



College Station, TX

Meeting Agenda City Council

1101 Texas Ave, College Station, TX 77840
Internet: <https://us06web.zoom.us/j/96728393278>
Phone: 888 475 4499 and Meeting ID: 967 2839 3278

March 9, 2023

4:00 PM

City Hall Council Chambers

Notice is hereby given that a quorum of the meeting body will be present in the physical location stated above where citizens may also attend in order to view a member(s) participating by videoconference call as allowed by 551.127, Texas Government Code. The City uses a third-party vendor to host the virtual portion of the meeting; if virtual access is unavailable, meeting access and participation will be in-person only.

1. Call to Order.

2. Executive Session Agenda.

Executive Session is closed to the public and will be held in the 1938 Executive Conference Room. The City Council may according to the Texas Open Meetings Act adjourn the Open Meeting during the Consent, Workshop or Regular Agendas and return into Executive Session to seek legal advice from the City Attorney regarding any item on the Workshop, Consent or Regular Agendas under Chapter 551, Texas Government Code.

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

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

- a. Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas.
- b. McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas.
- c. Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas.
- d. Kristin Marriott v. City of College Station, Cause No. 22-002259-CV-272, in the 272nd District Court, Brazos County, Texas.
- e. SOAH Docket No. 473-22-2464 and PUC Docket No. 52728 – Application of the City of College Station to Change Rates for Wholesale Transmission Services.
- f. LaLa Vida, LLC v. City of College Station, Cause No. 23-000374-CV-272, in the 272nd District Court, Brazos County, Texas.
- g. Legal advice related to entering into settlement agreements regarding opioid settlements with Allergan, CVS, Walgreens, and Walmart.
- h. Legal advice regarding an interlocal agreement with the City of Bryan for fire and emergency medical services.

2.2. Real Estate {Gov't Code Section 551.072};

Possible action. The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Property generally located at State Highway 6 and Venture Drive in the College Station Business Center.

2.3. Personnel {Gov't Code Section 551.074};

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

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

2.4. Economic Incentive Negotiations {Gov't Code Section 551.087};

Possible action. The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) maybe discussed:

- a. Negotiations regarding approximately 5.3 acres of property located along Holleman Drive in the southeast quadrant of the Dartmouth Avenue and Holleman Drive intersection.
- b. Negotiations regarding an Economic Development Agreement for the extension of Dartmouth Avenue from Harvey Mitchell South Parkway to Texas Avenue.

3. The Open Meeting will Reconvene No Earlier than 6:00 PM from Executive Session and City Council will take action, if any.**4. Pledge of Allegiance, Invocation, and Consider Absence Request.**Speaker Protocol

An individual who desires to address the City Council regarding any agenda item other than those items posted for Executive Session must register with the City Secretary two (2) hours before the meeting being called to order. Individuals shall register to speak or provide written comments at <https://forms.cstx.gov/Forms/CSCouncil> or provide a name and phone number by calling 979-764-3500. Upon being called to speak an individual must state their name and city of residence, including the state of residence if the city is located out of state. Speakers are encouraged to identify their College Station neighborhood or geographic location. Please do not carry purses, briefcases, backpacks, liquids, foods or any other object other than papers or personal electronic communication devices to the lectern, nor advance past the lectern unless you are invited to do so. Each speaker's remarks are limited to three (3) minutes. Any speaker addressing the Council using a translator may speak for six (6) minutes. The speaker's microphone will mute when the allotted time expires and the speaker must leave the podium.

5. Presentation - Proclamations, Awards, and Recognitions.**5.1. Presentation of a proclamation recognizing American Red Cross Month.**

Sponsors: Tanya Smith

Attachments: 1. 23 American Red Cross Month

6. Hear Visitors.

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

7. Consent Agenda.

Presentation, discussion, and possible action on consent items which consist of ministerial or "housekeeping" items as allowed by law. A Councilmember may request additional information at this time. Any Councilmember may remove an item from Consent for discussion or a separate vote.

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

- February 20, 2023 Special Meeting (Retreat)
- February 21, 2023 Special Meeting (Retreat)
- February 23, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. RTM022023 DRAFT Minutes
2. RTM022123 DRAFT Minutes
3. CCM022323 DRAFT Minutes

7.2. Presentation, discussion, and possible action regarding the first reading of a franchise agreement ordinance with Drop and Go Dumpsters for the collection of recyclables from commercial businesses and multi-family locations.

Sponsors: Emily Fisher

Attachments: 1. Drop and Go Dumpsters Franchise Agreement

7.3. Presentation, discussion, and possible action on amending an interlocal agreement for prisoner housing with Brazos County increasing the daily rate by \$5.00 to \$60.00 for College Station prisoners.

Sponsors: Billy Couch

Attachments: 1. First Amend ILA CSPD Inmate Housing 2-17-23

7.4. Presentation, discussion, and possible action regarding an interlocal agreement with the City of Bryan, Texas A&M University, and Brazos County regarding the shared purchase, maintenance, and use of a rescue vehicle.

Sponsors: Billy Couch

Attachments: 1. Rescue Vehicle ILA 3-2-23

7.5. Presentation, discussion, and possible action regarding a contract with Kimley-Horn for the design of the George Bush Bike Lanes Project for \$235,000.

Sponsors: Jennifer Cain

Attachments: 1. George Bush Bike Lane Project - KH Scope

7.6. Presentation, discussion, and possible action regarding a change order to the design contract with Kimley-Horn and Associates, Inc. for the Northeast Trunkline Phase IV project in the amount of \$87,500.

Sponsors: Jennifer Cain

Attachments: 1. Northeast Trunk Line Phase 4 - Amendment 1 to KH Design Contract (002)

8. Workshop Agenda.

- 8.1. Presentation, discussion, and possible action regarding the George Bush Presidential Library Foundation's upcoming events, expansion, and community partnerships.

Sponsors: Bryan Woods

Attachments: None

- 8.2. Presentation, discussion, and possible action regarding Off-Campus Housing and Cooperation between the City and Texas A&M University.

Sponsors: Bryan Woods

Attachments: None

- 8.3. Presentation, discussion, and possible action on priority areas for possible City-initiated rezoning to the MH Middle Housing zoning district.

Sponsors: Alyssa Halle-Schramm

Attachments: 1. Properties Designated Mixed Residential Future Land Use
2. Recommendation Maps

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

Sponsors: Billy Couch

Attachments: 1. College Station Police Department 2022 Contact Report

9. Regular Agenda.

- 9.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from GS General Suburban to MH Middle Housing for approximately 0.27 acres at 211 Fidelity Street, being Lot 1 and 25' of Lot 2, Block 6 of the West Park Addition, generally located at the corner of Fidelity Street and Highland Street.

Sponsors: Gabriel Schrum

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

- 9.2. Presentation, discussion, and possible action regarding an interlocal agreement with the City of Bryan for fire and emergency medical services.

Sponsors: Richard Mann

Attachments: 1. College Station and Bryan Fire EMS ILA Termination Letter, 97 ILA & CS Proposed ILA
2. Proposed College Station and Bryan Fire EMS Interlocal Agreement from the City of Bryan
3. Fire and EMS ILA doc compare 3-1-23

10. Council Calendar - Council May Discuss Upcoming Events.

11. Items of Community Interest.

The Council may receive reports from a Council Member or City Staff about items of community interest for which notice has not been given, including: expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary or salutary recognitions of a public official, public employee, or other citizen; reminders of upcoming events organized or sponsored by the City of College Station; information about a social, ceremonial or community event organized or sponsored by an entity other than the City of College Station that is scheduled to be attended by a Council Member, another city official or staff of the City of College Station; and announcements involving an imminent threat to the public health and safety of people in the City of College Station that has arisen after the posting of the agenda.

12. Council Reports on Committees, Boards, and Commissions.

A Council Member may make a report regarding meetings of City Council boards and commissions or meetings of boards and committees on which a Council Member serves as a representative that have met since the last council meeting. (Committees listed in Coversheet)

13. Future Agenda Items and Review of Standing List of Council Generated Future Agenda Items.

A Council Member may make a request to City Council to place an item for which no notice has been given on a future agenda or may inquire about the status of an item on the standing list of council generated future agenda items. A Council Member's or City Staff's response to the request or inquiry will be limited to a statement of specific factual information related to the request or inquiry or the recitation of existing policy in response to the request or inquiry. Any deliberation of or decision about the subject of a request will be limited to a proposal to place the subject on the agenda for a subsequent meeting.

14. Adjourn.

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

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on March 3, 2023 at 5:00 p.m.



City Secretary

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

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

"Pursuant to Section 30.07, Penal Code (Trespass by License Holder with an Openly Carried Handgun) A Person Licensed under Subchapter H, Chapter 411, Government Code (Handgun Licensing Law), may not enter this Property with a Handgun that is Carried Openly."

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

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

March 9, 2023
Item No. 5.1.
American Red Cross Month.

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation of a proclamation recognizing American Red Cross Month.

Relationship to Strategic Goals:

Recommendation(s): N/A

Summary: N/A

Budget & Financial Summary: N/A

Attachments:

1. 23 American Red Cross Month



Proclamation

WHEREAS, during American Red Cross Month in March, we celebrate the humanitarian spirit of College Station and reaffirm our commitment to help ensure no one faces a crisis alone; and

WHEREAS, caring for one another is at the heart of our community and exemplified by the people of College Station, whose simple acts of kindness through the Red Cross provide help and hope in people's most difficult moments — continuing the lifesaving legacy of Clara Barton, who founded the organization more than 140 years ago to prevent and alleviate human suffering; and

WHEREAS, every day, these ordinary individuals lend a helping hand to make an extraordinary difference for neighbors in need — whether it's providing emergency shelter, food and comfort for families displaced by home fires and other disasters; donating lifesaving blood for cancer patients, accident victims, and people with sickle cell disease and other life-threatening conditions; supporting military members and veterans, along with their families and caregivers, through the unique challenges of service; using vital skills like first aid and CPR to help others survive medical emergencies; or delivering international humanitarian aid and reconnecting loved ones separated by crises around the world; and

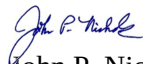
WHEREAS, their support, volunteerism and generous donations are critical to our community's resilience. We hereby recognize this month of March in honor of all those who fulfill Clara Barton's noble words, "You must never think of anything except the need and how to meet it," and ask everyone to join in this commitment.

NOW, THEREFORE, I, Mayor John Nichols, of College Station, by virtue of the authority vested in me by the laws of College Station and Texas, do hereby proclaim March 2023 as

American Red Cross Month

And encourage all citizens of College Station to reach out and support its humanitarian mission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the seal of the City of College Station, Texas this 9th Day of March 2023.


John P. Nichols
Mayor

Attest:


Tanya Smith
City Secretary

March 9, 2023
Item No. 7.1.
Minutes

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

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

- February 20, 2023 Special Meeting (Retreat)
- February 21, 2023 Special Meeting (Retreat)
- February 23, 2023 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:

1. RTM022023 DRAFT Minutes
2. RTM022123 DRAFT Minutes
3. CCM022323 DRAFT Minutes

MINUTES OF THE CITY COUNCIL SPECIAL MEETING (RETREAT)
CITY OF COLLEGE STATION
FEBRUARY 20, 2023

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

John Nichols, Mayor

Council:

Mark Smith
William Wright
Linda Harvell
Elizabeth Cunha
Bob Yancy
Dennis Maloney

City Staff:

Bryan Woods, City Manager
Jeff Capps, Deputy City Manager
Adam Falco, City Attorney
Leslie Whitten, Deputy City Attorney
Tanya Smith, City Secretary

1. Call to Order and Announce a Quorum is Present.

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols at 9:00 a.m. on Monday, February 20, 2023, in the CSU Meeting Training Facility City Hall, 1603 Graham Road, College Station, TX 77845.

2. Executive Session Agenda.

- No Executive Session was held.

3. REGULAR ITEMS

3.1. Presentation, discussion, and possible action regarding an overview of the state of the City.

Jeff Kersten, Assistant City Manager, provided a summary of the state of the City.
Net Budget Summary

BUDGET	AMOUNT
Approved Budget	\$ 412,370,777
Budget Amendment #1	25,961,270
Budget Amendment #2	65,739,921
Revised Budget	\$ 504,071,968

General Fund Assigned & Unassigned Fund Balances

	FY22 ACFR
Ending Assigned and Unassigned Fund Balance	\$ 74,703,222
FY 23 Budgeted Operational Uses	8,828,892
Required Reserves and Future Operational Reserves	32,444,662
Future Recreation Center	11,648,000
Economic Development (Mall Project) Spent FY 23	7,400,000
Future Economic Development (Mall Project/Other)	6,150,000
Inflation & Accounting Adjustments	3,510,000
Miscellaneous	3,945,000
Remainder not allocated	\$ 776,668

Grant Fund Impact

- State Funds - \$6.4M
 - City is subrecipient of State Grant
 - Amount utilized for Fire and Community
 - All funds utilized
- Federal Funds - \$29.0M

USES CLAIMED:	Amt
Revenue Replacement (Government Services)	\$ 16,140,725
Rehiring of Government Staff	\$ 2,834,388
One-time Premium Pay for essential workers	\$ 603,213
Water/Wastewater Projects	
Bee Creek Parallel Trunkline Phase 3	\$ 4,000,000
Northeast Trunkline - Phase 3	\$ 3,500,000
Greens Prairie Water Tank Rehab	\$ 2,400,000
TOTAL USED	\$ 29,478,326

Debt Capacity

- Capacity is the unscheduled project amounts for the years that there are scheduled projects – typically a 5-year period. Current Capacity is \$55 million.

Mr. Kersten explained that one penny on the tax is approximately \$14 million capacity and the maximum amount available for tax reduction right now would be the .57 cents on the tax rate. We strive to keep the debt rate at 2% of assessed valuation.

Council discussed the possibility of looking into a conference center, but Majority of the Council stated since there is a RFQ out there for a recreation center to review the proposals received for the recreation center before directing staff to pursue a conference center.

Mayor Nichols recessed the meeting at 10:55 a.m.

The meeting resumed at 11:07 a.m.

3.2. Presentation, discussion, and possible action regarding the City Council's Strategic Plan and Strategies.

Mayor Nichols opened up for the Council to discuss the City Council's Strategic Plan and Strategies for any changes, updates, additions and etc.

Councilmember Maloney good with how the Strategic Plan and Strategies are.

Councilmember Yancy would like to see Public safety its own platform. He also wanted a possible convention center added to the first bullet point under Core Services and Infrastructure for FY24 Strategies.

Councilmember Cunha would like to remove Phase 2 of the Texas Independence Ballpark from Diverse & Growing Economy. She would also like the City to talk with contractors working on construction projects regarding Bike Lanes, would like to work on the response on the city reduces energy and water consumption.

Councilmember Harvell stated that the City needs more code enforcement staff to meet the goal of proactive code enforcement under Neighborhood Integrity Actions. She would also like the second bullet point under neighborhood integrity objectives “Citizens are satisfied with the quality of life in their neighborhoods” removed from the document.

Councilmember Wright would like to see us put entrepreneurship in the Core Values and under Good Governance would like the city to add a goal of reviewing all interlocal agreements with Brazos County, the City of Bryan, and Texas A&M University to ensure they are fair and beneficial to the City of College Station.

Councilmember Smith stated supported CM Wright’s stance on interlocal agreements, and he requested that staff review the bullet point on Library Services.

Mayor Nichols stated the second bullet point under Improving Mobility should be revised to include developing new relationship with Federal entities.

Mayor Nichols recessed the meeting at 11:43 p.m.

The meeting resumed at 12:30 p.m.

3.3. Presentation, discussion, and possible action regarding Financial Sustainability and Good Governance.

Bryan Woods, City Manager, gave a brief overview of Management Team Retreat and Employee Compensation, 5% across the board cost of living raises. Looking at the different aspects of that can vary with not adding positions, talking with consultants and other pieces of data.

Council discussed the Employee Compensation for all employees and concurs with overview of the Management Team Retreat discussion. Majority of Council would like to look into increasing the compensation of the Seasonal Employees.

Mayor Nichols recessed the meeting at 1:23 p.m.

The meeting resumed at 1:37 p.m.

3.4. Presentation, discussion, and possible action regarding core services and infrastructure.

Emily Fisher, Public Works Director, provided a brief overview Multi-Family Solid Waste Collection.

Solid Waste Utility Rates

- Single-Family Dwelling: \$18.78/mo
- Multi-Family:
 - City-Issued Containers: \$8.58/mo per unit
 - Rolling/Compacting Containers: varies on compactor size and quantity
 - Self-Contained Compactor Unit: \$203.39/pull + landfill tonnage fees + taxes
 - Temporary Roll-off box (bulk overflow): \$43.89/delivery & set-up fee + daily rental fee + landfill tonnage fees + taxes
 - Bulk overflow (one-time collection): \$76.34/load

Option 1

- Add bulk/brush pick up to multi-family rate
 - Requires additional boom truck and operator
 - ✓ One-time cost - \$525,000
 - ✓ Recurring cost - \$200,000
 - Rate increase to approx. \$15 per unit
 - Complexes would designate an approved area onsite for disposal
 - Pick up would be on-call, not a set day
 - 20 CY pick up limit

Option 2

- Add additional pick-up day to multi-family rate (3 x per week)
 - Requires two additional front-end loaders and operators
 - Requires two additional commercial side loaders and operators
 - ✓ One-time cost - \$2,600,000
 - ✓ Recurring cost - \$800,000
 - Significant rate increase; surpass single family rate

Legacy Properties

- Alleys inaccessible either due to condition or size
- Located within private access easements

Option 3

- Address legacy properties
 - Outreach
 - Improve infrastructure
 - ✓ Significant investment in pavement rehabilitation
 - ✓ Assume ownership of alleyways
 - Other
 - ✓ Underground systems
 - Investment in additional vehicle - \$300 - \$400k
 - Only feasible in ROWs; relocation of utilities
 - ✓ Smaller vehicles - \$300k
 - Smaller containers
 - ✓ Routing

Other Considerations

- Add additional roll off boxes and truck
- Continue to encourage compactor units
- Private haulers
 - Average base rate \$372

Council requested staff to bring back a clear picture of a Legacy Property Plan and Option 1.

Richard Mann, Fire Chief, presented an overview of College Station Fire-Department Updates and total SLAs from 2018-2023 of \$5,585,362: One Time - \$2,821,438, Recurring - \$2,760,924, and 17 FTEs.

2018 Service Level Adjustments

3 FTE's: 1) EMS Safety Captain
2) Accreditation Manager
3) Fire Inspector

Equipment purchases put on capital replacement cycle

- 12-lead monitors – put on capital replacement cycle
- Thermal imagers
- Rescue equipment

2019 Service Level Adjustments

Step pay plan implementation

- Good initial phase, need to revise to be competitive in market

Online Paramedic

- Online paramedic school ~\$8000, TEEX ~\$6000, Blinn~\$7000
 - Clinical overtime (440 hrs x \$45 = 19,800 / student)
- Successfully funded 14 students and clinical time through FY2020 AFG \$700,000
- Utilizing Senate Bill 8 funding for Blinn students for 2023 – tuition / books only – does not cover clinical time backfill
- Future will need to allocate annual funding for paramedic training (\$140,000 / yr for 5 paramedic students)

2020 Service Level Adjustments

(6) FTE's added through SAFER grant:

- \$911,476 over 3-years – 75%, 75%, 25% Federal funding
- Members hired 2/3/20

2021 Service Level Adjustments

COVID reductions

- Frozen BC position

2022 Service Level Adjustments

Peak Ambulance placed in service October 2021

Cancer reduction initiative - Diesel direct capture exhaust removal completed for all stations

- Stations 1, 2, 4 previously completed with AFG grant, Stations 3, 5, 6 not grant eligible

2023 Service Level Adjustments

(7) FTEs added through SAFER Grant:

- \$1,942,269 funded at 100% for three years

(1) FTE Staff Admin – Fire/EMS Regulatory Compliance & Educator

Billy Couch, Police Chief, provided updates on the College Station Police-Department and SLAs.

Department Challenges / Agency Threats

- Limited interest due to Public perception
 - Recruiting / Retention Challenges
- Competition with other Regional Agencies
- Retirement eligible candidates are leaving LE
- New Generation expects work-life balance
 - Less likely to absorb the Stress of the job
 - See it as a job and not a career

- As Vacancies Increase, Burnout increases
→ Less Job Satisfaction leads to Turnover
- Recruitment / Retention of Dispatchers
- Northgate
→ High Liability and a Drain on Resources
- Mental Health Calls
→ Multi-disciplinary approach / Avail Solution
- Population Growth
→ Outpacing Departmental Growth
- Increase Boundary Footprint / Infill
- Inner-City Policing Demands
- Case Evidence Expectations

Police Personnel Recruiting and Attrition

	2020	2021	2022
Total Police Officer Hires	08	20	18
Certified	01	13	12
Non-Certified	07	07	06
Total Attrition	12	17	14
Training Resignations	02	03	05
Retirements/ Terminations	04	07	01

*Authorized Strength vs. Actual Strength
(The Feel Like Factor)

Service Level Adjustments FY19-FY23

FY19	FY20	FY21	FY22	FY23
Body Cameras for Animal Control Officers	Five (5) Officers and Two (2) Vehicles	No SLA's & City-Wide Budget Reductions	Two (2) Detectives and Two (2) Vehicles	Northgate Sgt. and Vehicle
	Five (5) Police Assistants		Detective Sergeant and Vehicle	Northgate Officer and Vehicle
			Patrol Fleet Enhancement	Technical Services Specialist
				Records Technician
				AXON package

Positive Impacts upon Department

Six Additional Patrol cars purchased through fund balance
Cell Phones Purchased for Sworn Personnel
Outsource the School Crossing Guard Program
Lateral Transfer for Police Officer Positions
Equipment Enhancements – Breaching Tools, Ballistic Shields, Pistol Optics, Bullet Resistant Glass
Advanced Level Training being hosted Internally
Six Police Officer Positions through COPS Grant

Steve Wright, Parks and Recreation Director, provided an overview of the Parks Board Strategic Plan and a 501 (C) organization – Parks Foundation that is represented by David White.

College Station Parks Board Strategic Plan

- 5.6: Identify and secure public and private funds for the acquisition of parks, greenways, and facilities. Ensure adequate parkland and greenway provisions through the Parkland Dedication Ordinance, the Capital Improvements Program, annual budgets, City property acquisition programs, external dollars, foundations, and public-private partnerships.
- 5.7: Continue inter-agency coordination and establish new public/private partnerships to provide additional amenities, funding, networking, and co-production opportunities. Seek partnerships with other public agencies to provide recreational amenities, greenways, and services where mutually beneficial opportunities are available.

College Station Parks Foundation

- 501 (C) organization.
- The primary focus of the Foundation is to secure, manage and invest privately raised funds, gifts, and bequest in support of the Department's programs, services, and facilities.
- The Foundation operates as a legal entity separate from the city.
- Governed by a Board of Directors, none of whom are employees of the city.
- Initially run by volunteers, but ultimately will hire staff to run the Foundation.

3.5. Presentation, discussion, and possible action regarding a diverse and growing economy.

Natalie Ruiz, Economic Development, presented a summary on diverse and growing economy for current and the future of College Station:

- Increase property tax value
- Tax revenue
- Higher-paying jobs
- ED opportunities and new businesses

Some primary strategies are targeted development, strategic redevelopment and enhancing the tourism economy.

Targeted Development

- Midtown
- Caprock Crossing
- Tower Point

Mrs. Ruiz explained that existing land use in the city limits from an Economic Development recruitment & development standpoint – moving from traditional recruitment to more complicated

redevelopment & infill development. This is a paradigm shift for College Station and impacts the entire city – planning, police, fire, sanitation, etc. On the fringes of the city limits, traditionally we’ve seen more single family. We’ve also made some investments/EDA’s that may not be favorable in the future – Southern Point. We must be more strategic where we encourage development – infrastructure investments, servicing costs, etc.

Strategic Redevelopment

- Providence Park
 - Redevelopment of 180,000 sq. ft former Westinghouse Building
 - New ecosystem of offices, manufacturing, restaurants, and retail space
 - Partnership to encourage & expedite the repurposing and renovation
 - Recent sale to major life science investor
- Northgate
 - Buildings currently under construction in Northgate:
 - ✓ 315 College Main – “The Rev” – 19 Stories - 298 Units – 802 Bedrooms
 - ✓ 500 College Main – “The Everett at A&M” – 8 Stories – 95 Units – 280 Bedrooms
 - ✓ 401 First Street – “First Street Student Housing” - 10 Stories – 341 Units – 745 Bedrooms
- Post Oak Mall
 - Vision Planning for Redevelopment
 - ✓ 10-Year Evaluation & Appraisal Report
 - Launched in 2019, adopted by City Council in October 2020
 - Recommended comprehensive plan modifications in response to changing conditions
 - Scenario planning for several areas, including Post Oak Mall
 - ✓ Engagement with current owners of Post Oak Mall and accompanying boxes
 - ✓ Potential of alternative uses, increasing density, high utilization in key corridor
- University Drive and Texas Avenue
- Hensel Park

Strategic Initiatives

- Leading in Hospitality
 - Hilton: Total of \$18M – renovations are underway, including lobby, entrances, pool, and a roof top bar (latest technology and walk-in showers)
 - Current Paradigm - Do not invest in new convention & meetings facilities and use what’s on A&M’s campus. Therefore, the City negotiated the PAA. Invest our HOT funds in the expansion of Kyle Field and have preferred access to specific facilities on campus. This is an area we must address long term. Current issues:
 - ✓ Limited access to facilities,
 - ✓ Price of facility – room is free, but we’re charged for every chair, table, air conditioning, etc.
 - ✓ Disconnect of meeting space and a hotel. Meeting planners want to limit risk and look for turnkey solutions – meeting space, hotel rooms and food & beverage
- Local Hotel Market
 - Traditionally a weekend market – leisure travel for football or events association with A&M.
 - Overbuilt in terms of new rooms – almost doubled in inventory around 2014 and still haven’t recovered. During COVID expected several hotels to close – we have 1 that sold and converted to a senior living facility.
 - Free market – We only limit hotel development by zoning – currently allowed in general commercial.
- Sports Tourisms Expansion
 - Veteran’s Park – softball & flat fields, almost at capacity.

- Texas Independence Ballpark at Midtown – important because it adds a new sport to our portfolio – baseball. Our current fields are predominantly for kids under 12/13.

4. **Adjournment.**

There being no further business, Mayor Nichols adjourned the Meeting of the City Council at 5:21 p.m. on Monday, February 20, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL SPECIAL MEETING (RETREAT)
CITY OF COLLEGE STATION
FEBRUARY 21, 2023

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

John Nichols, Mayor

Council:

Mark Smith
William Wright
Linda Harvell
Elizabeth Cunha
Bob Yancy
Dennis Maloney

City Staff:

Bryan Woods, City Manager
Jeff Capps, Deputy City Manager
Adam Falco, City Attorney
Leslie Whitten, Assistant City Attorney
Tanya Smith, City Secretary

1. Call to Order and Announce a Quorum is Present.

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols at 8:30 a.m. on February 21, 2023, in the CSU Meeting Training Facility City Hall, 1603 Graham Road, College Station, TX 77845.

2. Executive Session Agenda. *(presented at the end of the agenda)*

In accordance with the Texas Government Code §551.074-Personnel, the College Station City Council convened into Executive Session at 11:19 a.m. on February 21, 2023, to continue discussing matters pertaining to:

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

- City Manager
- Council Self-Evaluation

Executive Session recessed at 12:18 p.m. No action was taken.

3. REGULAR ITEMS

3.1. Presentation, discussion, and possible action on financial sustainability.

Jennifer Cain, provided a summary of the Capital Projects.

Current Capital Projects

CIP Project Manager	Current Project Count				
Senior PM	15				
PM II	19				
PM II	17				
PM II	15				
PM I	14				
PM I	7				
Asst. PM	1				
Director	5				
Total:	93				

Project Type	Current Project Count	Project Phase	Current Project Count
Facilities	13	RFQ/ SOQ Evaluation	14
Parks	17	Design	23
Public Works (Streets/Drainage)	37	Bidding	17
		Construction	21
Water & Wastewater	26	Warranty	18

2022 Bond Projects

Prop	Project	Cost	Status	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
A	Fire Station 7	\$18M	Land Acquisition	Land Acquisition/ Design	Design/Utilities	Construction	Construction	
B	Rock Prairie Rd. East Widening	\$16.1M	SOQs Due: 3/10/23	Design	Land Acquisition	Land/Utilities	Construction	Construction
D	Bachmann Little League/ Senior League Buildings	\$7M	Evaluating SOQs	Design	Construction	Construction		
D	Pickleball/ Futsal Courts	\$1.7M	AE Selected, Negotiating	Design	Construction			
D	Bee Creek & Central Park Tennis Courts	\$1.7M	Evaluating SOQs	Design	Construction			
D	Mabel Clare Thomas Park Redevelopment	\$3M	Evaluating SOQs	Design	Design	Construction		
D	Lincoln Center Area Improvements	\$1.2M	SOQs Due: 2/28/23	Design	Construction			
D	Central Park Operations Shop	\$7.4M	Evaluating SOQs	Design	Construction			

Current and Upcoming Projects

Rock Prairie Road West Widening (Wellborn Rd to City Limits)

Scope

- Replace existing asphalt roadway with concrete curb and gutter, underground storm sewer, and sidewalks. The project also included reconstruction of the railroad crossing

Budget

- \$7.39M

Challenge/Unique Aspect

- Union Pacific Railway ROW crossing

Rock Prairie Road Widening (State Hwy 6 to Town Lake)

Scope

- Replace existing asphalt roadway with concrete curb and gutter, underground storm sewer, and sidewalks. The project also included reconstruction of the railroad crossing

Budget

- \$8M

Challenge/Unique Aspect

- Off-street separated bike and pedestrian path

Aggie Field of Honor Maintenance Shop

Scope

- Construct a new, fully secure, and functional maintenance crew, as well as an office/meeting area for sale of plots within the cemetery

Budget

- \$2M

Challenge/Unique Aspect

- Architecture due to its location Material delays

Lick Creek Bird Blinds

Scope

- Two 150 sf (approx.) wood bird blind structures at Lick Creek Park

Budget

- \$150,000

Challenge/Unique Aspect

- Structures need to be designed and constructed in a way to avoid maintenance issues over time

Central Park Operations Shop

Scope

- Proposed shop to house the forestry crew and ball field maintenance crews. Shop will have 6-8 drive through bays, office, breakroom, supply rooms and restrooms as well as secured fenced in area for equipment and materials.

Budget

- \$7.4M

Challenge/Unique Aspect

- Many required uses for the building

City Gateway Sign #3 (West)

Scope

- Construct the 3rd City Gateway Sign on the southside of Riverside Parkway at Raymond Stotzer Parkway

Budget

- \$210k

Challenge/Unique Aspect

- Topography of site

Pickleball/ Futsal Courts at Anderson Park

Scope

- Construct Pickleball/ Futsal Courts at Anderson Park

Budget

- \$1.7M

Challenge/Unique Aspect

- Determining exact scope for best use of funds between pickleball and futsal courts

Bee Creek and Central Park Tennis courts improvements

Scope

- Removal of existing court surfaces, repair of existing slabs and new surfacing

Budget

- \$1.35M

Challenge/Unique Aspect

- The state of the existing slabs

Mayor Nichols recessed the meeting at 9:15 a.m.

The meeting resumed at 9:41 a.m.

3.2. Presentation, discussion, and possible action on good governance relating to the City Council's strategic direction and budget priorities.

Councilmember Maloney:

- Convention Center with a Recreation Center (dual purpose building most important)
- Working with Military Museum at Veterans Parks
- Look at HOT funds if it's possible to fund part of the some of these projects
- Relook at the creek at Post Oak Mall and Wolf Pen Creek
- Turn Northgate into a true downtown area.

Councilmember Cunha:

- Meetings with CSISD and COB to build stronger relationships (list of agenda items to discuss)
- 3-member committee of Maloney, Wright and Cunha to meeting with CSISD and COB
- In the next Budget Cycle, a Break down on the O&M.
- Core Infrastructure – when will pipes be replaces after so long.
- Housing Affordability Strategy
- Mobility Options instead of looking at Transportation.

