



College Station, TX

Meeting Agenda City Council

1101 Texas Ave, College Station, TX 77840

*Internet: www.microsoft.com/microsoft-teams/join-a-meeting

Meeting ID: 223 427 023 174 | Passcode: MvPmTr

Phone: 469-480-7460 | Phone Conference: 952 310 468#

July 13, 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. 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.

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

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

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

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 recognizing Ann Hays for her service to the Parks and Recreation Board, the Historic Preservation Committee, and the Senior Advisory Committee.

Sponsors: Tanya Smith

Attachments: 1. Ann Hays - Certificate of Recognition

5.2. Proclamation recognizing the creation of the College Station Parks Foundation.

Sponsors: Tanya Smith

Attachments: 1. Proclamation College Station Park Foundation

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:

- June 22, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. CCM062223 DRAFT Minutes

7.2. Presentation, discussion, and possible action on a professional services contract with Mitchell & Morgan, LLP, not to exceed \$852,307.15 for the Highway 6 Widening Utility Relocates Project.

Sponsors: Jennifer Cain

Attachments: 1. SH6 Water and Sewer Detailed Map

2. HWY 6 Widening Utility Relocates Vendor Signed Contract

- 7.3. Presentation, discussion, and possible action on Change Order No. 8 in the amount of \$119,873 for the Lick Creek Wastewater Treatment Plant Capacity Expansion construction contract with CSA Construction, Inc.

Sponsors: Jennifer Cain

Attachments:

1. LCWWTP Project Location Map
2. LCWWTP Change Order Form Vendor Signed
3. LCWWTP CP-062-ExistingInfluentPumpStationNo.2-DuctileIronPipeReplacement
4. LCWWTP CP-064-Blower480VPowerMonitoring
5. LCWWTP CP-065-Centrifuge1-ConveyorDrain
6. LCWWTP CP-066-InfluentPumpStationLevellInstrumentsRelocation

- 7.4. Presentation, discussion, and possible action on a three-year contract for Electric Right-of-Way Tree Trimming Services to Pannell Contracting, LLC, dba Pannell Co., not to exceed \$3,390,180.

Sponsors: Timothy Crabb

Attachments:

1. 23-057 Summary Tabulation
2. Contract is available for review in the City Secretary's Office

- 7.5. Presentation, discussion, and possible action regarding an amendment to the lease of 3.1 acres including an approximately 28,949 square foot building at 2611 Texas Avenue South to International American Education Federation, Inc., d/b/a International Leadership of Texas, for two additional 1-year renewals for a total contract amount of approximately \$1,771,952.

Sponsors: Bryan Woods

Attachments: 1. 20300455 Amd 1

- 7.6. Presentation, discussion, and possible action on bid awards to KBS Electrical Distributors for substation gas circuit breakers, not to exceed \$314,540 and to Texas Electric Cooperative for outdoor vacuum circuit breakers, not to exceed \$357,561 for Electric inventory.

Sponsors: Mary Ellen Leonard

Attachments: 1. 23-070 AWARD

- 7.7. Presentation, discussion, and possible action on a professional services contract with Kimley-Horn and Associates, Inc., not to exceed \$857,400, plus the City's contingency amount of \$30,000, for a total appropriation of \$887,400 for the College Heights Utility Rehabilitation Project. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Sponsors: Jennifer Cain

Attachments:

1. College Heights Location Map
2. College Heights Design Vendor Signed Contract

- 7.8. Presentation, discussion, and possible action on a construction contract with A1 Pump, Inc. in the amount of \$199,554.42, for construction services for the Carters Creek Wastewater Treatment Plant Fuel Island Project, plus the City's contingency in the amount of \$21,450.00 for a total appropriation of \$221,004.42. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Sponsors: Jennifer Cain

Attachments:

1. CCWWTP Fuel System Project Location
2. CCWWTP Fuel System Vendor Signed Contract

- 7.9. Presentation, discussion, and possible action on a construction contract with Brazos Paving, Inc. in the amount of \$887,186.20, plus the City's contingency in the amount of \$88,720 for a total

appropriation of \$975,906.20 for drainage improvements at University Oaks Boulevard and Stallings Drive. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Sponsors: Jennifer Cain

Attachments: 1. University Oaks Stallings Drainage Project Location Map
2. University Oaks Stallings Drainage Project Vendor Signed Contract

- 7.10. Presentation, discussion, and possible action regarding the termination of an economic development agreement between the City of College Station and Viasat, Inc.

Sponsors: Bryan Woods

Attachments: 1. Viasat_Mutual_Term_Agreement

8. Workshop Agenda.

- 8.1. Presentation, discussion, and possible action regarding an update from College Station Emergency Management.

Sponsors: Richard Mann

Attachments: None

9. Regular Agenda.

- 9.1. Presentation, discussion, and possible action regarding a resolution supporting the planning, design and development of enclosed tennis courts by the College Station Parks Foundation.

Sponsors: Jennifer Prochazka

Attachments: 1. Resolution of Support

- 9.2. Public Hearing, presentation, discussion, and possible action regarding an update of Community Development activities, current programs, accomplishments, and future opportunities, and an overview of the proposed Program Year 2024 Annual Action Plan and Fiscal Year 2024 Community Development budget.

Sponsors: David Brower, Raney Whitwell

Attachments: 1. Attachment 1- FY 2024 Proposed Community Development Budget
2. Attachment 2 - FY 2024 Plan Development Process Summary
3. Attachment 3-FY 2024 Public Service Funding
4. Attachment 4 - FY 2024 Income Limits
5. Attachment 5 - 2020-2024 Community Development Goals
6. Attachment 6- Community Development Project Descriptions
7. Attachment 7- Map of LMI Income Area 2023

- 9.3. Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 0.8236 acre, 60-foot wide Right-of-Way, Sienna Drive, generally located 550 feet southwest of the intersection of Marion Pugh Drive and Holleman Drive West according to the plat recorded in Volume 583, Page 177 and the replat recorded in Volume 705, Page 619, of the Official Records of Brazos County, Texas.

Sponsors: Lucas Harper

Attachments: 1. Ordinance
2. Ordinance Exhibit A
3. Vicinity Map
4. Location Map
5. Application

- 9.4. Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 0.6922 acre, 25-foot wide Public Drainage Easement abutting Sienna Drive Right-of-Way, said portion lying in Lot 1, Block 2, of the Woodway West Phase 1 Subdivision, according to the replat recorded in Volume 705, Page 619, of the Official Records of Brazos County, Texas.

Sponsors: Lucas Harper

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

- 9.5. Presentation, discussion, and possible action regarding an ordinance amending Chapter 38 "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, no parking here to corner and no parking any time" by removing parking on the south side of Ponderosa Drive.

Sponsors: Emily Fisher

- Attachments:
1. Ponderosa_No Parking Map OPTION 1
 2. Ponderosa Drive Ordinance Form OPTION 1
 3. Ponderosa_No Parking Map OPTION 2
 4. Ponderosa Drive Ordinance Form OPTION 2

- 9.6. Presentation, discussion, and possible action regarding the 2022 Incentive Compliance Report by the Brazos Valley Economic Development Corporation.

Sponsors: Bryan Woods

- Attachments:
1. 2022 Compliance Report - Council Summary

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.

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 July 7, 2023 at 5:00 p.m.



Deputy 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."

July 13, 2023
Item No. 5.1.
Recognition for Ann Hays' Service

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation recognizing Ann Hays for her service to the Parks and Recreation Board, the Historic Preservation Committee, and the Senior Advisory Committee.

Relationship to Strategic Goals:

Recognition for Ann Hays' Service

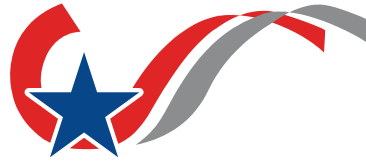
Recommendation(s): N/A

Summary: N/A

Budget & Financial Summary: N/A

Attachments:

1. Ann Hays - Certificate of Recognition



CERTIFICATE

of Recognition

This certificate is awarded to

Ann Hays

for her outstanding service, tireless effort, and constant support to this community and the projects over the years through the Parks & Recreation Advisory Board, the Historic Preservation Committee, and the Senior Advisory Committee.

SWORN TO and Subscribed before me by John P. Nichols, Mayor of the City of College Station on this the 13th day of July 2023.

John P. Nichols, Mayor

July 13, 2023

Item No. 5.2.

Proclamation Recognizing the Creation of the College Station Parks Foundation

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Proclamation recognizing the creation of the College Station Parks Foundation.

Relationship to Strategic Goals:

Proclamation Recognizing the Creation of the College Station Parks Foundation

Recommendation(s): N/A

Summary: N/A

Budget & Financial Summary: N/A

Attachments:

1. Proclamation College Station Park Foundation



Proclamation

WHEREAS, parks and recreation programs are an integral part of communities throughout this country, including the city of College Station; and

WHEREAS, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities ensuring the health of all citizens, contributing to the economic and environmental well-being of a community, and ensuring social equity; and

WHEREAS, parks and recreation programs encourages physical activities by providing space for popular sports, hiking trails, swimming pools and many other activities designed to promote active lifestyles; and

WHEREAS, parks and recreation build healthy, active communities, provide inclusive services to those with and without disabilities, and improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increase property values, expansion of the local tax base, increased tourism, in the attraction and retention of businesses; and

WHEREAS, our parks and natural resources recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS, the City of College Station is home to 56 developed parks managed by a nationally-recognized Parks Department offering a variety of recreation and leisure activities for all ages; and

WHEREAS, the College Station Parks Foundation was formed as a private non-profit corporation intended to support the enhancement of parks and recreation in the City of College Station.

NOW, THEREFORE, I, John Nichols, as Mayor of the City of College Station and on behalf of our community's residents and the College Station City Council, do hereby recognize the creation of the

College Station Parks Foundation

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the seal of the City of College Station, Texas, this 13th day of April 2023.

John P. Nichols
Mayor

Attest:

Tanya Smith
City Secretary

July 13, 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:
• June 22, 2023 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:

1. CCM062223 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
JUNE 22, 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 4:00 p.m. on June 22, 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 4:00 p.m. on June 22, 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

- 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

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 6:00 p.m. No action was taken.

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

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation proclaiming July as Smart Irrigation Month.

Mayor Nichols presented a proclamation to Jennifer Nations and Gary Mechler from Water Services recognizing July 2023 as Smart Irrigation Month.

5.2. Presentation of a proclamation celebrating the 100th Anniversary of Southside Historic Neighborhood.

Mayor Nichols presented a proclamation to Shirley Dupriest, Liana Vincent, Katherine Edwards and Neighbors of Southside Historic Neighborhood recognizing the 100th Anniversary of Southside Historic Neighborhood.

6. Hear Visitors Comments.

Phillip McAughan, College Station, came before Council to support the middle housing.

Craig Regan, College Station, stated that he is here to make a case for establishing a procedure that allows direct payment and repayment to utility users or bond holders. He believes that this is a way to reintroduce capital back into the local economy that would have otherwise been spent by the City. He believes this cycle would stimulate and grow the local economy and tax base.

Scott Hickie, Bryan, came before council to highlight a recent newspaper posting on the sensitivity of post oaks. He asked if the council has seen an in-depth report of the soil composition, a complete and independent study of tree best practices and an extensive environmental study? Will the council see the full report or only a summary provided by city staff?

John Nicks, Plantersville, stated he would like Council to look at the budget to bring more disability friendly events to College Station and for the City Secretary to add page numbers to the agenda packet.

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.

Items 7.5 was pulled from Consent for clarification.

(7.5) Billy Couch, Police Chief, explained that this is an armored rescue vehicle built to respond to tactical rescue missions during high risk, active threat situations. The vehicle is rated to withstand multiple rifle rounds, protecting law enforcement and civilians being delivered or removed from the active threat area. The vehicle is also equipped with additional equipment which allows for breaching capabilities, chemical munitions deployment and public announcement through speakers when dealing with tactical situations or civil unrest. HGACBuy is a purchasing cooperative for public agencies. All products and services available for purchase through HGACBuy contracts have been competitively bid and awarded in compliance with local and state purchasing statutes.

(7.6) Gary Mechler, Director of Water Services, explained that the Ashburn Water Line Rehabilitation Project involves the replacement of approximately 1,250 linear feet of 6-inch water line, 200 linear feet of 4-inch water line, and all service lines along this section of water main. The line will be replaced by trenching and Ashburn Avenue will be milled and overlayed by the Public Works Department after the construction of the water line.

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

- **June 12, 2023 Council Meeting**

7.2. Presentation, discussion, and possible action regarding a deductive change order to the city hall project contract with Core Construction for \$75,641.

7.3. Presentation, discussion, and possible action on an electrical engineering services retainer contract with McCord Engineering not to exceed \$600,000.

7.4. Presentation, discussion, and possible action regarding a technology services contract with Routeware Inc. in the amount of \$625,674.12 for solid waste route management hardware, software, and implementation services.

7.5. Presentation, discussion, and possible action regarding purchasing a rescue vehicle (armored tactical vehicle) from Lenco Industries, Inc. for \$320,695.

7.6. Presentation, discussion, and possible action regarding a construction contract with Elliott Construction, LLC in the amount of \$233,724 for the replacement of water lines in Ashburn Avenue.

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 approve the Consent Items. The motion carried unanimously.

8. WORKSHOP ITEMS

8.1. Presentation, discussion, and possible action regarding a presentation on the implementation of CSU Electric customer text notifications for planned and unplanned outages.

Randall Lewis, Assistant Director Electric Utilities, presented an update on the TextPower software which integrates with the outage management software to allow CSU Electric customers experiencing a service interruption to be informed of both planned and unplanned outages and status updates through text messaging. Mr. Lewis explained that with this software, Electric customers will also be able to report an outage at their CSU service location. Additionally, TextPower will allow messaging alerts among internal staff grouped according to the appropriate level of information needed.

8.2. Presentation, discussion, and possible action on an update from the Code Enforcement division.

Tommy Shilling, Code Enforcement Supervisor, provided an update on the code enforcement activities.

Code Violations

- Hoarding with Compliance Met
- Weeds and Grass/ Unsecured Structure with Compliance Met
- Accumulation of Trash and Junk Vehicles
- Open Storage and Trash/Recycle

Other Responsibilities

- Long-Term Rental Registration
✓ 9,017 total properties registered
- Short-Term Rental Permitting
✓ 272 total properties permitted
- Game-Day Parking Operations and Procedures
- Outreach and Education
- Be a Good Neighbor Initiative
- Community Living Course
- Developing Voluntary Proactive Rental Inspection

Code Toolbox

- Enhanced Technology
✓ Axon Body Cameras
✓ New Ticket Writers
- Expansion of SeeClickFix Management
- Code Mobile Mapping Application

See ClickFix Statistics

- FY 22 (10-1-21 to 9-30-22)
✓ 1,509 SCF Requests
- FY 23 Q1 (10-1-22 to 12-31-22)
✓ 443 SCF Requests
- FY 23 Q2 (1-1-23 to 3-31-23)
✓ 423 SCF Requests

Majority of the Council directed staff to move forward with the program as presented.

At approximately 7:27 p.m., Mayor Nichols opened for Citizen Comments.

Benito Flores-Meath, College Station, came before Council as a user of the Code Enforcement See Click Fix software to praise its ease of use but note that it would take 20 to 25 minutes before an officer would answer the call, which at that time the person or problem is often gone, or the problem goes unresolved.

There being no further comments, the Citizen Comments was closed at 7:29 p.m.

REGULAR ITEMS

9.1. Presentation, discussion, and possible action on a construction contract with Quality Works Construction Inc, in the amount of \$112,490 for the development of two bird viewing structures in Lick Creek Park, plus the City's contingency in the amount of \$5,000 for a total appropriation of \$117,490. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Jennifer Cain, Capital Projects Director, stated that the proposed construction project included the development of two bird viewing structures in Lick Creek Park. The first structure includes a five-foot-wide concrete sidewalk, connecting the existing sidewalk around the Nature Center to this structure, creating a fully accessible route from the parking lot to this structure. In addition, a wooden bench, and hose bib will be added to this structure. The second structure will be constructed as the first structure, but does not include an improved path, hose bib or bench at this location. Two (2) sealed, competitive bids were received and opened on March 14, 2023.

Mrs. Cain explained that the budget in the amount of \$150,000 is included for this project in the Parks Capital Improvement Projects Fund. A total of \$32,501 has been expended or committed to date, leaving a balance of \$117,499 for this contract and future costs. Staff recommends approval and award of the construction contract with Quality Works Construction Inc, for the development of two bird viewing structures, in Lick Creek Park, in the amount of \$112,490.

MOTION: Upon a motion made by Councilmember Maloney, and a second by Councilmember Smith, the City Council voted five (5) for and two (2) opposed, with Councilmembers Cunha and Yancy voting against, to approve a construction contract with Quality Works Construction Inc, in the amount of \$112,490 for the development of two bird viewing structures in Lick Creek Park, plus the City's contingency in the amount of \$5,000 for a total appropriation of \$117,490. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount. The motion carried.

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.

Nothing to report.

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)

Councilmember Maloney reported on his travels to Poland with Sister Cities.

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 agenda items at this time.

14. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 7:53 p.m. on Thursday, June 22, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

July 13, 2023
Item No. 7.2.
HWY 6 Widening Utility Relocates Design Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a professional services contract with Mitchell & Morgan, LLP, not to exceed \$852,307.15 for the Highway 6 Widening Utility Relocates Project.

Relationship to Strategic Goals:

Core Services and Infrastructure.

Recommendation(s): Staff recommends approval.

Summary:

This contract will provide design services for the water and wastewater utility relocates related to the Texas Department of Transportation (TxDOT) Highway 6 Widening Project from the Bryan/College Station city limit to William D. Fitch Parkway.

The design of this project includes the relocation of approximately 3,065 linear feet of 6-inch to 24-inch diameter water distribution lines, 3,870 linear feet of 8-inch to 16-inch diameter wastewater collection lines, and all excavation, pipe, bedding, backfill, site restorations and appurtenances with and without steel casing using open cut and trenchless methods. Similarly, design must identify and resolve associated utility conflicts. Extensive coordination with TxDOT will be required.

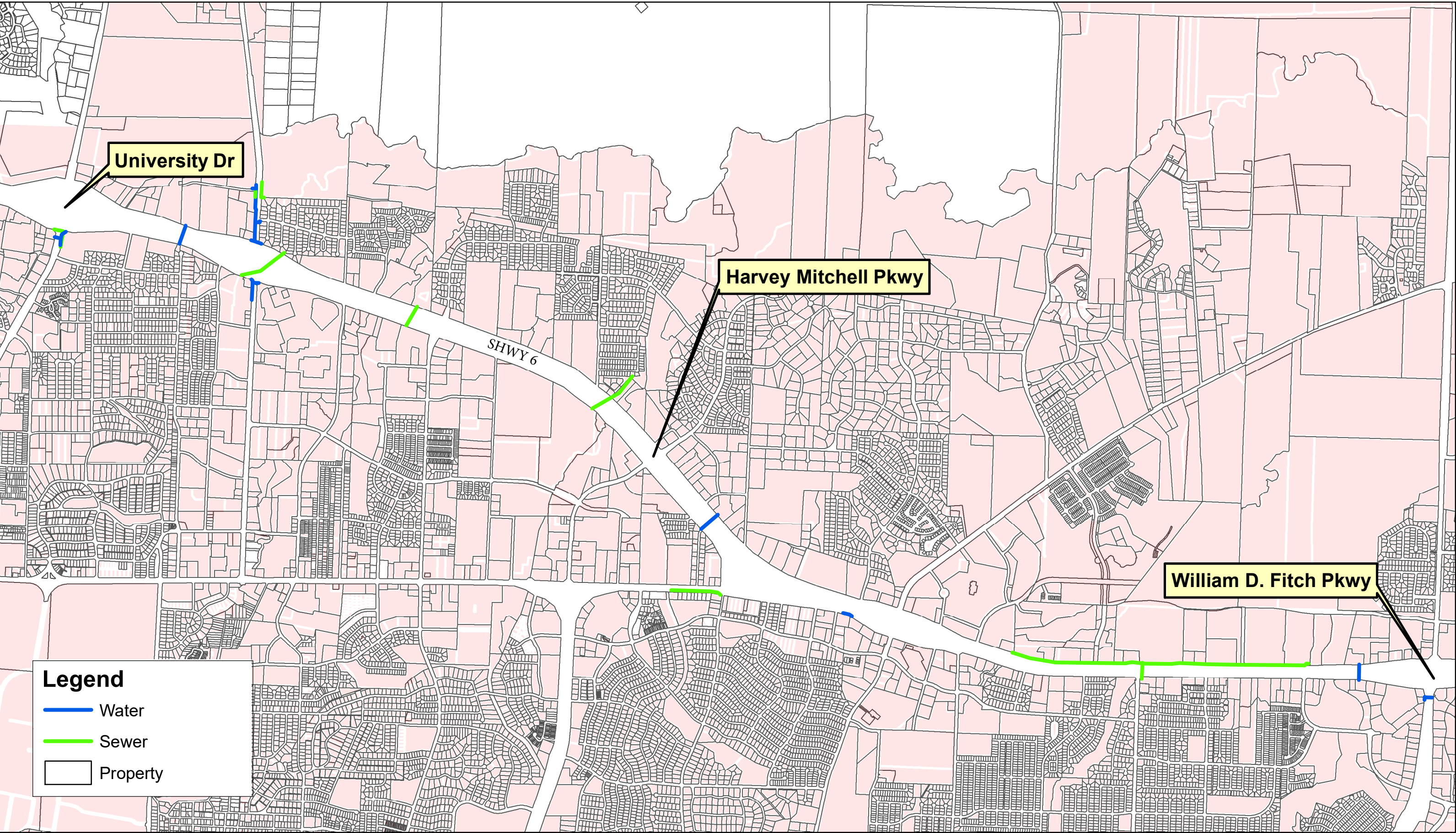
In February 2023, four consultants submitted their statements of qualifications for RFQ NO. 23-040. After staff evaluation of the statements of qualifications, two firms were selected for interviews. Based on those interviews, Mitchell & Morgan, LLP was selected for this project.

The contract (No. 23300649) is on file with the City Secretary's Office.

Budget & Financial Summary: A combined total budget of \$3,463,000 is available in the Water and Wastewater Capital Improvement Projects Funds. A combined total of \$10,546 has been expended or committed to date, leaving a combined balance of \$3,452,436 for this contract and future expenses.

Attachments:

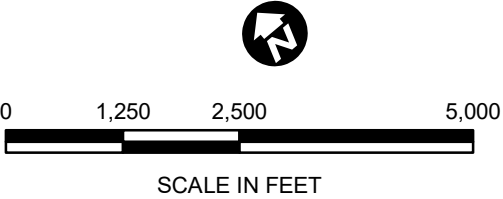
1. SH6 Water and Sewer Detailed Map
2. HWY 6 Widening Utility Relocates Vendor Signed Contract



NOTICE: This product is for informational purposes only and has not been prepared for and is not suitable for legal, engineering, construction, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of certain geographic features. No warranty, expressed or implied, is made by the City of College Station as to the accuracy, completeness, suitability, or timeliness of the information contained herein. The City of College Station assumes no responsibility for any private or commercial use, misuse, reliance, or interpretation of the information provided herein, or any loss resulting therefrom.

Water & Sewer Lines Affected by SH6 Widening

CREATED ON 7/6/2023





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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300649 PROJECT#: _____ BID/RFP/RFQ#: RFQ 23-040

Project Name / Contract Description: Professional Engineering Design Services for the State Highway 6 Widening and Utility Relocates Project

Name of Contractor: Mitchell and Morgan, LLP

CONTRACT TOTAL VALUE: \$ 852,307.15

Grant Funded Yes ☐ No ☐
If yes, what is the grant number: _____

Debarment Check ☐ Yes ☐ No ☐ N/A

Section 3 Plan Incl. ☐ Yes ☐ No ☐ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ☐ N/A

Buy America Required ☐ Yes ☐ No ☐ N/A

Transparency Report ☐ Yes ☐ No ☐ N/A

☒ **NEW CONTRACT** ☐ **RENEWAL #** N/A ☐ **CHANGE ORDER #** N/A ☐ **OTHER** N/A

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)

One RFQ was solicited. Four SOQs were received. Mitchell and Morgan, LLP, was selected as the most qualified firm after staff evaluation.

A combined total budget of \$3,463,000 is available in the Water and Wastewater Capital Improvement Projects Funds.

A combined total of \$10,546 has been expended or committed to date, leaving a combined balance of \$3,452,436 for this contract and future expenses.

CRC Approval Date*: N/A **Council Approval Date*:** 07/13/2023 **Agenda Item No*:** TBD

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

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

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

DATE

ASST CITY MGR – CFO

DATE

LEGAL DEPARTMENT

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on _____

Scanned into Laserfiche on _____

Original(s) sent to Fiscal on _____

**CITY OF COLLEGE STATION
ARCHITECTS & ENGINEERING PROFESSIONAL SERVICES CONTRACT
WITH CONSTRUCTION**

This Contract is between the **City of College Station**, a Texas home-rule municipal corporation, (the “City”) and **Mitchell and Morgan, LLP**, a Texas corporation (the “Consultant”), whereby the Consultant agrees to provide the City with certain professional services as described herein and the City agrees to pay the Consultant for those services.

**ARTICLE I
SCOPE OF SERVICES**

1.01 In consideration of the compensation stated in paragraph 2.01 below, the Consultant agrees to provide the City with the professional services as described in **Exhibit “A”**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows (the “Project”):

State Highway 6 Widening & Utility Relocates Project

**ARTICLE II
PAYMENT**

2.01 In consideration of the Consultant’s provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit “B”**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed Eight Hundred Fifty Two Thousand Three Hundred Seven and 15 /100 Dollars (\$852,307.15).

**ARTICLE III
TIME OF PERFORMANCE AND CONSTRUCTION COST**

3.01 The Consultant shall perform all professional services necessary for the complete design and construction documentation of the Project within the times set forth below and in Section 3.02. Consultant expressly agrees that such times are as expeditious as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Furthermore, the Consultant shall perform with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

- (a) Conceptual Design: 126 **calendar days** after the authorization to commence planning.
- (b) Preliminary Design: 90 **calendar days** after authorization to commence PPD.
- (c) Final Design: 90 **calendar days** after authorization to commence final design.

3.02 All design work and other professional services provided under this Contract must be completed by the following date(s):

July 15th, 2025

3.03 Time is of the essence of this Contract. The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible and with adequate resources and manpower in order to complete the work by the times specified. Promptly after the execution of this Contract, the Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant's services to meet the City's project milestone dates, which are included in this Contract. The Consultant's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Consultant has absolute control shall not be exceeded without written approval from the City. Consultant may request in writing an extension of the contract time due to delays beyond their control. In the event that a deadline provided in this Contract is not met by the Consultant, Consultant shall provide the City with a written narrative setting forth in a reasonable degree of detail a plan of recovery to overcome or mitigate the delay which may include (i) employing additional people, or (ii) accelerating the work by working longer hours on any portion of the Project that is deemed by the City to be behind schedule ("Recovery Plan"). With the City's approval, Consultant shall execute the Recovery Plan at no additional cost to the City.

(a) **Liquidated Damages.**

- (1) The time for the completion of all Work described in this Agreement are reasonable times for the completion of each task by the agreed upon days or dates, taking into consideration all conditions, including but not limited to the usual industry conditions prevailing in this locality. The amount of liquidated damages for the Consultant's failure to meet contractual deadlines specifically set forth in the Consultant's scope of services and schedule are fixed and agreed on by the Consultant because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would

sustain and shall be deducted by the City from current amounts owed to Consultant for payment or from final payment.

- (2) As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Consultant to achieve timely completion of the Work, if the Consultant should neglect, or fail, or refuse to complete the Work within the times specified in the Consultant's scope of services and schedule, or any proper extension thereof granted by the City's Representative pursuant to this Agreement, then the Consultant does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Consultant's total compensation the sum of **TWO HUNDRED FIFTY and 00/100 DOLLARS (\$250.00)** for each and every calendar day that the Consultant shall be in default after the time(s) stipulated completion of the task(s) in question, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet any of the deadlines specified in the Consultant's scope of services and schedule for completion in this Agreement.

3.04 The Consultant's services consist of all of the services required to be performed by Consultant, Consultant's employees and Consultant's sub-consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Consultant shall contract and employ at its expense sub-consultants necessary for the design of the Project, and such sub-consultants shall be licensed as required by the State of Texas and approved in writing by the City.

3.05 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, be in charge of Consultant's services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.

3.06 Consultant shall be responsible for the coordination of its services with those of its subconsultants, the City, and the City's consultants, including the coordination of all drawings and design documents relating to Consultant's design and used on the Project, regardless of whether such drawings and documents are prepared by Consultant. Consultant shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Consultant and for its compliance with all applicable codes, ordinances, regulations, laws and statutes. Upon receipt from the City, the Consultant shall review the services and information furnished by the City and the City's consultants for accuracy and completeness. The Consultant shall provide prompt written notice to the City if the Consultant becomes aware of any error, omission or inconsistency in such services or information. Once notice has been provided to the City, the Consultant shall not proceed without written instruction from the City to do so.

3.07 Consultant's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Consultant's best judgment as a design professional familiar with the construction industry.

3.08 The construction budget for this Project, which is established as a condition of this Contract is \$ 2,600,129.00. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE IV CONCEPTUAL DESIGN

4.01 Upon the Consultant's receipt from the City of a letter of authorization to commence planning, the Consultant shall meet with the City for the purpose of determining the nature of the Project. The Consultant shall inquire in writing as to the information it believes the City may have in its possession that is necessary for the Consultant's performance. The City shall provide the information within its possession that it can make available to the Consultant. The City shall designate a representative to act as the contact person on behalf of the City.

4.02 The Consultant shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Consultant shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Consultant shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Consultant shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Consultant shall confirm that the Project can be designed and constructed for the dollar amount of the Project budget, if applicable.

4.03 The Consultant shall prepare a Conceptual Design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The Consultant shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the City's Program, the Project Schedule and budget. The Consultant shall reach an understanding with the City regarding the requirements of the Project. The Conceptual Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Consultant shall meet with City staff and the City Council to make a presentation of its report.

ARTICLE V PRELIMINARY DESIGN

5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to commence Preliminary

Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

5.02 The Consultant shall prepare the Preliminary Design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Consultant shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

5.03 Upon completion of the Preliminary Design of the Project, the Consultant shall so notify the City. Upon request the Consultant shall meet with the City staff and City Council to make a presentation of its Preliminary Design of the Project. The Consultant shall provide an explanation of the Preliminary Design, including any material changes and deviations that have taken place from the Conceptual Design, a cost estimate, and shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VI FINAL DESIGN

6.01 The City shall direct the Consultant to commence work on the Final Design of the Project by sending to the Consultant a letter of authorization to begin work on the Final Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with Final Design of the Project, the Consultant shall immediately prepare the Final Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Final Design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.

6.02 Notwithstanding the City's approval of the Final Design, the Consultant warrants that the Final Design will be sufficient and adequate to fulfill the purposes of the Project.

6.03 The Consultant shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the construction contractor. The Consultant hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.

6.04 The Consultant shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon

request of the City, the Consultant shall meet with City staff and the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design, including identification of all material changes and deviations that have taken place from the Preliminary Design Documents and a cost estimate. The Consultant shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VII BID PREPARATIONS & EVALUATION

7.01 The Consultant shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Consultant shall meet with City staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.

7.02 The Consultant shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Consultant shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the Final Design of the Project, then the Consultant, at its sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the Final Design of the Project.

7.03 Where substitutions are requested by a construction contractor, the Consultant shall review the substitution requested and shall recommend approval or disapproval of such substitutions.

ARTICLE VIII CONSTRUCTION

8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Contract unless modified by written instrument.

8.02 The Consultant shall make visits to the site, to inspect the progress and quality of the executed work of the construction contractor and its subcontractors and to determine if such work is proceeding in accordance with the contract documents. The minimum number of site visits and their frequency shall be established by the City and Consultant prior to commencement of construction. Consultant shall periodically review the as-built drawings for accuracy and completeness, and shall report its findings to the City.

8.03 The Consultant shall keep the City informed of the progress and quality of the work. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers

or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.

8.04 The Consultant shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Consultant's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

8.05 The Consultant shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Consultant shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.

8.06 The Consultant shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Consultant shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Consultant shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the work. Consultant shall receive no additional compensation for providing clarification of the drawings and specifications.

8.07 The Consultant shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Consultant's recommendation of payment, being based upon the Consultant's on-site inspections and its experience and qualifications as a design professional, shall constitute a recommendation by the Consultant to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Consultant's recommendation for payment.

8.08 Upon notification from the construction contractor that the Project is substantially complete, the Consultant shall conduct an inspection of the site to determine if the Project is substantially complete. The Consultant shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project to verify final completion.

8.09 The Consultant shall not be responsible for the work of the construction contractor or any of its subcontractors, except that the Consultant shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Consultant's negligent acts or omissions. This provision shall not alter the Consultant's duties to the City arising from the performance of the Consultant's obligations under this Contract.

8.10 The Consultant shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.

8.11 The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.

8.12 The Consultant shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.

8.13 The Consultant shall assist the construction contractor and City in obtaining a Certificate of Occupancy by accompanying governing officials during inspections of the Project if requested to do so by the City.

ARTICLE IX CHANGE ORDERS, DOCUMENTS & MATERIALS

9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project. The schedules, milestones, timelines, and deadlines contained in this Agreement, the Scope of Services, and the Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Consultant shall submit an updated schedule that reflects changes authorized by approved change orders.

9.02 When the original contract amount plus all change orders is \$100,000 or less, the City Manager or his delegate may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council must approve such change order prior to commencement of the services.

9.03 When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his delegate may approve the written change order provided the change order does not exceed \$50,000 and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract, the City Council must approve such change order prior to commencement of the services or work. Thereafter, any additional change orders exceeding \$50,000 or any additional change orders totaling 25 percent following such council approval, must be approved by City Council.

9.04 Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such

additional services shall be waived. If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

9.05 The Consultant shall furnish the City with both electronic (PDF) and CAD file sets of all plans and specifications. The Consultant shall provide the City one (1) set of reproducible, mylar record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. The Consultant shall provide copies of Work Product including documents, computer files if available, surveys, notes, and tracings used or prepared by the Consultant. The foregoing documentation, the Consultant's Work Product, and other information in the Consultant's possession concerning the Project shall be the property of the City from the time of preparation. The Consultant shall furnish one set of digital files representing the final record drawings.

