for all your computers and electronic systems that access or store HHS Confidential Information to prevent hacking or breaches (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit opportunities for hackers or intruders to access your system). For example, Microsoft's Windows security checklist:
<http://windows.microsoft.com/en-us/windows7/Security-checklist-for-Windows-7>

Item #9. Answer "yes" if your business secures physical access to computer, paper, or other systems containing HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.). If you are the only employee and use these practices for your business, answer "yes."

Item #10. Answer "yes" if your business uses encryption products to protect HHS Confidential Information that is transmitted over a public network (e.g., the Internet, WIFI, etc.) or that is stored on a computer system that is physically or electronically accessible to the public (FIPS 140-2 compliant encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) For more information regarding FIPS 140-2 encryption products, please refer to: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm>).

Item #11. Answer "yes" if your business stores HHS Confidential Information on encrypted end-user electronic devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.) and can produce evidence of the encryption, such as, a screen shot or a system report (FIPS 140-2 encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) . For more information regarding FIPS 140-2 compliant encryption products, please refer to: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/140val-all.htm>). If you do not utilize end-

user electronic devices for storing HHS Confidential Information, answer "yes."

Item #12. Answer "yes" if your business requires employees, volunteers, trainees and other workforce members to sign a document that clearly outlines their responsibilities for protecting HHS Confidential Information and associated systems containing HHS Confidential Information before they can obtain access. If you are the only employee answer "yes" if you have signed or are willing to sign the DUA, acknowledging your adherence to requirements and responsibilities.

Item #13. Answer "yes" if your business is willing to perform a criminal background check on employees, subcontractors, volunteers, or trainees who access HHS Confidential Information. If you are the only employee, answer "yes" if you are willing to submit to a background check.

Item #14. Answer "yes" if your business prohibits the access, creation, disclosure, reception, transmission, maintenance, and storage of HHS Confidential Information on Cloud Services or social media sites if you use such services or sites, and there is an HHS approved subcontractor agreement that includes compliance and liability clauses with the same requirements as the Applicant/Bidder. If you do not utilize Cloud Services or media sites for storing HHS Confidential Information, answer "yes."

Item #15. Answer "yes" if your business keeps current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store HHS Confidential Information. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<http://windows.microsoft.com/en-US/windows7/products/features/windows-update>

Item #16. Answer "yes" if your business's computing systems that use, disclose, access, create, transmit, maintain or store HHS Confidential Information contain up-to-date anti-malware and antivirus protection. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<http://windows.microsoft.com/en-US/windows7/products/features/windows-update>

Item #17. Answer "yes" if your business reviews system security logs on computing systems that access or store HHS Confidential Information for abnormal activity or security concerns on a regular basis. If you use a Microsoft Windows system, refer to the Microsoft website for ensuring your system is logging security events, see example:

<http://windows.microsoft.com/en-us/windows/what-information-event-logs-event-viewer#1TC=windows-7>

Item #18. Answer "yes" if your business disposal processes for HHS Confidential Information ensures that HHS Confidential Information is destroyed so that it is unreadable or undecipherable. Simply deleting data or formatting the hard drive is not enough; ensure you use products that perform a secure disk wipe. Please see NIST SP 800-88 R1, *Guidelines for Media Sanitization* and the applicable laws and regulations for the information type for further guidance.

SECTION D. SIGNATURE AND SUBMISSION

Click on the signature area to digitally sign the document. Email the form as an attachment to the appropriate HHS Contract Manager.



Legislation Details (With Text)

File #:	18-0303	Version:	1	Name:	Parks Operations Equipment
Type:	Presentation	Status:		Status:	Consent Agenda
File created:	4/30/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding the approval for purchase of new grounds maintenance equipment for the Parks and Recreation Department from Professional Turf Products in the amount of \$135,814.39.				
Sponsors:	Kelly Kelbly				
Indexes:					
Code sections:					
Attachments:	City of College Station 4-9-2018 B				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding the approval for purchase of new grounds maintenance equipment for the Parks and Recreation Department from Professional Turf Products in the amount of \$135,814.39.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Neighborhood Integrity
3. Diverse Growing Economy

Recommendation(s): Staff recommends the approval of the purchase of new grounds maintenance equipment.

Summary: Through efficiencies recognized within the Operations budget for Fiscal Year18, funding was identified as available for needed equipment.

The quotes for this purchase utilize the BuyBoard Purchasing Cooperative Contract 529-17. Procurement Statutes allow for the use of purchasing cooperatives in lieu of a formal bidding process, as the services have already been bid by the cooperative:

- ☐ Toro ProCore 648(2)
- ☐ Toro Pro Sweep
- ☐ Toro Reelmaster 5510
- ☐ Toro Pro Force Debris Blower

The purpose of the equipment is to further improve our tournament and league fields as demand continues to increase. Each piece of equipment will be a new addition to Parks Operations.

Budget & Financial Summary: Parks Department Operations General Fund budget:

☐	Toro ProCore 648 (2)	\$58,540.72
☐	Toro Pro Sweep	\$11,973.38
☐	Toro Reelmaster 5510	\$57,823.27
☐	Toro Pro Force Debris Blower	\$7,477.02

Reviewed and Approved by Legal: N/A

Attachments:

- ☐ Professional Turf Products quote



Professional Turf Products, L.P.
 9468 Selma Parkway
 Selma, Texas 78154
 Pat Brown
 (254) 338-3256
 brownp@proturf.com



Ship To	City Of College Station - Parks & Rec.	Date	4/9/2018
	BUYBOARD (CONTRACT # 529-17) - Credit Cards Not Accepted	Tax Rate	
Contact	Steve Richardson	Destination	
Address	1000 Krennek Road	Trade-In	
City	College Station, TX	Finance	
State	TX	Account Type	Contract
Postal Code	77842	2288188 (4-9-2018)	
Phone			
Fax			

#H50F

Proposal

Qty	Model #	Description	Unit	Extended
2	09200	ProCore 648		
6	09796	4 Tine 3/4" Head Set		
2	120-1046	GUARD-TURF, 4-TINE, LONG		
4	120-1045	GUARD-TURF, 4-TINE (SHORT)		
48	108-9163	TINE-SIDE EJECT (AE6-575-3)		
48	108-9202	TINE-SOLID (AS6-450-5)		
		Toro ProCore 648	\$	57,392.86
		Inbound factory freight and local dealer prep	\$	1,147.86
		Your price	\$	58,540.72
1	07068	Toro Pro Sweep	\$	11,738.61
		Inbound factory freight and local dealer prep	\$	234.77
		Your price	\$	11,973.38
1	44552	Toro Pro Force Debris Blower	\$	7,330.41
		Inbound factory freight and local dealer prep	\$	146.61
		Your price	\$	7,477.02
1	03607	Reelmaster 5510-D - 36.8 hp Tier 4-compliant Diesel w/ factory installed ROPS		
5	03638	22 IN 7-Inch, 8-Blade RR DPA Cutting Unit EdgeSeries		
1	30349	Universal Sunshade (White)		
1	30093	800 HOUR MVP KIT-RM5410D/5510D/GM4300D		
		Toro RM5510 TIV	\$	56,689.48
		Inbound factory freight and local dealer prep	\$	1,133.79
		Your price	\$	57,823.27
SubTotal			\$	135,814.39
Destination				Included
Tax (Estimated)				Exempt
TOTAL			\$	135,814.39

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.
For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

- 1. Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.
- 2. New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
- 3. Pricing, including finance options, valid for 30 days from time of quotation.
- 4. After 30 days all prices are subject to change without notice.
- 5. Used and Demo equipment is in high demand and availability is subject to change.
 - A. Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - B. In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
 - C. PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
- 6. "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:

- 1. All returns are subject to restocking, refurbishing, usage, and shipping fees.
- 2. All returns must be able to be sold as new.
- 3. Items missing parts are non returnable.
- 4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
- 5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

- 1. Terms are net 10 unless prior arrangements have been made.
- 2. Quoted prices are subject to credit approval.
 - A. PTP will work with third party financial institutions to secure leases when requested to do so.
 - B. When using third party financiers, documentation fees & advance payments may be required.
 - C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
 - D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
- 3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
- 4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.
This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____ Date: _____



Legislation Details (With Text)

File #:	18-0332	Version:	1	Name:	Impact Fee Semi-Annual Report
Type:	Report	Status:		Status:	Consent Agenda
File created:	5/9/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding approval of a Semi-Annual Report on Small Area Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02, and System-Wide Impact Fees for Water, Wastewater, and Roadway.				
Sponsors:	Carol Cotter				
Indexes:					
Code sections:					
Attachments:	Semi-Annual Report				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a Semi-Annual Report on Small Area Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02, and System-Wide Impact Fees for Water, Wastewater, and Roadway.

Relationship to Strategic Goals:

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

Recommendation(s): At their meeting on May 3rd, the Planning and Zoning Commission, acting in their capacity as the Impact Fee Advisory committee, unanimously recommended acceptance of the report. Staff also recommends Council acknowledge and accept the Semi-Annual Report - No Further Action is required at this time.

Summary: The attached Impact Fee Semi-Annual Report is provided to the City Council in accordance with the Texas Local Government Code Chapter 395.058. In short, the City of College Station has had five "Small Area" impact fees for over 20 years, and all associated utility construction is complete. System-wide impact fees for water and wastewater were adopted September 22, 2016, with roadway impact fees following on November 10, 2016. Water and wastewater fees were phased in over a two-year period, starting at 50% of the adopted fee, but are now being collected at the full rate. Roadway impact fees are being phased in over a three-year period, with no fee collection year one. Since the program is in the second year, the fee is now 50% of the adopted rate. Land Use Assumptions and the related Capital Improvements Plans have remained unchanged over the

reporting period August 1, 2017 through March 31, 2018. All five of the small area impact fees were updated by Council in accordance with State Law in November of 2013. This report primarily documents the fees collected in each of the service areas, since there have been no major changes any of the impact fee programs during the reporting period.

The Planning and Zoning Commission, with the inclusion of an ETJ representative for service areas extending into ETJ, serves as the Impact Fee Advisory Committee per the City of College Station Code of Ordinances Chapter 107, Impact Fees. On May 3rd, 2018 the Advisory Committee discussed and unanimously recommended support of the Semi-Annual Report. It is now being forwarded to Council for your status update.

Budget & Financial Summary: See attached report

Attachments:

1. Impact Fee Semi-Annual Report



CITY OF COLLEGE STATION

1101 Texas Avenue South, P.O. Box 9960
College Station, Texas 77842
Phone 979.764.3570 / Fax 979.764.3496

MEMORANDUM

DATE: May 3, 2018
TO: Planning and Zoning Commission / Impact Fee Advisory Committee
FROM: Carol Cotter, P.E., City Engineer
SUBJECT: Semi-Annual Report - Small Area Impact Fees 92-01, 97-01, 97-02B, 99-01, 03-02
System-Wide Impact Fees (Water, Wastewater & Roadway)

The City of College Station has had five "Small Area" impact fees, specific to either water or sanitary sewer and the area served by the associated capital improvement, for over twenty years. More recently, "System-Wide" Impact Fees for water, wastewater, and roadways were adopted in the latter part of 2016, with fee implementation occurring in phases. Full fee implementation will occur in December of this year. The service area for roadway impact fees is bounded by the city limits; however, service areas for system-wide water and wastewater impact fees do not strictly follow city limit lines and include some areas of the City's Extra-Territorial Jurisdiction (ETJ).

Local Government Code requires Semi-Annual Reporting to monitor the progress of impact fees and to determine if an update to the fee study is necessary before the statutory five-year requirement. The last update was completed on the Small Area Impact Fees in November 2013. There have been no major changes in either of the impact fee programs during this reporting period. Staff recommends that the Advisory Committee forward this report to City Council for their update.

The City of College Station Ordinance Chapter 107, Impact Fees, designates the Planning and Zoning Commission as the Impact Fee Advisory Committee (IFAC) with the inclusion of an ETJ representative for service areas extending into the ETJ. The IFAC is established to:

1. Advise and assist the City in adopting Land Use assumptions.
2. Review the Capital Improvements Plan and file written comments.
3. Monitor and evaluate implementation of the Capital Improvements Plan.
4. File semi-annual reports with respect to the progress of the Capital Improvements Plan.
5. Advise the City Council of the need to update or revise the Land Use Assumptions, Capital Improvements Plan, and Impact Fees.

Small Area Impact Fees

The City of College Station has five Small Area Impact fees in existence, of which all associated construction is complete. As noted, all five of the impact fees underwent a 5-Year Update in 2013 in accordance with State Law. The following is a current status report for each of the five impact fees. (To facilitate review, data from this reporting period are presented in bold font.) With the adoption of the System-Wide Water and Wastewater Impact Fees that are now effective, no additional Small Area Impact Fees will be collected. Likewise, future Semi-Annual Reports will have nothing to report regarding Small Area Impact Fees – but all historical records will be on file and available as needed.

92-01 Sanitary Sewer (Graham Road) (508 ac.) \$339.63/LUE

This fee was initially implemented in 1992 at \$152.18 /LUE and was revised in 1996 to \$289.77/LUE after approval of updated Land use Assumptions and Capital Improvements Plan (CIP), revised again to the \$232.04/LUE in 2000, revised again to \$316.07 in 2008, and to the current amount in November of 2013. The CIP consisted of three phases originally estimated at \$543,000 which have all been completed at a combined cost of \$473,518.72. Fees collected over the last reporting period are **\$339.63** for total amount of **\$325,820.74**.

97-01 Sanitary Sewer (Spring Creek – Pebble Hills) (2000 ac.) \$144.01/LUE

This fee was implemented in December 1997 at \$349.55/LUE, was revised to \$98.39 in 2008, and was revised to the current amount in November of 2013. The CIP consisted of Phase I (east of Hwy 6) and Phase II (west of Hwy 6). Phase I estimated to cost \$1,000,000 was completed in 1999 at a cost of \$631,214.59. Phase II was estimated to cost \$1,350,000 and was completed at a cost of \$813,752.00. The total actual cost was \$1,444,966.59. Fees collected over the last reporting period are **\$10,656.74** for total amount of **\$730,656.98**.

97-02B Sanitary Sewer (Alum Creek – Nantucket) (608 ac.) \$44.71/LUE

This fee was implemented in December 1997 at \$243.38/LUE, was revised to \$59.42 in 2008, and was revised to the current amount in November of 2013. The CIP consisted of running a 15" sanitary sewer line from the south end of the College Station Business Park westerly along Alum Creek to the east ROW of Highway 6. The project was estimated to cost \$390,000 and was completed in 1999 at a cost of \$214,270.87. Fees collected over the last reporting period are **\$268.27** for total amount of **\$27,200.06**.

99-01 Water (Harley)(158 ac.) \$996.03/LUE

This fee was implemented in April 1999 at \$550.00/LUE, was revised to \$769.91 in 2008, and was revised to the current amount in November of 2013. The CIP consisted of running an 18" water line south along the east ROW of Highway 6 approximately 4800'. The line was estimated to cost \$312,000 (the impact fee is based on an 8" line @ \$165,000). A 2400' section of the 18" line was constructed in 1999 from the south end at a total cost of \$342,977.73. Fees collected over the last reporting period are **\$0.00** for total amount of **\$72,211.11**.

03-02 Sanitary Sewer (Steeplechase) (715 ac.) \$144.87/LUE

This fee was initially implemented in June 2003 at \$300.00/LUE, was revised to \$357.74 in 2009, and was revised to the current amount in November of 2013. This CIP was constructed in two phases of sanitary sewer line construction in compliance with the proposed construction in the original report establishing the fee. Phase one crossed Wellborn Road and terminated at Old Wellborn Road consisting of 2,347 linear feet of 18" sewer line with a construction cost of \$296,642. Phase two was completed in 2006 and continued the line along Old Wellborn Road and terminated across RPR West. Phase two consisted of 6,281 linear feet of 12" line and 2,062 linear feet of 18" line for a construction cost of \$529,088 and a land cost of \$87,133. The design cost for the combined phases was \$148,023. The total actual cost was \$1,091,886 which was less than

the original report estimated at \$1,596,137. Fees collected over the last reporting period are **\$7,605.68** for total amount of **\$300,782.77**.

Impact Fee Area	Effective Buildout LUE	Current Impact Fee Rate	Amount Collected	Remaining Capital Investment
92-01 Graham	1710	\$ 339.63	\$325,821	\$ 41,154
97-01 Spring Creek	8565	\$ 144.01	\$730,657	\$695,485
97-02B Alum	2656	\$ 44.71	\$27,200	\$98,744
99-01 Harley	396	\$ 996.03	\$72,211	\$272,414
03-02 Steeplechase	7051	\$ 144.87	\$300,783	\$772,686
		Total	\$1,456,672	\$1,880,483

System-Wide Impact Fees

System-wide impact fees for water and wastewater were adopted September 22, 2016, with roadway impact fees following on November 10, 2016. Water and wastewater fees were phased in over a two-year period, starting at 50% of the adopted fee, but are now being collected at the full rate. Roadway impact fees are being phased in over a three-year period, with no fee collection year one. Since the program is in the second year, the fee is now 50% of the adopted rate. Land Use Assumptions and the related Capital Improvements Plans have remained unchanged over the reporting period August 1, 2017 through March 31, 2018. Status of the various programs are as follows and include limited details due to early stages of implementation:

Water \$500/LUE

System-wide water impact fee revenues collected over the reporting period were **\$181,275** for a total amount of **\$201,625**. Associated costs of the adopted water system capital improvements plan is estimated at \$34,140,850. Revenues from the adopted rate are estimated to be \$5,852,048. Collected amounts are budgeted to fund Well #9 and Well #9 Collection Loop projects currently under construction. In future years, it is anticipated that the revenue will also support the SH6 Water line project.

Wastewater \$3,000/LUE

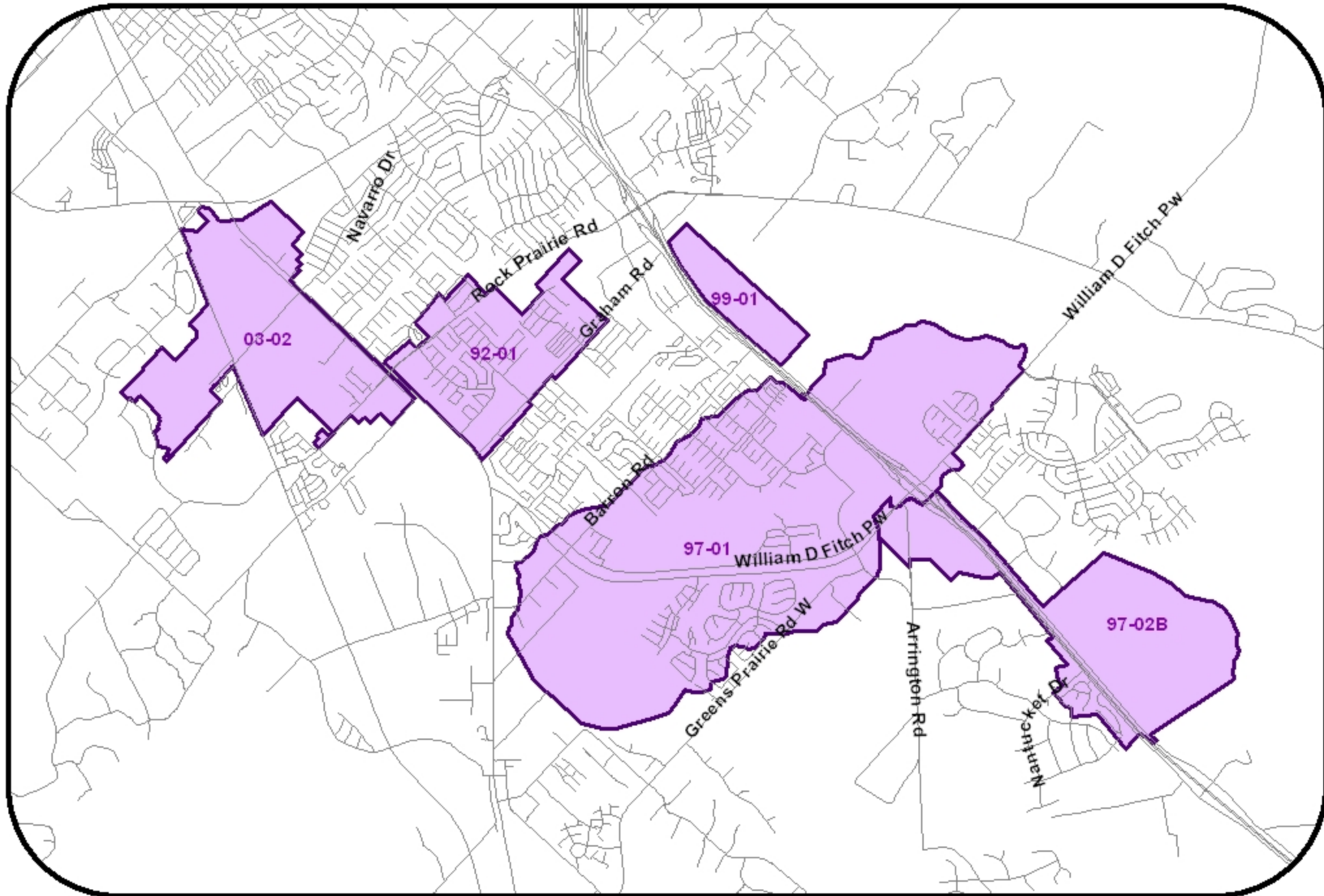
System-wide wastewater impact fee revenues collected over the reporting period were **\$824,675** for a total amount of **\$973,775**. Associated costs of the adopted wastewater system capital improvements plan is estimated at \$72,285,486. Revenues from the adopted rate are estimated to be \$39,292,708. Collected amounts will be used to fund the Lick Creek Wastewater Treatment Plant expansion, currently under design and planned to begin construction in FY19.

Roadway \$750/LUE (currently) \$1,500/LUE (December 1, 2018)

Roadway impact fees collected over the reporting period totaled **\$6,750** (Zone A), **\$26,194.91** (Zone B), **\$68,852.84** (Zone C), and **\$11,250** (Zone D). Eligible costs of the adopted roadway capital improvements plan are estimated at \$134,000,000. Revenues from the adopted rate are estimated to be \$12,000,000. Specific allocations will be made to eligible projects within the applicable zones in FY19, once sufficient revenue is collected.

- Attachments:
1. Impact Fee Service Areas Map – Small Area
 2. Land Use Map per Impact Fee Area – Small Area
 3. Future Land Use Map

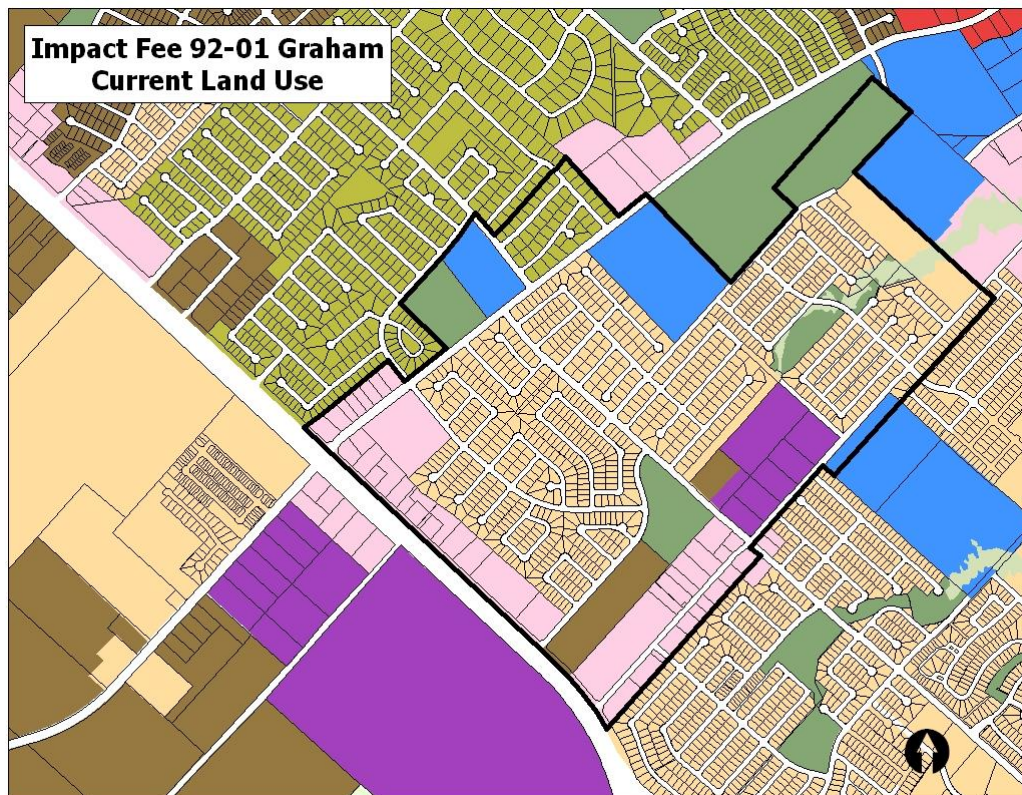
4. Impact Fee Service Area Map Water
5. Impact Fee Service Area Map Wastewater
6. Impact Fee Service Area Map Roadway



1 inch equals 4,000 feet



Impact Fee Areas - January 2013

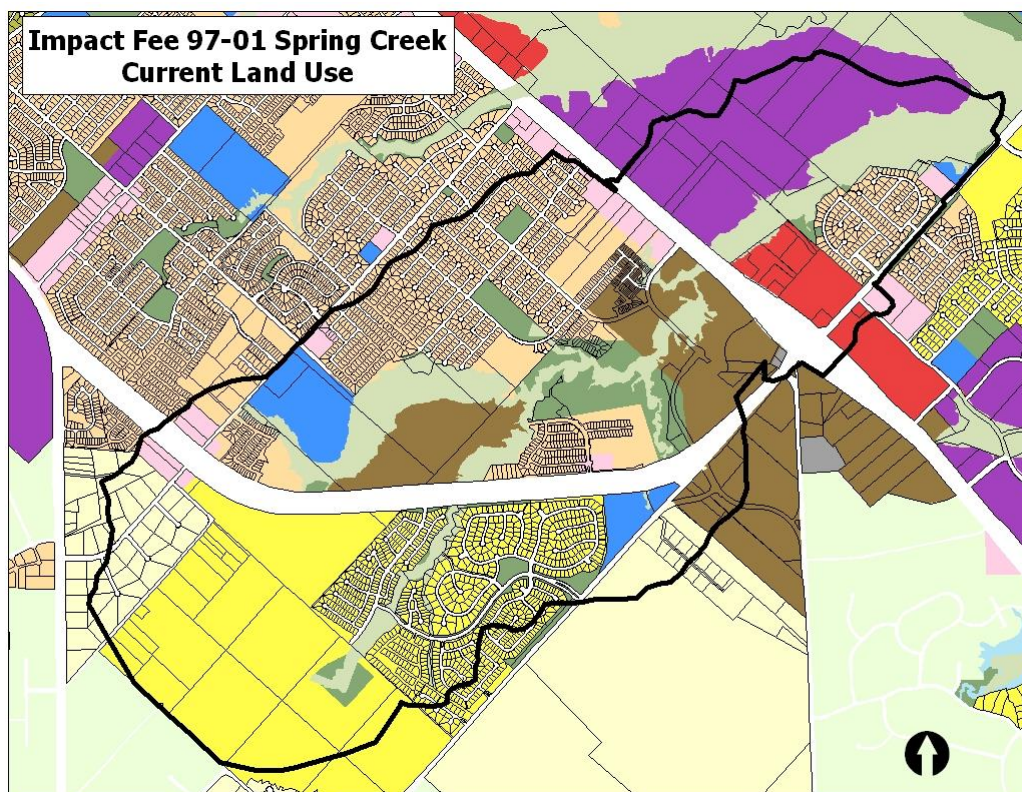


Legend

Land Use Plan

FLU-2

- 111 - Neighborhood Conservation
- 910 - 100 - Rural
- 130 - Estate
- 109 - Restricted Suburban
- 110 - General Suburban
- 120 - 250 - Urban
- 275 - Urban Mixed Use
- 210 - General Commercial
- 200 - Suburban Commercial
- 310 - Business Park
- 410 - Institutional/Public
- 450 - Texas A&M University
- 710 - 720 - Natural Areas - Protected
- 800 - Natural Areas - Reserved
- 850 - Utilities
- 456 - Redevelopment Areas
- 999 - Water

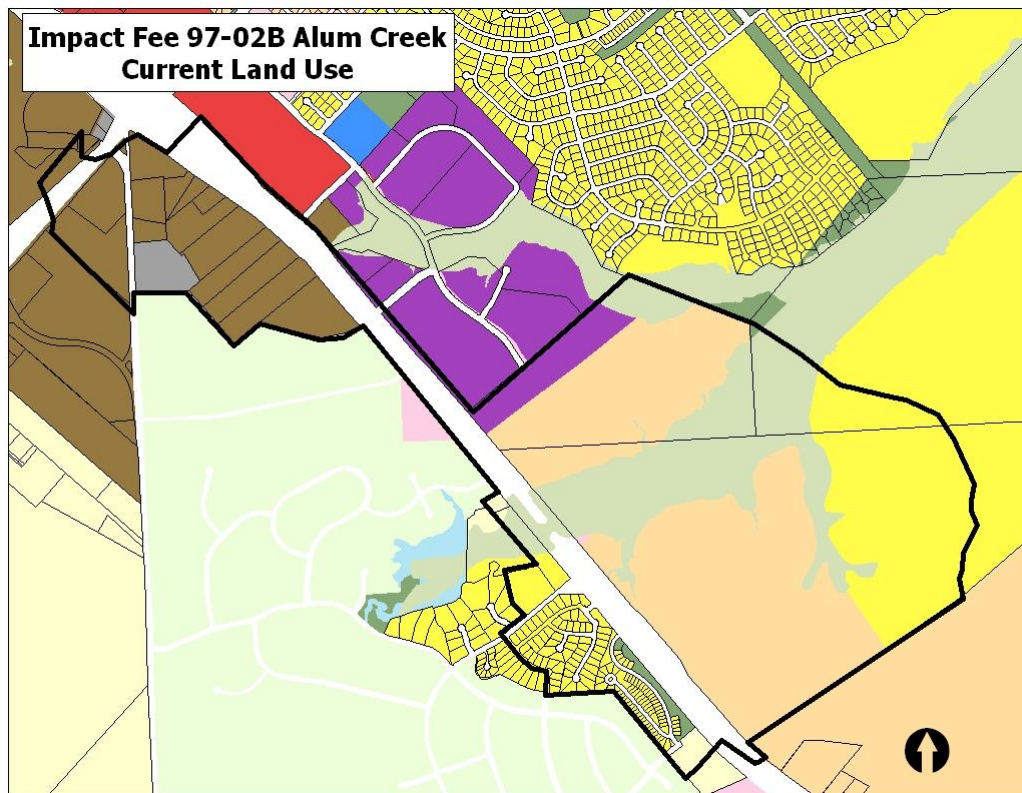


Legend

Land Use Plan

FLU-2

- 111 - Neighborhood Conservation
- 910 - 100 - Rural
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- 110 - General Suburban
- 120 - 250 - Urban
- 275 - Urban Mixed Use
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- 850 - Utilities
- 456 - Redevelopment Areas
- 999 - Water