Councilmember Yancy:

- Convention Center or Convention Center/Recreation Center combined facility (Heart of Aggieland Center)
- Traffic and Roadways: Where possible maximize roadway projects to accommodate rapid growth. Initial concrete construction versus asphalt. If it needs to be done now do it now without interim steps.
- Gig'em City District proposed through land use and private sector incentives, with a focus on vertical, high density Student Housing and urban professionals, high speed internet services, concert venues, walkable urban feel, close to campus possibly on the west side. Would reduce pressures on single family residential neighborhoods and assist with housing affordability.
- Investable Housing Product - many parents don't want to pay rent but would rather invest, thus many single family neighborhood homes are being purchased by Aggie parents. We should prioritize student housing that is investable.

Councilmember Wright:

- Military Museum
- Home grown businesses
- Wolf Pen Creek is a gem that needs to be polished, need to put more money into it.
- Infrastructure needed to the Wolf Pen Creek for a growing community that is already there.
- Future of the Lincoln Center to look like.

Councilmember Smith:

- Agrees with the Infrastructure needed to the Wolf Pen Creek for a growing community that is already there. (if HOT funds could go into that and give this district more identity)
- Residential rehabilitation Program needs to be pushed.
- Rebuild and reused what we already have.
- Neighborhood Parks Infrastructure in already there, rehabilitate these areas.
- We need to make the downtown stop for citizens.

Councilmember Harvell:

- Convention Center

- What can we do to engage all ages (we engage youth, college and seniors)?
- Expend mindset on bringing business in and events.
- Neighborhood Integrity - Rules and Regulation, then not able to enforce them (find better ways)

Mayor Nichols:

- Convention Center or a Multi-purpose event space
- Housing Affordability Strategy
- Wolf Pen Creek – Upgrade amenities along with the Post Oak Mall Project
- Military Heritage Museum
- Infrastructure Rehab

4. **Adjournment.**

There being no further business, Mayor Nichols adjourned the Meeting of the City Council at 12:18 p.m. on Tuesday, February 21, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
FEBRUARY 23, 2023

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

John Nichols, Mayor

Council:

Mark Smith
William Wright
Linda Harvell
Elizabeth Cunha
Bob Yancy
Dennis Maloney

City Staff:

Bryan Woods, City Manager
Jeff Capps, Deputy City Manager
Adam Falco, City Attorney
Leslie Whitten, Deputy 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 meeting of the College Station City Council was called to order by Mayor Nichols via In-Person and Teleconference at 4:01 p.m. on February 23, 2023, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. Executive Session Agenda.

In accordance with the Texas Government Code §551.071-Consultation with Attorney, and §551.074-Personnel, the College Station City Council convened into Executive Session at 4:02 p.m. on February 23, 2023, to continue discussing matters pertaining to:

2.1. 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; and
- Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas; and

- Robert Danny Clack, II v. City of College Station, et al., Civil Action No. 4:22-cv-02404, in the U.S. District Court for the Southern District of Texas, Houston Division; and
- Kristin Marriott v. City of College Station, Cause No. 22-002259-CV-272, in the 272nd District Court, Brazos County, Texas; and
- SOAH Docket No. 473-22-2464 and PUC Docket No. 52728 – Application of the City of College Station to Change Rates for Wholesale Transmission Services; and
- LaLa Vida, LLC v. City of College Station, Cause No. 23-000374-CV-272, in the 272nd District Court, Brazos County, Texas.

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

- City Manager
- Council Self-Evaluation

3. The Open Meeting Will Reconvene No Earlier than 6:00 PM from Executive Session and City Council will take action, if any.

Executive Session recessed at 6:03 p.m. No action was taken.

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

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation and recognition for the 100th Anniversary of the A&M United Methodist Church.

Mayor Nichols presented a proclamation recognizing the 100th Anniversary of the A&M United Methodist Church to Pastor Preston Greenwaldt, extended family, Steve Beachy, extended family, Todd and Kristie Wood and their children Nathan, Rebecca, Abbie, and Emerson. Extended family: David and Linda Brochu, grandparents of kids.

6. Hear Visitors Comments.

Phil Adams, Bryan, stated that at the behest of Chancellor Sharp, an expert tree specialist explained a letter provided a regarding the impact of the proposed sewer service through Beverly Estates. Mr. Adams explained that based on understanding of the sewer construction's intended installation to clear within 50 feet of the right of way, Mr. Adams's and the other trees along Rosemary will be at significant risk.

Scott Hickle, Bryan (HOA representative), came before Council in concerns with the sewer line for in on Rosemary in the Beverly Estates. He thanked Council for always having Neighborhood Integrity in mind when making decisions and with that in mind asked them to take another look at the available options.

Sharon Hickle, Bryan, came before Council concerned with the sewer line that is being placed on Rosemary in the Beverly Estates. She explained that this neighborhood is as beautiful as a park and to uproot these trees will destroy the neighborhood.

John Halsell, Bryan, thanked the Council for allowing him to address the Council regarding his concerns with the sewer line that is being placed on Rosemary in the Beverly Estates and the uprooting of the trees in their neighborhood.

Abbie Krolczyk, Bryan, came before Council to oppose the trunk line planed through Beverly Estates and request that developer fees be used to pay for another option which will not disturb the area.

Diane Davis, College Station, came before Council regarding the Thomas Pool design and went into the history of the revitalization phases. She is requesting the council too look at usage date and determine if the city has enough pools for its citizens.

David Buras, Bryan, came before Council to state his concerns and not in support of the sewer line that is being placed on Rosemary in the Beverly Estates.

Richard Miles, Bryan, is requesting that council review the relative merits of the alternative routes weigh it against the impact and cost of the projected route.

Andrew Nelson, Bryan, gave brief history of his background in Beverly Estate and he requested Council to reconsider the lift station and the impact of the proposed sewer service through Beverley Estates.

7. CONSENT ITEMS

Presentation, discussion, and possible action on consent items which consist of ministerial, or "housekeeping" items as allowed by law: A Councilmember may request additional information at this time. Any Councilmember may remove an item from the Consent Agenda for a separate vote.

No items were pulled for discussion.

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

- **February 9, 2023 Council Meeting**

7.2. Presentation, discussion, and possible action regarding an annual price agreement award to Techline, Inc. for the purchase of Electric Distribution Poles for an amount not to exceed \$8,980,493.38.

7.3. Presentation, discussion, and possible action regarding a purchase order to KBS Electrical Distributors for electric meter sockets for \$125,311.70.

7.4. Presentation, discussion, and possible action regarding a contract with Kimley-Horn for the design of the George Bush Bike Lanes Project for \$235,000. (Pulled to future agenda)

7.5. Presentation, discussion, and possible action on the second reading of a Franchise Agreement Ordinance No. 2023-4420 with Brannon Industrial Group dba BVR Waste and Recycling for the collection of recyclables from commercial businesses and multi-family locations.

7.6. Presentation, discussion, and possible action regarding an amendment to the rental agreement with Big Truck Rental, LLC for the rental of a front-end loader for solid waste collection for \$10,000 per month.

MOTION: Upon a motion made by Councilmember Harvell and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Items with the exception of Item 7.4. The motion carried unanimously.

8. WORKSHOP ITEMS

8.1. Presentation, discussion, and possible action regarding an Economic Development program update.

Brian Piscacek, Economic Development, provided an overview of strategic planning efforts, 2022 highlights, and priority focus areas for 2023. Staff discussed the industry and retail recruitment, retention and expansion of existing businesses, and redevelopment opportunities.

Economic Development Master Plan

Strategic Areas

Regional partnerships
Retail development
Redevelopment opportunities
Corporate expansion and relocation
Destination entertainment and hospitality

Geographic Priorities

- 1. Midtown Business Park
- 2. College Station Business Center
- 3. Providence Park
- 4. Bio corridor

Retail Recruitment, new developments in South College Station (28+ acres, etc.), backfill spaces.

The Retail Coach, retail consultant: retail recruitment and development strategy.

- Retail trade area, data reports
- Prospect identification and recruitment
- Broker/developer contacts
- Regular meetings, collaborative recruitment at events

BRE, or Business Retention & Expansion

- Heart of Aggieland Visitors Pass: program linking College Station retailers with out-of-town visitors; over 60 participating retailers.
- Holiday Deals Pass
- Business Over Breakfast: local business stakeholder group event; last event in August had over 60 attendees; next one scheduled for November 1st
- Hospitality Insider: monthly newsletter to over 160 business contacts highlighting upcoming events.
- Chamber/BVEDC events

Mr. Piscacek explained that the total sold of Strategic Investments (Real Estate) is \$5,105,539 and under contract is \$10,813,222.

- FedEx property now appraised at \$5 million.
- Costco property – improvement value averages \$8.6 million in Houston area
- Downstream effects: prepare surrounding properties for development (infrastructure, catalyze development)

Strategic Investments: Project Management

Industry Recruitment Strategy \$72,500 Implementation Underway <i>Objective: Expanding targeted outreach for industry prospects</i>	CRM Software \$5,500 Implementation Completed <i>Objective: Improving efficiency and project tracking</i>	Learfield/TAMU Ventures Campaign \$30,000 Implementation Underway <i>Objective: Enhancing local business relationships</i>
--	--	---

:

Economic Indicators			
EMPLOYMENT GROWTH	EMPLOYMENT DIVERSIFICATION	UNEMPLOYMENT RATE	REVENUE INDICATORS
+970 Nov 2022 vs Nov 2021 <u>10-Year Sector Change</u> Professional/Technical: +78% Accommod/Food Svc: +74% Health Care: +63% Construction: +35%	2022 50.8% Private 49.2% Public 2012 45.8% Private 54.2% Public 2002 44.1% Private 55.9% Public	November 2022 3.2% November 2021 3.2% November 2020 4.2%	Sales Tax +13.1% (FY22 YEE vs. FY21 Actuals) Hotel Occupancy Tax +44.0% (FY22 YEE vs. FY21 Actuals)

8.2 Presentation, discussion, and possible action regarding updates to the City's Event, Program, and Activity Sponsorship Policy.

Jeff Kersten, Assistant City Manager, stated that the city is frequently asked to purchase tickets/tables, and to sponsor events to benefit organizations in the community. This item is for updated procedures for City sponsorships and to ensure City sponsorships enhance and foster the strategic goals of the city.

Mr. Kersten explained that there are two sponsorship categories: Community sponsorships and marketing sponsorships. The City Council or City Manager may provide direction for these events. The City Manager's Office will coordinate all marketing sponsorships to avoid duplication. If a marketing sponsorship is not budgeted it may only be approved by the Council or City Manager. The City Manager has authority to purchase of tables, tickets, or other forms of sponsorship at community events ensuring the City is not duplicating representation or marketing efforts. The City Manager has discretion to delegate spending authority or approval as appropriate.

Community Sponsorships

- Opportunities for the City to demonstrate goodwill towards organizations serving the College Station community.
- The city may purchase tables, serve as event sponsors, or purchase individual tickets.

Marketing Sponsorships

- Public events where the sponsorship will provide an opportunity to promote the city, its departments, or activities.
- Staff must ensure appropriate use of the City's logo/marks.
- Marketing sponsorship decisions must be made through the annual budget process.

Guidelines & Oversight

- City Council will review & allocate the total funding available for sponsorships.
- Outside Agency Funding Agreements specify sponsorship of events, programs, and activities with those organizations.
- If the City funds an entity \$5,000 or more in one fiscal year, they will pursue an Outside Agency Funding agreement with that entity.

Event, Program and Activity Sponsorship Policy

Policy Objectives

- a) Provide a City of College Station (City) policy for sponsorship of events, programs, and activities that further a public purpose, including purchasing tables and seats at events from community organizations furthering a public purpose.
- b) Establishing procedures for City sponsorships be administered by the City Manager as directed by the City Council.
- c) Ensuring City sponsorships enhance and foster a public purpose and the City's strategic goals.

9. REGULAR ITEMS

9.1. Public Hearing, presentation, discussion, and possible action approving Ordinance No. 2023-4421 vacating and abandoning a 0.041-acre variable width Public Utility Easement, said Public Utility Easement being located in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas and being the same easement recorded in volume 1164, page 639 of the Official Records of Brazos County, Texas.

Parker Mathews, Planning and Development, stated that the public utility easement abandonment is being requested by the applicant because of a desire to redevelop this lot and construct a commercial building. The previously existing gas, communications, and electrical infrastructure that was existing in the easements have been removed and rerouted making the easement no longer necessary for the City's use. The 0.041-acre public utility easement is located within the redeveloping property abutting Holleman Drive.

At approximately 7:42 p.m., Mayor Nichols opened the Public Hearing.

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

MOTION: Upon a motion made by Councilmember Yancy, and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4421, vacating and abandoning a 0.041-acre variable width Public Utility Easement, said Public Utility Easement being located in the Crawford Burnett Survey, Abstract No. 7, College Station, Brazos County, Texas and being the same easement recorded in volume 1164, page 639 of the Official Records of Brazos County, Texas as it appears on the dais. The motion carried unanimously.

9.2. Presentation, discussion, and possible action regarding appointments to the following boards, committees, and commissions:

- **Arts Council of Brazos Valley**
- **CDBG Public Service Review Committee**
- **Spring Creek Local Government Corporation Services**

Tanya Smith, City Secretary, presented the applicants for each following boards, committees, and commissions for appointments.

Arts Council

- Warren L. Finch for 3-year term
- Sara Mirza for 2-year term

MOTION: Upon a motion made by Mayor Nichols, and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Arts Council. The motion carried unanimously.

CDBG Public Service Review Committee

- Gary Balmain for 1-year term
- Mark S. Browning for 2-year term
- Suzanne Droleskey for 3-year term
- Mike A. Holmgreen for 2-year term
- Carla Robinson for 3-year term
- Carolyn H. Young for 1-year term

MOTION: Upon a motion made by Mayor Nichols, and a second by Councilmember Yancy, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the CDBG Public Service Review Committee. The motion carried unanimously.

Spring Creek Local Government Corporation Services

- Jason O. Cornelius for 2-year term

MOTION: Upon a motion made by Councilmember Harvell, and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Spring Creek Local Government Corporation Services. The motion carried unanimously.

10. Council Calendar

Council reviewed the calendar.

11. Items of Community Interest: The Council may receive reports from a Council Member or City Staff about items of community interest for which notice has not been given, including: expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary or salutary recognitions of a public official, public employee, or other citizen; reminders of upcoming events organized or sponsored by the City of College Station; information about a social, ceremonial or community event organized or sponsored by an entity other than the City of College Station that is scheduled to be attended by a Council Member, another city official or staff of the City of College Station; and announcements involving an

imminent threat to the public health and safety of people in the City of College Station that has arisen after the posting of the agenda.

Councilmember Cunha on February 25th is the 22nd annual banquet for the Brazos Valley African American Museum.

Mayor Nichols recognized Parks and Recreation Department staff for their efforts during the renaming ceremony for Gary Halter Nature Center.

Councilmember Maloney recognized that Saturday, February 25th, will mark the 84th anniversary of the first Council Station City Council Meeting.

12. Council Reports on Committees, Boards, and Commission: A Council Member may make a report regarding meetings of City Council boards and commissions or meetings of boards and committees on which a Council Member serves as a representative that have met since the last council meeting. (Committees listed in Coversheet)

Nothing to report at this time.

13. Future Agenda Items and Review of Standing List of Council Generated Future Agenda Items: A Council Member may make a request to City Council to place an item for which no notice has been given on a future agenda or may inquire about the status of an item on the standing list of council generated future agenda items. A Council Member's or City Staff's response to the request or inquiry will be limited to a statement of specific factual information related to the request or inquiry or the recitation of existing policy in response to the request or inquiry. Any deliberation of or decision about the subject of a request will be limited to a proposal to place the subject on the agenda for a subsequent meeting.

No future items at this time.

14. Adjournment.

There being no further business, Mayor Nichols adjourned the Meeting of the City Council at 8:00 p.m. on Thursday, February 23, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

March 9, 2023
Item No. 7.2.
Drop and Go Franchise Agreement

Sponsor: Emily Fisher, Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the first reading of a franchise agreement ordinance with Drop and Go Dumpsters for the collection of recyclables from commercial businesses and multi-family locations.

Relationship to Strategic Goals:

Core Services and Infrastructure

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

Summary: This item is an ordinance granting Drop and Go Dumpsters a non-exclusive franchise for the use of public streets, alleys, and public rights-of-ways within the city for the purpose of providing collection of demolition and construction debris, recyclables, and organic waste from commercial, industrial, and multi-family sites.

This franchise agreement allows Drop and Go Dumpsters to collect and haul recyclables and construction and demolition debris from commercial, industrial, and multi-family sites. This standard agreement sets the franchise fee based on the contractors' monthly gross revenues, delivery revenues, and hauling revenues, as well as the percentage of aggregate recycling and composting. Contractors must provide the total number of customers and total tons landfilled quarterly but are not required to disclose specific sites that are utilizing recycling services. The term of this agreement is five years.

Currently, the city has a total of seventeen (17) franchised haulers. This list can be found on the city's website under Public Works.

Budget & Financial Summary: N/A

Attachments:

1. Drop and Go Dumpsters Franchise Agreement

ORDINANCE NO. _____

DUMPSTER COLLECTION FRANCHISE AGREEMENT

AN ORDINANCE GRANTING CONTRACTOR, DROP AND GO DUMPSTERS, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC RIGHTS OF WAY WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION (“CITY”) FOR THE PURPOSE OF PROVIDING COLLECTION OF DEMOLITION AND CONSTRUCTION DEBRIS, RECYCABLES, AND ORGANIC WASTE FROM COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY SITES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR THE PERIOD OF THE GRANT; FOR ASSIGNMENT; FOR THE METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES; FOR PARTIAL INVALIDITY.

WHEREAS, the City, by ordinance, exclusively provides all solid waste collection and disposal services for solid waste aggregated from within the City limits including, but not limited to Recyclables; and

WHEREAS, the City pursuant to City Charter Article XI, may grant franchises to entities for use of public streets, alleys, and highways for collection of Solid Waste and Recyclables generated within the City limits; and

WHEREAS, the City of College Station desires to exercise the Charter’s authority and grant a non-exclusive franchise to Contractor for collection of demolition and construction debris and other waste for disposal using roll off containers, and recyclable materials, and organic waste from multifamily and commercial locations for the purpose of recycling.

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

Table of Contents

Article I. Definitions	3
Article II. Grant of Authority and Acceptance	4
Article III. Payment and Term	4
Article IV. Access to Records & Reporting	6
Article V. Rates to be Charged by Contractor	6
Article VI. Appearance of Personnel and Equipment	6
Article VII. Collection and Transport of Recyclables	7
Article VIII. Placement of Receptacles	7
Article IX. Service Complaints	7
Article X. Disposal and Processing	8
Article XI. Violation and Penalty	8
Article XII. Insurance	8
Article XIII. Indemnification and Release	9
Article XIV. Disputes and Mediation	9
Article XV. General Terms	10
Exhibit A. Schedule of Rates	13
Exhibit B. Insurance Requirements	14
I) Standard Insurance Policies Required:	14
II) General Requirements Applicable to All Policies:	14
III) Commercial General Liability	14
IV) Business Automobile Liability	15
V) Workers' Compensation Insurance	15
Exhibit C. Certificates of Insurance	16

ARTICLE I. DEFINITIONS

- 1.1 **Agreement** means this Franchise Agreement adopted by City Ordinance between City and Contractor for the collection of Recyclables within the City limits.
- 1.2 **Approved Customers** means those designated premises located within the City that generate Recyclables.
- 1.3 **Brazos Valley Solid Waste Management Agency, Inc. (BVSWMA, Inc.)** means the permitted municipal solid waste landfill and compost facility owned and operated by a Texas local government corporation.
- 1.4 **City Council or Council** means the governing body of the City of College Station, Texas.
- 1.5 **City** means the City of College Station, a Texas Home Rule Municipal Corporation.
- 1.6 **City's Representative** means the Recycling & Environmental Compliance Manager or the Manager's designated appointee.
- 1.7 **Collection** means the scheduled aggregation of Recyclables by Contractor.
- 1.8 **Construction and Demolition Debris** means buildings material waste resulting from demolition, remodeling, repairs, or construction, as well as materials discarded during periodic temporary facility clean-up generated within the City.
- 1.9 **Contaminated** means Recyclables mixed with solid waste or altered in a way that results in materials being unrecyclable or un-compostable.
- 1.10 **Contractor** means the Contractor franchised for the collection of Recyclables.
- 1.11 **Customers** means the locations designated by the City as a Commercial Business or Multifamily Residence.
- 1.12 **Organic Waste** means waste of biological origin recovered from the solid waste stream for the purposes of reuse, reclamation, or compost. Organic Waste is not solid waste, unless it is abandoned or disposed of, rather than reprocessed into another product.
- 1.13 **Receptacle** means a weatherproof container easily identifiable and designated for recycling or organic waste collection and shall not be made of any temporary materials.
- 1.14 **Recyclables or Recyclable Materials** mean materials, including construction and demolition debris recovered from the solid waste stream for the purpose of reuse or reclamation, a substantial portion of which are consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable materials are not solid waste unless they are abandoned or disposed of as garbage rather than reprocessed into another product.

- 1.15 **Residue** means the materials regularly associated with and attached to Recyclables, as a part of the original packaging or usage of that material that is not recyclable or compostable.
- 1.16 **Roll-Off / Compactor** means a container of varying capacity used for Recyclables collection.
- 1.17 **TAC** means the Texas Administrative Code now and as amended.
- 1.18 **TCEQ** means the Texas Commission on Environmental Quality.

ARTICLE II. GRANT OF AUTHORITY AND ACCEPTANCE

- 2.1 **Non-Exclusive.** City grants Contractor a non-exclusive franchise to operate and establish Recyclables collection from designated Customers. Nothing in this Agreement shall be construed as granting an exclusive franchise or right. City grants Contractor passage and rights-of-way on, along, and across City streets, highways, alleys, public places and all other real property for collecting demolition and construction debris, recyclables and organic waste from commercial, industrial, multifamily and residential construction sites for the purpose of disposal and/or recycling within the jurisdictional limits of the City. Contractor is expressly prohibited from collecting any recyclables from completed residences that are covered by the City's residential single stream recycling contract and program. All collection, work, activity, and undertakings by Contractor are subject to this Agreement and City's governmental and police powers.
- 2.2 **Acceptance.** By accepting this Agreement, Contractor represents it has, by careful examination, satisfied itself as to the nature and location of the services, character, quality, and quantity of services to be performed, the character of the equipment and facilities necessary to fulfill obligations under this Agreement, as well as the general and local conditions and all other matters affecting services performed under this Agreement.
- 2.3 **Option to Market Materials.** If City develops services or programs resulting in materials that may be recycled or composted, including but not limited to residential construction sites, multifamily, or commercial recycling or composting, the City shall have the option to market those to any contractor.
- 2.4 **Contract with City.** If City and Contractor contract for the collection and recycling or composting of materials, those terms will be incorporated into this Agreement by amendment.

ARTICLE III. PAYMENT AND TERM

- 3.1 **Franchise Fee.** For and in consideration of the grant of the franchise herein, Contractor agrees and will pay a Franchise Fee during the term of this Agreement, a sum based on the following graduated fee schedule depending on the percentage of aggregate recycling or composting accomplished:

- a. A fee is required, equivalent to five percent (5%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting of at least sixty percent (60%) of Recyclables collected.
- b. A fee is required, equivalent to six and one half percent (6.5%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting of at least fifty-five percent (55%) but less than sixty percent (60%) of Recyclables collected.
- c. A fee is required, equivalent to eight percent (8%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting less than fifty-five percent (55%) of Recyclables collected.

3.2 Payments. Revenue received by Contractor from this Agreement is subject to the Franchise Fee and shall be computed into Contractor's monthly gross revenues, delivery revenues, hauling revenues, and rates, as described in **Exhibit A**. Payment will be paid quarterly to the City, and shall be due by the twentieth (20th) day of the month following the end of the previous calendar quarter. Payment after that date shall incur a ten percent (10%) late fee on the outstanding account balance under Article V.

3.3 Failure to Pay. Failure by Contractor to pay any amount due under this franchise constitutes a Failure to Perform under this contract and is subject to the provisions of Article XV. General Terms of this Agreement (Termination for Cause).

3.4 Franchise Fee Requirements. Payments must state on a form approved by the City:

- a. The number and type of Customers collected from, for the previous quarter, for Customers included in this Agreement.
- b. The total tons landfilled, recycled or composted, within the jurisdictional limits of the City, for the previous quarter.
- c. The total gross revenues for the previous calendar quarter, for revenues generated under this agreement.
- d. The total payment amount.

3.5 Term. The term of this Agreement shall be for a period of five (5) years, beginning on the date of acceptance and approval by City Council.

ARTICLE IV. ACCESS TO RECORDS & REPORTING

- 4.1 Facilities.** The City shall have the right to inspect the Contractor's facilities, equipment, personnel, and operations to ensure compliance with this Agreement.
- 4.2 Records.** The City shall have the right to inspect Contractor's records, receipts, and all documentation relating to the performance of this Agreement. Those records include, but are not limited to, information concerning the quality and quantity of Recyclables collected, processed, and sold; number of Customers served, gross amounts paid to and paid by Contractor from the sale/processing of Recyclables. The City agrees to notify the Contractor at least twenty-four (24) hours prior to such inspection of operations and/or records.
- 4.3 Records Retention.** Contractor shall retain all records associated with this Agreement for a period of four (4) years. City shall have access to information regarding Contractor's markets and prices paid for each type of material's return/cost; all information obtained by City marked confidential or proprietary shall remain confidential or proprietary pursuant to the Texas Open Records Act.
- 4.4 Activity Report.** Contractor shall provide a Monthly Recycling Activity Report, on a form approved by the City, summarizing the previous month's collection. This report is due to the City's Representative no later than the twentieth (20th) calendar day of each month. Contractor's report shall include the following information:
- a. The Customer collection count, itemized by customer type.
 - b. Total tonnage of materials collected, recycled, composted and/or landfilled, itemized by type of material, within the jurisdictional limits of the City.
 - c. Any other information concerning the collections as required by the City's Representative.

ARTICLE V. RATES TO BE CHARGED BY CONTRACTOR

- 5.1** The Contractor shall follow the Schedule of Rates attached hereto as **Exhibit A** for the services described herein. The rates provided shall be kept current and made available to the City's Representative within thirty (30) days of an adopted rate change. The Contractor agrees to use due diligence to keep costs from increasing.

ARTICLE VI. APPEARANCE OF PERSONNEL AND EQUIPMENT

- 6.1 Equipment.** Contractor shall ensure all collection equipment and vehicles are attractively painted, well maintained and are in good working condition. Equipment must be washed at least one time per week. Equipment and vehicles must have sufficient carrying capacity for safe and efficient collection. The City shall have the right to inspect and approve the appearance of collection equipment. A standby vehicle shall be available at all times for collection.

- 6.2 Signage.** Contractor's vehicles shall at all times be clearly labeled with Contractor's name and phone number in visible letters and numbers not less than three (3) inches in height. Signage must be on both sides of the vehicle and placed in a conspicuous place. Only labeled vehicles shall perform collection activities under this Agreement. Contractor's roll-offs, compactors, and receptacles must be clearly marked as used for collection in letters at least twelve inches (12") in height on each side of the container.
- 6.3 Personnel.** All collection personnel shall wear a City-approved uniform to include, at minimum, matching labeled shirts with denim jeans or other standard work attire.

ARTICLE VII. COLLECTION AND TRANSPORT

- 7.1 Transport.** The Contractor shall only transport collected materials for storage, processing, disposal, or other necessary handling to locations in a manner permitted by the terms of this Agreement as well as federal, state, and local law. This Agreement does not authorize Contractor to utilize the streets, alleys, and public ways to dispose of municipal solid waste or any other type of waste intended for disposal from any other project.
- 7.2 Cover.** During transport of materials all vehicles shall be covered to prevent release of litter.

ARTICLE VIII. PLACEMENT OF RECEPTACLES

- 8.1 Placement.** All roll-offs, compactors, and receptacles placed in service shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall Contractor place roll-offs, compactors, or receptacles on public streets, alleys, or thoroughfares without prior approval of the City's Representative. City reserves the right to designate the exact location of any or all roll-offs, compactors, or containers placed in service in the City.
- 8.2 City Collection.** Collections shall not interfere with the City's collection of municipal solid waste. Under no circumstances shall contractor place roll-offs, compactors, or receptacles in existing enclosures designated for City roll-offs, compactors, and receptacles.

ARTICLE IX. SERVICE COMPLAINTS

- 9.1 Nature of Complaint.** Contractor shall handle directly any complaints pertaining to customer service, property damage, or personal injury from their commercial business and multifamily Recyclables collection service.
- 9.2 Intake.** Contractor shall develop written practices and procedures for receiving and resolving Customer complaints and collection issues. Any complaint received by the City shall be forwarded to the Contractor within one (1) business day of receipt.

- 9.3 Response.** Contractor shall respond to all complaints within one (1) business day of receiving a complaint from a Customer or notice of complaint from the City. Regardless of the nature of the complaint, Contractor shall report the action taken to the City in accordance with Article IV. Access to Records & Reporting.
- 9.4 Complaint Charges.** Upon receipt of ten (10) Customer complaints within a forty-five (45) day period, Contractor shall be assessed a charge of Three Hundred Dollars (\$300.00). Complaints are to be verified by the Contractor and the City's Representative. The City shall invoice the Contractor such charges.

ARTICLE X. DISPOSAL AND PROCESSING

- 10.1 Disposal Site.** Unless approved otherwise in writing by the City, Contractor shall utilize BVSWM, Inc. Landfill for the disposal of all non-recyclable waste material collected by Contractor within the corporate limits of the City.
- 10.2 Processing Facility.** Contractor shall only use a City-approved recycling or composting facility for processing of all Recyclables collected by Contractor within the corporate limits of the City under this Agreement.

ARTICLE XI. VIOLATION AND PENALTY

- 11.1 Fine.** It shall be unlawful for any person, firm or corporation to violate any provision or term of this Agreement and they shall receive a citation and fine not to exceed \$2,000.00 per offense per day. Each and every day a violation continues constitutes a separate offense.
- 11.2 Remedies.** In addition to any rights set out elsewhere in this Agreement, or other rights the City may possess at law or equity, the City reserves the right to apply any remedies, alone or in combination, in the event Contractor violates any provision of this Agreement. The remedies provided for in this Agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another, or any rights of the City at law or equity.

ARTICLE XII. INSURANCE

- 12.1** The Contractor shall procure and maintain, at its sole cost and expense for the term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its agents, representatives, volunteers, employees, or subcontractors.
- 12.2** The Contractor's insurance shall list the City of College Station, its employees, agents, volunteers, and officials as additional insureds. Insurance requirements are attached in **Exhibit B**. Certificates of insurance evidencing the required insurance coverages are attached in **Exhibit C**.

ARTICLE XIII. INDEMNIFICATION AND RELEASE

- 13.1 Indemnification.** Contractor shall indemnify, hold harmless, and defend the City, its 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 attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work and services done by the Contractor under this Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.
- 13.2 Release.** The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work and services 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 XIV. DISPUTES AND MEDIATION

- 14.1 Disputes.** If a dispute arises between City and Contractor during this Agreement, the dispute shall first be referred to the operational officers or representatives designated by the parties having oversight of the Agreement's administration. The officers or representatives shall meet within thirty (30) days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.
- 14.2 Mediation.** If the parties are not able to resolve the dispute under the procedure in this article, then the parties agree the matter shall be referred to non-binding mediation. The parties shall mutually agree upon a mediator to assist in resolving their differences. If the parties cannot agree upon a mediator, the parties shall jointly obtain a list of three (3) mediators from a reputable dispute resolution organization and alternate striking mediators on that list until one remains. A coin toss shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall select the mediator from those mediators remaining on the list. The parties shall pay their own expenses of any mediation and will share the cost of the mediator's services.
- 14.3 Other Remedies.** If the parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies.

ARTICLE XV. GENERAL TERMS

15.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services in a professional manner and be fully qualified and competent to perform those services.