ARTICLE X WARRANTY, INDEMNIFICATION & RELEASE

10.01 As an experienced and qualified design professional, the Consultant warrants that the information provided by the Consultant reflects the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. The Consultant warrants that the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of all other services under this Contract are performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their Work Product or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

10.02 The Consultant shall promptly correct any defective Work Product, including designs or specifications, furnished by the Consultant at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the City's rights hereunder.

10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final Work Product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract.

The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.

10.04 The Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as its personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

10.05 Indemnity.

- (a) To the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City, its Council members, officials, officers, agents, employees, and volunteers (separately and collectively referred to in this paragraph as "Indemnatee") from and against all claims, damages losses and expenses (including but not limited to attorney's fees) arising out of or resulting from any negligent act, error or omission, intentional tort or willful misconduct, intellectual property infringement or including failure to pay a subconsultant, subcontractor, or supplier pursuant to this Contract by Consultant, its employees, subcontractors, subconsultants, or others for whom Consultant may be legally liable ("Consultant Parties"), but only to the extent caused in whole or in part by the Consultant Parties. IF THE CLAIMS, ETC. ARE CAUSED IN PART BY CONSULTANT PARTIES, AND ALSO IN PART BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OR ALL OF THE INDEMNITEES OR ANY OTHER THIRD PARTY, THEN CONSULTANT SHALL ONLY INDEMNIFY ON A COMPARATIVE BASIS, AND ONLY FOR THE AMOUNT FOR WHICH CONSULTANT PARTIES ARE FOUND LIABLE AND NOT FOR ANY AMOUNT FOR WHICH ANY OR ALL INDEMNITEES OR OTHER THIRD PARTIES ARE LIABLE.**
- (b) To the fullest extent permitted by law, Consultant agrees to defend the Indemnitees where the indemnifiable acts listed in Article 10 above occur outside the course of performance of professional services (i.e. non-professional services) and the claim is not based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, employee, or other entity over which the governmental agency exercises control, other than the Consultant or Consultant Parties.**
- (c) Consultant shall procure liability insurance covering its obligations under this section.**

- (d) It is mutually understood and agreed that the indemnification provided for in this section 10.05 shall indefinitely survive any expiration, completion or termination of this Contract. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

10.06 Release. The Consultant releases, relinquishes, and discharges the City, its Council members, officials, officers, agents, employees, and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party. There shall be no additional release or hold harmless provision other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

10.07 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, release or other obligations under Paragraphs 10.05 and 10.06, such legal limitations are made a part of the obligations and shall operate to amend same to the minimum extent necessary to bring the provision(s) into conformity with the requirements of such limitations, and as so modified, the obligations set forth therein shall continue in full force and effect.

ARTICLE XI INSURANCE

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

During the term of this Contract Consultant's insurance policies shall meet the minimum requirements of this section:

11.02 Types. Consultant shall have the following types of insurance:

- (a) Commercial General Liability.
- (b) Business Automobile Liability.
- (c) Workers' Compensation/Employer's Liability.
- (d) Professional Liability.

11.03 Certificates of Insurance. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees and volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as Exhibit C, and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

11.04 General Requirements Applicable to All Policies. The following General Requirements to all policies shall apply:

- (a) Only licensed insurance carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance.
- (c) "Claims made" policies will not be accepted, except for Professional Liability insurance.
- (d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits of liability except after thirty (30) calendar days prior written notice has been given to the City of College Station.
- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

11.05 Commercial General Liability Requirements. The following Commercial General Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- (b) Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- (c) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- (d) The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.06 Business Automobile Liability Requirements. The following Business Automobile Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated “A:VIII” or better in accordance with the current. A. M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.07 Workers’ Compensation/Employers Liability Insurance Requirements. The following Workers’ Compensation Insurance requirements shall apply; and the term “contractor” shall be construed to mean “consultant” as identified in this Contract:

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers’ compensation insurance policy: either directly through their employer’s policy (the Consultant’s, or subcontractor’s policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- (b) The workers’ compensation/Employer’s Liability insurance shall include the following terms:
 - i. Employer's Liability limits of \$1,000,000 for each accident is 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 Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:
 - i. Definitions:

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

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

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

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends

during the duration of the project.

- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:
 - A. a certificate of coverage, prior to the other person beginning work on the project; and
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the

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

7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

11.08 Professional Liability Requirements. The following Professional Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum of \$1,000,000 per claim and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of College Station when requested.
- (c) Consultant must continuously maintain professional liability insurance with prior acts coverage for a minimum of two years after completion of the Project or termination of this Contract, as may be amended, whichever occurs later. Coverage under any renewal policy form shall include a retroactive date that precedes the earlier of the effective date of this Contract or the first performance of services for the Project. The purchase of an extended discovery period or an extended reporting period on this policy will not be sufficient to comply with the obligations hereunder.
- (d) Retroactive date must be shown on certificate.

ARTICLE XII USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

12.01 Any and all drawings, specifications and other documents prepared, furnished, or both prepared and furnished by Consultant or any Subconsultant or other designer contracted under Consultant pursuant to this Contract (including, without limitation, the Construction Documents)

("Work Product"), shall be the exclusive property of the City, whether the Project is completed or not. Upon completion or termination of this Contract, Consultant shall promptly deliver to the City all records, notes, data, memoranda, models, and equipment of any nature that are within Consultant's possession or control and that are the City's property or relate to the City or its business. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's Work Product and related documents and information relating to the Project.

12.02 Consultant warrants to City that (i) Consultant has the full power and authority to enter into this Contract, (ii) Consultant has not previously assigned, transferred or otherwise encumbered the rights conveyed herein, (iii) Work Product is an original work of authorship created by Consultant's employees during the course of their employment by Consultant, and does not infringe on any copyright, patent, trademark, trade secret, contractual right, or any other proprietary right of any person or entity, (iv) Consultant has not published the Work Product (including any derivative works) or any portion thereof outside of the United States, and (v) to the best of the Consultant's knowledge, no other person or entity, except City, has any claim of any right, title, or interest in or to the Work Product.

12.03 Consultant shall not seek to invalidate, attack, or otherwise do anything either by act of omission or commission which might impair, violate, or infringe the title and rights assigned to City by Consultant in this Article 12 of the Contract.

12.04 The documents prepared by Consultant may be used as a prototype for other facilities by the City. The City may elect to use the Consultant to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype. If so, the Consultant is obligated to perform the work for an additional compensation that will fairly compensate the Consultant and its sub-consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Consultant will not be responsible for errors and omissions of a subsequent architect or engineer. The Consultant shall commit its subconsultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.

12.05 In the event of termination of this Contract for any reason, the City shall receive all Work Product and original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

12.06 Only the details of the drawings relating to this Project may be used by the Consultant on other projects, but they shall not be used as a whole without written authorization by the City. The City-furnished forms, conditions, and other written documents shall not be used on other projects by the Consultant.

ARTICLE XIII TERMINATION

13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. The Consultant shall be compensated for the services satisfactorily performed prior to the termination date.

13.02 If, through any cause, the Consultant fails to fulfill its obligations under this Contract, or if the Consultant violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Consultant **five (5)** calendar days written notice. The Consultant will be compensated for the services satisfactorily performed prior to the termination date.

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

ARTICLE XIV MISCELLANEOUS TERMS

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

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

City of College Station

Mitchell and Morgan, LLP

Attn: Susan Monnat

Attn: Veronica Morgan

PO BOX 9960

3204 Earl Rudder FWY S.

1101 Texas Ave

College Station, TX 77845

College Station, TX 77842

979-260-6963

smonnat@cstx.gov

info@mitchellandmorgan.com

14.03 No action or failure to act by the City shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing. No waiver of any provision of the Contract shall be of any force or effect, unless such waiver is in writing, expressly stating to be a waiver of a specified provision of the Contract and is signed by the party

to be bound thereby. In addition, no waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition and shall not in any way limit or waive that party's right thereafter to enforce or compel strict compliance with the Contract or any portion or provision or right under the Contract.

14.04 This Contract represents the entire and integrated contract between the City and the Consultant and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

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

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

14.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof added by Contractor to this Contract as exhibits that conflict with such laws, or that conflict with the terms and conditions herein excluding the additions by Contractor. In either case, the applicable law or the applicable provision of this Contract excluding such conflicting addition by Contractor shall prevail. The parties understand this section comprises part of this Contract without necessity of additional consideration.

14.08 The Consultant, its agents, employees, and subconsultants must comply with all applicable federal and state laws, the charter and ordinances of the City of College Station, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the services required by this Contract.

14.09 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract. If there is a conflict between a provision in any documents provided by Consultant made a part of this Contract and any other provision in this Contract, the latter controls.

14.10 This Contract goes into effect when duly approved by all the parties hereto.

14.11 Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.

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

14.13 Verification No Boycott of Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

14.14 Verification No Boycott of Energy Companies. Subject to § 2274.002 Texas Government Code Consultant herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of this Contract.

14.15 Force Majeure. Force majeure shall be any acts of God or the public enemy; compliance with any order, rule, regulation, decree, or request of any governmental authority or agency or person purporting to act therefore; acts of war, public disorder, rebellion, terrorism, or sabotage; floods, hurricanes, or other storms; strikes or labor disputes; or any other cause, whether or not of the class of kind specifically named or referred to herein, not within the reasonable control of the Party affected. A delay in or failure of performance of either Party shall not constitute a default hereunder nor be the basis for, or give rise to, any claim for damages, if and to the extent such delay or failure is caused by force majeure.

List of Exhibits

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

MITCHELL AND MORGAN, LLP

CITY OF COLLEGE STATION

By: Veronica Morgan

By: _____

Printed Name: Veronica Morgan

City Manager

Date: _____

Title: Managing Partner

Date: 7/5/2023

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
SCOPE OF SERVICES



Susan Monnat, P.E.
Project Manager
City of College Station
P.O. Box 9960,
College Station, Texas 77842

June 27, 2023

Re: Proposal to Provide Professional Engineering Design Services for the State Highway 6 Widening & Utility Relocates Project in College Station, Texas

Dear Mrs. Monnat,

Thank you for the opportunity to provide professional engineering services for the State Highway 6 Widening & Utility Relocates in College Station, Texas. As we understand, you would like us to provide Conceptual Design (30%), Preliminary Design (60%), Final Design (90%) and Bid Construction Plans and Specifications for this project, based upon the following parameters:

General

- Provide Conceptual Design (30%), Preliminary Design (60%), Final Design (90%) and Bid Construction Plans and Specifications for this project. See Attachment C for Project Scope information.

o **Water / Wastewater Lines with Identified or Potential Conflicts:**

- | | |
|----------|-----------|
| ▪ W2-100 | ▪ W2-155 |
| ▪ W2-101 | ▪ W2-220 |
| ▪ W2-105 | ▪ W2-240 |
| ▪ W2-115 | ▪ WW2-110 |
| ▪ W2-120 | ▪ WW2-115 |
| ▪ W2-130 | ▪ WW2-120 |
| ▪ W2-135 | ▪ WW2-125 |
| ▪ W2-140 | ▪ WW2-135 |
| ▪ W2-145 | ▪ WW2-160 |
| | ▪ WW2-175 |

o **Water / Wastewater Lines Special Consideration:**

With this proposal we have assumed the following considerations for the lines below. If these assumptions are in correct or change during this project, a change order will be submitted.

- | | |
|---|--|
| ▪ W2-235 – request variance from TxDOT – no construction. | ▪ WW2-155 – TxDOT exception to leave line as is. |
| ▪ W2-275 – TxDOT allowance to extend casing only. | ▪ WW2-195 – demolition only – no new construction. |
| ▪ W2-285 – TxDOT allowance to extend casing only. | ▪ WW2-200 – TxDOT allowance to extend casing only. |

o **Water / Wastewater Lines that have been Cleared (These lines have not been included in this proposal):**

- | | |
|----------|-----------|
| ▪ W2-110 | ▪ W2-256 |
| ▪ W2-125 | ▪ W2-257 |
| ▪ W2-150 | ▪ W2-260 |
| ▪ W2-160 | ▪ W2-265 |
| ▪ W2-165 | ▪ W2-270 |
| ▪ W2-170 | ▪ W2-280 |
| ▪ W2-175 | ▪ W2-290 |
| ▪ W2-176 | ▪ W2-295 |
| ▪ W2-180 | ▪ WW2-100 |
| ▪ W2-185 | ▪ WW2-101 |
| ▪ W2-190 | ▪ WW2-105 |
| ▪ W2-195 | ▪ WW2-130 |
| ▪ W2-200 | ▪ WW2-140 |
| ▪ W2-205 | ▪ WW2-145 |
| ▪ W2-210 | ▪ WW2-150 |
| ▪ W2-215 | ▪ WW2-165 |
| ▪ W2-225 | ▪ WW2-170 |
| ▪ W2-230 | ▪ WW2-180 |
| ▪ W2-245 | ▪ WW2-185 |
| ▪ W2-250 | ▪ WW2-190 |
| ▪ W2-255 | ▪ WW2-205 |

Surveying Scope of Services:

- **Topographic Surveying:**
 - o Utilizing new and past field work, including data provided by others, BL will locate the necessary surface features, existing infrastructure, visible utilities, buried utilities marks (set by others), and determine elevations of utility pipes where accessible, in the areas of the Project specified by Client. The deliverables will be referenced to the TXDOT horizontal and vertical datums of the SH6 project, but also include reference to at least two City of College Station control monuments. Where applicable, existing right-of-way, property and easement lines will be determined to sub-foot accuracy.
- **Easement Surveys:**
 - o Utilizing new and past field work, including data provided by others, BL will locate the existing and proposed right-of-way and easement boundaries to prepare Easement Surveys where specified as necessary for utility relocation in the Project. It is estimated that between 5 and 10 Easement Surveys will be needed for this project. The Easement Survey descriptions will be referenced to the TXDOT horizontal datum of the SH6 project, but also include reference to City of College Station control monument(s).
- **Deliverables - Topographic Surveying:**
 - o Deliverables for the topographic surveying will be electronic files, AutoCAD Civil3d .dwg with point codes and layers per Baseline or other supplied standards. Where determined, utility elevations, sizes and types will be labeled within the .dwg file model space. A terrain model (TIN/DTM) will be generated within the .dwg file if requested. The topographic surveying will not include the creation of exhibit map(s) nor metes and bounds descriptions.
- **Deliverables - Easement Surveys:**
 - o Deliverables for the easement surveys will be metes and bounds descriptions and exhibit plats, bearing the seal and signature of a Texas licensed surveyor (RPLS),

provided via email as electronic (.pdf) files. AutoCAD .dwg file(s) of each exhibit plat or an overall easements .dwg file will also be provided.

Environmental Services:

- Hourly On-Call Services:

- o Plummer Associates, Inc. (Plummer) will provide on call environmental services not-to-exceed \$10,000 to support the proposed State Highway 6 Utility Relocation Project in College Station, Brazos County, Texas, on an as needed basis. If it is determined during the Conceptual Design Phase that additional environmental services are needed, a change order will be submitted at that time.

Construction Material Services:

- Tri Star Drilling & Testing has been requested to perform construction materials testing (CMT) services for the various elements associated with the proposed project. The CMT services will be concentrated towards (1) flowable fill testing, (2) cement stabilized sand compaction testing, (3) cement stabilized sand compressive strength testing, (4) select material backfill testing, and (5) HMAC testing. Tri Star has assumed that the project will adhere to the specifications outlined in the Bryan/College Station Unified Design Guidelines.

Project Management

This project requires the combined efforts of several disciplines and significant input from the staff of the City of College Station. With this in mind, milestones as delineated on the attached schedule shall be created to keep the project moving forward. Additionally, to improve communications, bi-weekly in person meetings or virtual meetings will be scheduled to keep all team members engaged in the progress of the project.

After each design phase has been completed and city staff has reviewed all aspects of the design, a round table meeting will be held to ensure that all comments are understood and the direction is clearly defined prior to proceeding into the next design phase. These meetings will likely take one to two hours and should include all stakeholders in the project.

The Project Coordination / Administration fees itemized within this proposal below are associated with the time and coordination expected with TxDOT and their SUE Consultant, Lambstar. Any coordination that will occur with other utilities such as CSU, BTU, Frontier, Suddenlink, ATMOS, etc. shall be considered additional services. If at any time the city would like these services provided, we will be happy to provide a change order request.

Conceptual Design Phase (30%):

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will commence Conceptual Design Phase services. This phase will include the following items described below:

Topographical Surveying/Pothole Investigation

The survey and pothole investigation services will be completed during this phase.

Deliverables

The Conceptual Design documents will include survey and pothole investigation services to determine the extent of conflicts at each impacted utility location.

This phase will include a plan view only and narrative of each proposed utility conflict location.

Mitchell & Morgan, LLP will provide the City with PDF files (electronic submission only) of the Conceptual Design Documents to review. This phase shall be completed within One-Hundred and Twenty-Six (126) calendar days after receiving a Notice to Proceed to commence this phase of design.

Preliminary Design Phase (60%):

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will develop Preliminary Design drawings. This phase is also called 60% Phase, as the design shall not be complete but shall be sufficient for the City departments to review and provide input on the design. This phase will include the following items described below:

Environmental Investigation

If determined to be needed during the conceptual design, the environmental investigation services will be completed during this phase. Our proposal includes hourly on-call services not-to-exceed \$10,000. If additional environmental services are needed, we will submit a change order request at that time.

TxDOT Clearances / Waivers / Permits

This phase will include the submission of all clearances / waivers / exceptions / permits to TxDOT for review and approval. Submission of permits at this time is based upon the assumption that TxDOT will accept preliminary plans for permitting. This will allow City of College Station water and wastewater lines to permit early with TxDOT to establish a route corridor prior to other utilities.

Deliverables

These Preliminary Design documents will include preliminary engineering drawings for the utility conflict areas, and opinions of probable construction costs.

Mitchell & Morgan, LLP will provide the City with PDF files (electronic submission only) of the Preliminary Design Documents to review. This phase shall be completed within Ninety (90) calendar days after receiving a Notice to Proceed to commence this phase of design.

Final Design Phase (90%)

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will develop Final Design drawings for the project based upon City comments received during the Preliminary Design phase. These construction drawings will include final design for the utility conflict areas, and opinions of probable construction costs. This phase shall be completed within Ninety (90) calendar days after receiving a Notice to proceed to commence this phase of design.

Final Bid Document Preparation

Upon receiving a written Notice to Proceed, Mitchell & Morgan, LLP will provide the City of College Station with electronic final construction drawings and specifications sufficient for public bidding. These documents will include:

- Final Plans
- Final Specifications

- Bid Proposal
- Special Conditions
- Estimate of construction costs based upon the final construction drawings.

This phase shall be completed within sixty (60) calendar days after receiving a Notice to proceed to commence this phase of design.

Bid Preparation and Evaluation

We understand that there will be NO bid preparation and evaluation as part of this project.

Construction Phase

Construction phase services have been included in the scope of this project.

Assumptions

All assumptions associated with this proposal are listed in Attachment D.

Payment and Schedule Terms

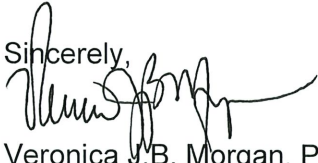
Payment is a fixed fee based upon the above scope of services. Payments will be made on a monthly basis based upon the services completed during that month. The basic services fees are as outlined in *Attachment A*. The schedule is outlined in *Attachment B*.

If there are other services that you desire, we will provide those services on an hourly basis at the rates described below.

Hourly Rates:

Sr. Professional Engineer – Project Coordination.....	\$185/hr
Principal Design Engineer.....	\$175/hr
Sr. Professional Design Engineer	\$140/hr
Jr. Professional Design Engineer	\$125/hr
Staff Planner	\$100/hr
Project Manager.....	\$100/hr
GIS Technician.....	\$90/hr
Civil Designer.....	\$90/hr
Sr. EIT	\$90/hr
Jr. EIT	\$80/hr
Drafter	\$75/hr
Administrative.....	\$65/hr

Services not utilized will not be billed. If you would like us to add services other than those listed, they may be added at the above listed hourly rates. Mitchell & Morgan, LLP will work diligently to provide these services in a timely manner and will begin work immediately upon a Notice to Proceed. Please let us know if you have any questions or comments. We really look forward to working with you on this project.

Sincerely,

Veronica J.B. Morgan, PE, CFM
Managing Partner

cc: file

Attachments:

- Attachment A – Fees
- Attachment B – Schedule
- Attachment C – Project Scope Information
- Attachment D – Project Assumptions

Attachment A
Fees
State Highway 6 Widening & Utility Relocates Project
Preliminary, Final Design, & Bid Documents Proposal

BASIC SERVICES:

Project Task	Fee
Survey – Topographic:	\$93,500.00
Civil Design:	\$374,884.87
Construction Phase Services	\$110,127.28
TOTAL	\$578,512.15

SPECIAL SERVICES:

Project Task	Fee
Survey – Easements:	\$30,745.00
Environmental:	\$11,000.00
SUE:	\$140,000.00
Construction Material Testing	\$72,050.00
Project Coordination/Administration (TxDOT / Lambstar Only)	\$20,000.00
TOTAL	\$273,795.00

TOTALS:

Subtotals	Fee
Basic Services Total	\$578,512.15
Special Services Total	\$273,795.00
TOTAL	\$852,307.15

Attachment B
Schedule
State Highway 6 Widening & Utility Relocates Project
Preliminary, Final Design, & Bid Documents Proposal

Project Task	Contract Duration (Calendar Days)
Conceptual Phase Design (Survey + SUE):	126 Days
Preliminary Phase Design:	90 Days
Final Design Phase Design:	90 Days
Bid Documents:	60 Days

**Actual Dates are Dependent on Notice to Proceed for each phase

Attachment C
Project Scope Information
(Water and Wastewater Conflict Matrices)
State Highway 6 Widening & Utility Relocates Project
Preliminary, Final Design, & Bid Documents Proposal

Utility Conflict Management (UCM) - Utility Conflicts															
Utility Conflict ID	Utility Type	Utility Conflict Description	Station Origin	Start Station	Start Offset	End Station	End Offset	Utility Conflict Status	Comment (Beth 05/19/2023)	M&M Comments (6-9-23)	COCS (04/2023, updates noted 06/05/2023)	Location	Land Agent (04/2023, updates noted 06/05/2023)	Eligibility (04/2023, updates noted 06/05/2023)	Conflict #
WW2-110	Wastewater	Crossing under proposed pavement, proposed storm and proposed shared use path; manhole in proposed shared use path (may need to be adjusted)	FM 60	35+90	83' RT	35+86	78' LT	Confirmed	Record: 06_014_16.tif		Encasement extension	WW line crossing FM 60	20' PUE (3754/245) along ROWs on NW side. PUE (1363/141) along Scott & White. Assuming any additional easement needed is associated with WW2-115.	What are limits of WW2-110 vs. WW2-115? Assuming any eligibility is associated with WW2-115.	110
WW2-115	Wastewater	Crossing under proposed shared use path and proposed storm; manhole in proposed shared use path (may need to be adjusted)	FM 60	35+86	78' LT	40+00	100' LT	Confirmed	Need to verify depth and horizontal location		Adjustment needed; 05/02: changes to drainage w/90%, travel lane/storm drain currently through MH; possible exception?	along Scott & White at FM 60 and SH 6	As-builts show WW line in 10' PUE (1363/141) along FM 60. Straight line vs. bend shown in GIS. Locates to be done? PUE needed for Water, possibly WW and Electric. SEE W2-101 COMMENTS.	280(?) LF in PUE (1363/141) along FM 60 in TxDOT ROW taking to be included in ratio. What is total for ratio?	115
WW2-120	Wastewater	Crossing under proposed pavement and proposed shared use path; manhole located in proposed pavement (may need to be adjusted)	SH 30	28+50	71' LT	103+70	6' LT	Confirmed			Manhole in traffic circle; 05/02: not encased	Associates Ave	As-builts show WW line in PUEs (419/487, 1046/429) along NW side of SH 30. Shown incorrectly in GIS? PUEs needed for Water on both sides of Associates Ave and WW on west side only. SEE W2-130 COMMENTS.	225(?) LF in PUEs (419/487, 1046/429) along SH 30 in (INITIAL) TxDOT ROW taking to be included in ratio. Needs to be recalculated based on ROW taking once finalized. What is total for ratio?	120
WW2-125	Wastewater	Crossing under proposed pavement. Proposed ROW within area.	SH 30	36+61	71' RT	53+00	59' RT	Confirmed	Need to verify depth/casing		Possibly include in NETL Ph 3 Project, will need to encase; 05/02: Susan to check into MH for NETL, Susan and Beth to look into Waters of US at this location	City parkland on SH 30	No PUE needed as adjacent property is COCS parkland. Possible survey work for Notice of Infrastructure.	WW line in TxDOT ROW, per as-builts.	125
WW2-135	Wastewater	Crossing under proposed pavement at large skew, proposed riprap, proposed median and proposed shared use path; manhole in proposed shared use path and proposed turn around lane. It is connected to WW2-140	SH 6	525+43	422' RT	530+00	78' LT	Identified	CofCS requested a TH in the center of the middle median.		Section of 16" w/o casing. MH potentially in conflict; 05/02: request exception to 90" crossing, depending on drainage	WW line crossing SH 6 through SH 30	Water Service's proposed realignments for WW2-135 include WW2-140 conflict.	?? LF in 15' WW Esmt (271/474) in TxDOT SH 6 ROW to be included in ratio. 271/474 predates TxDOT ROW. (Also review 271/468.) What is total for ratio?	135
WW2-155	Wastewater	Crossing under proposed pavement, proposed storm, and proposed shared use path	SH 6	564+88	244' RT	565+66	178'LT	Confirmed	CofCS to request Inverts from internal crew.	Try to pothole and then clear with TxDOT	Need to pothole, no record drawings, Beth asked for invert; 05/02: PH on median to determine if casing and if we need to rebore, per Ramiro; 05/05: Emily sent to M&M/Costello (only)	WW line crossing SH 6, S of Grand Station	Existing easements along ROW likely sufficient, if needed.	?? LF in 15' WW Esmt (305/228) in TxDOT SH 6 ROW to be included in ratio. 305/228 predates TxDOT ROW. What is total for ratio?	155
WW2-160	Wastewater	Crossing under proposed pavement, proposed driveway, proposed storm, proposed culvert and proposed shared use path	SH 6	614+21	168' RT	615+57	247' LT	Confirmed	The WW line is to be abandoned. Will have to remove or grout.	Grout Fill / Abandon Only	No existing casing; 05/02: abandon and reroute onto City property	WW line crossing SH 6, S of North Forest Pkwy	Line to be abandoned. Grout filling to be approved by TxDOT. May need survey work for Notice of Infrastructure.	Portion of WW line in easements (8214/235, 10533/44) at North Forest Business Park. Will abandonment affect eligibility ratio?	160
WW2-175	Wastewater	Crossing under proposed pavement and proposed shared use path	SBFR	2652+35	40' RT	2662+10	130' RT	Confirmed			12" parallel to road on curb. 05/02: need to look at grading	WW line along Texas Ave	10' SS Esmts covering WW line on private property (512/133,134). Remainder of WW line in platted Access Reserve (342/605). Per Ramiro, will stay in Access Reserve if relocation is needed.	No record of platted Access Reserve (342/605) being conveyed to TxDOT. Assuming all associated costs reimbursable. U-Affidavit will be required. Need clarification on signatures required. Land Agent has all other documentation.	175
WW2-195	Wastewater	Crossing under proposed storm, proposed culverts and endwalls; possible conflict with shared use path	NBFR	1732+43	50' LT	1801+00	56' LT	Confirmed	Force main then turns into gravity line.	Demo Plan Only	Unknown object on force main (luminaires?) and gravity line, need to pothole; minimum cover of 4'; 05/02: need PH at culvert, lift station to go away; just force main in conflict, Beth to reduce conflict bubbles		Force main line from new water tower to Costco in TxDOT ROW. Gravity line in easements on private property. Per Ramiro, no additional easements needed.		195
WW2-200	Wastewater	Crossing under proposed storm, and proposed shared use path; possible conflict with ditch grading	SH 6	762+34	158' RT	762+45	164' LT	Identified	CofCS to send invert info		No record drawings, need to pothole; 05/05: Emily sent invert elevation to M&M/Costello (only); 05/02: Does casing clear conflict?	WW line crossing SH 6, just S of Barron Rd	Easements on either side of SH 6 ROW (west: 589/226; east: 937/385), if needed.		200

Utility Conflict Management (UCM) - Utility Conflicts															
Utility Conflict ID	Utility Type	Utility Conflict Description	Station Origin	Start Station	Start Offset	End Station	End Offset	Utility Conflict Status	Comment (Beth 05/19/2023)		COCS (04/2023, updates noted 06/05/2023)	Location	Land Agent (04/2023, updates noted 06/05/2023)	Eligibility (04/2023, updates noted 06/05/2023)	Conflict #
WW2-100	Wastewater	Crossing under proposed pavement, proposed storm and proposed shared use path	SH 6	466+97	205' RT	467+11	207' LT	Cleared	Conflict cleared by CofCS		None	WW line crossing SH 6, Ramada Inn to Carters Creek	Slightly within TxDOT ROW, per as-builts.		100
WW2-101	Wastewater	Crossing under proposed driveways	SBFR	2468+00	72' RT	2475+50	155' RT	Cleared	Conflict cleared by CofCS		None	WW along W side of SH 6, Ramada Inn to FM 60	5' into TxDOT ROW, per as-builts. Adjacent easements MAY be sufficient, if needed.		101
WW2-105	Wastewater	Crossing under proposed pavement, proposed storm and proposed shared use path. Proposed ROW within area	NBFR	1469+68	107' LT	1484+24	324' LT	Cleared	Conflict cleared by CofCS		None	WW along E side of SH 6, along Carters Creek through FM 60	Some of WW line may be in easement, per as-builts. Additional research will be needed if there is a conflict.		105
WW2-130	Wastewater	Crossing under proposed pavement, proposed storm and proposed shared use path	SH 30	36+71	67' LT	36+61	71' RT	Cleared	Conflict cleared by CofCS		None	WW line crossing SH 30, S of Associates Ave	n/a		130
WW2-140	Wastewater	Crossing under proposed pavement and proposed shared use path. UAR: Existing line has bends in the ROW and crosses at a skew. It is connected to WW2-135.	NBFR	1532+21	42' RT	1532+56	41' LT	Cleared	Need to verify depth/casing		Unsure if casing covers extent; 05/02: clear per Ramiro, pending response on WW2-135	WW line crossing feeder road into Windwood	Easements in Windwood (395/267, 4760/63) should be sufficient, if needed.	Portion of WW line in easements (395/267, 4760/63) in Windwood eligible for reimbursement?	140
WW2-145	Wastewater	Crossing under proposed pavement, proposed storm, proposed culvert and proposed shared use path	SH 6	555+06	161' RT	555+09	171' LT	Cleared			Beth asked for invert	WW line crossing SH 6, W of Horse Haven Dr	n/a		145
WW2-150	Wastewater	Crossing under proposed pavement, proposed storm, proposed culvert and proposed shared use path	SH 6	555+37	161' RT	555+50	267' LT	Cleared			Beth asked for invert	WW line crossing SH 6, W of Horse Haven Dr	n/a		150
WW2-165	Wastewater	Skewed across ROW.	SH 6	615+24	172' RT	615+37	248' LT	Cleared	Conflict cleared by CofCS		None	WW line crossing SH 6, S of North Forest Pkwy	COCS property on west side and existing easements along ROW on east side likely sufficient if any relocation is needed.		165
WW2-170	Wastewater	Crossing under proposed pavement, proposed storm, and proposed shared use path	SH 6	617+01	188' RT	617+11	197' LT	Cleared	Conflict cleared by CofCS		None	WW line crossing SH 6, S of North Forest Pkwy	Conflict entirely in TxDOT ROW.		170
WW2-180	Wastewater	Crossing under proposed driveway	SBFR	2675+43	41' RT	2675+85	41' RT	Cleared	Conflict cleared by CofCS		None		WW line in 10' SS Esmts (512/134,135) between Deacon Dr and Treehouse Trl. No easement along TxDOT ROW for Block 18, SWV Ph 4AB/Treehouse Place.	WW line outside of TxDOT ROW, per as-builts.	180
WW2-185	Wastewater	Crossing under proposed driveway and shared use path	NBFR	1706+65	45' LT	1715+00	49' LT	Cleared	Conflict cleared by CofCS		None		Adjacent easements should be sufficient, if needed.	Gravity line and force main line in TxDOT ROW from Rock Prairie Rd to N of Midtown Dr.	185
WW2-190	Wastewater	Crossing under proposed pavement, proposed storm, and proposed shared use path; possible conflict with ditch grading	SH 6	719+82	196' RT	719+92	177' RT	Cleared	To be abandoned when	To be completed by another engineer	Casing extension SBFR, SH-6, and NBFR (10'-15')	WW line crossing SH 6, S of Graham Rd	To be abandoned with Medical District Trunk Line Project. Assuming costs to be associated with MDTLR. Comments submitted on 60% design. Expecting project easements to be acquired by end of 2023/early 2024.	Assuming abandonment associated with another project will not have any affect on eligibility.	190
WW2-205	Wastewater	Crossing under proposed pavement, proposed storm, proposed culvert and proposed shared use path	SH 6	801+33	142' RT	801+36	150' LT	Cleared	Conflict cleared by CofCS		None	WW line crossing, just S of Arrington Rd to Costco	Easements on either side of SH 6 ROW (west: 589/218, 4328/164; east: 965/768, 14033/142), if needed.		205