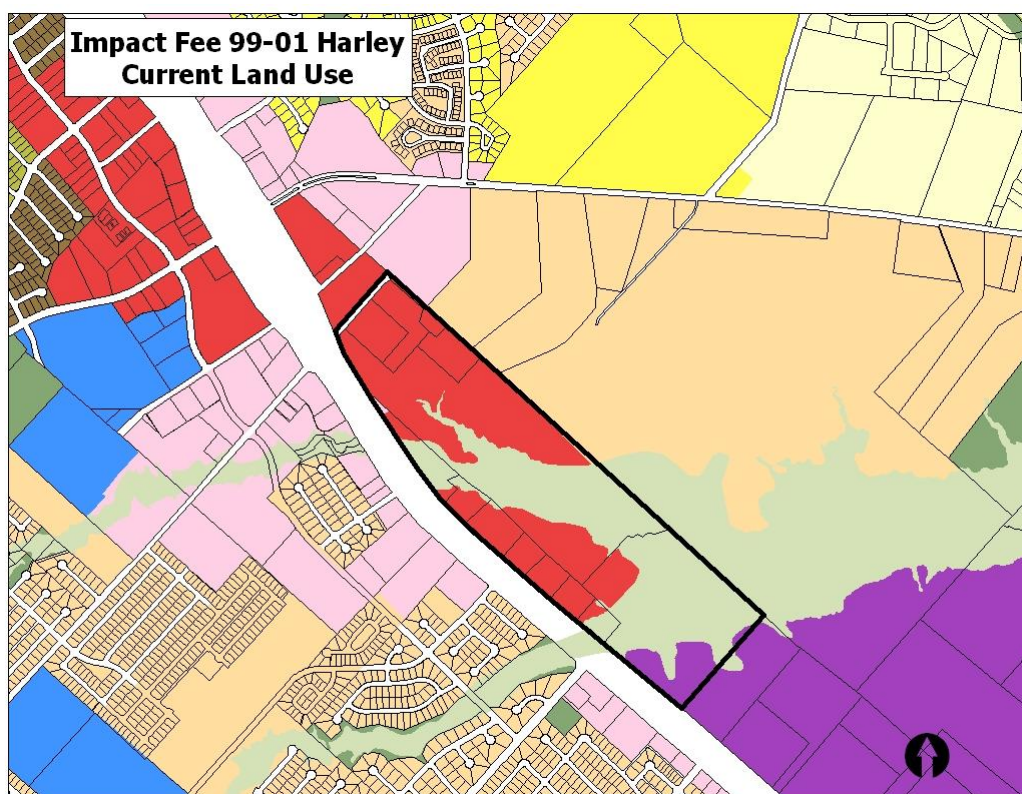


Legend

Land Use Plan

FLU-2

- 111 - Neighborhood Conservation
- 910 - 100 - Rural
- 130 - Estate
- 109 - Restricted Suburban
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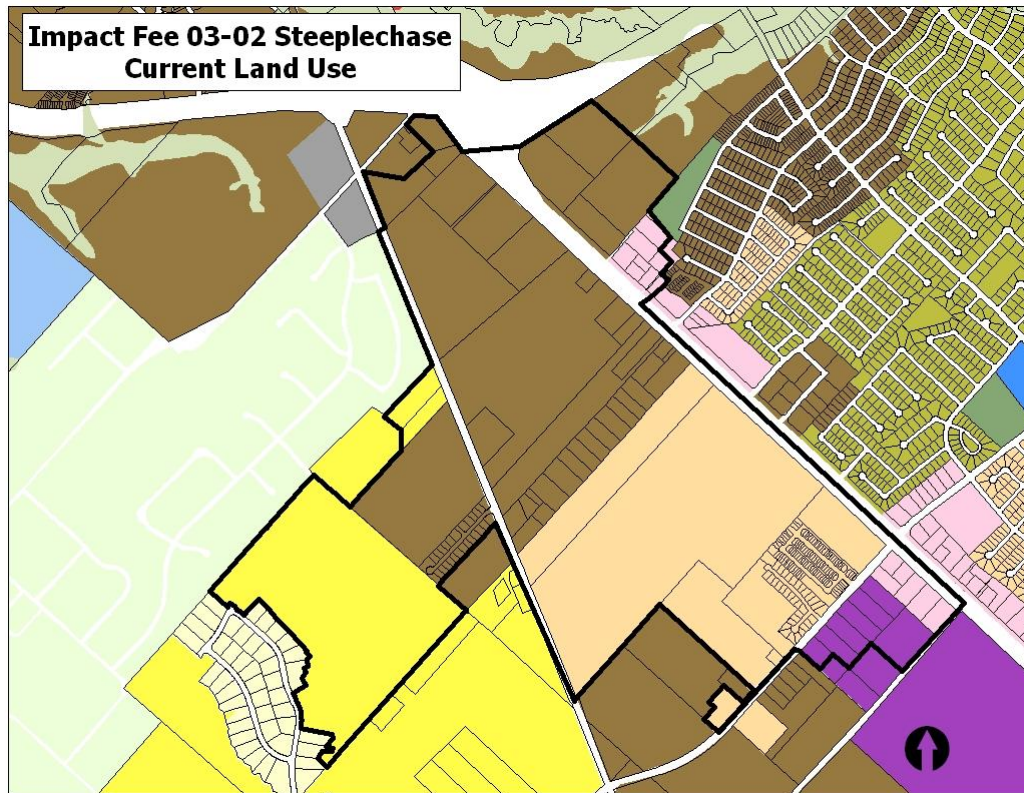


Legend

Land Use Plan

FLU-2

- 111 - Neighborhood Conservation
- 910 - 100 - Rural
- 130 - Estate
- 109 - Restricted Suburban
- 110 - General Suburban
- 120 - 250 - Urban
- 275 - Urban Mixed Use
- 210 - General Commercial
- 200 - Suburban Commercial
- 310 - Business Park
- 410 - Institutional/Public
- 450 - Texas A&M University
- 710 - 720 - Natural Areas - Protected
- 800 - Natural Areas - Reserved
- 850 - Utilities
- 456 - Redevelopment Areas
- 999 - Water

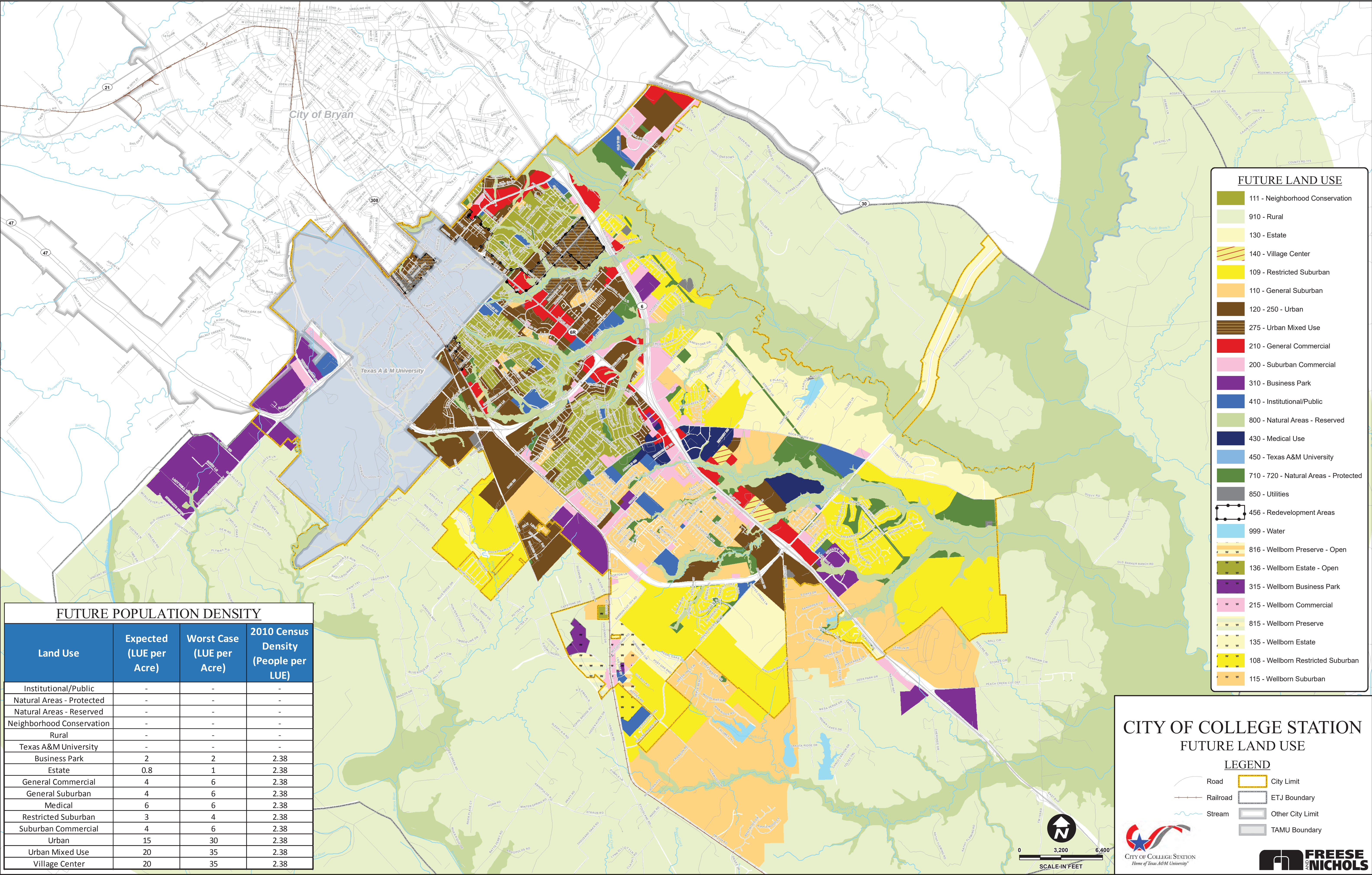


Legend

Land Use Plan

FLU-2

- 111 - Neighborhood Conservation
- 910 - 100 - Rural
- 130 - Estate
- 109 - Restricted Suburban
- 110 - General Suburban
- 120 - 250 - Urban
- 275 - Urban Mixed Use
- 210 - General Commercial
- 200 - Suburban Commercial
- 310 - Business Park
- 410 - Institutional/Public
- 450 - Texas A&M University
- 710 - 720 - Natural Areas - Protected
- 800 - Natural Areas - Reserved
- 850 - Utilities
- 456 - Redevelopment Areas
- 999 - Water



- FUTURE LAND USE**
- 111 - Neighborhood Conservation
 - 910 - Rural
 - 130 - Estate
 - 140 - Village Center
 - 109 - Restricted Suburban
 - 110 - General Suburban
 - 120 - 250 - Urban
 - 275 - Urban Mixed Use
 - 210 - General Commercial
 - 200 - Suburban Commercial
 - 310 - Business Park
 - 410 - Institutional/Public
 - 800 - Natural Areas - Reserved
 - 430 - Medical Use
 - 450 - Texas A&M University
 - 710 - 720 - Natural Areas - Protected
 - 850 - Utilities
 - 456 - Redevelopment Areas
 - 999 - Water
 - 816 - Wellborn Preserve - Open
 - 136 - Wellborn Estate - Open
 - 315 - Wellborn Business Park
 - 215 - Wellborn Commercial
 - 815 - Wellborn Preserve
 - 135 - Wellborn Estate
 - 108 - Wellborn Restricted Suburban
 - 115 - Wellborn Suburban

FUTURE POPULATION DENSITY			
Land Use	Expected (LUE per Acre)	Worst Case (LUE per Acre)	2010 Census Density (People per LUE)
Institutional/Public	-	-	-
Natural Areas - Protected	-	-	-
Natural Areas - Reserved	-	-	-
Neighborhood Conservation	-	-	-
Rural	-	-	-
Texas A&M University	-	-	-
Business Park	2	2	2.38
Estate	0.8	1	2.38
General Commercial	4	6	2.38
General Suburban	4	6	2.38
Medical	6	6	2.38
Restricted Suburban	3	4	2.38
Suburban Commercial	4	6	2.38
Urban	15	30	2.38
Urban Mixed Use	20	35	2.38
Village Center	20	35	2.38

CITY OF COLLEGE STATION
FUTURE LAND USE

LEGEND

- Road
- Railroad
- Stream
- City Limit
- ETJ Boundary
- Other City Limit
- TAMU Boundary

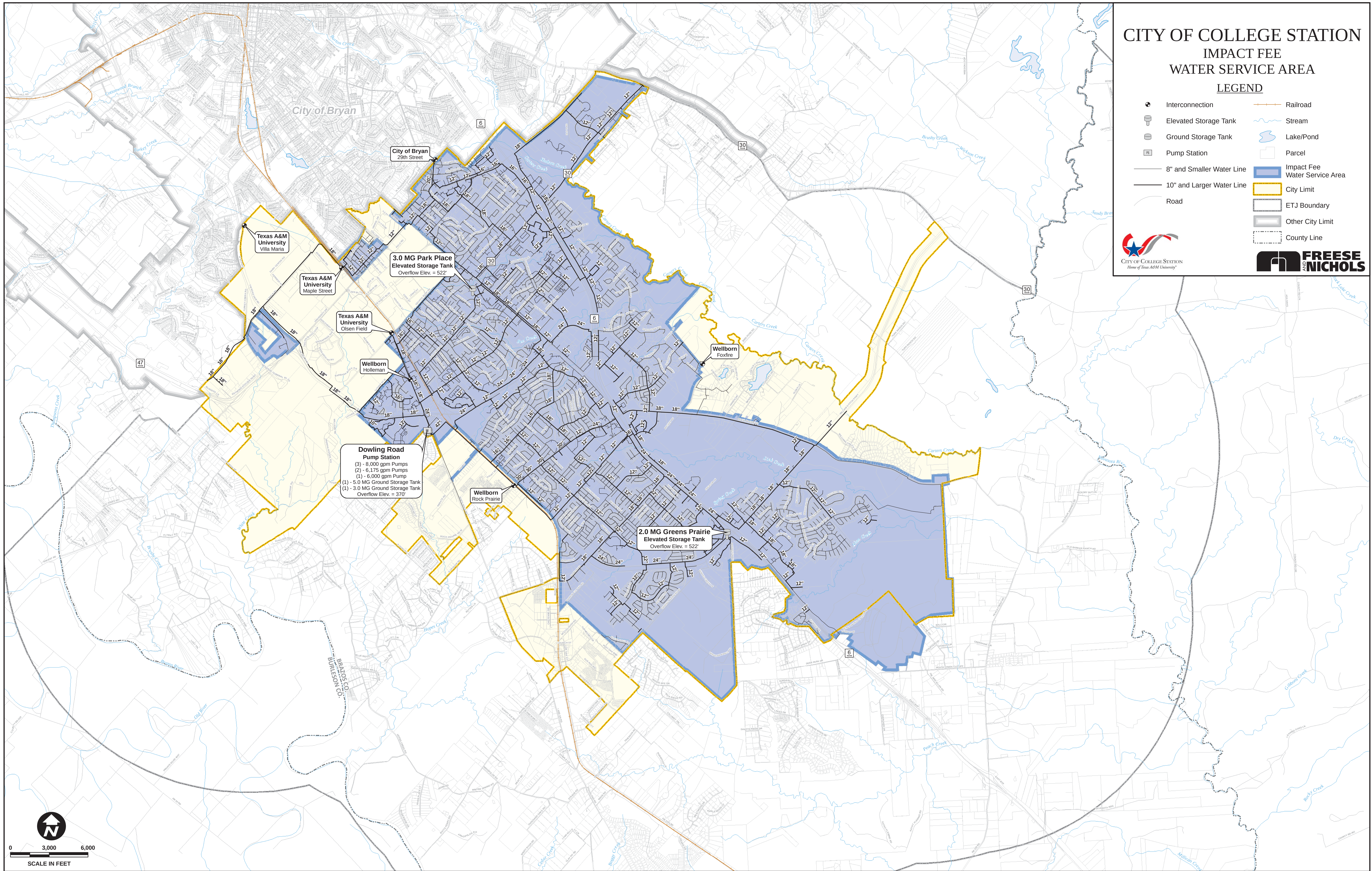
0 3,200 6,400
SCALE IN FEET

CITY OF COLLEGE STATION
Home of Texas A&M University

FREES & NICHOLS

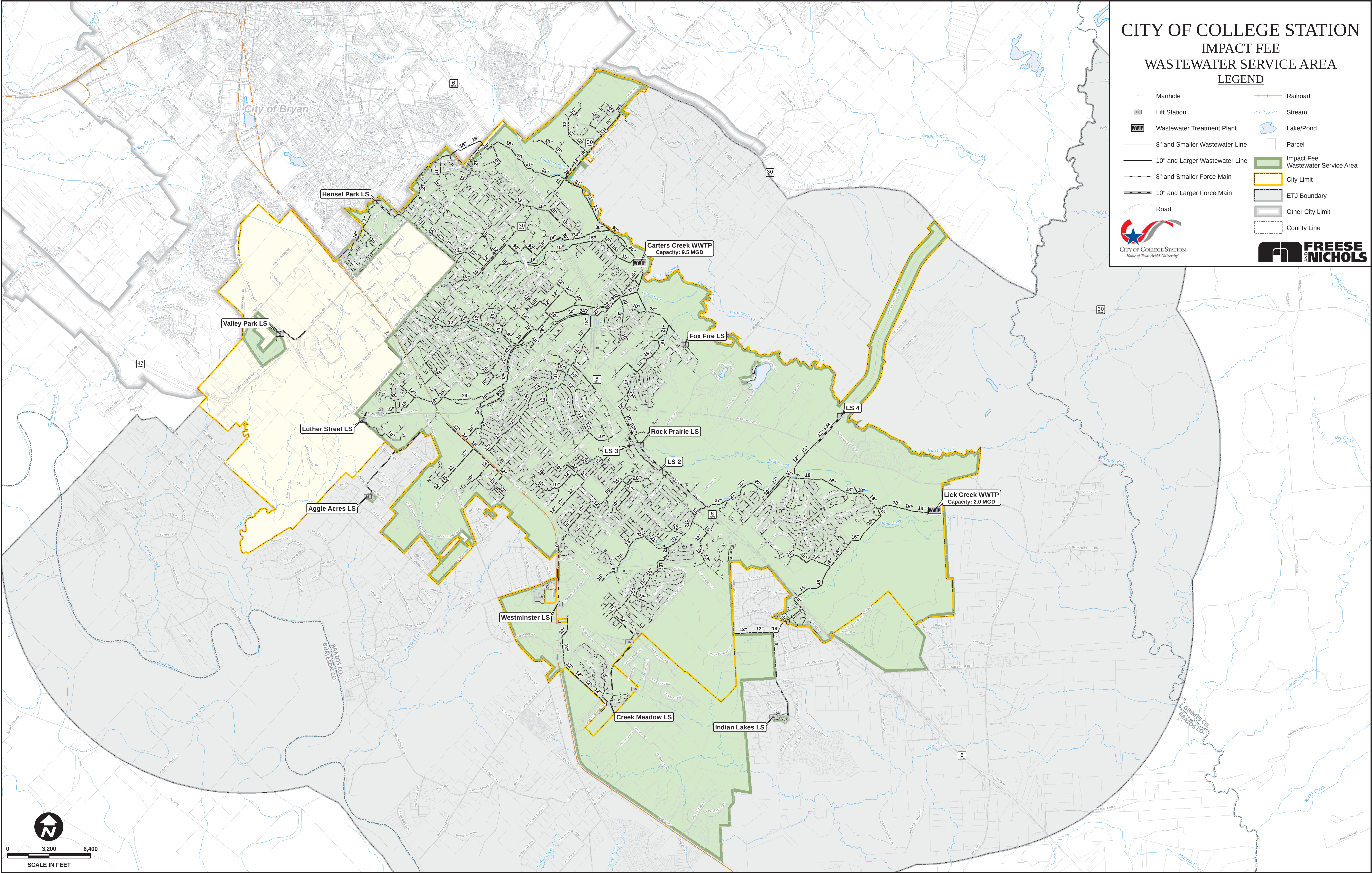
LEGEND

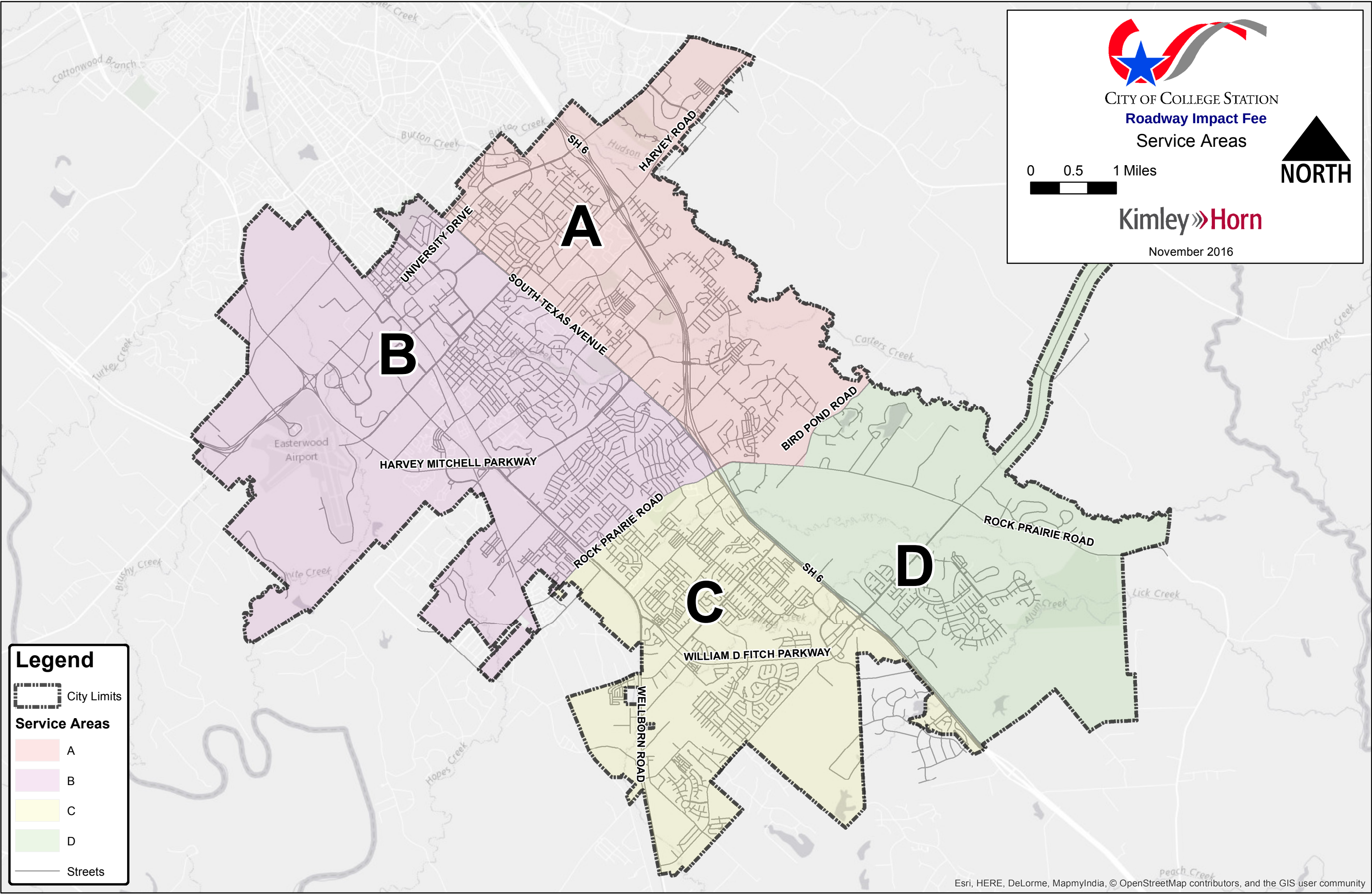
	Interconnection		Railroad
	Elevated Storage Tank		Stream
	Ground Storage Tank		Lake/Pond
	Pump Station		Parcel
	8" and Smaller Water Line		Impact Fee Water Service Area
	10" and Larger Water Line		City Limit
	Road		ETJ Boundary
			Other City Limit
			County Line



CITY OF COLLEGE STATION
IMPACT FEE
WASTEWATER SERVICE AREA
LEGEND

- | | |
|--------------------------------|------------------------------------|
| Manhole | Railroad |
| Lift Station | Stream |
| Wastewater Treatment Plant | Lake/Pond |
| 8" and Smaller Wastewater Line | Parcel |
| 10" and Larger Wastewater Line | Impact Fee Wastewater Service Area |
| 8" and Smaller Force Main | City Limit |
| 10" and Larger Force Main | ETJ Boundary |
| Road | Other City Limit |
| | County Line |







Legislation Details (With Text)

File #:	18-0307	Version:	1	Name:	Engineering Services and Material Contract with SEL Engineering Services, Inc.
Type:	Contract	Status:		Status:	Consent Agenda
File created:	5/3/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding a three (3) year Engineering Services and Materials Contract 18300472 with SEL Engineering Services, Inc. for \$1,200,000 for electrical engineering services.				
Sponsors:	Timothy Crabb				
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding a three (3) year Engineering Services and Materials Contract 18300472 with SEL Engineering Services, Inc. for \$1,200,000 for electrical engineering services.

Relationship to Strategic Goals: (Select all that apply)

- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s):

Staff recommends Council approve the contract with SEL Engineering Services, Inc.

Summary:

This contract will be for an original term of three (3) years with an annual not exceed amount of \$400,000 for a total contract amount of \$1,200,000. The City of College Station Electric Utilities Department (CSU) CSU has been using Schweitzer Engineering Laboratories (SEL) devices for protection and control and SCADA communications at substation facilities for many years. This contract will allow us to utilize SEL Engineering Services, Inc. for specialized design, configuration and commissioning of SEL devices for our existing and new substation facilities. This contract will enable CSU to work directly with the SEL Engineering Services personnel in dealing with SCADA communication and line protection relay design and commissioning. Resolving these type issues in a more efficient and timely manner will benefit electric utility customers by keeping the electric system operating as designed and keeping CSU in compliance with FERC, NERC, ERCOT and Texas RE requirements. SEL Engineering Services is the most highly qualified firm for this contract since they are the Design Engineers and Manufacture of the materials & equipment used for substation communications and system protection relaying. As such, this contract is exempt from the City's Request for Qualifications process.

Budget & Financial Summary:

Funds are available as budgeted and approved in the Electric Utility's annual budget and in the Electric Utility Capital Improvement Projects Fund for engineering services related electric capital improvement projects.

Attachments:

1. Contract is available for review at the City Secretary's office.

Legislation Details (With Text)

File #:	18-0339	Version:	1	Name:	Presentation, possible action, and discussion regarding an ordinance repealing and terminating the Medical District Tax Increment Reinvestment Zone (TIRZ #18).
Type:	Minutes	Status:			Consent Agenda
File created:	5/10/2018	In control:			City Council Regular
On agenda:	5/24/2018	Final action:			
Title:	Presentation, possible action, and discussion regarding an ordinance repealing and terminating the Medical District Tax Increment Reinvestment Zone (TIRZ #18).				
Sponsors:	Aubrey Nettles				
Indexes:					
Code sections:					
Attachments:	Ordinance to Dissolve TIRZ18 TIRZ18 MAP				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding an ordinance repealing and terminating the Medical District Tax Increment Reinvestment Zone (TIRZ #18).

Agenda Caption: Presentation, possible action, and discussion regarding an ordinance repealing and terminating the Medical District Tax Increment Reinvestment Zone (TIRZ #18).

Recommendation(s): Staff recommends dissolution of the Medical District TIRZ #18.

Summary: At their strategic retreat on February 15, 2018, City Council gave direction to repeal and terminate Tax Increment Reinvestment Zone #18. This reinvestment zone was originally established by Ordinance #3467 on December 13, 2012. This was one of two TIRZ established in the Medical District corridor in 2012. This zone is fully developed and no additional infrastructure needs have been identified. TIRZ #19 will remain in place and significant development is anticipated in the next several years.

At Council's direction staff has prepared an ordinance which provides for the following:

- ☐ Repeals TIRZ #18
- ☐ Dissolves the Tax Increment Fund and reallocates the balance back to the City of College Station General Fund
- ☐ Dissolves the TIRZ #18 Board of Directors

If approved, staff will notify the appropriate individuals and entities.

Budget & Financial Summary: Upon approval, the \$667,526.69 collected thus far in TIRZ #18 will be allocated back to the City's General Fund. No other entity had entered into a participation agreement with the City in TIRZ #18. Therefore all of the funds are from the City of College Station. These funds will be used for the new City Hall project.

Attachments:

- 1) Ordinance Repealing Ordinance #3467
- 2) Location Map

ORDINANCE NO. _ _ _ _ _

AN ORDINANCE REPEALING AND TERMINATING REINVESTMENT ZONE NUMBER EIGHTEEN (18), A TAX INCREMENT REINVESTMENT ZONE FOR TAX INCREMENT FINANCING ESTABLISHED BY ORDINANCE NO. 3467 DISSOLVING THE BOARD OF DIRECTORS AND TAX INCREMENT FUND FOR SUCH ZONE.

WHEREAS, on December 13, 2012, the City Council approved Ordinance No.3467 which created Tax Increment Reinvestment Zone Number Eighteen (18) pursuant to CHAPTER 311 ET. SEQ., TEX. TAX CODE ANN;

WHEREAS, on December 13, 2012, the City Council approved Ordinance No. 3467 establishing a Board of Directors for the zone;

WHEREAS, Council has directed staff to move forward with dissolving Tax Increment Reinvestment Zone Number Eighteen (18); now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION: ..

PART 1: The City Council hereby makes the following findings:

1. No tax increment bonds have been issued for this zone.
2. \$677,526.69 of tax increment has been collected thus far.

PART 2: That the City hereby terminates Tax Increment Reinvestment Zone Number Eighteen (18) as described in Ordinance No. 3467, and the ordinance creating said zone is hereby repealed and terminated and shall be null and void and have no further force and effect.

PART 3: That the City hereby dissolves and terminates the Tax Increment Fund and the Board for the referred Zone.

PART 4: That the entirety of the tax increment collected will be transferred to the City of College Station General Fund.

Ordinance No. ___

Page 2

PASSED, ADOPTED and APPROVED this ____ day of May, 2018.