15.2 Termination.

a. For Convenience. At any time, the City or Contractor may terminate this Agreement for convenience, in writing with thirty (30) days' written notice. City shall be compensated for outstanding Franchise Fees.

b. For Cause. City may terminate this Agreement if Contractor materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Agreement, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions, and fails to cure such breach or default within thirty (30) days of City providing Contractor written notice, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time upon which the parties may agree.

c. Hearing. This Agreement shall not be terminated except upon a majority vote of the City Council, after giving reasonable notice to Contractor. The Contractor will have an opportunity to be heard, provided if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.

15.3 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.

15.4 Amendment. This Agreement may only be amended by written instrument approved and executed by the parties.

15.5 Taxes. The City is tax exempt and is not responsible for the payment of any taxes.

15.6 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 (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.

15.7 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 of deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

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

15.9 Invalid Provisions. If any provision of this Agreement 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 Agreement is invalid or unenforceable, and if by limiting that provision, the Agreement may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

15.10 Entire Agreement. This Agreement represents the entire agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

15.11 Agree to Terms. The parties' state they have read the terms and conditions of this Agreement and agree to the terms and conditions. Contractor shall evidence its unconditional written acceptance of all the terms and conditions of this Agreement by the execution of this Agreement.

15.12 Effective Date. According to City Charter, Section 105, after passage, approval and legal publication of this Agreement as provided by law, and provided it has been duly accepted by Contractor as herein above provided, this Agreement shall not take effect until sixty (60) days after its adoption on its second and final reading.

15.13 Notice. Any official notice under this Agreement will be sent to the following addresses:

City of College Station
Attn: Caroline Ask
PO Box 9960
College Station, TX 77842
cask@cstx.gov

Drop and Go Dumpsters
Attn: Tyler RJ Smith
6517 FM 974, Bryan TX 77802
info@dropandgodumpster.com

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

- A. Schedule of Rates
- B. Insurance Requirements
- C. Certificates of Insurance

15.15 Public Meetings and Readings. This Agreement was passed, adopted and approved according to Texas Government Code Chapter 551.

- a. First Consideration & Approval on the ____ day of _____, 2023.
- b. Second Consideration & Approval on the ____ day of _____, 2023.

DROP AND GO DUMPSTERS

By: _____

Printed Name: _____

Title: **Owner/Member**

Date: _____

CITY OF COLLEGE STATION

By: _____
Mayor

Date: _____

ATTEST:

City Secretary

Date: _____

APPROVED:

City Manager

Date: _____

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A. SCHEDULE OF RATES

I. Contractor's base dumpster haul rates are:

12 Yard;	\$275
20 Yard;	\$300
30 Yard;	\$325
40 Yard;	\$350

per month and may increase, depending on a variety of conditions, including but not limited to:

- a. Location of Customer
- b. Impact on Existing Routes
- c. Ingress and Egress Capabilities
- d. Special Requests by Customers
- e. Frequency of Collections
- f. Volume of Materials
- g. Type of Materials
- h. External Contributing Conditions of Market Costs
- i. Number of Loads
- j. Can Availability

EXHIBIT B. INSURANCE REQUIREMENTS

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

I. Standard Insurance Policies Required:

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

II. General Requirements Applicable to All Policies:

- 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.

III. Commercial General Liability

- 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 \$500,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$1,000,000. 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 include, but not be limited to the following:
premises/operations with separate aggregate; independent contracts;
products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

IV. Business Automobile Liability

- 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.

V. Workers' Compensation Insurance

- a. Workers compensation insurance shall include the following terms:
 - i. Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
 - ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy
 - iii. 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"

EXHIBIT C. CERTIFICATES OF INSURANCE



CHUNMYJ-01

WENDYH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/2/2023

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 ANCO Insurance PO Box 3889 Bryan, TX 77805	CONTACT NAME: Wendy Harrod	
	PHONE (A/C, No, Ext): (979) 774-6283 FAX (A/C, No): (979) 774-5372	
	E-MAIL ADDRESS: harrod@anco.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Central Mutual Insurance Company	20230
INSURED Chunk My Junk LLC DBA Drop And Go Dumpsters 6517 FM 974 Bryan, TX 77808	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			CLP 8958649	9/12/2022	9/12/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			BAP 8958650	9/12/2022	9/12/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

City of College Station is included as an Additional Insured on the General Liability and Auto policies per attached forms. Waiver of Subrogation is included on the General Liability and Auto policies per attached forms.

CERTIFICATE HOLDER

CANCELLATION

City of College Station Attn: Risk Management PO Box 9960 College Station, TX 77842	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS GENERAL LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This endorsement amends the policy by adding the following; please read each section carefully.

EMPLOYEE BENEFITS LIABILITY COVERAGE

ADDITIONAL INSURED - OWNERS, LESSEES, OR CONTRACTORS - AUTOMATIC STATUS
 ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES - AUTOMATIC STATUS
 ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT - AUTOMATIC STATUS
 ADDITIONAL INSURED - VENDORS - AUTOMATIC STATUS
 INCLUDE DIRECTORS OR TRUSTEES ON COMMITTEES AS EMPLOYEES
 WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHER TO US
 NEWLY FORMED OR ACQUIRED ORGANIZATIONS
 NOTICE OF OCCURRENCE, KNOWLEDGE OF OCCURRENCE, UNINTENTIONAL OMISSION
 VOLUNTARY PROPERTY DAMAGE
 NON-OWNED WATERCRAFT AND NON-OWNED AIRCRAFT LIABILITY
 FIRE, SPRINKLER LEAKAGE OR EXPLOSION
 POLLUTION COVERAGE FOR UPSET OF MOBILE EQUIPMENT
 AGGREGATE LIMITS OF INSURANCE AMENDMENT
 SUPPLEMENTARY PAYMENTS - HIGHER LIMITS
 REASONABLE FORCE EXPANSION - PROPERTY DAMAGE
 LOST KEY COVERAGE
 PERSONAL AND ADVERTISING INJURY DEFINITION AMENDED

These modifications are subject to the terms and conditions applicable to coverage in the policy except as provided below.

A. Employee Benefits Liability Coverage

The following is added to Section I - Coverages: EMPLOYEE BENEFITS LIABILITY COVERAGE.

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

- 1) The amount we will pay for damages is limited as described in SECTION III LIMITS OF INSURANCE for Employee Benefits Liability Coverage and
- 2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to damages only if:
 - 1) The act, error or omission is negligently committed in the "administration" of your "employee benefit program";
 - 2) The act, error or omission is caused by an "occurrence" that takes place in the "coverage territory"; and
 - 3) The act, error or omission occurs during the policy period.

2. Exclusions

This insurance does not apply to:

- a. **Dishonesty or Fraud**

Damages arising out of any dishonest, fraudulent or malicious act or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Bodily Injury, Property Damage, or Personal and Advertising Injury

"Bodily injury," "property damage" or "personal and advertising injury."

c. Failure to Perform a Contract

Damages arising out of failure of performance of contract by any insurer.

d. Insufficiency of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program."

e. Inadequacy of Performance of Investment/Advice Given to Participate

Any "claim" or "suit" based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person to participate or not to participate in any plan included in the "employee benefit program."

f. Workers Compensation and Similar Laws

Damages arising out of any "claim" related to any workers compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

Damages for which the insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or any similar federal, state or local laws.

h. Available Benefits

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

i. Taxes, Fines or Penalties

- 1) Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law; or
- 2) Loss or damages arising out of the imposition of such taxes, fines or penalties.

j. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

3. Supplementary Payments - Coverages A and B

For the purposes of the coverage provided by Employee Benefits Liability Coverage, the Supplementary Payments - Coverages **A** and **B** apply except for Paragraphs **1.b.** and **2.**

SECTION II - WHO IS AN INSURED, Paragraphs **2.** and **3.** are replaced by the following for Employee Benefits Liability Coverage:

2. Each of the following is also an insured:

- a. Each of your "employees" who is or was authorized to administer your "employee benefit program."
- b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
- c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage under this provision does not apply to any act, error or omission that occurred before you acquired or formed the organization.

SECTION III - LIMITS OF INSURANCE is replaced by the following for the Employee Benefits Liability Coverage:

- 1) The Limits of Insurance shown below and the rules below fix the most we will pay regardless of the number of:
 - a) Insureds;
 - b) "Claims" made or "suits" brought;
 - c) Persons or organizations making "claims" or bringing "suits";
 - d) Acts, error or omissions which result in loss; or
 - e) Benefits included in your "employee benefit program."
- 2) \$2,000,000 is the most we will pay for all damages because of acts, errors or omissions committed in the "administration" of your "employee benefit program."
- 3) Subject to the above Limit, \$1,000,000 is the most we will pay for all damages sustained by any one "employee," including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
 - a) An act, error or omission; or
 - b) A series of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program."

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

4. Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of \$1,000. The limits of insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount applies to all damages sustained by any one "employee," including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- c. The terms of this insurance, including those with respect to:
 - 1) Our right and duty to defend any "suits" seeking those damages; and
 - 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, "claim" or "suit"apply irrespective of the application of the deductible amount.
- d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

SECTION IV - CONDITIONS, Paragraphs 2. and 4. are replaced by the following for the Employee Benefits Liability Coverage:

2. Duties In The Event Of An Act, Error or Omission, "Claim" Or "Suit"

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim." To the extent possible, notice should include:
 - 1) What the act, error or omission was and when it occurred; and
 - 2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a "claim" is made or "suit" is brought against any insured, you must:
 - 1) Immediately record the specifics of the "claims" or "suit" and the date received; and
 - 2) Notify us as soon as practicable.You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

- c. You and any other involved insured must:
 - 1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";
 - 2) Authorize us to obtain records and other information;
 - 3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
 - 4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.
- d. No insured will, except at the insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

Any other primary insurance available to you covering acts, errors or omissions for which you have been added as an additional insured.

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

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- 1) The total amount that all such other insurance would pay for the loss in absence of this insurance; and
- 2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits of insurance of all insurers.

SECTION V - DEFINITIONS is amended by adding the following definitions for Employee Benefits Liability Coverage:

- 1. "Administration" means:
 - a. Providing information to "employees," including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
 - b. Handling records in connection with the "employee benefit program"; or
 - c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program."

However, "administration" does not include handling payroll deductions.
- 2. "Cafeteria plans" means plans authorized by the applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

3. "Claim" means any demand, or "suit," made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.
4. "Employee benefit program" means a program providing some or all of the following benefits to "employees," whether provided through a "cafeteria plan" or otherwise.
 - a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible for such benefits;
 - c. Unemployment insurance, social security benefits, workers compensation and disability benefits;
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family and civil leave; tuition assistance plans; transportation and health club subsidies.

SECTION V - DEFINITIONS - the definition of "employee" and "suit" is replaced for Employee Benefits Liability Coverage by the following:

"Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker." "Employee" does not include a "temporary worker."

"Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

B. Additional Insured - Owners, Lessees, or Contractors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy and any other person or organization you are required to add as an additional insured under the contract or 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:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf;
 in the performance of your ongoing operations for the additional insured.

Except as provided for in the exception to **2.b.** below, a person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

However, the insurance afforded to such additional insured described above:

- a. only applies to the extent permitted by law; and
 - b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
This insurance does not apply to:
 - a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - 1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions,

- reports, surveys, field orders, change orders or drawings and specifications; or
- 2) Supervisory, inspection, architectural or engineering activities.

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 failure to render, any professional architectural, engineering or surveying services.

b. "Bodily injury" or "property damage" occurring after:

- 1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

However, exclusion **b.** does not apply when in conflict with the requirements of a written contract or agreement.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

C. Additional Insured - Managers or Lessors of Premises - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- a. Any "occurrence" which takes place after you cease to be a tenant in that premises.
- b. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.

However, the insurance afforded to such additional insured described above:

- a. only applies to the extent permitted by law; and
 - b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

D. Additional Insured - Lessor of Leased Equipment - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an additional insured any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

However, the insurance afforded to such additional insured described above:

- a. only applies to the extent permitted by law; and
- b. will not be broader than that which you are required by the contract or agreement to provide for

such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

E. Additional Insured Vendors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an insured any person or organization (referred to below as vendor) when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule, Declarations or Change Endorsement which are distributed or sold in the regular course of the vendor's business.

However, the insurance afforded to such additional insured described above:

- a. only applies to the extent permitted by law; and
 - b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. An express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - 1) The exceptions contained in Sub-paragraphs d. or f.; or
 - 2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
 3. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
 4. The most we will pay on behalf of the vendor is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

F. Include Directors Or Trustees On Committees As Employees (not applicable to Employee Benefits Liability Coverage)

SECTION V - DEFINITIONS is amended by the addition of the following to definition 5.:

"Employee" also includes any of your directors or trustees acting as a member of any of your elected or appointed committees to perform on your behalf specific, as distinguished from general, directorial acts.

G. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION IV CONDITION 8., is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard." This waiver applies only to the person or organization which, before the loss, you have agreed in writing to waive your right of recovery.

H. Newly Formed or Acquired Organizations (not applicable to Employee Benefits Liability Coverage)

SECTION II - WHO IS AN INSURED is amended to include any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until 180 days after you acquire or form the organization or the end of the policy period, whichever is earlier.
2. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
3. Coverage B does not apply to "personal injury and advertising injury" arising out of an offense committed before you acquired or formed the organization.

I. Notice Of Occurrence, Knowledge of Occurrence, Unintentional Omission

The following is added to SECTION IV.2. - DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT:

e. Notice of Accident/Occurrence

When you report to your Workers Compensation carrier the occurrence of any accident which later develops into a liability claim covered under this policy, failure to report the accident to us at the time of occurrence is not in violation of the Conditions of this policy. However, as soon as you are definitely made aware of the fact that the particular accident is a liability claim rather than a Workers Compensation claim prompt notification must be given to us.

f. Unintentional Errors and Omissions

The insurance afforded by this policy is not invalidated by any unintentional errors, omissions or improper description of premises or your unintentional failure to disclose all hazards existing at inception date of the policy.

g. Knowledge of Accident/Occurrence

Knowledge of an accident/occurrence by your agent, servant or employee is not knowledge by you unless an executive officer of your Corporation received such notice from its agent, servant or employee.

J. Voluntary Property Damage

1. We will pay, at your request, for loss due to "Property Damage" to property of others caused by you, or while in your possession, arising out of your business operations.
2. "Loss" means unintentional damage or destruction but does not include disappearance, theft, or loss of use.
3. Limits of Insurance - The most we will pay for "loss" under the Voluntary Property Damage is **\$2,500** for each "occurrence." The most we will pay for the sum of all damages because of "Property Damage" is an annual policy aggregate limit of **\$25,000**.
4. Deductible - We will not pay for "loss" in any one "occurrence" until the amount of "loss" exceeds **\$250**.

We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

5. The insurance under the Voluntary Property Damage shall not apply:

- a. To "loss" of property at premises owned, rented, leased, operated, or used by you;
 - b. To "loss" of property while in transit;
 - c. To "loss" of property owned by, rented to, leased to, borrowed by or used by you;
 - d. To the cost of repairing or replacing (1) any work defectively or incorrectly done, (2) any product manufactured, sold or supplied by you, unless the "Property Damage" is caused directly by you after delivery of the product or completion of the work and resulting from a subsequent undertaking;
 - e. To "loss" of property included within the "Products/Completed Operations Hazard";
 - f. To "loss" of property which is an "auto" or "mobile equipment."
 - g. To "loss" of property caused by "pollutants."
6. In the event of "loss" covered by this endorsement, you shall, if requested by us, replace the property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

K. Non-Owned Watercraft Liability and Non-Owned Aircraft Liability

SECTION I - COVERAGE A, exclusion 2.g. is replaced by the following:

- g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operations and "loading or unloading." 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" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- 1) A watercraft while ashore on premises you own or rent;
- 2) A watercraft you do not own that is:
 - a) Less than 60 feet long; and
 - b) Not being used to carry persons or property for a charge;
- 3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided that "auto" is not owned by or rented or loaned to you or the insured;
- 4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- 5) "Bodily injury" or "property damage" arising out of:
 - a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - b) The operation of any of the machinery or equipment listed in paragraph f.2) or f.3) of the definition of "mobile equipment."

L. Fire, Sprinkler Leakage Or Explosion

1. SECTION I - GENERAL LIABILITY COVERAGES is amended as follows:

- a. The last paragraph of 2. **Exclusions** under **A. Bodily Injury and Property Damage Liability** is replaced by the following:

Exclusions c. through q. do not apply to damage by fire, sprinkler leakage or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

But the Limit for Damage to Premises Rented To You shown in the Declaration will apply to all damage proximately caused by the same event, whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.

- b. **Section III - Limits of Insurance** is amended to replace paragraph 6. with the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented to You Limit is the most we will pay under Paragraph A. Bodily Injury And Property Damage Liability for damages

because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, sprinkler leakage, or explosion, while rented to you or temporarily occupied by you with permission of the owner.

But the Limit of Insurance shown in the Declaration will apply to all damage proximately caused by the same event whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.

2. The Damage to Premises Rented To You Limit is \$300,000 unless a higher limit is shown on the declaration or change endorsement.
3. Paragraph 4.b. of the Other Insurance is amended as follows:
The term "Fire" in Paragraph B. (1)(a)(i) is replaced by "Fire, Sprinkler Leakage, or Explosion"
4. Section 9.a. under SECTION V - DEFINITIONS is amended as follows:
The term "fire" is replaced by "fire, sprinkler leakage, or explosion"

M. Pollution Coverage For Upset of Mobile Equipment

The Insuring Agreement for "property damage" liability with respect to your operations is extended as follows:

1. We will pay those sums which you become legally obligated to pay for "property damage" caused directly by immediate, abrupt and accidental upset, overturn or collision of your "mobile equipment" while transporting "pollutants" which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.

2. EXCLUSIONS

- a. With regard only to the coverage provided by this extension K., SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, f. is deleted and replaced by the following for this extension only:

f. Pollution

Any loss, cost or expense arising out of any:

- 1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- 2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants."
- 3) Premises, site or location which is or was at any time owned, rented or loaned to any insured.

N. Aggregate Limits Of Insurance (not applicable to Employee Benefits Liability Coverage)

The General Aggregate Limit under SECTION III - LIMITS OF INSURANCE, Paragraph 2. applies separately to each of your "location(s)" owned by or rented to you or "project(s)" away from "location(s)" owned by or rented to you.

"Location" and/or "project" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

O. Supplementary Payments - Higher Limits

Under SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

Paragraph 1.b. is replaced by the following:

Up to \$2000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

Paragraph 1.d. is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$400 a day because of time off from work.

P. Reasonable Force Expansion - Property Damage

Exclusion 2.a. of Coverage A is replaced with the following:

a. Expected Or Intended Injury

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

Q. Lost Key Coverage

1. SECTION I - COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

Exclusion **2.j.4)** Personal property in the care, custody or control of the insured is amended to add:

However, coverage for property of others in the care, custody or control of the insured is provided for the loss of keys which are in the possession of the insured or his "employees" subject to the following additional provisions:

- a.** The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his employees or agents;
- b.** Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed \$25,000. Each claim is subject to a \$250 deductible.

2. SECTION II - WHO IS AN INSURED

The following is added to item **2.a.2)b)**:

However, coverage is provided for the loss of keys which are in the possession of the insured or his "employees," subject to the following additional provisions:

- a.** The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his "employees" or agents;
- b.** Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed \$25,000. Each claim is subject to a \$250 deductible.

R. Personal and Advertising Injury Definition

Under SECTION V – DEFINITIONS, 14.c. is replaced with the following:

The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor.

S. The following is added to SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. OTHER INSURANCE:

When this General Liability Plus endorsement provides coverage and such coverage is also provided by any other provision of this policy:

- a.** There shall be no duplication of the Limits of Insurance.
- b.** Any loss payment made under such other provisions shall reduce by such loss payments the Limits of Insurance available under the General Liability Plus endorsement.

T. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended by adding:

LIBERALIZATION

If we adopt a change in our Comprehensive General Liability Coverage forms or rules that would broaden the coverage without extra charge, the broader coverage will apply to this Coverage Form. It will apply when the change becomes effective in your state.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF PRIMARY AND EXCESS PROVISIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a contract specifically requires that this insurance be either primary or primary and noncontributing. Where required by contract, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TEXAS CHANGES – CANCELLATION AND NONRENEWAL PROVISIONS FOR
CASUALTY LINES AND COMMERCIAL PACKAGE POLICIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY
FARM COVERAGE PART – FARM LIABILITY COVERAGE FORM
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

This endorsement also modifies insurance provided under the following when written as part of a Commercial Package Policy:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Paragraph 2. of the **Cancellation Common Policy Condition is replaced by the following:**

2. We may cancel this policy:

- a.** By mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least 10 days before the effective date of cancellation.

However, if this policy covers a condominium association, and the condominium property contains at least one residence or the condominium declarations conform with the Texas Uniform Condominium Act, then the notice of cancellation, as described above, will be provided to the first Named Insured 30 days before the effective date of cancellation. We will also provide 30 days' written notice to each unit-owner to whom we issued a certificate or memorandum of insurance, by mailing or delivering the notice to each last mailing address known to us.

- b.** For the following reasons, if this policy does not provide coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001 or on one- and two- family dwellings:
 - (1)** If this policy has been in effect for 60 days or less, we may cancel for any reason except that, under the provisions of the Texas Insurance Code, we may not cancel this policy solely because the policyholder is an elected official.
 - (2)** If this policy has been in effect for more than 60 days, or if it is a renewal or continuation of a policy issued by us, we may cancel only for one or more of the following reasons:
 - (a)** Fraud in obtaining coverage;
 - (b)** Failure to pay premiums when due;

- (c) An increase in hazard within the control of the insured which would produce an increase in rate;
 - (d) Loss of our reinsurance covering all or part of the risk covered by the policy; or
 - (e) If we have been placed in supervision, conservatorship or receivership and the cancellation is approved or directed by the supervisor, conservator or receiver.
- c. For the following reasons, if this policy provides coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001 or on one- and two-family dwellings:
- (1) If this policy has been in effect for less than 90 days, we may cancel coverage for any reason.
 - (2) If this policy has been in effect for 90 days or more, or if it is a renewal or continuation of a policy issued by us, we may cancel coverage, only for the following reasons:
 - (a) If the first Named Insured does not pay the premium or any portion of the premium when due;
 - (b) If the Texas Department of Insurance determines that continuation of this policy would result in violation of the Texas Insurance Code or any other law governing the business of insurance in Texas;
 - (c) If the Named Insured submits a fraudulent claim; or
 - (d) If there is an increase in the hazard within the control of the Named Insured which would produce an increase in rate.

B. The following condition is added and supersedes any provision to the contrary:

Nonrenewal

1. We may elect not to renew this policy except that, under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.
2. This paragraph, **2.**, applies unless the policy qualifies under Paragraph **3.** below.
 If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, at least 60 days before the expiration date. If notice is mailed or delivered less than 60 days before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's premium.
3. If this policy covers a condominium association, and the condominium property contains at least one residence or the condominium declarations conform with the Texas Uniform Condominium Act, then we will mail or deliver written notice of nonrenewal, at least 30 days before the expiration or anniversary date of the policy, to:
 - a. The first Named Insured; and
 - b. Each unit-owner to whom we issued a certificate or memorandum of insurance.
 We will mail or deliver such notice to each last mailing address known to us.
4. If notice is mailed, proof of mailing will be sufficient proof of notice.
5. The transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BAP PLUS COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the:

BUSINESS AUTO COVERAGE FORM

These coverages are subject to the terms and conditions applicable to coverage in this policy except as provided below.

A. Hired Auto Physical Damage Coverage

1. If hired "autos" are covered "autos" for Liability Coverage in this policy or another policy provided by us and if Comprehensive, Specified Causes of Loss or Collision coverages are provided under this coverage form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is **\$75,000** or Actual Cash Value or Cost of Repair, whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Subject to the above limit, and deductible, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

2. Changes In Liability Coverage:

The following is added to the Who Is An Insured Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

3. Changes In General Conditions:

Paragraph **5.b.** of the Other Insurance Condition in the Business Auto and Business Auto Physical Damage Coverage Forms are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and
2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto."

B. Hired Auto Physical Damage - Additional Loss of Use Expenses

Paragraph A.4.b. of Section III - Physical Damage Coverage is amended to provide a limit of \$85 per day and a maximum limit of \$1,350.

C. Physical Damage - Additional Transportation Expense Coverage

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of **\$50 per day** and a **maximum limit of \$1,000**.

D. Towing and Labor Costs Coverage

We will pay up to \$75 for towing and labor costs incurred each time an owned "auto" is disabled. However, the labor must be performed at the place of disablement.

E. Parked Auto Collision Coverage (Waiver of Deductible)

The deductible does not apply to "loss" caused by collision to such covered "auto" while it is:

1. In the charge of an "insured";
2. Legally parked; and
3. Unoccupied.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations or Change Endorsement.

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.

F. Rental Reimbursement Coverage

When there is a "loss" to a covered "auto," we will pay for rental reimbursement expenses incurred by you for the rental of an "auto." Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto." No deductibles apply to this coverage.

This coverage applies only:

1. For those expenses incurred during the policy period beginning 24 hours after the loss;
2. To necessary and actual expenses incurred;
3. To a "loss" for which we also pay a "loss" under Physical Damage Coverage - Comprehensive Coverage, Specified Causes of Loss Coverage or Collision Coverage; and
4. If there are no spare or reserve "autos" available to you for your operations.

Our payment will be limited to that period of time reasonably required to repair or replace the covered "auto." We will pay up to **\$75 per day** to a **maximum of \$1,500**.

If "loss" results from total theft of a covered "auto" we will pay under this coverage only that amount of rental reimbursement expenses which are not already provided under the Physical Damage Coverage Extension.

G. Difference in Value Coverage - Loan/Lease Gap

In the event of a total "loss" to a covered "auto," the Limit of Insurance provision in SECTION III, PHYSICAL DAMAGE COVERAGE, is replaced by the following:

LIMIT OF INSURANCE

1. The most we will pay for "loss" in any one "accident" is the greater of:
 - a. The amount due under the terms of the loan/lease to which a covered "auto" is subject, but not to include:
 - i) Overdue loan/lease payments,
 - ii) Financial penalties imposed under the lease due to high mileage, excessive use or abnormal wear and tear,
 - iii) Security deposits not refunded by the lessor,
 - iv) Cost of extended warranties, Credit Life Insurance, Accident or Disability Insurance purchased with the loan or lease, or
 - v) Carry-over balances from previous loans or leases.
 - b. The actual cash value of the damaged or stolen property as of the time of the "loss."
2. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of "loss."

For the purposes of this coverage, physical damage resulting in total "loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

This coverage shall apply only to the original lease written on a covered "auto" not previously titled.

H. Glass Repair - Waiver of Deductible

Under Paragraph D. - Deductible of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

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

I. Employees as Insureds

Paragraph A.1 - Who is an Insured of SECTION II - COVERED AUTOS LIABILITY COVERAGE is amended to add:

- d. Any employee of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs. Coverage is excess over any other collectible insurance.

J. Fellow Employee Coverage

The Fellow Employee Exclusion contained in SECTION II - COVERED AUTOS LIABILITY COVERAGE does not apply.

K. Doubled Automobile Medical Payments Coverage

If you have purchased Automobile Medical Payments Coverage, the limit of insurance for that coverage as shown in the Declarations or Change Endorsement will be doubled in the event an "insured" is injured in an "accident" while within an "auto" and is:

1. Wearing a seat belt; or
2. The "auto" is equipped with passive restraints.

L. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION IV CONDITION 5., is amended by the addition of the following:

We waive the right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of the ownership, maintenance or use of a covered auto. This waiver applies only to the person or organization which, before the loss, you have agreed in writing to waive your right of recovery.

M. Additional Insured - Automatic Status

1. Any "leased auto" will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. Paragraph A.1 - Who is an Insured of SECTION II - COVERED AUTOS LIABILITY COVERAGE is amended to include as an insured any person or organization (called additional insured) whom you are required to add as an additional insured on this policy under:
A written contract, permit or agreement, and
 - a. Currently in effect or becoming effective during the term of this policy; and
 - b. Executed prior to the "bodily injury," "property damage," "personal injury and advertising injury."
3. The insurance provided to the additional insured is limited as follows:
 - a. The Limits of Insurance applicable to the additional insured are those specified in the written contract or agreement or in the Declarations for this policy, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations.

4. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

N. Loss Payee - Lessor

1. We will pay, as interest may appear, you and the lessor for "loss" to a "leased auto."
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omission on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

4. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

O. Tapes, Records and Discs Coverage SECTION III - PHYSICAL

DAMAGE COVERAGE is amended as follows:

1. The exclusion referring to tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment does not apply.

2. The following is added to Paragraph A. Coverage:

Under Comprehensive Coverage we will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

a. Are your property or that of a family member, and

b. Are in a covered "auto" at the time of "loss."

3. The most we will pay for "loss" is \$250.

4. No Physical Damage Coverage deductible applies to this coverage.

P. Audio, Visual and Data Electronic Equipment Coverage SECTION

III - PHYSICAL DAMAGE COVERAGE is amended as follows:

1. The sublimit in Paragraph C.1.b. of the Limit Of Insurance provision is increased to \$2,500.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

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

- A.** The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

- B.** The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

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

A. Paragraphs 2. and 5. of the **Cancellation Common Policy Condition contained in Endorsement **IL 00 17** are replaced by the following:**

2. We may cancel this policy:

- a.** By mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least 10 days before the effective date of cancellation.
- b.** For the following reasons, if this policy does not provide coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001:
 - (1)** If this policy has been in effect for 60 days or less, we may cancel for any reason except, that under the provisions of the Texas Insurance Code, we may not cancel this policy solely because the policyholder is an elected official.
 - (2)** If this policy has been in effect for more than 60 days, or if it is a renewal or continuation of a policy issued by us, we may cancel only for one or more of the following reasons:
 - (a)** Fraud in obtaining coverage;
 - (b)** Failure to pay premiums when due;
 - (c)** An increase in hazard within the control of the insured which would produce an increase in rate;
 - (d)** Loss of reinsurance covering all or part of the risk covered by the policy; or
 - (e)** If we have been placed in supervision, conservatorship or receivership and the cancellation is approved or directed by the supervisor, conservator or receiver.
- c.** For the following reasons, if this policy provides coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001:
 - (1)** If this policy has been in effect for less than 90 days, we may cancel this policy for any reason.
 - (2)** If this policy has been in effect for 90 days or more, or if it is a renewal or continuation of a policy issued by us, we may cancel this policy, only for the following reasons:
 - (a)** If the first Named Insured does not pay the premium or any portion of the premium when due;
 - (b)** If the Texas Department of Insurance determines that continuation of this policy would result in violation of the Texas Insurance Code or any other law governing the business of insurance in Texas;
 - (c)** If the Named Insured submits a fraudulent claim; or
 - (d)** If there is an increase in the hazard within the control of the Named Insured which would produce an increase in rate.

5. If this policy is canceled, we will send the first Named Insured any premium refund due. The refund will be pro rata, subject to the policy minimum premium. The cancellation will be effective even if we have not made or offered a refund.

B. The following condition is added:

Nonrenewal

1. We may elect to renew this policy except that under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.
2. If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, at least 60 days before the expiration date. If notice is mailed or delivered less than 60 days before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's premium.

REQUEST FOR EXCEPTION TO WORKERS' COMPENSATION REQUIREMENT

I, the undersigned, am the sole owner, shareholder, principal or partner doing business as Drop And Go Dumpsters I herein verify Drop And Go Dumpsters does not have paid employees or subcontractors, nor does it conduct business in any way that would require it to have Workers' Compensation coverage when performing for the City of College Station under the above-referenced contract. Based on this, I request an exception to the City's Workers' Compensation contract insurance requirement be granted for this project.

I understand if Drop And Go Dumpsters hires any employees or does anything to change its obligations under state law with respect to carrying Workers' Compensation insurance when performing for the City, it will promptly do so and notify the City of same.
Drop And Go Dumpsters assumes full responsibility for its obligations, if any, under applicable law relating to workers compensation.

Name of Business: Drop And Go Dumpsters

SSN/FEIN No. 82-4341609 Telephone No. 979-807-4522

Address/P.O. Box: 6517 Fm 974

City: Bryan State: TX Zip Code: 77802

Signature of Owner: John R J Little Date: 2/1/23

Witnessed by: Kristen May

RETURN SIGNED FORM TO _____, OR

FAX TO _____.