Utility Conflict Management (UCM) - Utility Conflicts															
Utility Conflict ID	Utility Type	Utility Conflict Description	Station Origin	Start Station	Start Offset	End Station	End Offset	Utility Conflict Status	Comment (Beth 05/19/2023)	M&M Comments (6-9-23)	COCS (04/2023, updates noted 06/05/2023)	Location	Land Agent (04/2023, updates noted 06/05/2023)	Eligibility (04/2023, updates noted 06/05/2023)	Conflict #
W2-100	Potable Water	Crossing under proposed pavement, proposed storm sewer, and proposed shared use path	FM60	36+41	86' LT	37+58	82' RT	Confirmed	Per records, the water line will not be cleared from prop construction.		Encasement extension; 144 ft for relocation	FM 60 WL crossing, from Exxon to Scott & White	SEE W2-101	Portion w/in platted 20' PUE (3754/245) on N side eligible? Possible portion w/in 1363/141. Need locates. What are limits of W2-100 vs. W2-101?	100
W2-101	Potable Water	Running longitudinally under proposed pavement	FM 60	37+60	63' LT	40+00	89' LT	Confirmed			Relocate, new WL; to be addressed with Conflict W2-100	WL along right turn lane on FM 60	New PUE needed for Water, possibly WW and Electric at Scott & White. (BCAD ID: 89827; PUE: 145' x 15'; Estimated cost: \$60,000; APPLY PUE COST TO WW2-115?)	As-builts - WL in ROW, GIS - partially on property. See TxDOT ROW markers. 40(?) LF in platted 10' PUE (1363/141) in TxDOT ROW taking to be included in ratio. What about LF in PUE, but not in ROW taking? What is total for ratio?	101
W2-105	Potable Water	Crossing under proposed driveways & proposed culverts	SBFR	2489+65	79' RT	2504+92	67' RT	Identified	Record: 59_037_08.tif; Culvert CAR 11	Move Fire Hydrant, Check TxDOT Headwall to see if in conflict.	FH in conflict with SUP; FH D-097 to be relocated outside of SUP; 05/02: Beth to double check SUP	WL along SH 6, N of Brazoswood Dr	Adjacent platted 10' PUE (1363/141) should be sufficient, if needed.	WL in TxDOT ROW, per as-builts.	105
W2-115	Potable Water	Crossing under proposed pavement, proposed storm and proposed shared use path. Water valves in proposed shared use path.	SH6	508+34	229' LT	508+26	184' RT	Confirmed	Per records, need to extend casing under proposed paving. The line is deep enough. Record: 59_037_10.tif. Requested to do split casing.		Existing casing limits insufficient (no casing), new WL verify casing limits needed; 05/02: split casing fine, per Beth	SH 6 WL crossing at Cinemark	What about valves in proposed SUP? Adjacent 20' PUE (1133/69) along SH 6, if needed.	WL in TxDOT ROW, per as-builts.	115
W2-120	Potable Water	Prop drainage culvert extension CR 12 and soundwall	SBFR	2526+38	37' RT	2523+47	41' RT	Identified	Record: 59_019_03.tif - Design is dependant on WW2-135 design. Will pothole line.	City checking to see if there is an issue here.	Need clarification on depth of proposed electrical 2" feed for illumination; 05/02: depends on WW-135 conflict; assume conflict, get pothole; to survey whole area	WL along SH 6 SBFR, from University Oaks Blvd to SH 30	Adjacent easements should be sufficient, if needed.	WL near gas station in 10' PUE (1039/781) and possibly 15' PUE (18227/52). What are limits of W2-120 vs. W2-155?	120
W2-130	Potable Water	Crossing under proposed pavement, proposed driveway, and proposed shared use path. Water valve withing proposed construction limits	SH30	26+43	46' LT	50+61	87' LT	Confirmed	Record: 07_001_w02.tif and 07_001_w03.tif		New WL; replace all WL along Harvey Rd; 05/02: will have to coordinate with Electric; first come with design, first serve for utility corridors, per Beth	Associates Ave Roundabout	PUE needed for Water on both sides of Associates Ave. 20' PUE (419/487) and 25' PUE (1046/429) along NW side of SH 30, if needed. BCAD ID: 10568; PUE: 95' x 15'; Estimated cost: \$40,000; BCAD ID: 304718; PUE: 220' x 20'; Estimated cost: \$60,000; APPLY 304718 PUE COST TO WW2-120? (PRIOR TO INCREASED ROW TAKING)	25(?) LF in PUEs (419/487, 1046/429) and 135(?) LF in 15' PUE (14667/158) in (INITIAL) TxDOT ROW taking to be included in ratio. Remainder in TxDOT ROW, per as-builts. Needs to be recalculated based on ROW taking once finalized. What is total for ratio?	130
W2-135	Potable Water	Connection to conflict W2-130 under paving	SH30	30+76	42' LT	30+76	50' RT	Confirmed	Record: 17_004_14.tif		Relocate portion, adjust / new WL; 05/02: line up with WL on Appomattox Dr	WL crossing SH 30, Baymont Inn to Windwood	Adjacent easements should be sufficient.	Portion in PUEs on either side of TxDOT ROW eligible for reimbursement?	135
W2-140	Potable Water	Extend casing under prop paving. Prop drainage pipes 06-SH30A-LINK-06 and 06-SH30B-LINK-04.	NBFR	1525+00	52' LT	1526+50	51' LT	Confirmed			Add casing to the north side since relocating anyway, south side stop casing before SUP; 05/02: "T" in pavement, have to relocate	WL crossing SH 30 at east intersection with SH 6	15' PUE along SH 6 requested through SP2022-000046. PUE needed from BCAD ID: 76858?	WL in TxDOT ROW, per as-builts. Existing (empty) PUEs in TxDOT ROW taking compensable?	140
W2-145	Potable Water	Water valve on proposed curb. Water meter in proposed paving.	SH30	41+29	72' LT	41+30	53' RT	Confirmed	CofCS has completed the easement		Ask about WL under proposed curb, R+R WL	WL crossing SH 30, gas station to mall	PUE at corner of mall, outside ROW taking, in process of being acquired. (Possible "friendly" condemnation complete by Fall 2023?)	65(?) LF in 10' Water Esmt (481/245) in TxDOT ROW taking to be included in ratio. What is total for ratio?	145
W2-155	Potable Water	Running under proposed shared use path and hydrant in SUP.	SH30	10+00	61' LT	17+36	81' LT	Confirmed	CofCS to pothole line.		FH in conflict. Need to pothole water line. Ask about WL along SH 30 & possible storm conflict, new WL? Make exhibit, pothole locations to verify vertical & horizontal, ask to be in SUP	WL at Exxon along SH 6 and SH 30	PUE (1039/781) along ROW and adjacent PUE (18227/52) totaling 15' in width along SH 6 and SH 30. Existing easements should be sufficient.	40(?) LF in 10' PUE (1039/781) in TxDOT ROW taking to be included in ratio. WL along SH 30 appears to be in ROW (no as-builts, need locates). What are limits of W2-120 vs. W2-155? What is total for ratio?	155
W2-220	Potable Water	Crossing under proposed pavement, proposed storm, and proposed shared use path. Possible conflict with proposed ditches	SH6	652+20	212' RT	652+30	266' LT	Confirmed	To be abandoned. Record: 26_005_01.tif	Abandon and grout fill	Model to consider abandonment, full replacement? Abandon since it would be closed for RPEST model	WL crossing SH 6 at Mile Dr	Line to be abandoned. Grout filling to be approved by TxDOT.	Will abandonment affect eligibility ratio?	220
W2-235	Potable Water	Crossing under proposed driveways and proposed shared use path	SBFR	2670+85	46' RT	2683+44	42' RT	Identified	CofCS will pothole line.	Pothole / Request Variance	No record drawings, to be potholed	WL from Treehouse Trail to Ponderosa Dr	No as-builts for 6" WL. 8" WL in ROW, per as-builts. No easements along SH 6. Per Ramiro, no easements needed. Staying in TxDOT ROW?	25(?) LF in Ponderosa Dr ROW in TxDOT ROW taking to be included in ratio. What is total for ratio?	235
W2-240	Potable Water	Crossing under proposed driveway and proposed shared use path	SBFR	2688+02	24' RT	2694+00	51' RT	Identified	Record: 29_001_14.tif, 30_017_01.tif, 30_009_01.tif, 30_018_CV01.tif. Check with Txdot about meters in SUP	Pothole / Relocate	Vertical adjustment /s in water meter; 05/02: drawings to be reviewed to see if pothole needed; Beth to check with TxDOT on meter boxes and SUP	WL along SH 6, S from Pinion Dr	WL mostly in ROW, per as-builts. No easements along SH 6. BCAD ID: 99946; PUE: 40' x 15'; Estimated cost: \$37,000. Any additional easements needed?	Based on as-builts, will need ROW-U-Affidavit for +/- 22(?) LF on Lot 1R, Block 20 not in easement. +/- 23(?) LF in Pinion Dr ROW in TxDOT ROW taking to be included in ratio. What is total for ratio?	240
W2-275	Potable Water	Crossing under proposed pavement, and proposed shared use path	SBFR	2813+33	160' LT	2813+41	41' RT	Identified	CofCS to pothole line to determine if the limits of casing.	Pothole / Request Variance	Pothole limits of casing, might relocate; Needs to be potholed	WL crossing SH 6 at IHOP	Easements along SH 6 on both sides (GIS currently incorrect). Adjacent easements should be sufficient.	Portion in easements on either side of TxDOT ROW eligible for reimbursement?	275
W2-285	Potable Water	Crossing under proposed pavement and proposed shared use path	SH40	26+09	84' LT	25+28	65' RT	Identified	CofCS will pothole line.	Pothole / Request Variance	Ask for variance: no encasement on driveway; WL at driveway at a minimum elevation of 5'3"; 05/02: confirm design adjustment	WL crossing SH 40 at Walgreen's	No pavement now, just SUP in this location.		285

Utility Conflict Management (UCM) - Utility Conflicts															
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W2-110	Potable Water	Crossing under proposed shared use path, & proposed pavement. Possible conflict with ditches and culverts.	NBFR	1493+51	48' LT	1493+87	47' LT	Cleared	Culvert CR 11: Bottom of junction box elev : 256.5'; Record 07_24_07.tif.		Adjust design gate valve, change culvert alignment; 05/02: cleared, per Ramiro	WL along E side of SH 6, from FM 60 to SH 30	Possible Electric relocation along same stretch into existing easements.	WL in TxDOT ROW, per as-builts.	110
W2-125	Potable Water	Crossing under proposed inlet and proposed pavement	SH30	53+72	63' RT	53+86	57' LT	Cleared	Per CofCS, there is no conflict with this line.		Asked to move inlet; design was adjusted	WL crossing SH 30 east of Associates Ave	n/a		125
W2-150	Potable Water	Crossing under proposed shared use path	NBFR	1526+50	51' LT	1534+00	32' LT	Cleared	Cleared by CofCS		Cleared by record drawings	SH 6 NBFR/Windwood	n/a		150
W2-160	Potable Water	Crossing under proposed pavement, proposed storm and inlet, and proposed shared use path	SH6	545+23	204' LT	545+28	244' RT	Cleared	Record: 59_009_01.tif		STA 545+00, proposed culvert at driveway?	WL crossing SH 6 from mall	No PUEs along Post Oak Mall or Aldersgate properties. Existing WLS in TxDOT ROW.		160
W2-165	Potable Water	Crosses under proposed driveways. Possible conflict with ditches	NBFR	1543+42	48' LT	1553+00	88' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		165
W2-170	Potable Water	Crossing under proposed pavement, proposed storm, and proposed driveway. Possible conflict with proposed ditches and culverts.	SBFR	2569+36	55' RT	2573+44	51' RT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		170
W2-175	Potable Water	Crossing under proposed pavement	NBFR	1573+44	51' LT	1577+36	54' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		175
W2-176	Potable Water	Line crosses under proposed driveway	NBFR	1577+00	54' LT	1577+60	54' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		176
W2-180	Potable Water	Line crosses under proposed driveway	NBFR	1585+23	48' LT	1585+86	48' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		180
W2-185	Potable Water	line crosses under proposed driveway. Possible conflict with ditches and culvert.	SBFR	2587+93	44' RT	2588+37	44' RT	Cleared	Cleared by CofCS		None		n/a		185
W2-190	Potable Water	Crossing under proposed pavement and proposed shared use path	SH6	590+07	247' RT	590+07	228' LT	Cleared	Cleared by CofCS		None		n/a		190
W2-195	Potable Water	Crossing under proposed pavement and proposed shared use path	NBFR	1592+36	71' LT	1592+80	69' LT	Cleared	Cleared by CofCS		None		n/a		195
W2-200	Potable Water	Crossing under proposed pavement and proposed shared use path. Possible conflict with ditches and culverts	NBFR	1599+70	59' LT	1603+53	75' LT	Cleared	Cleared by CofCS		None		n/a		200
W2-205	Potable Water	Crossing under proposed driveways, possible conflict with ditches and culverts	NBFR	1612+39	80' LT	1617+14	92' LT	Cleared	Cleared by CofCS		None		n/a		205
W2-210	Potable Water	Crossing under proposed pavement, proposed storm and inlet, and proposed shared use path. Possible conflict with proposed ditches and culvert	SH6	636+24	285' LT	636+44	249' RT	Cleared	Cleared by CofCS		None		n/a		210
W2-215	Potable Water	Possible conflict with driveway culverts	SBFR	2641+92	37' RT	2648+89	48' RT	Cleared	Cleared by CofCS		None		n/a		215
W2-225	Potable Water	Crosses under proposed driveway	NBFR	1649+75	70' LT	1664+04	50' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		225
W2-230	Potable Water	Crossing under proposed pavement and proposed shared use path	SBFR	2661+19	117' RT	2661+94	112' RT	Cleared	Cleared by CofCS		No record drawings, to be potholed		n/a		230
W2-245	Potable Water	Crosses under proposed driveways	NBFR	1694+11	74' LT	1698+57	49' LT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		245
W2-250	Potable Water	Crossing under proposed pavement, proposed storm and inlets, and proposed shared use path. Possible conflict with proposed ditches and culverts	SBFR	2700+52	56' RT	2739+66	39' RT	Cleared	Need to confirm drainage has been cleared.	TxDOT Modified Design to avoid conflict per COCS	Inlets proposed or existing? Just redid crossing, ask TxDOT to readjust; ask Casey for record drawings, send to TxDOT; 05/02: Beth to check inlets	WL crossing at Rock Prairie Road	n/a		250
W2-255	Potable Water	Crossing under proposed pavement and proposed shared use path	SH6	720-35	168' LT	720+40	167' RT	Cleared	Cleared by CofCS		None		n/a		255
W2-256	Potable Water	Located in proximity to proposed driveways	SBFR	2725+50	46' RT	2738+00	48' RT	Cleared	Cleared by CofCS		None		n/a		256
W2-257	Potable Water	Located in proximity to proposed sound wall	SBFR	2749+00	55' RT	2737+50	70' RT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		257
W2-260	Potable Water	Crossing under proposed pavement, proposed storm and proposed shared use path	SH6	772+17	176' LT	772+17	145' RT	Cleared	Cleared by CofCS		Cleared by record drawings		n/a		260
W2-265	Potable Water	Crossing under proposed pavement, proposed storm and inlets, and proposed shared use path	SBFR	2769+30	43' RT	2801+46	36' RT	Cleared	Cleared by CofCS		None		n/a		265
W2-270	Potable Water	Crossing under proposed pavement, drainage structures, and proposed shared use path	SBFR	2811+69	43' RT	2811+64	150' LT	Cleared	Cleared by CofCS		None		n/a		270
W2-280	Potable Water	Crossing under proposed driveway	SBFR	2814+90	60' RT	2820+15	55' RT	Cleared	Cleared by CofCS		None		n/a		280
W2-290	Potable Water	Crosses under proposed sidewalk and driveway	SH40	22+27	113' LT	21+65	116' LT	Cleared	Cleared by CofCS		Cleared by record drawings		No pavement now, just SUP in this location.		290
W2-295	Potable Water	Crosses under proposed sidewalk	SH6	834+62	316' RT	836+23	295' RT	Cleared	Cleared by CofCS		Cleared by record drawings		No pavement now, just SUP in this location.		295

Attachment D
Project Assumptions
State Highway 6 Widening & Utility Relocates Project
Preliminary, Final Design, & Bid Documents Proposal

1. This proposal refers to the 26 total relocations, as indicated in ATTACHMENT C- PROJECT SCOPE INFORMATION.
2. LambStar is currently under contract with TxDOT to provide SUE services. Our team can provide SUE services upon request, as an additional service. Fees for the additional SUE services are listed in the work agreement.
3. TxDOT will provide 90% plans. If TxDOT's design changes post 90% plans, additional service fee will be required as listed in the work agreement.
4. The City will provide all survey and existing record drawings.
5. Our team will not be responsible for delays caused by schedules beyond our control.
6. There will be 30-60-90-100% milestone plan submittals. Submissions will be pdfs.
7. The City intends to remove utilities in cases where open cutting would not significantly impact surface conditions (pavements, trees/landscaping, etc.) or where it would be unreasonable to remove minimal section between other areas being grout filled. In those cases, the City will propose to TxDOT to leave the utility in place.
8. Basis of proposal:
 - a. No joint bid with TxDOT or other utilities.
 - b. Maximum of 3 bid sets (no additional ROW needed, typical additional ROW needed, difficult to obtain additional ROW needed).
 - c. Prepurchase of Materials will be provided for all work and will be completely handled by City. City will be responsible for storage, protection, and condition of materials, including insurance if applicable.
 - d. Buy American will be required for both project and pre-purchase.
 - e. Our team will use TxDOT coordinate system/datum/grid-surface/basis.
 - f. Our team will provide a tie to TxDOT stationing for ease of reference.
 - g. Our team will use City drafting standards, standard details, technical specs, front end docs & special provisions.
 - h. Our team will only provide 11x17 drawings.
 - i. City will model lines to confirm what lines can be shutdown/isolated vs need wet connections.
 - j. City is okay with pipe being installed by one contractor (inside ROW) and placed into service by a second contractor (outside ROW) where accelerated schedule and time to obtain ROW requires.
 - k. For the UIR permits, TxDOT will accept plan view only alignment and offsets from TxDOT's control.
 - l. Deep wastewater lines can remain in place and TxDOT will accept manholes in pavement when this occurs. This situation will be considered an exception.
 - m. City of College Station will require TxDOT to provide new alignments for all relocated utilities.

EXHIBIT B
PAYMENT TERMS

☐ Compensation is based on **actual** hours of work/time devoted to providing the described professional services. The Consultant will be paid at a rate of \$_____ per hour, or at the rates per service or employee shown below. The City will reimburse the Consultant for **actual**, non-salary expenses at the rate of _____ percent (____%) above the Consultant's actual costs, or at the rates set forth below. Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract: (\$_____).

The Consultant must submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

-OR-

☒ 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 and upon completion of the services and written acceptance by the City.

The Consultant may submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

Schedule of Payment for each phase:

See attached proposal...

EXHIBIT C
CERTIFICATE(S) OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/30/2023

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 Arthur J. Gallagher Risk Management Services, LLC 1900 West Loop South Suite 1600 Houston TX 77027	CONTACT NAME: Donna Ward PHONE (A/C, No, Ext): 281-655-6702 E-MAIL ADDRESS: Donna_Ward@ajg.com FAX (A/C, No): 281-655-6752														
INSURED Mitchell & Morgan, LLP 3204 Earl Rudder Fwy S College Station TX 77845	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A : National Casualty Company</td><td>11991</td></tr><tr><td>INSURER B : Travelers Property Casualty Co of America</td><td>25674</td></tr><tr><td>INSURER C : Charter Oak Fire Insurance Company</td><td>25615</td></tr><tr><td>INSURER D :</td><td></td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : National Casualty Company	11991	INSURER B : Travelers Property Casualty Co of America	25674	INSURER C : Charter Oak Fire Insurance Company	25615	INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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INSURER C : Charter Oak Fire Insurance Company	25615														
INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER: 740247253****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
C	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:			6806H611591	1/22/2023	1/22/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			6806H611591	1/22/2023	1/22/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			CUP1005X588	1/22/2023	1/22/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐ N / A		UB9J854080	1/22/2023	1/22/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Retro Date: 8/13/1999			JEO0001658	1/22/2023	1/22/2024	Per Claim \$1,000,000 Per Aggregate \$2,000,000

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

If required by written contract between the insured and the Certificate Holder, the following endorsements forms apply:

General Liability: Additional Insured Endorsement # CG D3 81 09 15
Waiver of Subrogation Endorsement # CG D3 79 01 16
Primary Non-Contributory Endorsement #CG T1 00 02 19

Umbrella: Additional Insured - Included (follows underlying insurance)
Waiver of Our Right to Recover From Others # UM 04 88 07 08
See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of College Station
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

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Arthur J. Gallagher Risk Management Services, LLC		NAMED INSURED Mitchell & Morgan, LLP 3204 Earl Rudder Fwy S College Station TX 77845
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Organization must be scheduled by Travelers
 Workers Compensation: Waiver of Subrogation Endorsement # WC 42 03 04B (12/20/2016) All Texas Operations

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARCHITECTS, ENGINEERS AND SURVEYORS COVERAGE XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|--|
| <ul style="list-style-type: none"> A. Broadened Named Insured B. Incidental Medical Malpractice C. Reasonable Force – Bodily Injury Or Property Damage D. Non-Owned Watercraft – Increased To Up To 75 feet E. Aircraft Chartered With Crew F. Damage To Premises Rented To You G. Malicious Prosecution – Exception To Knowing Violation Of Rights Of Another Exclusion H. Medical Payments – Increased Limit I. Increased Supplementary Payments J. Additional Insured – Owner, Manager Or Lessor Of Premises | <ul style="list-style-type: none"> K. Additional Insured – Lessor Of Leased Equipment L. Additional Insured – State Or Political Subdivisions – Permits Relating To Premises M. Additional Insured – State Or Political Subdivisions – Permits Relating To Operations N. Who Is An Insured – Newly Acquired Or Formed Organizations O. Knowledge And Notice Of Occurrence Or Offense P. Unintentional Omission Q. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Written Contract R. Amended Insured Contract Definition – Railroad Easement |
|---|--|

PROVISIONS

A. BROADENED NAMED INSURED

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any organization, other than a partnership or joint venture, over which you maintain ownership or majority interest on the effective date of the policy qualifies as a Named Insured. However, coverage for any such additional organization will cease as of the date during the policy period that you no longer maintain ownership of, or majority interest in, such organization.

B. INCIDENTAL MEDICAL MALPRACTICE

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person.

2. The following is added to the **DEFINITIONS** Section:

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

3. The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above

does not apply to any "bodily injury" arising out of any providing or failing to provide first aid or "Good Samaritan services" by any of your "employees", other than an employed doctor. Any such "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES**:

Sale of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in the providing or failing to provide first aid or "Good Samaritan services" to any one person will be considered one "occurrence".

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide first aid or "Good Samaritan services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

C. REASONABLE FORCE – BODILY INJURY OR PROPERTY DAMAGE

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

a. Expected Or Intended injury Or Damage

"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 any person or property.

D. NON-OWNED WATERCRAFT – INCREASED TO UP TO 75 FEET

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

(2) A watercraft you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge;

2. The following is added to Paragraph 2. of **SECTION II – WHO IS AN INSURED**:

Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge;

3. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured for "bodily injury" that arises out of the use of a watercraft that you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge.

E. AIRCRAFT CHARTERED WITH CREW

1. The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES**:

This exclusion does not apply to an aircraft that is:

(a) Chartered with crew to any insured;

- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

2. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured for use of an aircraft that is:

- (a) Chartered with crew to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

F. DAMAGE TO PREMISES RENTED TO YOU

1. The following replaces the last paragraph of Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES**:

Exclusions c. through n. do not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water.

A separate limit of insurance applies to such damage to premises as described in Paragraph 6. of Section III – Limits Of Insurance. This insurance does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Rupture, bursting, or operation of pressure relief devices;
- b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
- c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.

2. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**:

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you, or temporarily occupied by you with permission of the owner, caused by fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all damage proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these.

The Damage To Premises Rented To You Limit will be the higher of:

- a. \$1,000,000; or
- b. The amount shown on the Declarations of this Coverage Part for Damage To Premises Rented To You Limit.

3. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- (1) Fire;
 - (2) Explosion;
 - (3) Lightning;
 - (4) Smoke resulting from such fire, explosion, or lightning; or
 - (5) Water,
- is not an "insured contract";

4. The following replaces Paragraph 4.b.(1)(b) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

- (b) That is insurance for premises rented to you, or temporarily occupied by you with the permission of the owner;



G. MALICIOUS PROSECUTION – EXCEPTION TO KNOWING VIOLATION OF RIGHTS OF ANOTHER EXCLUSION

The following is added to Exclusion a., **Knowing Violation Of Rights Of Another**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**:

This exclusion does not apply to "personal injury" caused by malicious prosecution.

H. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C. for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- (a) \$10,000; or
- (b) The amount shown on the Declarations of this Coverage Part for Medical Expense Limit.

I. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES**:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES**:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

J. ADDITIONAL INSURED – OWNER, MANAGER OR LESSOR OF PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract to name as an additional insured on this Coverage Part is an

insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" caused by an offense that is committed, after you have signed that contract; and
- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you under that written contract.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the limits which you agreed to provide in the written contract, or the limits shown on the Declarations of this Coverage Part, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:
 - (1) "Bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.
- c. The insurance provided to such premises owner, manager or lessor is excess over any valid and collectible other insurance available to such premises owner, manager or lessor, unless you have agreed in a written contract for this insurance to apply on a primary or contributory basis.

K. ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is an equipment lessor and that you have agreed in a written contract to name as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" caused by an offense that is

committed, after you have signed that written contract; and

- b. Is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the limits which you agreed to provide in the written contract, or the limits shown on the Declarations of this Coverage Part, whichever are less; and
- b. The insurance provided to such equipment lessor does not apply:
 - (1) To any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" caused by an offense that is committed, after the equipment lease expires; or
 - (2) If the equipment is leased with an operator.
- c. The insurance provided to such equipment lessor is excess over any valid and collectible other insurance available to such equipment lessor, unless you have agreed in a written contract for this insurance to apply on a primary or contributory basis.

L. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO PREMISES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

M. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO OPERATIONS

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any state or political subdivision that has issued a permit with respect to operations performed by you or on your behalf is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

- (1) "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
- (2) "Bodily injury" or "property damage" included within the "products – completed operations hazard".

N. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph 4.a. of SECTION II – WHO IS AN INSURED:

- a. Coverage under this provision is afforded only:
 - (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or
 - (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organizations, if you report such organization in writing to us within 180 days after you acquire or form it.

O. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2., **Duties In The Event of Occurrence, Offense, Claim Or Suit**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or of an offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust), or any "employee" (such as an insurance, loss control or risk manager or administrator) authorized by you to give notice of an "occurrence" or offense.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

- (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
- (a) Any individual who is:
 - (i) A partner or member of any partnership or joint venture;
 - (ii) A manager of any limited liability company;
 - (iii) A trustee of any trust; or
 - (iv) An executive officer or director of any other organization;
 that is your partner, joint venture member, manager or trustee; or
 - (b) Any "employee" authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation, accident, or

health insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under the Coverage Part may apply.

P. UNINTENTIONAL OMISSION

The following is added to Paragraph 6., **Representations, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY WRITTEN CONTRACT

The following is added to Paragraph 8., **Transfer of Rights of Recovery Against Others to Us, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

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 premises owned or occupied by or rented or loaned to you; ongoing operations performed by you or on your behalf, done under a written contract with that person or organization; "your work"; or "your products". We waive this right where you have agreed to do so as part of a written contract signed by you prior to loss.

R. AMENDED INSURED CONTRACT DEFINITION – RAILROAD EASEMENT

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The following is added to Paragraph 11., OUR RIGHT TO RECOVER FROM OTHERS., of SECTION IV - CONDITIONS.:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
 - b. "Personal injury" or "advertising injury" caused by an "offense" that is committed;
- subsequent to the execution of the contract or agreement.



TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver
Name of person or organization

☒ Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.
2. Operations: ALL TEXAS OPERATIONS
3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.
4. Advance Premium: INCLUDED, SEE INFORMATION PAGE.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 01/22/2018 at 12:01 a.m. standard time, forms a part of:

Policy No. UB9J854080 Travelers Casualty Insurance Co of America effective on 1/22/2023

Issued to: MITCHELL AND MORGAN LLP

Premium: \$1,866.00

NCCI Carrier Code: 29939



Authorized Representative

12/20/2016



July 13, 2023

Item No. 7.3.

Change Order for the Lick Creek Wastewater Treatment Plant Project

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on Change Order No. 8 in the amount of \$119,873 for the Lick Creek Wastewater Treatment Plant Capacity Expansion construction contract with CSA Construction, Inc.

Relationship to Strategic Goals:

Core services and infrastructure.

Recommendation(s): Staff recommends approval.

Summary:

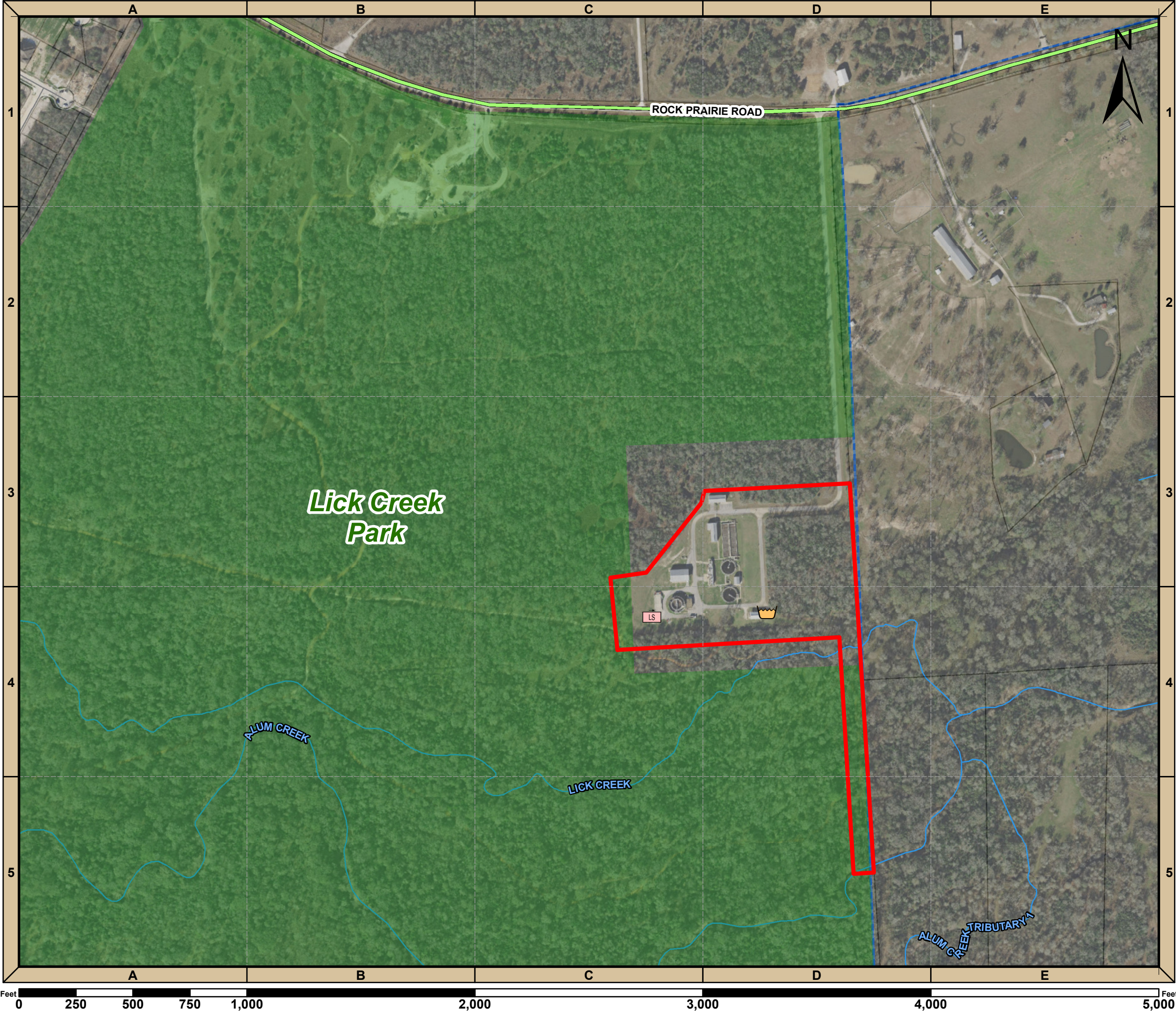
This change order adds the following items:

- Work associated with the replacement of a section of ductile iron (DI) pipe in the existing pump station. While working in the pump station, the contractor discovered that an existing DI riser pipe was severely corroded and was at the end of its useful life. It was decided to replace the pipe while the contractor is working inside the pump station, and it is offline.
- Work associated with the removal of baffles.
- Work associated with electrical modifications to allow plant operators to monitor 480V power to the blowers. The monitoring improves the status signal reliability for each blower.
- Work associated with the modification of the centrifuge conveyor drain. Once installed, it was noticed that sometimes the drain was not working adequately. This was monitored over time and some zero cost adjustments were made with no significant improvements. These modifications will improve the capacity and performance of the drain.
- Work is associated with the relocation of the level monitoring instruments in the new influent pump station. This was a request from plant operations. After installing the instruments, there was a concern about maintenance and accessibility. Relocating the instruments should improve their reliability by minimizing the amount of fouling they receive without impacting their accessibility.

Budget & Financial Summary: A total budget of \$40,740,000 is included in the Wastewater Capital Improvements Projects Fund with \$39,421,888 expended or committed to date, leaving a balance of \$1,318,112 for this change order and future expenses.

Attachments:

1. LCWWTP Project Location Map
2. LCWWTP Change Order Form Vendor Signed
3. LCWWTP CP-062-ExistingInfluentPumpStationNo.2-DuctileIronPipeReplacement
4. LCWWTP CP-064-Blower480VPowerMonitoring
5. LCWWTP CP-065-Centrifuge1-ConveyorDrain
6. LCWWTP CP-066-InfluentPumpStationLevelInstrumentsRelocation



Project Location Map

Lick Creek WWTP

Capacity Expansion

Legend

 Project Location

 Lift Stations

 Treatment Plants

Streets

Functional Classification

 MAJOR COLLECTOR

 LOCAL STREET

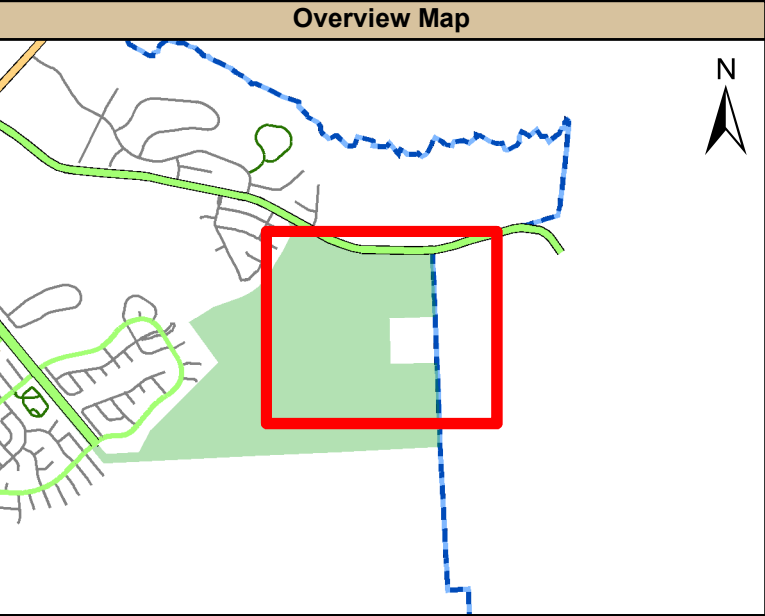
 Parks

 Property Parcels

 City Limit

 ETJ

 Rivers



DISCLAIMER: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. No warranty is made by the City of College Station regarding specific accuracy or completeness.