APPROVED:

Mayor

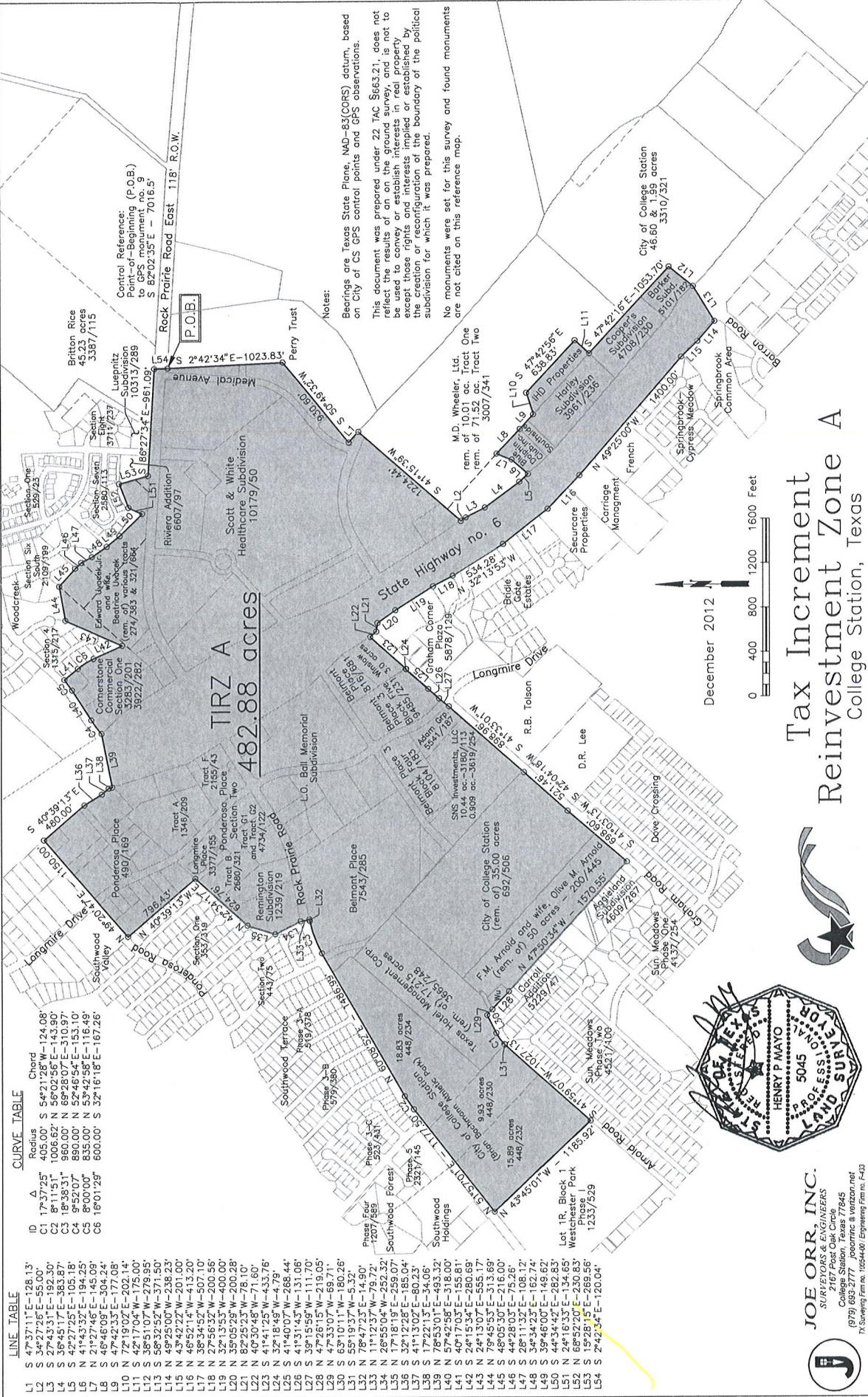
ATTEST:

City Secretary

APPROVED:

City Attorney

Exhibit "B"





Legislation Details (With Text)

File #:	18-0335	Version:	1	Name:	
Type:	Contract	Status:		Consent Agenda	
File created:	5/9/2018	In control:		City Council Regular	
On agenda:	5/24/2018	Final action:			
Title:	Presentation, possible action, and discussion regarding approval of real estate contract 18300523 that will authorize the purchase of property needed for Fire Station No. 7 for \$600,000.				
Sponsors:	Erica Wozniak				
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of real estate contract 18300523 that will authorize the purchase of property needed for Fire Station No. 7 for \$600,000.

Relationship to Strategic Goals: (Select all that apply)

- Core Services and Infrastructure

Recommendation(s): Approve the Real Estate contract for the purchase of 3.9934 acres of land at 15305 FM 2154 that will be developed into Fire Station No. 7.

Summary: After reviewing several options, the 3.9934 acres of land at 15305 FM 2154 has been identified, by staff, as the best location for Fire Station No. 7.

Budget & Financial Summary: The purchase price of the land is \$600,000.00. The purchase price is equal to the appraised value. Additional costs will include surveying, environmental reports, title insurance, and closing fees at an amount estimated to be less than \$25,000.00. The budget appropriation for this item is on the budget amendment that will be considered on the regular agenda this evening. This item is included in the 2018 issuance of certificates of obligation.

Attachments: Contract on-file with the City Secretary's Office

Legislation Details (With Text)

File #:	18-0326	Version:	1	Name:	
Type:	Agreement	Status:		Consent Agenda	
File created:	5/7/2018	In control:		City Council Regular	
On agenda:	5/24/2018	Final action:			
Title:	Presentation, possible action, and discussion regarding approval of a resolution adopting the second restatement of the interlocal agreement with the City of Bryan, City of Brenham, Brazos County, Washington County, Texas A&M University, and Grimes County to provide for the construction, acquisition, implementation, operation, and maintenance of the Brazos Valley Wide Area Communications System (BVWACS).				
Sponsors:	Erin Provazek				
Indexes:					
Code sections:					
Attachments:	College Packet.pdf BVWACS ILA Resolution.pdf				
Date	Ver.	Action By	Action		Result

Presentation, possible action, and discussion regarding approval of a resolution adopting the second restatement of the interlocal agreement with the City of Bryan, City of Brenham, Brazos County, Washington County, Texas A&M University, and Grimes County to provide for the construction, acquisition, implementation, operation, and maintenance of the Brazos Valley Wide Area Communications System (BVWACS).

Relationship to Strategic Goals: Core Services and Infrastructure

Recommendation(s): Staff recommends approval of the resolution

Summary: This resolution approves the renewal for five years of the interlocal agreement for the construction, acquisition, implementation, operation, and maintenance of the Brazos Valley Wide Area Communications System (BVWACS) which expires on September 30, 2018.

This action continues the Brazos Valley Wide Area Communications System (BVWACS), including the governing and operating structure.

Budget & Financial Summary:

Annual funding for BVWACS Operations and Capital expenses is included in the IT Department Operating Budget. City Council approved the FY2019 BVWACS Operating and Capital Budgets on May 14, 2018.

Attachments:

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION
AND MAINTENANCE OF
THE BRAZOS VALLEY WIDE AREA COMMUNICATIONS SYSTEM (BVWACS)**

STATE OF TEXAS §
COUNTIES OF BRAZOS, WASHINGTON, AND GRIMES §

This Agreement is by and among the City of Bryan, City of College Station, City of Brenham, Brazos County, Washington County, Grimes County, and Texas A & M University.

R E C I T A L S

- A. The BVWACS Parties are combining their resources and desire to jointly operate and maintain the Brazos Valley Wide Area Communications System to improve the ability of public safety and public service radio communications internally and among themselves, and to allow direct access to, and exchange of data.
- B. The BVWACS Parties desire to continue to join their Wide Area Communications System with the regional communications system of Harris County, Texas, and to create a mechanism to effectively administrate this endeavor pursuant to a separate agreement with Harris County in a manner consistent with this Agreement.
- C. The BVWACS Parties desire to provide for the organizational structure and funding support for the construction, acquisition, implementation, operation and maintenance of the Wide Area Communications System.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants herein, the BVWACS Parties agree as follows:

1. Definitions.

- A. Annual Assessment means a BVWACS Party's proportionate share of the annual Capital Costs and Operating Costs for the upcoming fiscal year based on the approved BVWACS budget and determined by that BVWACS Party's participation percentage as described in Sections 9.B and 9.C of this Agreement.
- B. Brazos County means the corporate and political body of the state of Texas known as Brazos County.
- C. Brenham means the City of Brenham.
- D. Bryan means the City of Bryan.
- E. BVWACS Associates means those entities that are sponsored by a BVWACS Party that are eligible to use the licensed frequencies under FCC rules and regulations, that are using the BVWACS and that are not BVWACS Parties pursuant to the terms of this Agreement.
- F. BVWACS Managing Entity means the Brazos Valley Council of Governments contracted to supervise the performance of this Agreement or any other BVWACS Party or third party entity designated to perform this function pursuant to the terms of this Agreement and pursuant to Section 791.013 Texas Government Code.
- G. BVWACS Parties means the state political subdivisions that have entered into this Agreement for the construction, acquisition, implementation, operation and maintenance of the BVWACS, including Bryan, College Station, Brenham, Brazos County, Washington County, Grimes County, and Texas A & M University. Additional parties may be added from time to time pursuant to the terms of this Agreement.
- H. BVWACS Manager means the Employee of the Managing Entity unless designated by the Governing Board otherwise tasked to perform services for BVWACS as set forth in this Agreement.
- I. BVWACS Support Vendor means any of the one or more vendors selected to provide maintenance, repair, troubleshooting, and related services for the Brazos Valley Wide Area Communications System.

- J. BVWACS Value means the undivided interest of a BVWACS Party in the BVWACS Infrastructure, Improvements and real property.
- K. College Station means the City of College Station.
- L. Commencement Date means the date on which this Agreement has been duly approved by all BVWACS parties.
- M. Costs include Capital Costs and Operating Costs as defined below:
- 1) Capital Costs means all costs incurred for the construction, acquisition and implementation of the BVWACS in accordance with the terms of this Agreement. Capital Costs includes expenditures for the construction, acquisition and implementation of any and all Improvements, Infrastructure, additions, replacements, upgrades and enhancements to the BVWACS; land acquisition costs, including appraisals, legal fees, surveys, and other costs associated thereto; the procurement of any hardware or software relating to the construction and implementation of any and all Improvements, Infrastructure, additions, replacements, upgrades and enhancements to the BVWACS; engineering studies, consulting reports, analysis, design and planning; auditing and compliance with accounting principles and the fiscal and legal expenses relating thereto, and any and all other costs and expenses relating to the foregoing. The BVWACS System Architecture is attached hereto and made a part hereof labeled Exhibit A. Notwithstanding any of the above, Capital Costs shall be processed in accordance with GASB 34 and GAAP Accounting Principles.
 - 2) Operating Costs means all costs not specifically identified as Capital Costs and includes all fixed and variable costs and expenses incurred, directly or indirectly, in the operation and maintenance of the BVWACS consisting of, without limit, the direct purchase of goods and services, such as photographic supplies, developing and printing, educational materials, books, office supplies, postage, computer supplies, computer software, small tools and minor equipment, and minor computer hardware, office space or the value thereof; costs associated with contracts to supply goods and services, such as support contracts, rental of copy machines, vehicle maintenance and fuel costs, tower

site and infrastructure insurance, building maintenance, computer hardware and software maintenance, printing and binding; personnel costs incurred by all entities for Employees approved in the Budget to support the BVWACS including, without limitation, wages, benefits, insurance, employment related taxes, employers' retirement contributions, phone allowances, pagers, education and seminar fees, travel for training, mileage reimbursement, and parking costs; and further including ongoing utility costs, security, and the normal, periodic maintenance, tuning, servicing, inspecting, parts replacement and repair and other similar activities that are intended to keep the BVWACS functioning efficiently and to maintain the useful life of the assets and reduce the probability of failures. The term includes all other items or expenses of a like or different nature reasonably required or desirable for the efficient maintenance and operation of the BVWACS in full compliance with all current and future regulatory requirements and the performance of the provisions of this Agreement; the provision of liability and other insurance in amounts and types determined necessary for the proper operation of BVWACS; assumption of legal liability of the BVWACS Parties to pay money to satisfy an arbitration award, administrative decision, settlement agreement, or court decision creating a judgment against one or more of the BVWACS Parties as a result of a third party claim arising out of or incident to the terms of this Agreement, including reasonable attorneys' fees and costs incurred in defending against same; and costs incurred in enforcing or defending the provisions of this Agreement, including reasonable attorneys' fees. Notwithstanding any of the above, Operating Costs shall be processed in accordance with GASB 34 and GAAP Accounting Principles.

- N. Day unless otherwise described, means calendar day.
- O. Employees means the person(s) employed by one or more of the Parties or by the Managing Entity, devoted exclusively to the construction, acquisition, implementation, operation and maintenance of the BVWACS as set forth in this Agreement.
- P. FCC means the Federal Communications Commission.

- Q. Fiscal Year means the fiscal year agreed upon by the entities signing this Agreement. The Fiscal Year in effect as of the execution of this Agreement commences on October 1st of each year and ends the following September 30th.
- R. Grimes County means the corporate and political body of the State of Texas known as Grimes County.
- S. Improvements means any structure, facility, addition, replacement, upgrades and enhancements to the BVWACS including, without limitation, hardware, software, equipment and real property acquired for increasing functionality, range or capacity of the Wide Area Communications System.
- T. Infrastructure means collectively all Improvements, additions, replacements, upgrades and enhancements to real property or personalty, real property acquisition, and all system hardware and software procurement necessary for the normal operation of the BVWACS and excluding Subscriber Equipment. The twenty-one radio consoles implemented in the system initial phase are included as system infrastructure.
- U. Initial Phase means that first phase of Infrastructure and Improvements, including the Capital Costs relating thereto, for the Parties to utilize the BVWACS within the designated portions of the Service Area all as shown on Exhibit B. As proposed herein, the Initial Phase shall include radio voice communications but not data transmission.
- V. Quarterly Assessment means a BVWACS Party's proportionate share of the Capital Costs and Operating Costs that are projected to be incurred and the amount of money projected to be expended during the next fiscal quarter as presented in an itemized schedule prepared by the Managing Entity, with the proportionate share determined in accordance with the participation percentages of the BVWACS Party, in accordance with Sections 9.B. and 9.C.
- W. Remaining Parties means those BVWACS Parties to this Agreement who remain committed to this Agreement if one or more BVWACS Parties withdraw from this Agreement or is terminated pursuant to the terms of this Agreement.

- X. Service Area means that geographical area designed to serve the Parties for the BVWACS as same may, from time to time, be amended through approval by the Governing Board. A map of the Service Area is attached hereto as Exhibit B.
- Y. Standard Terms and Conditions means the terms and conditions listed in Exhibit C that must be included in all BVWACS Associate Interlocal Cooperation Agreements.
- Z. Subscriber Equipment means the portable radios, mobile radios, control station radios, radio consoles, excluding the original 21 radio consoles installed or made operational as part of the Initial Phase, and other equipment operated by BVWACS Parties and BVWACS Associates accessing BVWACS.
- AA. Terminated Party means a BVWACS Party who has received a notice of termination and whose participation in the BVWACS Agreement has been terminated for default, after it failed to cure the default in a timely manner.
- BB. Termination Date means twelve (12) months from the date of the notice of withdrawal when a BVWACS Party gives notice of its intention to withdraw from this Agreement and terminate its participation in BVWACS.
- CC. Washington County means the corporate and political body of the state of Texas known as Washington County.
- DD. Wide Area Communications System or BVWACS means the Regional Voice and Data Radio System serving the Brazos County, Grimes County and Washington County, Texas areas as shown on a Service Area map attached as Exhibit B as same may from time to time be amended as provided in this Agreement, implemented by Parties for public safety and public service purposes in accordance with the terms herein and pursuant to applicable law for such type of public communications system.
- EE. Withdrawing Party means a BVWACS Party who gives notice of its intention to withdraw from this Agreement and terminate its participation in BVWACS.
- FF. RF Site means the equipment located within the equipment shelter at a given location, the radio tower or structure upon which antennas are mounted at a given location, and any miscellaneous hardware, equipment racks, or utilities necessary for the equipment at a given location to function in support of radio subscriber equipment users in the field.

GG. Console site means the equipment located within a dispatch facility at a given location, including computer equipment, servers and server racks, console furniture, and any miscellaneous hardware or utilities necessary for that equipment to function in support of dispatch operations between telecommunicators and radio subscriber equipment users in the field.

HH. RNI means Radio Network Infrastructure, or the data network which connects all RF and Console sites to the Master Sites in Conroe, TX and Tomball, TX.

2. Term of Agreement.

The term of this Agreement shall be effective when this Agreement has been duly approved by all BVWACS Parties (termed the Effective Date), subject to the BVWACS Parties' rights of termination in this Agreement. The term of this Agreement is from the Effective Date to September 30, 2023. Nothing in this Agreement will prevent the BVWACS Parties from entering into a separate Agreement with another group or entity providing similar radio services provided such Party continues to adhere to the terms and conditions of this Agreement.

3. Purpose.

The purpose of this Agreement is to establish an organizational and management structure for the construction, acquisition, implementation, ongoing administration, operation, and maintenance of the BVWACS by the Parties, including establishing a budget proposal process, a funding process, and the allocation of Costs associated with the construction, acquisition, implementation, operation, maintenance, and Improvements to the Wide Area Communications System.

The BVWACS Parties have developed initial objectives, attached as Exhibit D, and evaluation factors, attached as Exhibit E.

4. Governing Board.

- A. Purpose. The Governing Board shall set policy for the BVWACS, direct and approve the operating policies and procedures of the Operating Board, adopt a draft budget annually,

and carry out any and all other appropriate tasks necessary for the proper functioning of the BVWACS. The Governing Board may exercise such powers and duties as authorized under this Agreement.

- B. Composition. The Governing Board shall consist of one member from each of the BVWACS Parties. Governing Board Members should be public officials or senior executive level employees of their respective BVWACS Party. Governing Board Members may designate in writing an individual within their entity to act in their place. The governing body of a BVWACS Party may designate in writing a change in that BVWACS Party's Governing Board Member.
- C. Officers. The Governing Board shall elect a chair, vice-chair, and other officers annually. The BVWACS Managing Entity shall provide secretarial services and other administrative support services to the Governing Board.
- D. Meeting Requirements. The Governing Board shall meet at least semi-annually, but special meetings may be called by the request of one (1) or more Governing Board Members. These meetings shall be held in compliance with the Texas Open Meetings Act. These meetings shall be publicly posted 72 hours before the meeting by the Chair of the Governing Board. Meeting notices and meeting agenda shall be sent to members of the Governing Board at least 72 hours before the meeting.
- E. BVWACS Improvements. The Governing Board may develop agreements defining the roles and responsibilities of the BVWACS Parties for BVWACS Improvements at the time the BVWACS Improvements are approved by the BVWACS Parties. The funding for these BVWACS Improvements shall be included in these agreements. Unless otherwise agreed by the BVWACS Parties in writing, funding for the cost of BVWACS Improvements that are constructed or acquired to benefit one (1) or more individual BVWACS Parties shall be paid only by the BVWACS Parties benefiting from such BVWACS Improvements.
- F. Quorum and Voting. No action may be taken by the Governing Board unless a quorum is present. A quorum shall consist of a majority of members. Unless expressly stipulated otherwise in this Agreement or unless required differently pursuant to applicable law, the affirmative vote of a majority of members is required for the Governing Board to adopt

any resolution or take any action. Each member of the Governing Board shall have one vote.

5. Operating Board.

- A. Purpose. The management and technical operation of the BVWACS is overseen by an Operating Board which ensures that the policies set by the BVWACS Governing Board are carried out and which provides overall BVWACS advice as to the construction, acquisition, implementation, operation and maintenance of the BVWACS and provides advice to the BVWACS Managing Entity.
- B. Composition. The Operating Board consists of one member appointed by each of the BVWACS Parties. In addition, each BVWACS Party may designate in writing an alternate (“Alternate”) to act in place of its appointed Operating Board member. Notice of a change in designated Board Members or Alternate by a BVWACS Party may be made by sending written notice of the newly designated Board Member(s) or Alternate to the Chair of the Operating Board, with a copy to the BVWACS Managing Entity. The composition of the initial Operating Board is shown in Exhibit F.
- C. Duties. The Operating Board shall meet at least quarterly. The Operating Board shall examine the apportionment of BVWACS Capital Costs and Operating Costs among the BVWACS Parties and recommend any adjustments needed to the Governing Board. The Operating Board shall annually submit a draft Operating and Capital Program budget for presentation to the Governing Board by March 1 of each year unless directed otherwise by the Governing Board regarding funds needed to improve, operate, maintain, and use the BVWACS. The Operating Board shall review and recommend the operating policies and procedures for the BVWACS, including policies related but not limited to system security, fleetmap management, capacity management, and interoperability with other radio systems and equipment. The Operating Board shall regularly review the evaluation factors for the BVWACS as described in Exhibit E of this Agreement and take needed actions to ensure reliable BVWACS performance. The BVWACS Managing Entity, together with the Operating Board, shall develop and recommend to the Governing Board BVWACS Improvements as needed to ensure optimal BVWACS functionality and performance. The Operating Board shall consider the impact of proposed BVWACS Associates and proposed

new Parties to this Agreement on the capacity of the BVWACS and recommend approval or denial of requests to sponsor an entity as an Associate or to add an additional party to this Agreement. In addition, the Operating Board annually provides input to the Governing Board and to the BVWACS Managing Entity on the performance of the BVWACS Systems Manager.

- D. Terms. The term of each Board Member shall be determined by the appointing BVWACS Party. All Board Members serve at the pleasure of their appointing BVWACS Party.
- E. Attendance Requirements. Either a Board Member or Alternate shall attend all meetings. If a BVWACS Party has no representation at more than 25% of the meetings during any calendar year, the BVWACS Party shall appoint new Board Member(s) and new Alternate(s). Operating Board meetings are scheduled by the Operating Board Chair.
- F. Chair, Vice-Chair, and Secretary. The Operating Board Members elect the Chair, Vice-Chair, and Secretary in the first month of each Fiscal Year. The Chair is responsible for scheduling meetings and providing Operating Board members with meeting notices. One of the duties of the Secretary shall be to record and track attendance of Board Members and Alternates. The BVWACS Managing Entity provides or arranges staff support to make written minutes of each Operating Board meeting and provides other needed logistical support for the Operating Board.
- G. Procedures at Meeting. The Chair presides at the meetings and the Vice-Chair acts in the absence of the Chair. No action may be taken by the Operating Board unless a quorum of Board Members is present. A quorum shall consist of a majority of Board Members. The Chair shall provide the Board Members with at least 20 days' notice of proposed dates for regular meetings. Any Board Member may place items on the Operating Board's meeting agenda by submitting the item to the Chair at least ten days before the next meeting. The Chair shall submit the agenda to the Board Members no later than seven days before the meeting. Each Board Member shall have one vote. The affirmative vote of more than 50 percent of all the members of the Operating Board is required to adopt any resolution or take any action. Voting by proxy or delegate is permitted.
- H. Actions of Operating Board. The Operating Board may not take any action that would violate any applicable statute, law, regulation, court order, ordinance, commissioners' court

order, city charter provision, articles of incorporation or other governing document. If any such action is taken, it is null and void.

- I. Special Meetings. The BVWACS Managing Entity may call meetings upon 72 hours written notice to the Board Members to conduct regular business matters or to address budget related items, which may require action by the Parties' governing bodies to increase or decrease currently budgeted expenditures. The Chair or a majority of the Board Members may also call special meetings of the Operating Board. In the event of an emergency, the notice provision herein shall be suspended.

6. Amendments to Agreement.

Any BVWACS Party may propose an amendment to this Agreement to the Operating Board. The Operating Board considers the amendment and makes a recommendation to the Governing Board for consideration. The Governing Board shall review amendments to this Agreement and may recommend approval of the amendment to the governing bodies of the BVWACS Parties. An amendment to this Agreement shall be effective when approved by three fourths of the governing bodies of the BVWACS Parties. A BVWACS Party whose governing body does not approve an amendment to this Agreement adopted as provided above, may withdraw from participation in the BVWACS as described in Section 17 A. of this Agreement.

7. Construction, Acquisition and Implementation of BVWACS.

- A. Initial Phase. The Initial Phase of the BVWACS shall be comprised of current Infrastructure and Improvements owned by one or more of the Parties hereto plus additional Infrastructure and Improvements to be constructed or acquired. Exhibit A sets out the Infrastructure, Improvements and real property currently owned by one or more of the Parties as well as the additional proposed BVWACS Infrastructure and BVWACS Improvements that will comprise the Initial Phase. The Parties agree that the Initial Phase of the BVWACS shall be as set forth in Exhibit A.
- B. Ownership and Permission. Ownership of Infrastructure and Improvements currently owned by the Parties shall remain the property of such Party. Permission for all BVWACS Parties, BVWACS Associates, the BVWACS Managing Entity and its respective agents

and representatives to access and use such Infrastructure and Improvements as part of the BVWACS in accordance with this Agreement is herein granted. New BVWACS Improvements and BVWACS Infrastructure shall be owned as tenants in common among the Parties then in existence at the time funding was provided for such BVWACS Improvements or BVWACS Infrastructure.

8. Staffing and Operations.

- A. Designation of Managing Entity. The Governing Board shall designate one of the BVWACS Parties or a mutually agreed upon third party as the Managing Entity for the BVWACS.
- B. BVWACS Systems Manager. The Managing Entity is responsible for providing the BVWACS Systems Manager. This may be a full time Employee or, with the approval of the Governing Board, contracted third party devoted to managing the construction, acquisition, implementation, operation and maintenance of the BVWACS under the direction of the Managing Entity. The Operating Board will serve in an advisory capacity to the BVWACS Systems Manager on behalf of the Governing Board. The BVWACS Systems Manager shall be an Employee of the Managing Entity unless the Governing Board designates otherwise. As its Employee, the Managing Entity shall be responsible for the hiring, firing, performance review, training and education, provision of health and retirement benefits and all other costs associated with this position as well as costs associated with being an Employee of the Managing Entity, subject to reimbursement by the Parties through adoption of the annual BVWACS Budget which shall include the costs of all Employees. The Managing Entity shall obtain input from the Governing Board before taking any formal action regarding performance, including annual reviews, with respect to such Employee.
- C. Management Duties of the BVWACS Managing Entity. The BVWACS Managing Entity will manage the BVWACS on a day-to-day basis. Responsibilities include the following plus any other duties as determined by the Governing Board:
 - 1) Management. Perform ongoing management of the construction, acquisition, implementation, operation and maintenance of the BVWACS;

- 2) Coordination with other radio systems. Serve as principal coordinator with other radio systems as determined by the Governing Board;
- 3) Minutes. Maintain minutes of the Governing Board and Operating Board meetings;
- 4) Recommendations. Make recommendations to the Operating Board regarding proper performance of the BVWACS under the terms of this Agreement;
- 5) Supervision. Supervise additional Employees as applicable;
- 6) Dispute Resolution. Assist in the administrative dispute process as set out elsewhere in this Agreement;
- 7) Agreement Copy. Maintain and make available at all reasonable times to the Operating Board and to the Governing Board a current copy of this Agreement, including any amendments and the most current version of all Exhibits together with copies of the most current versions of any subsequently developed operating procedures, policies or standards;
- 8) Financial Responsibilities. Reconcile the budget on a quarterly basis or as requested by the Governing Board. Prepare draft budget, coordinate purchasing, conduct inventories, assist with any audits and handle such other fiscal matters as may be directed by the Governing Board;
- 9) Reports. Provide such performance reports, projection reports and other reports regarding the technical, operational, fiscal and other aspects of the BVWACS as required by the Governing Board or Operating Board;
- 10) Record Keeping. Maintain and keep current all records, legal documents, contracts, manuals, warranties, etc. relating to the BVWACS and make same available for review by any of the Parties upon request;
- 11) Contract Administration. Administer all contracts for the construction, acquisition, implementation, operation and maintenance of the BVWACS;
- 12) Project Management. Oversee the management of all projects relating to the construction, acquisition and implementation of Infrastructure and Improvements to the BVWACS;

- 13) Standard Operating Procedures. Develop, distribute and keep current standard operating procedures for the BVWACS as directed by the Operating Board;
- 14) BVWACS Availability. Ensure operational and technical availability of the BVWACS features to the Parties and Associates in accordance with the goals and objectives set forth herein and that support interaction and communications with other public safety radio systems;
- 15) Grant Administration. Oversee the application, administration and financial management of grant funding programs available for the construction, acquisition, implementation, operation and maintenance of the BVWACS. This includes performing as a recipient or sub-recipient for the BVWACS Parties in relation to such grant programs.

D. Staffing. There may be such other Employees as may, from time to time, be budgeted and approved by the Governing Board. The BVWACS Parties through action of the Governing Board may elect to contract out some or all services relating to the construction, acquisition, implementation, operation and maintenance of the BVWACS. The initial number and types of Employees to be provided or funded by the BVWACS Parties are shown in Exhibit G. Notwithstanding anything herein to the contrary, personnel provided by one or more of the Parties to support the BVWACS are, and shall exclusively remain, employees of their respective entity, subject to all of the employment rules and personnel policies of that entity. The personnel costs necessary to support the BVWACS are included in each year's draft budget submitted to the Parties, subject to the provisions in Section 9. Budget and Section 18. Effect of Breach and Default.

E. Operating Procedures. The BVWACS Managing Entity shall ensure that standard operating procedures are prepared to govern the day-to-day management and operation of the BVWACS and BVWACS staff ("Standard Operating Procedures") as may be directed by the Governing Board, and shall submit such Standard Operating Procedures to the Operating Board for review and approval. Standard Operating Procedures shall be annually reviewed by the Operating Board and updated as needed. The BVWACS Managing Entity also monitors the implementation of and compliance with the Standard Operating Procedures. If there is any conflict between the Standard Operating Procedures

and the employment rules and personnel policies of the entities, then the employment rules and personnel policies of the entities control as they impact that entities' staff supporting the BVWACS. The Operating Board shall also oversee the development and implementation of corrective measures policies.

- F. Roles and Responsibilities. The BVWACS Parties shall use the BVWACS in a manner consistent with the Standard Operating Procedures, directives of the Governing Board and in compliance with applicable FCC rules and regulations. The BVWACS Parties shall follow the established Standard Operating Procedures and Governing Board directives regarding the programming and addition of Subscriber Equipment to the BVWACS. The BVWACS Parties are encouraged to utilize and improve the interoperation capabilities of the BVWACS. BVWACS Parties shall utilize the BVWACS Managing Entity as their primary point of contact for requests for BVWACS Improvements when dealing with problems, or to answer questions. BVWACS Parties shall work in good faith with the BVWACS Managing Entity to help resolve problems. Using Standard Operating Procedures or other directives from the Governing Board, BVWACS Parties shall have access to system reports including, but not limited to, system usage, utilization and performance. A BVWACS Party is financially responsible for any FCC penalties, fines or other financial encumbrance caused by the actions of that BVWACS Party and any BVWACS Associate sponsored by it.
- G. Capacity Management. The BVWACS Managing Entity may develop a policy for capacity management and submit the policy to the Operating Board for review and approval. This policy shall be reviewed annually by the Operating Board, and updated as needed to ensure appropriateness and applicability with current BVWACS needs and industry standards and practices.
- H. Withdrawal of Managing Entity. In the event the current entity ceases to be the BVWACS Managing Entity and the BVWACS Managing Entity is not a BVWACS Party subject to the provisions of Section 17.B herein, the Governing Board Members representing three-fourths of the BVWACS Parties shall appoint a replacement BVWACS Managing Entity. Within ten (10) days after receipt of notice of the identity of the replacement BVWACS Managing Entity, the current BVWACS Managing Entity shall:

- 1) Possession. Transfer control and possession of all BVWACS Infrastructure, BVWACS Improvements including BVWACS real property owned as tenants in common pursuant to this Agreement to the replacement BVWACS Managing Entity;
- 2) Conveyance of Real Property. Transfer any and all ownership rights it may have to real property acquired pursuant to the terms of this Agreement to the BVWACS Parties;
- 3) Evidence of Ownership. Provide evidence and documentation adequate to prove ownership of the BVWACS Infrastructure, BVWACS Improvements or real property, including, wherever applicable, transferring all rights, title and interests, including proprietary and intellectual property rights, to enable the replacement BVWACS Managing Entity to manage, upgrade, update, maintain, and operate or to sell, convey or otherwise dispose of the BVWACS Infrastructure, BVWACS Improvements or real property if or when the BVWACS Parties determine that this is appropriate; and
- 4) Operations and Legal Documents. Transfer the originals of all deeds, operations manuals, warranties, bills of sale, licenses, leases, titles and other legal documents related to BVWACS Infrastructure, BVWACS Improvements or BVWACS real property to the replacement BVWACS Managing Entity.