March 9, 2023

Item No. 7.3.

First Amendment to the ILA with Brazos County for Prisoner Housing

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on amending an interlocal agreement for prisoner housing with Brazos County increasing the daily rate by \$5.00 to \$60.00 for College Station prisoners.

Relationship to Strategic Goals:

Core Services and Infrastructure

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

Summary: The City of College Station utilizes the Brazos County Jail to house prisoners for Class C offenses on an as-needed basis. The current rate is set at \$55.00 per day per prisoner, and this amendment would raise the rate, starting October 1, 2023, to \$60.00 per day per prisoner.

Budget & Financial Summary: Funds currently budgeted to the department on an annual basis are anticipated to be sufficient to cover the rate increase.

Attachments:

1. First Amend ILA CSPD Inmate Housing 2-17-23

**FIRST AMENDMENT TO THE
INTERLOCAL COOPERATIVE AGREEMENT PROVIDING FOR THE HOUSING OF
PRISONERS FROM THE CITY OF COLLEGE STATION, TEXAS IN THE
BRAZOS COUNTY JAIL**

**THE STATE OF TEXAS §
COUNTY OF BRAZOS §**

THIS amendment to the INTERLOCAL AGREEMENT (Agreement) is between the City of College Station, a Texas Home Rule Municipal Corporation (City) and the County of Brazos (County), a political subdivision of the State of Texas is made pursuant to the provisions of the Interlocal Cooperation Act, V.T.C.A., Government Code, Chapter 791 which authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested; and

WHEREAS, the City and the County fully executed the Agreement on December 8, 2020; and

WHEREAS, the City and the County desire to amend the Agreement according to section 12.02 and increase the prisoner day rate by \$5.00; and

NOW THEREFORE, in consideration of the foregoing mutual promises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, here agree to amend the Agreement as follows:

- 1. 10.01** The City agrees to pay the sum of **sixty DOLLARS AND NO CENTS (\$60.00)** per prisoner day for each City Prisoner in consideration of which the Sheriff will operate and maintain a County Jail and assuming responsibility for the City Prisoners' incarceration consistent with applicable statutes of the State of Texas and the laws of the United States of America for detention. The Sheriff will send the City a detailed invoice for the previous month. The City will pay any undisputed invoices no later than thirty (30) days after receiving the invoices.
- 2.** This amendment becomes effective on October 1, 2023.
- 3.** All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

CITY OF COLLEGE STATION

BRAZOS COUNTY

By: _____
Mayor
Date: _____

By: _____
Duane Peters, County Judge
Date: _____

ATTEST:

ATTEST:

City Secretary
Date: _____

Karen McQueen, County Clerk
Date: _____

APPROVED:

APPROVED AS TO FORM:

City Manager
Date: _____

Bruce Erratt, Civil Counsel
Date: _____

Assistant City Manager/CFO
Date: _____

ACKNOWLEDGED AND ACCEPTED:

APPROVED AS TO FORM:

Wayne Dicky, Brazos County Sheriff
Date: _____

City Attorney
Date: _____

March 9, 2023
Item No. 7.4.
Rescue Vehicle ILA

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an interlocal agreement with the City of Bryan, Texas A&M University, and Brazos County regarding the shared purchase, maintenance, and use of a rescue vehicle.

Relationship to Strategic Goals:

Core Services and Infrastructure

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

Summary: A rescue vehicle is a tactical armored vehicle designed for use in active shooter scenarios, barricaded suspects, and high risk warrant services by special operations teams. Each of the involved entities has a special operations team that supports each other through mutual aid agreements. This ILA lays out the expectations regarding the use and cost of the vehicle that will be available for each of the involved parties.

Budget & Financial Summary: The City of College Station will be responsible for the purchase of the vehicle and the other entities will reimburse in equal amounts.

Attachments:

1. Rescue Vehicle ILA 3-2-23

LAW ENFORCEMENT RESCUE VEHICLE INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is by and between the **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation (College Station); the **CITY OF BRYAN**, a Texas Home Rule Municipal Corporation (Bryan); **TEXAS A&M UNIVERSITY**, an institution of higher education and agency of the State of Texas (Texas A&M); and **BRAZOS COUNTY** (Brazos County), referenced herein collectively as the Parties, each acting by and through their authorized agents.

WHEREAS, this Agreement's purpose is to authorize the Parties' mutual aid, assistance and cooperation in law enforcement duties, police protection, and enforcing laws for protecting health, life and property; and

WHEREAS, the Parties are authorized by the Interlocal Cooperation Act, Texas Government Code, Chapter 791, to enter into an agreement for the performance of the governmental function of providing **Law Enforcement** Services; and

WHEREAS, the Parties recognize the need to have a regional Rescue Vehicle to aid and assist with Law Enforcement Services and that sharing expenses benefits all Parties; and

NOW, THEREFORE, in consideration of the mutual promises, benefits, and covenants made herein, the Parties agree as follows:

I. DEFINITIONS

The following words and phrases have the following meanings unless the context clearly indicates otherwise:

1.1 Policy means a standard operating procedure adopted by each Party stating Rescue Vehicle use, care, and command while in each Party's possession and control.

1.2 Rescue Vehicle means a custom tactical armored vehicle for special operations units and tactical teams to use for responding to active shooter scenarios, barricaded suspects, response and rescue, and high-risk warrant service.

II. RESCUE VEHICLE OWNERSHIP AND MAINTENANCE

2.1 Rescue Vehicle Purchase. The City of College Station, according to Texas purchasing laws, will procure, maintain, operate and store the Rescue Vehicle. The Parties to the initial purchase of the Rescue Vehicle will each pay a non-refundable amount equal to one-quarter of the total cost of purchasing the Rescue Vehicle. College Station will be shown as the title holder of the Rescue Vehicle, for purposes of insurability.

2.2 Routine Maintenance Costs. College Station will operate and maintain the Rescue Vehicle according to Manufacturer specifications for routine scheduled preventive maintenance as part of the Rescue Vehicle ownership.

2.3 Repair Costs. College Station will be responsible for arranging for repairs to the Rescue Vehicle above and beyond routine scheduled preventive maintenance (“Non-routine Repairs”). Each Party will pay College Station one-quarter of the cost of Non-routine Repairs to the Rescue Vehicle beyond routine scheduled preventive maintenance. Repairs do not include improvements, new equipment, or damage described by Section 2.5.

2.4 Equipment Costs. College Station will install new and replacement equipment (“Added Equipment”) in the Rescue Vehicle above and beyond routine scheduled preventive maintenance. Each Party will pay College Station one quarter of Added Equipment costs beyond routine scheduled preventive maintenance for the Rescue Vehicle. Each Party must agree in writing before the purchase and installation of new equipment not included in the original purchase of the Rescue Vehicle.

2.5 Insurance Costs. College Station will procure and maintain for the life of the Rescue Vehicle, a stand-alone Auto Liability and Auto Physical Damage Insurance Policy. College Station will be the Named Insured and the other Parties will be Additional Named Insureds to the policy. College Station will pay the insurance policy premium, and each other party will be responsible for reimbursing College Station for one quarter of the annual insurance premium (“Insurance Costs”). The Party responsible for damage to or loss of the Rescue Vehicle through their use will be responsible for paying the deductible and any other costs of repair or replacement not covered by the policy (“Deductible and Related Costs”).

III PAYMENTS

3.1 In consideration for the non-exclusive license to use the Rescue Vehicle, College Station will invoice the Parties one time for each parties’ one-quarter of the Rescue Vehicle initial purchase price.

3.2 In consideration for the non-exclusive license to use the Rescue Vehicle, College Station will send monthly invoices to the Parties for Non-routine Repairs, Added Equipment, and Insurance Costs and any Deductible and Related Costs.

IV. RESCUE VEHICLE USE

4.1 Storage. College Station will store the Rescue Vehicle at the College Station Police Department (CSPD) located at 800 Krenek Tap Road in College Station, Texas.

4.2 Call Out Use. The City of Bryan, Brazos County and Texas A&M have a non-exclusive license to use the Rescue Vehicle for emergency callouts within each parties’ jurisdiction, according to each Party’s adopted policies. College Station Police Department will respond to the call-out location to deliver the Rescue Vehicle. The requesting party will then be responsible for using and returning the Rescue Vehicle to CSPD in the same condition as when it was delivered.

4.3 Planned Operations. The City of Bryan, Brazos County and Texas A&M have a non-exclusive license to use the Rescue Vehicle according to their policies for planned operations. Authorized Police Officers of the Parties participating in a planned operation may pick up the Rescue Vehicle from CSPD. The Parties shall schedule planned operations with the CSPD Special Operations Lieutenant within a reasonable amount of time in advance of the planned operation.

4.4 Training Use. The City of Bryan, Brazos County and Texas A&M have a non-exclusive license to use the Rescue Vehicle according to their policies for training purposes. CSPD will maintain a training calendar. The Parties shall schedule training at least two weeks before the training with the CSPD Special Operations Lieutenant. The Parties will pick up and return the Rescue Vehicle to CSPD. If an emergency call-out happens during training, the Party using the Rescue Vehicle in training will deliver it to the call-out.

V. GENERAL TERMS

5.1 Sale of Rescue Vehicle. If the Rescue Vehicle is sold, College Station will send each Party one quarter of the sale price less any associated expenses.

5.2 Term and Termination. This Agreement is effective on the Effective Date, which is the date the last Party executes the Agreement making it fully executed. The initial agreement term is one (1) year. The Agreement will renew automatically for successive one (1)-year terms after the initial term, until terminated. A Party intending to terminate their participation must provide written notice to all other Parties not less than thirty (30) days before that Party's intended termination date. Termination of participation in this Agreement by a Party or Parties does not discharge the terminating Party's obligation to pay all accrued costs described in Section 2 up to that Party's termination date or affect the continued participation among remaining Parties. This Agreement shall continue in full force and effect and remain binding on remaining Parties after any Party's termination. The remaining Parties will share equally in all costs related to the Rescue Vehicle, which may increase in the event one or more Parties terminates.

5.3 Interlocal Cooperation Act. Each Party to this Agreement is either a local government agency or an agency of the State of Texas as defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquishment by any Party of its right to claim such exemptions, privileges, and immunities as may be provided by the Constitution and the Laws of the State of Texas. No separate legal entity is created by this Agreement.

5.4 Amendment. The terms and conditions of this Agreement may be amended upon mutual consent of all Parties. Mutual consent will be demonstrated by approval of each governing body of each Party hereto. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing, duly approved, and signed by the authorized representatives of all Parties.

5.5 Hold Harmless. To the extent authorized by the Constitution and the laws of the State of Texas, and subject to the limitations as to liability and damages in the Texas Tort Claims Act, and without waiving its governmental immunity, each Party agrees to hold harmless

each other Party, its governing board, regents, officers, agents, employees and volunteers, for any liability, loss, damages, claims or causes of action caused or asserted to have been caused directly or indirectly by any other Party to this Agreement or any of its officers, agents, employees or volunteers, as the result of its performance under this Agreement. Each Party remains solely responsible for any legal defense and any civil liability due to the acts or omissions of their own employees. Notwithstanding any other terms in this Agreement, nothing is construed as a waiver of any legal defense or remedy of any nature to any claim against a Party.

5.6 Insurance. Each Party must maintain statutory workers' compensation coverage on its employees.

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

5.8 Venue and Choice of Law. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America, and venue shall be in any court having jurisdiction in Brazos County.

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

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

5.11 Savings Clause. If one or more provisions or terms contained in this Agreement shall, for any reason, be held invalid, illegal, or otherwise unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision or term hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or term had never been contained herein.

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

5.13 Effective Date. This Agreement is effective when signed by the last party signing, thereby making the Agreement fully executed.

5.14 Notice. Any official notices by one Party to another Party must be in writing and sent by certified mail return receipt requested, and properly addressed to the respective Parties as stated below. Any other day-to-day communication by the Parties' staff may be by any other means of sufficient documented communication.

COLLEGE STATION		BRYAN	
Chief of Police College Station Police Department PO Box 9960 801 Krenek Tap Road College Station, Texas 77840 Tel: (979) 764-3605 Fax (979) 764-3468		Chief of Police Bryan Police Department 301 South Texas Avenue Bryan, Texas 77803 Tel: (979) 209-5387 Fax: (979) 209-5388	
TEXAS A&M UNIVERSITY		BRAZOS COUNTY	
TAMU Chief of Police 1231 TAMU 1111 Research Parkway College Station, Texas, 77843 Tel: (979) 845-8898 Fax: (979) 862-8109		Brazos County Judge 300 East 29 th Street, Suite 114 Bryan, Texas 77803 Tel: (979) 361-4102 Fax: (979) 823-6593	Brazos County Sheriff 300 East 29 th Street, Suite 105 Bryan, Texas, 77803 Tel: (979) 361-4148 Fax: (979) 361-4170

EXECUTED this the _____ day of _____, 2023 by
the **City of College Station.**

CITY OF COLLEGE STATION

By: _____
Mayor, City of College Station

ATTEST:

APPROVED

City Secretary

City Manager

City Attorney

Assistant City Manager/CFO

EXECUTED this the ____ day of _____, 2023 by the **City of Bryan.**

CITY OF BRYAN

By: _____
Mayor, City of Bryan

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

EXECUTED this the ____ day of _____, 2023 by **Brazos County**.

COUNTY OF BRAZOS

By: _____
Brazos County Judge

ATTEST:

APPROVED AS TO FORM:

County Clerk

General Counsel

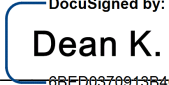
APPROVED:

BRAZOS COUNTY SHERIFF'S OFFICE

By: _____
Brazos County Sheriff

EXECUTED this the 24th day of February, 2023 by
Texas A&M University.

TEXAS A&M UNIVERSITY

By:  **Dean K. Endler**
68ED0370913B400...
University Contracts Officer

March 9, 2023
Item No. 7.5.
George Bush Bike Lanes Design Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a contract with Kimley-Horn for the design of the George Bush Bike Lanes Project for \$235,000.

Relationship to Strategic Goals:

Core services and infrastructure.

Recommendation(s): Staff recommends approval.

Summary: The project involves the design of separated bike lanes along George Bush Drive between Wellborn Road and Texas Avenue. This section of George Bush Drive has existing bike lanes and this project will convert the bike lanes to separated bike lanes. The design will specifically consider bicycle safety, stormwater management and long-term maintenance costs. The project will also include modifications to existing traffic signals and intersections, as well as the widening of some existing sections of sidewalk where bicycles converge. This project is funded through the Transportation Alternatives Program (TAP) grant and will be let by and managed by the Texas Department of Transportation (TxDOT) during construction. The City of College Station is responsible for the design portion of the work. This design contract includes the production of the plans and specifications and includes environmental requirements specific to TxDOT projects, for \$235,000.

The contract is on file with the City Secretary's Office.

Budget & Financial Summary: A budget of \$750,000 is included in the Streets Capital Projects Fund. A total of \$303,120 has been expended or committed to date, leaving a balance of \$446,880 for this contract and related costs.

Attachments:

1. George Bush Bike Lane Project - KH Scope

EXHIBIT “A”
SCOPE OF SERVICES
GEORGE BUSH DRIVE SEPARATED BIKE LANE DESIGN

Kimley-Horn and Associates, Inc. (the “Consultant”) is pleased to submit this Scope of Services to the City of College Station (the “City”) to provide professional services for the above referenced project. Our project understanding and scope of services are below.

PROJECT UNDERSTANDING

The project involves the designing of separated bike lanes along George Bush Drive between Wellborn Road to Texas Avenue. This section of George Bush Drive has existing buffer bike lanes, and the project will convert the bike lanes to separated bike lanes that considers bicycle safety, stormwater management and long-term maintenance cost. The project will also include modifications of existing traffic signal and intersections at Dexter Drive/ Coke Street, Timber Street/Bizzell Street, Anderson Street and Texas Avenue. The project also includes localized section of sidewalk widening to provide 8 ft sidewalk where bicycles are expected to exit the bike lanes. This project is funded through Transportation Alternatives Program (TAP) grant and will be let by TxDOT for construction.

Basis of Scope and Fee Development

The following key assumptions have been made in establishing the scope and the estimated level of effort for this project:

1. The conceptual design prepared for the grant application will be treated as 30% design. TxDOT will only required 60%, 90% and Final submittal.
2. Preparation of project manual is not required since this will be let by TxDOT and all the bidding information will be generated using TxDOTCONNECT.
3. City shall acquire any easements required. No new ROW is anticipated.
4. Electrical and franchise utility relocation design is not included.
5. Landscape, hardscape, lighting, and irrigation design is not included.
6. Sub-surface Utility Engineering (SUE) is not included.

SCOPE OF SERVICES

Consultant offers the following Scope of Services based upon what we currently anticipate may be required. Design tasks are defined below for the type of work that is anticipated.

TASK SUMMARY

1. Project Management

- 1.1. Plan and participate in a Project Kickoff Meeting with City and TxDOT staff to confirm project scope, personnel, lines of communication, and schedule.
- 1.2. Project Status Meetings
 - 1.2.1 Conduct up to two (2) virtual review meeting with the City; one (1) at 60%, and one (1) at 90%.
 - 1.2.2 Conduct up to eight (8) virtual progress meetings.
 - 1.2.3 Attend up to two (2) meetings with Texas A&M University (TAMU) Transportation Services to coordinate construction sequencing.
 - 1.2.4 Conduct up to two (2) meetings with adjacent residents to coordinate design elements. It is assumed that these two (2) coordination meetings will correspond with other trips on the project.
 - 1.2.5 Prepare agendas and attendance log for meetings; minutes, including discussion and action items for review and distribution.
- 1.3. Prepare and e-mail monthly progress reports to the project team (City PM and Consultant's Staff).
- 1.4. Project Administration

- 1.4.1 Prepare project correspondence.
- 1.4.2 Prepare invoicing documents.
- 1.4.3 Maintain and update project schedule.
- 1.5. Quality Assurance/Quality Control (QA/QC)
 - 1.5.1 Establish quality control procedures for the project.
 - 1.5.2 Assign QA/QC Manager and Peer Review roles.
 - 1.5.3 Perform quality control reviews for the following submittals:
 - 60% PS&E Design Submittal
 - 90% PS&E Design Submittal
 - Final PS&E Submittal

2. Preliminary Investigation

- 2.1. Data Collection and Record Research

Consultant shall request all available record information along the proposed project corridor from the City, TxDOT, franchise utilities and other agencies with facilities within the project corridor.

 - 2.1.1 Gather existing survey and topographic data. Topographic survey will be completed in accordance with the surveying requirement for the CITY dated February 13, 2020.
 - 2.1.2 Gather existing aerial photographs.
 - 2.1.3 Gather existing water, sanitary sewer and storm sewer record drawings.
 - 2.1.4 Gather existing and proposed paving, utility and development plans from City, and franchise utilities.
 - 2.1.5 Gather existing development plans.
 - 2.1.6 Gather existing plat information.
 - 2.1.7 Collect property owner and record information.
 - 2.1.8 Gather existing right-of-way and easement information.
 - 2.1.9 Gather existing franchise utility record information.
 - 2.1.10 Organize record information into project database.
 - 2.1.11 City Maps – Bike, MTP, etc.
- 2.2. Site Investigation
 - 2.2.1 Walk roadway corridor.
 - 2.2.2 Document with photographs
 - 2.2.3 Identify potential conflicts and issues.

3. Design Survey

- 3.1. Utility and Property Owner Coordination
 - 3.1.1 Coordinate with Texas 811 to locate and mark existing franchise and public utilities prior to performing the field survey.
 - 3.1.2 Prepare a notification to residents regarding survey of right-of-way and driveways on private property.
- 3.2. Topographic Survey
 - 3.2.1 The limits of the survey will be limited to the areas where traffic signal and intersection improvements will be required. The survey at the intersection will include 50 ft from curb returns at Timber Street, Anderson Street and Texas Ave Intersections. The remaining corridor will utilize the aerial images to provide separated bike lane design.
 - 3.2.2 Set control points (X,Y,Z) on the ground based on City monumentation.
 - 3.2.3 Prepare topographic design survey of the right-of-way showing existing visible elements and cross-sections at 50-foot intervals and major breaks.
 - 3.2.4 Survey existing driveways outside right-of-way limits for grade tie in elevations.
 - 3.2.5 Survey flow lines of sanitary and storm manholes and storm culverts are not included.
 - 3.2.6 Prepare a final topographic drawing in digital format (including one-foot contours and breaklines) showing the features located in the field as well as right-of-way strip map information in accordance with the City Mapping Requirements dated May 2010, an ASCII coordinate file of the points located in the field, and a hard copy of the coordinates and feature descriptions.

4. Roll Plot Submittal (30%)
 - 4.1. Incorporate Task 3 Design Survey into the previously submitted conceptual design for the grant application.
 - 4.2. Establish project boundaries for use in environmental checklist.
 - 4.3. Utilize roll plot in stakeholder coordination in Task 1.
5. **Preliminary Design (60%)**
 - 5.1. Preliminary Design

The preliminary design will consist of following:

 - 5.1.1 Prepare plans for separated bike lanes.
 - 5.1.2 Prepare plans for paving improvements, sidewalk and ramp design.
 - 5.1.3 Prepare plans for traffic signal modifications. Traffic signal modifications plans will include replacement of pedestal poles, push buttons and curb ramps as necessary to designed in accordance with ADA and TAS requirements.
 - 5.1.4 Prepare typical sections
 - Existing and Proposed
 - Preliminary subgrade and pavement design
 - 5.1.5 Traffic Control Plans
 - Traffic Control Plans will be provided using TxDOT traffic control standards.
 - Coordination with TAMU Transportation Services for bus routing plan
 - 5.1.6 Pavement Markings and Signage Plans
 - Prepare pavement markers and striping layouts in accordance with City/ TxDOT design standards and the Texas Manual of Uniform Traffic Control Devices (TMUTCD)
 - Prepare details to clarify intent of design
 - Compile applicable City/TxDOT standard details. Modify standard details as needed.
 - Signing layout and design
 - 5.2. Preliminary Plan Preparation
 - 5.2.1 General Sheets (cover sheet, location map, sheet index, general notes, list of abbreviations, and legend).
 - 5.2.2 Project Control.
 - 5.2.3 Standard Details.
 - 5.2.4 Temporary Erosion Control.
 - 5.2.5 SW3P and EPIC sheets
 - 5.2.6 Complete TxDOT Environmental Review Checklist
 - 5.3. Preliminary Plan Preparation
 - 5.3.1 Prepare (11"x17") Plan sheets at a 1"=40' horizontal scale.
 - 5.3.2 Plan view of the base map shall have all existing above ground features shown and clearly labeled along with existing property lines, easements and utilities based on field ties and record information for the areas of paving improvements.
 - 5.3.3 Separated bike lanes with no paving work will show the aerial image and design details for the vertical separation measure to be installed.
 - 5.3.4 Site verification of preliminary design.
 - 5.4. Compile and prepare an Opinion of Probable Construction Cost (OPCC) for the entire project using recent average unit bid prices from TxDOT which are representative of similar types of construction in the local area. The OPCC will be completed in TxDOTCONNECT platform used by TxDOT.
 - 5.5. Preliminary design submittal (60%)
 - 5.5.1 Submit electronic copy to the City/TxDOT for review and comment.
 - Submittal shall include preliminary design plans at – 11"x17" which will include: Cover sheet
 - Index sheet
 - General Notes sheets
 - Estimate and Quantity sheets
 - Summary of Quantities sheets

- Project Control sheet
 - Typical Sections sheets
 - Preliminary removal sheets
 - Preliminary roadway plan sheets (10)
 - Traffic signal Modifications Layout sheets (4)
 - Traffic signal Charts Sheets (8)
 - Preliminary pavement marking and signage sheets (2)
 - Preliminary traffic control sheets (5)
 - Preliminary erosion control sheets (2)
 - SW3P sheet and EPIC sheet
 - Standards
 - OPCC
- 5.6. Review Meeting
- 5.6.1 Attend one (1) meeting with City staff to review the preliminary design comments.

6. Final Design

- 6.1. Incorporate and/or respond to the TxDOT and City's preliminary design submittal review comments one (1) round of comments anticipated in proposed effort.
- 6.2. Incorporate and/or respond to the franchise utilities' preliminary design submittal review comments. One (1) round of comments is anticipated in proposed effort.
- 6.3. Prepare final general notes and details.
- 6.4. Prepare final special technical specifications.
- 6.5. Prepare updated OPCC in accordance with TxDOT standards.
- 6.6. Final design submittal (90%)
- 6.6.1 Submit electronic copy to the TxDOT and City for review and comment on TxDOT electronic portfolio format.
- 6.6.2 Submittal shall include the following:
- Final design plans of the sheets listed in Task 4 at – 11"x17"
 - Special provisions, bid tab and technical specifications (for inclusion into the standard contract documents prepared by the City).
 - OPCC in accordance with TxDOT standards.
 - TxDOT Form 1002
 - TxDOT Form 1814 as necessary
 - TxDOT Form 2229
 - TxDOT Form 2699
 - Construction Duration Estimate
- 6.7. Review Meeting
- 6.7.1 Attend one (1) meeting with TxDOT and City staff to review the final design (90%) comments.
- 6.8. TDLR Submittal Preparation
- 6.8.1 The Consultant will assist the City with submittal of the project to a Registered Accessibility Specialist. The Consultant will provide the City with one (1) full size set of plans and a completed project registration and submittal form.
- 6.9. Incorporate the final design (90%) submittal review comments. One (1) round of comments is anticipated in proposed effort.
- 6.10. Bid Document Submittal (100%)
- 6.10.1 The Consultant will prepare one bid package in TxDOT electronic portfolio format.
- 6.10.2 Submit the following signed, sealed and dated final construction drawings, special provisions, bid form (in excel format) and specifications:
- One (1) – copy of final design submittal in electronic PDF format.

7. Right-of-Way and Easement Documents

- 7.1. Prepare up to two (2) easement instruments (narrative and graphic exhibits of easements required for drainage, City utilities, temporary construction, etc.).

- 7.1.1 Individual parcel exhibits will be on 8 ½"x11" paper, will be sealed, dated, and signed by a Registered Professional Land Surveyor and will contain the following:
- Parcel number
 - Area required
 - Area remaining
 - Legal description
 - Current owner
 - Any existing platted easements or easements filed by separate instrument including easements provided by utility companies.
 - All physical features
 - Metes and bounds description of parcel to be acquired. The description will be provided on a separate sheet from the exhibit. Each type of easement will be described separately.

8. Bidding Phase Services

- 8.1. Provide assistance to the City/TxDOT during bidding by preparation and delivery of addenda for plan holders and responses to questions submitted by plan holders.
- 8.2. TxDOT will handle the letting process.

9. Environmental Clearance

- 9.1. Modifications to TxDOT right-of-way as part of the proposed project are anticipated to trigger compliance with the National Environmental Policy Act (NEPA), as implemented and reviewed by TxDOT. The anticipated level of NEPA documentation and analysis is a Categorical Exclusion (CE). Categorically excluded projects cannot cause any significant impacts to any natural, cultural, recreational, historic, or other resources and no unusual circumstances may occur that would preclude the project from being categorically excluded. CONSULTANT will perform and document a CE for each project as presented below.
- 9.2. The Consultant will complete TxDOT Environmental Checklists, EPIC and SW3P sheets and prepare KMZ file for design and location and area of easement and disturbances to be submitted to TxDOT.
- 9.3. *Scoping Assessment:* This task is intended to assist the CITY in securing the appropriate scope determination from TxDOT for the proposed project. CONSULTANT will do the following to complete the scoping assessment:
- 9.3.1 Organize a kickoff call with TxDOT and CITY for a project kick-off to review project and schedule.
- 9.3.2 Complete TxDOT Scope Development Tool (SDT) (or TxDOT District equivalent) to identify required actions that need to be entered into a Project Scope Form. Outcome of SDT form will determine which specific studies, technical reports, and coordination will be required. TxDOT Environmental subject matter experts and TxDOT District staff reserve the right to make project level decisions regarding required actions and/or findings generated by the SDT.
- 9.3.3 The SDT will be submitted to TxDOT for review and comment prior to initiating required studies and technical reports.
- 9.4. CONSULTANT will perform a reconnaissance of the site to collect appropriate data pertaining to items to be further assessed as detailed in the executed Project Scope Form.
- 9.5. *Studies, Reports, and Coordination:* As determined by the results of the Scoping Assessment, CONSULTANT will prepare the appropriate documentation for submittal to the TxDOT Environmental Reviewer to aid in obtaining environmental clearance. CONSULTANT will coordinate with other agencies and TxDOT Environmental Reviewer as appropriate and required by TxDOT. Studies will be performed in accordance with TxDOT guidelines and will follow TxDOT toolkits. Based on limited project information and in the absence of scope determination from TxDOT, CONSULTANT anticipates performing the following at a minimum:
- 9.5.1 Species Analysis and Species Analysis Form
- 9.5.2 Surface Water Analysis
- 9.5.3 HazMat ISA

- 9.5.4 Notice and Opportunity to Comment Document
- 9.6. *Studies excluded, and not anticipated to be required for the proposed project include following.* If these studies (or others) are required, it will be provided under additional scope.
 - 9.6.1 Noise modeling
 - 9.6.2 Air quality modeling/monitoring

10. Construction Phase Services

The scope of services listed below may or may not be performed as part of our construction phase services. The Consultant's role during construction is limited and services are only provided upon request of the City. The budgeted fee for this task is based upon approximately 40 hours of labor. Additional services beyond the hours budgeted will be an additional service outside the scope of this contract.

- 10.1. Pre-Construction Conference
 - 10.1.1 Consultant will attend a Pre-Construction Conference prior to commencement of Work at the Site.
- 10.2. Visits to Site and Observation of Construction (maximum of 16 site visits)
 - 10.2.1 The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide City a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- 10.3. Recommendations with Respect to Defective Work
 - 10.3.1 Consultant will recommend to City that Contractor's work be disapproved and rejected while it is in progress if, based on such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.
- 10.4. Clarifications and Interpretation
 - 10.4.1 Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by City.
- 10.5. Change Orders
 - 10.5.1 Consultant may recommend Change Orders to City and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
- 10.6. Shop Drawings and Samples
 - 10.6.1 Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- 10.7. Substitutes and "or-equal"
 - 10.7.1 Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- 10.8. Inspections and Tests

- 10.8.1 Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws or the Contract Documents. Consultant's review of certificates will be for determining that the results certified indicate compliance with the Contract Documents and will not be an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests.
- 10.9. Disagreements between City and Contractor
- 10.9.1 Consultant will, if requested by City, render written decision on all claims of City and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents. In rendering decisions, Consultant shall be fair and not show partiality to City or Contractor and shall not be liable in connection with any decision rendered in good faith.
- 10.10. Applications for Payment
- 10.10.1 Review of applications for payment are not included in this scope.
- 10.11. Substantial Completion
- 10.11.1 Consultant will, after notice from Contractor that it considers the Work ready for its intended use, in company with City and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.
- 10.12. Final Notice of Acceptability of the Work
- 10.12.1 Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant. Consultant will attend one (1) year warranty walk through with Contractor and City at the City's request.
- 10.13. Limitation of Responsibilities
- 10.13.1 Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.

Information to be provided by the City

The City shall provide all information and criteria as to the City's requirements, objectives, and expectations for the project including all design criteria that are to be met and all standards of development, design, or construction. Specific information to be provided by the City includes:

- Existing water, sanitary sewer, paving, traffic signal and drainage record drawings

Additional Services

City and Consultant agree that the following services are beyond the Scope of Services described in the tasks above. However, Consultant can provide these services, if needed, upon the City's written request. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These Additional Services include, but are not limited to, the following:

- Preparation of a detailed Storm Water Pollution Prevention Plan (SWPPP).
- Preparation of additional easement documents.
- Preparation of environmental documents. The scope included completing environmental checklist, EPIC and SW3P sheets and providing disturbance and easement area.

- Redesign to reflect project scope changes requested by the City, required to address changed conditions, or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the Contractor.
- "Value engineering" after bidding.
- SWPPP inspections / coordination.
- Any services not listed in the Scope of Services.