CHANGE ORDER NO. 8	6/9/2023	Contract No. 19300348	RFP 19-001
P.O.#: 19202649	PROJECT: Lick Creek Wastewater Treatment Plant Capacity Expansion		

OWNER: City of College Station P.O. Box 9960 College Station, Texas 77842	CONTRACTOR: CSA Construction, Inc. 2314 McAllister Road Houston, TX 77092 Ph: 713-686-8868 Fax: 713-686-8889
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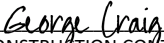
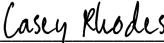
PURPOSE OF THIS CHANGE ORDER:

1. Removal and replacement of existing pump station #1, 20 year old, unlined DI pipe that has corroded and is in danger of eminent failure, per CP-062.
2. Removal of stamford baffles in clarifiers 1-3, to eliminate possibility of failure experienced in clarifier 4 in February of 2023, per CP-063.
3. Additional electrical modifications for Blower 480V power monitoring to improve blower status signal to SCADA reliability, per CP-064.
4. Modifications to the centrifuge conveyor drain, to improve centrifuge performance, per CP-065.
5. Relocation of level instruments in influent pump station #2, to improve reliability of instruments and minimize fouling, per CP-066.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	1	Replacement of existing DI pipe (60-Days time extension)	\$ 84,101.00	0	1	\$ 84,101.00
2	1	Removal of Stamford baffles (14-Days time extension)	\$ -	0	1	\$ -
3	1	Blower 480V power monitoring (7-Days time extension)	\$ 8,088.00	0	1	\$ 8,088.00
4	1	Centrifuge conveyor drain (4-Days time extension)	\$ 10,661.00	0	1	\$ 10,661.00
5	1	Relocation of level instruments (14-Days time extension)	\$ 17,023.00	0	1	\$ 17,023.00
					TOTAL	\$ 119,873.00

THE NET AFFECT OF THIS CHANGE ORDER IS A 1.3% INCREASE.

ALL ITEMS (WW1945495 / SPWOC - 6591)	\$ 119,873.00	
TOTAL CHANGE ORDER	\$ 119,873.00	
ORIGINAL CONTRACT AMOUNT	\$34,037,500.00	
CHANGE ORDER NO. 1	\$29,189.00	0.09%
CHANGE ORDER NO. 2	\$26,106.00	0.08%
CHANGE ORDER NO. 3	\$132,489.00	0.39%
CHANGE ORDER NO. 4	\$50,789.00	0.15%
CHANGE ORDER NO. 5	\$35,822.00	0.11%
CHANGE ORDER NO. 6	\$33,803.00	0.10%
CHANGE ORDER NO. 7	\$7,803.00	0.02%
CHANGE ORDER NO. 8	\$119,873.00	0.35%
REVISED CONTRACT AMOUNT	\$34,473,374.00	1.28% TOTAL CHANGE
ORIGINAL CONTRACT TIME	900	Days
TIME EXTENSION NO. 1	0	Days
TIME EXTENSION NO. 2	3	Days
TIME EXTENSION NO. 3	0	Days
TIME EXTENSION NO. 4	75	Days
TIME EXTENSION NO. 5	85	Days
TIME EXTENSION NO. 6	104	Days
TIME EXTENSION NO. 7	96	Days
TIME EXTENSION NO. 8	99	Days
REVISED CONTRACT TIME	1362	Days
SUBSTANTIAL COMPLETION DATE	September 24, 2021	
REVISED SUBSTANTIAL COMPLETION DATE	December 30, 2022	

APPROVED			
 CONSTRUCTION CONTRACTOR	6/14/2023 Date		
 PROJECT MANAGER	6/15/2023 Date	ASST. CITY MANAGER Date	
DEPARTMENT DIRECTOR Date		CITY ATTORNEY Date	
		CITY MANAGER Date	

CSA CONSTRUCTION, INC.
 LICK CREEK WWTP
 CHANGE ORDER PROPOSAL
 REPLACE LIFT STATION PIPING PER RCP-042

DATE: MARCH 13, 2023

GENERAL SUMMARY

ITEM	DESCRIPTION	LABOR	TAXABLE TOOL/EQUIP.	EXEMPT MATERIAL	TOTAL	VENDOR
1	PURCHASE PIPE	0	0	41,034	41,034	COHEN
2	INSTALLATION	14,800	10,510	0	25,310	CSA
					0	
					0	
		14,800	10,510	41,034	66,344	CHECK 66,344
SUBTOTAL					66,344	
DIRECT JOB COSTS						
	LABOR BURDEN	40.00%			5,920	
	SALES TAX	8.25%			867	
SUBTOTAL					73,131	
OH&P		15.00%			10,970	
SUBTOTAL					84,101	
TOTAL					84,101	=====

COMMENTS

1. REUSE EXISTING PIPE SUPPORTS
2. PIPE TO BE SHOP COATED PER DATA SHEET BELOW
3. PIPE & FITTINGS TO BE LINED WITH INDURON P401 OR PL-90
4. ASSUMES EXISTING FLANGE 90's AT WALL CAN BE EASILY REMOVED.
5. IF EXISTING WALL PIPE FLANGE IS DAMAGED, ANTICIPATE TO ADD \$3,000-\$5,000 PER EA WALL PIPE TO REMOVE AND PROVIDE NEW WALL PIPE.
6. ALL HARDWARE TO BE 316 SS

RECAP

SUMMARY OF:

PROJECT:

RCP 20 Breakdown**College Station Lick Creek WWTP**

DESCRIPTION	Quantity	UNIT	Labor Unit	Taxable Mater. Unit	Exempt Mater. Unit	Labor	Taxable Mater.	Exempt Mater.	Total
Demo. Lift Station Pipe	90	If	35	15	—	3,150	1,350	0	4,500
Demo 90's @ Wall penetration	3	ea	250	150	—	750	450	0	1,200
Remove Guiderails	90	If	5	2	—	450	180	0	630
Disposal of Old Pipe	1	ls	150	500	—	150	500	0	650
New 12" ductile pipe	90	If	60	30	—	5,400	2,700	0	8,100
New 90's	3	ea	150	50	—	450	150	0	600
Reinstall Guiderails	90	If	5	2	—	450	180	0	630
Lift Station Access	1	ls	500	1,500	—	500	1,500	0	2,000
Safety	1	ls	1,500	1,500	—	1,500	1,500	0	3,000
Cherry picker	1	ls	2,000	2,000	—	2,000	2,000	0	4,000
	—	—	—	—	—	0	0	0	0
	—	—	—	—	—	0	0	0	0
						14,800	10,510	0	25,310
						Labor	Taxable Mater.	Exempt Mater.	Total



Cohen Industrial Supply Company
PO Box 801436, Houston, TX 77210-4738
TEL. (713) 467-3300 FAX (713) 467-3397

Sales Quote

Page: 1

Sales Quote Number: Q1467
Sales Quote Date: 2/8/2023

Sell To: CSA Construction - DIP & Fittings Quote

Ship To: CSA Construction - DIP & Fittings Quote

Ship Via
Terms NET 30
JOB :

Customer ID PQ
SalesPerson ZAK HUDNALL
Lead Time :

Tag No.	Quantity	Unit	Description	Unit Price	Total Price
0002	3		12" X 10'0" F125 X PE FAB PIPE 401	3,056.50	9,169.50
0003	6		12" X 10'0" F125 X F125 FAB PIPE 401	3,451.50	20,709.00
0004	3	Each	12 DI FLG 90 ELL PL-90	1,820.07	5,460.21
0005	15	Each	12" 316SS BNG SET FLG DIP X FLG DIP 7/8" X 3-3/4"	159.732	2,395.98
0006	1	Each	FINAL COATING ON OD - INDURON PE-70 EPOXY	2,500.00	2,500.00
0007	1	Each	FREIGHT	800.00	800.00

Total: 41,034.69

Please refer to the quotation number above to insure proper pricing.

All sales are in U.S. Dollars.

The estimated time to ship is based on information available to Cohen at the time of this quotation. (Cohen is not responsible for delays due to the availability of material.)

FOB: Our yard in Houston or point of shipment. Prices are quoted firm for 30 days.

Sales tax will be added unless the proper exempt certificates are submitted with the order.

COATING DATA

DESCRIPTION:

A two-component, high solids, chemically cured epoxy coating. Ceramapure™ PL90 Ceramic Epoxy is a unique and outstanding barrier coating formulated for the protection of ductile iron or steel pipe and fittings.

Ceramapure PL90 may be used for service in wastewater or water with excellent abrasion and corrosion resistance.

This product has been certified by the Water Quality Association to meet the requirements of **NSF/ANSI International Standard 61** for potable water immersion service for pipe diameters of 4" and up. **Ceramapure PL90 meets or exceeds the compliance standard for AWWA C-210.**

PERFORMANCE TESTING

TEST	METHOD/CONDITIONS	DURATION	RESULTS
25% Sodium Hydroxide Immersion *	Tested after 4 years outdoor exposure	6000 hours	No effect when rated using ASTM D-714
20% Sulfuric Acid Immersion *	Tested after 4 years outdoor exposure	5500 hours	No effect when rated using ASTM D-714.
Adhesion *	ASTM D-4541 Tested after 4 years outdoor exposure		Direct to Steel: 3300 psi – glue failure
5% Sodium Chloride Solution * (Salt Water) Immersion Panel Scribed to Metal	Tested after 4 years outdoor exposure	2 Years	No effect when rated using ASTM D-714.
Distilled Water Immersion *	AWWA C-550 @ 150°F Tested after 4 years outdoor exposure	Per AWWA C-550	Passed
Salt Fog * (Scribed Panel)	ASTM B-117 Tested after 4 years outdoor exposure	1 Year	No effect when rated using ASTM D-714.
Impact Resistance *	ASTM 2794 Tested after 4 years outdoor exposure		Passed - 60 in./lbs.
Approval for contact with Potable water 4" and larger piping	NSF 61		Approved
Cathodic Disbondment "attached cell" method	ASTM G-95		Less than 2 mm disbondment "A" Rating
Weathering Exposure	Coupons with cut edges exposed to ambient weathering conditions in Birmingham, AL	4 Years	Passed No undercutting at exposed edges.
Bactericide Properties	ASTM G22-90	Per ASTM G22-90	Stops the growth and formation of Acidithiobacillus Bacteria

*** Tested on lined ductile iron pipe coupons after 4 years of outdoor exposure (Birmingham, AL).**

LIMITATIONS:

Do not use for immersion service above 120°F (49°C) or dry heat above 200°F (93°C).

SURFACE PREPARATION:

See *suggested standard specification for ductile iron or steel* (www.Ceramapure.com).

COVERAGE:

Theoretical— 1,476 ft² per gallon at 1.0 mil dry film thickness.

DRY FILM THICKNESS:

Lining Ductile Iron: 40 mils nominal

Lining/Coating Steel: 20-25 mils. Multiple coats may be used if necessary.

APPLICATION DATA**BLEND RATIO:**

One-part Ceramapure™ PL90 Ceramic Epoxy Activator to one-part Ceramapure® PL90 Ceramic Epoxy Base by volume. Power agitate until components are thoroughly mixed.

APPLICATION:

Certified Application Required.

THINNING:

None required. Clean equipment with K-1034 Reducer.

SAFETY DATA:

See individual product label for safety and health data information. Individual Material Safety Data Sheets are available upon request.

STANDARD SPECIFICATION FOR LINING DUCTILE IRON PIPE: WATER OR SEWER SERVICE

I. CONDITION OF DUCTILE IRON PRIOR TO SURFACE PREPARATION

All ductile pipe and fittings shall be delivered to the application facility without asphalt, cement lining, or any other lining on the interior surface. Because removal of old linings may not be possible, the intent of this specification is that the entire interior of the ductile iron pipe and fittings shall not have been lined with any substance prior to the application of the specified lining material and no coating shall have been applied to the first six inches of the exterior of the spigot ends.

II. LINING MATERIAL

Ceramapure™ PL 90 Ceramic Epoxy. The material shall be an amine cured, novolac epoxy containing at least 20% by volume of ceramic quartz pigment. Any request for substitution must be accompanied by a successful history of lining ductile iron pipe and fittings, a test report verifying the following properties, and a certification of the test results.

A. The following test must be run on coupons from factory lined ductile iron pipe coupons:

B. * Immersion testing rated using ASTM D-714 after outdoor storage, uncovered (in ambient conditions) for at least 4 years:

- 20% Sulfuric Acid Immersion-- no effect after 2 years hrs
- 5% Sodium Chloride Solution (Salt Water) Immersion--Unscribed panel--no effect after 2 years
- 5% Sodium Chloride Solution (Salt Water) Immersion--Panel Scribed to Metal--no effect after 2 years

*Distilled Water Immersion-- per AWWA C-550--- passed

*ASTM B-117 Salt Fog (Scribed Panel)—Passed- two years no undercutting

*Undercutting Resistance: Alternate Wet /Dry Immersion (5% NaCl, flowing, aerated, 120°F, Wet 1 hour followed by dry one hour- 12 Cycles daily)- Passed after one year when rated using ASTM D-714--No undercutting at exposed edges.

*Weathering--Coupons with cut edges exposed to ambient weathering conditions in Birmingham, AL- passed - five years - no undercutting at edges.

B. ASTM G-22 Standard practice for determining resistance of Synthetic Polymeric materials to bacteria. The test should determine the resistance to growth of Acidithiobacillus Bacteria and should be conducted at 30 degrees centigrade for a period of 7 days on a minimum of 4 panels. The growth must be limited only to trace amounts of bacteria.

C. An abrasion resistance of no more than 2 mils (.075 mm) loss after one million cycles using European Standard EN 598

D. ASTM G-95 Standard Test Method for "Cathodic Disbondment Test of Pipeline Coatings (Attached Cell Method)". Resulting cathodic disbondment must average less than 2 mm and be qualified by independent lab testing.

III. APPLICATION

Applicator

The lining shall be applied by a certified firm with a successful history of applying linings to the interior of ductile iron pipe and fittings. All applicators must be independently inspected at least two times per year to ensure compliance with the requirements of this specification. This inspection must be coordinated and reviewed by the manufacturer of the lining material and any deviation from the application and/or quality requirements shall be corrected by the applicator. All inspections shall be in writing and a permanent record maintained.

Surface Preparation

Prior to abrasive blasting, the entire area to receive the protective compound shall be inspected for oil, grease, etc. Any areas with oil, grease, or any substance that can be removed by solvent, shall be solvent cleaned to remove those substances. After the surface has been made free of grease, oil or other substances, all areas to receive the protective compounds shall be abrasive blasted using sand or grit abrasive media. The entire surface to be lined shall be struck with the blast media so that all rust, loose oxides, etc., are removed from the surface. Only slight stains and tightly adhering oxide may be left on the surface. Any area where rust reappears before lining must be reblasted.

Lining

After surface preparation and within 12 hours of surface preparation, the interior of the pipe shall receive 40 mils nominal dry film thickness of Ceramapure™ PL90. No lining shall take place when the substrate or ambient temperature is below 40° F. The surface also must be dry and dust free. If flange pipe or fittings are included in the project, the lining shall not be used on the face of the flange.

Coating of Bell Sockets and Spigot Ends

Due to the tolerances involved, the gasket area and spigot end up to 6 inches back from the end of the spigot end must be coated with 6 mils nominal, 10 mils maximum using Ceramapure Joint Compound. The Joint Compound shall be applied by brush to ensure coverage. Care should be taken that the Joint Compound is smooth without excess buildup in the gasket seat or on the spigot ends. Coating of the gasket seat and spigot ends shall be done after the application of the lining.

Number of Coats

The number of coats of lining material applied shall be as recommended by the lining manufacturer. However, in no case shall this material be applied above the dry thickness per coat recommended by the lining manufacturer in printed literature. The maximum or minimum time between coats shall be that time recommended by the lining material manufacturer. To prevent delamination between coats, no material shall be used for lining beyond the recoat limitations published by the lining manufacturer without roughening of the surface of the lining prior to recoating.

Touch-Up and Repair

Ceramapure™ PL 90 repair kits shall be used for touch-up or repair in accordance with manufacturer's recommendations. Refer to Ceramapure™ PL 90 repair procedure.

IV. INSPECTION AND CERTIFICATION

Inspection

- All ductile iron pipe and fitting linings shall be checked for thickness using a magnetic film thickness gauge. The thickness testing shall be done using the method outlined in SSPC PA-2 Film Thickness Rating.
- The interior lining of all pipe barrels and fittings shall be tested for pinholes with a non-destructive 2,500 volt test. Any defects found shall be repaired prior to shipment.
- Each pipe joint and fitting shall be marked with the date of application of the lining system along with its numerical sequence of application on that date and records maintained by the applicator of his work.

Certification

The pipe or fitting manufacturer must supply a certificate attesting to the fact that the applicator met the requirements of this specification, and that the material used was as specified.

V. HANDLING

Ceramapure™ PL90 lined pipe and fittings must be handled only from the outside of the pipe and fittings. No forks, chains, straps, hooks, etc. shall be placed inside the pipe and fittings for lifting, positioning, or laying. The pipe shall not be dropped or unloaded by rolling.

Care should be taken not to let the pipe strike sharp objects while swinging or being off loaded. Ductile iron pipe should never be placed on grade by use of hydraulic pressure from an excavator bucket or by banging with heavy hammers.

COATING DATA

SURFACE PREPARATION:

Steel (Immersion)—SSPC-SP 10 Near White Blast to achieve a profile depth of 3 mils (grit media only- steel shot is not allowed). This product does not require scarifying the surface prior to being recoated with itself if recoated within 30 days. Prior to recoating, remove all surface contaminants. When repairing mechanical damage follow printed repair procedure.

COVERAGE:

Theoretical— 1,476 ft² per gallon at 1.0 mil dry film thickness.

DRY FILM THICKNESS:

15-40 mils per coat. Multiple coats may be used if necessary.

WET FILM THICKNESS:

18-45 mils

APPLICATION DATA

BLEND RATIO:

One part Ceramapure™ PL90 Ceramic Epoxy Activator to one part Ceramapure® PL90 Ceramic Epoxy Base by volume. Power agitate until components are thoroughly mixed. COLOR: Gray

APPLICATION:

Plural Component Spray Equipment. Certified Application Required.

THINNING:

None required. Clean equipment with K-1034 Reducer.

CLIMATE:

Use this product only if the substrate temperature and ambient air temperature is above 45°F and is expected not to decrease for at least two hours after application. Also, the substrate temperature must be 5°F above the dew point for a period of at least two hours after application to avoid condensation occurring on wet paint.

DRY TIME:

TO HANDLE—10-12 hours at 80°F.

TO RECOAT—50°F or higher, 12 hours; 40°F-50°F, overnight.

IMMERSION SERVICE—50°F or higher, 7 days with proper ventilation;

40°F-50°F, 14 days with proper ventilation.

Note: High film thickness, low temperature and/or poor ventilation will retard dry time.

PHYSICAL DATA:

VOLUME SOLIDS: 90% ± 2%

SOLIDS BY WEIGHT: 90% ± 2%

WEIGHT PER GALLON: 8.4 ± .2 lbs per gallon (mixed)

VOLATILE ORGANIC CONTENTS: 0.68 lbs/gallon mixed unthinned; 82 grams/liter mixed



WATER QUALITY

NSF/ANSI 61 Drinking Water
 System Components 26KM

Maximum Surface Area/Volume Ratio: 394cm²/L
 Water Contact Temperature: 23°C

COATING DATA

DESCRIPTION:

A two component, high solids, modified self-priming epoxy coating formulated for superior resistance to water, water borne chemicals and other aggressive environments. Conforms to ANSI/AWWA D102-06 ICS-1, ICS-2, ICS-5, OCS-5 primer and intermediate coat and OCS-6 primer and intermediate coat. **Certified under NSF/ANSI International 61** for potable water immersion service in tanks of 1,000 gallons or greater capacity and potable water pipe eight (8) inches or greater. PE-70 is lead and chromate free.

USE:

Self priming multi-coat system for steel, ductile iron, or concrete surfaces exposed to potable or process water immersion, exposed to immersion, splash, fumes, or spillage of water borne chemicals and exposed to aggressive industrial environments.

COLORS:

Tan, Gray, Red & Aqua White. Epoxies chalk with extended exposure to sunlight.

LIMITATIONS:

Do not use for immersion service above 120°F (49°C) or dry heat above 200°F (93°C). Not recommended for immersion in solutions of mineral acids or organic acids.

SURFACE PREPARATION:

Steel (Immersion)—SSPC-SP-10 Near White Blast.

Steel (Non-Immersion)—SSPC-SP-6 Commercial Blast.

Ductile Iron—Remove all surface contaminants by abrasive blasting. Do not coat surfaces previously coated with asphalt.

Concrete—SSPC-SP-7 Brush Off Blast. New concrete must cure at least 28 days and contain less than 14% moisture prior to painting.

Recoating—Multicoat systems may require this product to be recoated. This product does not require scarifying the surface prior to being recoated. Prior to recoating, remove all chalk and/or other surface contaminants.

COATING SYSTEMS:

NSF/ANSI Standard 61 approved potable water immersion primers:

PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Ruff Stuff 3300 Epoxy, Indurazinc MC67.

NSF/ANSI Standard 61 approved potable water immersion topcoats:

PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Ruff Stuff 3300 Epoxy.

Non-potable water and water borne chemical immersion primers:

PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Ruff Stuff 3300 Epoxy, Perma-Clean II Primer, Armorguard P-14 Primer, Indurazinc MC67.

Non-potable water and water born chemical immersion topcoats:

PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Ruff Stuff 3300 Epoxy, Perma-Clean II Epoxy, Ruff Stuff 2100 Coal Tar Epoxy, Armorguard Epoxy.

Non-immersion primers: PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Ruff Stuff 3300 Epoxy, Perma-Clean II Primer, Induramastic 85, Armorguard P-14 Primer, Indurazinc MC67.

Non-Immersion topcoats: PE-70 Epoxy, RC-70 Epoxy, PE-54 Epoxy, PE-54 RC Epoxy, Armorguard Epoxy, Perma-Clean II Epoxy, Indurethane 5500 Enamel, Aquanaut Enamel, Indurethane 6600 Plus.

COVERAGE:

Theoretical-1123 ft² per gallon @ 1.0 mil dry.

DRY FILM THICKNESS: 3.0 to 6.0 mils.

WET FILM THICKNESS: 4.2 to 8.6 mils.

APPLICATION DATA

PACKAGING:

Five gallon pails and one gallon cans. Order 10 gallon or 2 gallon kits.

BLEND RATIO:

For PE-70 Epoxy mix one part PE-70 Epoxy Base Part A (use either Tan, Gray, Red or Aqua White) to one part PE-70 Epoxy Activator Part B. Power agitate until components are thoroughly mixed.

STORAGE TEMPERATURE:

Minimum 20°F, Maximum 110°F.

SHELF LIFE:

18 months at recommended storage temperature.

APPLICATION:

For best application properties, blended coating temperature should be above 50°F prior to application. **Airless Spray**—Use .015-.017 tip, 60 mesh filter, 30:1 pump ratio at 60-100 psi operating air pressure. **Conventional Spray**—Follow instructions of equipment manufacturer for the application of epoxy paints. **Roll**—Use lambswool cover. Additional coats may be required to achieve desired film thickness. **Brush**—Use natural bristle brush. Additional coats may be required to achieve desired film thickness.

THINNING:

If required, thin from 5% up to 10% with K-1034 Reducer.

CLIMATE:

Use this product only if the substrate temperature and ambient air temperature is above 50°F and is expected not to decrease for at least two hours after application. Also, the substrate temperature must be 5°F above the dewpoint for a period of at least two hours after application to avoid condensation occurring on wet paint.

POT LIFE DRY TIME:

TEMPERATURE	POT LIFE	TO HANDLE	TO RECOAT	IMMERSION
50°F	10 hrs	16 hrs	12 hrs-overnight	7 days
70°F	6 hrs	8 hrs	12 hrs-overnight	7 days
80°F	5 hrs	6 hrs	12 hrs-overnight	7 days
90°F	4 hrs	5 hrs	12 hrs-overnight	7 days

No maximum recoat time. Curing time varies with surface temperature, air movement, humidity and film thickness. For interior potable water tank ventilation see ANSI/AWWA D102-03 Section 4.6.5.

PHYSICAL DATA:

VOLUME SOLIDS: 70% ± 2%

SOLIDS BY WEIGHT: 84% ± 2

VOLATILE ORGANIC CONTENTS:

Mixed unthinned - < 2.1 lbs/gallon; < 252 grams/liter

Mixed thinned 10% - < 2.6 lbs/gallon; < 312 grams/liter

HAZARDOUS AIR POLLUTANTS (HAPS):

Mixed unthinned - 0.05 lbs/gallon solids; 6.0 grams/liter solids

Mixed thinned 10% - 0.06 lbs/gallon solids; 7.2 grams/liter solids

SAFETY DATA:

See individual product label for safety and health data information. Individual Material Safety Data Sheets are available upon request.

CSA CONSTRUCTION, INC.
 LICK CREEK WWTP
 CHANGE ORDER PROPOSAL
 BLOWER 480V POWER MONITORING PER RCP-045

DATE: MAY 19, 2023

GENERAL SUMMARY

ITEM	DESCRIPTION	LABOR	TAXABLE TOOL/EQUIP.	EXEMPT MATERIAL	TOTAL	VENDOR
1	ELECTRICAL INSTALLATION	0	0	5,203	5,203	MORALES
2	LONESTAR BLOWER SCOPE	0	0	2,500	2,500	LONESTAR
3					0	CSA
4					0	
		0	0	7,703	7,703	CHECK 7,703

SUBTOTAL 7,703

DIRECT JOB COSTS

LABOR BURDEN 40.00% 0

SALES TAX 8.25% 0

SUBTOTAL 7,703

OH&P 5.00% 385

SUBTOTAL 8,088

TOTAL 8,088

=====

COMMENTS

1. REQUEST 7 DAYS



PO Box 859, Florence, Tx 76527
601 South Patterson, Florence, Tx 76527
Phone (254) 793-4344
Fax (254) 793-3044

Project: City of College Station Lick Creek
WWTP Capacity Expansion
Date: May 17, 2023

C.O.R. No. 201909-040 Rev No. 00

Change Order Request

Description of Change Order Request:

Mr. Craig,

This price proposal is to supply & install a Twisted-Shielded cable between Lone Star’s MCP and each of their (3) Blower Starters and for CPUSA to provide SCADA programming on the Top-End System to report the “Loss of Power” signal for the (3) Blower Starters.

The following are some notes, clarifications and exceptions we are taking when pricing this proposal:

- 1) See Lone Star’s attached quote for clarification to their portion of work. CSA to carry this cost.
- 2) Pricing is good for (30) days from date of proposal.

Price.....\$5,203.20

Extension in Time Request:

We would request an additional (7) days to be added to our contract time to perform this work.

If you have any questions, please call me at (512) 225-4837.

Sincerely,

Michael D. Brooks

Michael D, Brooks
Project Manager

Mike Brooks

From: Jim Lyssy <jlyssy@lonestarturbo.com>
Sent: Thursday, May 11, 2023 8:53 AM
To: George Craig; Parker Korenek
Cc: Mike Brooks
Subject: RE: [EXTERNAL EMAIL] RE: Review Needed for Lick Creek Wastewater Treatment Plant Capacity Expansion : RCP-045 - Blower 480V Power Monitoring

George,

Here is a proposal with scope of work. Please work with Parker on this.

Service to provide power status on each of three (3) blowers to the facility to alarm in SCADA and reflect blower availability.

Scope of Work

Lone Star

Update drawings to detail wiring.

Install a opposing relay in each blower control cabinet. The relay is powered by incoming 480VAC to the blower. The relay will be downstream of the T1 transformer and powered by 120VAC.

Land wires in the blower cabinet and MCP as per drawings.

Update MCP to account for power outage and drop blower indicate blower not running.

Update MCP for reading basin 1 DO to revised address.

CSA:

Not in quote

Install a single twisted pair from each blower to the MCP.

\$2500 fixed price which include all engineering services and travel.

Work to be done by Lone Star Controls Engineer as software is to be updated.

Jim Lyssy | Automation Engineering Manager

Lone Star Turbo, Inc. | Dynamic Specialties

M: +1 210-792-3651

E: jlyssy@LoneStarTurbo.com

[Contact QR](#)



www.LoneStarTurbo.com

www.dynamicspecialties.com

From: George Craig <gcraig@csaconstruction.com>
Sent: Thursday, 11 May, 2023 08:33
To: Jim Lyssy <jlyssy@lonestarturbo.com>; Parker Korenek <pkorenek@lonestarturbo.com>
Cc: 'Mike Brooks' <MBrooks@moralescompany.com>

Subject: [EXTERNAL EMAIL] RE: Review Needed for Lick Creek Wastewater Treatment Plant Capacity Expansion : RCP-045 - Blower 480V Power Monitoring

Jim,

Was your group able to work up proposal for this?

Is any further coordination needed?

George Craig
CSA Construction, Inc.

From: George Craig <gcraig@csaconstruction.com>

Sent: Wednesday, May 3, 2023 7:21 AM

To: 'Jim Lyssy' <jlyssy@lonestarturbo.com>; 'Parker Korenek' <pkorenek@lonestarturbo.com>

Subject: FW: Review Needed for Lick Creek Wastewater Treatment Plant Capacity Expansion : RCP-045 - Blower 480V Power Monitoring

Jim,

Per our call yesterday, I will want Lonestar to be there for this. I believe the agreement was Lonestar to F&I the relays. Please let me know additional costs for your portion.

The City would like to monitor 480V power of each of the blowers. Modify each blower control panel. Provide a SPDT 120V coil voltage relay and connect on the 120V side of the CPT transformer (T1) to monitor loss of 480V power. Monitor that input on the Blower Controller digital spare input. The signal can then be monitored by the MCP and then monitored at SCADA through the network connection.

George Craig
CSA Construction, Inc.

From: FNiManager <do-not-reply@freese.com>

Sent: Tuesday, May 2, 2023 4:36 PM

To: George Craig <gcraig@csaconstruction.com>

Subject: Review Needed for Lick Creek Wastewater Treatment Plant Capacity Expansion : RCP-045 - Blower 480V Power Monitoring



From: Gennady Boksiner (gb@freese.com)

This Request for Change Proposal has been added to Lick Creek Wastewater Treatment Plant Capacity Expansion. You have been designated as a reviewer for this submittal.

FNI Project Number: CCL17203

Project Name: Lick Creek Wastewater Treatment Plant Capacity Expansion

Request for Change Proposal Number: RCP-045

Request for Change Proposal Description: Blower 480V Power Monitoring

Current Ball in Court: George Craig

[View the Submittal](#)

PLEASE DO NOT REPLY TO THIS EMAIL; DO-NOT-REPLY@FREESE.COM IS NOT MONITORED.

CHANGE ORDER SUMMARY SHEET



Project Name: City of College Station - Lick Creek WWTP Capacity Expansion

Change Description: SCADA "Loss of Power Alarm" for Blower Starters

TMC Change No: 201909 - 040 Revision No. 00

Date: May 17, 2023

MATERIALS/QUOTES:	Amount	Op	Rate	Extended
Misc. Materials	\$450.00	X	1	\$450.00
Quote No. 1:	\$0.00	X	1	\$0.00
Quote No. 2:	\$0.00	X	1	\$0.00
Quote No. 3:	\$0.00	X	1	\$0.00
Subtotal				\$450.00
Sales Tax	\$450.00	X	0.00%	\$0.00
MATERIAL/QUOTES SUBTOTAL				\$450.00

LABOR:	Hours	Op	Rate	Extended
Straight Time Labor:	18	X	\$49.92	\$898.56
Overtime Labor:	0	X	\$74.88	\$0.00
Subtotal Manhours:	18			
General Foreman ST Labor (10% of Man Hours):	2	X	\$64.89	\$129.78
General Foreman OT Labor (10% of Man Hours):	0	X	\$97.34	\$0.00
Material Proc. & Hndlg. Labor (5% of Man Hours):	0	X	\$37.84	\$0.00
Update As Built Drawings:	1	X	\$62.95	\$62.95
Project Manager:	1	X	\$102.60	\$102.60
SUBTOTAL LABOR:				\$1,193.89

DIRECT JOB EXPENSES:	Amount	Op	Rate	Extended
Expendable Tools (6% of Materials):	\$450.00	X	6%	\$27.00
Equipment:	\$0.00	X	1	\$0.00
O&M's:	\$0.00	X	1	\$0.00
Warranty on Material (3% of Materials):	\$450.00	X	0%	\$0.00
Warranty on Labor (3% of Labor):	\$1,193.89	X	0%	\$0.00
SUBTOTAL DIRECT JOB EXPENSES:				\$27.00

T. MORALES COMPANY MARKUPS:	Amount	Op	Rate	Extended
Cost of Labor and Materials:	\$1,643.89	X	1	\$1,643.89
Cost of Tools, Eqpt and Facilities (Direct Job Expenses):	\$27.00	X	1	\$27.00
Work Comp / SS / Unemployment:	\$1,193.89	X	55.00%	\$656.64
SUBTOTAL:				\$2,327.53
Overhead & Profit @ 20%:	\$2,327.53	X	20.00%	\$465.51
T. MORALES COMPANY SUBTOTAL:				\$2,793.04

SUBCONTRACTS WITH MARKUPS:	Amount	Op	Rate	Extended
Subcontract Qte No. 1 - Control Panels USA Inc.	\$1,896.00	X	1	\$1,896.00
Subcontract Qte No. 2 -	\$0.00	X	1	\$0.00
Subcontract Qte No. 3 -	\$0.00	X	1	\$0.00
SUBTOTAL:				\$1,896.00
Overhead & Profit @ 20%:	\$1,896.00	X	20.00%	\$379.20
SUBCONTRACTS SUBTOTAL:				\$2,275.20

SUBTOTAL / SUMMARY:	Amount	Op	Rate	Extended
Liability / Builders Risk:	\$5,068.24	X	2.00%	\$101.36
SUBTOTAL:				\$5,169.60
P&P Bond with Warranty:	\$5,169.60	X	0.65%	\$33.60
GRAND TOTAL THIS CHANGE:				\$5,203.20



Control Panels USA Inc.