9. Budget.

- A. Budget Adoption. The Governing Board shall annually approve a draft BVWACS Budget upon the approval of three-fourths of its members in accordance with the timeframes set forth herein and recommend approval of the Budget to the governing bodies of the BVWACS Parties, including approval to appropriate their proportionate share of the BVWACS Budget. All Operating Costs must be included in each annual BVWACS Budget as well as any Capital Costs. The Budget shall include any and all costs relating to employees in implementing and maintaining the BVWACS. If any BVWACS Party does not agree with the draft BVWACS Budget as presented, it must provide the Governing Board with a detailed explanation of its issues with the draft Budget within 30 days after

receipt of it. Each member of the Governing Board shall consult with its governing body or appropriate budget review personnel before voting to approve any Budget.

B. Annual Operating Costs Budget. The annual Operating Costs shall be allocated among the BVWACS Parties. Participation percentages for contribution to the Operating Costs will be calculated on an annual basis according to the number of registered radio counts each BVWACS Party has on the BVWACS as a percentage of all units on the BVWACS. By January 31st of each calendar year, the BVWACS Manager shall provide a full detailed list of all radios registered in the BVWACS and its associated BVWACS Party. Allocation percentages shall be calculated based solely on each Party's total BVWACS registered radio counts, as maintained by the BVWACS Manager. The BVWACS Manager shall provide preliminary counts of all radios registered in the BVWACS and its associated BVWACS Party to each Party by December 31st of each calendar year. Parties can use the preliminary BVWACS system counts as an opportunity to reconcile and true-up BVWACS registered radio counts prior to the January 31st unit final count. Each year the BVWACS Managing Entity, following and abiding by its budgeting and accounting practices, shall prepare an annual Operating Costs budget ("Operating Budget") on a fiscal year basis and submit this budget to the Operating Board. The Operating Budget must provide for all Operating Costs. The Operating Board shall review and adjust, as needed, the Operating Budget and then submit its recommendation to the Governing Board. The Governing Board shall, no later than May 1st of each year, approve a draft budget and recommend approval of the Operating Budget by each BVWACS Party and appropriation of their proportionate share of the Operating Budget in their next Fiscal Year's budget. If budgeted amounts exceed actual expenditures, the Governing Board by majority vote may move the unexpended balances into the BVWACS Capital Fund, or credit the unexpended balances against the budgeted expenditure amounts in the Operating Budget for the next Fiscal Year at each Parties then-current participation level, unless refunded to the Party at such Party's request. From time to time, participation percentages shall be re-evaluated upon request of a Party using the same procedure set forth herein of recommendation by the Operating Board and

determination by the Governing Board as Infrastructure or Improvements are made to BVWACS, as use of the BVWACS changes, or when new information affecting BVWACS becomes available. A BVWACS Party may use its share of BVWACS capacity for its own purposes or may allocate a portion of that share through a BVWACS Associate Interlocal Cooperation Agreement.

- C. Annual Capital Costs Budget. A Capital Costs budget shall be prepared annually using the same process for adoption as the Annual Operating Costs Budget except that while the Capital Costs budget is prepared annually, the planning period for Capital Costs is five (5) years. Unless otherwise agreed by the BVWACS Parties, Capital Costs shall be shared according to the participation percentages described in Section 9.B.; provided, however, that the Capital Costs that are incurred to benefit only one or more individual BVWACS Parties shall be paid by the BVWACS Parties benefiting from such BVWACS Improvements and Infrastructure.
- D. Budgeted Expenditures. After the Budget has been approved and funded by the BVWACS Parties, the BVWACS Managing Entity is authorized to incur costs in accordance with the Budget. Any costs to be incurred in excess of the approved and funded Operating Costs or Capital Costs Budget amounts require additional budget approval and funding, or re-allocation of existing funds, by the BVWACS Governing Board. The BVWACS Governing Board may approve transfer of funds from the BVWACS Capital Fund to the Capital Budget to meet an urgent need that was not addressed during the Budget process. Such approval requires the vote of three-fourths of the members of the Governing Board.
- E. Other BVWACS Fees. Fees payable by BVWACS Associates are determined by the terms of their BVWACS Associate Interlocal Cooperation Agreement. Funds received by new Parties are determined in accordance with this Agreement.
- F. Funding Transfers to the Managing Entity. Once each BVWACS Party appropriates its portion of the BVWACS Budget in its annual budgetary process, the Managing Entity shall provide timely and accurate invoices to facilitate the transfer of funds by each BVWACS Party to the Managing Entity, and the Parties shall each comply with the following procedures to facilitate payment by the Managing Entity to the BVWACS vendors and contractors:

- 1) Quarterly Assessment. At least 60 days prior to the beginning of each Quarter of the Fiscal Year, the BVWACS Managing Entity shall give the Operating Board, for its review, an itemized schedule of the Capital Costs and Operating Costs that are projected to be incurred, and the amount of money projected to be expended, during the next quarter. At least 30 days prior to the beginning of each Quarter, the Managing Entity shall send each BVWACS Party an invoice for its Quarterly Assessment.
- 2) Approval. Each BVWACS Party must approve or dispute its Quarterly Assessment and provide written notice of any dispute to the BVWACS Managing Entity within 15 business days after receipt of the invoice for the Quarterly Assessment. If a dispute concerning the Quarterly Assessment is not resolved by the time the BVWACS Party is required to remit payment, the matter shall be resolved in accordance with the procedures set forth in Section 21, Dispute Resolution.
- 3) Payment Instructions. The Managing Entity must provide payment instructions to each BVWACS Party for the transfer of BVWACS Party funds to the Managing Entity.
- 4) BVWACS Party Funds. Each BVWACS Party must pay its Quarterly Assessment to the Managing Entity no later than 60 calendar days after receipt of an invoice in accordance with the resolution of any dispute about the Quarterly Assessment.
- 5) BVWACS Fund. The Managing Entity shall establish a separate fund for BVWACS in its accounting records (“BVWACS Fund”) that is dedicated to the administration of the BVWACS. All funds received from BVWACS Parties and other BVWACS revenues, including the capital fund and any interest earned, shall be credited to the BVWACS Fund. All BVWACS obligations shall be debited from the BVWACS Fund. The records for the BVWACS Fund shall be maintained in compliance with generally accepted accounting principles.
- 6) Accounting. The BVWACS Fund is managed by the Managing Entity in the same manner as the Managing Entity manages funds held in its

depository accounts. Funds associated with the BVWACS, including accrued interest, shall be accounted for separately by the Managing Entity for the benefit of the BVWACS Parties, unless otherwise required by law or this Agreement.

- 7) Statements. The BVWACS Managing Entity is responsible for providing quarterly statements showing the credits to and debits from the BVWACS Fund, including any income earned, to each Party on or before the 20th day of the first month following the end of such quarter.
- 8) Payments. Subject to the availability of sufficient funds in the BVWACS Fund, the Managing Entity shall pay BVWACS contractors and vendors in compliance with the Texas Prompt Payment Act.
- 9) Reports. The BVWACS Managing Entity is responsible for providing each BVWACS Party with a quarterly written financial report on the Budget, including current BVWACS Cost projections for the succeeding quarter.

- G. Funding. The BVWACS Parties specifically acknowledge that funding for each BVWACS Party's share of the BVWACS Operating Budget and Capital Costs Budget goes through that BVWACS Party's normal budgeting process; and upon approval by its governing body, is payable from current revenue available to each funding BVWACS Party. Purchase, operation and maintenance costs of Subscriber Equipment are the responsibility of each BVWACS Party.
- H. Failure to appropriate. The failure of a BVWACS Party to appropriate its proportionate share of the BVWACS Budget by the first day of the Fiscal Year for which the Operating Budget and Capital Costs Budget is applicable shall be a material default of such BVWACS Party under this Agreement, and the BVWACS Parties shall follow the procedures for termination of a BVWACS Party set out in this Agreement addressing the effect of breach and default.
- I. Partial Funding. If any BVWACS Party appropriates less than its proportionate share of Operating Budget and Capital Costs budget for any year, or if any BVWACS Party fails to pay its Quarterly Assessment, (herein called the "Underfunding Party") the other BVWACS Parties, acting through the Governing Board may take one or more of the following actions:

- 1) Suspension of Representation. Remove the Governing Board representation and voting rights for the Underfunding Party.
- 2) Service Reduction. Reduce the BVWACS services being provided to the Underfunding Party.
- 3) Notice of Underfunding. Send the Underfunding Party a notice stating the amount of underpayment, which is the difference in the Underfunding Party's Quarterly Assessment and the amount of funding provided by the Underfunding Party ("Deficiency"). Said Deficiency is an obligation of such Underfunding Party subject to the Prompt Payment Act. Each Underfunding Party agrees that its future right to participate in the BVWACS is dependent upon fully paying its Quarterly Assessments. The Underfunding Party must appropriate and pay the Deficiency and its entire Quarterly Assessment for the remainder of that Fiscal Year.
- 4) Budget Revision. Amend the BVWACS Operating Budget and Capital Costs budget by reducing costs and/or increasing the amounts paid by the other BVWACS Parties.
- 5) Termination of Participation. Terminate the Underfunding Party's participation in this Agreement by following the procedure for termination of a BVWACS Party, if the level of funding is deemed by the other BVWACS Parties to be substantially a failure to fund.
- 6) Asset Management. BVWACS Infrastructure shall be tracked in accordance with standard operating procedures approved by the Operating Board. These procedures must be consistent with generally accepted accounting principles for property held as tenants in common for one or more of the BVWACS Parties. If any BVWACS Infrastructure needs to be retired, the BVWACS Managing Entity will provide this information to the Operating Board for approval prior to removal. At a minimum, the BVWACS Managing Entity shall provide the asset serial number, asset ID tag (if any), location from which it is to be removed and description of the asset. The asset to be retired shall be disposed as directed by the Governing Board upon receiving the recommendation of the Operating Board. Any

funds received from the disposal of the asset shall be credited as revenue in the BVWACS Fund and shown in the next BVWACS Capital budget. These funds are managed in accordance with the provisions of this Agreement.

With respect to Infrastructure, Improvements and real property owned by only one or some of the Parties and that is not listed as BVWACS Infrastructure, BVWACS Improvements, or BVWACS real property, right of access, license and use is herein granted by such Parties to all Parties and to the BVWACS Managing Entity as necessary for BVWACS purposes as determined by the Governing Board. With respect to future Infrastructure, Improvements and real property owned by only one or some of the Parties, such Parties agree that all rights of access, use or licenses required to make same a part of the BVWACS shall be granted. No Infrastructure, Improvement or real property owned by only one or some of the Parties may be conveyed to a third party, destroyed or otherwise removed from the BVWACS without giving at least 12 months advance notice. Failure to do so shall be considered a failure to perform substantially such Party or Parties' material obligations under this Agreement, and the provisions of Section 18. (Effect of Breach and Default) shall apply. The Governing Board may determine to file Certificates of Memorandums in the deed records of the county where an asset owned by one or more Parties is located notifying the public regarding BVWACS rights associated with such asset.

10. BVWACS Associates.

- A. Procedure for Becoming BVWACS Associate. To use the BVWACS, an entity must be either a BVWACS Party or BVWACS Associate unless special access is granted by three-fourths vote of the members of the Governing Board. Additionally, the Texas Department of Public Safety is hereby granted special access. To become a BVWACS Associate, a BVWACS Party must sponsor the entity. A BVWACS Party may only sponsor BVWACS Associates to the extent that it has a portion of its share of BVWACS capacity that is unused and therefore available to assign. A BVWACS Party may not sponsor any entity unless the entity is eligible to use the BVWACS licensed radio frequencies under FCC rules, regulations and practices. A BVWACS Party may sponsor one or more entities as

BVWACS Associates. BVWACS Parties shall use the following procedure for sponsoring an entity:

- 1) Share of Capacity. Determine the extent of the BVWACS Party's share of the BVWACS capacity that is available for assignment to the entity based upon most recent participation level determined using the true-up provisions set forth in Section 9.B
- 2) Anticipated Usage. Determine the anticipated usage of the entity to be sponsored based on talk time if available, the number of radios used by the entity and other relevant information as determined by the Governing Board.
- 3) Compatibility. Determine the compatibility of the Subscriber Equipment used by the entity with the system and the impact of their inclusion in the system based on voice traffic, talk-group needs, and functionality.
- 4) Associate Agreement. Negotiate a BVWACS Associate Interlocal Cooperation Agreement with the prospective BVWACS Associate that includes the Standard Terms and Conditions as well as any other terms and conditions related to payment, term of agreement, nature of the services to be provided, curtailment of services or termination of the authority to continue use of the BVWACS for breach, withdrawal by the entity, and other matters that they desire as long as they are not contrary to or more expansive than the Standard Terms and Conditions or the terms and conditions of this Agreement.
- 5) Report to Board. Present a report to the Operating Board that includes the anticipated usage of the entity, the number of radios or equipment used by the entity, the compatibility of the radios or equipment used by the entity with the system, the number of talkgroups needed and any other information relevant to whether the addition of the entity is likely to cause the BVWACS Party to exceed its share of the BVWACS capacity.
- 6) Board Approval of Draft Agreement. Present a draft copy of the proposed BVWACS Associate Interlocal Cooperation Agreement to the Operating Board so that it can verify that the agreement contains the Standard Terms

and Conditions and is consistent with the terms and conditions of this Agreement.

- 7) Parties Approval of Associate Agreement. Obtain approval of the BVWACS Associate Interlocal Cooperation Agreement by the governing bodies of the sponsoring Party and the prospective BVWACS Associate to the agreement.

B. Operating Board Duties. The Operating Board shall review the report of the BVWACS Party asking to sponsor an entity as a BVWACS Associate and evaluate the following:

- 1) Impact on current and future BVWACS voice traffic capacity.
- 2) Impact on current and future BVWACS talkgroup capacity.
- 3) Impact on overall current and future BVWACS functionality.

The Operating Board shall review the proposed BVWACS Associate Interlocal Cooperation Agreement to be entered into by the BVWACS Party asking to sponsor an entity as a BVWACS Associate and determine whether it includes the Standard Terms and Conditions.

If the impact on these three aspects of the BVWACS capacity is not likely to result in that BVWACS Party's exceeding its share of the BVWACS capacity or to detrimentally affect the overall current and future functionality of the BVWACS, and the proposed BVWACS Associate Interlocal Cooperation Agreement includes the Standard Terms and Conditions, the Operating Board may recommend approval of the request to sponsor the entity to the Governing Board.

C. Association Interlocal Cooperation Agreements Approval. The Governing Board must approve all BVWACS Association Interlocal Cooperation Agreements before such prospective BVWACS Associate may access or use the BVWACS.

D. Capacity for Sponsoring BVWACS Associates. Initially, a BVWACS Party's share of the capacity of the BVWACS is based on the participation percentages calculated as described in Section 9.B. Two years after system acceptance of the BVWACS or when adequate information is available, whichever occurs first, BVWACS capacity is based on the capacity management process recommended by the Operating Board and approved by the Governing Board. The share of capacity used may be adjusted as Infrastructure or

Improvements are made to BVWACS. A BVWACS Party may use its share of BVWACS capacity for its own purposes or may allocate a portion of that share through a BVWACS Associate Interlocal Cooperation Agreement. In no event shall sponsoring a BVWACS Associate cause alteration to the Participation Table set forth in Exhibit A, if and as amended as described in Section 9.B.

- E. Financial Effect of Sponsoring BVWACS Associate. When a BVWACS Party authorizes another entity to use a portion of its share of BVWACS capacity, that BVWACS Party remains responsible for full payment of its entire cost share of the BVWACS.
- F. Sponsor's Control of BVWACS Associate's Access to BVWACS. If a BVWACS Party requests that the BVWACS System Manager disable all or part of the services available to a BVWACS Associate sponsored by that BVWACS Party, the BVWACS System Manager shall comply with these requests and disable the portion of the services available to a BVWACS Associate requested by the BVWACS Party as soon as practicable.
- G. Responsibility for Subscriber Equipment. BVWACS Associates are responsible for purchasing and providing their own Subscriber Equipment to be used on the BVWACS. The purchase of Subscriber Equipment shall be coordinated with the BVWACS Managing Entity.
- H. Additional Units. BVWACS Associates are not allowed to add units to the BVWACS without approval from their sponsoring BVWACS Party.
- I. Changes to Operations. Each BVWACS Party that has sponsored BVWACS Associates is responsible for informing the BVWACS Associates of changes in BVWACS Standard Operating Procedures.

11. New BVWACS Parties.

- A. New Parties to BVWACS. From time to time, entities may join the BVWACS as full Parties. Entities desiring to join the BVWACS as full Parties shall petition the current Parties for membership in accordance with the terms herein.
- B. Contents of Petition. An entity desiring to join BVWACS shall submit a petition. At a minimum, a petition to join BVWACS as a Party shall include the following:
 - 1) Area to be Served. A description of the area to be covered and a description of how the Service Area will be affected;

- 2) Proposed Subscriber Equipment. The type of Subscriber Equipment proposed to use the BVWACS, including the approximate number of units to be added, talk groups and talk time;
- 3) Infrastructure, Improvements, Funds and Real Property. A description of any Infrastructure, Improvements, funds or real property that will be made available to the BVWACS to offset costs associated with system expansion, and a description of how this will affect the BVWACS and the current Service Area; and
- 4) Share of Capacity. Provide an estimate of the requested capacity desired, including the anticipated type and amount of usage based on talk time, talk group needs and other relevant factors as determined by the Governing Board.

C. Procedure. The following procedure shall be followed when petitioning to become a Party.

- 1) Submit Petition. An entity desiring to become a Party to the BVWACS shall petition the Governing Board through the BVWACS Managing Entity who will then review such petition for completeness as well as content. The BVWACS Managing Entity shall forward the petition to the Operating Board for recommendation by the Operating Board within 30 days from submission of such petition.
- 2) Operating Board. The Operating Board shall review the petition of the submitting entity and make its recommendation to the Governing Board within 60 days from the date of submission of such petition. The Operating Board shall evaluate the petition based upon the following:
 - a. Whether the addition of petitioner as a Party will have an adverse impact on the current and future needs of the existing Parties, on the Service Area and on BVWACS as a whole; and
 - b. Whether the addition of petitioner as a Party is consistent with the goals and objectives of BVWACS as set forth in this Agreement.
- 3) Governing Board. The petitioner may negotiate an amendment to this Agreement relating to its inclusion as a Party. The Governing Board will consider the request and the recommendation of the Operating Board within

ninety (90) days from the date of submission of the petition and approve, deny or request additional information needed to consider the request. Adding a new Party to this Agreement shall be considered an amendment subject to the terms and conditions for approval of amendments set forth in Section 6 above. The Governing Board will also determine if the petitioner will be required to make a capital contribution towards construction or improvement to the system. Such contribution may be in the form of a reimbursement for prospective construction or improvements to the system.

- D. Participation Level. A BVWACS Party's share of the capacity of the BVWACS is based on the participation percentages calculated as described in Section 9.B.. Addition of new Parties will require reevaluation and possible alteration of the participation percentages. The Operating Board will provide preliminary recommended participation percentages based on the new Party joining BVWACS at the time it reviews the petition. The Governing Board shall then review such recommendation and determine whether such participation percentages should be modified. Such determination must be approved by three-fourth of the members of the Governing Board.
- E. Obligations of New BVWACS Parties. When a new BVWACS Party is authorized by the Governing Board, the participation percentages determined above will establish the Annual Assessment for the new Party. Once the new Party is approved for membership, that Party assumes responsibility for its Annual Assessment and all other obligations as a Party to this Agreement. New BVWACS Parties are responsible for purchasing and providing their own Subscriber Equipment to be used on the BVWACS. The purchase of Subscriber Equipment shall be coordinated with the BVWACS Managing Entity.

12. Accounting Records.

The BVWACS Managing Entity maintains accounting records in accordance with generally accepted accounting standards applicable to governmental entities, including compliance with federal guidelines for spending federal funds or bond proceeds.

The BVWACS Managing Entity shall ensure that records pertaining to the BVWACS shall be kept in accordance with the records retention policy of the Managing Entity and in accordance with the Open Records Act. At any reasonable time, upon three (3) business days prior written notice, any BVWACS Party may inspect, copy, examine, and/or audit the BVWACS records, at that BVWACS Party's expense, at the office of the BVWACS Managing Entity, or any other mutually acceptable location.

13. Contracting Authority.

Except for real estate transactions, the BVWACS Parties hereby grant such BVWACS Managing Entity the authority to contract on behalf of the BVWACS Parties for acquisitions and services that have been approved in the annual BVWACS Budget or as otherwise approved by the Governing Board, so long as the contracted amount is within the budgeted amount and the payments are made from available funds, using the BVWACS Managing Entity's standard purchasing processes, unless expenditure of federal funds or bond proceeds requires use of additional procedures or guidelines. Procurements shall be made in accordance with the laws applicable to such entity. These contracts shall be administered by the BVWACS Managing Entity.

14. Federal Funds and Bond Funds.

If a BVWACS Party utilizes federal funds, grant funds, or bond funds to meet a portion of their financial commitment under this Agreement, the BVWACS Parties agree to conduct all procurements, maintain all records and otherwise conduct their activities in furtherance of this Agreement so as to comply with all applicable statutes, regulations, policies and grant contract provisions necessary to qualify the BVWACS expenditures contemplated for federal or grant program reimbursement and to avoid arbitrage penalties. Further, the BVWACS Parties agree to cooperate with each other in the application for and administration of federal funds, grant funds, or bond funds to maximize funding participation in the operation and maintenance of the BVWACS. By October 1 of each year each BVWACS Party using federal funds, grant funds, or bond funds to meet a portion of its annual financial commitment shall notify the BVWACS Managing Entity.

15. BVWACS Performance.

The Operating Board shall take such action as may be necessary for assuring that Subscriber Equipment configuration changes or additions do not adversely affect the performance of the BVWACS. The Operating Board may utilize the system assessment services of the BVWACS Support Vendor or other qualified contractor to determine the impact of adding Subscriber Equipment to the BVWACS. The Operating Board may develop policies involving the BVWACS Support Vendor that provide a review process prior to implementing any Subscriber Equipment system configuration changes requested or made by BVWACS Parties. BVWACS Parties shall not take any action that is known or ought to be known to affect the operation of the BVWACS adversely and shall reverse any action taken that affects the operation of the BVWACS adversely. BVWACS Parties shall not change the configuration of their program or template in a way that is known or ought to be known to affect the operation of the BVWACS adversely and shall reverse any change in the configuration of their program or template that affects the operation of the BVWACS adversely.

16. Dissolution of BVWACS.

- A. Dissolution of BVWACS. This Agreement may be voluntarily dissolved before the end of the term if three-fourths of the governing bodies of the BVWACS Parties agree in writing to provide for a dissolution date. The dissolution date shall not be less than twelve (12) months after these BVWACS Parties have executed the agreement to dissolve the BVWACS unless all BVWACS Parties agree to an earlier dissolution date.
- B. Distribution of Assets. If the BVWACS is dissolved either by agreement or at the end of the final term, the assets of the BVWACS shall be equitably distributed among the BVWACS Parties. The BVWACS Parties shall agree on which BVWACS Party receives which assets in the distribution. An agreement for distribution of assets of the BVWACS shall be effective after approval by three-fourths of the governing bodies of the BVWACS Parties. The manner of distribution shall consider and be consistent with the following factors:
 - 1) Participation Level. The BVWACS Party's share of the Capital Costs for Infrastructure and Improvements to the BVWACS and the BVWACS

Party's participation level as stated in Exhibit A, if and as amended as described in Section 9.B.;

- 2) Asset Value. The value of the assets on the dissolution date;
- 3) Manner of Acquisition. The basis on which the asset was acquired, whether the asset
 - a. Was already owned by a Party;
 - b. Was acquired jointly by all BVWACS Parties or
 - c. Was acquired by only one or some of the BVWACS Parties;
- 4) Early Termination. Whether and, if so, when the BVWACS Party terminated its participation in BVWACS before the dissolution of the BVWACS; and
- 5) Utility of Asset. The usefulness of the asset to the BVWACS Party receiving it.

- C. The BVWACS Party to which an asset is distributed shall also be provided evidence and documentation adequate to prove ownership of that asset, including, wherever applicable, transfer of all rights, title and interests, including proprietary and intellectual property rights, to enable that BVWACS Party to upgrade, update, operate, and maintain it or to sell, convey or otherwise dispose of it and the originals of all operations manuals, warranties, bills of sale, licenses, leases, titles and other legal documents related to that asset.

17. Withdrawal of a BVWACS Party.

- A. Notice of Withdrawal. A BVWACS Party may withdraw from this Agreement and terminate its participation in BVWACS at any time by giving at least twelve (12) months prior written notice to the Remaining Parties. The Termination Date shall not be earlier than twelve months after notice is given unless three-fourths of the members of the Remaining Parties agree otherwise. The Withdrawing Party must continue to fund its Annual Assessment through the Termination Date, and if it does so, the Withdrawing Party may continue to participate in the BVWACS until its Termination Date. The portion of the Budget allocated to a Withdrawing Party after receipt of the notice of withdrawal may be reduced by the agreement of three-fourths of the members of the Remaining Parties.

- B. Withdrawal of Managing Entity. In the event the BVWACS Managing Entity is a party to this Agreement and such Party withdraws from the BVWACS, the Governing Board Members representing three-fourths of the members of the Remaining Parties shall appoint a replacement BVWACS Managing Entity. Within ten (10) days after receipt of notice of the identity of the replacement BVWACS Managing Entity, the Withdrawing BVWACS Party that is the BVWACS Managing Entity shall:
- 1) Possession. Transfer control and possession of all BVWACS Infrastructure, BVWACS Improvements including BVWACS real property owned as tenants in common pursuant to this Agreement to the replacement BVWACS Managing Entity.
 - 2) Conveyance of Real Property. Transfer any and all ownership rights it may have to real property acquired pursuant to the terms of this Agreement to the Remaining Parties.
 - 3) Evidence of Ownership. Provide evidence and documentation adequate to prove ownership of the BVWACS Infrastructure, BVWACS Improvements or real property, including, wherever applicable, transferring all rights, title and interests, including proprietary and intellectual property rights, to enable the replacement BVWACS Managing Entity to manage, upgrade, update, maintain, and operate or to sell, convey or otherwise dispose of the BVWACS Infrastructure, BVWACS Improvements or real property if or when the Remaining Parties determine that this is appropriate, and
 - 4) Operations and Legal Documents. Transfer the originals of all deeds, operations manuals, warranties, bills of sale, licenses, leases, titles and other legal documents related to BVWACS Infrastructure, BVWACS Improvements or BVWACS real property to the replacement BVWACS Managing Entity.
- C. Disposition of BVWACS Value of Withdrawing Party. All right, title, and interest in and to the Withdrawing Party's BVWACS Value may be dealt with in one of two ways: 1) sale and assignment by Withdrawing Party; or 2) determination of valuation and disposition of Withdrawing Party's BVWACS Value by Remaining Parties. In either event, all rights of

access, licenses and use to such Withdrawing Party's assets comprising a part of the BVWACS remain in place during the withdrawal process.

- 1) Sale and Assignment by Withdrawing Party. The Withdrawing Party shall offer its BVWACS Value to the Remaining Parties. If none of the Remaining Parties accept the offer within sixty (60) days after receipt of the offer, the Withdrawing Party may sell its BVWACS Value to one or more entities approved by all of the Remaining Parties if the entity or entities enter into an assignment of this Agreement from the Withdrawing Party and accept the duties and obligations of the Withdrawing Party under this Agreement as its or their own duties and obligations. The assignee, if other than a Remaining Party, shall also obtain the rights of the Withdrawing Party under the BVWACS Agreement, including one representative on the Governing Board and one representative on the Operating Board. After the assignment, the BVWACS Agreement shall be construed as if the assignee were listed in the definition of BVWACS Parties. If the Withdrawing Party has an offer to purchase its BVWACS Value from an entity but all of the Remaining Parties do not approve that entity as a reasonable replacement for the Withdrawing Party, the Remaining Parties shall compensate the Withdrawing Party for its BVWACS Value in proportion to their Annual Assessment of BVWACS and obtain a proportionate share of the Withdrawing Party's BVWACS Value.
- 2) Determination of Value by Remaining Parties. If the Withdrawing Party does not give the Remaining Parties notice that, it is exercising its rights under 17.C.1. at least six (6) months before the Termination Date, no later than the Termination Date the Remaining Parties must fairly determine what the Withdrawing Party's BVWACS Value is at the Termination Date. If the Withdrawing Party and the Remaining Parties are unable to agree on the BVWACS Value, an accounting shall be performed by a panel of three persons. The Remaining Parties shall select one person to represent them on the panel. The Withdrawing Party shall select another person to represent it on the panel. The two persons selected shall select a third person

to complete the panel and the accounting. If an accounting is performed, it shall be the basis for determining BVWACS Value for the Withdrawing Party. One-half of the cost of this panel shall be borne by the Withdrawing Party and one-half of the cost of this panel shall be borne by the Remaining Parties.

3) Disposition by Remaining Parties. When the BVWACS Value is determined, the Remaining Parties shall determine how to disburse the ownership of the BVWACS Value of the Withdrawing Party. The Remaining Parties shall consider at least the following options:

- a. New Party. Find another entity to compensate the Withdrawing Party for its BVWACS Value, assume ownership of the Withdrawing Party's BVWACS Value and assume its obligations and rights under the BVWACS Agreement;
- b. Share Value. Divide the Withdrawing Party's BVWACS Value proportionally among the Remaining Parties, compensate the Withdrawing Party for its BVWACS Value, and provide for a proportional increase in Annual Assessment;
- c. Single or some of BVWACS Parties. Allow one or only some of the Remaining Parties to compensate the Withdrawing Party for its BVWACS Value, assume ownership of the Withdrawing Party's BVWACS Value with a corresponding increase in Annual Assessment;
or
- d. Ownership without Use. Require the Withdrawing Party to retain ownership of its BVWACS Value but forfeit its use of the BVWACS and representation on the Governing Board and Operating Board unless and until the Withdrawing Party pays what its accrued share of the systems operations costs from the Termination Date to the end of the then current Budget Year would have been if it had not withdrawn.