- End of Scope of Services –

EXHIBIT 'B'
GEORGE BUSH DRIVE SEPARATED BIKE LANE DESIGN
FEE SUMMARY

Payment to the Consultant will be made as follows:

A. Invoice and Time of Payment

Monthly invoices will be issued by the Consultant for all work performed under this Agreement. Invoices are due and payable on receipt. Invoices will be prepared in a format approved by the City prior to submission of the first monthly invoice. Monthly payment of the fee will be in proportion to percent completion of the total work for each fee item outlined below and phase of services (Design, Bid, Survey, etc.).

- B. Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below. Upon completion of services enumerated in Attachment A, Scope of Services, the final payment of any balance will be due upon receipt of the final invoice.

Design Services

1.	Project Management	\$16,500 (LS)
2.	Preliminary Investigation	\$3,000 (LS)
3.	Design Survey	\$16,500 (LS)
4.	Roll Plot Submittal (30%)	\$5,000 (LS)
5.	Preliminary Design (60%)	\$87,000 (LS)
6.	Final Design (90% and Final)	\$62,000 (LS)
7.	Easement Documents	\$3,000 (HR)
8.	Bidding Phase Services	\$3,000(LS)
9.	Environmental Clearance Services	\$30,000 (HR)
10.	Construction Phase Services	\$6,000 (HR)
11.	Record Drawings	\$3,000 (LS)

Total Lump Sum Fee: (Task 1- Task 6, Task 8, and Task 11)	\$196,000
Total Hourly Fee: (Task 7, Task 9 and Task 10)	\$39,000
Total Design Fee	\$235,000

March 9, 2023
Item No. 7.6.
NETL PH 4 Survey CO

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a change order to the design contract with Kimley-Horn and Associates, Inc. for the Northeast Trunkline Phase IV project in the amount of \$87,500.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: The City of College Station approved a contract in 2022 with Kimley-Horn and Associates, Inc. for the design of the Northeast Sewer Trunk Line Phase IV. The design will include installation of a sewer trunk line which would serve areas of the community which includes the University Corridor and Northgate. This would allow for continued development in this area which will soon be limited by existing sewer capacity.

After numerous discussions and meetings with the residents in and around the proposed route, the City is considering an alternative route alignment option. This alternative route would be along the back-lots of North Rosemary Drive, next to Pin Oak Creek. This alternative alignment will require additional survey and data collection work. The cost of this additional work is \$87,500.

Budget & Financial Summary: A budget in the amount of \$11,810,000 is included for this project in the Wastewater Capital Improvement Projects Fund. A total of \$1,482,278 has been expended or committed to date, leaving a balance of \$10,327,722 for this item and other future expenses.

Attachments:

1. Northeast Trunk Line Phase 4 - Amendment 1 to KH Design Contract (002)

**AMENDMENT NUMBER 1 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN
AND ASSOCIATES, INC.**

This is Amendment number 1 dated March 1, 2023 to the agreement between City of College Station ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated July 28, 2022 ("the Agreement") concerning Northeast Sewer Trunkline Ph IV Design Contract (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Consultant will perform the following services based on direction provided by City:

Task 1: Additional Survey – Rosemary Backlot Alignment

- For surveying a profile line along the north line of Beverly Estates along the following parcels: R18223, R18227, R18228, R18229, R97443, R18230, R18233, R18234, R18235, R18239, R18241, R40286, R40287, R40288 and R40289. Consultant will plot deeds, cut an established centerline profile near the north property line of Beverly Estates for approximately 5000 l.f. from Texas Avenue to 29th Street along the parcels described along with locating property lines, sewer manholes, electric line and any crossing ditches and prepare an electronic drawing file.
- For surveying a profile line along the south line of Garden Acres Lots 5-11. Consultant will plot deeds, cut an established centerline profile near the south property line of Garden Acres for approximately 1200 l.f. along the south line of Lots 5-11, along with locating property lines, sewer manholes, electric line and any crossing ditches and prepare an electronic drawing file.
- For plotting deed, locating property corners, cutting out profile alignment and surveying across the Texas A & M University property for an approximate distance of 550 l.f. and preparing an electronic drawing file.
- For plotting deed, locating property corners, cutting out profile alignment and surveying across the KBTX property for an approximate distance of 1400 l.f. and preparing an electronic drawing file.
- As needed field survey after initial effort – up to 40 hours.

Task 2: Additional Survey – Rosemary Backlot Alignment Cross Sections

- For cutting out 50' wide sections at approximate 100' intervals along the above route of approximately 8150 lf.

We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

Task 1: Additional Survey – Rosemary Backlot Alignment 40 Days
Task 2: Additional Survey – Rosemary Backlot Alignment Cross Sections 40 Days After Task 1

For the services set forth above, Client shall pay Consultant the following compensation:

Task 1: Additional Survey – Rosemary Backlot Alignment	\$66,000 (Lump Sum)
Task 2: Additional Survey – Rosemary Backlot Alignment Cross Sections	\$21,500 (Lump Sum)
Total	\$87,500 (Lump Sum)

CLIENT:

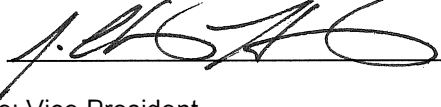
By: _____

Title: _____

Date: _____

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By: 

Title: Vice President

Date: 03/01/2023

March 9, 2023
Item No. 8.1.
George Bush Presidential Library Foundation

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the George Bush Presidential Library Foundation's upcoming events, expansion, and community partnerships.

Relationship to Strategic Goals:

Good Governance

Recommendation(s):

Summary: The George Bush Presidential Library Foundation will present the Council with information regarding upcoming events and planned expansions.

Budget & Financial Summary:

Attachments:

None

March 9, 2023

Item No. 8.2.

Vice President of Student Affairs Presentation

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding Off-Campus Housing and Cooperation between the City and Texas A&M University.

Relationship to Strategic Goals:

Good Governance

Recommendation(s):

Summary: General Ramirez, Vice President of Student Affairs, will make a presentation regarding off-campus housing and cooperation between the City and Texas A&M University.

Budget & Financial Summary:

Attachments:

None

March 9, 2023
Item No. 8.3.
City-Initiated MH Middle Housing Zoning District

Sponsor: Alyssa Halle-Schramm, Planner

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Presentation, discussion, and possible action on priority areas for possible City-initiated rezoning to the MH Middle Housing zoning district.

Relationship to Strategic Goals:

- Good Governance
- Neighborhood Integrity
- Diverse & Growing Economy

Recommendation(s): To receive the presentation and provide direction to staff.

Summary: Staff will present prioritized areas for possible City-initiated rezoning to the newly created MH Middle Housing zoning district. The Planning & Zoning Commission will hear this item at their March 2, 2023 meeting.

Background: This item comes from both Comprehensive Plan Action 2.1 to undertake amendments to the Unified Development Ordinance's zoning districts to implement the updated Future Land Use & Character categories and Action 2.11 to continue to initiate proactive zoning map updates in strategic areas to encourage transitions to the desired community character, encourage redevelopment, and implement the Future Land Use & Character Map.

Staff collaborated with residents, developers, and the broader community to create the MH Middle Housing zoning district that allows a flexible mix of housing products by-right, including small lot single-family, duplexes, townhouses, small and medium multiplexes, and live-work units. The Planning & Zoning Commission and City Council unanimously approved the new MH Middle Housing zoning district in October 2022. At that time, the Council directed staff to form a working group to consider appropriate areas for possible City-initiated rezoning to the new district to redirect development pressures out of established neighborhoods, encourage redevelopment in appropriate areas, and realize the vision set forth in the Future Land Use & Character Map.

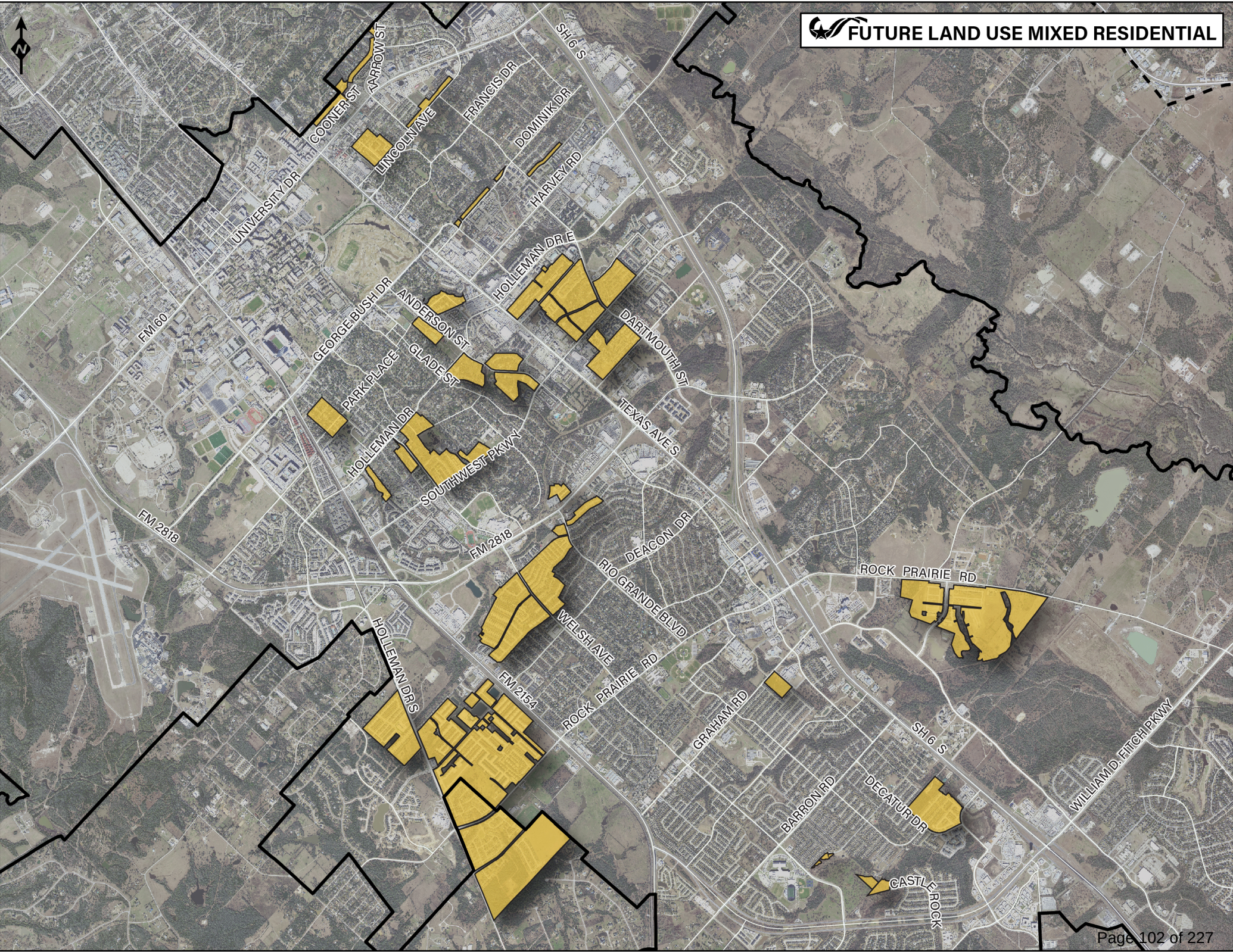
The working group consisted of seven members, including three neighborhood representatives, three development community representatives, and one representative from the Texas A&M University's School of Architecture. This group met with staff from November 2022 through February 2023 to discuss and prioritize areas. The working group developed a general methodology to 1) focus on areas classified as Mixed Residential on the Future Land Use & Character Map, 2) eliminate from consideration areas that are zoned for multi-family to not downzone properties, 3) eliminate from consideration properties that are zoned PDD Planned Development District as those contain custom zoning requirements, and 4) gain general group consensus on the appropriateness of the remaining properties. The working group classified those as being recommended to move forward with at this time, or those that need further consideration and/or focused engagement efforts with the specific property owners and/or neighborhoods.

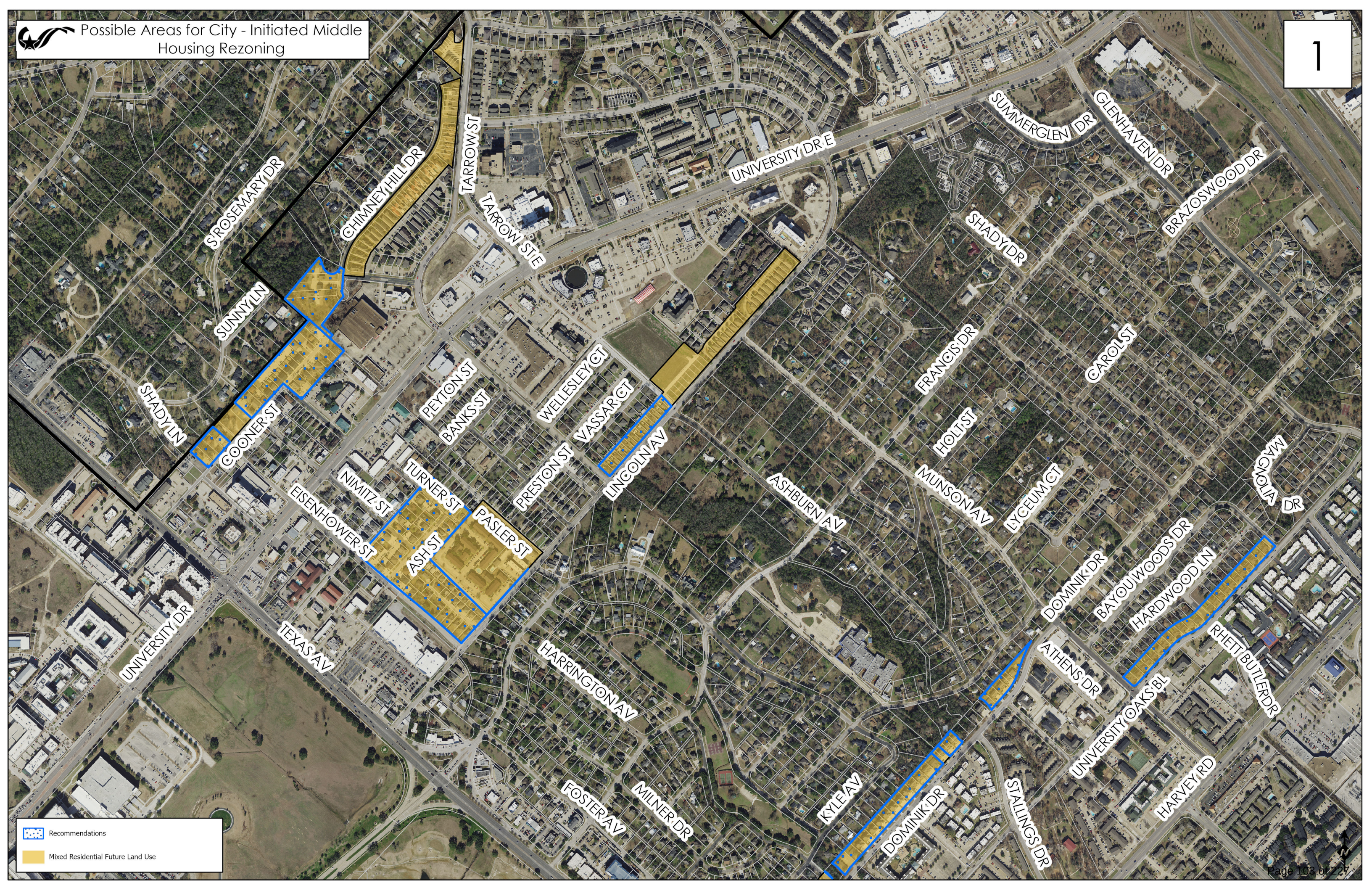
Staff will present the working group's prioritizations, with a focus on the recommended properties, and seek Council feedback. After determining which areas are appropriate to move forward, staff will conduct further analysis of each area to ensure there is adequate infrastructure in place to support rezoning the property or properties at this time. Staff will then host public engagement opportunities to discuss the potential zoning changes with surrounding neighborhoods and any interested parties. Once a property or properties have gone through these processes, staff will begin the formal rezoning process that includes public hearings and review before the Commission and Council.

Budget & Financial Summary: If the City proceeds with the rezoning of the properties, there will be costs related to surveying work, notifications, and public engagement. The estimated cost of these items would be \$42,500.

Attachments:

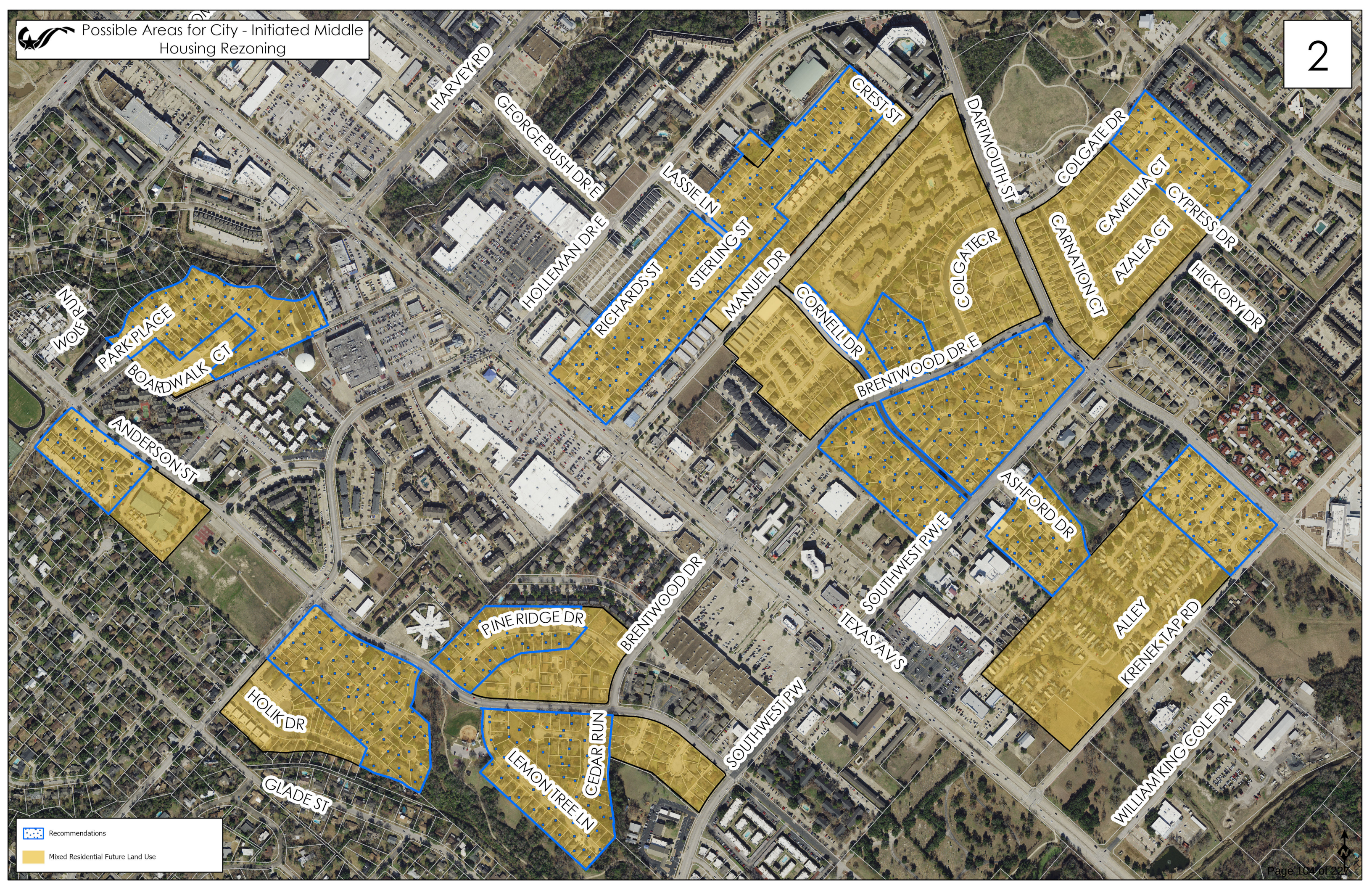
1. Properties Designated Mixed Residential Future Land Use
2. Recommendation Maps





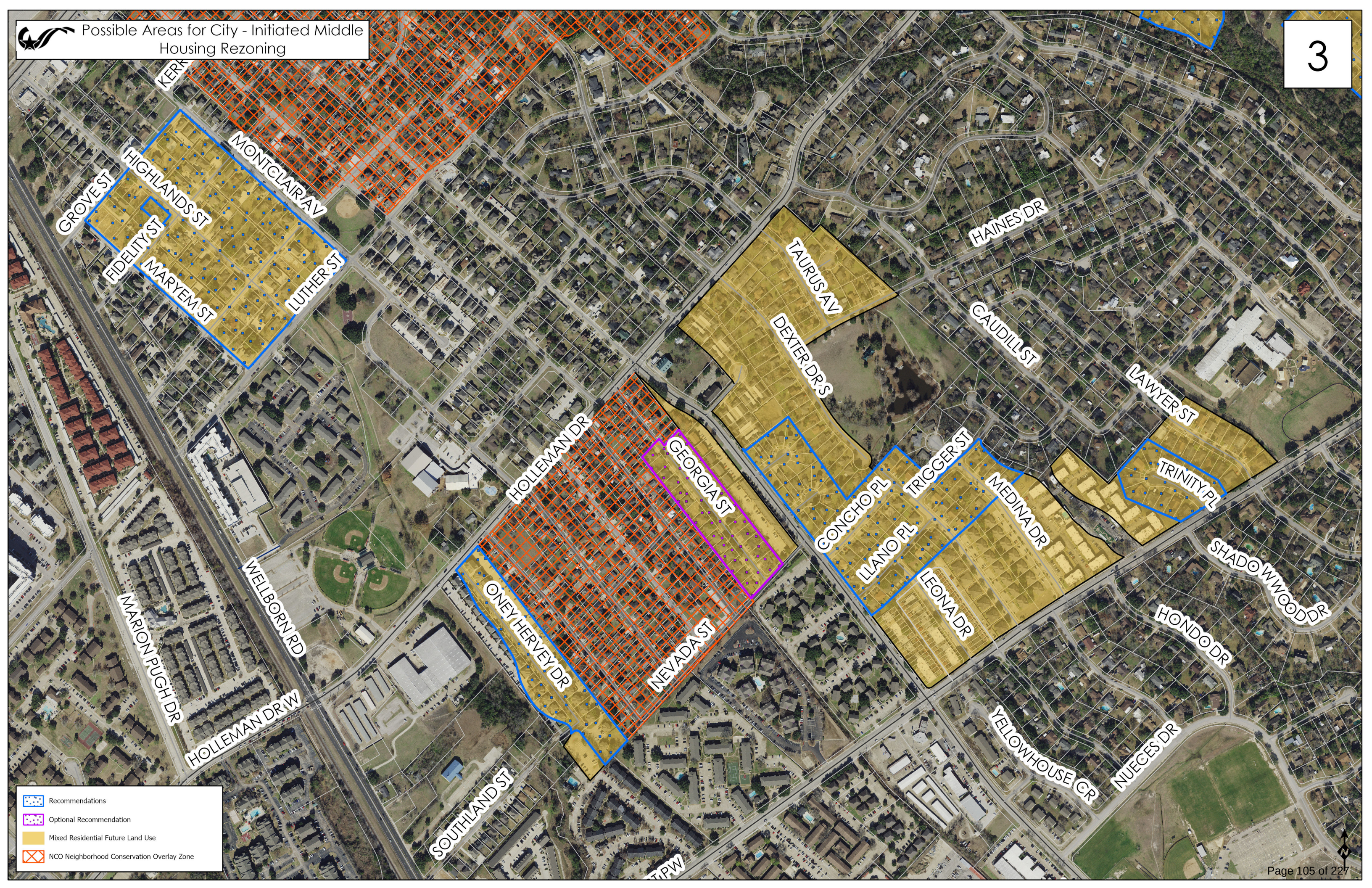
 Recommendations

 Mixed Residential Future Land Use



 Recommendations

 Mixed Residential Future Land Use

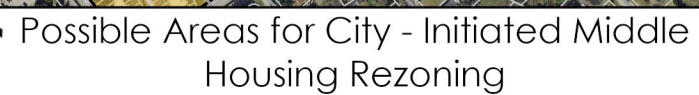


Recommendations

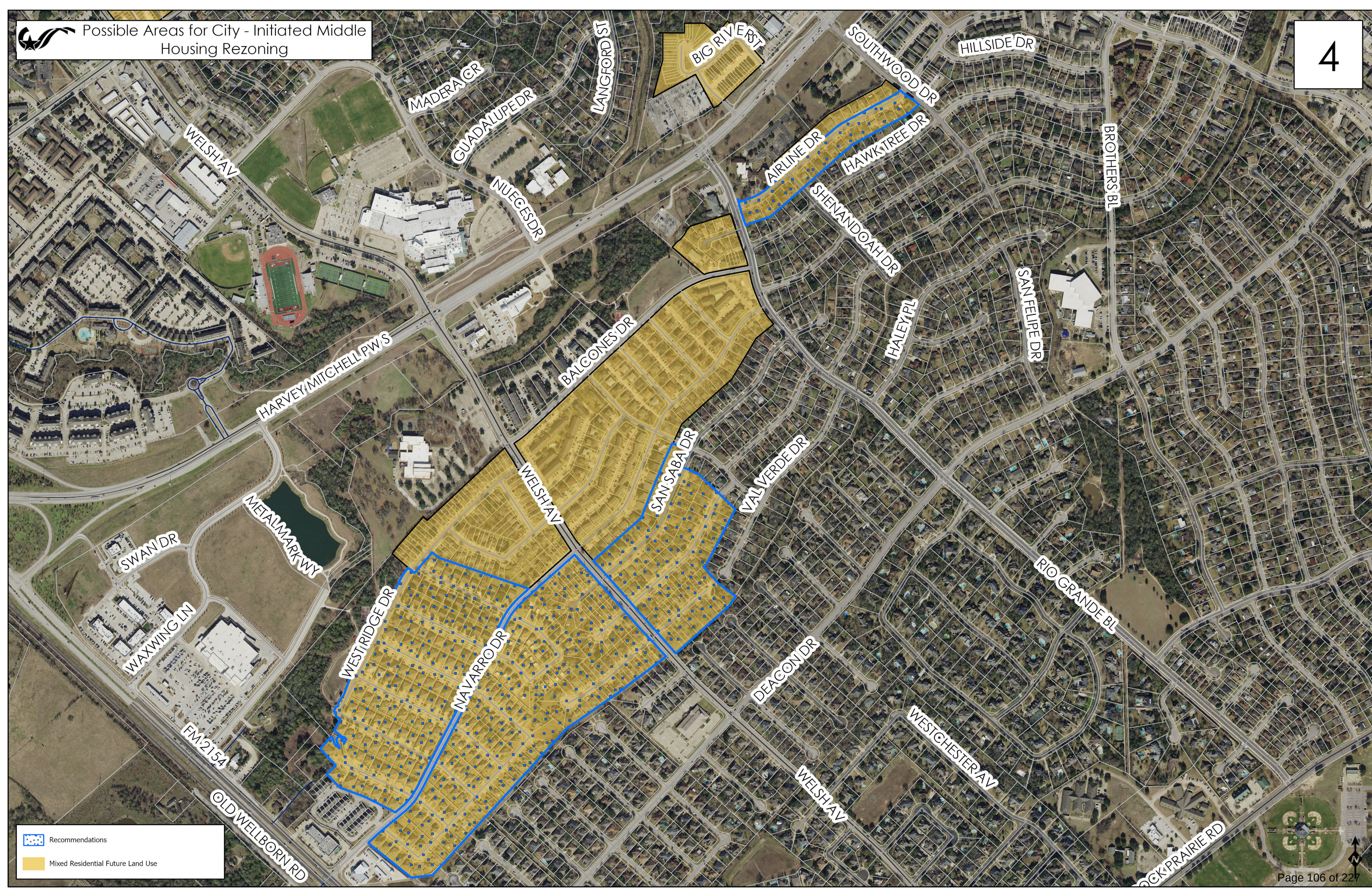
Optional Recommendation

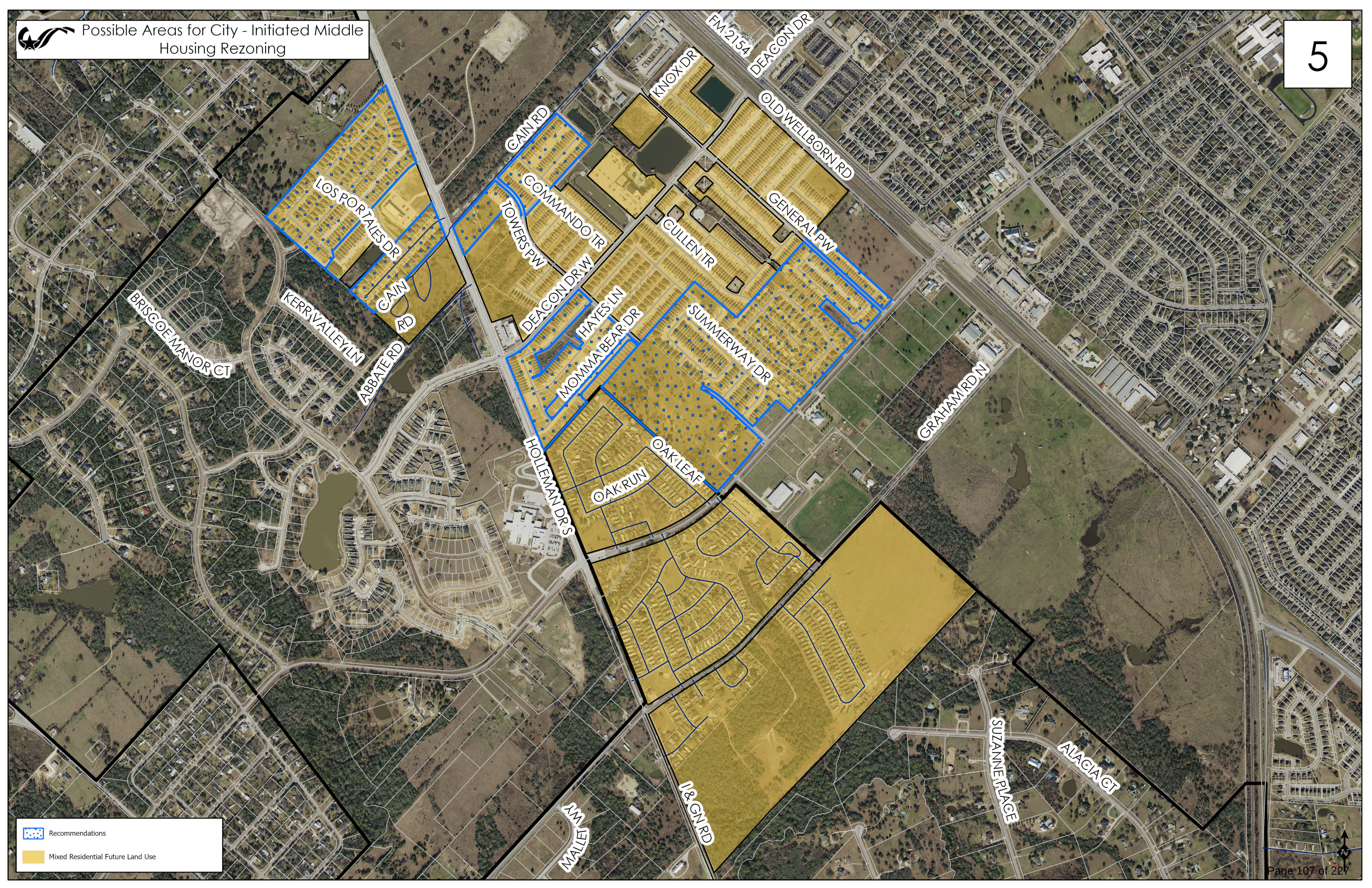
Mixed Residential Future Land Use

NCO Neighborhood Conservation Overlay Zone



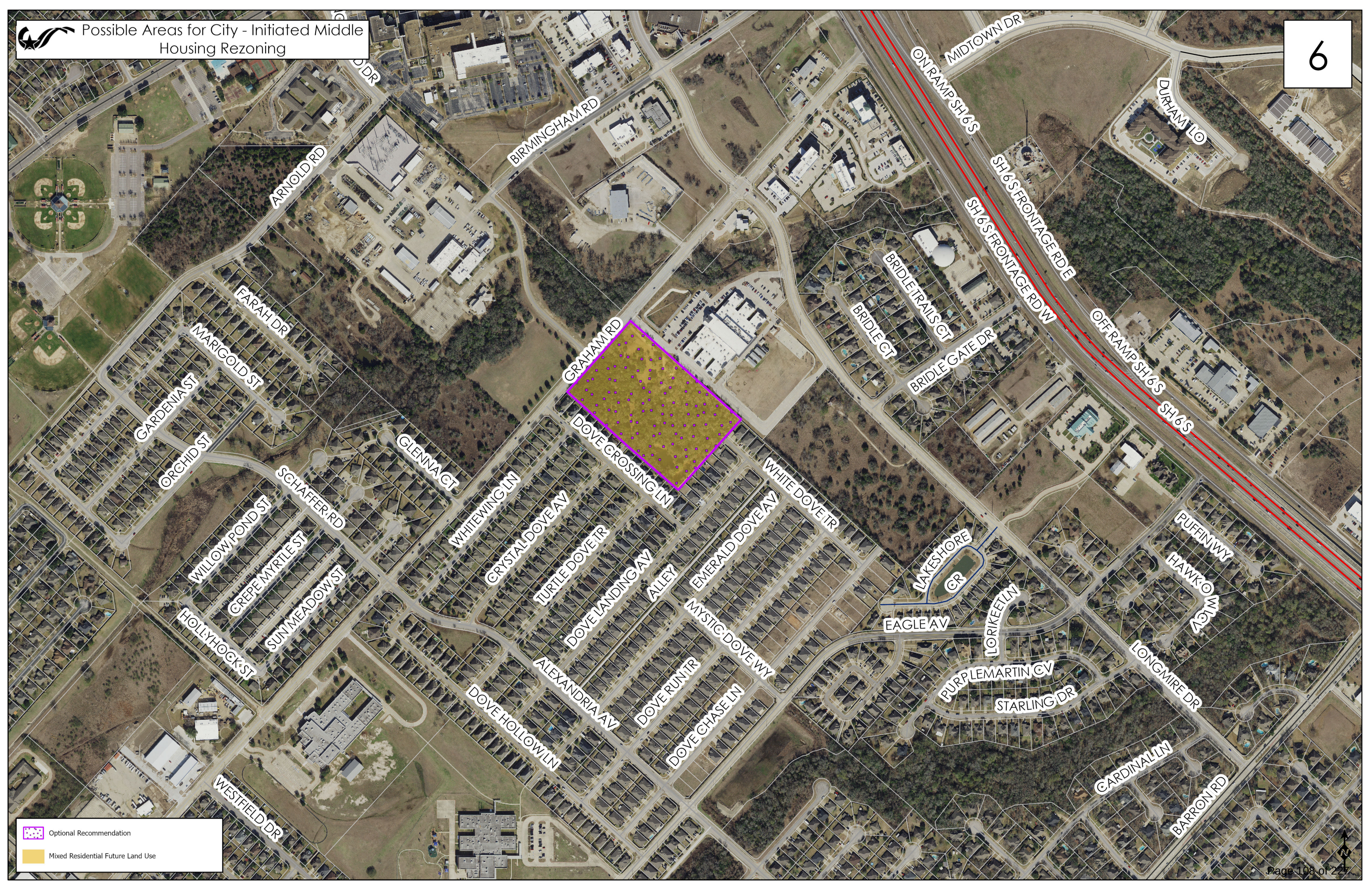
4





 Recommendations

 Mixed Residential Future Land Use



 Optional Recommendation

 Mixed Residential Future Land Use

March 9, 2023

Item No. 8.4.