CHANGE ORDER REQUEST 18-1350-08

DATE: May 2023
PROJECT MANAGER: Mike Brooks
c/o Aaron Hoelker
COMPANY NAME: T. Morales Company
PHONE: (254) 793-4344

PROJECT: Lick Creek WWTP Capacity Expansion
DATE NEEDED:

DESCRIPTION OF CHANGE: SCADA Modifications for Blower "Loss of Power" Alarms

☐ DELAY ☐ UNABLE TO PROCEED

Mike,

Per your request, CP USA is submitting this Change Order Request to provide the SCADA modifications to add a "Loss of Power" Alarm for each of the (3) Lone Star Blowers. CP USA will provide programming services to incorporate the new alarm for each blower. CP USA will require the I/O Mapping and any other documentation from Lone Star Blower that is necessary to complete this scope of work. CP USA excludes terminations and installations of any sort; this change order request is for SCADA Programming services only.

CP USA proposes a Lump Sum Contract in the amount of **\$1,896.00** for providing the SCADA modifications for the Lone Star Blowers "Loss of Power" Alarm, as discussed above. If you have any questions or concerns, please do not hesitate to contact me.

Regards,

William Burdick
Project Manager
WBurdick@controlpanelsusa.net

AUTHORIZATION TO PROCEED:

By signing below I accept the change order as described above:

Printed Name

Date

Authorized Client Signature

CSA CONSTRUCTION, INC.
LICK CREEK WWTP
CHANGE ORDER PROPOSAL
CENTRIFUGE DRAIN PER RCP-046

DATE: MAY 19, 2023

GENERAL SUMMARY

ITEM	DESCRIPTION	LABOR	TAXABLE TOOL/EQUIP.	EXEMPT MATERIAL	TOTAL	VENDOR
1	CENTRIFUGE DRAIN	1,000	250	7,600	8,850	CSA
2					0	
3					0	
4					0	
		1,000	250	7,600	8,850	CHECK 8,850
SUBTOTAL					8,850	
DIRECT JOB COSTS						
	LABOR BURDEN	40.00%			400	
	SALES TAX	8.25%			21	
SUBTOTAL					9,271	
OH&P		15.00%			1,391	
SUBTOTAL					10,661	
TOTAL					10,661	

COMMENTS
1. REQUEST 4 DAYS

CSA CONSTRUCTION, INC.

2314 McAllister Road

Houston, TX 77092

P: 713-686-8868/F: 713-689-8889



OWNER: City of College Station, Texas

PROJECT: Lick Creek Waste Water Treatment Plant

ENGINEER: Freese Nichols

CM:

CONTRACTOR: CSA Construction, Inc.

PREPARED BY: Fred Doddd

DATE: May 19, 2023

DESCRIPTION OF CHANGE: Centrifuge Drain Modifications

DESCRIPTION	QUANTITY	LABOR UNIT	TOTAL	TAXABLE TOOLS & EQUIP UNIT	TOTAL	EXEMPT MATERIAL UNIT	TOTAL	TOTAL
8" Stainless FI X Pe (Core & Main)	1 ls	-	-	-	-	1,800.00	1,800	1,800
8" DIP Spool Piece @ 90 Bend (Core & Main)	1 ls	-	-	-	-	1,500.00	1,500	1,500
Misc Piping for wash water	1 ls	-	-	-	-	800.00	800	800
Field Welding/Fitting of New Drain Spool	1 ls	-	-	-	-	3,000.00	3,000	3,000
CSA Labor	1 ls	1,000.00	1,000	250.00	250	-	-	1,250
Touch Up Painting	1 ls	-	-	-	-	500.00	500	500
SUBTOTALS			1,000		250		7,600	8,850

CSA CONSTRUCTION, INC.
LICK CREEK WWTP
CHANGE ORDER PROPOSAL
INFLUENT PUMP STATION INSTRUMENTS PER RCP-044

DATE: MAY 23, 2023

GENERAL SUMMARY

ITEM	DESCRIPTION	LABOR	TAXABLE TOOL/EQUIP.	EXEMPT MATERIAL	TOTAL	VENDOR
1	ELECTRICAL INSTALLATION	0	0	10,849	10,849	MORALES
2	CORE DRILL HOLE	0	0	1,250	1,250	HOLES, INC
3	CLEANOUT LIFT STATION	500	0	3,413	3,913	CSA/BADGER
4					0	
		500	0	15,512	16,012	CHECK 16,012
	SUBTOTAL				16,012	
	DIRECT JOB COSTS					
	LABOR BURDEN	40.00%			200	
	SALES TAX	8.25%			0	
	SUBTOTAL				16,212	
	OH&P	5.00%			811	
	SUBTOTAL				17,023	
				TOTAL	17,023	=====

- COMMENTS

1. REQUEST 14 DAYS
2. NO COATINGS INCLUDED



PO Box 859, Florence, Tx 76527
601 South Patterson, Florence, Tx 76527
Phone (254) 793-4344
Fax (254) 793-3044

Project: City of College Station Lick Creek
WWTP Capacity Expansion
Date: May 17, 2023

C.O.R. No. 201909-039 Rev No. 01

Change Order Request

Description of Change Order Request:

Mr. Craig,

This price proposal is to relocate the level transducer and floats at the new Influent Pump Station from the Southwest side of the Pump Station to the North side of the Pump Station as detailed in the attached sketch. As discussed, T. Morales will supply and install a second 12" x 12" x 8" Nema 4X Stainless Steel J-Box which will be mounted directly over the 5" core opening. A neoprene gasket will be installed between the J-Box and the concrete to seal the opening.

In lieu of installing sealite and seal-offs between the Deck Mounted J-Box and the Termination Box, T. Morales will install CGB's in both boxes and allow the float cables and transducer cable to run open air between the two closely mounted boxes. This installation will keep any potential gases from migrating between the two boxes and aid maintenance personnel with removing cables in the future if the transducer or a float needs to be swapped since they will not need to deal with seal-off materials.

The following are some notes, clarifications and exceptions we are taking when pricing this proposal:

- 1) T. Morales excludes cost and responsibility to Core Drill 5" Hole in deck of Pump Station.
- 2) CSA to provide Neoprene Gasket material to be installed between J-Box and concrete deck.
- 3) Pricing is good for (30) days from date of proposal.

Price.....\$10,849.13

Extension in Time Request:

We would request an additional (21) days to be added to our contract time to perform this work.

If you have any questions, please call me at (512) 225-4837.

Sincerely,

Michael D. Brooks

Michael D, Brooks
Project Manager

1-10051

Project Manager

From: George Craig <gcraig@csaconstruction.com>

Sent: Tuesday, May 16, 2023 10:15 AM

To: Gennady Boksiner <gb@freese.com>; John Manning <JWM@freese.com>

Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>

Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. Please report all suspicious messages using the Report Message button in Outlook.

Gennady,

Since John is out, wanted to confirm the intent of this with you in hopes I can get this submitted this week:

In Morales attached sketch, I will have them add a box to cover the hole, similar to the photos which John sent me last week. The box will mount directly to the concrete. We will seal the box connection to concrete with neoprene/and or silicone.

Morales sketch indicated was basically what was discussed in the field. This permits one cored hole, 5" diameter to permit the transducer to be removed from this new cored hole and cabling access for the floats. The floats can be accessed from the future lift station pump hatch. To pull both the floats and transducer out of the same hole, the cored hole would have to be upsized to pull the floats out as the anchor is bigger. I cant find the diameter of the anchor for these floats in the submittal, however I believe it is larger than 5". Either way, we still need some separation distance between these two instruments, which is why they show the floats hung from the future pump access hatch in their sketch.

If we need the capability to remove each instrument from a cored hole and maintain distance from the pumps, the other option is to install a similar assembly on the south side of the lift station. In this case, we would have a 5" cored hole on the north side for the transducer with a box mounted to the top of concrete. We would then core a larger hole (size TBD) on the south side of the structure which would be close to the stairway for the floats to be installed. This method accomplishes the goal of providing access/removal of each instrument out of the lift station via a cored hole, however it increases costs and may provide access issues on the south side by the stairway.

George Craig
CSA Construction, Inc.

From: Gennady Boksiner <gb@freese.com>

Sent: Tuesday, May 16, 2023 8:32 AM

To: George Craig <gcraig@csaconstruction.com>; John Manning <JWM@freese.com>

Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>

Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

We can, if you like, but John is on vacation this week. So it will be me interpreting electrical codes.

Gennady Boksiner, P.E., BCEE
Project Manager

From: George Craig <gcraig@csaconstruction.com>
Sent: Tuesday, May 16, 2023 8:31 AM
To: Gennady Boksiner <gb@freese.com>; John Manning <JWM@freese.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

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Gennady,

I suppose we need to meet about this before I turn in a proposal.

George Craig
CSA Construction, Inc.

From: Gennady Boksiner <gb@freese.com>
Sent: Saturday, May 13, 2023 1:21 PM
To: George Craig <gcraig@csaconstruction.com>; John Manning <JWM@freese.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

Thanks for checking, George.

Hopefully we can get this done per our RCP with a the box on top of the cored opening.

Let me know if you like for me to set up a quick Teams meeting with Aaron and John.

Gennady Boksiner, P.E., BCEE
Project Manager

From: George Craig <gcraig@csaconstruction.com>
Sent: Friday, May 12, 2023 9:08 AM
To: John Manning <JWM@freese.com>; Gennady Boksiner <gb@freese.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

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Gennady,

What he shows in his sketch was what came out of their visit at the site to offer best access.

In reviewing their sketch, the cables for both instruments do come from the same cored opening. The transducer is hung just off the north wall away from all pumps. The floats, because of the anchor, are hung from the future pump hatch and so that they can easily remove the floats when needed.

Morales posed a couple more comments to John yesterday evening and we will see what comes from that. We can adjust as needed, hence why I posed these questions before we submitted a CP.

George Craig
CSA Construction, Inc.

From: John Manning <JWM@freese.com>
Sent: Thursday, May 11, 2023 5:14 PM
To: Gennady Boksiner <gb@freese.com>; George Craig <gcraig@csaconstruction.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

Mike, Unfortunately you won't be able to do that. Technically, the lift station is a class I Div. 2 area that extends 3' outside an opening (without a cover). That would require the box with terminal strip to be NEMA 7 rated.

John Manning, P.E.
Associate
Freese and Nichols, Inc.
(817)735-7342

From: Gennady Boksiner <gb@freese.com>
Sent: Thursday, May 11, 2023 4:49 PM
To: George Craig <gcraig@csaconstruction.com>; John Manning <JWM@freese.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

I'll let John chime in, but this is not what I thought we asked for. Some notes:

- The floats and transducer need to be coming from the same location of the new core opening. The way the level floats are shown right now, they're too close to the pumps.
- The opening needs to have some means of sealing. We can't have an open hole to the atmosphere.

John will provide additional thoughts.

Gennady Boksiner, P.E., BCEE
Project Manager

From: George Craig <gcraig@csaconstruction.com>
Sent: Thursday, May 11, 2023 4:40 PM
To: Gennady Boksiner <gb@freese.com>; John Manning <JWM@freese.com>
Cc: Mike Brooks <mbrooks@moralescompany.com>; Aaron Hoelker <ahoelker@moralescompany.com>
Subject: FW: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

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Gennady,

See the attached sketch and below. I am just wanting to make sure everyone is on the same page before I submit this.

George Craig
CSA Construction, Inc.

From: Mike Brooks <MBrooks@moralescompany.com>

Sent: Thursday, May 11, 2023 4:15 PM

To: George Craig <gcraig@csaconstruction.com>

Cc: Aaron Hoelker <AHoelker@moralescompany.com>

Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

George,

I don't believe this is what Aaron had in mind when he discussed things with Kent and Kevin.

As per the attached sketch, our J-Box would standing up with an air gap between the J-Box and the Top of the deck. Please remember that our J-Box will have a Back Panel to install terminal Blocks to allow for splicing the floats & transducer cable. The J-Box would have CGB's for the cables entering the J-Box to keep out any gases that would come up from the Lift Station and the Cables would just drop straight in the Deck Hole with no cover.

I guess it's possible to add a 2nd J-Box over the hole and install conduit to the other J-Box we are installing but we would be looking at the cost for the 2nd J-Box and we would have to add seal-offs in the raceway between the two J-Boxes which will make for a maintenance pain if the COCS ever has to change out a float or transducer.

You thoughts?

Thanks,
Mike

Michael D. Brooks

T. Morales Company Electric & Controls, Ltd. **(TECL #17189)**

401 SH 130, Georgetown, Texas 78626 **(Physical/Ship)**

PO Box 1113, Georgetown, Tx 78627 **(Mail)**

(512) 225-4837 **(Mobile)**

mbrooks@moralescompany.com



SPECIALIZING IN THE WATER & WASTEWATER INDUSTRY

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From: George Craig <gcraig@csaconstruction.com>

Sent: Thursday, May 11, 2023 3:47 PM

To: Mike Brooks <MBrooks@moralescompany.com>

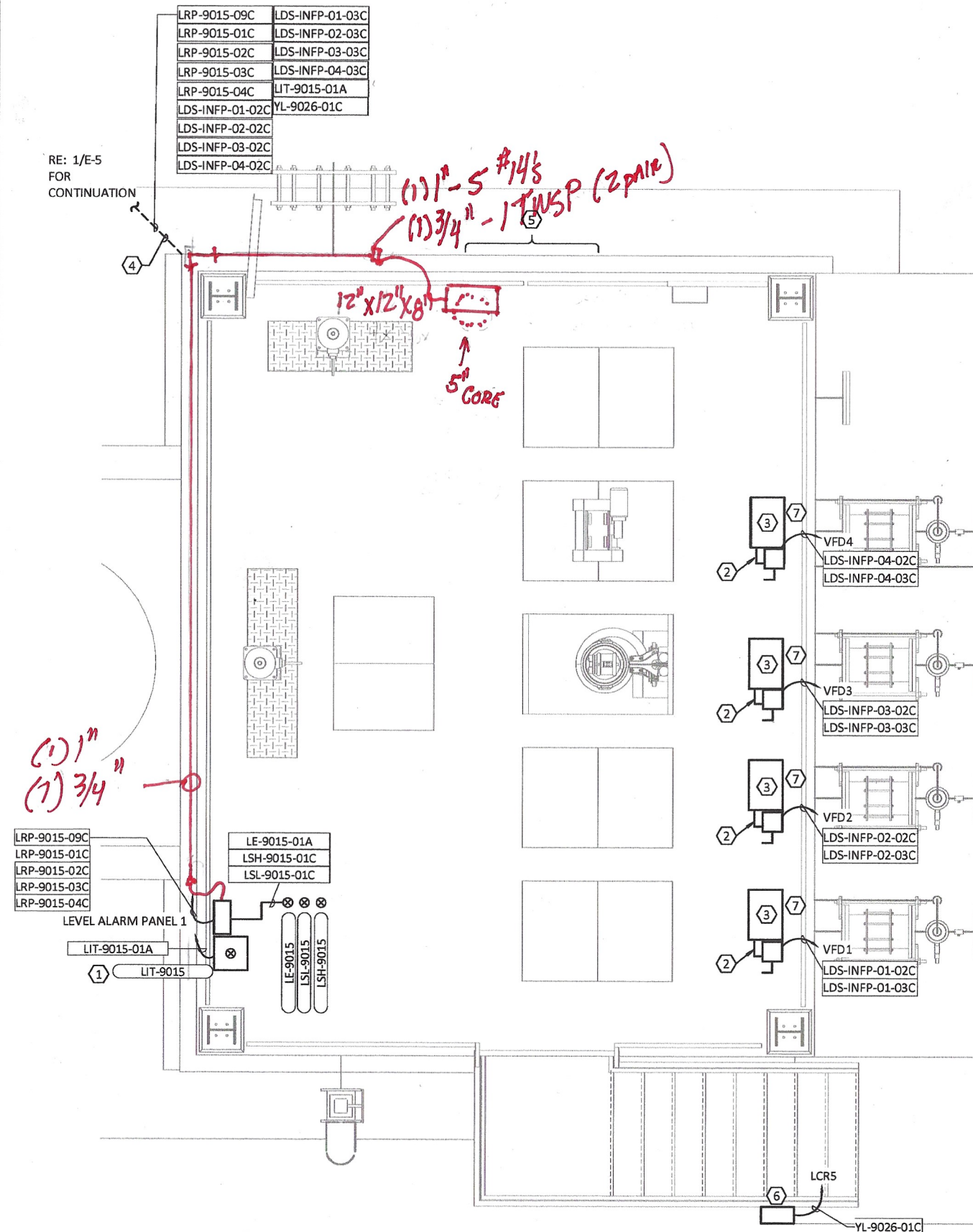
Cc: Aaron Hoelker <AHoelker@moralescompany.com>

Subject: RE: Lick Creek WWTP Capacity Expansion - TMC COR 039 (Rev00) - Relocate Level Instruments at Influent Pump Station

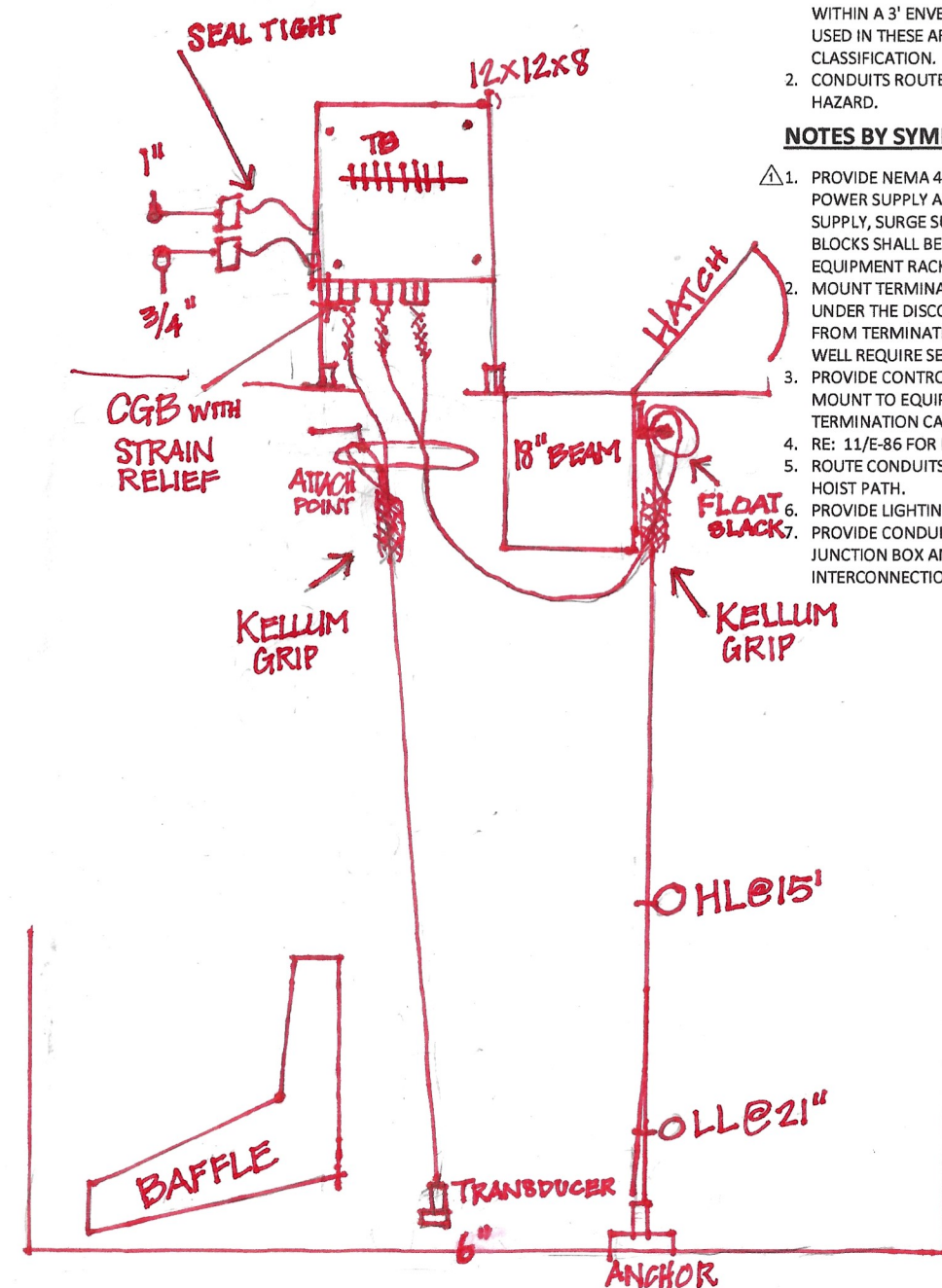
Real quick, I wanted to make sure about a cover for the cored hole. Manning sent me this. See attached. Is this how its figured?

George Craig
CSA Construction, Inc.

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1 IPS 1 CONTROL PLAN
1/2" = 1'-0"



GENERAL NOTES

1. AREA INSIDE THE WET WELL IS HAZARDOUS LOCATION CLASS I, DIV. 1 GROUPS C AND D. AREAS OF WET WELL EXPOSED TO OPEN WELL ARE CLASSIFIED CLASS I, DIV.2, GROUPS C AND D WITHIN A 3' ENVELOPE AROUND THE OPENING. EQUIPMENT USED IN THESE AREAS SHALL BE RATED FOR THE CLASSIFICATION.
2. CONDUITS ROUTED ABOVE SLAB SHALL NOT BE A TRIPPING HAZARD.

NOTES BY SYMBOL "C"

1. PROVIDE NEMA 4X, 304 STAINLESS STEEL ENCLOSURE WITH POWER SUPPLY AND REDLION DISPLAY FOR LEVEL. POWER SUPPLY, SURGE SUPPRESSION, TERMINAL BLOCKS, AND FUSE BLOCKS SHALL BE DIN RAIL MOUNTED. MOUNT ENCLOSURE TO EQUIPMENT RACK. PROVIDE A COVER OVER THE DISPLAY.
2. MOUNT TERMINATION CABINET FOR POWER AND CONTROLS UNDER THE DISCONNECT AND CONTROL STATION. CONDUITS FROM TERMINATION CABINET, TERMINATING INSIDE THE WET WELL REQUIRE SEAL OFF FITTINGS.
3. PROVIDE CONTROL STATION IN 316 STAINLESS STEEL CABINET. MOUNT TO EQUIPMENT RACK WITH DISCONNECT AND TERMINATION CABINET.
4. RE: 11/E-86 FOR DUCT BANK.
5. ROUTE CONDUITS AROUND STRUCTURE. DO NOT OBSTRUCT HOIST PATH.
6. PROVIDE LIGHTING CONTROL PANEL.
7. PROVIDE CONDUIT AND CONDUCTORS BETWEEN THE JUNCTION BOX AND PUMP CONTROL PANEL AS INDICATED ON INTERCONNECTION DIAGRAM.

Freese and Nichols, Inc.
Texas Registered Engineering Firm E-2144

ISSUED FOR CONSTRUCTION ON
2/28/2018

FREESE & NICHOLS
4055 International Plaza, Suite 200
Fort Worth, TX 76105-4895
Phone: (817) 785-7300
Fax: (817) 785-7491
Web: www.freese.com

COLLEGE STATION, TX
LICK CREEK WWTP EXPANSION

ELECTRICAL
INFLUENT PUMP STATION 1
CONTROLS PLAN

PRJ NO.	CL17203	DATE	AUG 2018	DESIGNED	JMM	DRAWN	BCP	REVIEWED	JNH	FILE NAME	ELEC-CCL-
ISSUED FOR CONSTRUCTION		2/28/19		JMM		12/11/18					
ADDITIONAL NO. 5				JMM							
NO.											
Bar is one inch on original drawing. If not one inch on this sheet, adjust scale.											
SHEET	E-15										
SEQ.	240										

CHANGE ORDER SUMMARY SHEET



Project Name: City of College Station - Lick Creek WWTP Capacity Expansion

Change Description: Relocate Level Instruments at New Influent Lift Station

TMC Change No: 201909 - 039 Revision No. 01

Date: May 17, 2023

MATERIALS/QUOTES:	Amount	Op	Rate	Extended
Misc. Materials	\$3,795.64	X	1	\$3,795.64
Quote No. 1:	\$0.00	X	1	\$0.00
Quote No. 2:	\$0.00	X	1	\$0.00
Quote No. 3:	\$0.00	X	1	\$0.00
Subtotal				\$3,795.64
Sales Tax	\$3,795.64	X	0.00%	\$0.00
MATERIAL/QUOTES SUBTOTAL				\$3,795.64

LABOR:	Hours	Op	Rate	Extended
Straight Time Labor:	52	X	\$49.92	\$2,595.84
Overtime Labor:	0	X	\$74.88	\$0.00
Subtotal Manhours:	52			
General Foreman ST Labor (10% of Man Hours):	5	X	\$64.89	\$324.45
General Foreman OT Labor (10% of Man Hours):	0	X	\$97.34	\$0.00
Material Proc. & Hndlg. Labor (5% of Man Hours):	0	X	\$37.84	\$0.00
Update As Built Drawings:	1	X	\$62.95	\$62.95
Project Manager:	1	X	\$102.60	\$102.60
SUBTOTAL LABOR:				\$3,085.84

DIRECT JOB EXPENSES:	Amount	Op	Rate	Extended
Expendable Tools (6% of Materials):	\$3,795.64	X	6%	\$227.74
Equipment:	\$0.00	X	1	\$0.00
O&M's:	\$0.00	X	1	\$0.00
Warranty on Material (3% of Materials):	\$3,795.64	X	0%	\$0.00
Warranty on Labor (3% of Labor):	\$3,085.84	X	0%	\$0.00
SUBTOTAL DIRECT JOB EXPENSES:				\$227.74

T. MORALES COMPANY MARKUPS:	Amount	Op	Rate	Extended
Cost of Labor and Materials:	\$6,881.48	X	1	\$6,881.48
Cost of Tools, Eqpt and Facilities (Direct Job Expenses):	\$227.74	X	1	\$227.74
Work Comp / SS / Unemployment:	\$3,085.84	X	55.00%	\$1,697.21
SUBTOTAL:				\$8,806.43
Overhead & Profit @ 20%:	\$8,806.43	X	20.00%	\$1,761.29
T. MORALES COMPANY SUBTOTAL:				\$10,567.72

SUBCONTRACTS WITH MARKUPS:	Amount	Op	Rate	Extended
Subcontract Qte No. 1 - Control Panels USA Inc.	\$0.00	X	1	\$0.00
Subcontract Qte No. 2 -	\$0.00	X	1	\$0.00
Subcontract Qte No. 3 -	\$0.00	X	1	\$0.00
SUBTOTAL:				\$0.00
Overhead & Profit @ 20%:	\$0.00	X	20.00%	\$0.00
SUBCONTRACTS SUBTOTAL:				\$0.00

SUBTOTAL / SUMMARY:	Amount	Op	Rate	Extended
Liability / Builders Risk:	\$10,567.72	X	2.00%	\$211.35
SUBTOTAL:				\$10,779.07
P&P Bond with Warranty:	\$10,779.07	X	0.65%	\$70.06
GRAND TOTAL THIS CHANGE:				\$10,849.13

NOTES

Item				Material		Labor	
Size	Item Desc	Qty	UOM	Mat Unit	Mat Ext	Lbr Unit	Lbr Ext
	10"x10" Backpanel With Terminal Blocks	1.00					
3/4"	ALUM CONDUIT	40.00	FEET				
1"	ALUM CONDUIT	40.00	FEET				
3/4"	ALUM LB W/CVR & GASK	1.00	EACH				
1"	ALUM LB W/CVR & GASK	1.00	EACH				
3/4"	BONDING BUSHINGS-INS	2.00	EACH				
1"	BONDING BUSHINGS-INS	2.00	EACH				
3/4"	ALUM COUPLING	4.00	EACH				
1"	ALUM COUPLING	4.00	EACH				
3/8.	S.S.FLAT WASHERS	60.00	EACH				
3/8-16	CONCRETE DROP IN ANCHOR	30.00	EACH				
3/8-16	1 1/4 S.S.STOVE BOLT	60.00	EACH				
3/4"	S.S.STRUT STRAPS	10.00	EACH				
1"	S.S.STRUT STRAPS	10.00	EACH				
1 1/2"	304 SSTEEL STRUT	30.00	FEET				
1 1/2"	304 SSTEEL BASE POST	2.00	EACH				
1 1/2"	Ssteel Strut 4 Hole Angle Ftg	10.00	EACH				
3/8"	Ssteel Spring Nut	30.00	EACH				
3/4"	LIQUIDTITE CONDUIT	8.00	FEET				
1"	LIQUIDTITE CONDUIT	8.00	FEET				
3/4"	LIQUIDTITE STR CONN	4.00	EACH				
1"	LIQUIDTITE STR CONN	4.00	EACH				
	12X12X06 Ssteel 304 Hinge Cvr Box	2.00	EACH				
3/4.	KO LABOR ONLY	4.00	EACH				
1.	KO LABOR ONLY	3.00	EACH				
16	4C PWR LIMIT SHIELD	50.00	FEET				
14	XHHW STR CU	250.00	FEET				
SMALL	WIRE TERM-LABOR ONLY	20.00	EACH				
1/2.	WP CORD GRIPS	6.00	EACH				
1/2.	1/4 TO 3/8 KELLEMS	3.00	EACH				
Grand Totals					3,795.64		52.1550



HOLES INCORPORATED

9911 Franklin Road

Houston, TX 77070

Phone: (281) 469-7070

sales@holesinc.com

www.holesinc.com

SWBE, HUB

QUOTE #369435

CUSTOMER INFORMATION

CSA CONSTRUCTION INC
2314 McALLISTER ROAD
HOUSTON, TX 77092

Cust #
CSA CON

(713) 686-8868 **Fax:** (713) 686-8889

Ordered By: QUICO FALCON

Salesman: EDDIE JESTER

JOB INFORMATION

Job Date: 05/11/23 (Thursday)

Arrival:

Estimated Hours: 0.00 \$ 1353

PO #:

Job Request #:

Order Entered: 05/11/23 01:21pm **By:** EJES...

Salesman: EJESTER

JOB SITE INFORMATION

LICK CREEK WWTP
14802 ROCK PRAIRIE RD.

COLLEGE STATION, TX
(713) 204-0642

Foreman: TONY

Jobsite: 7690

General Contractor:

Owner:

Needed At Site

QUANTITY	DESCRIPTION	UNIT	PRICE
1.00	CORE DRILLING 5" X 12" DEEP SLAB CORE DOWN 11 1/2" DEEP & BREAK OFF CORE THEN CORE REMAINING 1/2" & CUSTOMER WILL CATCH 1/2" PIECE MINIMUM CALL OUT	1,250.00	1,250.00
1.00	TAX	103.12	103.12
Stand By Charge: \$150 /hr		TOTAL:	\$1,353.12
*** Conditions and Exclusions Attached ***			

EXCLUSIONS & CONDITIONS

The Holes Companies is in compliance with OSHA Regulatory Standard 1926.1153 on Respirable Crystalline Silica. For more information on how we comply on your jobsite please call our office and ask for our safety department.

Holes Certifications: certificates upon request

Holes Inc ISN # - 400-138187
City of Houston SWBE
Texas HUB

Louisiana Contractors License Holder
Women Business Enterprise Alliance Certified
Concrete Sawing & Drilling Association Certified

This proposal and any subsequent contract price for the work or project covered by this proposal shall be subject to time and cost adjustment for any delay or price increase arising out of or relating to the effects of the recent Coronavirus (COVID-19) outbreak.

The Holes Companies is in compliance with OSHA Regulatory Standard 1926.1153 on Respirable Crystalline Silica. For more information on how we comply on your jobsite please call our office and ask for our safety department.

Hiring Contractor responsibilities:

- 1) All layout, design or structural issues are the responsibility of the hiring contractor.
- 2) Traffic Control & lane closures
- 3) Covering any openings in slabs, suspended slabs, or walls
- 4) Containment and clean up of water / slurry unless otherwise quoted
- 5) Fall protection systems for leading edge work



Badger Daylighting Corp

1406 North Sam Houston Parkway
West
Houston, TX 77038
"An equal opportunity employer"

ESTIMATE	
DATE:	2023/05/22
Reference #:	QT-052223-151789
PREPARED BY:	Christopher Taylor

Customer Information			
Company:	CSA CONSTRUCTION, INC.	Contact Name	George Craig
Contact Phone #	(713) 204-0628	E-mail:	
Billing Address:	2314 MCALLISTER ROAD	Title:	
Bill City/State	Houston, TX 77092	Account #	11125924
Service Address	14802 ROCK PRAIRIE ROAD , College Station, TX, 77845		

Scope of Work	
Badger Infrastructure Solutions will be assisting CSA Construction remove raw sewage from Lick Creek WWTP. 25' down. CSA will provide labor and offsite Disposition. Rates are normal digging conditions and are charged port to port unless otherwise noted. All dig locations are within 20' of the Badger unit. Overtime rates will start after 8 hrs including drivetime. CSA will provide disposition and water after 1st tank. All Badger operators must adhere to DOT regulations. The workday may not exceed 14 hrs without Badger Management approval and a rotation of operators. This estimate is for one day of hydro-vac. CSA will be billed for actual T&M to complete the job. Truck will dispose through hose not gate.	