D. Exclusion of Withdrawing Party's Votes. The Withdrawing Party and its vote on the Governing Board shall be excluded in determining the votes needed for the Remaining

Parties to make a decision about the disposition of the Withdrawing Party's BVWACS Value after the Termination Date.

- E. Disposition of BVWACS Value by Remaining Parties. If the Remaining Parties select the ownership alternative in 17.C.3.b, or 17.C.3.c the Remaining Parties shall provide for payment of the Withdrawing Party's BVWACS Value in the fiscal year following the fiscal year of the Termination Date.
- F. Effect of Disposition on Membership in Governing Board. If the Remaining Parties select the option in 17.C.2 or 17.C.3.3 and Withdrawing Party's BVWACS Value is divided among the Remaining Parties or assumed by one or only some of the Remaining Parties, the representation of these BVWACS Parties on the Governing Board shall not be increased.
- G. Depreciation of BVWACS Value. If the Withdrawing Party retains its BVWACS Value, the portion of the value that relates to depreciable assets shall be reduced annually on a declining balance method over the useable life of the asset as long as the depreciable assets that form part of the BVWACS Value are owned by one or more of the Remaining Parties. The portion of the BVWACS Value that relates to non-depreciable assets shall remain unchanged.

18. Effect of Breach and Default.

- A. Events of Breach. Breach results from any of the following:
 - 1) Payment. A BVWACS Party's failure to appropriate or pay its Annual Assessment timely;
 - 2) FCC Rules. Violation of FCC rules and regulations by a BVWACS Party or any BVWACS Associate with which it has entered into a BVWACS Associate Interlocal Cooperation Agreement;
 - 3) Policies and Procedures. Individual or repeated violations of approved written policies and procedures by a BVWACS Party or any BVWACS Associate with which it has entered into a BVWACS Associate Interlocal Cooperation Agreement;

- 4) Inappropriate Use. Inappropriate use of the BVWACS by a BVWACS Party or any BVWACS Associate with which it has entered into a BVWACS Associate Interlocal Cooperation Agreement;
- 5) Penalty Payment. Failure to pay FCC penalties or fines resulting from the actions of a BVWACS Party or any BVWACS Associate with which it has entered into a BVWACS Associate Interlocal Cooperation Agreement;
- 6) Improper Disposition of Assets or Interest. Disposing of assets owned by only one or some of the Parties in contravention of the provisions of this Agreement, or failure to follow the required process set forth in this Agreement of divesting a Party's interest in a BVWACS Improvement, BVWACS Infrastructure or BVWACS real property;
- 7) Adverse Impact. Any other action or omission that has a material adverse impact on the operation and maintenance of BVWACS; or
- 8) Substantial Performance. Failure to perform substantially its material obligations other than failure to appropriate or timely pay its Annual Assessment.

B. Breach for Non-Payment. The decision to exercise rights granted by this subsection 18.B. shall be made by the Governing Board. If any BVWACS Party commits the breach described in 18.A.1, the Governing Board may determine to deliver a written notice of breach to the BVWACS Party that specifies the nature of the breach and indicates that unless the breach is cured within thirty (30) days, additional steps shall be taken. A breach described in 18.A.1 can only be cured by paying that Annual Assessment. If the breaching BVWACS Party does not cure that breach within thirty (30) days of receiving the written notice of breach, the breaching BVWACS Party is in default and the Governing Board shall deliver a written notice of default to the BVWACS Party that specifies the following:

- 1) The nature of the default;
- 2) The date of the notice of breach;
- 3) The failure of the breaching BVWACS Party to cure timely; and
- 4) The BVWACS Party's interest in the BVWACS is terminated no later than 60 days from the date of the written notice of breach if the termination is approved by all of the BVWACS Remaining Parties unless the default is

cured by the defaulting BVWACS Party paying that Annual Assessment within an additional thirty (30) days from the date of default as referenced in 18.A.1 above for a total of sixty (60) days from the date of default unless the Governing Board approves a longer timeframe.

- C. Suspension for Other Breaches. If any BVWACS Party commits a breach described in 18.A.2 through 18.A.8 or a breach described in 18.A.2 through 18.A.8 involving use of any radio or other equipment accessing the BVWACS under the authority of a BVWACS Party, the Governing Board may suspend the right of that BVWACS Party to use the BVWACS for that radio or equipment or for any other radio or equipment for a period of time adequate to cure the breach and determine whether additional remedies are needed.
- D. Notice of Breach, Default, and Termination For Other Breaches. The decision to exercise rights granted by this subsection 18.D. shall be made by the Governing Board. If any BVWACS Party commits a breach described in 18.A.2 through 18.A.8, the Governing Board may deliver a written notice of breach to the BVWACS Party that specifies the nature of the breach and indicates that unless the breach is cured within thirty (30) days, additional steps shall be taken. If the breaching BVWACS Party begins to cure the breach within the thirty (30) day period, the thirty (30) day cure period is extended as long as the breaching BVWACS Party continues to prosecute a cure diligently to completion and is making a good faith effort to cure the breach. If the breaching BVWACS Party does not cure the breach within thirty (30) days of receiving the written notice of breach or additional period as extended by diligent prosecution of a good faith effort to cure the breach, the breaching BVWACS Party is in default and the Governing Board shall deliver a written notice of default to the BVWACS Party which specifies the following:
- 1) The nature of the default;
 - 2) The date of the notice of breach;
 - 3) The failure of the breaching BVWACS Party to cure timely; and
 - 4) The BVWACS Party's interest in the BVWACS is terminated on the effective date stated in the notice if the termination is approved by all of the BVWACS Remaining Parties unless the default is cured within thirty (30) days of the notice of default.

E. Disposition of BVWACS Value. The Remaining Parties shall determine as to how the Terminated Party's BVWACS Value shall be disposed. The Remaining Parties have ninety (90) days after the date that termination is effective to determine the value and disposition of the Terminated Party's BVWACS Value. The Remaining Parties may seek an agreement with the Terminated Party about its BVWACS Value. If the Terminated Party and the Remaining Parties are unable to agree on the Terminated Party's BVWACS Value, they shall use the method for determination of value in section 17.C. as if the Terminated Party were a Withdrawing Party. When the BVWACS Value is determined, the Remaining Parties shall determine how the ownership of the BVWACS Values is to be disposed. The Remaining Parties shall consider at least the following ownership alternatives for the BVWACS Value of the Terminated Party:

- 1) New Party. Find another entity to compensate the Terminated Party for its BVWACS Value, assume the ownership of the Terminated Party's BVWACS Value, and assume its obligations and rights under the BVWACS Agreement;
- 2) Share Value. Divide the Terminated Party's BVWACS Value proportionally among the Remaining Parties so that the Remaining Parties can each compensate the Terminated Party for their share of the BVWACS Value and pay a proportional increase in Annual Assessment in the fiscal year following the fiscal year in which the default last occurred;
- 3) One or More BVWACS Parties. Allow one or more Remaining Parties to compensate the Terminated Party for its BVWACS Value and assume ownership of the Terminated Party's BVWACS Value with a corresponding increase in Annual Assessment; or
- 4) Ownership without Use. Require the Terminated Party to retain the ownership of its BVWACS Value but forfeit its use of the BVWACS and representation on the Governing Board and Operating Board and annually reduce its BVWACS Value by twenty per cent (20%) of the original BVWACS Value so that the Terminated Party has no BVWACS Value remaining after five (5) years. The Terminated Party would transfer the reduction in value among the Remaining Parties each of such five (5) years

proportionally based on the Remaining Parties' respective participation level during the year such distribution is made.

- F. Exclusion of Terminated Party's Votes. The Terminated Party and its vote on the Governing Board shall be excluded in determining the votes needed for the BVWACS Remaining Parties to make a decision about the disposition of the Terminated Party's BVWACS Value after the date that termination is effective.
- G. Effect of Termination on Representation on Governing Board. If the Terminated Party's BVWACS Value is divided among the Remaining Parties or assumed by only one or some of the Remaining Parties, the representation of these BVWACS Parties on the Governing Board shall not be increased.

19. Effect of Withdrawal or Termination on Remaining Parties.

Termination or withdrawal of a BVWACS Party has no effect on a Remaining Party's rights to participate in the BVWACS other than the specific rights and duties set out in this Agreement, and the continuing duty of all Remaining Parties to pay their Annual Assessment.

20. FCC Licenses.

Termination or withdrawal of any Party from the BVWACS shall include the surrender to the Remaining Parties any and all of that BVWACS Party's radio frequency licenses that were licensed for the purpose of implementing the BVWACS. The Remaining Parties shall determine whether to request reassignment of the license to another BVWACS Party or surrender these licenses to the Federal Communications Commission (FCC). The Remaining Parties are responsible for complying with all rules and regulations of the FCC related to reassignment and surrender of these licenses. Notwithstanding the above, licenses held, managed and owned by only one or some of the Parties as the exclusive license of such Party or Parties at the time of termination or withdrawal are not subject to the provisions of this section.

21. Dispute Resolution Process.

- A. Cooperation. All BVWACS Parties are encouraged to work together to resolve all disputes prior to invoking the dispute resolution process set forth herein.

- B. Hearing by Operating Board. Any BVWACS Party that has an issue or dispute relating to the BVWACS may request a hearing before the Operating Board. The Operating Board shall hear such matter after requesting information regarding such dispute or issue from such BVWACS Party and from the BVWACS Managing Entity. The Operating Board shall then hold a hearing and render its decision in writing.
- C. Appeal to Governing Board. A BVWACS Party that is adversely affected by the Operating Board's decision may appeal such decision to the Governing Board, which may elect to hear the appeal or refer the matter to mediation.
- D. Withdrawal of Dispute. A dispute may be withdrawn at any time during the Dispute Resolution process.
- E. Timeframes:
- 1) Initial Dispute Hearing. Any BVWACS Party may bring an issue or dispute to the Chair of the Operating Board. The Chair must schedule a meeting of the Operating Board within (15) fifteen business days of receipt of the notice and provide a written determination to the appropriate BVWACS Parties and to the BVWACS Managing Entity within (5) five business days after the hearing. Any appeal of the decision or recommendation of the Operating Board is to the Governing Board.
 - 2) Appeal to Governing Board. Any appeal from the decision of the Operating Board must be made by delivery of written notice of appeal to the BVWACS Managing Entity and Governing Board within (15) fifteen business days after receipt of the Operating Board's decision or recommendation. The Governing Board may meet to hear the appeal or may elect to send the appeal to mediation. The Governing Board, assisted by the BVWACS Managing Entity, either schedules a hearing or sends the appeal to mediation within (25) twenty-five business days of receipt of the notice of the appeal. Any appeal from the Governing Board's recommendation is to a mediator as described below.
 - 3) Mediation. If the Governing Board refers a dispute to mediation, the parties to the dispute shall select, within thirty (30) days, a mediator trained in mediation skills to assist with resolution of the dispute. The parties to the

dispute agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Agreement prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) days after the Governing Board refers the dispute to mediation, the mediator shall be selected by mutual agreement. If that is not possible, by the Dispute Resolution Center of the Brazos Valley or a mutually agreeable mediation center. The parties agree to participate in mediation sessions in good faith for a period of up to thirty (30) days from the date of the first mediation session. Notice of the date, time, and location of the mediation shall be given to the BVWACS Managing Entity, which may attend. The parties to the dispute shall share the costs of mediation equally. If efforts to mediate the dispute are unsuccessful, the parties to the dispute shall then be free to exercise all available rights and remedies under this Agreement, or at law or in equity.

- 4) Application of Government Code, chapter 2260. To the extent that Chapter 2260, Texas Government Code, is applicable to this Agreement, is not inconsistent with the process set forth above, and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used in disputes involving Texas A & M University that cannot be resolved in the ordinary course of business. The designated officers of Texas A & M University, as applicable, shall examine the claim and any counterclaim and negotiate with the claimant in an effort to resolve such claims. The BVWACS Parties specifically agree that

- a. Neither the execution of this Agreement by Texas A & M University nor any other conduct, action or inaction of any representative of Texas A & M University relating to this Agreement constitutes or is intended

to constitute a waiver of Texas A & M University's or the state's sovereign immunity to suit; and

- b. Texas A & M University has not waived its right to seek redress in the courts.

22. Miscellaneous.

- A. Interlocal Agreement. This Agreement is an Interlocal Agreement authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. Each BVWACS Party agrees that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized governmental function, which it is authorized to perform individually under the applicable statutes of the State of Texas and/or its charter. Each BVWACS Party agrees that the compensation to be made to the other BVWACS Parties as set forth in this Agreement is in an amount intended to fairly compensate each performing BVWACS Party for the services or functions it provides hereunder, and is made from current revenues available to the paying BVWACS Party. Where applicable, this Interlocal Agreement shall be administered in accordance with the laws applicable to a home-rule municipality.
- B. Immunity as a Defense. No BVWACS Party has agreed to waive any defense, right, immunity, or other protection under law including any statutory provision, by entering into this Agreement or otherwise participating in the BVWACS.
- C. Retention of Defenses. The Parties agree that neither this Agreement nor the operation or use of the BVWACS by the BVWACS Parties affect, impair, or limit their respective immunities and limitations of liability to the claims of third parties, including claims predicated on premises defects.
- D. Notices. Notices required under this Agreement must be in writing and delivered personally or sent by certified US Mail, postage prepaid, addressed to such BVWACS Party at the following respective addresses:

City:

City of Bryan

Attention: City Manager, with a copy to the City Attorney

P. O. Box 1000

Bryan, TX 77805

City:

City of College Station

Attention: City Manager, with a copy to the City Attorney

PO Box 9960

College Station, TX 77842

City:

City of Brenham

Attention: City Manager, with a copy to the City Attorney

200 West Vulcan Street

PO Box 1059

Brenham, TX 77834

County:

Brazos County

Attention: County Judge, with a copy to County Attorney

200 S. Texas Avenue

Suite 332

Bryan, TX 77803

County:

Washington County

Attention: County Judge, with a copy to County Attorney

100 East Main Street

Suite 104

Brenham, TX 77833

County:

Grimes County

Attention: County Judge, with a copy to County Attorney

100 Main Street

Anderson, TX 77830

Texas A & M University:

Texas A & M University

Attention: Vice President and Associate Provost

For Information Technology and Chief Information Officer

1365 TAMU

College Station, TX 77843-1365

All notices so given are deemed given on the date so delivered or so deposited in the US Mail. All BVWACS Parties may change their address by sending written notice of such change to the other Parties in the manner provided for above.

- E. Assignment. This Agreement being based upon the special qualifications of each BVWACS Party, any assignment or other transfer of this Agreement or any part hereof without the express consent in writing of the other Parties is void and has no effect, which consent shall not be unreasonably withheld.
- F. Entire Agreement. The entire agreement among the BVWACS Parties is contained herein and no change in or modification, termination, or discharge of this Agreement in any form whatsoever is valid or enforceable unless it is in writing and signed by duly authorized representatives of all Parties.
- G. Prior Agreements. This Agreement supersedes any and all prior agreements regarding this subject that may have previously been made. The subject of this Agreement is the construction, acquisition, implementation, operation and maintenance of the BVWACS.
- H. Severability. If any term or provision of this Agreement is, to any extent, rendered invalid or unenforceable, the remainder of this Agreement is not affected, and each other term and provision of this Agreement remains valid and enforceable to the fullest extent permitted by law.
- I. Non-waiver. Failure of a BVWACS Party to exercise any right or remedy for a breach or default of any other BVWACS Party does not waive such right or remedy for that breach or default or in the event of a subsequent breach or default.
- J. Authority of Signatories. Each BVWACS Party represents to all the other BVWACS Parties that the representative signing this Agreement on any BVWACS Party's behalf has been duly authorized by the governing body of that BVWACS Party in compliance with Texas law.
- K. Further Assurances. Each BVWACS Party agrees to perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.
- L. Exhibits. The Exhibits, which are attached hereto and described below, are incorporated herein and made a part hereof for all purposes.

M. Counterparts and Multiple Originals. This Agreement is effective as of the Effective Date set forth in this Agreement. This Agreement may be executed simultaneously in one or several counterparts, each of which is deemed to be an original and all of which together constitute one and the same instrument. The terms of this Agreement become binding upon each BVWACS Party from and after the time that it is executed by all BVWACS Parties. The counterparts may be signed in multiple originals to allow each BVWACS Party to have an originally signed counterpart for each BVWACS Party. The Agreement has been executed in multiple originals, each having equal force and effect, on behalf of the Parties.

Exhibit List:

Exhibit A – BVWACS Architecture

Exhibit B – Service Area map

Exhibit C – BVWACS Associate Standard Terms and Conditions

Exhibit D – Goals and Objectives

Exhibit E – Monthly, Quarterly, and Annual Evaluation Factors

Exhibit F – Governance, Operation, and Maintenance Flow Chart and Distribution of Board Membership

Exhibit G –Staffing for BVWACS Program

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, IMPLEMENTATION, OPERATION AND
MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM
BVWACS Architecture**

Exhibit A

Each of the BVWACS parties will continue to contribute existing infrastructure, and real property currently owned or leased by the parties for the purpose set forth in the Agreement. The infrastructure and real property contributed by each of the parties at the execution of the Agreement is as follows:

City of College Station

Access to RF Site at 2700 Switch Station Rd in College Station TX

Access to Console Site at 2611 Texas Avenue South in College Station TX

Access to Console Site at 1601 Graham Rd in College Station TX

Network connectivity for the following RF and Console Sites to the RNI

College Station RF Site

College Station Console Site

City of Bryan

Access to secure 3rd floor equipment space at 101 Regent Street for RF and Console Site

Network connectivity for the following RF and Console Sites to the RNI

Millican RF Site

Verizon RF Site

Bryan Console Site

City of Bryan Fire Station #4

Brazos County

Access to RF Site at 21550 Kathy Fleming Rd in Millican TX

Access to RF Site at 8538 Deep Well Road in Brazos County, including tower lease

Texas A&M University

Access to RF Site at 570 Floriculture Rd in College Station TX

Access to Console Site at 1111 Research Pkwy in College Station TX

Access to Console Site at 311 Houston Street in College Station TX

Network connectivity for the following RF and Console Sites to the RNI

Hensel Park RF Site

TAMU Console Site

Network connectivity for the RNI to the Tomball Master Site located on Brown Road in Tomball Texas via the Texas A&M University Wide Area Network

City of Brenham

Access to RF Site at 1802 Longwood Dr in Brenham TX

Network connectivity for the following RF and Console Sites to the RNI

Brenham RF Site

Brenham (Washington County) Console Site (Via City Network)

Washington County

Access to RF Site at 3610 FM 1697 in Burton TX

Access to RF Site at 7275 Lone Star Rd in Washington TX

Access to Console Site at 301 N Baylor St in Brenham TX

Grimes County

Access to RF Site at 382 FM 149 West in Anderson TX

Access to RF Site at the Bédias Wastewater Facility in Bédias TX, when constructed.

Texas Department of Public Safety (Information Only)

Under separate agreement, provide microwave link between the North Brazos RF site and the Texas DPS radio tower located in Bryan TX

Under separate agreement, provide microwave link between the Texas DPS radio tower located in Bryan TX and the City of Bryan Fire Station #4

BVWACS

Network connectivity for the following RF and / or Console Sites to the RNI

Burton RF Site via microwave link

LCRA (Washington,TX) RF Site via microwave link

Anderson RF Site via microwave link

Future Grimes County Console Site, if constructed

Network connectivity for the RNI to the Conroe (CXO) Master Site

Public Safety Interoperability Communications (PSIC) grant

The PSIC Grant provided the necessary equipment and racks (consisting of base radios, site controller and radio frequency distribution system), antennas and associated wiring located at each of seven sites, as well as operator consoles replacement/upgrade for the parties as shown below:

Item/Site	Description
Network Connectivity	Leased connectivity to connect all the sites together
Bryan /Brazos County Site	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
College Station Site	Includes 700/800 MHz Multicast Base equipment with racks (12 chls), Xmit & Rcv antennas and coax
College Station Console Sys	As shown in Table 2 below. - 6 operator positions
Bryan/Brazos county Console Sys	Convert existing system to P25
Millican	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
Hensel Park Site	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
TAMU Console Equip	Convert existing system to P25
LCRA - Site	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
Brenham Site	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
Burton Site	Includes 700/800 MHz Multicast Base equipment with racks (6 chls) , Xmit & Rcv antennas and coax
Brenham Emerg Comms Console Sys	As shown in Table 2 below. - 4 operator positions
Management Reserve	Includes structural analysis of all towers and project reserves.

PSIC-Provided Console equipment installed at College Station and the City of Brenham:

IP-based console system

Auxiliary I/O Server

Conventional Channel Gateway

Operator Position Equipment, PC, Mouse, Speakers, Microphone, Keyboard

Console Site Router

Site Controller

LAN Switch

IP Based logging system, archiving interface server, digital logging server, playback station

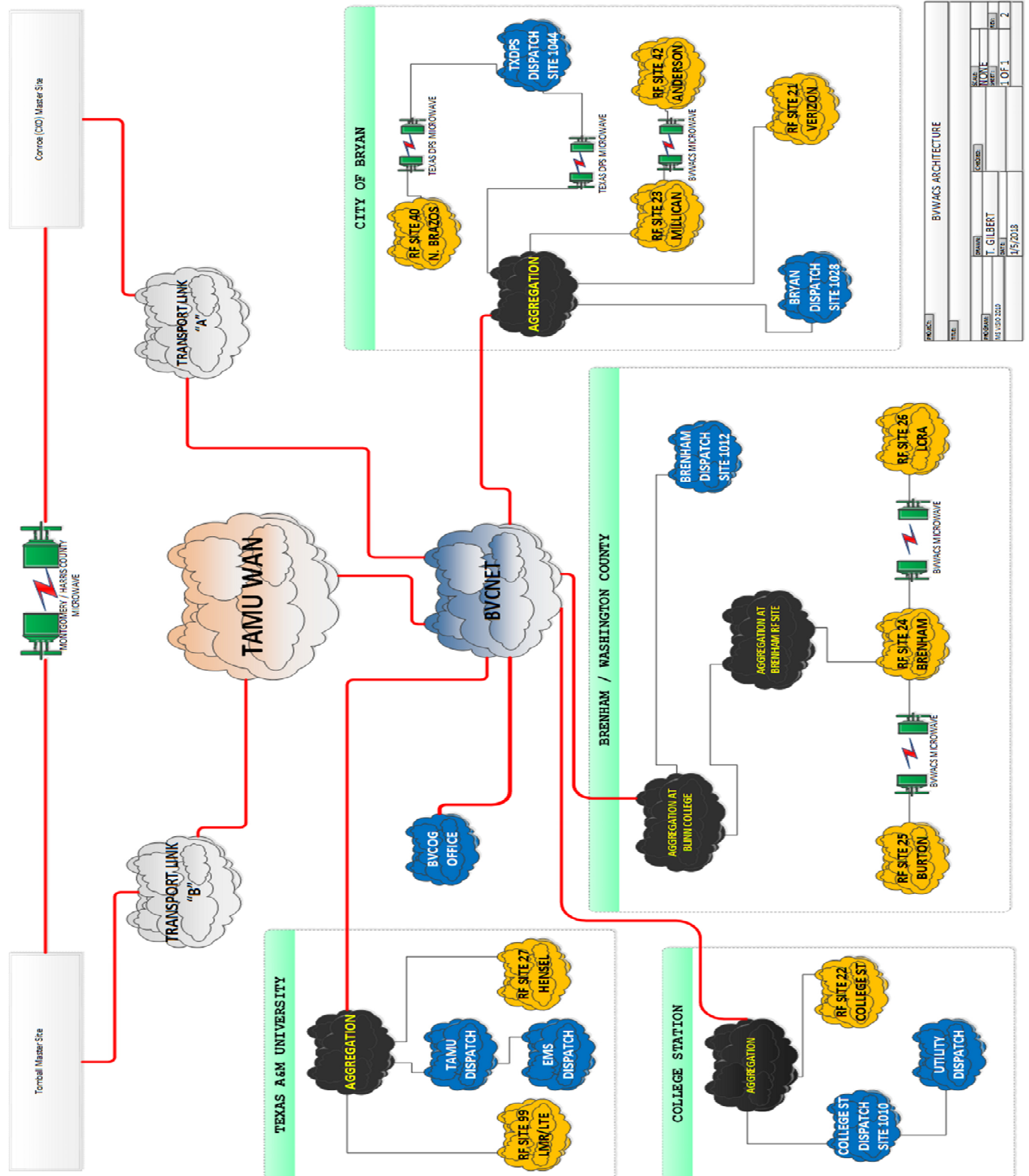
700/800MHz P25 Trunked backup stations

Multimode remote control

Antenna system

Lightning Protection

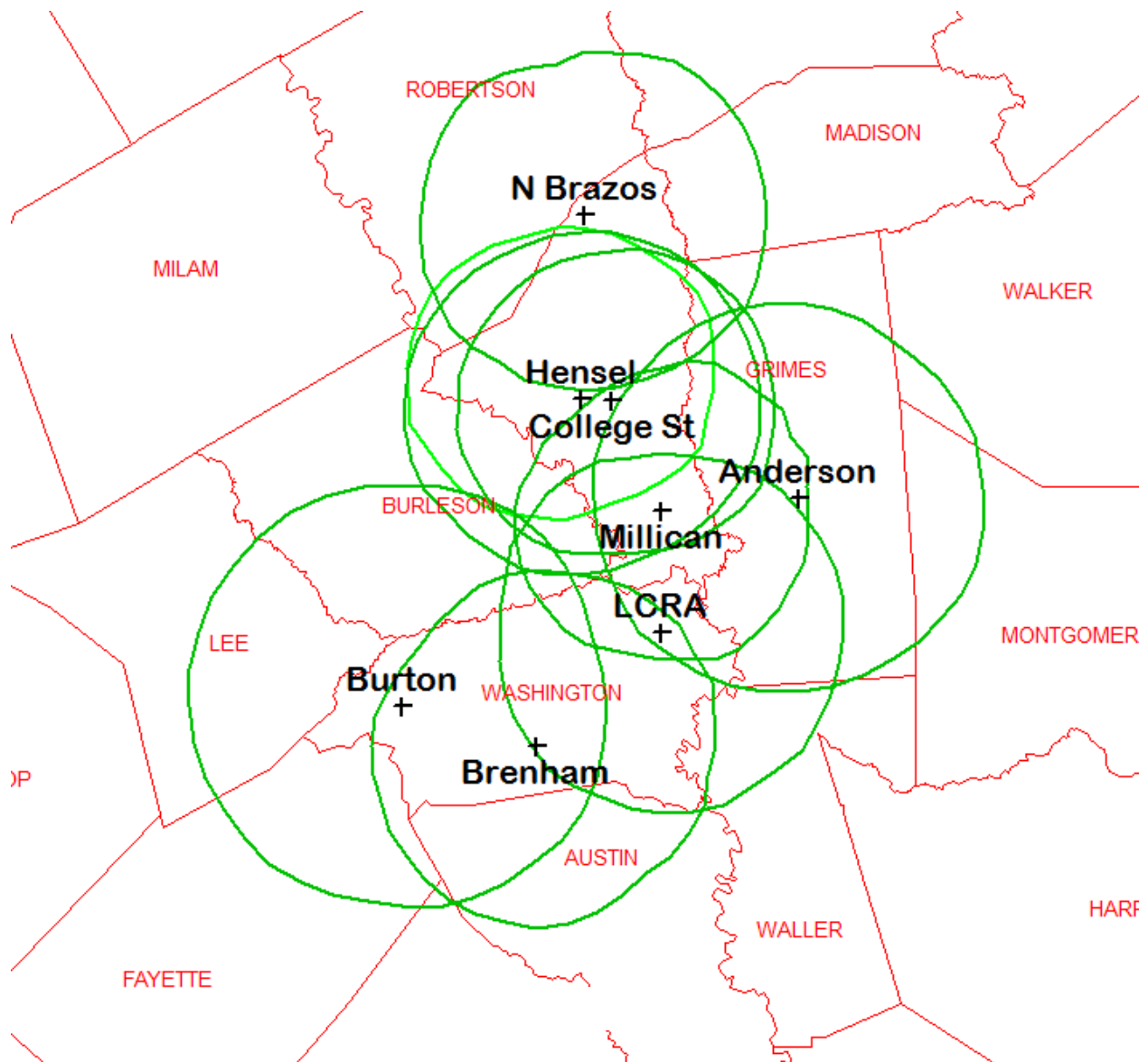
UPS backup power



PROJECT:	DATE:	BY:	REV:
BVWACS ARCHITECTURE			
DESIGNED BY:	CHECKED BY:	DATE:	REV:
T. GILBERT		1/5/2018	1 OF 1
FILE NO:			2

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, IMPLEMENTATION, OPERATION AND
MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

Exhibit B - Service Area Map



**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION
AND MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

Exhibit C - BVWACS Associate Standard Terms and Conditions

When using the Brazos Valley Wide Area Communications System (“BVWACS”), BVWACS Associate shall abide by all policies, procedures and guidelines established by the BVWACS Operating Board, the BVWACS Governing Board, and the terms and conditions of this BVWACS Associate Interlocal Cooperation Agreement

BVWACS Associate shall use the BVWACS in a manner consistent with the Standard Operating Procedures established by the BVWACS Operating Board and in compliance with applicable Federal Communications Commission (“FCC”) regulations and rules.

BVWACS Associate is encouraged to use and improve the interoperation capabilities of the BVWACS and to provide input to the BVWACS Managing Entity on the day-to-day operations of the BVWACS and development of BVWACS standard operating policies and procedures.

BVWACS Associate shall utilize its sponsoring BVWACS Party as its primary point of contact for requests for BVWACS Improvements.

BVWACS Associate shall utilize the BVWACS Managing Entity as its primary point of contact when dealing with problems, or to answer questions. BVWACS Associate shall work in good faith with the BVWACS Managing Entity to help resolve problems.

BVWACS Associate shall purchase and provide its own subscriber radios and equipment to be used on the BVWACS. The selection and specifications for these radios and equipment must be

coordinated with the BVWACS Managing Entity so that all radios and equipment purchased are compatible with the BVWACS.

BVWACS Associate shall ensure that programming for its subscriber equipment that uses the BVWACS is consistent with the Standard Operating Procedures established by the BVWACS Operating Board.

BVWACS Associate has no right to use the BVWACS if the BVWACS Party entering into this BVWACS Associate Interlocal Cooperation Agreement with it is no longer eligible to use the BVWACS.

BVWACS Associate is subject to any limitations or restraints on its usage of BVWACS that apply to the BVWACS Party entering into this BVWACS Associate Interlocal Cooperation Agreement.

The current term of this BVWACS Associate Interlocal Cooperation Agreement shall not exceed the current term of the Interlocal Agreement for Construction, Acquisition, Implementation, Operations and Maintenance of a Wide Area Communications System.