2022 College Station Police Department Annual Contact Report

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the annual traffic contact report required by Senate Bill 1074 of the Texas 77th legislative session.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): This item is presented according to statutory requirements. Staff requests Council's acceptance of this report.

Summary: Each year, in an effort to remain transparent to our community, the police department employs an independent consultant to analyze traffic contact data and develop this report. The report indicates that the department is in compliance with state law and continues to employ best practice strategies.

Since January 1, 2002, the College Station Police Department, in accordance with Texas Racial Profiling Law (SB No. 1074), has been required to implement and mandate policy and procedures to satisfy the requirements of the law. This report indicates that we are in compliance with the law.

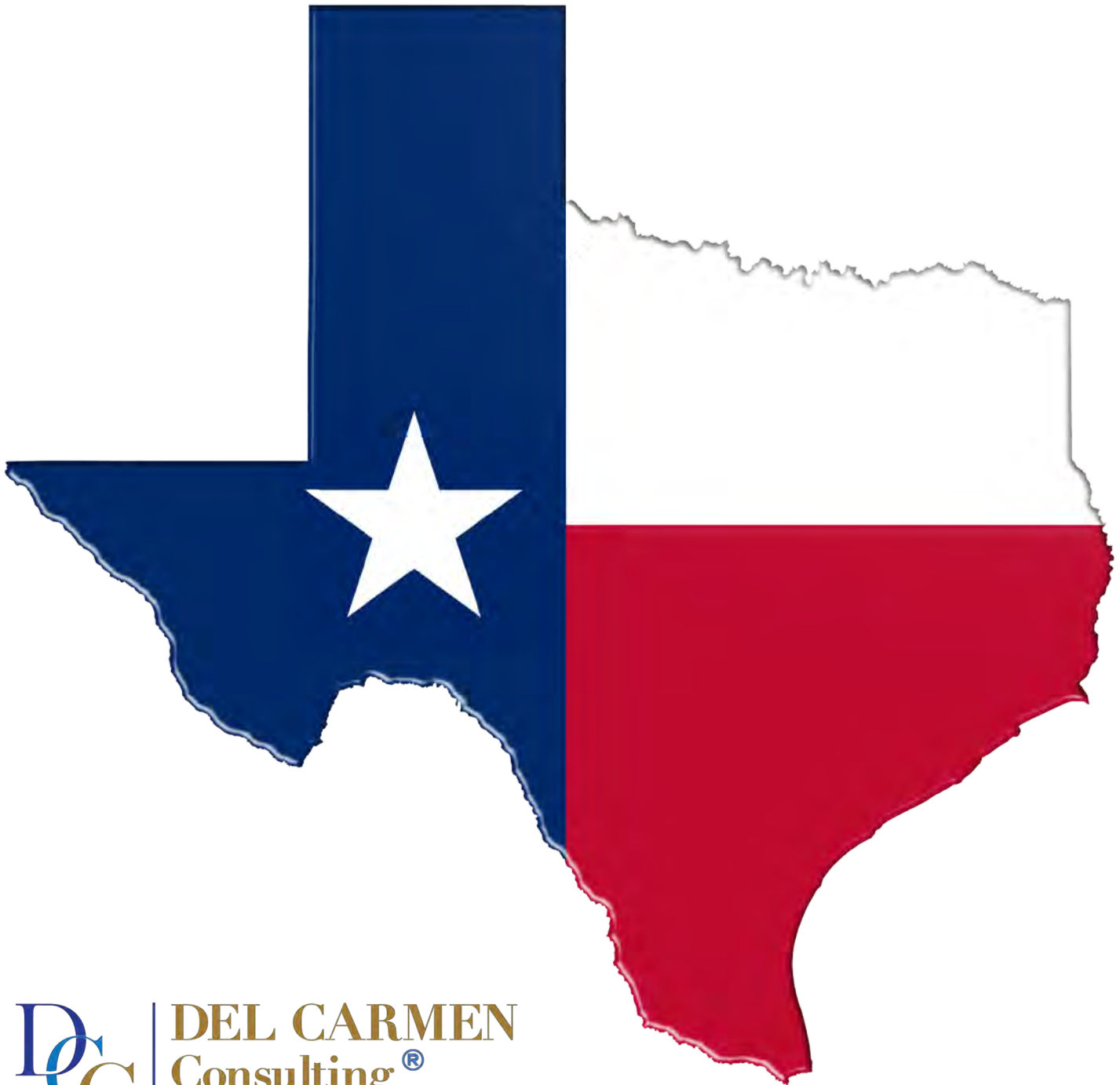
Budget & Financial Summary: N/A

Attachments:

1. College Station Police Department 2022 Contact Report

2022 Racial Profiling Report

College Station Police Department



"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."

-Quote by Geneva Reed (Mother of Sandra Bland)



February 14, 2023

College Station City Council
2611 Texas Avenue
College Station, TX 77840

Dear Distinguished Members of the City Council,

In 2001 the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. During the last calendar year, the College Station Police Department, in accordance with the law, has collected and reported traffic and motor vehicle related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Further, in 2017 the Sandra Bland Act was passed and signed into law (along with HB 3051, which introduced new racial and ethnic designations). The Sandra Bland Law currently requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the College Station Police Department and are included in this report.

This report consists of three sections with information on motor vehicle-related contacts. In addition, when appropriate, documentation is included which demonstrates the manner in which the College Station Police Department has complied with the Texas Racial Profiling Law. In section one, you will find the table of contents. Section two documents compliance by the College Station Police Department relevant to the requirements established in the Texas Racial Profiling Law. That is, you will find documents relevant to the training of all police personnel on racial profiling prevention and the institutionalization of the compliment and complaint processes, as required by law.

Finally, section three contains statistical data relevant to contacts (as defined by the law) which were made during the course of motor vehicle stops that took place between 1/1/22 and 12/31/22. Further, this section contains the Tier 2 form, which is required to be submitted to this particular organization and the law enforcement agency's local governing authority by March 1 of each year. The data in this report has been analyzed and compared to information derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

The last section of the report includes the original draft of the Texas Racial Profiling Law, SB1074, as well as the Sandra Bland Act (current law). Also in this section, a list of requirements relevant to the Racial Profiling Law, as established by TCOLE (Texas Commission on Law Enforcement), is included. The findings in this report support the College Station Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

Table of Contents

Introduction

Letter to Council Members	2
Table of Contents	3

Responding to the Law

Public Education on Filing Compliments and Complaints	4
Racial Profiling Course Number 3256	5
Reports on Compliments and Racial Profiling Complaints	11
Tier 2 Data (Includes tables)	13

Analysis and Interpretation of Data

Tier 2 Motor Vehicle-Related Contact Analysis	23
Comparative Analysis	24
Summary of Findings	26
Checklist	27

Legislative and Administrative Addendum

TCOLE Guidelines	29
The Texas Law on Racial Profiling	34
Modifications to the Original Law	41
Racial and Ethnic Designations	49
The Sandra Bland Act	50
College Station Police Department Racial Profiling Policy	65

Public Education on Responding to Compliments and Complaints

Informing the Public on the Process of Filing a Compliment or Complaint with the College Station Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the College Station Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a College Station Police Officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

All College Station Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the College Station Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of College Station has been included in this report.

It is important to recognize that the Chief of the College Station Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the College Station Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

Racial Profiling Course 3256

Texas Commission on Law Enforcement

September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs
2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)



2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

- A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.
- B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole .
- C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers.
- D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop.
- E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources.



3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)



3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074: <http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

*Report on
Compliments
and Racial
Profiling
Complaints*



Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/22-12/31/22 based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.



A check above indicates that the College Station Police Department has not received any complaints, on any members of its police services, for having violated the Texas Racial Profiling Law during the time period of 1/1/22-12/31/22.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint Number	Alleged Violation	Disposition of the Case

Additional Comments:

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA

TOTAL STOPS: 20,140

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	18,469
US Highway	0
State Highway	1,612
County Road	0
Private Property	59

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	1,587
No	18,553

RACE OR ETHNICITY

Alaska Native/American Indian	7
Asian/Pacific Islander	950
Black	3,703
White	11,954
Hispanic/Latino	3,526

GENDER

Female Total: 8,442

Alaska Native/American Indian	3
Asian/Pacific Islander	306
Black	1,439
White	5,404
Hispanic/Latino	1,290

Male Total: 11,698

Alaska Native/American Indian	4
Asian/Pacific Islander	644
Black	2,264
White	6,550
Hispanic/Latino	2,236

REASON FOR STOP?

Violation of Law Total: 1,238

Alaska Native/American Indian	0
Asian/Pacific Islander	37
Black	328
White	672
Hispanic/Latino	201

Pre-existing Knowledge Total: 196

Alaska Native/American Indian	0
Asian/Pacific Islander	6
Black	58
White	83
Hispanic/Latino	49

Moving Traffic Violation Total: 14,599

Alaska Native/American Indian	3
Asian/Pacific Islander	747
Black	2,374
White	8,931
Hispanic/Latino	2,544

TIER 2 DATA

Vehicle Traffic Violation Total: 4,107

Alaska Native/American Indian	4
Asian/Pacific Islander	160
Black	943
White	2,268
Hispanic/Latino	732

Contraband (in plain view) Total: 41

Alaska Native/American Indian	0
Asian/Pacific Islander	5
Black	14
White	14
Hispanic/Latino	8

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	0	7
Asian/Pacific Islander	16	934
Black	342	3,361
White	227	11,727
Hispanic/Latino	142	3,384
TOTAL	727	19,413

Probable Cause Total: 469

Alaska Native/American Indian	0
Asian/Pacific Islander	3
Black	256
White	126
Hispanic/Latino	84

Inventory Total: 14

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	8
Hispanic/Latino	4

REASON FOR SEARCH?

Consent Total: 125

Alaska Native/American Indian	0
Asian/Pacific Islander	3
Black	37
White	53
Hispanic/Latino	32

Incident to Arrest Total: 78

Alaska Native/American Indian	0
Asian/Pacific Islander	5
Black	33
White	26
Hispanic/Latino	14

TIER 2 DATA

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	11	5
Black	196	146
White	125	102
Hispanic/Latino	71	71
TOTAL	403	324

Did the finding result in arrest?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	11
Black	63	133
White	33	92
Hispanic/Latino	21	50
TOTAL	117	286

DESCRIPTION OF CONTRABAND

Drugs Total: 263

Alaska Native/American Indian	0
Asian/Pacific Islander	7
Black	150
White	61
Hispanic/Latino	45

Currency Total: 1

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	0
Hispanic/Latino	0

Weapons Total: 8

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	4
Hispanic/Latino	0

Alcohol Total: 44

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	13
White	23
Hispanic/Latino	7

TIER 2 DATA

Stolen Property Total: 1

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	1
Hispanic/Latino	0

Other Total: 86

Alaska Native/American Indian	0
Asian/Pacific Islander	3
Black	28
White	36
Hispanic/Latino	19

RESULT OF THE STOP

Verbal Warning Total: 271

Alaska Native/American Indian	2
Asian/Pacific Islander	9
Black	81
White	108
Hispanic/Latino	71

Written Warning Total: 11,483

Alaska Native/American Indian	3
Asian/Pacific Islander	540
Black	2,352
White	6,751
Hispanic/Latino	1,837

Citation Total: 8,073

Alaska Native/American Indian	2
Asian/Pacific Islander	396
Black	1,124
White	4,990
Hispanic/Latino	1,561

Written Warning and Arrest Total: 236

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	110
White	84
Hispanic/Latino	41

Citation and Arrest Total: 65

Alaska Native/American Indian	0
Asian/Pacific Islander	4
Black	26
White	19
Hispanic/Latino	16

Arrest Total: 12

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	10
White	2
Hispanic/Latino	0

TIER 2 DATA

ARREST BASED ON

Violation of Penal Code Total: 189

Alaska Native/American Indian	0
Asian/Pacific Islander	3
Black	81
White	69
Hispanic/Latino	36

Violation of Traffic Law Total: 18

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	10
Hispanic/Latino	4

Violation of City Ordinance Total: 1

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	1
Hispanic/Latino	0

Outstanding Warrant Total: 105

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	61
White	25
Hispanic/Latino	17

Was physical force used resulting in bodily injury during the stop?

	YES	NO
Alaska Native/American Indian	0	7
Asian/Pacific Islander	0	950
Black	1	3,702
White	0	11,954
Hispanic/Latino	0	3,526
TOTAL	1	20,139

Tables Illustrating Motor Vehicle Related Contact Data

Table 1. Citations and Warnings

Race/ Ethnicity	All Contacts	Citations	Verbal Warning	Written Warning	Contact Percent	Citation Percent	Verbal Percent	Written Percent
Alaska Native/ American Indian	7	2	2	3	0%	0%	1%	0%
Asian/ Pacific Islander	950	400	9	540	5%	5%	3%	5%
Black	3,703	1,150	81	2,352	18%	14%	30%	20%
White	11,954	5,009	108	6,751	59%	62%	40%	59%
Hispanic/ Latino	3,526	1,577	71	1,837	18%	19%	26%	16%
TOTAL	20,140	8,138	271	11,483	100%	100%	100%	100%

Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access.

Race/Ethnicity	Contact Percentage	Households with Vehicle Access
Alaska Native/American Indian	0%	0%
Asian/Pacific Islander	5%	9%
Black	18%	5%
White	59%	74%
Hispanic/Latino	18%	10%
TOTAL	100%	98%

Table 3. Motor Vehicle Searches and Arrests.

Race/Ethnicity	Searches	Consent Searches	Arrests
Alaska Native/American Indian	0	0	0
Asian/Pacific Islander	16	3	5
Black	342	37	146
White	227	53	105
Hispanic/Latino	142	32	57
TOTAL	727	125	313

Table 4. Instances Where Peace Officers Used Physical Force Resulting in Bodily Injury

Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury	Arrest	Location of Stop	Reason for Stop
1	12/05/22	208 George Bush Dr.	Speeding

Table 5. Search Data

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Found No	Arrests	Percent Searches	Percent Contraband Found	Percent No Contraband	Percent Arrest
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	16	11	5	5	2%	3%	2%	2%
Black	342	196	146	146	47%	49%	45%	47%
White	227	125	102	105	31%	31%	31%	34%
Hispanic/ Latino	142	71	71	57	20%	18%	22%	18%
TOTAL	727	403	324	313	100%	100%	100%	100%

Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/22-12/31/22.

Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	03/01/22	Data was valid and reliable
2	06/01/22	Data was valid and reliable
3	09/01/22	Data was valid and reliable
4	12/01/22	Data was valid and reliable

ADDITIONAL COMMENTS:

Table 7. Instance Where Force Resulted in Bodily Injury.

Race/Ethnicity	Number	Percent
Alaska Native/American Indian	0	0%
Asian/Pacific Islander	0	0%
Black	1	100%
White	0	0%
Hispanic/Latino	0	0%
TOTAL	1	100%

Table 8. Reason for Arrests from Vehicle Contact

Race/ Ethnicity	Violation of Penal Code	Violation of Traffic Law	Violation of City Ordinance	Outstanding Warrant	Percent Penal Code	Percent Traffic Law	Percent City Ordinance	Percent Warrant
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	3	0	0	2	2%	0%	0%	2%
Black	81	4	0	61	43%	22%	0%	58%
White	69	10	1	25	37%	56%	100%	24%
Hispanic/ Latino	36	4	0	17	19%	22%	0%	16%
TOTAL	189	18	1	105	100%	100%	100%	100%

Table 9. Contraband Hit Rate

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Hit Rate	Search Percent	Contraband Percent
Alaska Native/ American Indian	0	0	0%	0%	0%
Asian/ Pacific Islander	16	11	69%	2%	3%
Black	342	196	57%	47%	49%
White	227	125	55%	31%	31%
Hispanic/Latino	142	71	50%	20%	18%

Analysis and Interpretation of Data

In 2001, the Texas Legislature passed Senate Bill 1074, which eventually became the Texas Racial Profiling Law. This particular law came into effect on January 1, 2002 and required all police departments in Texas to collect traffic-related data and report this information to their local governing authority by March 1 of each year. This law remained in place until 2009, when it was modified to include the collection and reporting of all motor vehicle-related contacts in which a citation was issued or an arrest was made. Further, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individuals before detaining them. In addition, it became a requirement that agencies report motor vehicle-related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1 of each year. The purpose in collecting and disclosing this information is to determine if police officers in any particular municipality are engaging in the practice of racially profiling minority motorists.

One of the central requirements of the law is that police departments interpret motor vehicle-related data. Even though most researchers would likely agree that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is in fact very difficult to determine if individual police officers are engaging in racial profiling from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific "individual" racist behavior from aggregate-level "institutional" data on traffic or motor vehicle-related contacts.

As previously noted, in 2009 the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1, 2010. The changes included, but are not limited to, the re-definition of a contact to include motor vehicle-related contacts in which a citation was issued or an arrest was made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. The 2009 law also required adding "Middle Eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1 of each year.

More recently, in 2017 the Texas Legislators passed HB 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with police. In addition, the Sandra Bland Act (SB 1849) was passed and became law. Thus, the most significant legislative mandate (Sandra Bland Act) in Texas history regarding data requirements on law enforcement contacts became law and took effect on January 1, 2018. The Sandra Bland Act not only currently requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

1. A comparative analysis of the information compiled (under Article 2.133):

- a. Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;*
- b. Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;*
- c. Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*

2. Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

As part of their effort to comply with The Texas Racial Profiling/Sandra Bland Law, the College Station Police Department commissioned the analysis of its 2022 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2022 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), who came in contact with police in the course of a motor vehicle-related contact and were either issued a ticket, citation, or warning or an arrest was made. Also included in this data were instances when a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest, and use of physical force resulting in bodily injury.

The additional data analysis performed was based on a comparison of the 2022 motor vehicle contact data with a specific baseline. When reading this particular analysis, one should consider that there is disagreement in the literature regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the College Station Police Department accepted our recommendation to rely, as a baseline measure, on the Fair Roads Standard. This particular baseline is established on data obtained through the U.S. Census Bureau (2020) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It should be noted that the census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless whether they are among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only, thus excluding individuals who may have come in contact with the College Station Police Department in 2022 but live outside city limits. In some jurisdictions the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

In 2002, some civil rights groups in Texas expressed their concern and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). In essence this constitutes a comparison that may result in ecological fallacy. Despite this risk, as noted earlier, the College Station Police Department accepted the recommendation to utilize this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the city of College Station.

Tier 2 (2022) Motor Vehicle-Related Contact Analysis

When examining the enhanced and more detailed Tier 2 data collected in 2022, it was evident that most motor vehicle-related contacts were made with Whites, followed by Blacks. Of those who came in contact with police, most tickets or citations were issued to Whites and Hispanics; this was followed by Blacks. However, in terms of written warnings, most of these were issued to Whites, followed by Blacks.

On searches and arrests, the data showed that most searches took place among Blacks. When considering all searches, most were consented by Whites and Blacks, while most custody arrests were of Blacks. Overall, most searches resulted in contraband; of those that produced contraband, most were of Blacks; this was followed by Whites. Of the searches that did not produce contraband, most were of Blacks. Most arrests were made of Blacks. Most of the arrests that originated from a violation of the penal code involved Blacks. Overall, the police department reports one instance where force was used that resulted in bodily injury.

Comparative Analysis

A comprehensive analysis of the motor vehicle contacts to the census data relevant to the number of “households” in College Station who indicated in the 2020 census that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites, Asians, and American Indians who came in contact with police was the same or lower than the percentage of White, Asian, and American Indian households in College Station that claimed in the 2020 census to have access to vehicles. The opposite was true of Blacks and Hispanics. That is, a higher percentage of Blacks and Hispanics came in contact with police than the percentage of Black and Hispanic households in College Station that claimed in the 2020 census to have access to vehicles.

The comprehensive analysis of the searches resulting in contraband shows that the most significant contraband hit rate is of Asians. This was followed by Blacks and Whites. This means that among all searches performed in 2022, the most significant percentage of these that resulted in contraband was among Asians. The lowest contraband hit rate was among Hispanics.

Summary of Findings

As referenced earlier, the most recent Texas Racial Profiling Law requires that police departments perform data audits in order to validate the data being reported. Consistent with this requirement, the College Station Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in Table 6, the audit performed reveals that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings produced as a result of this analysis, it is recommended that the College Station Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected), which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the College Station Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in the upcoming year.
- 2) Commission data audits in 2023 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive data analysis included in this report serves as evidence that the College Station Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of Tier 2 data, and ensures that the practice of racial profiling will not be tolerated.

Checklist

The following requirements were met by the College Station Police Department in accordance with The Texas Racial Profiling Law:

- ✔ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ✔ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the College Station Police Department from engaging in racial profiling.
- ✔ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ✔ Provide public education related to the complaint and complaint process.
- ✔ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ✔ Collect, report and analyze motor vehicle data (Tier 2).
- ✔ Commission Data Audits and a Search Analysis.
- ✔ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ✔ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2023.
- ✔ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.



Legislative & Administrative
Addendum



TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of **what** must be accomplished by an agency but allows wide latitude in determining **how** the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person’s race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer’s best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, “the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.”

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the

policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling;
and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) ~~[(7)]~~ the date of conviction; and

(9) ~~[(8)]~~ the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law

(H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle~~[traffic]~~ stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~[or]~~ Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual ~~[person]~~ detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or~~

~~municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle ~~[traffic]~~ stops and transmitter activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[traffic]~~ stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND PEDESTRIAN]~~ STOPS. (a) In this article, "race":

~~[(1) "Race]~~ or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance ~~[regulating traffic or who stops a pedestrian for any suspected offense]~~ shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any ~~[each]~~ person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop ~~[traffic law or ordinance alleged to have been violated or the suspected offense];~~

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description ~~[the type]~~ of the contraband or evidence ~~[discovered];~~

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle ~~[existed and the facts supporting the existence of that probable cause];~~

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~[, including a description of the warning or a statement of the violation charged].~~

SECTION _____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle[, "pedestrian] stop" has the meaning assigned by Article 2.132(a) ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].~~

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency].~~

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency]; and~~

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from ~~[the]~~ stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle ~~[traffic and pedestrian]~~ stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle ~~[traffic or pedestrian]~~ stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based

data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure;
or

(3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

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

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [~~Native American, or Middle Eastern descent~~].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act

(S.B. 1849)

S.B. No. 1849

An Act relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

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

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown

otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,], at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

- (a) The commission shall:
- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
 - (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
 - (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
 - (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
 - (5) revise, amend, or change rules and procedures if necessary;
 - (6) provide to local government officials consultation on and technical assistance for county jails;
 - (7) review and comment on plans for the construction and major modification or renovation of county jails;
 - (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
 - (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
 - (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
 - (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
 - (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
 - (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
 - (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;
 - (15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
 - (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
 - (A) common issues concerning jail administration;
 - (B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) [(20)] require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read

as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and
(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;
(2) an attempted suicide;
(3) a death;
(4) a serious bodily injury, as that term is defined by
Section 1.07, Penal Code;
(5) an assault;
(6) an escape;
(7) a sexual assault; and
(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection

(a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to non-substantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this

section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

- (1) topics selected by the agency; and
- (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:
 - (A) civil rights, racial sensitivity, and cultural diversity;
 - (B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]
 - (C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and
 - (D) unless determined by the agency head to be inconsistent with the officer's assigned duties:
 - (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
 - (ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read

as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information

relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

- (A) the person's gender; and
- (B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search

and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship,

available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and
(B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote:
Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote:
Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

Date

Governor

Chief Clerk of the House

**COLLEGE STATION
POLICE DEPARTMENT
RACIAL PROFILING POLICY**



COLLEGE STATION POLICE DEPARTMENT POLICY MANUAL - CHAPTER 65

BIASED BASED POLICING

REVISION DATE: 02/11/2020

The practice of bias based policing by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It often alienates citizens and may foster distrust of law enforcement within the community.

This directive reaffirms the department's commitment to unbiased policing by identifying specific acts that would be considered bias based policing and outlining procedures to address requirements of [Article 2.131-137 of the Texas Code of Criminal Procedure](#).

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation is an identifying factor in determining the existence of probable cause for taking police action.

POLICY:

Members of the College Station Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based policing. Personnel will focus on the behavior of individuals and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture, or interdiction solely on the basis of race, ethnic background, national origin, citizenship, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. Appropriate corrective action will be taken, after investigation, against any employee who engages in bias based policing. Such an investigation may result in disciplinary action up to and including termination. LE 1.2.9.a

DEFINITIONS:

1. Bias Based Profiling - The targeting of an individual for enforcement action, detention or interdiction based solely on a trait common to a group of people. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. For purpose of this directive the term "racial profiling" is a part of Biased Based Profiling.
2. Race or Ethnicity – means White (W), Black (B), Hispanic (W/H), Asian (A), Pacific Islander (P), Alaskan Native or American Indian (I)
3. Motor Vehicle Stop – An occasion in which a sworn officer stops a motor vehicle for an alleged violation of a law or ordinance.
4. Seizure - Taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest. Seizure also includes any filing of documents with the District Attorney for the purpose of asset forfeiture.

PROCEDURE:

1. Reporting Requirements
 - a. Motor vehicle stops
 - (1) [Article 2.132\(b\)\(6\) of the Texas Code of Criminal Procedure](#) requires a departmental policy on racial profiling requiring collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued; and to arrests made as a result of those stops. [Article 2.133 of the Texas Code of Criminal Procedure](#) requires that specific data are collected in a report for each motor vehicle stop for an alleged violation of a law or ordinance, including information relating to:
 - (a) the gender of the individual detained;



COLLEGE STATION POLICE DEPARTMENT POLICY MANUAL - CHAPTER 65

BIASED BASED POLICING

REVISION DATE: 02/11/2020

- (b) the race or ethnicity of the individual detained;
 - (c) whether the peace officer knew the race or ethnicity of the individual prior to detention;
 - (d) the initial reason for the stop;
 - (e) the location of the stop;
 - (f) whether a search was conducted and, if so, whether the person detained consented to the search;
 - (g) whether contraband or other evidence was discovered, and a description of such;
 - (h) the reason for the search, including whether: contraband was in plain view; any probable cause or reasonable suspicion existed to perform the search; the search was performed as a result of towing the vehicle or arrest of any person in the vehicle;
 - (i) whether the peace officer used physical force that resulted in bodily injury, as defined by [Section 1.07, Texas Penal Code](#), during the stop; SEE: [Chapter - 42 Use of Force](#)
 - (2) The required data to satisfy the applicable Articles of Texas Code of Criminal Procedure shall be collected by this department.
 - c. Compliant Warning (Verbal & Written), Citation and Search forms are available in Brazos Tech.
 - d. **Compliant** Arrest and FIR forms are available in RMS.
 - e. The reporting, processing, and documentation of seizure cases related to asset forfeitures shall follow the guidelines established in [Chapter 40 - Search and Seizure](#).
2. Responsibilities
- a. **Officers engaged in traffic enforcement**
 - (1) Responsible for ensuring audio/video recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on duty shift supervisor as soon as possible.
 - (2) Conduct motor vehicle stops in a professional manner as outlined in [Chapter 33 - Traffic Safety](#).
 - (3) Responsible for ensuring all required fields on associated **reports** are completed.
 - (4) Ensure that all **documentation** is turned in at the end of their tour of duty.
 - b. **Supervisors of Officers engaged in traffic enforcement**
 - (1) Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.
 - (2) **Supervisors shall randomly review the BWC and In-car video data of their subordinates as part of their quarterly video reviews with the intent to determine compliance with this policy and other applicable directives. At a minimum, two BWC and one In-car video review per officer per month shall be conducted. Exceptions may be made where In-car video is not available. The three videos shall be from three separate cases. LE 1.2.9.a**
 - (3) The supervisor's review of In-Car and BWC data shall be documented in the supervisor's quarterly video review memo submitted to the Bureau Chief through the chain of command.
 - c. Recruiting & Training Lieutenant LE 1.2.9.b
 - (1) Will ensure all affected department personnel are trained on bias based profiling issues as determined appropriate by the Texas Commission on Law Enforcement.