Service Item	Item Description	Price	UOM	Qty	Amount
Badger Hydrovac With Operator	Up to 8 hrs port to port	\$ 242.00	HR	8	\$ 1,936.00
Badger Hydrovac With Operator Overtime	After 8 hrs port to port	\$ 270.00	HR	2	\$ 540.00
Consumable Materials	Hazmat PPE	\$ 60.00	EA	1	\$ 60.00
Supply Water	1st tank, then additional after if onsite is not provided	\$ 100.00	EA	1	\$ 100.00
Disposition	Customer will provide disposition	\$ 0.00	EA		\$ 0.00
3rd Party Service (TRUCK WASH)	Decontamination of tank	\$ 500.00	EA	1	\$ 500.00
Fluctuating Fuel Recovery					\$ 277.85
Total:					\$ 3,413.85

*This proposal contains the budgetary estimate to complete the work as described above under the heading "Scope of Work".
If any part of the work varies from that described in Scope of Work, or if unexpected digging conditions are encountered (eg rocks, rubble, roots, etc...), then additional charges shall apply. All work will be done on a time and material basis. All work will be done in accordance with the terms and conditions contained in Badger Daylighting Corp.'s standard terms and conditions (USA) attached hereto.*

Company: _____

PO#: _____

Name (please print): _____

Title: _____

Signature: _____

Date: _____

I am authorized to bind the Company

July 13, 2023
Item No. 7.4.
Electric Right-of-Way Tree Trimming Services

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a three-year contract for Electric Right-of-Way Tree Trimming Services to Pannell Contracting, LLC, dba Pannell Co., not to exceed \$3,390,180.

Relationship to Strategic Goals:

Core Services and Infrastructure
Financially Sustainable City

Recommendation(s): Staff recommends awarding the proposal for Electric System Right-of-Way Tree Trimming Services to Pannell Contracting, LLC dba Pannell Co., not to exceed \$3,390,180, for a three-year contract.

Summary: This contract is for three (3) years for labor and equipment necessary to provide electric right-of-way tree trimming of overhead power lines and the clearing of easements and rights-of-way for construction of new power lines. The RFP requested firm pricing for three years, with each year specifying areas of the electric system to be trimmed. Standard Electric utility practices have recommended a three (3) year system trimming cycle.

Staff issued Request for Proposal (RFP) #23-057 on March 28, 2023, for the “Annual Service Agreement for Electric System Right-of-Way Tree Trimming Services”, and the Request for Proposal was opened on April 25, 2023. Ten (10) sealed proposals were received and were reviewed by Electric Staff to ensure the compliance of required specifications. Pannell Contracting, LLC dba Pannell Co. met the needed specifications.

Budget & Financial Summary: Funds are budgeted within the Electric Fund.

Attachments:

1. 23-057 Summary Tabulation
2. Contract is available for review in the City Secretary's Office

RFP#23-057
SUMMARY TABULATION OF SUPPLIERS

Event Number RFP#23-057

Event Title Electric Right-of Way Tree Trimming and or
Event Type Removal Services
Issue Date RFP
Close Date 3/30/2023 11:57:45 AM (CT)
5/2/2023 02:00:00 PM (CT)

Responding Supplier	City	State	Response Total
United Clearing Services Inc.	Boerne	TX	\$1,535,655.90
TUF Industrial	Stafford	TX	\$1,940,562.94
F&F Expert Tree Service	Spring	TX	\$2,713,802.26
Pannell Contracting, LLC	Leakey	TX	\$3,390,108.67
Looks Great Services of MS, Inc.	Columbia	MS	\$3,447,676.25
Davey Tree Surgery Company	Livermore	CA	\$3,597,359.00
Asplunduh Tree Experts, LLC	Willow Grove	PA	\$4,016,087.83
BDG Trees, LLC	Houston	TX	\$4,253,262.40
Trees, LLC	Houston	TX	\$5,829,448.02
Wright Tree Service, Inc.	West Des Moines	IA	\$5,676,438.37

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

July 13, 2023

Item No. 7.5.

Amendment to 2611 Texas Avenue Lease Agreement

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an amendment to the lease of 3.1 acres including an approximately 28,949 square foot building at 2611 Texas Avenue South to International American Education Federation, Inc., d/b/a International Leadership of Texas, for two additional 1-year renewals for a total contract amount of approximately \$1,771,952.

Relationship to Strategic Goals:

- Good Governance
- Financial Sustainability

Recommendation(s): Staff recommends approval of the lease amendment.

Summary: This item is an amendment to the lease agreement with the International Leadership of Texas School to renew the current lease for an additional two-year term as the organization works toward a new facility to serve as a permanent home for their high school. The initial three-year agreement in the amount of approximately \$1,015,580 was executed in May 2020 to coincide with the construction of the new Police Department building and the resulting vacancy of 2611 Texas Avenue. The agreement met ILT's interest in short-term space and has been mutually beneficial to both parties in fulfilling public and educational purposes. The City will continue to utilize the rent proceeds for public purposes while also retaining flexibility for the premises into the future.

With this amendment, the lease term extends to September 30, 2025.

Budget & Financial Summary: Base rent is calculated on an annual basis but prorated as a monthly rate and paid on a monthly basis. Rent for the extended lease term is as follows:

October 1, 2023, through September 30, 2024 (\$368,962.20 total):

October 1-September 30: \$30,746.85/mo

October 1, 2024, through September 30, 2025 (\$387,410.28 total):

October 1-September 30: \$32,284.19/mo

Attachments:

1. 20300455 Amd 1



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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 20300455-AMD1

PROJECT#: N/A

BID/RFP/RFQ#: N/A

Project Name / Contract Description: 2611 Texas Avenue South - Lease Agreement Amendment

Name of Contractor:

International American Education Federation, Inc., d/b/a International Leadership of Texas

CONTRACT TOTAL VALUE: \$ 1,771,951.54

Grant Funded Yes ☐ No ☒

If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☒ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ☒ N/A

Section 3 Plan Incl. ☐ Yes ☐ No ☒ N/A

Buy America Required ☐ Yes ☐ No ☒ N/A

Transparency Report ☐ Yes ☐ No ☒ N/A

☐ NEW CONTRACT ☐ RENEWAL # ☐ CHANGE ORDER # ☒ OTHER Amendment 1

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)

Amendment 1 to extend Contract # 20300455 for two additional years (October 1, 2023 - September 30, 2025).

CRC Approval Date*: N/A (If required)* Council Approval Date* 5/28/2023 Agenda Item No*: 3.9

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

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

SIGNATURES RECOMMENDING APPROVAL

[Signature]
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

6/13/23
DATE

ASST CITY MGR – CFO

DATE

LEGAL DEPARTMENT

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

MAYOR (if applicable)

DATE

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on

Scanned into Laserfiche on

Original(s) sent to Fiscal on

**FIRST LEASE AMENDMENT
LEASE AGREEMENT FOR 2611 TEXAS AVENUE SOUTH**

This Lease Amendment is by and between **The City of College Station**, a Texas Home Rule Municipal Corporation, (with its successors, called "Landlord"), and **International American Education Federation, Inc., d/b/a International Leadership of Texas, a Texas Domestic Nonprofit Corporation** (with its successors, called "Tenant"), in consideration of their mutual covenants and agreements in this Lease Amendment, the parties agree as follows:

WHEREAS, Landlord and Tenant entered into a Lease Agreement for 2611 Texas Avenue South, College Station, Texas dated May 28, 2020 with contract number 20300455 (collectively hereinafter referred to as the "Lease"), for certain real property containing approximately 28,949 square feet located at 2611 Texas Avenue South, College Station, Texas 77840; and

WHEREAS, Landlord and Tenant desire to renew the Lease for two additional 1-year renewal periods, and

WHEREAS, Landlord and Tenant desire to adjust the Base Rent for the renewal periods,

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises set forth below, Landlord and Tenant agree to amend the Lease follows:

1. Section 1.01. Definitions.

"Lease Term" means the period commencing on August 1, 2020, and terminating at midnight on September 30, 2025 unless the Lease Term shall sooner terminate as set forth in this Lease.

2. Section 2.04. Base Rent. Base Rent may be calculated on an annual basis but prorated as a monthly rate and paid on a monthly basis. Rent for the initial Lease Term (August 1, 2020 – September 30, 2023) and two 1-year renewal periods (October 1, 2023 – September 30, 2025) shall be as follows:

August 1, 2020 through July 31, 2021:

August 1 – September 30:	\$0/mo.
October 1 – July 31:	\$26,870.30/mo.

August 1, 2021 through July 31, 2022:

August 1 – July 31:	\$28,076.51/mo.
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August 1, 2022 through September 30, 2023:

August 1 – September 30:	\$29,282.71/mo.
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October 1, 2023 through September 30, 2024:

October 1 – September 30: \$30,746.85/mo.

October 1, 2024 through September 30, 2025:

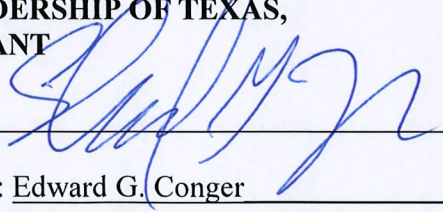
October 1 – September 30: \$32,284.19/mo.

In the event the Lease Term is renewed in accordance with the provisions of this Lease, the Base Rent for each additional term this Lease is in effect shall be adjusted to reflect any upward change in the market rate as determined by the Consumer Price Index for Housing or upward as may be mutually agreed upon in writing by the parties. The Base Rent shall be paid monthly with the first payment due and payable within ten (10) days of the execution of this Lease, and with the due date to fall thereafter on the first of the month. Failure to timely pay the Base Rent to Landlord shall be considered a breach and may result in termination of this Lease by Landlord pursuant to the termination provisions herein.

3. All other terms, covenants and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, this Lease Amendment is hereby executed in multiple originals as of the date approved by the Landlord.

**INTERNATIONAL AMERICAN EDUCATION
FEDERATION, INC. d/b/a INTERNATIONAL
LEADERSHIP OF TEXAS,
TENANT**

By:  _____

Name: Edward G. Conger

Title: CEO-Superintendent

Date: 6.6.23

**CITY OF COLLEGE STATION,
LANDLORD**

By: _____

City Manager

Date: _____

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

July 13, 2023
Item No. 7.6.
Gas Circuit and Outdoor Breakers

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on bid awards to KBS Electrical Distributors for substation gas circuit breakers, not to exceed \$314,540 and to Texas Electric Cooperative for outdoor vacuum circuit breakers, not to exceed \$357,561 for Electric inventory.

Relationship to Strategic Goals:

Core Services and Infrastructure
Financially Sustainable City

Recommendation(s): Staff recommends award of items as detailed in the attached bid tabulation with KBS Electrical Distributors for an amount not to exceed \$314,540 and to Texas Electric Cooperative for an amount not to exceed \$357,561. This purchase aligns with historical years' activity for Electrical warehouse needs.

Summary: Staff issued Bid #23-070 on May 17, 2023, for the "Purchase of Gas Circuit Breakers and Outdoor Breakers", and the Bid was opened on June 6, 2023. Five (5) sealed proposals were received and were reviewed by Electric Staff to ensure the compliance of required specifications. KBS Electrical Distributors' and Texas Electric Cooperative's responses met the needed specifications.

Upon Council approval, staff will issue a purchase order to each vendor.

Budget & Financial Summary: Funds are available and budgeted within the Electrical Fund. Various projects will be expensed as materials are requisitioned by staff and issued from inventory.

Attachments:

1. 23-070 AWARD

BID#23-070
AWARD of
OUTDOOR BREAKERS

						Ryan Sales		KBS ELECTRICAL DIST.		Turtle & Hughes		Texas Electric		J.H. Davidson &	
						(JP Ryan Enterprises, Inc)						Cooperatives		Associates, LLC	
Line #	Description	Mfgr	Mfgno	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	145 kV SF6 Ga145 kV SF6 Gas Circuit Breakers, 3000 AMP (285-079-00012) - In accordance to ANSI/IEEE Standards. The breaker shall be an outdoor type, dead tank, three pole, single-throw, 60 Hertz, automatic D.C.Trip, complete with all necessary accessories, except for protective relays which will be furnished by others. The Bidder shall include the cost of a Factory Service Engineer to provide the City Services for a five (5) year warranty.			4	EA	No Bid		\$78,635.00	\$314,540.00	No Bid		No Bid		\$116,925.00	\$467,700.00
2	OUTDOOR BREAKOUTDOOR BREAKER 15KV R3 1200 AMP (285-014-00009) - ABB Product ID #MB11130CCMH5KMZ402. Type R-MAG three phase air insulated, magnetically actuated, vacuum circuit breaker. Factory assembled, wired and routine tested per ANSI C37.09.	ABB	MB11130CCMH5KMZ402	5	EA	\$37,182.00	\$185,910.00	No Bid		\$38,275.12	\$191,375.60	\$39,561.00	\$197,805.00		
3	OUTDOOR BREAKOUTDOOR BREAKER 15KV R3 3000 AMP (285-014-00009) - ABB Product ID #MB11440PPMH5KMZ401. Type R-MAG three phase air insulated, magnetically actuated, vacuum circuit breaker. Factory assembled, wired and routine tested per ANSI C37.09.	ABB	MB11440PPMH5KMZ401	3	EA	No Bid		No Bid		\$51,521.12	\$154,563.36	\$53,252.00	\$159,756.00		
						Total Price	\$185,910.00	Total Price	\$314,540.00	Total Price	\$345,938.96	Total Price	\$357,561.00	Total Price	\$467,700.00

Unacceptable Alternate

Vendor did not qualify type of Breaker & did not respond to email questions

July 13, 2023
Item No. 7.7.
College Heights Utility Rehab Project - Design

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a professional services contract with Kimley-Horn and Associates, Inc., not to exceed \$857,400, plus the City's contingency amount of \$30,000, for a total appropriation of \$887,400 for the College Heights Utility Rehabilitation Project. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Relationship to Strategic Goals:

Core Services and Infrastructure
Neighborhood Integrity

Recommendation(s): Staff recommends approval.

Summary:

This project includes the rehabilitation of water and wastewater lines in the northside area, in the vicinity of Eisenhower Street, University Drive, Jane Street, and Nimitz Street. The sanitary sewer lines need replacement due to an increase in service disruptions caused by deteriorating lines, shallow lines, and poor access to mains located near back lot lines. The water distribution lines need replacement due to an increase in service disruptions caused by deteriorating lines and reduced fire flow due to the existence of smaller lines within the respective area.

The College Heights Utility Rehabilitation project will include approximately 4,000 LF of 8-inch water distribution line, approximately 2,000 LF of 12-inch water distribution line, approximately 1,000 LF of 6-inch sanitary sewer collection line, and approximately 5,000 LF of 8-inch sanitary sewer collection line.

A RFQ (request for qualifications) was issued in January 2023 and received responses from 3 design firms. The top two firms were interviewed, with Kimley-Horn and Associates, Inc. selected as the most qualified.

Budget & Financial Summary:

A combined total budget of \$900,000 is included for these projects in the Water and Wastewater Capital Improvement Projects Funds. A combined total of \$2,372 has been expended or committed to date, leaving a combined balance of \$897,628 for this contract and future expenses.

Attachments:

1. College Heights Location Map
2. College Heights Design Vendor Signed Contract

College Heights Utility Rehabilitation
Project Location Map





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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300610 PROJECT#: WA2302/WW2300 BID/RFP/RFQ#: 23-025

Project Name / Contract Description: College Heights Utility Rehab

Name of Contractor: Kimley-Horn and Associates, Inc.

CONTRACT TOTAL VALUE: \$ 857,400

Grant Funded ☐ Yes ☐ No

If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☐ N/A

Section 3 Plan Incl. ☐ Yes ☐ No ☐ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ☐ N/A

Buy America Required ☐ Yes ☐ No ☐ N/A

Transparency Report ☐ Yes ☐ No ☐ N/A

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

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)

A combined total budget of \$900,000 is included for these projects in the Wastewater Capital Improvement Projects Fund.

A combined total of \$2,372 has been expended or committed to date, leaving a combined balance of \$897,628 for this contract and future expenses.

CRC Approval Date*: N/A (If required)* Council Approval Date*: 7.13.23 Agenda Item No*:

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

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

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

6/28/2023

DATE

LEGAL DEPARTMENT

DATE

ASST CITY MGR – CFO

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on

Scanned into Laserfiche on

Original(s) sent to Fiscal on

**CITY OF COLLEGE STATION
ARCHITECTS & ENGINEERING PROFESSIONAL SERVICES CONTRACT
WITH CONSTRUCTION**

This Contract is between the **City of College Station**, a Texas home-rule municipal corporation, (the “City”) and **Kimley-Horn and Associates, Inc.**, a North Carolina corporation (the “Consultant”), whereby the Consultant agrees to provide the City with certain professional services as described herein and the City agrees to pay the Consultant for those services.

**ARTICLE I
SCOPE OF SERVICES**

1.01 In consideration of the compensation stated in paragraph 2.01 below, the Consultant agrees to provide the City with the professional services as described in **Exhibit “A”**, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows (the “Project”):

College Heights

**ARTICLE II
PAYMENT**

2.01 In consideration of the Consultant’s provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit “B”**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed Eight Hundred Fifty-Seven Thousand Four Hundred and NO /100 Dollars (\$ 857,400.00).

**ARTICLE III
TIME OF PERFORMANCE AND CONSTRUCTION COST**

3.01 The Consultant shall perform all professional services necessary for the complete design and construction documentation of the Project within the times set forth below and in Section 3.02. Consultant expressly agrees that such times are as expeditious as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Furthermore, the Consultant shall perform with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

- (a) Conceptual Design: 182 **calendar days** after the authorization to commence planning.
- (b) Preliminary Design: 252 **calendar days** after authorization to commence PPD.
- (c) Final Design: 343 **calendar days** after authorization to commence final design.

3.02 All design work and other professional services provided under this Contract must be completed by the following date(s):

See Attached Schedule

3.03 Time is of the essence of this Contract. The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible and with adequate resources and manpower in order to complete the work by the times specified. Promptly after the execution of this Contract, the Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant's services to meet the City's project milestone dates, which are included in this Contract. The Consultant's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The time limits established by this schedule over which Consultant has absolute control shall not be exceeded without written approval from the City. Consultant may request in writing an extension of the contract time due to delays beyond their control. In the event that a deadline provided in this Contract is not met by the Consultant, Consultant shall provide the City with a written narrative setting forth in a reasonable degree of detail a plan of recovery to overcome or mitigate the delay which may include (i) employing additional people, or (ii) accelerating the work by working longer hours on any portion of the Project that is deemed by the City to be behind schedule ("Recovery Plan"). With the City's approval, Consultant shall execute the Recovery Plan at no additional cost to the City.

(a) **Liquidated Damages.**

- (1) The time for the completion of all Work described in this Agreement are reasonable times for the completion of each task by the agreed upon days or dates, taking into consideration all conditions, including but not limited to the usual industry conditions prevailing in this locality. The amount of liquidated damages for the Consultant's failure to meet contractual deadlines specifically set forth in the Consultant's scope of services and schedule are fixed and agreed on by the Consultant because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would

sustain and shall be deducted by the City from current amounts owed to Consultant for payment or from final payment.

- (2) As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Consultant to achieve timely completion of the Work, if the Consultant should neglect, or fail, or refuse to complete the Work within the times specified in the Consultant's scope of services and schedule, or any proper extension thereof granted by the City's Representative pursuant to this Agreement, then the Consultant does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Consultant's total compensation the sum of **TWO HUNDRED FIFTY and 00/100 DOLLARS (\$250.00)** for each and every calendar day that the Consultant shall be in default after the time(s) stipulated completion of the task(s) in question, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet any of the deadlines specified in the Consultant's scope of services and schedule for completion in this Agreement.

3.04 The Consultant's services consist of all of the services required to be performed by Consultant, Consultant's employees and Consultant's sub-consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Consultant shall contract and employ at its expense sub-consultants necessary for the design of the Project, and such sub-consultants shall be licensed as required by the State of Texas and approved in writing by the City.

3.05 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, be in charge of Consultant's services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.

3.06 Consultant shall be responsible for the coordination of its services with those of its subconsultants, the City, and the City's consultants, including the coordination of all drawings and design documents relating to Consultant's design and used on the Project, regardless of whether such drawings and documents are prepared by Consultant. Consultant shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Consultant and for its compliance with all applicable codes, ordinances, regulations, laws and statutes. Upon receipt from the City, the Consultant shall review the services and information furnished by the City and the City's consultants for accuracy and completeness. The Consultant shall provide prompt written notice to the City if the Consultant becomes aware of any error, omission or inconsistency in such services or information. Once notice has been provided to the City, the Consultant shall not proceed without written instruction from the City to do so.

3.07 Consultant's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost, represent the Consultant's best judgment as a design professional familiar with the construction industry.

3.08 The construction budget for this Project, which is established as a condition of this Contract is \$3,720,000.00. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE IV CONCEPTUAL DESIGN

4.01 Upon the Consultant's receipt from the City of a letter of authorization to commence planning, the Consultant shall meet with the City for the purpose of determining the nature of the Project. The Consultant shall inquire in writing as to the information it believes the City may have in its possession that is necessary for the Consultant's performance. The City shall provide the information within its possession that it can make available to the Consultant. The City shall designate a representative to act as the contact person on behalf of the City.

4.02 The Consultant shall determine the City's needs with regard to the Project, including, but not limited to, tests, analyses, reports, site evaluations, needs surveys, comparisons with other municipal projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Consultant shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Consultant shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Consultant shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases. Consultant shall confirm that the Project can be designed and constructed for the dollar amount of the Project budget, if applicable.

4.03 The Consultant shall prepare a Conceptual Design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The Consultant shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the City's Program, the Project Schedule and budget. The Consultant shall reach an understanding with the City regarding the requirements of the Project. The Conceptual Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Consultant shall meet with City staff and the City Council to make a presentation of its report.

ARTICLE V PRELIMINARY DESIGN

5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to commence Preliminary

Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

5.02 The Consultant shall prepare the Preliminary Design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Consultant shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate both the cost of each category of work involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

5.03 Upon completion of the Preliminary Design of the Project, the Consultant shall so notify the City. Upon request the Consultant shall meet with the City staff and City Council to make a presentation of its Preliminary Design of the Project. The Consultant shall provide an explanation of the Preliminary Design, including any material changes and deviations that have taken place from the Conceptual Design, a cost estimate, and shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VI FINAL DESIGN

6.01 The City shall direct the Consultant to commence work on the Final Design of the Project by sending to the Consultant a letter of authorization to begin work on the Final Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with Final Design of the Project, the Consultant shall immediately prepare the Final Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Final Design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.

6.02 Notwithstanding the City's approval of the Final Design, the Consultant warrants that the Final Design will be sufficient and adequate to fulfill the purposes of the Project.

6.03 The Consultant shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's current pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the construction contractor. The Consultant hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.

6.04 The Consultant shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon

request of the City, the Consultant shall meet with City staff and the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design, including identification of all material changes and deviations that have taken place from the Preliminary Design Documents and a cost estimate. The Consultant shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VII BID PREPARATIONS & EVALUATION

7.01 The Consultant shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Consultant shall meet with City staff and the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.

7.02 The Consultant shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Consultant shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the Final Design of the Project, then the Consultant, at its sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the Final Design of the Project.

7.03 Where substitutions are requested by a construction contractor, the Consultant shall review the substitution requested and shall recommend approval or disapproval of such substitutions.

ARTICLE VIII CONSTRUCTION

8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Contract unless modified by written instrument.

8.02 The Consultant shall make visits to the site, to inspect the progress and quality of the executed work of the construction contractor and its subcontractors and to determine if such work is proceeding in accordance with the contract documents. The minimum number of site visits and their frequency shall be established by the City and Consultant prior to commencement of construction. Consultant shall periodically review the as-built drawings for accuracy and completeness, and shall report its findings to the City.

8.03 The Consultant shall keep the City informed of the progress and quality of the work. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers

or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.

8.04 The Consultant shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Consultant's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

8.05 The Consultant shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Consultant shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.

8.06 The Consultant shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Consultant shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Consultant shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the work. Consultant shall receive no additional compensation for providing clarification of the drawings and specifications.

8.07 The Consultant shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Consultant's recommendation of payment, being based upon the Consultant's on-site inspections and its experience and qualifications as a design professional, shall constitute a recommendation by the Consultant to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Consultant's recommendation for payment.

8.08 Upon notification from the construction contractor that the Project is substantially complete, the Consultant shall conduct an inspection of the site to determine if the Project is substantially complete. The Consultant shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project to verify final completion.

8.09 The Consultant shall not be responsible for the work of the construction contractor or any of its subcontractors, except that the Consultant shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Consultant's negligent acts or omissions. This provision shall not alter the Consultant's duties to the City arising from the performance of the Consultant's obligations under this Contract.

8.10 The Consultant shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.

8.11 The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project without an advance, written authorization from the City.

8.12 The Consultant shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.

8.13 The Consultant shall assist the construction contractor and City in obtaining a Certificate of Occupancy by accompanying governing officials during inspections of the Project if requested to do so by the City.

ARTICLE IX CHANGE ORDERS, DOCUMENTS & MATERIALS

9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the City. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project. The schedules, milestones, timelines, and deadlines contained in this Agreement, the Scope of Services, and the Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Consultant shall submit an updated schedule that reflects changes authorized by approved change orders.

9.02 When the original contract amount plus all change orders is \$100,000 or less, the City Manager or his delegate may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council must approve such change order prior to commencement of the services.

9.03 When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his delegate may approve the written change order provided the change order does not exceed \$50,000 and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract, the City Council must approve such change order prior to commencement of the services or work. Thereafter, any additional change orders exceeding \$50,000 or any additional change orders totaling 25 percent following such council approval, must be approved by City Council.

9.04 Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such

additional services shall be waived. If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

9.05 The Consultant shall furnish the City with both electronic (PDF) and CAD file sets of all plans and specifications. The Consultant shall provide the City one (1) set of reproducible, mylar record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. The Consultant shall provide copies of Work Product including documents, computer files if available, surveys, notes, and tracings used or prepared by the Consultant. The foregoing documentation, the Consultant's Work Product, and other information in the Consultant's possession concerning the Project shall be the property of the City from the time of preparation. The Consultant shall furnish one set of digital files representing the final record drawings.

ARTICLE X WARRANTY, INDEMNIFICATION & RELEASE

10.01 As an experienced and qualified design professional, the Consultant warrants that the information provided by the Consultant reflects the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. The Consultant warrants that the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of all other services under this Contract are performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their Work Product or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

10.02 The Consultant shall promptly correct any defective Work Product, including designs or specifications, furnished by the Consultant at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the City's rights hereunder.

10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final Work Product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract.

The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.

10.04 The Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as its personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

10.05 Indemnity.

- (a) To the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City, its Council members, officials, officers, agents, employees, and volunteers (separately and collectively referred to in this paragraph as "Indemnatee") from and against all claims, damages losses and expenses (including but not limited to attorney's fees) arising out of or resulting from any negligent act, error or omission, intentional tort or willful misconduct, intellectual property infringement or including failure to pay a subconsultant, subcontractor, or supplier pursuant to this Contract by Consultant, its employees, subcontractors, subconsultants, or others for whom Consultant may be legally liable ("Consultant Parties"), but only to the extent caused in whole or in part by the Consultant Parties. IF THE CLAIMS, ETC. ARE CAUSED IN PART BY CONSULTANT PARTIES, AND ALSO IN PART BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OR ALL OF THE INDEMNITEES OR ANY OTHER THIRD PARTY, THEN CONSULTANT SHALL ONLY INDEMNIFY ON A COMPARATIVE BASIS, AND ONLY FOR THE AMOUNT FOR WHICH CONSULTANT PARTIES ARE FOUND LIABLE AND NOT FOR ANY AMOUNT FOR WHICH ANY OR ALL INDEMNITEES OR OTHER THIRD PARTIES ARE LIABLE.**
- (b) To the fullest extent permitted by law, Consultant agrees to defend the Indemnitees where the indemnifiable acts listed in Article 10 above occur outside the course of performance of professional services (i.e. non-professional services) and the claim is not based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, employee, or other entity over which the governmental agency exercises control, other than the Consultant or Consultant Parties.**
- (c) Consultant shall procure liability insurance covering its obligations under this section.**

- (d) It is mutually understood and agreed that the indemnification provided for in this section 10.05 shall indefinitely survive any expiration, completion or termination of this Contract. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

10.06 Release. The Consultant releases, relinquishes, and discharges the City, its Council members, officials, officers, agents, employees, and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party. There shall be no additional release or hold harmless provision other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

10.07 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, release or other obligations under Paragraphs 10.05 and 10.06, such legal limitations are made a part of the obligations and shall operate to amend same to the minimum extent necessary to bring the provision(s) into conformity with the requirements of such limitations, and as so modified, the obligations set forth therein shall continue in full force and effect.

ARTICLE XI INSURANCE

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

During the term of this Contract Consultant's insurance policies shall meet the minimum requirements of this section:

11.02 Types. Consultant shall have the following types of insurance:

- (a) Commercial General Liability.
- (b) Business Automobile Liability.
- (c) Workers' Compensation/Employer's Liability.
- (d) Professional Liability.

11.03 Certificates of Insurance. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees and volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as Exhibit C, and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

11.04 General Requirements Applicable to All Policies. The following General Requirements to all policies shall apply:

- (a) Only licensed insurance carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance.
- (c) "Claims made" policies will not be accepted, except for Professional Liability insurance.
- (d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits of liability except after thirty (30) calendar days prior written notice has been given to the City of College Station.
- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

11.05 Commercial General Liability Requirements. The following Commercial General Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- (b) Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- (c) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- (d) The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.06 Business Automobile Liability Requirements. The following Business Automobile Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current. A. M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.07 Workers' Compensation/Employers Liability Insurance Requirements. The following Workers' Compensation Insurance requirements shall apply; and the term "contractor" shall be construed to mean "consultant" as identified in this Contract:

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- (b) The workers' compensation/Employer's Liability insurance shall include the following terms:
 - i. Employer's Liability limits of \$1,000,000 for each accident is 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 Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:
 - i. Definitions:

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

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

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

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends

during the duration of the project.

- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:
 - A. a certificate of coverage, prior to the other person beginning work on the project; and
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the

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

7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

11.08 Professional Liability Requirements. The following Professional Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum of \$1,000,000 per claim and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of College Station when requested.
- (c) Consultant must continuously maintain professional liability insurance with prior acts coverage for a minimum of two years after completion of the Project or termination of this Contract, as may be amended, whichever occurs later. Coverage under any renewal policy form shall include a retroactive date that precedes the earlier of the effective date of this Contract or the first performance of services for the Project. The purchase of an extended discovery period or an extended reporting period on this policy will not be sufficient to comply with the obligations hereunder.
- (d) Retroactive date must be shown on certificate.

ARTICLE XII USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

12.01 Any and all drawings, specifications and other documents prepared, furnished, or both prepared and furnished by Consultant or any Subconsultant or other designer contracted under Consultant pursuant to this Contract (including, without limitation, the Construction Documents)

("Work Product"), shall be the exclusive property of the City, whether the Project is completed or not. Upon completion or termination of this Contract, Consultant shall promptly deliver to the City all records, notes, data, memoranda, models, and equipment of any nature that are within Consultant's possession or control and that are the City's property or relate to the City or its business. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's Work Product and related documents and information relating to the Project.

12.02 Consultant warrants to City that (i) Consultant has the full power and authority to enter into this Contract, (ii) Consultant has not previously assigned, transferred or otherwise encumbered the rights conveyed herein, (iii) Work Product is an original work of authorship created by Consultant's employees during the course of their employment by Consultant, and does not infringe on any copyright, patent, trademark, trade secret, contractual right, or any other proprietary right of any person or entity, (iv) Consultant has not published the Work Product (including any derivative works) or any portion thereof outside of the United States, and (v) to the best of the Consultant's knowledge, no other person or entity, except City, has any claim of any right, title, or interest in or to the Work Product.

12.03 Consultant shall not seek to invalidate, attack, or otherwise do anything either by act of omission or commission which might impair, violate, or infringe the title and rights assigned to City by Consultant in this Article 12 of the Contract.

12.04 The documents prepared by Consultant may be used as a prototype for other facilities by the City. The City may elect to use the Consultant to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype. If so, the Consultant is obligated to perform the work for an additional compensation that will fairly compensate the Consultant and its sub-consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Consultant will not be responsible for errors and omissions of a subsequent architect or engineer. The Consultant shall commit its subconsultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.

12.05 In the event of termination of this Contract for any reason, the City shall receive all Work Product and original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

12.06 Only the details of the drawings relating to this Project may be used by the Consultant on other projects, but they shall not be used as a whole without written authorization by the City. The City-furnished forms, conditions, and other written documents shall not be used on other projects by the Consultant.

ARTICLE XIII TERMINATION

13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. The Consultant shall be compensated for the services satisfactorily performed prior to the termination date.

13.02 If, through any cause, the Consultant fails to fulfill its obligations under this Contract, or if the Consultant violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Consultant **five (5)** calendar days written notice. The Consultant will be compensated for the services satisfactorily performed prior to the termination date.

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

ARTICLE XIV MISCELLANEOUS TERMS

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

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

City of College Station

Attn: Edward McDonald

PO BOX 9960

1101 Texas Ave

College Station, TX 77842

emcdonald@cstx.gov

Kimley-Horn and Associates,
Inc. 

Attn: Eli D. Puente

2800 South Texas Ave #201

Bryan, TX 77802

eli.puente@kimley-horn.com

14.03 No action or failure to act by the City shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing. No waiver of any provision of the Contract shall be of any force or effect, unless such waiver is in writing, expressly stating to be a waiver of a specified provision of the Contract and is signed by the party

to be bound thereby. In addition, no waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition and shall not in any way limit or waive that party's right thereafter to enforce or compel strict compliance with the Contract or any portion or provision or right under the Contract.

14.04 This Contract represents the entire and integrated contract between the City and the Consultant and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

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

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

14.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof added by Contractor to this Contract as exhibits that conflict with such laws, or that conflict with the terms and conditions herein excluding the additions by Contractor. In either case, the applicable law or the applicable provision of this Contract excluding such conflicting addition by Contractor shall prevail. The parties understand this section comprises part of this Contract without necessity of additional consideration.

14.08 The Consultant, its agents, employees, and subconsultants must comply with all applicable federal and state laws, the charter and ordinances of the City of College Station, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the services required by this Contract.

14.09 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract. If there is a conflict between a provision in any documents provided by Consultant made a part of this Contract and any other provision in this Contract, the latter controls.

14.10 This Contract goes into effect when duly approved by all the parties hereto.

14.11 Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.

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

14.13 Verification No Boycott of Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

14.14 Verification No Boycott of Energy Companies. Subject to § 2274.002 Texas Government Code Consultant herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of this Contract.