BVWACS Associate may be subject to immediate suspension of this BVWACS Associate Interlocal Agreement for violation of FCC rules and regulations, individual or repeated violations of the BVWACS Standard Operating Procedures, or use of the BVWACS that is determined to be inappropriate by the Governing Board.

Upon thirty (30) days written notice that specifies the existence and nature of the default, the BVWACS Party sponsoring the BVWACS Associate may automatically terminate the participation of BVWACS Associate. Default results from failure to comply with the BVWACS Associate Interlocal Cooperation Agreement, including:

1. Violation of FCC rules and regulations;
2. Individual or repeated violations of the BVWACS Standard Operating Procedures; or
3. Use of the BVWACS that is determined to be inappropriate by the Governing Board.

BVWACS Associate may avoid termination if the default is cured within thirty (30) days. If the BVWACS Associate begins to cure the default within the thirty (30) day period, the time to cure may be extended, at the sole discretion of the sponsoring BVWACS Party, for as long as the BVWACS Associate diligently continues to work toward completion of the cure.

BVWACS Associate shall ensure that the persons it authorizes to use its radios and equipment are trained in the proper use and etiquette for two-way radio communication.

BVWACS Associate shall reimburse the BVWACS Party that is the holder of an FCC license if there is any actual or alleged violation of any FCC rule or regulation as a result of any radios or equipment that is owned by BVWACS Associate or used by any person associated with BVWACS Associate for all costs arising from the actual or alleged violation, including costs and attorney's fees for defense against the allegation as well as fines and penalties incurred.

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION
AND MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

Exhibit D – Goals and Objectives

GOALS

The goal of the Brazos Valley Wide Area Communications System is to provide voice radio and ultimately data transmission coverage and radio communication interoperability throughout the Service Area utilizing Infrastructure and Improvements currently provided by the Parties as well as new Infrastructure and Improvements in accordance with this Agreement.

OBJECTIVES

1. The Brazos Valley Wide Area Communications System shall maintain an appropriate reserve capacity based on the determination of the Governing Board.
2. The Brazos Valley Wide Area Communications System shall strive to maintain coverage at or above 95% reliability for a portable radio worn on the hip with a speaker collar microphone inside a –10db loss building within the Service Area.
3. To the extent practicable, the Brazos Valley Wide Area Communications System shall maintain interoperability with other public safety and governmental radio systems within the Service Area, the Brazos Valley Council of Governments area, regionally, statewide, and nationally.
4. The Brazos Valley Wide Area Communications System shall maintain the performance and equipment of the BVWACS at a standard consistent with the developments in technology and the needs of the BVWACS Parties.
5. The Brazos Valley Wide Area Communications System shall research and pursue opportunities for assistance for funding the BVWACS through grants and other means.

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION
AND MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

Exhibit E – Monthly, Quarterly and Annual Evaluation Factors

Maintain system reserve capacity at or above the level approved by the Governing Board.

Maintain coverage at RFP's coverage specifications.

Report number of minutes of BVWACS non-normal operation.

Report number of system busies.

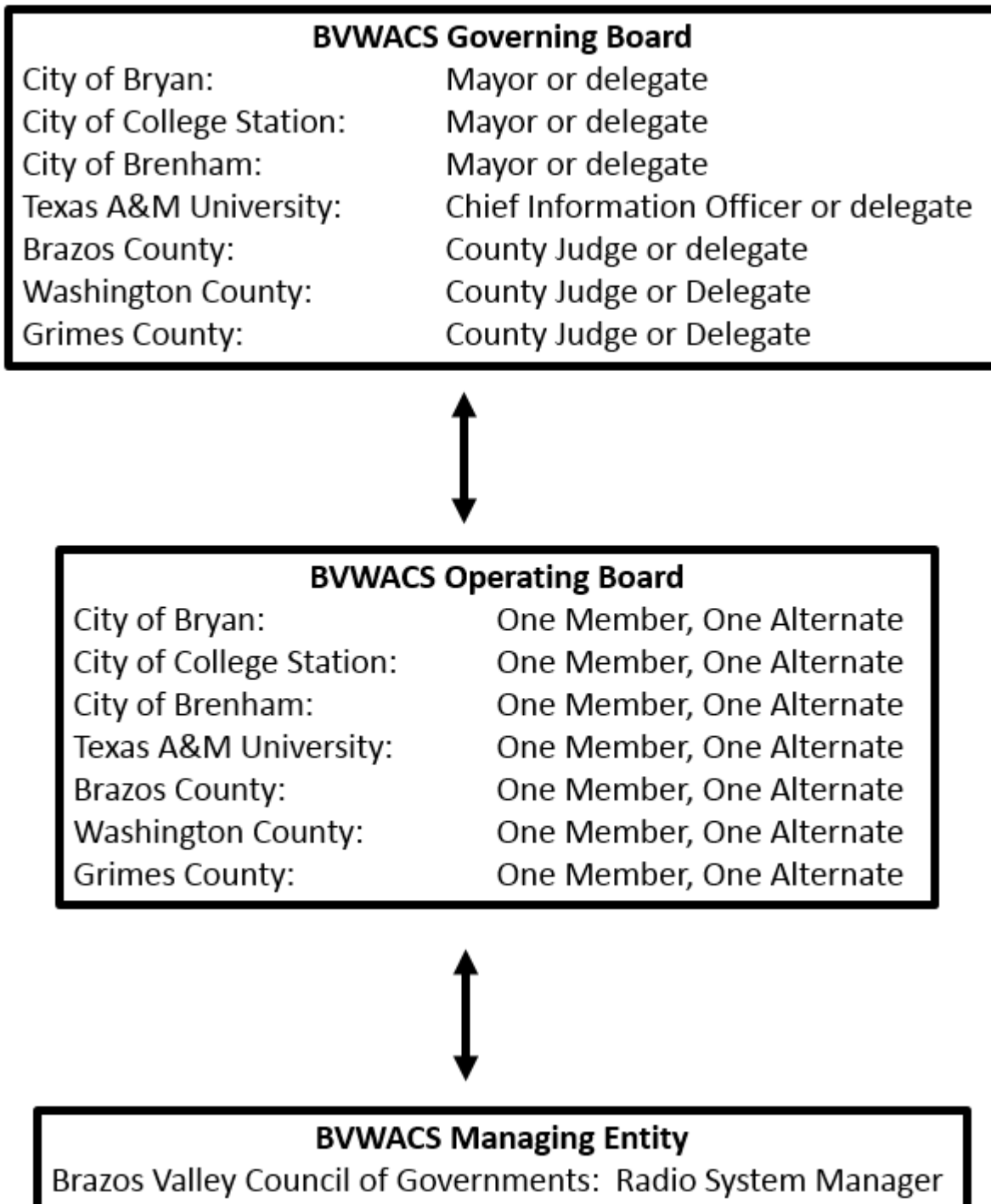
Report BVWACS Support Vendor response time to system problems.

Develop shared staff performance measures.

Report peak Busy Hour for each month.

**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, IMPLEMENTATION, OPERATION AND
MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

**Exhibit F- Governance, Operation, and Maintenance Flow Chart
and Distribution of Board Membership**



**SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION
AND MAINTENANCE OF
THE WIDE AREA COMMUNICATIONS SYSTEM**

Exhibit G – Staffing for BVWACS Program

Radio System Manager (100 %)

CITY OF COLLEGE STATION

Mayor Karl Mooney

Date: _____

ATTEST:

City Secretary

Date: _____

APPROVED:

City Manager

Date: _____

City Attorney

Date: _____

Assistant City Manager / CFO

Date: _____

CITY OF COLLEGE STATION

Mayor Karl Mooney

Date:_____

ATTEST:

City Secretary

Date:_____

APPROVED:

City Manager

Date:_____

City Attorney

Date:_____

Assistant City Manager / CFO

Date:_____

CITY OF COLLEGE STATION

Mayor Karl Mooney

Date:_____

ATTEST:

City Secretary

Date:_____

APPROVED:

City Manager

Date:_____

City Attorney

Date:_____

Assistant City Manager / CFO

Date:_____

CITY OF COLLEGE STATION

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Date:_____

ATTEST:

City Secretary

Date:_____

APPROVED:

City Manager

Date:_____

City Attorney

Date:_____

Assistant City Manager / CFO

Date:_____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE SECOND RESTATEMENT OF THE INTERLOCAL AGREEMENT WITH THE CITY OF BRYAN, CITY OF BRENHAM, BRAZOS COUNTY, WASHINGTON COUNTY, GRIMES COUNTY, AND TEXAS A&M UNIVERSITY TO PROVIDE FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION AND MAINTENANCE OF THE BRAZOS VALLEY WIDE AREA COMMUNICATIONS SYSTEM (BVWACS).

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to perform governmental functions or services including public safety and emergency management; and

WHEREAS, the City Council of the City of College Station, Texas, desires to renew an agreement with the City of Bryan, City of Brenham, Brazos County, Washington County, Grimes County, and Texas A&M University for the construction, acquisition, implementation, operation and maintenance of a regional interoperable radio system; and

WHEREAS, the City Council of the City of College Station, Texas, desires to support interoperable communications for public safety and emergency management agencies; now, therefore,

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

PART 1: That the City Council hereby approves the second restatement of the interlocal agreement with the City of Bryan, City of Brenham, Brazos County, Washington County, Grimes County, and Texas A&M University for the construction, acquisition, implementation, operation and maintenance of a regional interoperable radio system referred to as the Brazos Valley Wide Area Communications System. A copy of such agreement which is attached hereto as Exhibit "A" and incorporated herein.

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

ADOPTED this _____ day of _____, A.D. 2018.

ATTEST:

APPROVED:

City Secretary

MAYOR



Legislation Details (With Text)

File #:	18-0327	Version:	1	Name:	Video Surveillance System
Type:	Agreement	Status:		Status:	Consent Agenda
File created:	5/7/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Presentation, possible action, and discussion regarding approval of a General Services Agreement with ASAP Security Solutions for the acquisition and installation of a video surveillance system, placing cameras and video management in the Northgate District and in the Northgate Parking Garage for a total amount of \$337,182.47.				
Sponsors:	Erin Provazek				
Indexes:					
Code sections:					
Attachments:	18300495 ASAP Security Services.pdf				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a General Services Agreement with ASAP Security Solutions for the acquisition and installation of a video surveillance system, placing cameras and video management in the Northgate District and in the Northgate Parking Garage for a total amount of \$337,182.47.

Relationship to Strategic Goals: Core Services and Infrastructure

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

Summary: The City issued RFP 18-012 for video surveillance solutions that would form the foundation for all future video surveillance installations throughout City-owned facilities. Nine vendor responses were received, 4 vendor demonstrations occurred, and ASAP Security Solutions' proposal for Avigilon cameras and Video Management System software and storage was the highest ranking proposer. This agreement is the first year phase of this project. Year two and year three are planned in the CIP Budget, however additional system expansion will occur in subsequent years as additional cameras are added.

Budget & Financial Summary: Funding was approved and is available from the FY18 Capital Projects Budget for the City-wide Video Surveillance System.

Attachments:

CITY OF COLLEGE STATION GENERAL SERVICE CONTRACT

This General Service Contract is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City"), and ASAP Security Services (the "Contractor"), for the following work:

Video Surveillance Project - Phase 1 - Northgate Parking Garage and Northgate and College Main area
as described in the Scope of Services attached as **Exhibit "A"**.

ARTICLE I PAYMENT AND TERM

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor's Completion of work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed

Three Hundred Thirty Seven Thousand One Hundred Eighty Two and 47 /100 Dollars
(\$ 337,182.47).

1.2 Payment Application. Within **seven (7)** calendar days of completion of the services the Contractor will submit its payment application to the City.

1.3 City's Payment and Approval. The City will pay Contractor as shown in **Exhibit "B"** Payment Schedule, for the services performed no later than **thirty (30)** calendar days from the date of the City's receipt of the payment application and the City's approval of the services.

☒ **1.4 Time is of the Essence.** The Contractor must complete all the services described in the Scope of Services by the following dates:

August 30, 2018.

OR

☐ **1.4 Term.** The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms for a total of three (3) years. Any renewal must be in writing and executed by the parties.

1.5 Executed Contract. The "Notice to Proceed" will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

ARTICLE II CHANGE ORDERS

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City

or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

- (a) **City Manager Approval.** When the original Contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council of the City must approve such change order prior to commencement of the services or work; and
- (b) **City Council Approval.** When the original contract amount plus all change orders is greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000. For such contracts, when a change order exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work. The sum of all change orders may not exceed 25% of the original contract amount.
- (c) **Increase in Scope.** Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in Article I of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.
- (d) **Dispute.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

ARTICLE III INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The Contractor shall be solely responsible for and have control over the means, methods, techniques and procedures, and for coordination of all portions of the work or services. Unless otherwise provided in the Contract, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work or services. In addition, at the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the work or services required by the Contract or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. The City will not control the manner or the means of the Contractor's performance, but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that

may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

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

ARTICLE IV INSURANCE

4.1. The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2. The Contractor’s insurance shall list the City of College Station, its officers, agents, volunteers, and employees as additional insureds. More specifically, the following shall be required. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit “C”**.

Throughout the term of this Agreement the Contractor must comply with the following.

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

- (a.) Commercial General Liability
- (b.) Business Automobile Liability
- (c.) Workers' Compensation

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

- (a.) Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent
- (b.) Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City’s Representative at the time of execution of this Agreement; shall be attached to this Agreement as Exhibit C; and shall be approved by the City before work begins
- (c.) Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be listed on the Certificate of Insurance and are acceptable on a per-occurrence basis only
- (d.) The City will accept only licensed Insurance Carriers authorized to do business in the State of Texas

- (e.) The City will not accept “claims made” policies
- (f.) Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City

4.5. 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 under the current A. M. Best Key Rating Guide.
- (b.) Policies shall contain an endorsement listing the City as Additional Insured and further providing “primary and non-contributory” language with regard to self-insurance or any insurance the City may have or obtain
- (c.) Limits of liability must be equal to or greater than \$1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000.00. Limits shall be endorsed to be per project.
- (d.) No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted 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, and Personal & Advertising Liability.

4.6. 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 under the current A. M. Best Key Rating Guide.
- (b.) Policies shall contain an endorsement listing the City as Additional Insured and further providing “primary and non-contributory” language with regard to self-insurance or any insurance the City may have or obtain
- (c.) Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- (d.) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- (e.) The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

4.7. Workers’ Compensation Insurance. The following Workers’ Compensation Insurance shall include the following terms:

- (a.) Employer’s Liability minimum limits of liability not less than \$1,000,000 for each accident/each disease/each employee are required

- (b.) “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04” shall be included in this policy
- (c.) TEXAS must appear in Item 3A of the Workers’ Compensation coverage or Item 3C must contain the following: “All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY”

ARTICLE V INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its Council members, officials, officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys’ fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work or services done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its Council members, officials, officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the 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 regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

ARTICLE VI GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the work or services described in the Scope of Services in a good, workmanlike, and professional manner and in accordance with this Contract, and all applicable laws, codes, and regulations. Contractor shall be fully qualified and competent to perform the work or services. Contractor shall undertake and complete the work or services in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing and the Contractor shall cease work immediately. Contractor shall be compensated for the work or services performed. Should the City terminate this Contract for convenience, the City shall pay Contractor for the work or services performed and expenses incurred before the date of termination.

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

6.4 Amendment. This Contract may only be amended by written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

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

6.7 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

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

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

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

6.11 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.12 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.13 Notice. Any official notice under this Contract will be sent to the following addresses:

CITY OF COLLEGE STATION

Attn: Sindhu Menon

PO BOX 9960

1101 Texas Ave

College Station, TX 77842

smenon @cstx.gov

ASAP Security Services

Attn: Reed Newberry

8713 Fallbrook

Houston, TX 77064

newberry@asapss.com

6.14 Severability. In the event any one or more of the provisions contained in this Contract 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 Contract 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 Contract or by reform by a court of competent jurisdiction.

6.15 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.16 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

6.17 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.** Scope of Services
- B.** Payment Schedule
- C.** Certificates of Insurance

ASAP SECURITY SERVICES

By: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
SCOPE OF SERVICES

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

City of College Station

Scope Statement for Video Surveillance Project

Prepared by:

City of College Station Information
Technology Department

Version:

1.0

Date:

Release Date

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SCOPE STATEMENT

The replacement of the existing cameras in the Northgate parking garage and the new installation of IP megapixel security cameras throughout the Northgate and College Main area.

Project Background and Objectives

ASAP Security Services was invited to compete for the winning design and concept for the publicly bid RFP #18-012

Project Description

Scope and Deliverables

Northgate Parking Garage – 1st Floor – Forty Four (44) Cameras

Remove existing cameras and install/add a total of thirty six (36) – 2 megapixel cameras, four (4) – 3 megapixel cameras, three (3) – 5 megapixel cameras, one (1) – 8 megapixel cameras at or near the same location as existing cameras. Cameras will be connected using Cat6 Ethernet cable, in existing/new/repaired conduit to new one (1) - 24 port Ethernet POE switch in South and one (1) - 48 port Ethernet POE switch in East mechanical rooms on 1st level.

The thirty six (36) - 2 megapixel cameras will be covering the existing ramps, parking spaces, and elevator cameras.

The four (4) – 3 megapixel cameras will be covering the exit lanes.

The three (3) – 5 megapixel cameras will be covering the money/ticket stations, 2nd Street Promenade and blind spots.

The one (1) - 8 megapixel cameras will be mounted outside northeast corner pointed down College Main towards Bryan.

Network DVR – Server with 137TB storage located in parking garage administration areas.

One (1) Samsung 43” Ultra HD LED Monitor with Wall Mounting.

One (1) Ubiquiti airFiber 5 ghz 1+ Gbps, two wireless receivers to be mounted on parking garage facing Northgate area.

Northgate Parking Garage – 2nd Floor – Sixteen (16) Cameras

Remove existing cameras and install a total of 16 – 2 megapixel cameras at or near the same location as existing cameras. Cameras will be connected using Cat6 Ethernet cable, in existing/new/repaired conduit to new 1 - 24 port Ethernet POE switch in South and 1 - 48 port Ethernet POE switch in East mechanical rooms on 1st level.

Northgate Parking Garage – 3rd Floor – Fourteen (14) Cameras

Remove existing cameras and install a total of 14 – 2 megapixel cameras at or near the same location as existing cameras. Cameras will be connected using Cat6 Ethernet cable, in existing/new/repaired conduit to new 2 - 24 port Ethernet POE switches in South and East mechanical rooms on 3rd level.

Northgate Parking Garage – 4th Floor – Eight (8) Cameras

Remove existing cameras and install a total of 6 – 2 megapixel cameras at or near the same location as existing cameras. Cameras will be connected using Cat6 Ethernet cable, in existing/new/repaired conduit to new 24 port Ethernet POE switch in South and East mechanical rooms on 3rd level.

Included on the 4th floor are 2 – 30 megapixel cameras mounted to give the best view towards Northgate area along College Main and 2nd Street.

Pavilion 1 – Two (2) Cameras

Two (2) – 5 megapixel cameras and one (1) wireless transmitter will be placed on Pavilion 1. Conduit, 110 volts AC power, and additional painted wooden structure will be provided by City of College Station for ASAP mounting these cameras.

Pavilion 2 – Three (3) Cameras

Three (3) – 5 megapixel cameras and one (1) wireless transmitter will be placed on Pavilion 1. Conduit, 110 volts AC power, and additional painted wooden structure will be provided by City of College Station for ASAP mounting these cameras.

Pavilion 3 – One (1) Camera

One (1) – 5 megapixel cameras and one (1) wireless transmitter will be placed on Pavilion 1. Conduit, 110 volts AC power, and additional painted wooden structure will be provided by City of College Station for ASAP mounting these cameras.

Pavilion 4 – Four (4) Cameras

Four (4) – 5 megapixel cameras and one (1) wireless transmitter will be placed on Pavilion 1. Conduit, 110 volts AC power, and additional painted wooden structure will be provided by City of College Station for ASAP mounting these cameras.

Parking Area Light Pole – Four (4) Cameras

Four (4) – 5 megapixel cameras and one wireless transmitter will be placed at or near same location as existing cameras. 110 volts AC is existing at location.

Traffic Light Pole – Southeast of Corner of University Drive and College Main - One (2) Camera

One (1) – 8 megapixel camera to be mounted on traffic light pole facing west down University Drive. One (1) Ubiquiti airFiber 5 ghz 1+ Gbps will be mounted facing the Northgate Parking Garage. One (1) Ethernet switch will be mounted either on the traffic light pole or inside of traffic controller box for the camera, Air Fiber, and City of College Station fiber optic connection.

One (1) – 8 megapixel camera to be mounted on traffic light pole facing north up College Main.

NOTE: Removal of existing cameras and wireless units that is being replaced by ASAP will include removal of wiring up to traffic control cabinet. IT will supply access to this traffic cabinet.

Pedestrian Areas – Six (6) Cameras

One (1) – 8 megapixel camera mounted on United Methodist Church facing south down College Main.

ASAP to provide Cat6 Ethernet cable at all locations where Ethernet connections are needed.

ASAP to provide conduit system by repairing/replacing/adding new conduit where needed in Northgate Parking Garage.

ASAP will provide a weather and heat hardened copper to fiber switch at traffic light pole on Southeast location of University Drive and College Main.

ASAP Security will take down all old analog camera and wireless communication equipment from the southeast traffic pole in front of the post office and off pavilion 1 and return to the City of College Station.

ASAP Security Services will provide to the City of College Station all software and passwords to configure and manage both cameras and wireless communication radios.

ASAP will provide Ubiquiti Network Management Software and license for this software to the City of College Station.

ASAP will provide all passwords and configuration information on the Ubiquiti Network Management Software that will be implemented for wireless mesh.

ASAP will provide the City of College Station full access to the entire system. The City of College Station's IT Network Division will be contacted as the video management server (VMS) is being brought online to verify all needed IP addresses and make sure the server installation is done according to the city's IT standards.

ASAP will provide complete location drawings and wiring diagrams of Northgate camera system to be submitted before completion.

ASAP will provide SM-SC/UPC or SM-LC/UPC fiber optic connection/module on switch mounted on traffic signal pole.

ASAP will remove all existing cameras, network/DVR, wireless radios, and associated hardware as part of this project.

ASAP will provide City of College Station all existing cameras, network/DVR, wireless radios, and associated hardware as part of this project.

ASAP will complete this project between the hours of 8am to 5pm, weekdays, excluding City of College Station holidays.

ASAP will provide on-site training. City of College Station is expecting at least 2 days, 4 hours each for training. Also, a training manual, on material covered, is expected for each of City of College Station employees attending.

City of College Station will provide all 110v AC power at locations needed.

City of College Station will provide needed mounting additions to the four (4) pavilions in Northgate area.

City of College Station will provide access to locations needed for this project.

City of College Station will provide SM-SC/UPC fiber optic connection at the traffic signal location. This will include providing the proper fiber jumper.

Bill of Materials to be included as part of this Scope of Work.

Timetable/Schedule

Here are our plan timelines. As we progress, we will provide a complete gantt chart with milestones to document this timeline. 1-3 will happen simultaneously. Total timeline is 8-10 weeks:

1. Electrical Survey / Scope of work definition / Complete electrical – 2-3 weeks
2. Wireless Network Setup / Configuration / Testing – 3-4 weeks
3. Parking Garage Replacement / Additions – 2-4 weeks
4. Installation of Northgate Cameras – 3-4 weeks
5. Completion of mapping / revision of settings / testing – 1 week
6. Staff Training
7. 2 week follow up after completion
8. 2 month follow up after completion

Each day daily reports are filled out sent to our project managers. This is visual verified each week during the quality control audits. Each week the project manager will provide a detailed progress report with an updated gantt chart indicating the progress as it relates to the approved work plan. We plan to have this project completed before the first Texas A&M home football game on August 30, 2018. ASAP will begin work immediately upon contract execution to be able to fine tune the system for optimum performance before this date.

Vendor Cost Proposal

Complete cost for all camera equipment, all new Cat-6 cable, power protection, wireless communication, and labor will be \$337,182.47.

Assumptions, Pre-requisites and Out of Scope

ASAP will provide all responsibilities with the exception of: approval by traffic engineer for any cameras mounted on college main or university.

It is ASAP understanding that the parking garage is not currently on the cities fiber network infrastructure. ASAP Security Services will wire from the garage main office to the 4th level of the Northgate parking garage one Ubiquiti airFiber 5 ghz 1+ Gbps real throughput point to point radio antenna to feed to the city's fiber at the southeast corner of College Main and University (across the street from the Texas A&M post office). ASAP will provide a weather and heat hardened copper to fiber switch at this location (pole). It would be the city's responsible to terminate any of the city's fiber to SFP for switch port connection. ASAP will provide the SFP terminal.

If needed (note expected) any agreements between building owners and the city. Even if negotiated by ASAP, the building owner may want City involvement and some type of memorandum of understanding. While we can facilitate the arrangement, the building owner may want the city to be involved. Should that arise ASAP would want to work with the City directly on that piece.

Any repair or maintenance to said equipment would still fall under the ASAP maintenance program.

It is understood that all of the light poles have constant 120vac power available. If that is not the case, the supply of constant power is the cities responsibility. All electrical work is to be provided by the city.

CAD backgrounds for the other facilities or any area are appreciated as they help to document the installation and as-built drawings.

ASAP is currently in negotiations with A&M United Methodist Church to mount a camera on their Southeast corner facing College Main.



ASAP Security Services
8713 Fallbrook
Houston, TX 77064
Phone: (877) 418-2727
Fax: (800) 480-8227

Prepared especially for

City of College Station Northgate & Parking Garage

On Thursday, May 3, 2018
Prepared by Reed Newberry
rnewberry@asapss.com

Proposal: 11101
Created: 5/3/2018
Printed: 5/3/2018

Quantity Description

IP Camera Server

1 Server, 137TB Storage, 2U Rack Mount

IP Camera Licenses

98 1 Enterprise Camera Licence

IP Cameras

- 72 2.0 Megapixel (1080p) WDR, LightCatcher, Day/Night, Outdoor Dome, 3-9mm f/1.3 P-iris lens, Integrated IR, Self-Learning Video Analytics
- 7 5.0 Megapixel, LightCatcher, 4.3-8mm f/1.8 P-iris lens, Integrated IR, Self-Learning Video Analytics
- 6 5.0 Megapixel, LightCatcher, 9-22mm f/1.6 P-iris lens, Integrated IR, Self-Learning Video Analytics
- 2 Cannon 70-200MM F/2.8 Auto Iris, Vari Focal
- 2 7K (30 MP) H.264 HD Pro with LightCatcher Technology
- 7 8.0 Megapixel, 4.3-8mm f/1.8 P-iris lens, Integrated IR, Self-Learning Video Analytics
- 4 3.0 Megapixel WDR, LightCatcher, 9-22mm f/1.6 P-iris lens, Integrated IR, Self-Learning Video Analytics
- 16 HD Bullet Camera Junction Box

IP Camera Switch, Rack and UPS Battery Backup

- 5 Switch, Gigabit POE, 24 Port
- 2 1000 VA UPS Rack/Wall/Tower, 6 Outlets
- 1.00 Wireless Point to Point AirFiber 2 Gbps Radio Equipment

IP Camera Ancillary, Miscellaneous Materials and Cable

- 12.00 CAT6 Cable PVC Green
- 1.00 Samsung 43" Ultra HD LED Monitor with Wall Mounting
- 2.00 Cat6 RJ45 Connectors (100)
- 1.00 Miscellaneous Materials
- 1.00 Shipping and Handling
- 1.00 30-34' 4WD Art Boom Lift - Weekly Price

IP Camera Installation Labor

- 30.00 Cad Design Engineer - Non Taxable
- 20.00 Labor for Installation Project Managment - Non Taxable
- 98.00 Labor for Installation Prewire - Non Taxable
- 275.00 Labor for Installation Trim Out Of Devices - Non Taxable
- 145.00 Labor for Installation Program/Testing/Commission System(s) - Non Taxable
- 40.00 Labor for Installation System Troubleshooting - Non Taxable
- 125.00 Labor for Installation System Programming - Non Taxable

20.00 Labor for Installation Training - Non Taxable

Your Price: \$337,182.47

Total: \$337,182.47

Prices are firm until 6/2/2018

Terms: Due Upon Receipt

Quoted by: Reed Newberry, rnewberry@asapss.com

Date: 5/3/2018

City of College Station Northgate and Parking Garage

Electrician to provide;

- all power required for head-end equipment, remote power supplies and switches as required
- conduit in all electrical/mechanical rooms, wire paths, stub-ups and all open areas as required on pavillions

Drawings provided by the City of College Station were used to prepare this proposal;

-

Work and items NOT included unless specifically identified above;

- single phase power
- painting, patching and/or millwork
- floor, wall or roof penetrations requiring coring
- fire wall penetrations

One 8mp bullet camera will be positioned on the traffic pole on the southeast corner of College Main and University (across the street from the Texas A&M post office). One 8mp bullet camera will be positioned on a light pole at the north side of the parking garage for street coverage of College Main facing Bryan. ASAP will provide all burial cable, conduit, and trenching for said camera. Any camera repositioning for better coverage on level one of the parking garage (including any additional conduit required) will be done by ASAP Security Services. The 3mp that was going on the food truck park is now to be positioned on the Boyett side of pavilion 4 looking towards the food truck park. ASAP Security will provide a 43" Flat Screen LED Monitor that will be installed on the wall inside the parking garage office for camera viewing and control. ASAP Security will take down all old analog camera and wireless communication equipment from the southeast traffic pole in front of the post office and off pavilion 1 and return to the City of College Station. The City will have all passwords and configuration information on the Ubiquiti Network Management Software that will be implemented for wireless mesh. The City of College Station's IT Network Division will be contacted as the video management server (VMS) is being brought online to verify all needed IP addresses and make sure the server installation is done according to the city's IT standards.

Any questions regarding this proposal can be addressed to;

Reed Newberry

832-919-3190 cell

rnewberry@asapss.com

Accepted by: _____

Date: _____

Due to state law, no work on Fire Alarm Installations / Remodels will be performed without proper submittals to the AHJ and a valid Installation/Remodel permit in hand. All Conduit Labor and Material is by others unless specified. Phone Lines are required for both Burglar and Fire Alarm Panels to communicate to a central station and are by others. Network connectivity to alarm panels or computer related equipment by others. ASAP Security provides monitoring of alarm systems, and those fees are additional to this quote and require a monitoring contract. Service Contracts are also an option and require a separate contract and fees. All Fire, Burg and Access Control Alarm Monitoring Permits are the responsibility of the Building Owner.

EXHIBIT B
PAYMENT SCHEDULE

- ☐ The Contractor must submit *monthly* invoices to the City, accompanied by an explanation of charges, fees, services, and expenses. The City will pay such invoices in compliance with the Texas Prompt Payment Act.

-OR-

- ☒ Payment is a fixed fee in the amount listed in Article I of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City. The City will pay such invoices in compliance with the Texas Prompt Payment Act.

Schedule of Payment for each phase:

Progress payments will be dependent upon completion and City acceptance of each milestone as listed in the scope of work.