COLLEGE STATION POLICE DEPARTMENT POLICY MANUAL - CHAPTER 65

BIASED BASED POLICING

REVISION DATE: 02/11/2020

- d. Internal Affairs Supervisor
 - (1) The Internal Affairs Administrator is responsible for investigating any complaints of bias based profiling filed against any member of the College Station Police Department as outlined in [Chapter 26 - Internal Affairs](#).
 - (2) If a video or audio recording was made of an incident, which is the basis of a complaint, the Internal Affairs Administrator or his designee will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form, routed through the chain of command to the Chief of Police.
 - (3) Ensure an annual documented comparative analysis is done of the data collected for motor vehicle stops and arrests resulting from motor vehicle stops (tier 1 reporting) and a separate comparative analysis for any data collected on motor vehicle stops due to non-operational or unavailable audio/video equipment (tier 2 reporting). [LE 1.2.9.c](#)
 - (a) Analysis for each report will be based on a calendar year.
 - (b) Summary reports of the analysis must be submitted to the office of the Chief of Police, the City Council, and TCOLE before March 1st of each year.
 - (c) The reports must include:
 - i. A determination of the prevalence of bias based profiling
 - ii. An examination of the disposition of motor vehicle stops, including searches resulting from the stops
 - iii. Information relating to each complaint filed within the department alleging bias based profiling.
 - iv. The report may not include identifying information about an officer or about the person stopped.
 - v. **Any corrective measures taken.**
 - vi. A review of citizen's concerns, if any.
 - (4) Will review and update department brochures as needed, which serve to educate the public about the internal affairs complaint process.
 - (5) May make recommendations to the department training committee, or the recruiting and training division based on findings of summary reports.
 - e. Public Information Officer

The Public Information Officer will annually post a statement in the local newspaper outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in bias based profiling with respect to the individual.
 - f. Department Web page Master

The Department's web page master will maintain a statement on the website outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in racial profiling with respect to the individual.
3. Training Requirements [LE 1.2.9.b](#)
- a. Officers are responsible for adherence to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.



COLLEGE STATION POLICE DEPARTMENT POLICY MANUAL - CHAPTER 65

BIASED BASED POLICING

REVISION DATE: 02/11/2020

- b. Training on Biased Based Policing, including legal aspects, is required with the following frequency:
 - (1) All sworn employees shall receive initial training during orientation.
 - (2) All sworn employees shall receive annual training.
- 4. Complaint Investigation
 - a. All complaints alleging Biased Based Policing will be readily accepted in accordance to [Chapter 26 - Complaints/Internal Affairs](#).
 - b. If practical, any video and/or audiotapes associated with a biased-based policing complaint shall be forwarded through the chain of command with the complaint.
- 5. Public Education: [Required by Article 2.132\(b\)\(4\) of the Texas Code of Criminal Procedure](#)
 - a. This department will inform the public of its compliment and complaint process including: telephone number, mailing address, and email address with respect to each ticket, citation or warning issued. Methods that may be utilized to inform the public include but are not limited to television, radio, service or civic presentations, brochures, internet, social media as well as governing board meetings.
 - b. Additionally, information will be made available as appropriate in languages other than English.



For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting©
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

Disclaimer: The author of this report, Alejandro del Carmen/del Carmen Consulting©, is not liable for any omissions or errors committed in the acquisition, analysis, or creation of this report. Further, Dr. del Carmen/del Carmen Consulting© is not responsible for the inappropriate use and distribution of information contained in this report. Further, no liability shall be incurred as a result of any harm that may be caused to individuals and/or organizations as a result of the information contained in this report.

Copyright: This report may not be altered or reproduced outside the agreed terms, in any manner whatsoever without the written permission of the author.

March 9, 2023
Item No. 9.1.
211 Fidelity Street Rezoning

Sponsor: Gabriel Schrum

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, "Unified Development Ordinance," Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from GS General Suburban to MH Middle Housing for approximately 0.27 acres at 211 Fidelity Street, being Lot 1 and 25' of Lot 2, Block 6 of the West Park Addition, generally located at the corner of Fidelity Street and Highland Street.

Relationship to Strategic Goals:

Diverse & Growing Economy

Recommendation(s): The Planning and Zoning Commission heard this item at their February 16, 2023 meeting and voted unanimously to recommend approval. Staff also recommends approval.

Summary: This request is to rezone approximately 0.27 acres of land from GS General Suburban to MH Middle Housing. This is the first rezoning request for the newly adopted MH Middle Housing zoning district. The subject property was platted in 1940 and is currently a vacant single-family lot. It is the applicant's intent to redevelop the plot to build small-lot single-family homes. Nearby properties include single-family residential homes.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The subject property is designated on the Comprehensive Plan Future Land Use & Character Map as Mixed Residential and is within the George Bush and Wellborn Redevelopment Area. For the Mixed Residential land use, the Comprehensive Plan provides the following:

Areas appropriate for a mix of moderate density residential development including, townhomes, duplexes, small multifamily buildings (3-12 unit), and limited small-lot single family. These areas are appropriate for residential infill and redevelopment that allows original character to evolve. These areas may serve as buffers between more intense multifamily residential or mixed-use development and suburban residential or neighborhood conservation areas.

The intent of the Mixed Residential land use is to accommodate a walkable pattern of small lots, small blocks, and well-connected street pattern that supports surrounding neighborhoods. Developments in this district should prioritize a mix of housing types and scales located near community facilities or adjacent to commercial or neighborhood centers. This development is aligned with that vision.

The zoning districts that are generally appropriate within this land use include: middle housing, duplex, townhouse, and limited-scale single-family zoning.

The Comprehensive Plan discusses residential infill and redevelopment in both Chapter 3, Strong

Neighborhoods and Chapter 8, Managed Growth. The plan states, “infill development offers the opportunity to mediate and enhance the identity of neighborhoods.” The plan goes on to mention that infill and redevelopment can create more viable and vibrant places throughout the city. Residential infill, especially in areas of the city designated for redevelopment, improves the efficiency of land use while enhancing the character of surrounding neighborhoods. As a tool for redevelopment, the request allows a mix of housing types with smaller lot sizes and is aligned with the Comprehensive Plan.

The new MH Middle housing zoning district is designed to be flexible and provide a variety of housing options by right. It allows for detached single-family residences, duplexes, townhomes, Courtyard houses, small and medium multiplexes, and live-work units. Within live-work units certain commercial uses are permitted with the requirement that the proprietor live on-site. Commercial uses within the live-work unit spaces may include art studios, daycares, retail shops, offices, and personal service shops such as hair salons or tailors.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The subject property is surrounded by single-family residential homes to the north, east, south, and west. Development pressure continues to grow as new generations of students, young professionals, families, and seniors move to College Station; allowing and encouraging redevelopment opportunities helps alleviate some of the pressure in the market. The MH Middle Housing zoning district enables redevelopment of this lot at an appropriate scale, enabling an incremental increase in residential density on this site. The residential uses permitted in MH Middle Housing zoning district are appropriate for the surrounding areas as it would allow for additional residential development in the area.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The size and location of the subject property is suitable for single-family, townhouse, duplex, and a small multiplex use although some uses would require replatting of the lots

4. Whether there is available water, sanitary sewer, storm water, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

The existing water and wastewater infrastructure is adequate to support the needs of this development. Drainage and any other infrastructure required with the site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. The subject property fronts Fidelity St., but could be reoriented to face Highlands St. to allow for rear parking off Highlands St. The residential lot will be able to take access from either Highlands St. or Fidelity St., as they are local streets. Rear parking would be required if four or more spaces are needed for the lot per MH Middle Housing zoning standards. The proposed use is expected to generate less than 150 trips in any peak hour; therefore, a TIA was not required.

5. The marketability of the property:

The uses allowed by the proposed zoning district are generally marketable for the area. The applicant states that the currently allowed uses are marketable, but not the best use of the property. They mention the property is close to Texas A&M University and will serve the student population,

and their proposed use of small lot single-family homes are more appropriate and marketable for this lot.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Vicinity Map, Aerial, and Small Aerial Map
3. Rezoning Exhibit
4. Background Information
5. Applicant's Supporting Information
6. Existing Future Land Use

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 AFFECTING LOT 1 AND 25’ OF LOT 2, BLOCK 6 OF THE WEST PARK ADDITION, GENERALLY LOCATED AT THE CORNER OF FIDELITY STREET AND HIGHLAND STREET, AS DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A” and Exhibit “B”**, attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 9th day of March, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from GS General Suburban to MH Middle Housing:

Lot 1 and 25’ of Lot 2, Block 6 of the West Park Addition

Exhibit B



VICINITY MAP

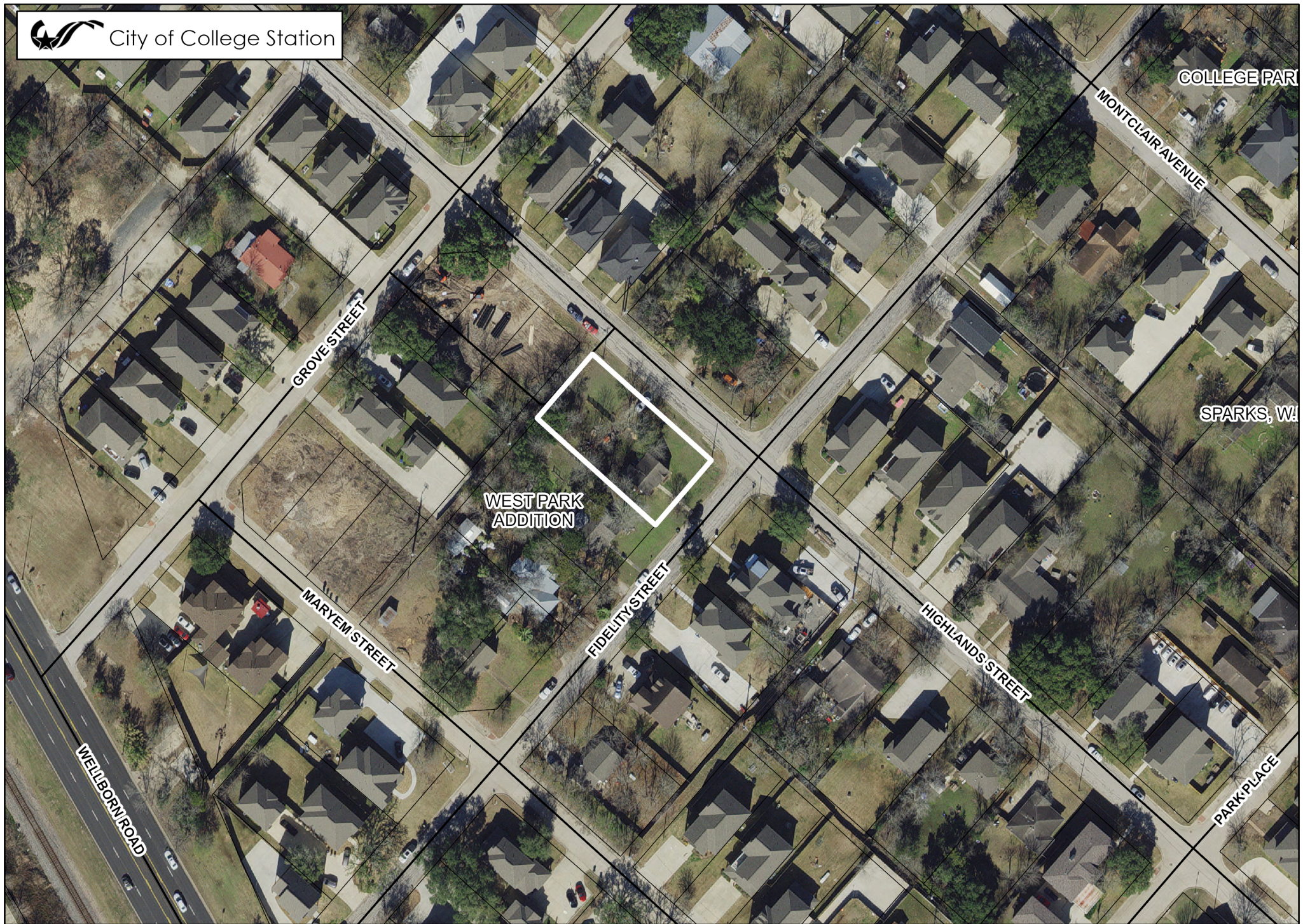
211 FIDELITY STREET REZONING
REZ2022-000028

Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.25 2.5 Miles





COLLEGE PARK

MONTCLAIR AVENUE

SPARKS, WA

GROVE STREET

WEST PARK
ADDITION

MARYEM STREET

FIDELITY STREET

HIGHLANDS STREET

WELBORN ROAD

PARK PLACE

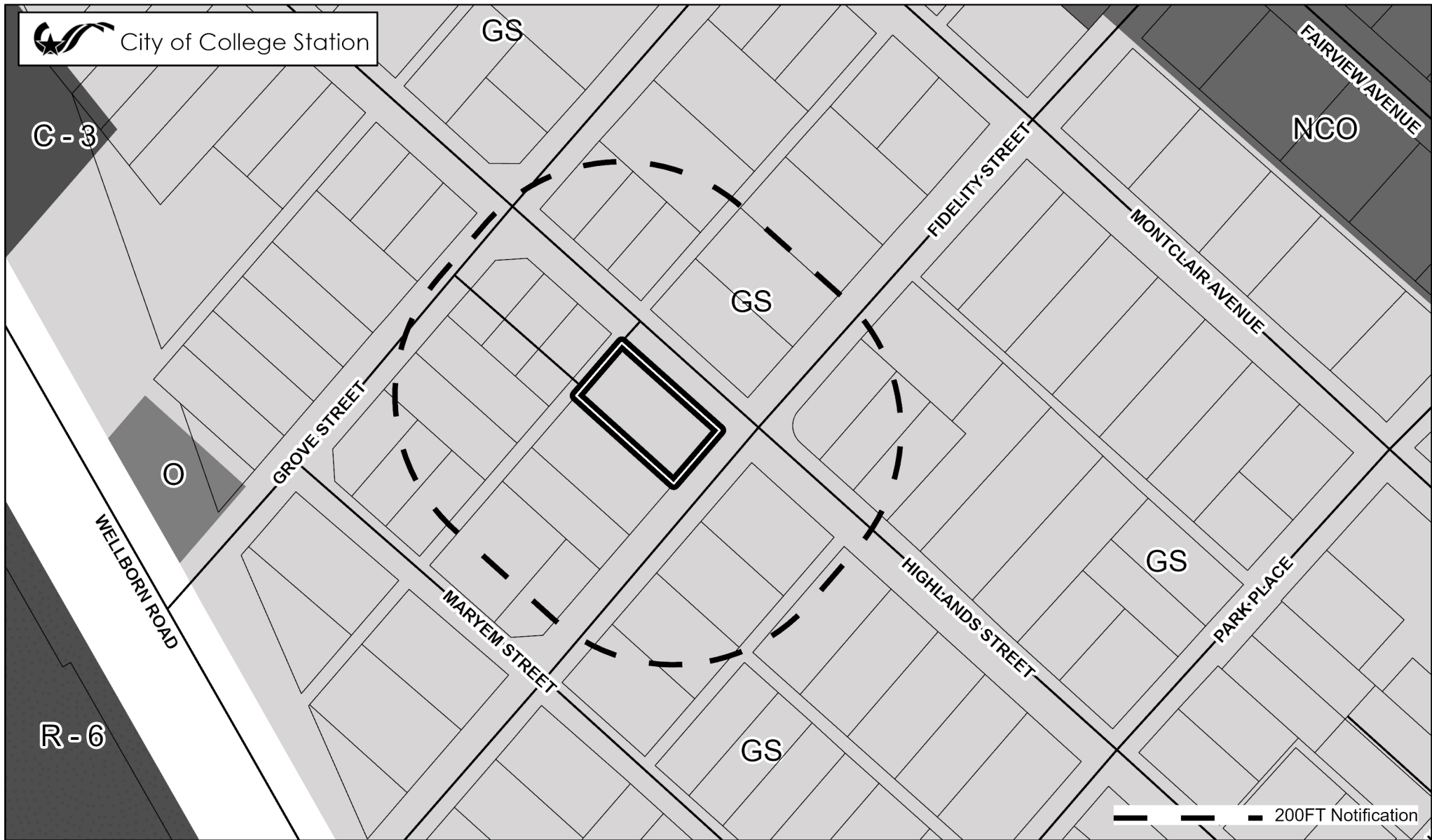


0 110 220 Feet

211 FIDELITY STREET REZONING

Case:
REZ2022-000028

REZONING



ZONING DISTRICTS (In Grayscale)

Residential		MH	Middle Housing
R	Rural	MF	Multi-Family
WE	Wellborn Estate	MU	Mixed-Use
E	Estate	MHP	Manufactured Home Pk.
WRS	Wellborn Restricted Suburban		
RS	Restricted Suburban		
GS	General Suburban		
D	Duplex		
T	Townhome		

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial

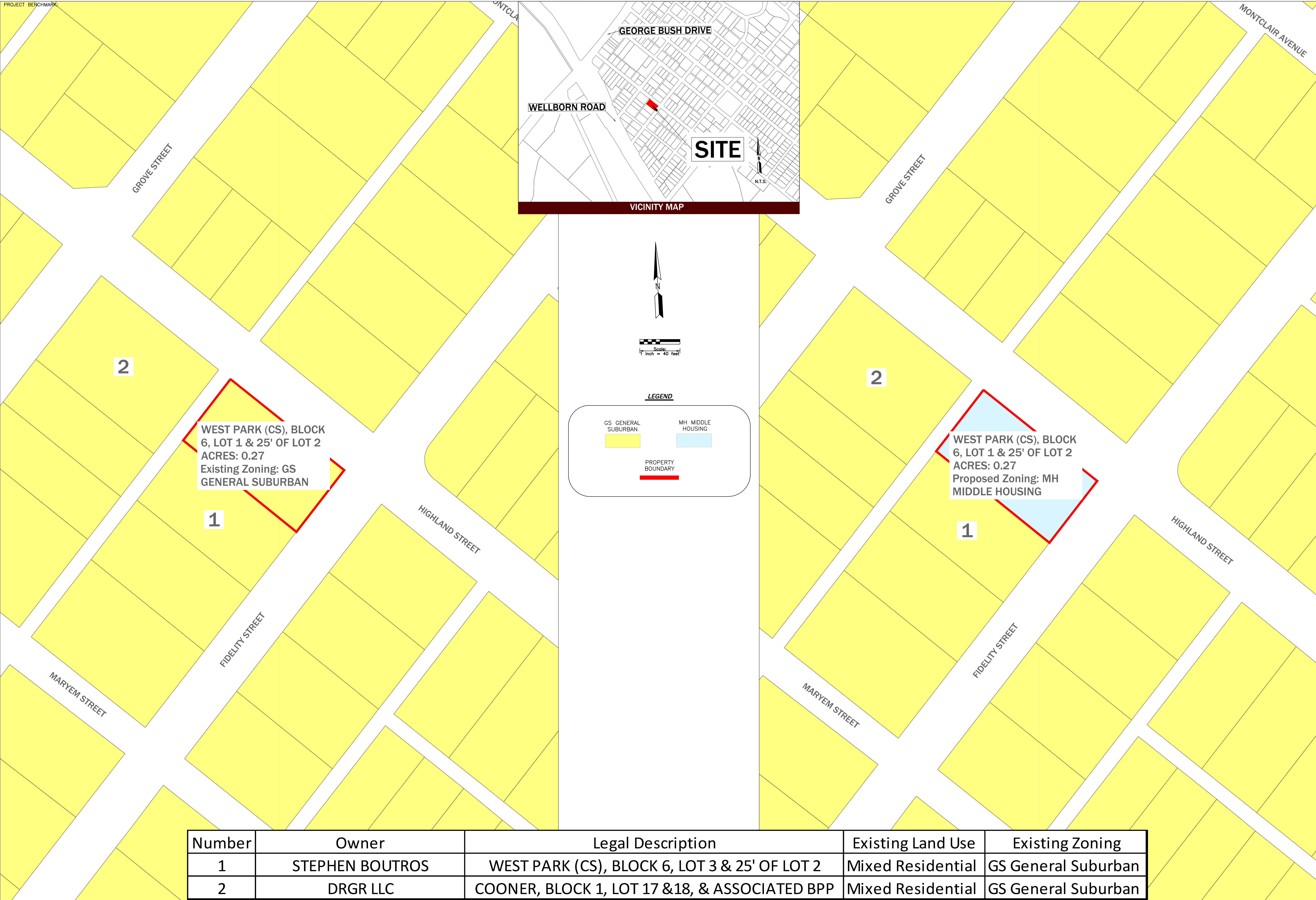


0 150 300 Feet

211 FIDELITY STREET REZONING

Case:
REZ2022-000028

REZONING



Number	Owner	Legal Description	Existing Land Use	Existing Zoning
1	STEPHEN BOUTROS	WEST PARK (CS), BLOCK 6, LOT 3 & 25' OF LOT 2	Mixed Residential	GS General Suburban
2	DRGR LLC	COONER, BLOCK 1, LOT 17 &18, & ASSOCIATED BPP	Mixed Residential	GS General Suburban

EXISTING

PROPOSED

MITCHELL
M&M
MORGAN

T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443
3204 EARL RUDDER FWY. S.
COLLEGE STATION, TX 77845
PLAN & DESIGN SPECIALISTS IN
CIVIL ENGINEERING • HYDRAULICS
HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

For Interim Review Only
These documents are not
to be used for final
bidding, or permit purposes.
Without J&B Morgan, P.E.
No. 7708

DECEMBER 2022
Drawn By: TJC
Checked By: VBM

Prepared For:
Shabeer Jaffer

Revisions

REZONING MAP
BLOCK 6, LOT 1 & 25' OF LOT 2 OF
WEST PARK SUBDIVISION
0.27 ACRES

RZ

Page 191 of 227

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: February 16, 2023
Advertised Council Hearing Date: March 9, 2023

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 24
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: 1 at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Mixed Residential	GS General Suburban	Single Family Residential
South	Fidelity St (Local Street)	n/a	Fidelity St (Local Street)
East	Highlands St (Local Street)	n/a	Highlands St (Local Street)
West	Mixed Residential	GS General Suburban	Single Family Residential

DEVELOPMENT HISTORY

Incorporated: October, 1938
Zoning: GS General Suburban (upon annexation)

Final Plat: West Park Addition
Site Development: Currently undeveloped; was previously Single Family Residential



REZONING APPLICATION SUPPORTING INFORMATION

Name of Project: 211 FIDELITY STREET REZONING

Address: 211 FIDELITY ST

Legal Description: WEST PARK (CS), BLOCK 6, LOT 1 & 25' OF 2

Total Acreage: 0.27

Applicant:: MITCHELL & MORGAN

Property Owner: JAFFAR SHABEER ISSA

List the changed or changing conditions in the area or in the City which make this zone change necessary.

As the student population at Texas A&M University continues to grow, the need for housing close to the University becomes more important. The Comprehensive Plan recognizes this need and includes a new land use designation ideal for infill redevelopment that will accommodate a variety of moderate density residential land uses. These properties are ideal for redevelopment and this rezoning to allow denser residential uses will further implement the Plan.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

The Comprehensive Plan indicates these properties are designated for Mixed Residential uses. Mixed residential is intended for a mix of medium density uses. Many of the residential properties have redeveloped and Mixed Residential will encourage more redevelopment. There is a variety of housing in Area 5 and the proposed middle housing structures will further support the mix of housing types and is in accordance with the Comprehensive Plan.

These properties are also located within a Redevelopment area on the Comprehensive Plan. Redeveloping these properties will enhance the character and value of the neighborhood

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

General Suburban is not suitable as this area is planned for Mixed Residential to encourage denser residential development.

Explain the suitability of the property for uses permitted by the rezoning district requested.

Duplexes contribute to the desired mix of densities and housing types specified in the Mixed Residential land use designation making this development very suitable for the property. Middle Housing is especially suitable due to the proximity to Texas A&M University.

Explain the suitability of the property for uses permitted by the current zoning district.

Duplexes contribute to the desired mix of densities and housing types specified in the Mixed Residential land use designation making this development very suitable for the property. Middle Housing is especially suitable due to the proximity to Texas A&M University.

Explain the marketability of the property for uses permitted by the current zoning district.

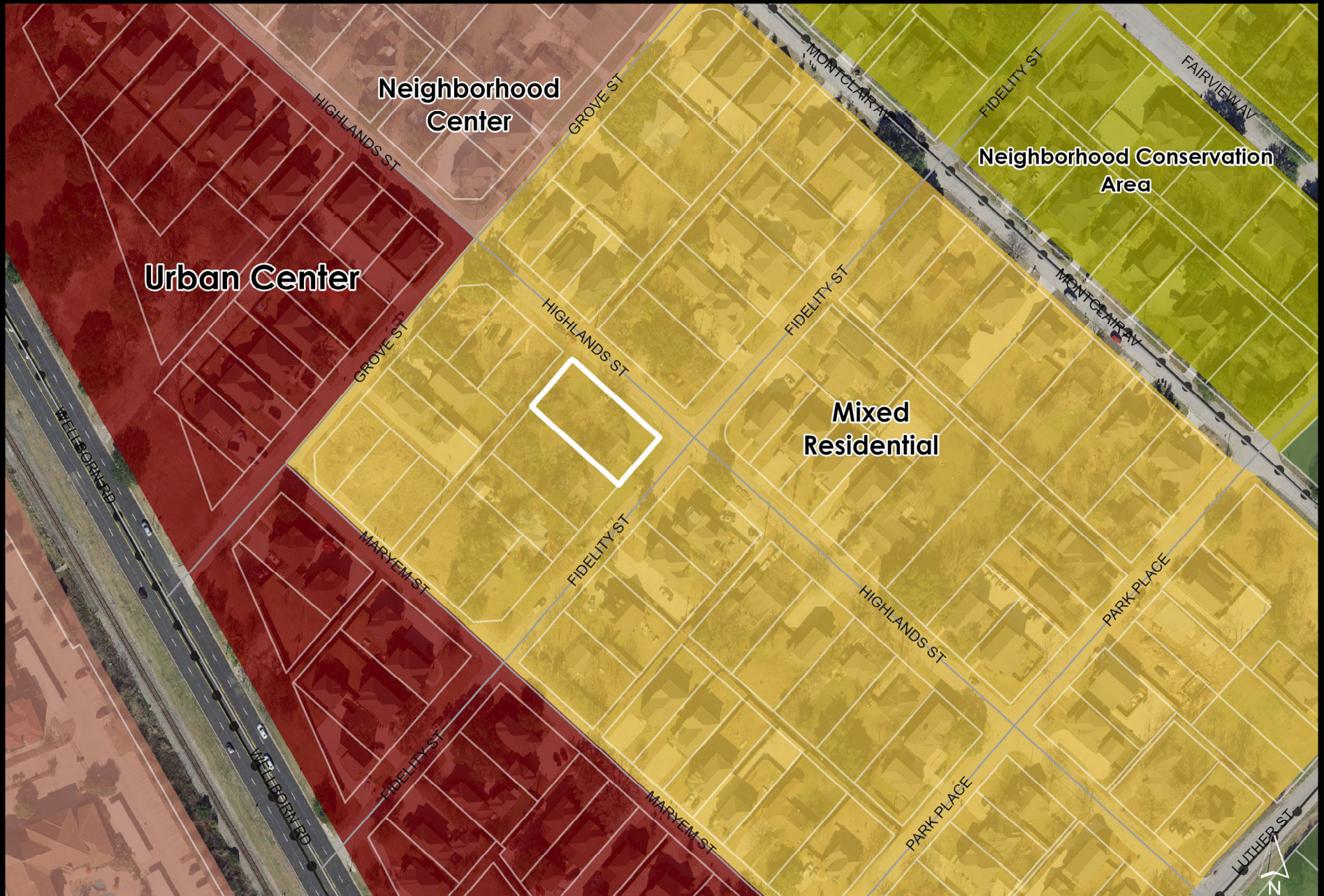
General suburban uses as permitted by the existing zoning district are probably marketable, but are not the highest and best use for the property. These properties are close in proximity to Texas A&M University and will serve the student population. Middle Housing is more appropriate and marketable for these lots and will better serve the student housing needs.

List any other reasons to support this zone change.

N/A

EXISTING

Future Land Use



March 9, 2023

Item No. 9.2.

Fire EMS Interlocal agreement proposal from the City of Bryan

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an interlocal agreement with the City of Bryan for fire and emergency medical services.

Relationship to Strategic Goals:

1. Good Governance
2. Core Services

Recommendation(s): Staff recommends continued collaboration and negotiation with the City of Bryan to finalize an interlocal agreement that is fair and equitable for both cities.

Summary: The City of College Station has been in discussions with the City of Bryan since June 2021 regarding the need to revise the 1997 automatic aid agreement for fire and EMS services between the City of College Station and the City of Bryan fire departments. The City of College Station sent a Letter of Notification for 60-day Termination of the 1997 agreement on January 9, 2023. On Tuesday, March 1, 2023, the City of Bryan provided a draft of their proposed revised agreement and held a Special Council Meeting on March 2, 2023 in which they adopted the proposed agreement to be sent to the City of College Station City Council for consideration.

Budget & Financial Summary:

Attachments:

1. College Station and Bryan Fire EMS ILA Termination Letter, 97 ILA & CS Proposed ILA
2. Proposed College Station and Bryan Fire EMS Interlocal Agreement from the City of Bryan
3. Fire and EMS ILA doc compare 3-1-23



Via Email and CMRRR # 7009 3410 0002 3100 1689

January 9, 2023

Mr. Kean Register
City Manager
City of Bryan
300 South Texas Avenue
Bryan, Texas 77803
kregister@bryantx.gov

Re: Termination of Automatic Mutual Aid Agreement Dated July 25, 1997

Dear Mr. Register:

The City of College Station is terminating the Automatic Mutual Aid Agreement (Agreement) dated July 25, 1997, between the City of College Station and the City of Bryan. This is the official sixty (60) day termination notice under paragraph IX of the Agreement.

Since our efforts to reach a reasonable new agreement that meets the needs of both cities have been unsuccessful, the Agreement and all services associated with the Agreement will terminate on Friday, March 10, 2023. The City of College Station remains committed to good faith negotiations regarding a new fire service automatic aid and EMS mutual aid agreement with equitable terms and conditions.

Please contact me if you have questions or want to discuss.

Sincerely,

Bryan C. Woods
Bryan C. Woods
City Manager

Encl.: 1997 Agreement and Proposed New Agreement

Cc. Richard Mann, Fire Chief

AUTOMATIC MUTUAL AID AGREEMENT

This agreement is made and entered into this 25th day of July, 1997 by and between the City of Bryan, Texas, a home rule municipal corporation of the State of Texas, hereinafter referred to as Bryan, and the City of College Station, Texas, a home rule municipal corporation of the State of Texas, hereinafter referred to as College Station, each acting herein by through its duly authorized officials;

WHEREAS, College Station and Bryan are owners of special apparatus and other equipment designed for and capable of being used in the protection of persons and property from uncontrolled fires. Each agency has in its employ individuals certified by the Texas Commission on Fire Protection who are trained in the use of such equipment; and

WHEREAS, Bryan and College Station are the owners of special apparatus and other equipment designed for providing emergency treatment and transport of the sick and injured. Each agency has in its employ Emergency Medical Technicians certified by the Texas Department of Health who are trained in the use of such equipment; and

WHEREAS, College Station and Bryan have authority to enter into agreements providing for the use of apparatus and other equipment to citizens outside of the respective municipal corporate limits; and

WHEREAS, Bryan and College Station are desirous of obtaining service for their citizens in the event of an emergency regardless of corporate limits whereby preestablished response districts identifies the closest unit to respond; and

NOW, THEREFORE, for and in consideration of mutual benefits to be derived by each of the parties hereto, said parties agree and covenant as follows:

I

Each city will be responsible for providing insurance coverage on its personnel, facilities, motor vehicles and equipment.

II

College Station will provide emergency services to Bryan as per predetermined automatic aid response districts established by both agencies.

Bryan will provide emergency services to College Station as per predetermined automatic aid districts established by both agencies.

Changes to response districts will be through mutual agreement of both parties.

III

Bryan will bill patients for EMS services provided by the fire department for services provided in College Station.

College Station will bill patients for EMS services provided by the fire department for services provided in Bryan.

IV

College Station will not bill Bryan Fire Department for normal routine fire and EMS assistance provided.

Bryan will not bill College Station Fire Department for normal routine fire and EMS assistance provided.

V

Bryan, under special rescue response, will bill College Station Fire Department for supplies and other consumable products used for structural collapse, confined space, or other special rescue assistance. Bryan will not bill College Station for personnel time. All payments made will be from current revenues available to College Station.