14.15 Force Majeure. Force majeure shall be any acts of God or the public enemy; compliance with any order, rule, regulation, decree, or request of any governmental authority or agency or person purporting to act therefore; acts of war, public disorder, rebellion, terrorism, or sabotage; floods, hurricanes, or other storms; strikes or labor disputes; or any other cause, whether or not of the class of kind specifically named or referred to herein, not within the reasonable control of the Party affected. A delay in or failure of performance of either Party shall not constitute a default hereunder nor be the basis for, or give rise to, any claim for damages, if and to the extent such delay or failure is caused by force majeure.

List of Exhibits

- A. Scope of Services
- B. Payment Schedule
- C. Certificates of Insurance

KIMLEY-HORN AND ASSOCIATES,
INC.

By: Michael D Lucas

Printed Name: Michael Lucas

Title: Regional Contract Lead

Date: 6/28/2023

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
SCOPE OF SERVICES

**COLLEGE HEIGHTS WATER AND WASTEWATER NEIGHBORHOOD UTILITY
REHABILITATION PROJECT
CITY OF COLLEGE STATION**

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or the "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of College Station (the "City") to provide professional services for the above referenced project. Our project understanding, scope of services, schedule and fee are below.

PROJECT UNDERSTANDING

The College Heights Water and Wastewater Rehabilitation Project involves the replacement and/or rehabilitation of approximately 13,080 linear feet of existing 1-inch to 20-inch water lines and 6,600 linear feet of 6-inch to 12-inch wastewater lines. The College Heights area is bounded by Cooner Street to the north, Tarrow Street to the east, Lincoln Avenue to the south, and Texas Avenue to the west. The project also includes the rehabilitation/replacement of the existing 8" sanitary sewer on Texas Avenue from Hensel Street to Cooner Street. The College Heights neighborhood was established in the mid-1940s and many of the existing water and wastewater lines are substandard size and at the end of their design life.

SCOPE OF SERVICES

Kimley-Horn 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 staff to confirm project scope, personnel, lines of communication, and schedule
- 1.2. Project Status Meetings
 - 1.2.1 Conduct up to twelve (12) project status meetings with the City and other stakeholders to monitor the development of the project and conduct project coordination
 - 1.2.2 Prepare Agendas & Attendance Log for meetings; minutes, including discussion and action items for review and distribution within two (2) business days
- 1.3. Prepare monthly progress reports to the project team (City PM and Kimley-Horn 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 proposed submittals

2. Preliminary Investigation

- 2.1. Data Collection and Record Research
 - Kimley-Horn shall request all available record information along the proposed project corridor from the City of College Station, franchise utilities and other agencies with facilities within the project corridors.
 - 2.1.1 Gather existing survey and topographic data
 - 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

- 2.1.5 Gather existing plat information
- 2.1.6 Gather existing reports and master plans for the area
- 2.1.7 Gather existing CCTV reports and smoke testing results
- 2.1.8 Gather maintenance history on water and sanitary sewer mains
- 2.1.9 Collect property owner and record information
- 2.1.10 Gather existing and proposed right-of-way and easement information
- 2.1.11 Gather existing franchise utility record information
- 2.1.12 Organize record information into project database
- 2.2. Site Investigation
 - 2.2.1 Walk neighborhood utility and street corridors
 - 2.2.2 Document corridors with photographs
 - 2.2.3 Identify potential alignments, conflicts, and issues
- 2.3. Data Review with City
 - 2.3.1 Meet with City to review accuracy of record information
 - 2.3.2 Meeting with City to discuss historical, existing and future conditions along the project corridors

3. Design Survey

- 3.1. Utility and Property Owner Coordination
 - 3.1.1 Coordinate with DIG TESS to locate and mark existing franchise and public utilities prior to performing the field survey
 - 3.1.2 Contact property owners for access to back easements as needed for survey and design field investigations (27 anticipated)
 - TAMU Parcels 79833 and 79835
 - R24341
 - R24342
 - R23490-R23497
 - R23488
 - R367327
 - R23521
 - R24358
 - R24334
 - R18300
 - R358639
 - R88824
 - R367520
 - R107134
 - R23523
 - R23501 Called R0
 - R24205-R24209
- 3.2. Topographic Survey
 - 3.2.1 The limits of the survey shall be approximately 16,100 linear feet of full right-of-way and partial back lots/alleys including:
 - 500 linear feet along Hensel Street
 - 600 linear feet along Texas Avenue at Hensel Street (each side of right-of-way from back of curb to right-of-way line)
 - 400 linear feet along Texas Avenue Crossing at Hensel
 - 400 linear feet along Texas Avenue crossing Poplar Street
 - 400 linear feet along University Drive (Southwest Side)
 - 1000 linear feet along University Drive (Northeast Side)
 - 670 linear feet along Jane Street
 - 670 linear feet along Eisenhower Street
 - 1300 linear feet along Nimitz Street
 - 1100 linear feet along MacArthur Street

- 600 linear feet along back lot/alley between Eisenhower and Nimitz
 - 900 linear feet perpendicular to University Drive (three crossings)
 - 2,200 linear feet along Poplar Street and Eisenhower Street
 - 1800 linear feet along Live Oak Street
 - 750 linear feet along Chappel Street and Peyton Street
 - 700 linear feet along Tarrow Street
 - 300 linear feet along Gilbert Street
 - 800 linear feet along Ash Street
 - 400 linear feet between Eisenhower and Nimitz
 - 400 linear feet between Turner St. and Chappel St.
 - 1000 linear feet on southeast side of University Drive from Nimitz to Chappel St.
- 3.2.2 Utilize control points set during the right-of-way survey and set additional control points (X,Y&Z) on the ground as needed based on City of College Station Coordinate System
- 3.2.3 Prepare topographic design survey showing existing visible elements and 100-foot cross-sections including, but not limited to the following:
- Existing pavement, curbs, sidewalks, barrier free ramps, etc.
 - Property corners, easement corners and driveways
 - Existing inlets, manholes, junction boxes, outfalls, fire hydrants, valve boxes and erosion control
 - Culverts and bridges
 - Utility manholes, cleanouts, vaults, water valves, water meters, sprinkler heads, telephone poles, power poles, utility markers, other public utilities, and franchise utilities
 - Traffic signal poles, cabinets, and other signal equipment
 - Signs (excluding temporary signs)
 - Trees, landscaping and hardscaping
 - Buildings
 - Retaining walls
 - Fence limits and material types
 - Other applicable physical features that could impact design
- 3.2.4 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 information in accordance with the City of College Station 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. Subsurface Utility Engineering

- 4.1. Level A – Vacuum excavation of existing utility lines up to fifteen (15) locations (up to 8 feet below existing grade).
- 4.1.1 Identify utility type, size, material and depth
 - 4.1.2 Provide sketch of utility information collected
 - 4.1.3 Set survey stake with identification number and depth
 - 4.1.4 Restore surface to existing condition
 - 4.1.5 Survey pothole locations and provide coordinates and elevations (x,y,z)

5. Geotechnical Investigation

- 5.1. Perform a geotechnical analysis of the site utilizing a qualified geotechnical laboratory to determine and characterize subsurface conditions and make recommendations regarding backfill, embedment, compaction and conditions related to construction by boring, jacking and tunneling, as needed. The geotechnical analysis shall include the following:
- 5.1.1 Subsurface exploration including four (4) sample bores at approximately fifteen (15) feet depth.

- 5.1.2 Laboratory tests for classification purposes and strength characteristics could include moisture contents, unit dry weights, Atterberg limits, compression strength tests and grain-size analyses.
- 5.1.3 Engineering services that address soil and groundwater conditions as well as recommendations for site and subgrade preparation, groundwater control, sanitary sewer construction considerations (open excavation and trenchless).

A geotechnical report will be furnished by the geotechnical engineer to present the results of the field and laboratory data as well as analyses and recommendations. Two (2) hard copies and one electronic copy of the report will be provided by the geotechnical engineer. The data contained in the geotechnical report will be made available to contractors during the bidding process for information purposes.

6. Preliminary Water and Wastewater Design

- 6.1. Field verification of survey and base map
- 6.2. Preliminary water and wastewater layout approval (30%)
 - 6.2.1 Prepare horizontal layout of water and wastewater lines on base map
 - 6.2.2 Prepare cross sections at key locations for clarity
 - 6.2.3 Identify horizontal and vertical clearances and conflicts
 - 6.2.4 Identify easement requirements
 - 6.2.5 Identify locations for potential subsurface utility investigations
 - 6.2.6 Identify permitting requirements
 - 6.2.7 Meet with City staff for review and consensus on the preliminary horizontal layout
- 6.3. Preliminary water and wastewater line plan/profile preparation (60%)
 - 6.3.1 Prepare (22"x34") Plan/Profile sheets at a 1"=20' horizontal and 1"=4' vertical scale (approximately 35 sheets anticipated).
 - 6.3.2 Plan view of the base map shall have all above ground features shown and clearly labeled along with existing property lines, easements and utilities based on field ties and record information
 - 6.3.3 Plan view shall include design notes for stationing, size, manholes, valves, fittings and horizontal changes in direction
 - 6.3.4 Profile shall include design notes for stationing, size, slope, flow lines, pipe material, embedment, length and construction method
 - 6.3.5 Prepare preliminary water and wastewater design details
 - 6.3.6 Site verification of preliminary design
- 6.4. Franchise Utility Coordination
 - 6.4.1 Contact franchise utilities to discuss existing and future lines along the project corridor
 - 6.4.2 Send one set of preliminary water and wastewater plans to each franchise utility for their review. Request each franchise utility to verify the size, type, and location of their utilities
 - 6.4.3 Coordinate with the franchise utilities if any relocations are required. Notify the City if any relocations will be required (franchise utility relocation design is not included in the Kimley-Horn scope of services)
- 6.5. Property Owner Coordination
 - 6.5.1 Meet with property owners and/or their representatives to address issues and concerns (up to six (6) meetings are anticipated)
- 6.6. Prepare preliminary general notes and details
- 6.7. Compile and prepare an updated opinion of probable construction cost for the entire project using recent average unit bid prices which are representative of similar types of construction in the local area.
- 6.8. Preliminary design submittal (60%)
 - 6.8.1 Submit two (2) hard copies and one electronic copy to the City for review and comment
 - 6.8.2 Submittal shall include the following:
 - Preliminary design plans (22"x34")
 - Preliminary special and City standard technical specifications (for inclusion into the contract documents prepared by the City)

- Opinion of probable construction cost
- 6.9. Review Meeting
- 6.9.1 Attend one (1) meeting with City staff to present and review the preliminary water and wastewater line design

7. Jurisdictional Coordination

- 7.1. TxDOT
- 7.1.1 Consultant will prepare and attend up to three (3) virtual meetings with City staff and TxDOT representatives for coordination of proposed work within TxDOT ROW.
- 7.1.2 Consultant will prepare and distribute meeting minutes to attendees.
- 7.1.3 Consultant will assist City in preparing an exhibit including proposed utility alignments and identifying proposed surface appurtenances for coordination with TxDOT.
- 7.1.4 Consultant will assist City to complete the UIR application for the following crossings and parallel utility line installations in TxDOT ROW:
- BS6-R (Texas Avenue)
 - FM-60 (University Drive)

8. Final Water and Wastewater Line Design

- 8.1. Incorporate and/or respond to the City of College Station's preliminary design submittal review comments (one (1) round of comments anticipated in proposed effort)
- 8.2. Incorporate and/or respond to the franchise utilities' preliminary design submittal review comments (one (1) round of comments anticipated in proposed effort)
- 8.3. Incorporate and/or respond to the property owners' preliminary design submittal review comments (one (1) round of comments anticipated in proposed effort)
- 8.4. Prepare final general notes and details
- 8.5. Prepare final special technical specifications
- 8.6. Prepare updated opinion of probable construction cost
- 8.7. Incorporate subsurface utility engineering investigations information
- 8.8. Final design submittal (95%)
- 8.8.1 Submit two (2) hard copies and one electronic copy to the City for review and comment
- 8.8.2 Submittal shall include the following:
- Final design plans
 - Technical specifications (for inclusion into the contract documents prepared by the City)
 - Opinion of probable construction cost in accordance with AACE standards
- 8.9. Review Meeting
- 8.9.1 Attend one (1) meeting with City staff to present and review the final sanitary sewer trunk line design
- 8.10. Incorporate the final design (95%) submittal review comments (one (1) round of comments anticipated in proposed effort)
- 8.11. Final design submittal (100%)
- 8.11.1 Submit the following signed, sealed and dated final construction drawings, special provisions, bid form (in excel format) and specifications:
- 1 – copy of final design submittal in electronic PDF format on CD
 - 2 – 22"x34" sets of construction drawings on bond paper
 - 2 – 11"x17" sets of construction drawings on bond paper

9. Storm Water Pollution Prevention Plan (SWPPP) and Erosion Control Plan

- 9.1. Prepare plan showing the location of proposed temporary and/or permanent erosion control devices
- 9.2. Compile applicable City standard details. Modify standard details as needed.
- 9.3. Prepare storm water pollution prevention plan (SWPPP) documentation to be included in the project specifications. The implementation of the SWPPP shall be the responsibility of the contractor and shall incorporate the erosion control plan.

10. Traffic Control Plan

- 10.1. Develop typical traffic control plan for lane closure during construction
 - 10.1.1 Temporary signing and striping, barricades, and other channelization devices
 - 10.1.2 Traffic control plan general notes
 - 10.1.3 Prepare traffic control details to clarify intent of design
 - 10.1.4 Assumes up to eight (8) locations where a traffic control plan will be necessary

11. Tree Protection Plan

- 11.1. Identify areas where tree removal will be required due to construction
- 11.2. Identify trees that will be removed and trees that shall be protected
- 11.3. Prepare tree protection plan showing size and type of trees to be removed and protected
- 11.4. Prepare tree protection details
- 11.5. Meet with City staff to present and review tree protection plan and details

12. Public Meetings

- 12.1. Prepare for and attend four (4) public meetings during the preliminary and final design tasks
- 12.2. Assist the City with preparing exhibits and a PowerPoint presentation for the public meeting
- 12.3. Assist the City with preparing notices for the public meeting
- 12.4. Assist the City with preparing handouts for the public meeting
- 12.5. Assist the City with preparing meeting notes from the public meeting

13. Bidding Phase Services

- 13.1. Provide assistance to the City during bidding by preparation and delivery of addenda for plan holders and responses to questions submitted by plan holders.
- 13.2. Attend a scheduled pre-bid conference
- 13.3. Attend bid opening

14. Record Drawings

- 14.1. Obtain and review comments and field changes on the “as-built” redline construction plans from City and/or Contractor.
- 14.2. Prepare record drawings based on comments and field changes. Since Kimley-Horn will not be providing resident engineering services and not observing on a full-time bases, we will not seal the record drawings. The record drawings will be provided in the following format:
 - AutoCAD File (1) copy
 - PDF (1) copy
 - 22"x34" Mylar Hardcopy (1) copy (4 mil double matte)
- 14.3. Submit one set of record drawings to TCEQ.

15. Easement Legal Descriptions and Exhibits

- 15.1. Prepare easement instruments (Metes and Bounds and graphic exhibits of easements required for proposed wastewater mains as needed, including temporary construction easements, in accordance with current City ROW Mapping requirements
 - 15.1.1 One (1) instruments are anticipated
- 15.2. Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor (three (3) originals of each, City to provide standard language) and shall contain the following:
 - 15.2.1 Parcel number
 - 15.2.2 Area required
 - 15.2.3 Area remaining
 - 15.2.4 Legal description
 - 15.2.5 Current owner
 - 15.2.6 Any existing platted easements or easements filed by separate instrument including easements provided by utility companies
 - 15.2.7 All physical features

- 15.2.8 Metes and bounds description of parcel to be acquired. The description shall be provided on a separate sheet from the exhibit. Each type of easement shall be described separately
- 15.2.9 Submit Easement Instruments for review and approval by the City's Land Agent
- 15.2.10 The City will be responsible for preparing the easement dedication language and providing title commitments

16. Construction Phase Services

The fee for this task is based on the project being constructed in one phase.

16.1. Pre-Construction Conference

- 16.1.1 Consultant will attend a Pre-Construction Conference prior to commencement of Work at the Site.

16.2. Visits to Site and Observation of Construction (maximum of 18 site visits)

- 16.2.1 Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client informed of the general progress of the Work.

- 16.2.2 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 Client 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 Kimley-Horn 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.

16.3. Recommendations with Respect to Defective Work

- 16.3.1 Consultant will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.

16.4. Clarifications and Interpretation

- 16.4.1 Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.

16.5. Change Orders

- 16.5.1 Consultant may recommend Change Orders to Client, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.

16.6. Shop Drawings and Samples

- 16.6.1 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.

- 16.7. Substitutes and "or-equal"
- 16.7.1 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.
- 16.8. Inspections and Tests
- 16.8.1 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 and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute 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 and the facts being certified.
- 16.9. Disagreements between Client and Contractor
- 16.9.1 Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- 16.10. Applications for Payment
- 16.10.1 Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
- 16.10.2 By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.
- 16.11. Substantial Completion
- 16.11.1 Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use; in company with Client and Contractor, conduct a site visit, and prepare a punch list of items to be completed prior to final acceptance, 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 the final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.
- 16.12. Final Notice of Acceptability of the Work
- 16.12.1 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, in writing, 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 upon which it is entitled to rely.

16.13. Limitation of Responsibilities

16.13.1 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.

17. Construction Material Testing Services

The fee for this task is based on the project being constructed in one phase.

17.1. Kimley-Horn will engage a sub consultant to provide construction material testing services for the project during construction. Testing services will be done in accordance with the minimum requirements defined in the current B/CS Unified Specifications. Kimley-Horn and their sub consultant will only respond to test requests made by the City. A minimum of 24 hours notice is required to properly schedule our services. Kimley-Horn shall not be held responsible for tests not performed as a result of a failure to schedule our services or any subsequent damage caused as a result of a lack of testing. Additional testing beyond the minimum requirements shall be an additional service. Re-tests due to deficient work shall be performed at the contractor's expense per the B/CS Unified Specifications. Changes to the project limits or scope of construction, either during design or construction may necessitate a change in testing services and may constitute additional services. The effort for this task was based on services being performed between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday. If services are requested by the City or City's contractor on weekends or holidays, this effort will be approved by City and billed on an hourly basis in addition to the fee established for this task.

17.2. Kimley-Horn or their sub 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 Kimley-Horn 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.

17.3. The following field services are included in this task:

17.3.1 Earthwork

- Sample materials proposed for use as crushed stone base material, subgrade, general site fill, and utility structural backfill materials. Prepare and test the samples to determine classification by sieve analysis, the Atterberg Limits, pH and Moisture Density Relationship (ASTM D-698 or Tex-113-E).
- Perform field gradations on chemically stabilized soils, as well as pH and Atterberg limits.
- Proof roll exposed subgrade prior to placement of fill materials
- Perform field density tests using the nuclear method to determine the moisture content and percent compaction of the soil materials.
- Perform depth checks, Atterberg Limits tests, pH tests, and field density tests every 200 linear feet to determine depth, Plasticity Index, moisture content, and percent compaction of structural fill materials.
- Perform depth checks and field density tests every 200 linear feet to determine depth, moisture content, and percent compaction of the pavement base materials.

17.3.2 Cast-in-Place Concrete

- Provide engineering technician to sample the fresh concrete for each mix,

perform required tests, including slump, air content, concrete temperature, unit weight and cast test specimens during placements at the following frequencies: 1 set of (5) 4"x8" per 50 cubic yards or fraction thereof for each day's placement, whichever is greater, for pavement and sidewalks.

- Perform compressive strength tests of concrete test cylinders cast in the field. One specimen will be tested at 7 days, three specimens will be tested at 28 days, and one "hold" cylinder.

17.3.3 Hot Mix Asphalt Concrete Pavement Monitoring and Testing

- Obtain sample from the field and perform laboratory classification tests including lab molded specimen density, Hveem stability, maximum theoretical density, asphalt content, and gradation. Test will be performed in accordance to the Job-Mix Formula (JMF) of the HMAAC.
- After completion of asphalt paving operations, obtain four asphalt pavement cores from the field for each day's placement. For each core, measure the thickness and calculate the bulk density with respect to the maximum theoretical density.
- If requested, provide Engineering Technician to verify the roller pattern that has been established by the HMAAC Contractor.

Information to be provided by the City

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

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:

- Roadway design and/or street rehabilitation design
- Storm sewer design
- Hike and Bike trail and/or sidewalk design
- Design of any offsite drainage improvements
- Preparation of environmental assessment
- S.U.E. Services
- Furnish additional copies of review documents in excess of the number of the same identified above
- Assist the City as an expert witness in litigation in connection with the project or in hearings before approving and regulatory agencies
- 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
- Submittal to Texas Department of Licensing and Registration (TDLR) for ADA requirements
- Construction staking
- Landscape / Irrigation Design
- Retaining wall design
- "Value engineering" after bidding
- Traffic studies or reports
- SWPPP inspections / coordination
- Any services not listed in the Scope of Services

SCHEDULE

The Consultant shall provide the professional services as expeditiously as practicable to meet the mutually agreed upon schedule. The times for performance shall be extended for delays or suspensions due to circumstances that the Consultant does not control.

<u>Project Deliverable</u>	<u>Time for Completion</u>	<u>Cumulative Time</u>
Site Investigation	4 weeks	4 weeks
Site Survey and Base Mapping	14 weeks	18 weeks
Preliminary Design (30%)	4 weeks	22 weeks
City Review/Address Comments	3 weeks	25 weeks
Neighborhood Public Meeting	1 weeks	26 weeks
Preliminary Design (60%)	10 weeks	36 weeks
City Review/Address Comments	4 weeks	40 weeks
Neighborhood Public Meeting	1 weeks	41 weeks
Final Design (100%)	8 weeks	49 weeks
Advertise for Bid	4 weeks	53 weeks

- End of Scope of Services –

EXHIBIT B
PAYMENT TERMS

☐ Compensation is based on **actual** hours of work/time devoted to providing the described professional services. The Consultant will be paid at a rate of \$_____ per hour, or at the rates per service or employee shown below. The City will reimburse the Consultant for **actual**, non-salary expenses at the rate of _____ percent (____%) above the Consultant's actual costs, or at the rates set forth below. Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract: (\$_____).

The Consultant must submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

-OR-

☒ 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 and upon completion of the services and written acceptance by the City.

The Consultant may submit **monthly** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

Schedule of Payment for each phase:

See attached Fee Summary

College Heights W/WW Neighborhood Utility Rehabilitation		
Task		Subtotal
1	Project Management	\$54,900
2	Preliminary Investigation	\$25,300
3	Design Survey	\$184,200
4	Subsurface Utility Engineering	\$58,500
5	Geotechnical Investigation	\$13,500
6	Preliminary W/WW Design	\$145,700
7	Jurisdictional Coordination	\$9,400
8	Final W/WW Design	\$115,200
9	Erosion Control Plan	\$10,300
10	Traffic Control Plan	\$26,900
11	Tree Protection Plan	\$7,500
12	Public Meetings	\$29,000
13	Bidding Phase Services	\$11,000
14	Record Drawings	\$26,900
15	Easements and Legal Description	\$4,900
16	Construction Phase Services	\$75,700
17	Construction Material Testing Services	\$58,500
Contract Totals =		\$857,400

EXHIBIT C
CERTIFICATE(S) OF INSURANCE

Contract No. _____
A&E Professional Services with Construction
Form 3-06-2023

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/13/2023

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Edgewood Partners Ins. Center 3780 Mansell Rd. Suite 370 Alpharetta, GA 30022	CONTACT NAME: Jerry Noyola PHONE (A/C, No, Ext): 770-220-7699 FAX (A/C, No): E-MAIL ADDRESS: greylingcerts@greyling.com														
INSURED Kimley-Horn and Associates, Inc. 421 Fayetteville Street, Suite 600 Raleigh, NC 27601	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : National Union Fire Ins Co of Pittsburg</td> <td>19445</td> </tr> <tr> <td>INSURER B : Allied World Assurance Co (U.S.) Inc.</td> <td>19489</td> </tr> <tr> <td>INSURER C : New Hampshire Insurance Company</td> <td>23841</td> </tr> <tr> <td>INSURER D : Lloyd's of London</td> <td>085202</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : National Union Fire Ins Co of Pittsburg	19445	INSURER B : Allied World Assurance Co (U.S.) Inc.	19489	INSURER C : New Hampshire Insurance Company	23841	INSURER D : Lloyd's of London	085202	INSURER E :		INSURER F :	
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INSURER F :															

COVERAGES

CERTIFICATE NUMBER: 23-24

REVISION NUMBER:

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

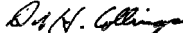
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC OTHER:			GL5268169	04/01/2023	04/01/2024	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			CA4489663 (AOS) CA2970071 (MA)	04/01/2023 04/01/2023	04/01/2024 04/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☒ RETENTION \$10,000			03127930	04/01/2023	04/01/2024	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC015893685 (AOS) WC015893686 (CA)	04/01/2023 04/01/2023	04/01/2024 04/01/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Professional Liab			B0146LDUSA2304949	04/01/2023	04/01/2024	Per Claim \$2,000,000 Aggregate \$2,000,000

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

For All Projects with the City of College Station. The City of College Station, its officials, agents, employees & volunteers are named as Additional Insureds on the above referenced liability policies with the exception of workers compensation & professional liability where required by written contract. The above referenced liability policies with the exception of workers compensation & professional liability are primary & non-contributory where required by written contract. Waiver of Subrogation is applicable where (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

City of College Station P.O. Box 9960 College Station, TX 77842-0000	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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DESCRIPTIONS (Continued from Page 1)

required by written contract & allowed by law. Deductible For Professional Liability: \$25,000. Should any of the above described policies be cancelled by the issuing insured before the expiration date thereof, 30 days' written notice (except 10 days for nonpayment of premium) will be provided to the Certificate Holder.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2023 forms a part of

Policy No. CA4489663 (AOS) issued to Kimley-Horn and Associates, Inc.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT OF SUCH PERSON'S OR ORGANIZATIONS LIABILITY ARISING OUT OF THE USE OF A COVERED AUTO.

I. SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:

- d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.



AUTHORIZED REPRESENTATIVE

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2023 forms a part of

policy No. CA4489663 (AOS) issued to Kimley-Horn and Associates, Inc.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recovery we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

/ AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR
CONTRACTORS - SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	PER THE CONTRACT OR AGREEMENT.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II 6 Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "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.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;
whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	PER THE CONTRACT OR AGREEMENT.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

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

Primary And Noncontributory Insurance

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

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

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

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

Name Of Person(s) Or Organization(s):
PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO.

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

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

This endorsement, effective 12:01 AM^{04/01/2023}

forms a part of Policy No. WC015893685 (AOS)

Issued to Kimley-Horn and Associates, Inc.

By **NEW HAMPSHIRE INSURANCE COMPANY**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY WRITTEN CONTRACT OR AGREEMENT
YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.

This form is not applicable in Kansas for private construction contracts as defined in K.S.A. 16-1801 through K.S.A. 16-1807 or public construction contracts as defined in K.S.A. 16-1901 through 16-1908, except where permitted by statute or other applicable law, such as for use in wrap-up insurance programs.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas, or Utah.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____

Authorized Representative

July 13, 2023
Item No. 7.8.
CCWWTP Fuel Island Project - A1 Pump Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with A1 Pump, Inc. in the amount of \$199,554.42, for construction services for the Carters Creek Wastewater Treatment Plant Fuel Island Project, plus the City's contingency in the amount of \$21,450.00 for a total appropriation of \$221,004.42. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary:

This project includes improvements to the Carters Creek Wastewater Treatment Plant Fuel System. The scope includes constructing a new fuel island with a 3,000 gallon above ground storage tank with pump dispensers and upgraded software for tracking fuel.

The vendor was selected from Sourcewell, a cooperative purchasing program.

The project is proposed to begin in August of 2023 and is contracted to take 180 calendar days to complete.

Budget & Financial Summary: A combined budget in the amount of \$250,000 is included in the Wastewater Capital Projects Fund. A total of \$26,594 has been expended or committed to date, leaving a balance of \$223,405 for this contract and related costs.

Attachments:

1. CCWWTP Fuel System Project Location
2. CCWWTP Fuel System Vendor Signed Contract

Carter Creek Waste Water Treatment
2200 N. Forest Pkwy

Fuel Island
Project Location





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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300570 PROJECT#: WW1869610 BID/RFP/RFQ#: N/A

Project Name / Contract Description: Carter Creek Fuel Island

Name of Contractor: A1 Pump, Inc.

CONTRACT TOTAL VALUE: \$ \$199,554.42

Grant Funded ☐ Yes ☒ No
If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☒ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ☒ N/A

Section 3 Plan Incl. ☐ Yes ☐ No ☒ N/A

Buy America Required ☐ Yes ☐ No ☒ N/A

Transparency Report ☐ Yes ☐ No ☒ N/A

☒ NEW CONTRACT ☐ RENEWAL # N/A ☐ CHANGE ORDER # N/A ☐ OTHER N/A

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)

The vendor was selected from Sourcewell, a cooperative purchasing program.

A total of \$26,594 has been expended or committed to date, leaving a balance of \$223,405 for this contract and related costs.

Funding from project #WW1869610

CRC Approval Date*: N/A (If required)* Council Approval Date*: 07/13/2023 Agenda Item No*: N/A

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

Insurance Certificates: RU Performance Bond: AD Payment Bond: AD Info Tech: N/A

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

6/27/2023
DATE

John D. Haislet
LEGAL DEPARTMENT

6/27/2023
DATE

Jim Costa
ASST CITY MGR – CFO

6/27/2023
DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on _____

Scanned into Laserfiche on _____

Original(s) sent to Fiscal on _____

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

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and A1-Pump, Inc. (the "Contractor") for the construction and/or installation of the following:
Carter Creek Fuel Island.

1. DEFINITIONS

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

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

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

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

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Twenty One Thousand Four Hundred Fifty and 00 /100 Dollars (\$21,450.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: One Hundred Ninety-Nine Thousand Five Hundred Fifty-Four and 42 /100 Dollars (\$199,554.42).

1.07 Contract Documents. The term "Contract Documents" shall mean those documents listed in Section 2.01.

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

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

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

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

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

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

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

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

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

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

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

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

1.20 Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the Work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

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

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

2. CONTRACT DOCUMENTS

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

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

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

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

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

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

3. AWARD OF CONTRACT

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

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

4. CITY'S REPRESENTATIVE

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

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

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

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

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

5. INDEPENDENT CONTRACTOR

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

5.02 Standard of Care. The Work shall be performed in a good and workmanlike manner, and in accordance with this Agreement, and all applicable laws, codes, and regulations. The construction of the Project is subject to amendments and adjustments to the Contract required by any applicable changes in regulations or requested or approved by in writing by the City. If at any time during the progress of the Work the Contractor becomes aware of any errors or omissions in the Plans or Specifications for this Project or that the Agreement deviates from applicable legal requirements, Contractor shall promptly provide written notice thereof to the City. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention.

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

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

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

6. DISORDERLY EMPLOYEES

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

7. HOURS OF WORK

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

8. NATURE OF THE WORK

8.01 It is understood and agreed that the Contractor has, by careful examination, studied and compared the Plans and other Contract Documents, satisfied itself as to the nature and location of the Work, the conditions of

the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the Work, the time needed to complete the Work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the Work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any Work that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

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

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

9. POST-AGREEMENT AWARD MEETINGS

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

(a) Schedule for performance of the Work ("Construction Schedule"). Project Schedule contemplated, including the starting and ending date, as well as an indication of the completion of stages of Work hereunder. Such document, once approved by the City and, if applicable, the City's Consultant shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit E**. If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance. The Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Contractor shall submit an updated Construction Schedule that reflects changes authorized by approved change orders. The Construction Schedule shall not exceed time limits current under the Contract Documents, shall be submitted with each pay application, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

(b) The names and addresses of all proposed subcontractors in writing.

- (c) Schedules of the starting and ending dates of subcontractors and the scope of Work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof, including PDF/electronic versions and CAD files.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

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

10. PROGRESS OF WORK

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

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

- (a) The Contractor shall submit a Construction Schedule and schedule of values at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's Construction Schedule submitted herein. The Contractor shall promptly resubmit a revised Construction Schedule to City's Representative.
- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the Work with dates at which the Contractor will start the several parts of the Work and the estimated dates of completion of the several parts.
- (e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

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

(g) In the event that it is determined by the City that the progress of the Work is not in accordance with the approved Construction Schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

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

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

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

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

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

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

11. SITE CONDITIONS AND MANAGEMENT

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

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

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

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

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

11.06 The Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as any information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the City and the Consultant any errors, inconsistencies or omissions discovered by or made known to the Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor acknowledges the City does not represent nor warrant the accuracy or completeness of information provided by the City related to existing conditions and

locations of existing utilities and services. Such information if provided, is provided to the Contractor as a matter of convenience and does not substitute for the Contractor using due diligence to reasonably observe and or to access space to determine errors, inconsistencies or omissions. In all cases of interconnection of the Work with existing conditions, Contractor shall verify at the site all dimensions relating to such existing conditions.

11.07 Contractor's Structures. The building or locating of structures or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

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

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

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

12. MATERIALS

12.01 Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do

not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02 All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

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

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

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

12.05 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly

removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

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

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

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

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

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

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

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

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

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

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

13. ENTRY, OBSERVATION, TESTING & POSSESSION

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

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

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

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

14. REJECTED WORK

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

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

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

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

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

15. SUBCONTRACTING & SUBCONTRACTORS

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

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

16. PAYMENT

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

16.02 Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require ("Schedule of Values"). The Schedule of Values shall not overvalue early job activities and shall follow the trade divisions of the Specifications so far as possible. Modifications must be approved by City. This schedule, unless objected to by the City, shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit F**. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or

modification, an updated Project Schedule and a statement, backed by the Schedule of Values, showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the Work.

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

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

OR:

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

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

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

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

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

16.09 Unless otherwise provided in the Contract Documents:

- (a) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances; and
- (c) Whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 16.9(a) and (2) changes in the Contractor's costs under Section 16.9(b).

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

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

- (a) Defective work other than defects in design provided to Contractor by a person other than Contractor's agents, contractors, fabricators, or suppliers, or its consultants, of any tier for non-critical infrastructure.
- (b) Failure to timely disclose in writing to the City of a known defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications or other design documents.
- (c) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (d) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (f) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (g) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (h) City's determination of an amount of liquidated damages.
- (i) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (j) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.
- (k) Corrections of mistakes, errors and overpayments in relation to prior pay applications and payments.