EXHIBIT C
CERTIFICATES OF INSURANCE

Contract No. 18300495
General Service Contract
Form 04-16-18



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/27/2018

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 John L. Wortham & Son, L.P. PO Box 1388 Houston, TX 77251-1388 www.worthaminsurance.com	CONTACT NAME: (HOU) Betty Gonzalez	FAX (A/C, No): 713-521-8463	
	PHONE (A/C, No, Ext): 713-346-1463	E-MAIL ADDRESS: betty.gonzalez@worthaminsurance.com	
INSURED ASAP Security Services 8713 Fallbrook Houston TX 77064	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Steadfast Insurance Company		26387
	INSURER B: Liberty Mutual Insurance Company		23043
	INSURER C: American Guarantee and Liability Ins. Co.		26247
	INSURER D: Texas Mutual Insurance Company		22945
	INSURER E:		
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:** 41579504**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 ☒ Errors and Omissions GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:			EOL464581807	12/31/2017	12/31/2018	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 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			BAS1857732427	12/31/2017	12/31/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			AUC008632903	12/31/2017	12/31/2018	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	0001219259	12/31/2017	12/31/2018	☒ 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

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

CERTIFICATE HOLDERCity of College Station
P.O. Box 9960
College Station TX 77842**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John L. Wortham & Son, L.P.

John L. Wortham & Son, L.P.

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ACORD 25 (2016/03)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A.** If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B.** Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

City of College Station
P.O. Box 9960
College Station TX 77842

2. Mailing Address:

3. Number Days Advance Notice:

30

All other terms and conditions of this policy remain unchanged

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

1. Number of days advance notice: 30

2. Notice will be mailed to:

City of College Station
P.O. Box 9960
College Station TX 77842

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on

at 12:01 A.M. standard time, forms a part of

Policy No.

of the Texas Mutual Insurance Company

Issued to

Endorsement No.

Premium \$



Authorized Representative

WC420601 (ED. 1-94)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

COVERAGE INDEX

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SECTION II - LIABILITY COVERAGE is amended as follows:

1. BROAD FORM INSURED

SECTION II - LIABILITY COVERAGE, paragraph **A.1. - WHO IS AN INSURED** is amended to include the following as an insured:

d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:

- (1) Is a partnership or joint venture; or
- (2) Is an insured under any other automobile policy; or
- (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph **d. (2)** of this provision does not apply to a policy written to apply specifically in excess of this policy.

e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;

- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSURED

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

4. SUPPLEMENTARY PAYMENTS

SECTION II - LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are 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 at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II - LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III - PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
 - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$750 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
 - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V - DEFINITIONS is amended by adding the following: "Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III - PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

8. PHYSICAL DAMAGE- ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500

9. RENTAL REIMBURSEMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

- A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

- B. SECTION V - DEFINITIONS** is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS** is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III - PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS**, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
 - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
 - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
 - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
 - d. Transfer or rollover balances from previous loans or leases,
 - e. Final payment due under a "Balloon Loan",
 - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
 - g. Security deposits not refunded by a lessor,
 - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
 - i. Any amount representing taxes,
 - j. Loan or lease termination fees; or
2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

- B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

15. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

SECTION IV - BUSINESS AUTO CONDITIONS is amended as follows:

17. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

18. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
 1. You, if you are an individual;
 2. A partner, if you are a partnership;
 3. Member, if you are a limited liability company;
 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

19. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

20. HIRED AUTO COVERAGE TERRITORY

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

SECTION V - DEFINITIONS is amended as follows:

21. BODILY INJURY REDEFINED

Under SECTION V - DEFINITIONS, definition **C.** is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

COMMON POLICY CONDITIONS

22. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS, paragraph **A.** - CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.

Additional Insured – Automatic – Owners, Lessees Or Contractors



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
EOL464581807	12/31/2017	12/31/2018		62294000		

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured:

Address (including ZIP Code):

Shrink Stoppers, LLC. dba: ASAP Security Services; MGM Diversified, LLC; Cameras Onsite, LLC, ASAP Real Estate, LLC & ASAP Triangle Acquisitions, LLC.; Security Cowboys, LLC , Circle Industries, Inc.
8713 Fallbrook
Houston TX 77064-

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations or "your work" as included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

- a. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. The following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – **Commercial General Liability Conditions**:

The additional insured must see to it that:

1. We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
2. We receive written notice of a claim or "suit" as soon as practicable; and
3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. For the purposes of the coverage provided by this endorsement:

1. The following is added to the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

Primary and Noncontributory insurance

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

- a. The additional insured is a Named Insured under such other insurance; and
 - b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.
- F. With respect to the insurance afforded to the additional insureds under this endorsement, 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 written contract or written agreement referenced in Paragraph A. of this endorsement; 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.

All other terms and conditions of this policy remain unchanged.

**ZURICH**

Waiver Of Subrogation (Blanket) Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l. Prem	Return Prem.
EOL464581807	12/31/2017	12/31/2018			\$	\$

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition**:

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.



Blanket Notification to Others of Cancellation

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
EOL464581807	12/31/2017	12/31/2018				

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. If we cancel this Coverage Part by written notice to the first Named Insured for any reason other than nonpayment of premium, we will deliver electronic notification that such Coverage Part has been cancelled to each person or organization shown in a Schedule provided to us by the First Named Insured. Such Schedule:

1. Must be initially provided to us within 15 days:
 - a. After the beginning of the policy period shown in the Declarations; or
 - b. After this endorsement has been added to policy;
2. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled;
3. Must be in an electronic format that is acceptable to us; and
4. Must be accurate.

Such Schedule may be updated and provided to us by the First Named Insured during the policy period. Such updated Schedule must comply with Paragraphs **2.**, **3.** and **4.** above.

- B.** Our delivery of the electronic notification as described in Paragraph **A.** of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to the first Named Insured. Delivery of the notification as described in Paragraph **A.** of this endorsement will be completed as soon as practicable after the effective date of cancellation to the first Named Insured.
- C.** Proof of emailing the electronic notification will be sufficient proof that we have complied with Paragraphs **A.** and **B.** of this endorsement.
- D.** Our delivery of electronic notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
1. Extend the Coverage Part cancellation date;
 2. Negate the cancellation; or
 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- E.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

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. () Specific Waiver
Name of person or organization

(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 2.00 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 INCLUDED, SEE INFORMATION PAGE.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on

at 12:01 A.M. standard time, forms a part of

Policy No. TSF-0001219259

of the Texas Mutual Insurance Company

Issued to SHRINK STOPPERS LLC

DBA: ASAP SECURITY SERVICES

Premium \$

NCCI Carrier Code 29939

Endorsement No.



Authorized Representative

WC420304B (ED. 6-01-2014)

AGENT'S COPY

QUSER



Commercial Umbrella Liability Policy

There are provisions in this policy that restrict coverage. Read the entire policy carefully to determine your rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the **Named Insured** shown in the Declarations, and any other person or organization qualifying as a **named insured** under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word **insured** means any person or organization qualifying as such in **SECTION V. DEFINITIONS** of this policy.

Words and phrases that are printed in bold-face type are defined in this policy. These definitions are found in **SECTION V. DEFINITIONS** of this policy or in the specific policy provision where they appear.

In consideration of the payment of the premium and in reliance upon the statements in the Declarations and in accordance with the provisions of this policy we agree with you to provide coverage as follows:

Insuring Agreements

SECTION I. COVERAGE

A. Coverage A - Excess Follow Form Liability Insurance

Under **Coverage A**, we will pay on behalf of the **insured** those damages covered by this insurance in excess of the total applicable limits of **underlying insurance**. With respect to **Coverage A**, this policy includes:

1. The terms and conditions of **underlying insurance** to the extent such terms and conditions are not inconsistent or do not conflict with the terms and conditions referred to in Paragraph 2. below; and
2. The terms and conditions that apply to **Coverage A** of this policy.

Notwithstanding anything to the contrary contained above, if **underlying insurance** does not apply to damages, for reasons other than exhaustion of applicable Limits of Insurance by payment of **loss**, then **Coverage A** does not apply to such damages. Also, **Coverage A** does not apply to any form of **casualty business crisis expense** insurance even if such insurance is afforded under **underlying insurance** or would have been afforded except for the exhaustion of the Limits of Insurance of **underlying insurance**.

B. Coverage B - Umbrella Liability Insurance

Under **Coverage B**, we will pay on behalf of the **insured** those damages the **insured** becomes legally obligated to pay by reason of liability:

1. Imposed by law because of **bodily injury, property damage, or personal and advertising injury**; or
2. Assumed under an **insured contract** because of **bodily injury or property damage**;

covered by this insurance but only if the injury, damage or offense arises out of your business, takes place during the policy period of this policy and is caused by an **occurrence** happening anywhere. We will pay such damages in excess of the **Retained Limit** specified in Item 5. of the Declarations or the amount payable by **other insurance**, whichever is greater.

Coverage B does not apply to any **loss**, claim or **suit** for which insurance is afforded under **underlying insurance** or would have been afforded except for the exhaustion of the Limits of Insurance of **underlying insurance**.

The amount we will pay for **loss** under **Coverage A** or **Coverage B** is limited as described in **SECTION II. LIMITS OF INSURANCE**.

We have no obligation under **Coverage A** and/or **Coverage B** with respect to any settlement made without our consent.

The insurance afforded under **Coverage A** and **Coverage B** applies to **bodily injury or property damage** only if prior to the policy period, no **designated insured** knew that the **bodily injury or property damage** had occurred, in whole or in part. If such a **designated insured** knew, prior to the policy period, that the **bodily injury or property damage** occurred, then any continuation, change or resumption of such **bodily injury or property damage** during or after the policy period will be deemed to have been known prior to the policy period.



Legislation Details (With Text)

File #:	18-0308	Version:	1	Name:	FY18 Budget Amendment #2
Type:	Presentation	Status:		Status:	Agenda Ready
File created:	5/3/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Public Hearing, presentation, possible action, and discussion on Budget Amendment #2 amending Ordinance No. 3936 which will amend the budget for the 2017-2018 Fiscal Year in the amount of \$4,129,094 and presentation, possible action and discussion on interfund transfer totaling \$229,700.				
Sponsors:	Mary Ellen Leonard				
Indexes:					
Code sections:					
Attachments:	FY18 Budget Amendment #2 Ordinance FY18 BA - rev CK				

Date	Ver.	Action By	Action	Result
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Public Hearing, presentation, possible action, and discussion on Budget Amendment #2 amending Ordinance No. 3936 which will amend the budget for the 2017-2018 Fiscal Year in the amount of \$4,129,094 and presentation, possible action and discussion on interfund transfer totaling \$229,700.

Relationship to Strategic Goals:

1. Financially Sustainable City
2. Core Services and Infrastructure

Recommendation(s): Staff recommends the City Council approve Budget Amendment #2 and the interfund transfer.

Summary: The proposed budget amendment is to increase the FY18 budget appropriations by \$4,129,094. The charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover increased expenditures and after holding a public hearing on such budget amendment. Attached is a summary with a description of the items included on the proposed budget amendment. This amendment also includes an interfund transfer. Transfers between Funds require Council approval.

Budget & Financial Summary: The City has resources or can reasonably expect resources to cover the appropriations in this budget amendment. The attached summary has the complete description of the items included on the proposed budget amendment and a description of the interfund transfer. If approved, the net revised budget appropriations will be \$372,908,669.

Reviewed and Approved by Legal: Yes

Attachments:

1. FY18 Budget Amendment #2 Detail Listing
2. Ordinance

ORDINANCE NO. _____

AN ORDINANCE (BUDGET AMENDMENT #2) AMENDING ORDINANCE NO. 2017-3936 WHICH WILL AMEND THE BUDGET FOR THE 2017-2018 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS THEREIN PROVIDED.

WHEREAS, on September 25, 2017, the City Council of the City of College Station, Texas, adopted Ordinance No. 2017-3936 approving its Budget for the 2017-2018 Fiscal Year; and

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

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

PART 1: That Ordinance No. 2017-3936 is hereby amended by amending the 2017-2018 Budget adopted thereto by a net amount of \$4,129,094 as further detailed in Exhibit A attached hereto and incorporated herein for all purposes.

PART 2: That this Budget Amendment #2 shall be attached to and made a part of the 2017-2018 Budget.

PART 3: That except as amended hereby, Ordinance No, 2017-3936 shall remain in effect in accordance with its terms.

PART 4: That this ordinance shall become effective immediately after passage and approval.

PASSED and APPROVED this _____ day of _____ 2018.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

The proposed budget amendment is to increase the FY18 budget for the items listed below by \$4,129,094. Also included is an interfund transfer in the amount of \$229,700. Interfund transfers (transfers between Funds) require Council approval and, therefore, the item is being included as part of this Budget Amendment.

1. **Firehouse Subs Public Safety Foundation Grant – \$24,094 (Budget Amendment)**

Firehouse Subs Public Safety Foundation provides grants to purchase life-saving equipment for first responders and public safety organizations. The College Station Fire Department's bike medic program was awarded a \$24,094 grant in January 2018 for the purchase of six specially equipped bicycles, ten protective vests, fifteen uniforms, and two hundred traffic cones. This budget amendment item will appropriate budget in the General Fund Fire Department.

2. **LED Screen/Trailer - \$82,500 (Budget Amendment)**

This item is for the purchase of a double sided outdoor LED screen/trailer to be used for athletic tournaments and events. The screen will be used to display video to large crowds. The LED screen is fully mobile, so it be used indoors or outdoors at specific locations and then stored when not in use. As the LED screen/trailer will be used primarily for Hotel Tax Funded tournaments and events, the purchase is proposed for the Hotel Tax Fund. This budget amendment item will appropriate the budget in the Hotel Tax Fund to support the expenditure.

3. **Veterans Park and Athletic Complex Phase II Build Out - \$1,550,000 (Budget Amendment)**

On March 5, 2018, Council approved a construction contract for the construction of two synthetic fields at Veterans Park and Athletic Complex. The contract that was approved exceeded the budget available. Council approved a motion to fund the contract using an additional \$1,550,000 in Hotel Tax Funds. This budget amendment item will appropriate in the Hotel Tax Fund the additional needed project budget.

4. **Fire Station #7 Land Purchase - \$700,000 (Budget Amendment)**

This budget amendment item will appropriate budget in the Facilities and Technology Capital Improvement Projects Fund for the purchase of land and related ancillary costs for the Future Fire Station #7. Certificates of Obligation in the amount of \$700,000 are included for this item as part of the upcoming FY18 bond sale.

5. **Southeast Park - \$400,000 (Budget Amendment)**

On February 8, 2018, Council approved a design contract for Southeast Park. The contract that was approved exceeded the budget that had been appropriated in FY18 for design. This budget amendment item will appropriate the additional needed budget in the Facilities and Technology Capital Improvement Projects Fund. Certificates of Obligation in the amount of \$1,400,000 are included for Southeast Park as part of the upcoming FY18 bond sale.

6. Parkland Dedication Funds - \$372,500 (Budget Amendment)

When the FY18 budget was developed, the amounts budgeted in the Park Land Dedication Funds corresponded to the balances in the Funds at that time. This budget amendment item is to increase budget appropriations in several Park Land Dedication Funds in order to expend contributions that were received after the budget was developed. Projects and Park Land Zones proposed to be increased include: \$262,819 in Park Land Zone C (Fund 4162) and \$62,181 in Park Land Zone D (Fund 4163) for the Central Park Parking Lot Rehabilitation; \$35,000 in Park Land Zone 13 (Fund 4183) for the Castlegate Tennis Court Fence Project (PK1814); and \$12,500 in Park Land Zone 10 (Fund 4180) for the Reatta Meadows Park Project (PK1602).

7. Fun for All Playground - \$1,000,000 (Budget Amendment)

On March 22, 2018, Council approved an Interlocal Agreement between the City and the Rotary Club of College Station and College Station Noon Lions Club for the development of the Fun for All Playground at Central Park. The agreement establishes the responsibilities of the City of College Station and the Clubs in the design development and construction of a Fun for All Playground in Stephen C. Beachy Central Park and to provide for effective cooperation in the implementation of the project provisions. The total cumulative liability for all phases and aggregate funding obligation of the City for this Playground project, including all of the described responsibilities contained in the Agreement, shall not exceed five-hundred thousand dollars (\$500,000.00), unless otherwise increased by the City Council. The Clubs shall provide necessary financial funding for the construction of each phase of the Playground Project in cash, prior to the commencement of each phase, with a total Playground project not-to-exceed amount of four-million dollars (\$4,000,000.00). It is anticipated that the first phase of construction will be approximately \$1,000,000 and that the construction contract for this phase will be brought to Council for approval in early summer. Once the contract is approved, it is anticipated that the donations received for phase one construction will be transferred to the City for expenditure. This budget amendment item will appropriate the phase one construction budget for the project in the Fun for All Playground Fund.

8. Budget Transfer from Economic Development Fund to Spring Creek Local Government Fund - \$229,700 (Interfund Transfer)

The FY18 budget included an approved Service Level Adjustment in the Economic Development Fund to begin the development of the Spring Creek Corporate Campus. The Spring Creek Local Governmental Fund was established in February 2018 in order to record the revenue and expenditures associated with this effort. This item will transfer the corresponding budget from the Economic Development Fund to the Spring Creek Local Government Fund to support the anticipated costs such as master plan development, surveying, preliminary platting and the identification of infrastructure needs. This item is being included as part of this budget amendment because transfers between Funds must be approved by Council.

Legislation Details (With Text)

File #:	18-0333	Version:	1	Name:	Wellborn Settlement Rezoning – 15135 FM 2154
Type:	Rezoning	Status:		Status:	Agenda Ready
File created:	5/9/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from PDD Planned Development District and SC Suburban Commercial to WC Wellborn Commercial for approximately 4 acres of land located approximately 0.1 miles south from the intersection of FM 2154 and Greens Prairie Road West.				
Sponsors:	Jenifer Paz				
Indexes:					
Code sections:					
Attachments:	Background Information Aerial & SAM Rezoning Map Ordinance				

Date	Ver.	Action By	Action	Result
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Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from PDD Planned Development District and SC Suburban Commercial to WC Wellborn Commercial for approximately 4 acres of land located approximately 0.1 miles south from the intersection of FM 2154 and Greens Prairie Road West.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure
- Diverse Growing Economy

Recommendation(s): The Planning & Zoning Commission heard this item on May 3, 2018 and voted 6-0 to recommend approval of the request.

Summary: This request is amending the zoning district boundaries on the property from PDD Planned Development District and SC Suburban Commercial to WC Wellborn Commercial.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan: The subject property

is located within the Wellborn Community Plan area, with a Future Land Use and Character designation of Wellborn Restricted Suburban. This land use is generally for areas that should have a moderate level of development activities consisting of medium-density single-family residential lots (minimum 20,000 square feet) and may be clustered for reduced lot sizes (minimum 8,000 square feet) with open space so density is not increased when using the cluster option. This land use also allows for 15 percent of the designated area to be used for townhomes, offices, and light commercial.

The proposed zoning district WC Wellborn Commercial would allow for the development of low-density commercial uses that provide services to nearby neighborhoods. In 2016, the City purchased 1.78 acres of right-of-way through the subject area for the future extension of Royder Road. This acquisition created two tracts, approximately 2 acres each, with frontage to future Royder Road, a minor arterial. Due to the size of the properties and accessibility and frontage to Royder Road and FM 2154, the property would be suitable for light commercial development rather than residential. The proposed zoning district is consistent with the Wellborn Community Plan, which was adopted as part of the City's Comprehensive Plan.

- 2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:** The surrounding area is currently zoned R Rural, SC Suburban Commercial, and PDD Planned Development District. The subject property and surrounding areas were annexed into the City in 2015 and given a zoning designation of R Rural.

Within recent years, there have been several rezoning requests within the vicinity for light commercial and residential uses. In 2016, approximately 3 acres were rezoned to SC Suburban Commercial just south of the subject tracts. An additional acre was rezoned to SC Suburban Commercial, which was approved by City Council last month, which is adjacent to this tract for a total of 4 acres of SC Suburban Commercial along FM 2154. The Wellborn Special Utility District office site along Greens Prairie Road West was rezoned to WC Wellborn Commercial in 2016 (and has recently begun renovation). In 2017, approximately 1.2 acres at the intersection of Wellborn Road and Greens Prairie Road West was also rezoned to WC Wellborn Commercial. In addition to the subject rezoning, there is a rezoning request for 4 acres to WC Wellborn Commercial just south of the subject properties that will be heard by City Council on the same agenda. Staff is also recommending approval of this rezoning request.

Along FM 2154 there are several existing commercial land uses that were established prior to the annexation of this area. It is anticipated that properties to the north of Greens Prairie Road West, between FM 2154 and Live Oak Street, will be rezoned and redeveloped in the future for light commercial uses as directed by the Comprehensive Plan and the Wellborn Community Plan.

The proposed zoning district WC Wellborn Commercial would allow for the development of low-density commercial uses that provide services to nearby neighborhoods. This area is experiencing growth of commercial and residential uses, and College Station Independent School District (CSISD) is constructing a new middle school just south between Wellborn Road and Royder Road. The school is expected to open this fall. Additionally, Greens Prairie Elementary School and College Station Intermediate are also south of the subject property, at the intersection Royder Road and Greens Prairie Trail.

In 2016, City Council approved the rezoning of 26 acres to the southeast of the subject property to PDD Planned Development District. The PDD has a base zoning of RS Restricted Suburban,

which allows for the development of medium-density single-family development. The subject property, with a proposed zoning of Wellborn Commercial, is intended to be a continuation of the future PDD development. More recently, on April 12th this year, City Council approved the rezoning of the tract to the east to WRS Wellborn Restricted Suburban (34 acres) and SC Suburban Commercial (0.9 acres), along FM 2154.

Given the recent developments and rezonings within the surrounding area, the proposed rezoning to WC Wellborn Commercial is appropriate and compatible with the existing context of the surrounding area.

3. **Whether the property to be rezoned is physically suitable for the proposed zoning district:** The applicant is proposing to rezone two tracts, each approximately 2 acres, which will have direct frontage along future Royder Road and FM 2154. Each tract has over 400 feet of frontage to the future Royder Road extension, a future 4-lane minor arterial on the City's Thoroughfare Plan.
4. **Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:** Water service will be provided by Wellborn Special Utility District. Sanitary sewer service will be provided by CSU. There is an existing 12-inch sanitary sewer line adjacent to this development within the Royder Road right-of-way. With the recent completion of downstream lift station and force main improvements, there is adequate capacity in the sanitary sewer system to serve the proposed Wellborn Settlement development, which includes the subject property as part of the approximately 26-acre tract to the southeast.

Drainage is mainly to the south within the Peach Creek Drainage Basin, where detention is required. The sites have access to FM 2154 (Wellborn Road), future four-lane major arterial and Royder Road, future four-lane minor arterial. Access to the site will be establish at the site plan stage. Drainage and other public infrastructure required with site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines.
5. **The marketability of the property:** The subject property is currently zoned SC Suburban Commercial and PDD Planned Development District. Due to the purchase of future Royder Road right-of-way through this area, the properties are less marketable as currently zoned than if rezoned for a commercial use in the tracts' new configurations.

Budget & Financial Summary: N/A

Attachments:

1. Background Information
2. SAM & Aerial
3. Rezoning Map
4. Ordinance

NOTIFICATIONS

Advertised Commission Hearing Date: May 3, 2018
Advertised Council Hearing Dates: May 24, 2018

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:

Creek Meadows HOA

Property owner notices mailed: Eight (8)
Contacts in support: None at the time of staff report.
Contacts in opposition: None at the time of staff report.
Inquiry contacts: None at the time of staff report.

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Wellborn Commercial	R Rural	Single-family Residential
South	Wellborn Restricted Suburban	PDD Planned Development District and R Rural	Vacant - Future Wellborn Settlement Subdivision and Single-family Residential
East (across Royder Road)	Wellborn Preserve – Open	R Rural	Single-family Residential
West	N/A	N/A	FM 2154 (TXDOT ROW)

DEVELOPMENT HISTORY

Annexation: April 9, 2015

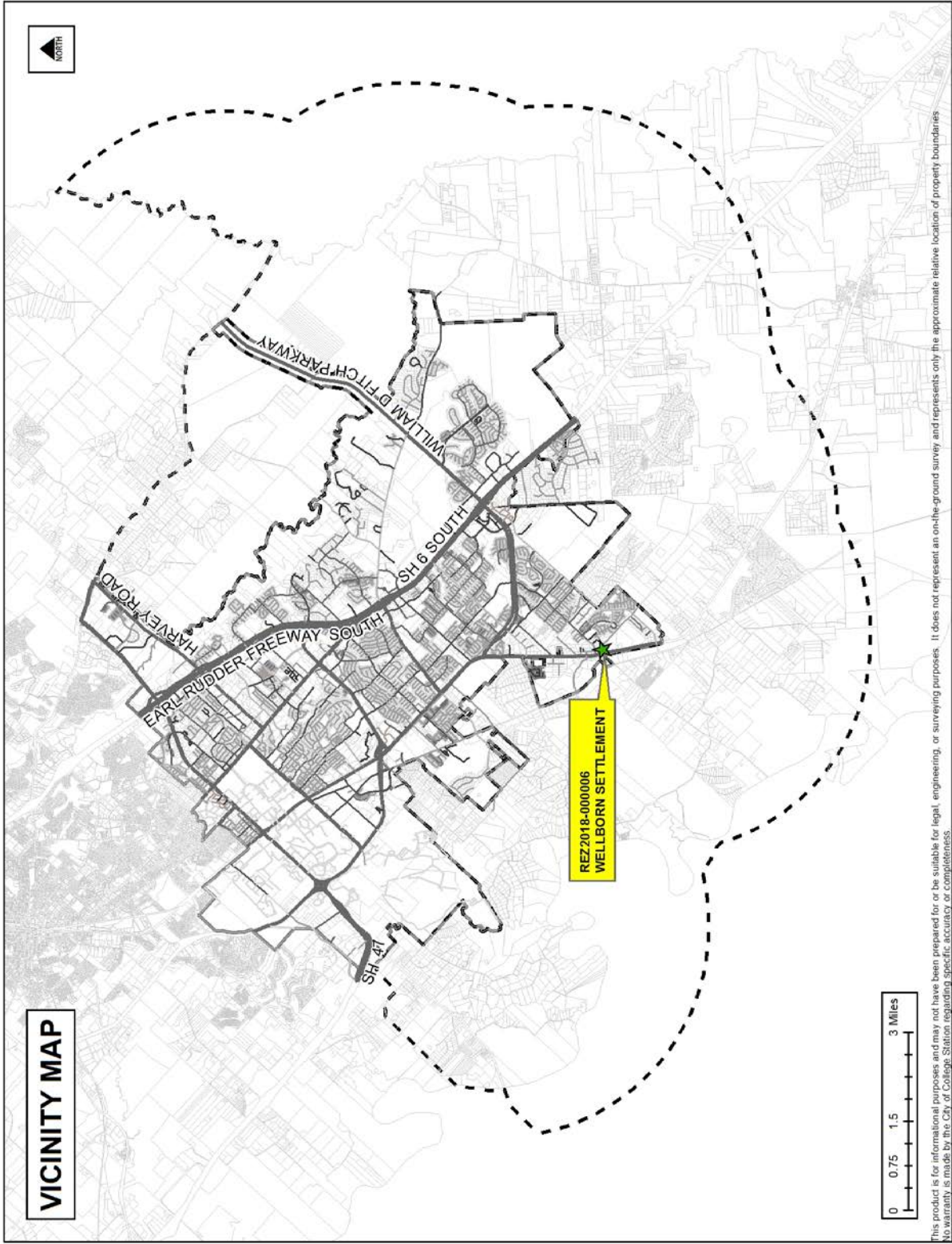
Zoning: A-O Agricultural Open upon annexation
Suburban Commercial portion rezoned in 2016
PDD portion rezoned in 2016

Final Plat: N/A - Unplatted

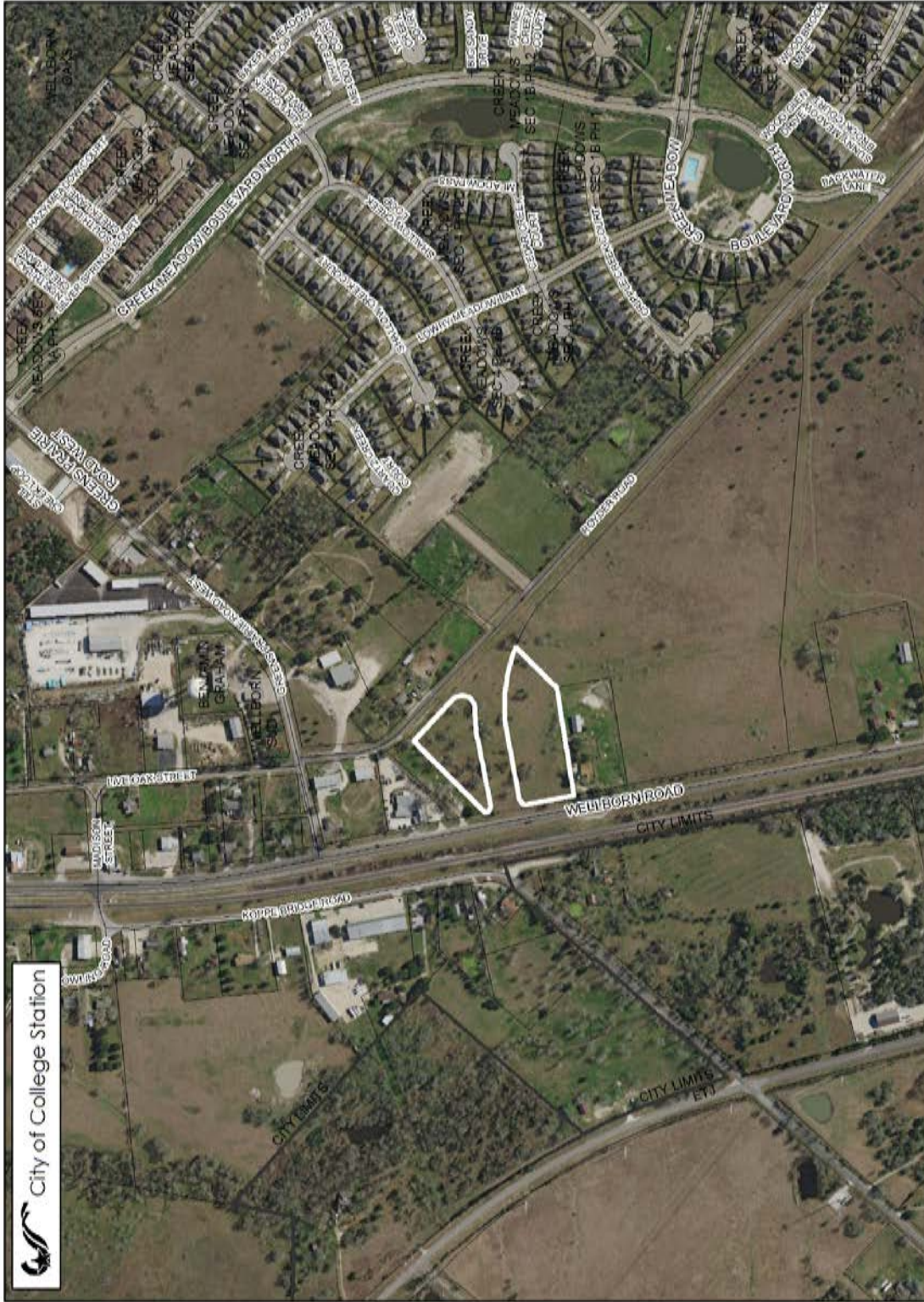
Site development: Property is vacant and undeveloped.