College Station, under special hazardous materials response, will bill Bryan Fire Department for supplies and other consumable products used for Hazardous Materials Incident Mitigation. College Station will not bill Bryan for personnel time. A bill for personnel time will be submitted to the responsible person if known. All payments made will be from current revenues available to Bryan.

All billing will be in an amount that fairly compensates the performing party for the services or functions performed under this agreement.

VI

Normal wear and tear of equipment, apparatus, and supplies will be the responsibility of each party to this agreement.

Extraordinary wear and tear or destruction of equipment and supplies will be the responsibility of the party receiving the assistance.

VII

College Station reserves the right to refuse to answer any call pursuant to this agreement in the event the Fire Chief or his/her designate determines the health, safety, and welfare of the citizens of College Station would be endangered by dispatching personnel and equipment outside of its corporate limits.

Bryan reserves the right to refuse to answer any call pursuant to this agreement in the event the Fire Chief or his/her designate determines the health, safety, and welfare of the citizens of Bryan would be endangered by dispatching personnel and equipment outside of its corporate limits.

VIII

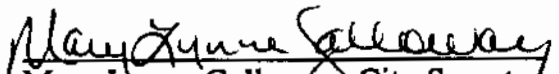
Responding units will operate under the direction of the incident commander of the department receiving assistance.

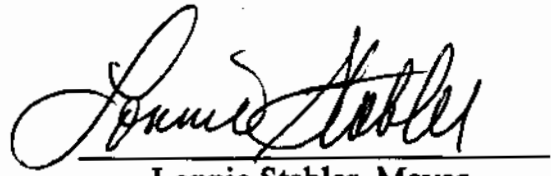
IX

This agreement will remain in force until such time either party gives the other party sixty (60) days written notice to terminate said agreement.

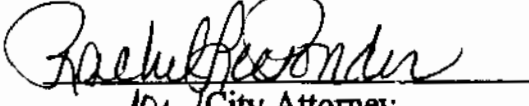
CITY OF BRYAN, TEXAS

ATTEST:


Mary Lynne Galloway, City Secretary


Lonnie Stabler, Mayor

APPROVED AS TO FORM:


for City Attorney

CITY OF COLLEGE STATION, TEXAS

ATTEST:

Connie Hooks
Connie Hooks, City Secretary

Lynn McIlhaney
Lynn McIlhaney, Mayor

APPROVED AS TO FORM:

Harvey Cargill
Harvey Cargill, City Attorney

COLLEGE STATION AND BRYAN FIRE AUTOMATIC AID AND EMS MUTUAL AID INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is by and between the **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation (College Station), and the **CITY OF BRYAN**, a Texas Home Rule Municipal Corporation (Bryan), collectively referenced as the Parties, each acting by and through their authorized agents.

WHEREAS, the Parties are authorized by the Interlocal Cooperation Act, Texas Government Code, Chapter 791, to enter into a joint agreement for the performance of the governmental functions of providing fire department services and emergency medical services; and

WHEREAS, College Station and Bryan are authorized under Section 342.011 of the Texas Local Government Code to provide fire department services and Chapter 774 of the Texas Health & Safety Code to contract with each other to provide emergency medical services; and

NOW, THEREFORE, in consideration of the mutual promises, benefits, and covenants made herein the Parties agree as follows:

I. DEFINITIONS

The following words and phrases have the following meanings, unless the context clearly indicates otherwise:

1.1 Automatic Aid means the immediate dispatch on first alarms of the closest appropriate resource to all fire incidents in either jurisdiction.

1.2 Mutual Aid means the Parties will assist one another by furnishing personnel, equipment, or expertise in a specified manner for EMS assistance from the other only when the Requesting Agency is depleted of EMS transport units and the other Agency has EMS transport units available.

1.3 Requesting Agency means the Party requesting assistance.

1.4 Responding Agency means the Party providing assistance.

II. PROVIDING AID

2.1 The Parties agree to cooperate in providing aid with fire and EMS personnel for fire service, EMS, special rescue response, hazardous materials response, securely sharing sensitive and non-sensitive information and records, and providing additional resources and equipment outside their jurisdictions, subject to availability and the Chief's discretion.

2.1.1. Requesting Aid. The Requesting Agency's Chief has requested aid including the amount and type of equipment or resources and number of requested personnel, the specific dispatch location, and a reasonable estimate of time the assistance is needed.

2.1.2. Providing Aid. The Providing Agency's Chief in his or her sole discretion has determined sufficient personnel, equipment, and resources that are available for the specific assignment, and the health, safety, or welfare of the Responding Agency's citizens will not be endangered by dispatching personnel or equipment or resources outside of the Responding Agency's jurisdictional limits.

2.2 Fire Service Response.

- a. Automatic Aid.** Each Party will respond with Automatic Aid for any call for service from the other Party's jurisdiction for fire service.
- b. Fire Service Billing.** No Party will invoice the other Party for normal or routine fire service responses.

2.3 Emergency Medical Services Response.

- a. Mutual Aid Calls.** Each Party will request Mutual Aid response for EMS call for service from the other Party's jurisdiction only when the requesting jurisdiction has no available EMS transport units available, the responding agency has reserve capacity to provide assistance while maintaining adequate response capability and the Chief authorizes the response.
- b. EMS Charges.** Mutual Aid responses are intended to serve a public purpose and benefit both Parties. Both jurisdictions will charge and collect for EMS services through the standard billing collection process. No Party will invoice the other Party for EMS responses.

2.4 Special Response Teams.

- a. College Station Hazmat.** College Station will invoice any responsible parties for a Hazmat response. If Bryan is the responsible party, College Station will invoice Bryan only for supplies and consumables. College Station will not invoice Bryan for personnel time related to a Hazmat response.
- b. Bryan Technical Rescue Response.** Bryan will invoice any responsible parties for a Technical Rescue Response. If College Station is the responsible party, Bryan will invoice College Station only for supplies and consumables. Bryan will not invoice College Station for personnel time related to a Technical Rescue Response.

III. PARTY RESPONSIBILITIES

3.1 Funds. The Responding Agency provides aid with available funds from current revenues. No Party is liable for failing to expend unbudgeted funds to provide Aid.

3.2 Command. Responding personnel are under the command of the Requesting Agency's Chief, have the same powers of the Requesting Agency's personnel, and are deemed acting as personnel of the Requesting Agency regardless of compensation when responding to an incident. At no time will Responding Agency's employees be considered employees of the Requesting Agency.

3.3 Authority. Personnel have the same fire and emergency medical services authority as if acting in their jurisdiction and no other oath, bond, or compensation need be made or posted.

3.4 Communication. Communication between the Parties is determined by the Requesting Agency's officer in command of the incident. When practical, the primary means of communication shall be by telephone or two-way radio communications either mobile-to-mobile or mobile-to-base, with the Requesting Agency providing communication center coordination. Routine day-to-day communications for aid are done by the most practical means.

3.5 Release of Aid. The Responding Agency's personnel will release their personnel after they are no longer needed. The Chief of the Responding Agency may at any time, in the Chief's sole discretion, withdraw the Responding Agency's aid or discontinue participation in any response.

3.7 Compensation. Responding Agency personnel will receive compensation and benefits from Responding Agency. Personnel must receive the same wage, salary, pension, and any other compensation and benefits, including but not limited to, injury or death benefits, workers compensation benefits, and reasonable travel expenses as though they were responding in Responding Agency's jurisdiction.

3.8 Vehicles, Equipment and Supplies. Each party will be responsible for the purchase, maintenance and replacement of that party's vehicles, equipment, resources, and supplies.

3.9 Term and Termination. The initial Agreement term is one (1) year. The Agreement will automatically renew for successive one (1)-year terms after the initial term, until terminated. Any Party wanting to terminate this Agreement must provide written notice to the other Party no less than thirty (30) days before the termination date.

IV. GENERAL TERMS

4.1 Interlocal Cooperation Act. The Parties to this Agreement are local governments as defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquishment by either Party of its right to claim such exemptions, privileges, and immunities as may be provided by the Constitution and the laws of the State of Texas. No separate legal entity is created by this Agreement.

4.2 Amendment. The terms and conditions of this Agreement may be amended upon written mutual consent of each governing body.

4.4 Hold Harmless. To the extent permitted by the Constitution and the laws of the State of Texas, and subject to the limitations as to liability and damages in the Texas Tort Claims

Act, and without waiving its governmental immunity, each Party agrees to hold harmless each other, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused or asserted to have been caused directly or indirectly by any other party to this Agreement or any of its officers, agents or employees, or as the result of its performance under this Agreement. Each Party remains solely responsible for any legal defense and any civil liability due to the acts or omission of each Party's employees. Notwithstanding any other terms in this Agreement, nothing is construed as a waiver of any legal defense or remedy of any nature to any claim against a Party.

4.5 Insurance. The Parties must maintain statutory workers' compensation coverage on each Party's employees, and each must carry additional insurance against public liability for injury to persons including death and property damage arising out of or in connection with this Agreement. Limits of liability of such insurance policies shall be in an amount not less than **\$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate.**

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

4.7 Venue and Choice of Law. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America, and venue shall be in any court having jurisdiction in Brazos County.

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

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

4.10 Savings Clause. If one or more provisions or terms contained in this Agreement shall, for any reason, be held invalid, illegal, or otherwise unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision or term hereof and this Agreement shall be

construed as if such invalid, illegal, or unenforceable provision or term had never been contained herein.

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

4.12 Effective Date. This Agreement is effective when signed by the last party signing, thereby making the Agreement fully executed.

4.13 Prior Agreement. On the Effective Date, this Agreement will terminate the previous Interlocal Agreement Emergency Automatic Mutual Aid Agreement dated July 25, 1997.

4.14 Notice. Any official notices by one Party to another must be in writing and sent by certified mail return receipt requested, and properly addressed to the respective Parties as stated below. Any other day-to-day communication by the Parties' staff may be by any other means of sufficient communication.

COLLEGE STATION

Fire Chief

College Station Fire Department
PO Box 9960
College Station, Texas 77840

with copy to:

City Manager

City of College Station
PO Box 9960
1101 Texas Avenue South.
College Station, Texas 77842

BRYAN

Fire Chief

Bryan Fire Department
301 South Texas Avenue
Bryan, Texas 77803

with copy to

City Manager

City of Bryan
300 South Texas Avenue
Bryan, Texas 77803

EXECUTED this _____ day of _____, 2022 by **City of College Station.**

CITY OF COLLEGE STATION

By:

Mayor

ATTEST:

APPROVED

City Secretary

City Manager

City Attorney

Assistant City Manager/CFO

EXECUTED this _____ day of _____, 2022 by **City of Bryan.**

CITY OF BRYAN

By:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

COLLEGE STATION AND BRYAN AUTOMATIC AID AND MUTUAL AID INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is by and between the **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation (College Station), and the **CITY OF BRYAN**, a Texas Home Rule Municipal Corporation (Bryan), collectively referenced as the Parties, each acting by and through their authorized agents.

WHEREAS, the Parties are authorized by the Inter local Cooperation Act, Texas Government Code, Chapter 791, to enter into a joint agreement for the performance of the governmental functions of providing fire department services and emergency medical services; and

WHEREAS, College Station and Bryan are authorized under Section 342.011 of the Texas Local Government Code to provide fire department services and Chapter 774 of the Texas Health & Safety Code to contract with each other to provide emergency medical services; and

NOW, THEREFORE, in consideration of the mutual promises, benefits, and covenants made herein, the Parties agree as follows:

I. DEFINITIONS

The following words and phrases have the following meanings unless the context clearly indicates otherwise:

- 1.1 Automatic Aid** means the immediate dispatch of the closest appropriate resource to all Delta and Echo designated incidents in either jurisdiction.
- 1.2 Chief** means Fire Chief or Fire Chief's designee.
- 1.3 Mutual Aid** means the Parties will assist one another by furnishing personnel, equipment, or expertise from the other only when the Requesting Agency is depleted or in need of a specialized resource from appropriate resources the other Agency. The Fire Chief or designee will approve such requests.
- 1.4 Requesting Agency** means the Party requesting assistance.
- 1.5 Responding Agency** means the Party providing assistance.
- 1.6 Responsible Party** means any individual, company, organization, or entity that is responsible for causing an emergency response or mitigation for a hazmat release or technical rescue to include:
 - a.** Current owner and operator of a facility or site,
 - b.** Past owner and operator of a facility at the time hazardous wastes were disposed,
 - c.** Generator and/or entity that arranges for the disposal or transport of the hazardous substance, and/or
 - d.** Transporter of hazardous waste that selected the site where the hazardous substances were brought.

II. PROVIDING AID

2.1 The Parties agree to cooperate in providing aid with fire and EMS personnel for fire service, EMS, technical rescue response, hazardous materials response, securely sharing sensitive and non-sensitive information and records, and providing additional resources and equipment outside their jurisdictions, subject to availability and the Chief's discretion.

2.1.1. Requesting Aid. The Requesting Agency's Chief or designee should request aid, including the amount and type of equipment and/or resources as well as the number of personnel and the specific dispatch location.

2.1.2. Providing Aid. The Providing Agency's Chief or designee, in his or her sole discretion, has determined sufficient personnel, equipment, and resources are available for the specific assignment, and the health, safety, or welfare of the Responding Agency's citizens will not be endangered by dispatching personnel or equipment or resources outside of the Responding Agency's jurisdictional limits.

2.2 Automatic Aid Response to Fire and Emergency Medical Services.

a. Automatic Aid. Each Party will respond with Automatic Aid for any call for service from the other Party's jurisdiction for Delta or Echo responses as determined by the dispatch center.

2.3 Mutual Aid Response to Fire and Emergency Medical Services.

a. Mutual Aid. Each Party will request Mutual Aid response for Omega, Alpha, Bravos, and Charlie level calls for service from the other Party's jurisdiction only when the requesting jurisdiction has no available appropriate units available and the, responding agency has the capacity to provide assistance.

2.4 EMS Mutual and Automatic Aid reimbursement

a. Each jurisdiction will charge and collect, from the patient, appropriate fees as defined by the respective ordinances for EMS services through established billing and collection processes. An average minimum financial collection of \$240.00 per transport will set a minimum annual collection threshold for each jurisdiction to compensate the Responding Agency. If the average minimum threshold received by a Responding Agency is unmet through collections from patients 180 days after the end of the fiscal year, the jurisdiction receiving aid will reimburse the Responding Agency the difference to reach the minimum threshold standard.

2.5 Special Response Teams.

a. College Station Hazmat Response. College Station will invoice any Responsible Party for a Hazmat Response. If Bryan is the Responsible Party, College Station will invoice Bryan only for supplies and consumables. College Station will not invoice Bryan for personnel time related to a Hazmat Response.

b. Bryan Technical Rescue Response. Bryan will invoice any Responsible Party for a Technical Rescue Response. If College Station is the responsible party, Bryan will invoice College Station only for supplies and consumables. Bryan will not invoice College Station for personnel time related to a Technical Rescue Response.

III. PARTY RESPONSIBILITIES

3.1 Funds. The Responding Agency provides aid with available funds from current revenues. Neither Party is liable for failing to expend unbudgeted funds to provide aid.

3.2 Command. Responding personnel are under the command of the Requesting Agency's Chief, have the same powers as the Requesting Agency's personnel, and are deemed acting as personnel of the Requesting Agency regardless of compensation when responding to an incident. At no time will the Responding Agency's employees be considered employees of the Requesting Agency.

3.3 Authority. Personnel have the same fire and emergency medical services authority as if acting in their jurisdiction, and no other oath, bond, or compensation needs to be made or posted.

3.4 Communication. Communication between the Parties is determined by the Requesting Agency's officer in command of the incident. When practical, the primary means of communication shall be by telephone or two-way radio communications, either mobile-to-mobile or mobile-to-base, with the Requesting Agency providing communication center coordination. Routine day-to-day communications for aid are done by the most practical means.

3.5 Release of Aid. The Responding Agency's personnel will be released by the Requesting Agency when they are no longer needed. The Chief of the Responding Agency may at any time, in the Chief's sole discretion, withdraw the Responding Agency's aid or discontinue participation in any response.

3.6 Compensation. Responding Agency personnel will receive compensation and benefits from the Responding Agency. Personnel must receive the same wage, salary, pension, and any other compensation and benefits, including but not limited to injury or death benefits, workers compensation benefits, and reasonable travel expenses as though they were responding in Responding Agency's jurisdiction.

3.7 Vehicles, Equipment, and Supplies. Each Party will be responsible for the purchase, maintenance, and replacement of that Party's vehicles, equipment, resources, and supplies.

3.8 Term and Termination. The initial Agreement term is one (1) year. The Agreement will automatically renew for successive one (1) year terms after the initial term, until terminated. Any Party wanting to terminate this Agreement must provide written notice to the other Party no less than thirty (30) days before the termination date.

IV. GENERAL TERMS

4.1 Interlocal Cooperation Act. The Parties to this Agreement are local governments as defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquishment by either Party of its right to claim such exemptions, privileges, and immunities as may be provided by the Constitution and the laws of the State of Texas. No separate legal entity is created by this Agreement.

4.2 Amendment. The terms and conditions of this Agreement may be amended upon written mutual consent of each governing body.

4.3 Hold Harmless. To the extent permitted by the Constitution and the laws of the State of Texas, and subject to the limitations as to liability and damages in the Texas Tort Claims Act, and without waiving its governmental immunity, each Party agrees to hold harmless each other, its governing board, officers, agents, and employees for any liability, loss, damages, claims, or causes of action caused or asserted to have been caused directly or indirectly by any other party to this Agreement or any of its officers, agents, or employees, or as the result of its performance under this Agreement. Each Party remains solely responsible for any legal defense and any civil liability due to the acts or omission of each Party's employees. Notwithstanding any other terms in this Agreement, nothing is construed as a waiver of any legal defense or remedy of any nature to any claim against a Party.

4.4 Insurance. The Parties must maintain statutory workers' compensation coverage on each Party's employees, and each must carry additional insurance against public liability for injury to persons including

death and property damage arising out of or in connection with this Agreement. Limits of liability of such insurance policies shall be in an amount not less than **\$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate.**

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

4.6 Venue and Choice of Law. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America, and venue shall be in any court having jurisdiction in Brazos County.

4.7 Authority to Contract. Each Party has the full power and authority to enter into and perform this Agreement and the person signing this agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. The persons executing this agreement hereby represent they have authorization to sign on behalf of their respective governmental bodies.

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

4.9 Savings Clause. If one or more provisions or terms contained in this Agreement shall, for any reason, be held invalid, illegal, or otherwise unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision or term hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or term had never been contained herein.

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

4.11 Effective Date. This Agreement is effective when signed by the last Party signing, thereby making the Agreement fully executed.

4.12 Prior Agreement. On the Effective Date, this Agreement will terminate the previous Automatic Mutual Aid Agreement dated July 25, 1997.

4.13 Notice. Any official notices by one Party to another must be in writing and sent by certified mail return receipt requested, and properly addressed to the respective Parties as stated below. Any other day-to-day communication by the Parties' staff may be by any other means of sufficient communication.

COLLEGE STATION

Fire Chief
College Station Fire Department
P.O. Box 9960
College Station, Texas 77840

with copy to:
City Manager
City of College Station
P.O. Box 9960
1101 Texas Avenue South.
College Station, Texas 77842

BRYAN

Fire Chief

Bryan Fire Department
330 W William Joel Bran Pkwy
Bryan, Texas 77803

with copy to

City Manager

City of Bryan
P.O. Box 1000
Bryan, Texas 77805

[Signature Pages Follow]

EXECUTED this _____ day of _____, 2023 by **City of College Station.**

CITY OF COLLEGE STATION

By:

Mayor

ATTEST:

APPROVED

City Secretary

City Manager

City Attorney

Assistant City Manager/CFO

EXECUTED this _____ day of _____, 2023 by **City of Bryan.**

CITY OF BRYAN

By:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

COLLEGE STATION AND BRYAN
~~FIRE~~-AUTOMATIC AID AND ~~EMS~~-MUTUAL AID INTERLOCAL
AGREEMENT

THIS INTERLOCAL AGREEMENT is by and between the **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation (College Station), and the **CITY OF BRYAN**, a Texas Home Rule Municipal Corporation (Bryan), collectively referenced as the Parties, each acting by and through their authorized agents.-

WHEREAS, the Parties are authorized by the ~~Interlocal~~Inter local Cooperation Act, Texas Government Code, Chapter 791, to enter into a joint agreement for the performance of the governmental functions of providing fire department services and emergency medical services; and

WHEREAS, College Station and Bryan are authorized under Section 342.011 of the Texas Local Government Code to provide fire department services and Chapter 774 of the Texas Health & Safety Code to contract with each other to provide emergency medical services; and

~~—~~**NOW, THEREFORE**, in consideration of the mutual promises, benefits, and covenants made herein, the Parties agree as follows:

I. ~~I.~~—DEFINITIONS

The following words and phrases have the following meanings; unless the context clearly indicates otherwise:

1.1 ~~1.1~~—Automatic Aid means the immediate dispatch ~~on first alarms~~ of the closest appropriate resource to all ~~fire~~Delta and Echo designated incidents in either jurisdiction.

1.2 ~~1.2~~—Chief means Fire Chief or Fire Chief's designee.

1.21.3 ~~1.3~~ Mutual Aid means the Parties will assist one another by furnishing personnel, equipment, or expertise ~~in a specified manner for EMS assistance~~ from the other only when the Requesting Agency is depleted ~~of EMS transport units and/or in need of a specialized resource~~ from appropriate resources the other Agency ~~has EMS transport units available.~~ The Fire Chief or designee will approve such requests.

1.31.4 ~~1.3~~—Requesting Agency means the Party requesting assistance.

1.41.5 ~~1.4~~—Responding Agency means the Party providing assistance.

1.6 ~~H.~~—PROVIDINGResponsible Party means any individual, company, organization, or entity that is responsible for causing an emergency response or mitigation for a hazmat release or technical rescue to include:

- a. Current owner and operator of a facility or site,
- b. Past owner and operator of a facility at the time hazardous wastes were disposed,
- c. Generator and/or entity that arranges for the disposal or transport of the hazardous substance, and/or

d. Transporter of hazardous waste that selected the site where the hazardous substances were brought.

II. PROVIDING AID-

2.1 ~~2.1~~—The Parties agree to cooperate in providing aid with fire and EMS personnel for fire service, EMS, ~~special~~technical rescue response, hazardous materials response, securely sharing sensitive and non-sensitive information and records, and providing additional resources and equipment outside their jurisdictions, subject to availability and the Chief's discretion.

2.1.1. ~~2.1.1. Requesting Aid.~~ The Requesting Agency's Chief ~~has requested~~or designee should request aid, including the amount and type of equipment and/or resources ~~and as well as the~~ number of ~~requested~~personnel, and the specific dispatch location, ~~and a reasonable estimate of time the assistance is needed.~~

2.1.2. ~~2.1.2. Providing Aid.~~ The Providing Agency's Chief or designee, in his or her sole discretion, has determined sufficient personnel, equipment, and resources ~~that~~ are available for the specific assignment, and the health, safety, or welfare of the Responding Agency's citizens will not be endangered by dispatching personnel or equipment or resources outside of the Responding Agency's jurisdictional limits.

2.2 ~~2.2—Fire Service~~Automatic Aid Response- to Fire and Emergency Medical Services.

a. ~~Automatic Aid.~~ Each Party will respond with Automatic Aid for any call for service from the other Party's jurisdiction for ~~fire service.~~ Delta or Echo responses as determined by the dispatch center.

~~b. —Mutual Aid Response to Fire~~ **Service Billing.** ~~No Party will invoice the other Party for normal or routine fire service responses.~~

2.3 ~~2.3—~~and Emergency Medical Services ~~Response.~~

a. ~~Mutual Aid Calls.~~ Each Party will request Mutual Aid response for ~~EMS call~~Omega, Alpha, Bravos, and Charlie level calls for service from the other Party's jurisdiction only when the requesting jurisdiction has no available ~~EMS transport~~appropriate units available, and the responding agency has ~~reserve~~the capacity to provide assistance ~~while maintaining adequate response capability and the Chief authorizes the response.~~

2.4 ~~b. —EMS Charges.~~ Mutual and Automatic Aid responses are intended to serve reimbursement

~~a public purpose and benefit both Parties. Both jurisdictions.~~ Each jurisdiction will charge and collect, from the patient, appropriate fees as defined by the respective ordinances for EMS services through the standard established billing and collection process. ~~No Party processes.~~ An average minimum financial collection of \$240.00 per transport will invoice the other Party set a minimum annual collection threshold for EMS responses each jurisdiction to compensate the Responding Agency. If the average minimum threshold received by a Responding Agency is unmet through collections from patients 180 days after the end of the fiscal year, the jurisdiction receiving aid will reimburse the Responding Agency the difference to reach the minimum threshold standard.

2.42.5 ~~2.4~~—Special Response Teams.

a. ~~a. —College Station Hazmat Response.~~ College Station will invoice any ~~responsible parties~~ Responsible Party for a Hazmat ~~response~~Response. If Bryan is the ~~responsible party~~ Responsible Party, College Station will invoice Bryan only for supplies and consumables.

College Station will not invoice Bryan for personnel time related to a Hazmat ~~response~~Response.

- b. ~~b.~~ **Bryan Technical Rescue Response.** Bryan will invoice any ~~responsible parties~~Responsible Party for a Technical Rescue Response. If College Station is the responsible party, Bryan will invoice College Station only for supplies and consumables. Bryan will not invoice College Station for personnel time related to a Technical Rescue Response.-

III. ~~III.~~ **PARTY RESPONSIBILITIES**

3.1 ~~3.1~~ **Funds.** The Responding Agency provides aid with available funds from current revenues. ~~No~~Neither Party is liable for failing to expend unbudgeted funds to provide ~~Aid~~aid.

~~3.2~~ **_____**

3.2 Command. Responding personnel are under the command of the Requesting Agency's Chief, have the same powers ~~of~~as the Requesting Agency's personnel, and are deemed acting as personnel of the Requesting Agency regardless of compensation when responding to an incident. At no time will the Responding Agency's employees be considered employees of the Requesting Agency.

3.3 ~~3.3~~—Authority. Personnel have the same fire and emergency medical services authority as if acting in their jurisdiction, and no other oath, bond, or compensation ~~need~~needs to be made or posted.

3.4 ~~3.4~~—Communication. Communication between the Parties is determined by the Requesting Agency's officer in command of the incident. When practical, the primary means of communication shall be by telephone or two-way radio communications, either mobile-to-mobile or mobile-to-base, with the Requesting Agency providing communication center coordination. Routine day-to-day communications for aid are done by the most practical means.

3.5 ~~3.5~~—Release of Aid. The Responding Agency's personnel will ~~release their personnel after~~be released by the Requesting Agency when they are no longer needed. The Chief of the Responding Agency may at any time, in the Chief's sole discretion, withdraw the Responding Agency's aid or discontinue participation in any response.

3.6 ~~3.7~~—Compensation. Responding Agency personnel will receive compensation and benefits from the Responding Agency. Personnel must receive the same wage, salary, pension, and any other compensation and benefits, including but not limited to, injury or death benefits, workers compensation benefits, and reasonable travel expenses as though they were responding in Responding Agency's jurisdiction.

3.7 ~~3.8~~—Vehicles, Equipment, and Supplies. Each ~~party~~Party will be responsible for the purchase, maintenance, and replacement of that ~~party's~~Party's vehicles, equipment, resources, and supplies.

3.8 ~~3.9~~—Term and Termination. The initial Agreement term is one (1) year. The Agreement will automatically renew for successive one (1)~~-1~~ year terms after the initial term, until terminated. Any Party wanting to terminate this Agreement must provide written notice to the other Party no less than thirty (30) days before the termination date.

IV. ~~IV.~~—GENERAL TERMS

4.1 ~~4.1~~—Interlocal Cooperation Act. The Parties to this Agreement are local governments as defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquishment by either Party of its right to claim such exemptions, privileges, and immunities as may be provided by the Constitution and the laws of the State of Texas. No separate legal entity is created by this Agreement.-

4.2 ~~4.2~~—Amendment. The terms and conditions of this Agreement may be amended upon written mutual consent of each governing body.-

4.3 ~~4.4~~—Hold Harmless. To the extent permitted by the Constitution and the laws of the State of Texas, and subject to the limitations as to liability and damages in the Texas Tort Claims Act, and without waiving its governmental immunity, each Party agrees to hold harmless each other, its governing board, officers, agents, and employees for any liability, loss, damages, claims, or causes of action caused or asserted to have been caused directly or indirectly by any other party to this Agreement or any of its officers, agents, or employees, or as the result of its performance under this Agreement. Each Party remains solely responsible for any legal defense and any civil liability due to the acts or omission of each Party's employees. Notwithstanding any other terms in this

Agreement, nothing is construed as a waiver of any legal defense or remedy of any nature to any claim against a Party.

4.4 ~~4.5~~ **Insurance.** The Parties must maintain statutory workers' compensation coverage on each Party's employees, and each must carry additional insurance against public liability for injury to persons including-

death and property damage arising out of or in connection with this Agreement. Limits of liability of such insurance policies shall be in an amount not less than **\$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate.**

4.44.5 4.6—Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements, and understandings between the Parties relating to the subject matter of this Agreement. No oral understandings, statements, promises, or inducements contrary to the terms of this agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any Party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

4.54.6 4.7—Venue and Choice of Law. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America, and venue shall be in any court having jurisdiction in Brazos County.

4.64.7 4.8—Authority to Contract. Each Party has the full power and authority to enter into and perform this Agreement and the person signing this agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. The persons executing this agreement hereby represent ~~that~~ they have authorization to sign on behalf of their respective governmental bodies.

4.74.8 4.9—Waiver. Failure of any Party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this agreement, any part hereof, or the right of either Party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived, or breach excused, unless the waiver shall be in writing and signed by the Party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to ~~or~~ waiver of, or excuse of any other different or subsequent breach.

4.84.9 4.10—Savings Clause. If one or more provisions or terms contained in this Agreement shall, for any reason, be held invalid, illegal, or otherwise unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision or term hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or term had never been contained herein.

4.94.10 4.11—Multiple Originals. It is understood and agreed ~~that~~ this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.-

4.104.11 4.12—Effective Date. This Agreement is effective when signed by the last ~~party~~ Party signing, thereby making the Agreement fully executed.

4.114.12 4.13—Prior Agreement. On the Effective Date, this Agreement will terminate the previous ~~Interlocal Agreement Emergency~~ Automatic Mutual Aid Agreement dated July 25, 1997.

4.124.13 4.14—Notice. Any official notices by one Party to another must be in writing and sent by certified mail return receipt requested, and properly addressed to the respective Parties as stated below. Any other day- -to-day communication by the Parties' staff may be by any other means of sufficient communication.

COLLEGE STATION

Fire Chief
College Station Fire Department
PO Box 9960
College Station, Texas 77840-

Automatic Aid and
Mutual Aid ILA

with copy to:
City Manager
~~City of College Station-~~
~~PO Box 9960~~
~~1101 Texas Avenue South.~~

College Station, Texas 77842-

BRYAN

Fire Chief

Bryan Fire Department
301 South Texas Avenue
Bryan, Texas 77803

with copy to

City Manager

City of Bryan
300 South Texas Avenue
Bryan, Texas 77803

COLLEGE STATION

Fire Chief

College Station Fire Department

P.O. Box 9960

College Station, Texas 77840

with copy to:

City Manager

City of College Station

P.O. Box 9960

1101 Texas Avenue South.

College Station, Texas 77842

BRYAN

Fire Chief

Bryan Fire Department
330 W William Joel Bran Pkwy
Bryan, Texas 77803

with copy to

City Manager

City of Bryan
P.O. Box 1000
Bryan, Texas 77805

[Signature Pages Follow]

EXECUTED this _____ day of _____
_____, 2022 _____, 2023 by City of
College Station.

CITY OF COLLEGE
STATION

By: _____

By: _____

Mayor

ATTEST: _____

APPROVED- _____

City Secretary
Manager

City

City Attorney

Assistant City Manager/CFO- _____

EXECUTED this _____ day of _____
_____, 2022 _____, 2023 by City of Bryan.

CITY OF BRYAN

By: _____

By: _____

Mayor

ATTEST: _____

APPROVED AS TO FORM:

City Secretary

City Attorney