VICINITY MAP



This product is for informational purposes and may not have been prepared for or the suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. No warranty is made by the City of College Station regarding specific accuracy or completeness.



City of College Station

Case: REZ2018-000006	WELLBORN SETTLEMENT	REZONING
----------------------	---------------------	----------

EXISTING Zoning



PROPOSED Zoning



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 PDD PLANNED DEVELOPMENT DISTRICT AND SC SUBURBAN COMMERCIAL TO WC WELLBORN COMMERCIAL FOR APPROXIMATELY FOUR ACRES GENERALLY LOCATED 0.1 MILES SOUTH OF THE INTERSECTION OF GREENS PRAIRIE ROAD WEST AND FM 2154; 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”, Exhibit “B”, and Exhibit “C”** 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 24th day of May, 2018.

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 to read as follows:

The following properties are rezoned from PDD Planned Development District and SC Suburban Commercial to WC Wellborn Commercial:

**METES AND BOUNDS DESCRIPTION
OF A
2.491 ACRE TRACT
SAMUEL DAVIDSON LEAGUE, A-13
BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE SAMUEL DAVIDSON LEAGUE, ABSTRACT NO. 13, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 30.841 ACRE TRACT AS DESCRIBED BY A DEED TO TDG MANAGEMENT, LP RECORDED IN VOLUME 12739, PAGE 30 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A 1/2 INCH IRON ROD FOUND ON THE EAST LINE OF FM 2154 (WELLBORN ROAD – 100' R.O.W.) MARKING A WESTERLY CORNER OF SAID REMAINDER OF 30.841 ACRE TRACT AND THE NORTHWEST CORNER OF A CALLED 2.00 ACRE TRACT AS DESCRIBED BY A DEED TO CARL DAVID HATTAWAY AND WIFE, GWENDOLYN S. HATTAWAY RECORDED IN VOLUME 1220, PAGE 64 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 10° 55' 27" W ALONG THE EAST LINE OF FM 2154 FOR A DISTANCE OF 183.26 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 25.00 FEET;

THENCE: ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 00' 00" FOR AN ARC DISTANCE OF 39.27 FEET (CHORD BEARS: N 34° 04' 33" E – 35.36 FEET) TO THE SOUTH LINE OF A CALLED RIGHT-OF-WAY AS DESCRIBED IN VOLUME 13960, PAGE 19 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: ALONG THE SOUTH LINE OF SAID RIGHT-OF-WAY FOR THE FOLLOWING CALLS:

N 79° 04' 33" E FOR A DISTANCE OF 244.82 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 624.50 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32° 08' 13" FOR AN ARC DISTANCE OF 350.28 FEET (CHORD BEARS: S 84° 51' 20" E - 345.71 FEET) TO THE NORTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 44° 49' 16" W THROUGH SAID REMAINDER OF 30.841 ACRE TRACT FOR A DISTANCE OF 223.06 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE NORTHEAST CORNER OF SAID 2.00 ACRE TRACT;

THENCE: S 80° 51' 19" W ALONG THE COMMON LINE OF SAID REMAINDER OF 30.841 ACRE TRACT AND SAID 2.00 ACRE TRACT FOR A DISTANCE OF 417.85 FEET TO THE **POINT OF BEGINNING** CONTAINING 2.491 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JUNE 2014. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

\\JODS\17-691\17-691B.DOCX



**METES AND BOUNDS DESCRIPTION
OF A
1.466 ACRE TRACT
SAMUEL DAVIDSON LEAGUE, A-13
BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE SAMUEL DAVIDSON LEAGUE, ABSTRACT NO. 13, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 30.841 ACRE TRACT AS DESCRIBED BY A DEED TO TDG MANAGEMENT, LP RECORDED IN VOLUME 12739, PAGE 30 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A 1/2 INCH IRON ROD FOUND ON THE EAST LINE OF FM 2154 (WELLBORN ROAD - 100' R.O.W.) MARKING THE NORTHWEST CORNER OF SAID REMAINDER OF 30.841 ACRE TRACT AND THE SOUTH CORNER OF A CALLED 0.88 ACRE TRACT DESCRIBED AS TRACT 1 BY A DEED TO EUGENE BERNARD SAVAGE II RECORDED IN VOLUME 7912, PAGE 257 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 45° 13' 02" E ALONG THE COMMON LINE OF SAID REMAINDER OF SAID 30.841 ACRE TRACT AND SAID 0.88 ACRE TRACT FOR A DISTANCE OF 388.10 FEET TO THE SOUTHWEST LINE OF ROYDER ROAD (VARIABLE WIDTH R.O.W.) ACCORDING TO THE RIGHT-OF-WAY DEED RECORDED IN VOLUME 13960, PAGE 26 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE A 5/8 INCH IRON ROD FOUND ON THE ORIGINAL SOUTHWEST LINE OF ROYDER ROAD MARKING THE NORTH CORNER OF SAID REMAINDER OF 30.841 ACRE TRACT BEARS: N 45° 13' 02" E FOR A DISTANCE OF 24.45 FEET;

THENCE: S 47° 20' 44" E ALONG THE SOUTHWEST LINE ROYDER ROAD FOR A DISTANCE OF 216.48 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 50.00 FEET, SAID CURVE BEING IN THE NORTHERLY LINE OF ANOTHER RIGHT-OF-WAY AS DESCRIBED IN VOLUME 13960, PAGE 19 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: ALONG THE NORTHERLY LINE OF SAID SECOND RIGHT-OF-WAY FOR THE FOLLOWING CALLS:

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 136° 41' 31" FOR AN ARC DISTANCE OF 119.29 FEET (CHORD BEARS: S 21° 00' 02" W - 92.94 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 739.50 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10° 16' 14" FOR AN ARC DISTANCE OF 132.56 FEET (CHORD BEARS: S 84° 12' 40" W - 132.38 FEET) TO THE END OF SAID CURVE;

S 79° 04' 33" W FOR A DISTANCE OF 244.82 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 25.00 FEET;

THENCE: ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 00' 00" FOR AN ARC DISTANCE OF 39.27 FEET (CHORD BEARS: N 55° 55' 26" W - 35.36 FEET) TO THE **POINT OF BEGINNING** CONTAINING 1.466 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JUNE 2014. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

//JOBS/17-691/17-691A.DOCX



Exhibit B

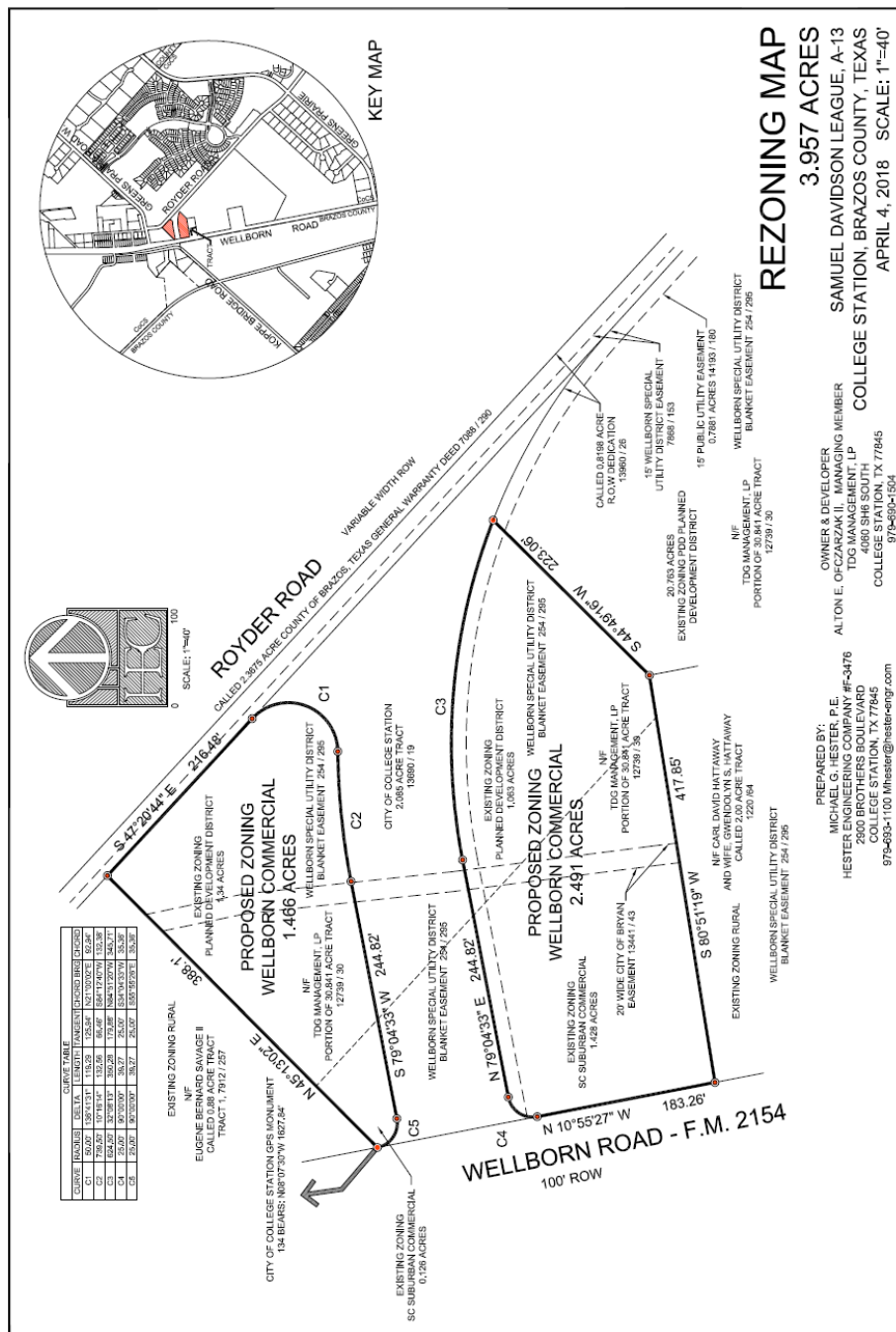


Exhibit C

PROPOSED Zoning



EXISTING Zoning



Legislation Details (With Text)

File #:	18-0334	Version:	1	Name:	Wellborn Settlement Rezoning – 15307 FM 2154
Type:	Rezoning	Status:		Status:	Agenda Ready
File created:	5/9/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to WC Wellborn Commercial for approximately 4.4 acres on FM 2154 approximately 0.5 miles south of the intersection of FM 2154 and Greens Prairie Road West.				
Sponsors:	Jenifer Paz				
Indexes:					
Code sections:					
Attachments:	Background Information SAM and Aerial Rezoning Map Ordinance				

Date	Ver.	Action By	Action	Result
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Public Hearing, presentation, possible action, and discussion regarding an ordinance amending Appendix A, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to WC Wellborn Commercial for approximately 4.4 acres on FM 2154 approximately 0.5 miles south of the intersection of FM 2154 and Greens Prairie Road West.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure
- Diverse Growing Economy

Recommendation(s): The Planning & Zoning Commission heard this item on May 3, 2018 and voted 6-0 to recommend approval.

Summary: This request is amending the zoning district boundaries on the property to rezone approximately 4.4 acres from R Rural to WC Wellborn Commercial.

REZONING REVIEW CRITERIA

- Whether the proposal is consistent with the Comprehensive Plan:** The subject property is located within the Wellborn Community Plan area, with a Future Land Use and Character designation of Wellborn Restricted Suburban. This land use is generally for areas

that should have a moderate level of development activities consisting of medium-density single-family residential lots (minimum 20,000 square feet) and may be clustered for reduced lot sizes (minimum 8,000 square feet). Open space should be provided so density is not increased when using the cluster option. This land use also allows for 15 percent of the designated area to be used for townhomes, offices, and light commercial. The proposed zoning district WC Wellborn Commercial is consistent with the Wellborn Community Plan, which was adopted as part of the City's Comprehensive Plan.

2. **Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:** The surrounding area is currently zoned R Rural, SC Suburban Commercial, and PDD Planned Development District. When the subject property and surrounding areas were annexed into the City in 2015, they were zoned R Rural. The Creek Meadows development, to the east is developed as medium-density residential. The development was master planned prior to annexation and continues to develop according to its PDD ordinance. In 2016, City Council approved the rezoning of 26 acres to the north of the subject property to PDD Planned Development District. The PDD has a base zoning of RS Restricted Suburban, which allows for the development of medium-density single-family development. The subject property, with a proposed zoning of Wellborn Restricted Suburban, is intended to be a continuation of the future PDD development. More recently, on April 12th this year, City Council approved the rezoning of the tract immediately to the east to WRS Wellborn Restricted Suburban (34 acres) and SC Suburban Commercial (0.9 acres), along FM 2154. The subject property, 4.4 acres along FM 2154 (a future 4-lane major arterial) is proposed to be zoned WC Wellborn Commercial. WC Wellborn Commercial would allow for the development of low-density commercial uses that provide services to nearby neighborhoods. North of the subject tract, along FM 2154, there is approximately three acres zoned SC Suburban Commercial. The rezoning was approved by City Council in 2016, before the adoption of the Wellborn Zoning Districts. Although SC Suburban Commercial is not a Wellborn Zoning District, it has similar characteristics as Wellborn Commercial and would allow for the properties to consolidate and develop uniformly. Furthermore, there is a rezoning request for two tracts, making up approximately 4 acres, to WC Wellborn Commercial at the intersection of FM 2154 and future Royder Road located north of the subject tract. This rezoning will be heard by City Council at the same meeting and staff is also recommending approval of this rezoning. Therefore, WC Wellborn Commercial is an appropriate and compatible with the existing context of the surrounding area.
3. **Whether the property to be rezoned is physically suitable for the proposed zoning district:** The applicant is proposing approximately 4.4 acre along FM 2154 to be rezoned to WC Wellborn Commercial. The tract has approximately 398 feet of frontage to FM 2154 and is substantial for the development of a light commercial use, as intended by the zoning district.
4. **Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:** Water service will be provided by Wellborn Special Utility District. Sanitary sewer service will be provided by CSU. There is an existing 12" sanitary sewer line adjacent to this development within the Royder Road right-of-way. With the recent completion of downstream lift station and force main improvements, there is adequate capacity in the sanitary sewer system to serve the proposed Wellborn Settlement development, which includes the subject property as part of an approximately 39-acre tract and an approximately 26-acre tract to the north. Drainage is mainly to the south within the Peach Creek Drainage Basin, where detention is required. The site has access to FM 2154 (Wellborn Road), future 4 lane major

arterial. Access to the site will be established at the site plan stage. Drainage and other public infrastructure required with site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines.

5. **The marketability of the property:** The subject property is currently zoned R Rural. The marketability of the property would increase if rezoned for a commercial use.

Budget & Financial Summary: N/A

Attachments:

1. Background Information
2. Vicinity Map, Aerial, and SAM
3. Rezoning Map
4. Ordinance

NOTIFICATIONS

Advertised Commission Hearing Date: May 3, 2018
Advertised Council Hearing Dates: May 24, 2018

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:

Creek Meadows HOA

Property owner notices mailed: Two (2)
Contacts in support: None at the time of staff report.
Contacts in opposition: None at the time of staff report.
Inquiry contacts: None at the time of staff report.

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Wellborn Restricted Suburban	R Rural	Single-family Residential
South	Wellborn Restricted Suburban	WRS Wellborn Restricted Suburban	Vacant - Future Wellborn Settlement Subdivision
East	Wellborn Restricted Suburban	WRS Wellborn Restricted Suburban	Vacant - Future Wellborn Settlement Subdivision
West	N/A	N/A	FM 2154 (TXDOT ROW)

DEVELOPMENT HISTORY

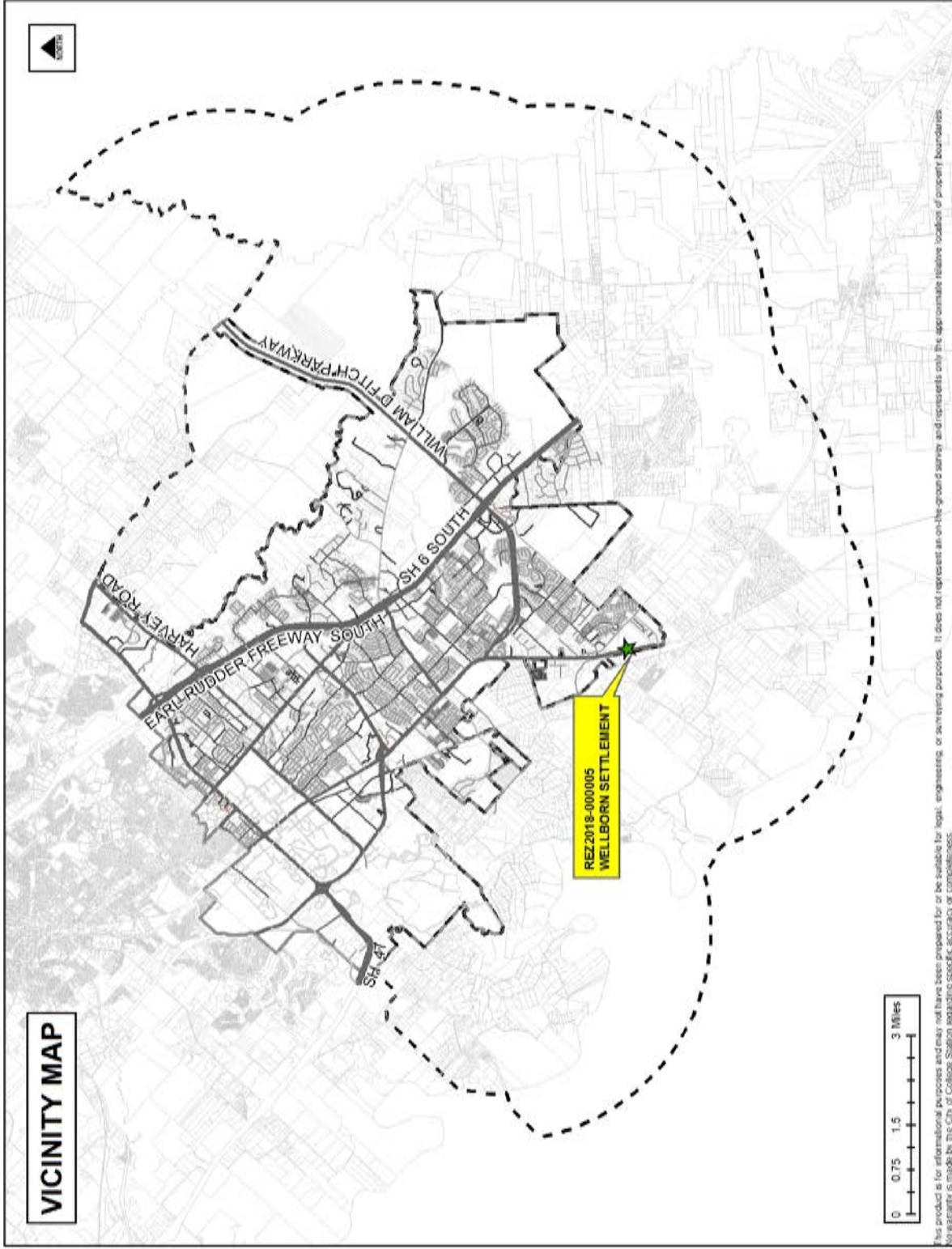
Annexation: April 9, 2015

Zoning: A-O Agricultural Open upon annexation
A-O Agricultural Open renamed to R Rural in 2013

Final Plat: N/A - Unplatted

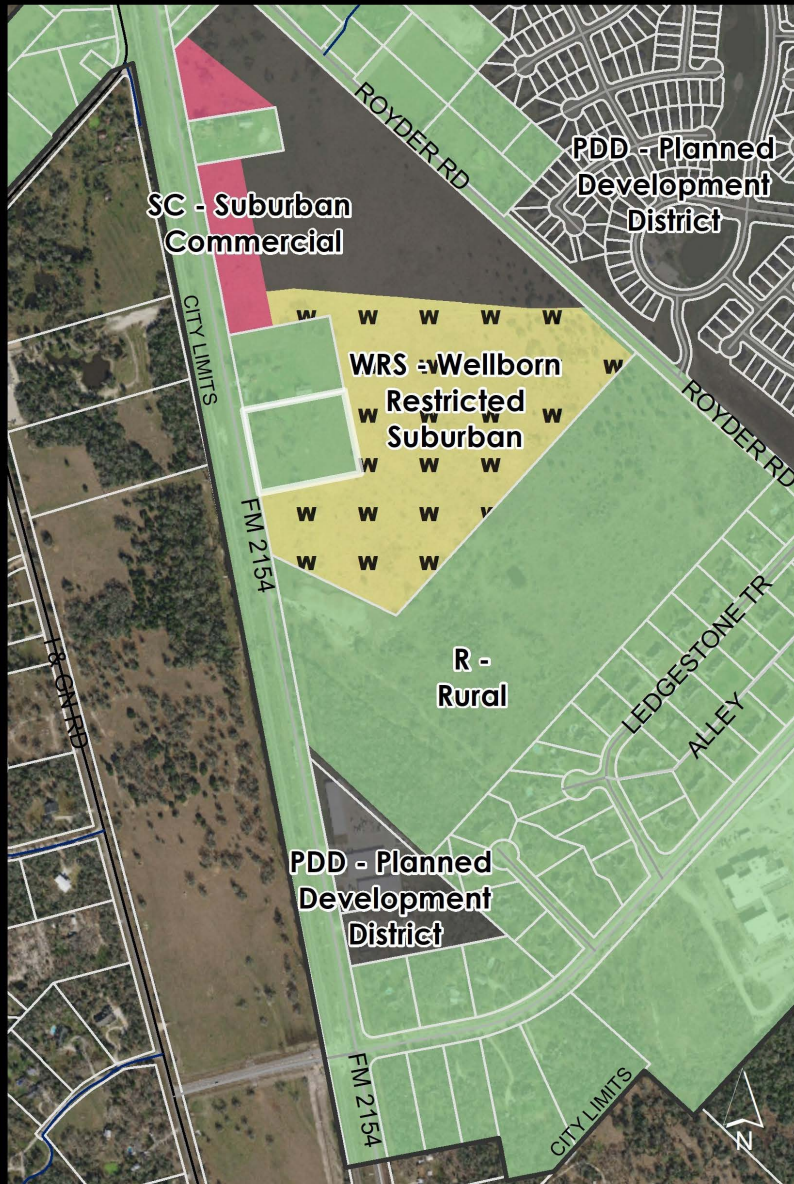
Site development: Property is vacant and undeveloped.

VICINITY MAP

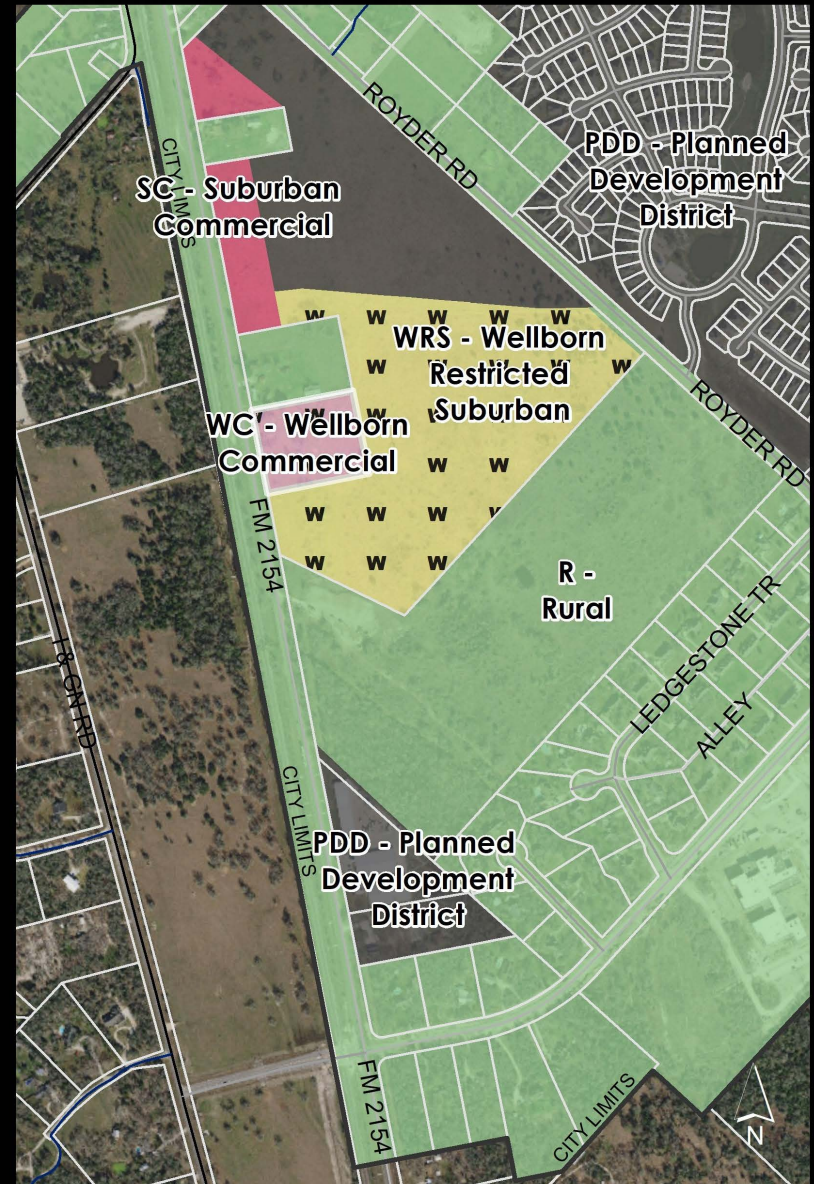


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EXISTING Zoning



PROPOSED Zoning



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 WC WELLBORN COMMERCIAL FOR APPROXIMATELY 4.4 ACRES GENERALLY LOCATED 0.5 MILES SOUTH OF THE INTERSECTION OF GREENS PRAIRIE ROAD WEST AND FM 2154; 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”, Exhibit “B”, and Exhibit “C”** 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 24th day of May, 2018.

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 to read as follows:

The following property is rezoned from R Rural to WC Wellborn Commercial:

**METES AND BOUNDS DESCRIPTION
OF A
4.415 ACRE TRACT
SAMUEL DAVIDSON LEAGUE, A-13
BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE SAMUEL DAVIDSON LEAGUE, ABSTRACT NO. 13, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 39.33 ACRE TRACT AS DESCRIBED BY A DEED TO TDG MANAGEMENT, LP RECORDED IN VOLUME 14018, PAGE 95 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A 6 INCH FENCE POST FOUND ON THE EAST LINE OF FM 2154 (WELLBORN ROAD – 100’ R.O.W.) MARKING A WESTERLY CORNER OF SAID REMAINDER OF 39.33 ACRE TRACT AND THE SOUTHWEST CORNER OF A CALLED 3.9934 ACRE TRACT AS DESCRIBED BY A DEED TO MICHAEL R. GEICK AND WIFE, LISA A. GEICK RECORDED IN VOLUME 2422, PAGE 92 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 79° 08' 43" E ALONG THE COMMON LINE OF SAID REMAINDER OF 39.33 ACRE TRACT AND SAID 3.9934 ACRE TRACT FOR A DISTANCE OF 483.86 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID 3.9934 ACRE TRACT;

THENCE: S 11° 03' 14" E THROUGH SAID REMAINDER OF 39.33 ACRE TRACT FOR A DISTANCE OF 396.23 FEET TO THE SOUTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: S 78° 56' 46" W CONTINUING THROUGH SAID REMAINDER OF 39.33 ACRE TRACT FOR A DISTANCE OF 484.75 FEET TO THE EAST LINE OF FM 2154 AND THE SOUTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: N 10° 55' 27" W ALONG THE EAST LINE OF FM 2154 FOR A DISTANCE OF 397.92 FEET TO THE **POINT OF BEGINNING** CONTAINING 4.415 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND JUNE 2014. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

\\JOBS\17.438\17.438D.DOCX



Exhibit C

PROPOSED Zoning



EXISTING Zoning





Legislation Details (With Text)

File #:	18-0343	Version:	1	Name:	College Station Business Park Master Plan
Type:	Master Plan	Status:		Status:	Agenda Ready
File created:	5/11/2018	In control:		In control:	City Council Regular
On agenda:	5/24/2018	Final action:		Final action:	
Title:	Public Hearing, presentation, possible action, and discussion regarding the College Station Business Center Development Plan (formerly known as the Spring Creek Corporate Campus), including the planning and future development of approximately 250 acres of City-owned property generally located along the east side of State Highway 6 South, north of W.D. Fitch Parkway, and south of Lick Creek.				
Sponsors:	Natalie Ruiz				
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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Public Hearing, presentation, possible action, and discussion regarding the College Station Business Center Development Plan (formerly known as the Spring Creek Corporate Campus), including the planning and future development of approximately 250 acres of City-owned property generally located along the east side of State Highway 6 South, north of W.D. Fitch Parkway, and south of Lick Creek.

Relationship to Strategic Goals:

- Financially Sustainable City
- Core Services and Infrastructure
- Diverse Growing Economy

Recommendation(s): The City Council's Economic Development Committee and the Spring Creek Local Government Corporation reviewed the draft Development Plan and recommended approval at their May 1, 2018 joint meeting with the condition that the Local Government Corporation work with staff on the implementation including the final naming of the Business Center.

Summary:

In late 2017, the City engaged GFF Planning and Greyhill Advisors to develop an abbreviated Development Plan to address the planning and future development of College Station's next business park. Formerly known as the Spring Creek Corporate Campus, the property is situated between Lick Creek and Spring Creek, and surrounds the future intersection of Lakeway Drive and Pebble Creek Parkway.

The City began purchasing property in this area almost 20 years ago for development of a future business park. The City owns approximately 485 acres in this area, including significant areas of preserved greenway. The Master Plan addresses the future development of approximately 250 acres divided into sub

-districts for retail, office and industrial users.

The Plan will act as an internal guide for development of the business park, and includes assessment of existing conditions; flexible land planning; potential industry targets; infrastructure demands and financing; and marketing and branding efforts. The Spring Creek Local Government Corporation will work with staff to implement the next phases of the Business Center including platting, infrastructure design, deed restrictions, development standards, naming, signage and branding.

The Council's Economic Development Committee and the Spring Creek Local Government Corporation have jointly overseen the Development Plan process.

Budget & Financial Summary:

A contract for professional services was approved in 2017 for the Development Plan.

Attachments:

The Development Plan will be available for viewing in the City Secretary's Office.