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

17. EXTRA WORK CHARGES

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

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

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

OR:

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

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

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

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

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

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

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

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

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

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

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

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

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

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

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

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

18. TIME OF COMPLETION

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

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

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

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

19. SUBSTANTIAL COMPLETION

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

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

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

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

20. FINAL COMPLETION

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

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

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

21. DELAYS

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

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

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

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

22. EXTENSIONS OF TIME

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

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

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

23. LIQUIDATED DAMAGES

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

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either

Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Section 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of Two Hundred and 00 /100 DOLLARS (\$200.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative, and all work will be of good quality, free from faults and defects (other than defects from third parties as set out in Chapter 59 Texas Business and Commerce Code relating to non-critical infrastructure), and in conformance with this Agreement, the other Contract Documents, and recognized industry standards .

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

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

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

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

25.06 Defective Work Discovered During Warranty Period. If any of the Work is found or determined to be either defective, including obvious defects under warranty as set forth in this Section 25, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the Work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by

law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly, upon receipt of written notice by the City, correct the defective work at no cost to the City.

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

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

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

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

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

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

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

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

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

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

from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

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

27. INSURANCE

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

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

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

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

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

- (a) Only licensed Insurance Carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- (c) "Claims Made" policies are not accepted.
- (d) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of College Station.
- (e) The City of College Station, its agents, officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its agents, officials, employees or volunteers.

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

- (a) General Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with

the current A.M. Best Key Rating Guide.

- (b) Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
- (c) Coverage shall be at least as broad as ISO form GC 00 01.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for the City's review and acceptance.
- (e) The coverage shall not exclude the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

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

- (a) Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00, where such exposures exist.

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

Unless otherwise agreed in writing, excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the Agreement, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

27.07 Additional Insured.

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

27.08 Builder's Risk

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

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

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

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

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

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

"A. Definitions:

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

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

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

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

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

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

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

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

persons providing services on the project; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. By signing this Agreement, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

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

- (a)** The company is authorized to do business in the State of Texas.
- (b)** The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Department of Insurance or ISO.
- (c)** Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

28. BOND PROVISIONS

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

- (a)** The Contractor shall execute performance and payment bonds for the full Contract Amount and, if required by Contractor's surety to cover increases in the dollar amounts or amount of Work that is increased by a duly authorized change order, Contractor shall secure performance and payment bond riders to increase the dollar amounts and coverages of the performance and payment bonds.
- (b)** The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.

(c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit B, together with valid original powers of attorney, **at the time of execution of this Agreement by Contractor and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit B**.

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

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

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

29. SURETY

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

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

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

29.02 Should the cost to complete the Work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the Project site, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual

written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

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

30. COMPLIANCE WITH LAW

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

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

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

31. SAFETY PRECAUTIONS

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

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

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

31.04 Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in this Agreement, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as defined in this Agreement). **In the event Contractor**

engages in any of the activities prohibited in this Section 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this section 31.04.

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

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

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

32. TRENCH SAFETY

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

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

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

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

32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems

comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

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

33. INDEMNITY

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

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

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

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

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

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

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

34. RELEASE

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

35. PERMITS AND LICENSES

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

36. ROYALTIES AND LICENSING FEES

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

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

37. BREACH OF CONTRACT & DAMAGES

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

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

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

38. TERMINATION FOR CAUSE

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

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

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

39. TERMINATION FOR CONVENIENCE

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

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

40. RIGHT TO COMPLETE

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

41. CLOSE OUT

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

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

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

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

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

42. TERMINATION CONVERSION

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

43. HIRING

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

44. ASSIGNMENT

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

45. EFFECTIVE DATE

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

46. OTHER TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46.16 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

- (a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Contractor verifies that it (i) does not boycott Israel; and (ii) will not boycott Israel during the term of this Contract;
- (b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and
- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code Contractor herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of this Contract.

List of Exhibits

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

A-1 PUMP, INC.

By: Kevin Prichard

Printed Name: Kevin Prichard

Title: President

Date: 6/26/2023

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

John A. Haislet

City Attorney

Date: 6/27/2023

Jim Carter

Assistant City Manager/CFO

Date: 6/27/2023

EXHIBIT A
DAVIS BACON WAGE RATES

Superseded General Decision Number: TX20210007

State: Texas

Construction Types: Heavy and Highway

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

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

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022, Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022, Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at www.dol.gov/whd/govcontracts.

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER Paving & Curb.....	\$ 12.94	
Structures.....	\$ 12.87	
LABORER Asphalt Raker.....	\$ 12.12	
Flagger.....	\$ 9.45	
Laborer, Common.....	\$ 10.50	
Laborer, Utility.....	\$ 12.27	
Pipelayer.....	\$ 12.79	
Work Zone Barricade Servicer.....	\$ 11.85	
PAINTER (Structures).....	\$ 18.34	
POWER EQUIPMENT OPERATOR: Agricultural Tractor.....	\$ 12.69	
Asphalt Distributor.....	\$ 15.55	
Asphalt Paving Machine.....	\$ 14.36	
Boom Truck.....	\$ 18.36	
Broom or Sweeper.....	\$ 11.04	
Concrete Pavement Finishing Machine.....	\$ 15.48	
Crane, Hydraulic 80 tons or less.....	\$ 18.36	
Crane, Lattice Boom 80 tons or less.....	\$ 15.87	
Crane, Lattice Boom over 80 tons.....	\$ 19.38	
Crawler Tractor.....	\$ 15.67	
Directional Drilling Locator.....	\$ 11.67	
Directional Drilling Operator.....	\$ 17.24	
Excavator 50,000 lbs or Less.....	\$ 12.88	
Excavator over 50,000 lbs...	\$ 17.71	
Foundation Drill, Truck Mounted.....	\$ 16.93	
Front End Loader, 3 CY or Less.....	\$ 13.04	
Front End Loader, Over 3 CY.	\$ 13.21	
Loader/Backhoe.....	\$ 14.12	
Mechanic.....	\$ 17.10	
Milling Machine.....	\$ 14.18	
Motor Grader, Fine Grade....	\$ 18.51	
Motor Grader, Rough.....	\$ 14.63	
Pavement Marking Machine....	\$ 19.17	
Reclaimer/Pulverizer.....	\$ 12.88	
Roller, Asphalt.....	\$ 12.78	
Roller, Other.....	\$ 10.50	
Scraper.....	\$ 12.27	
Spreader Box.....	\$ 14.04	

Trenching Machine, Heavy....\$ 18.48

Servicer.....\$ 14.51

Steel Worker

Reinforcing.....\$ 14.00

Structural.....\$ 19.29

TRAFFIC SIGNAL INSTALLER

Traffic Signal/Light Pole

Worker.....\$ 16.00

TRUCK DRIVER

Lowboy-Float.....\$ 15.66

Off Road Hauler.....\$ 11.88

Single Axle.....\$ 11.79

Single or Tandem Axle Dump

Truck.....\$ 11.68

Tandem Axle Tractor w/Semi

Trailer.....\$ 12.81

WELDER.....\$ 15.97

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union, which prevailed in the survey for this classification, which in this example would be Plumbers 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Division National Office Branch of Wage Surveys. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
 Wage and Hour Division
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

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

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. 4407355

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

THAT WE, A-1 Pump, Inc., as Principal, hereinafter called "Contractor" and the other subscriber hereto FCCI Insurance Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Hundred Ninety Nine Thousand Five Hundred Fifty Four and 42 /100 Dollars (\$ 199,554.42) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for 3,000 gallon above ground tank for CCWWTP fueling station

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

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

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

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

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

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

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

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

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

Bond No. 4407355

FOR THE CONTRACTOR:

ATTEST & SEAL: (if a corporation) (SEAL)

WITNESS: (if not a corporation)

By: [Signature]

Name: Kristi Dillard

Title: Accounting Mgr

Date: July 13th, 2023

(Name of Contractor) A-1 Pump, Inc.

By: [Signature]

Name: KEVIN PRICHARD

Title: PRESIDENT

Date: July 13th, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

By: [Signature]

Name: Jennifer J Biehle

Title: Witness

Date: July 13th, 2023

FCCI Insurance Company
(Full Name of Surety)

6300 University Parkway, Ste 3800

Seattle, WA 98154
(Address of Surety for Notice)

By: [Signature]

Name: Robert James Nitsche

Title: Attorney-In-Fact

Date: July 13th, 2023

FOR THE CITY:

REVIEWED:

John A. Haislet
City Attorney

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

City Manager

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

Contract No. 23300570
Construction Agreement Over \$50,000
Form 12-15-2022



TEXAS STATUTORY PAYMENT BOND

Bond No. 4407355

THE STATE OF TEXAS

§

§

THE COUNTY OF BRAZOS

§

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, A-1 Pump, Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto FCCI Insurance Company, a corporation organized and existing under the laws of the State of Florida, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Hundred Ninety Nine Thousand Five Hundred Fifty Four and 42 /100 Dollars (\$ 199,554.42) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 13th day of July, 2023, for 3,000 Gallon above ground tank for the CCWWTP fueling station, referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

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

Bond No. 4407355

FOR THE CONTRACTOR:

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

By: [Signature]
Name: Kristi Dillard
Title: Accounting Mgr
Date: July 13th, 2023

(Name of Contractor) A-1 Pump, Inc.

By: [Signature]
Name: KEVIN PRUITT
Title: PRESIDENT
Date: July 13th, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

By: [Signature]
Name: Jennifer J. Biehle
Title: _____
Date: July 13th, 2023

FCCI Insurance Company

(Full Name of Surety)

6300 University Parkway, Ste 3800

Seattle, WA 98154

(Address of Surety for Notice)

By: [Signature]
Name: Robert James Nitsche
Title: Attorney-In-Fact
Date: July 13th, 2023

FOR THE CITY:

REVIEWED:

John A. Haislet
City Attorney

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

City Manager

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

Contract No. 23300570
Construction Agreement Over \$50,000
Form 12-15-2022



GENERAL POWER OF ATTORNEY

Know all men by these presents: That the FCCI Insurance Company, a Corporation organized and existing under the laws of the State of Florida (the "Corporation") does make, constitute and appoint:

Robert James Nitsche; Craig Parker; Kenneth Nitsche; Gary A Nitsche

Each, its true and lawful Attorney-In-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed in all bonds and undertakings provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the sum of (not to exceed \$20,000,000.00): \$20,000,000.00

This Power of Attorney is made and executed by authority of a Resolution adopted by the Board of Directors. That resolution also authorized any further action by the officers of the Company necessary to effect such transaction.

The signatures below and the seal of the Corporation may be affixed by facsimile, and any such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.

In witness whereof, the FCCI Insurance Company has caused these presents to be signed by its duly authorized officers and its corporate Seal to be hereunto affixed, this 23rd day of July, 2020.

Attest: Christina D. Welch
Christina D. Welch, President
FCCI Insurance Company



Christopher Shoucair
Christopher Shoucair,
EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

State of Florida
County of Sarasota

Before me this day personally appeared Christina D. Welch, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027

Peggy Snow
Notary Public

State of Florida
County of Sarasota

Before me this day personally appeared Christopher Shoucair, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027

Peggy Snow
Notary Public

CERTIFICATE

I, the undersigned Secretary of FCCI Insurance Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the February 27, 2020 Resolution of the Board of Directors, referenced in said Power of Attorney, is now in force.

Dated this 16th day of June, 2023

Christopher Shoucair
Christopher Shoucair, EVP, CFO, Treasurer, Secretary
FCCI Insurance Company



IMPORTANT NOTICE

To obtain information or make a complaint:

You may call FCCI Insurance Group's (FCCI)* toll-free telephone number for information or to make a complaint at 1-800-226-3224.

You may also write to FCCI Insurance Group Compliance Department e-mail at StateComplaints@fcci-group.com.

For Claims, you may write to FCCI Insurance Group Claim Department e-mail at newclaim@fcci-group.com.

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at 1-800-252-3439.

You may write the Texas Department of Insurance:

PO Box 149104

Austin TX 78714-9104

Fax: 1-512-490-1007

Web: <http://www.tdi.texas.gov>

E-mail: ConsumerProtections@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES

Should you have a dispute concerning your premium or about a claim you should contact FCCI first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND

This notice is for information only and does not become a part or condition of the attached documents.

*The FCCI Insurance Group includes the following insurance carriers: Brierfield Insurance Company, FCCI Advantage Insurance Company, FCCI Commercial Insurance Company, FCCI Insurance Company, Monroe Guaranty Insurance Company, and National Trust Insurance Company.

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/15/2023

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 817-640-5035 Monroe & Monroe Insurance Agency, Ltd. 2921 Galleria Dr., Suite 102 Arlington, TX 76011 Chris Monroe, CIC		CONTACT NAME: Chris Monroe, CIC PHONE (A/C, No, Ext): 817-640-5035 FAX (A/C, No): 817-640-0131 E-MAIL ADDRESS: cmonroe@monroe-monroe.com	
INSURED A-1 Pump, Inc. P.O. Box 4289 Bryan, TX 77805-4289		INSURER(S) AFFORDING COVERAGE INSURER A: Mid-Continent Casualty Co. NAIC # 23418 INSURER B: Texas Mutual Insurance Co. 22945 INSURER C: Allied/Nationwide Insurance 42579 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.

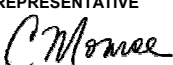
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Pollution Liab ☒ Professional Liab GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	X	X	04GL1086402	09/20/2022	09/20/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ -0- PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	X	X	ACPAPD3140518316	04/06/2023	04/06/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			04XS225939	09/20/2022	09/20/2023	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
B	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	X	0001250584	04/06/2023	04/06/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Installation Fltr			04CIM29370	09/20/2022	09/20/2023	Instl. 250,000
A	Lsd/Rntd Equip			04CIM29370	09/20/2022	09/20/2023	150K Itm 300K Loc

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

The General Liability and Commercial Auto policies include a blanket additional insured and the General Liability, Commercial Auto and Workers' Compensation policies include a blanket waiver of subrogation endorsement which provides additional insured and waiver of subrogation status to the certificate holder, when there is a written "insured contract" **SEE NOTES**

CERTIFICATE HOLDER

CANCELLATION

COLLEGS City of College Station 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 
---	---

NOTEPAD:

HOLDER CODE COLLEGS
INSURED'S NAME A-1 Pump, Inc.

A1PUMP1
OP ID: AD

PAGE 2
Date 05/15/2023

as defined by the policy, between the named insured and the certificate holder which requires such status.

EXHIBIT D
PLANS AND SPECIFICATIONS



PO Box 4280 , Bryan, TX 77805

t. 979-778-2418 f. 979-778-4309

Number AAAQ4438-03

Date May 3, 2023

Sold To

City of CS - CCWWTP
Raquel Gonzales
2200 N Forest Pkwy
College Station, TX 77845

Phone
Fax

Ship To

City of CS - CCWWTP
Raquel Gonzales
2200 N Forest Pkwy
College Station, TX 77845

Phone
Fax

Here is the quote you requested.

Terms	P.O. Number	Ship Via
Due Upon Receipt unless otherwise		

Line	Qty	Description	Unit Price	Ext. Price
------	-----	-------------	------------	------------

City of CS Sourcwell ID: 71884
Gibbarco Sourcwell ID #092920-GVR
Sourcwell contract 082920-GVR gives access to the following types of goods and services:

Gasboy dispensers & fuel management systems
Veeder-Root tank gauges
Red Jacket submersible pumps

1	1	City of College Station - Carter Creek WWTP Fueling Station	\$198,169.42	\$198,169.42
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Scope of work :

Provide and Install a 3,000 gallon above ground tank double wall tank.
one 1,500 gallon compartment

for diesel and a 1,500 gallon compartment for unleaded.

This is NOT a fireguard or Flameshield tank.

Tank details discussed with Fire Marshall and City of CS, UL 142 Double wall tank.

Installation of (2) Fueling pumps on each end of tank mounted to plate on skid.

All piping for fuel will be above ground. To furnish and install Remote fill boxes

with swing check, ball valve and overfill valves for each product.

Provide 6" bollards around perimeter of tank and equipment, paint yellow.

Provide and install (1) outdoor rated panel to include breakers and E stop for Fuel system, card system, and tank monitoring system. Install and

Provide 1 tank monitor

for fuel inventory. Install and provide (1) Enclosure with fan for Tank monitor with Fan.

Provide a mounting location to install a fire extinguisher at fuel Tank. City to provide the actual fire extinguisher.

All available items priced at Sourcwell pricing.

Labor to set, purge, calibrate, startup pumps.

Equipment Included

(2)9853K DF Gasboy Atlas Electronic Fleet Suction Pump - single product

PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - ALL DELIVERY, TRAINING OR CONSULTING SERVICES TO BE BILLED AT PUBLISHED RATES FOR EACH ACTIVITY INVOLVED - GENERALLY ALL HARDWARE COMPUTER COMPONENTS PROPOSED ABOVE ARE COVERED BY A LIMITED ONE YEAR WARRANTY, COVERING PARTS AND LABOUR FOR HARDWARE ONLY AND ON A DEPOT BASIS - WE SPECIFICALLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF

Line	Qty	Description	Unit Price	Ext. Price
------	-----	-------------	------------	------------

side load includes internal hose retractors and RS 485 output cards
 (1)Islander Prime Electronic - 9800 Series with Wireless Gateway terminal
 for fuel point
 (2) Fuel Point Wireless nozzle readers
 Set of 3/4" hanging hardware for unleaded and 1" Hanging Hardware for
 diesel
 Veeder Root TLS4B console with Inventory only probes caps/Floats, printer
 and Software.
 Outdoor Rated Panel with E Stop for Relays and Breakers
 Outdoor Rated Enclosure with Fan for Veeder Root ATG

Exclusions:

City to provide service to panel location.
 City to provide any data to panel/Enclosure location.
 City to provide any router or data Hardware.
 No Dirtwork outside of tank slab prep and chase for electrical or slab for
 Enclosure and panel.
 No concrete outside of tank slab.
 NO rings or vehicle kits.
 NO permitting Fee for city permit.
 NO ET Device or Cell modem for card system included. Based on LAN
 connection.

2		UL 142 AST (Above-ground Storage Tank) 3,000 gallon total storage capacity spilt 1,500/unld and 1,500/dsl		
3	1	EKOS Cellular Modem	\$1,236.00	\$1,236.00
4	1	Cellular Modem Kit for Islander PRIME Installation	\$149.00	\$149.00

SubTotal	\$199,554.42
Tax	\$0.00
Shipping	\$0.00
Total	\$199,554.42

Please contact me if I can be of further assistance.

PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - ALL DELIVERY, TRAINING OR CONSULTING SERVICES TO BE BILLED AT PUBLISHED RATES FOR EACH
 ACTIVITY INVOLVED - GENERALLY ALL HARDWARE COMPUTER COMPONENTS PROPOSED ABOVE ARE COVERED BY A LIMITED ONE YEAR WARRANTY, COVERING PARTS AND
 LABOUR FOR HARDWARE ONLY AND ON A DEPOT BASIS - WE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY
 IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF

July 13, 2023

Item No. 7.9.

Drainage Improvements at University Oaks Blvd. and Stallings Dr.

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with Brazos Paving, Inc. in the amount of \$887,186.20, plus the City's contingency in the amount of \$88,720 for a total appropriation of \$975,906.20 for drainage improvements at University Oaks Boulevard and Stallings Drive. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Relationship to Strategic Goals:

- Core Services and Infrastructure
- Neighborhood Integrity

Recommendation(s): Staff recommends approval.

Summary:

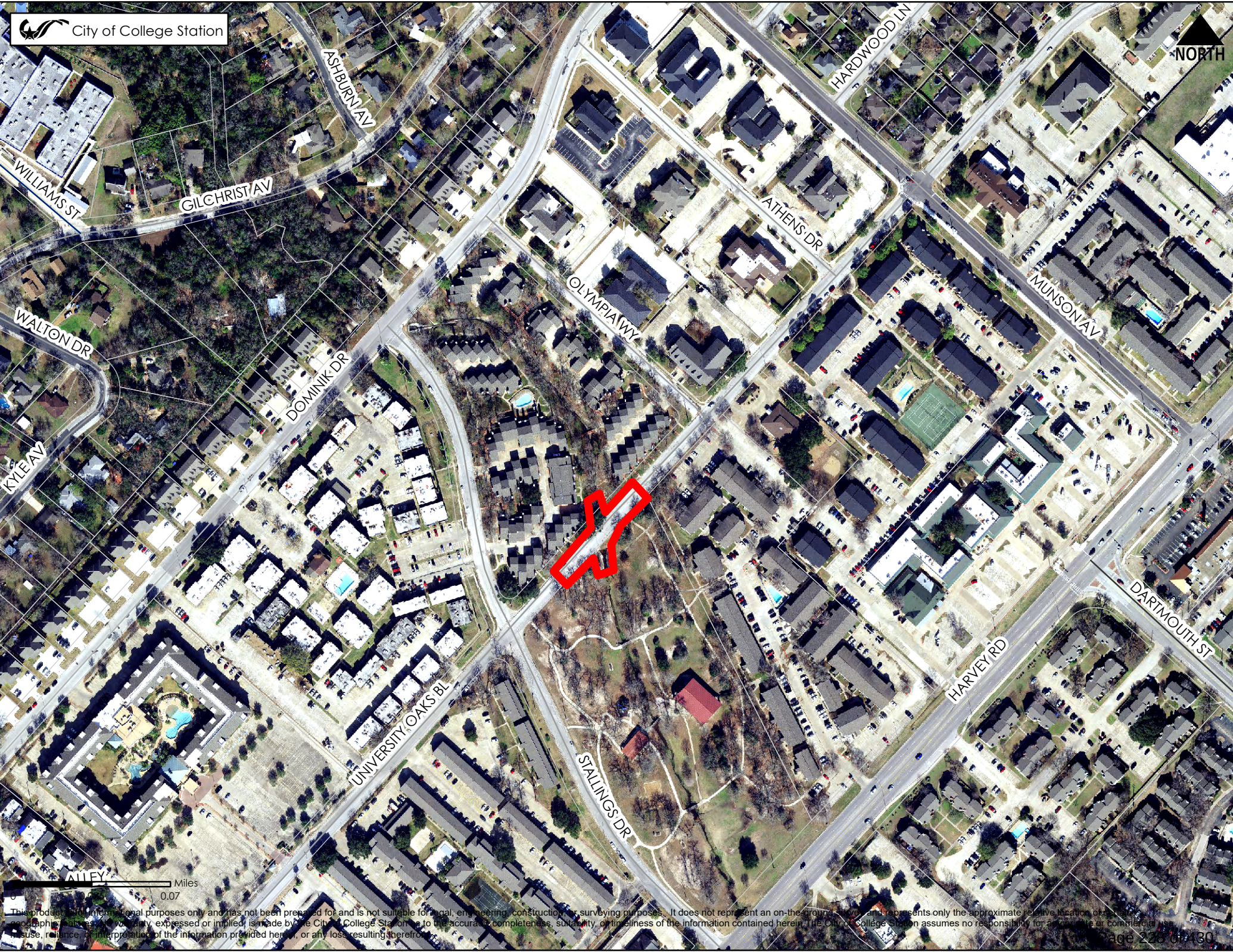
This project includes drainage improvements at University Oaks Boulevard and Stallings Drive, which is a continuation of the upstream drainage project at Stallings Drive and Dominik Drive. The work includes the removal and replacement of the existing culverts and pavement, additional inlets and storm sewer to tie in the existing system for one proposed discharge point and all other various items required to complete this construction.

This project was procured using the Competitive Sealed Proposals (CSP) Method. Four proposals were received and reviewed and the proposal by Brazos Paving, Inc. was found to provide the best value to the City of College Station.

Budget & Financial Summary: A combined budget in the amount of \$1,091,200 is included for this project in the Drainage Utility, Water Capital Projects, and Wastewater Capital Projects Funds. A combined total of \$66,255 has been expended or committed to date, leaving a combined balance of \$1,024,945 for the contract and future expenses.

Attachments:

1. University Oaks Stallings Drainage Project Location Map
2. University Oaks Stallings Drainage Project Vendor Signed Contract





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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300590 PROJECT#: SD2001 BID/RFP/RFQ#: CSP 23-067

Project Name / Contract Description: Drainage Improvements @ University Oaks Blvd. and Stallings Dr.

Name of Contractor: Brazos Paving, Inc.

CONTRACT TOTAL VALUE: \$ 887,186.20

Grant Funded Yes ☐ No ☒
If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☐ N/A

Section 3 Plan Incl. ☐ Yes ☐ No ☒ N/A

Davis Bacon Wages Used ☒ Yes ☐ No ☐ N/A

Buy America Required ☐ Yes ☐ No ☒ N/A

Transparency Report ☐ Yes ☐ No ☒ N/A

☒ NEW CONTRACT ☐ RENEWAL # N/A ☐ CHANGE ORDER # N/A ☐ OTHER N/A

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)

Drainage Improvements at University Oaks Blvd and Stallings Dr. which is a continuation of the upstream drainage project at Stallings Dr. and Dominik Dr.

A combined budget in the amount of \$1,091,200 is included for this project in the Drainage Utility, Water Capital Projects, and Wastewater Capital Projects Funds.

A total of \$66,255 has been expended or committed to date, leaving a balance of \$1,024,945 for the contract and future expenses.

A CSP (RFP-23-067) was conducted and awarded to BPI.

(If required)*
CRC Approval Date*: N/A Council Approval Date*: July 13, 2023 Agenda Item No*: N/A

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

Insurance Certificates: RY Performance Bond: AD Payment Bond: AD Info Tech: N/A

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

DATE

ASST CITY MGR – CFO

DATE

LEGAL DEPARTMENT

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on _____

Scanned into Laserfiche on _____

Original(s) sent to Fiscal on _____

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

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and Brazos Paving, Inc. (the "Contractor") for the construction and/or installation of the following:
Drainage improvements at University Oaks Blvd and Stallings Drive.

1. DEFINITIONS

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

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

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

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

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Forty Four Thousand Three Hundred Fifty-Nine and 31 /100 Dollars (\$44,359.31).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: Eight Hundred Eighty-Seven Thousand One Hundred Eighty-Six and 20 /100 Dollars (\$887,186.20).

1.07 Contract Documents. The term "Contract Documents" shall mean those documents listed in Section 2.01.

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

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

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

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

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

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

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

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

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

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

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

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

1.20 Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the Work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

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

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

2. CONTRACT DOCUMENTS

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

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

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

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

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

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

3. AWARD OF CONTRACT

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

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

4. CITY'S REPRESENTATIVE

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

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

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

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

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

5. INDEPENDENT CONTRACTOR

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

5.02 Standard of Care. The Work shall be performed in a good and workmanlike manner, and in accordance with this Agreement, and all applicable laws, codes, and regulations. The construction of the Project is subject to amendments and adjustments to the Contract required by any applicable changes in regulations or requested or approved by in writing by the City. If at any time during the progress of the Work the Contractor becomes aware of any errors or omissions in the Plans or Specifications for this Project or that the Agreement deviates from applicable legal requirements, Contractor shall promptly provide written notice thereof to the City. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention.

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

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

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

6. DISORDERLY EMPLOYEES

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

7. HOURS OF WORK

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

8. NATURE OF THE WORK

8.01 It is understood and agreed that the Contractor has, by careful examination, studied and compared the Plans and other Contract Documents, satisfied itself as to the nature and location of the Work, the conditions of

the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the Work, the time needed to complete the Work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the Work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any Work that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

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

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

9. POST-AGREEMENT AWARD MEETINGS

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

(a) Schedule for performance of the Work ("Construction Schedule"). Project Schedule contemplated, including the starting and ending date, as well as an indication of the completion of stages of Work hereunder. Such document, once approved by the City and, if applicable, the City's Consultant shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit E**. If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance. The Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Contractor shall submit an updated Construction Schedule that reflects changes authorized by approved change orders. The Construction Schedule shall not exceed time limits current under the Contract Documents, shall be submitted with each pay application, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

(b) The names and addresses of all proposed subcontractors in writing.

- (c) Schedules of the starting and ending dates of subcontractors and the scope of Work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof, including PDF/electronic versions and CAD files.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

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

10. PROGRESS OF WORK

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

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

- (a) The Contractor shall submit a Construction Schedule and schedule of values at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's Construction Schedule submitted herein. The Contractor shall promptly resubmit a revised Construction Schedule to City's Representative.
- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the Work with dates at which the Contractor will start the several parts of the Work and the estimated dates of completion of the several parts.
- (e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

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

(g) In the event that it is determined by the City that the progress of the Work is not in accordance with the approved Construction Schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

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

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

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

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

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

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

11. SITE CONDITIONS AND MANAGEMENT

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

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

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

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

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

11.06 The Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as any information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the City and the Consultant any errors, inconsistencies or omissions discovered by or made known to the Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor acknowledges the City does not represent nor warrant the accuracy or completeness of information provided by the City related to existing conditions and

locations of existing utilities and services. Such information if provided, is provided to the Contractor as a matter of convenience and does not substitute for the Contractor using due diligence to reasonably observe and or to access space to determine errors, inconsistencies or omissions. In all cases of interconnection of the Work with existing conditions, Contractor shall verify at the site all dimensions relating to such existing conditions.

11.07 Contractor's Structures. The building or locating of structures or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

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

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

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

12. MATERIALS

12.01 Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do

not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02 All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

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

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

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

12.05 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly

removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

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

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

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

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

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

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

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

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

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

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

13. ENTRY, OBSERVATION, TESTING & POSSESSION

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

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

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

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

14. REJECTED WORK

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

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

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

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

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

15. SUBCONTRACTING & SUBCONTRACTORS

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

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

16. PAYMENT

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

16.02 Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require ("Schedule of Values"). The Schedule of Values shall not overvalue early job activities and shall follow the trade divisions of the Specifications so far as possible. Modifications must be approved by City. This schedule, unless objected to by the City, shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit F**. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or

modification, an updated Project Schedule and a statement, backed by the Schedule of Values, showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the Work.

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

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

OR:

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

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

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

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

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

16.09 Unless otherwise provided in the Contract Documents:

- (a) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances; and
- (c) Whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 16.9(a) and (2) changes in the Contractor's costs under Section 16.9(b).

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

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

- (a) Defective work other than defects in design provided to Contractor by a person other than Contractor's agents, contractors, fabricators, or suppliers, or its consultants, of any tier for non-critical infrastructure.
- (b) Failure to timely disclose in writing to the City of a known defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications or other design documents.
- (c) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (d) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (f) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (g) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (h) City's determination of an amount of liquidated damages.
- (i) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (j) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.
- (k) Corrections of mistakes, errors and overpayments in relation to prior pay applications and payments.

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

17. EXTRA WORK CHARGES

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

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

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

OR:

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

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

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

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

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

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

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

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

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

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

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

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

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

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

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

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

18. TIME OF COMPLETION

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

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

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

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

19. SUBSTANTIAL COMPLETION

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

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

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

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

20. FINAL COMPLETION

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

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

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

21. DELAYS

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

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

21.03 No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or delay in the progress of the Work, unless such delays (1) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in Section 21.04 below. The City's reasonable exercise of any of its rights or remedies under the Contract, regardless of the extent or frequency, shall not under any circumstances be construed as interference with the Contractor's performance of the Work.

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

22. EXTENSIONS OF TIME

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

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

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

23. LIQUIDATED DAMAGES

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

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either

Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Section 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of Five Hundred and 00 /100 DOLLARS (\$500.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative, and all work will be of good quality, free from faults and defects (other than defects from third parties as set out in Chapter 59 Texas Business and Commerce Code relating to non-critical infrastructure), and in conformance with this Agreement, the other Contract Documents, and recognized industry standards .

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

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

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

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

25.06 Defective Work Discovered During Warranty Period. If any of the Work is found or determined to be either defective, including obvious defects under warranty as set forth in this Section 25, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the Work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by

law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly, upon receipt of written notice by the City, correct the defective work at no cost to the City.

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

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

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

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

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

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

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

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

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

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

from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

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

27. INSURANCE

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

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

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

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

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

- (a) Only licensed Insurance Carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- (c) "Claims Made" policies are not accepted.
- (d) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of College Station.
- (e) The City of College Station, its agents, officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its agents, officials, employees or volunteers.

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

- (a) General Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with

the current A.M. Best Key Rating Guide.

- (b) Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
- (c) Coverage shall be at least as broad as ISO form GC 00 01.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for the City's review and acceptance.
- (e) The coverage shall not exclude the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

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

- (a) Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00, where such exposures exist.

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

Unless otherwise agreed in writing, excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the Agreement, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

27.07 Additional Insured.

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

27.08 Builder's Risk

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

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

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

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

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

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

"A. Definitions:

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

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

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

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

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

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

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

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

persons providing services on the project; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. By signing this Agreement, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

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

- (a)** The company is authorized to do business in the State of Texas.
- (b)** The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Department of Insurance or ISO.
- (c)** Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

28. BOND PROVISIONS

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

- (a)** The Contractor shall execute performance and payment bonds for the full Contract Amount and, if required by Contractor's surety to cover increases in the dollar amounts or amount of Work that is increased by a duly authorized change order, Contractor shall secure performance and payment bond riders to increase the dollar amounts and coverages of the performance and payment bonds.
- (b)** The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.

(c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit B, together with valid original powers of attorney, **at the time of execution of this Agreement by Contractor and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit B**.

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

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

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

29. SURETY

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

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

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

29.02 Should the cost to complete the Work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the Project site, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual

written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

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

30. COMPLIANCE WITH LAW

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

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

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

31. SAFETY PRECAUTIONS

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

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

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

31.04 Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in this Agreement, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as defined in this Agreement). **In the event Contractor**

engages in any of the activities prohibited in this Section 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this section 31.04.

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

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

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

32. TRENCH SAFETY

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

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

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

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

32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems

comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

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

33. INDEMNITY

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

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

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

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

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

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

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

34. RELEASE

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

35. PERMITS AND LICENSES

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

36. ROYALTIES AND LICENSING FEES

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

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

37. BREACH OF CONTRACT & DAMAGES

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

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

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

38. TERMINATION FOR CAUSE

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

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

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

39. TERMINATION FOR CONVENIENCE

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

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

40. RIGHT TO COMPLETE

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

41. CLOSE OUT

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

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

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

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

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

42. TERMINATION CONVERSION

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

43. HIRING

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

44. ASSIGNMENT

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

45. EFFECTIVE DATE

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

46. OTHER TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46.16 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

- (a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Contractor verifies that it (i) does not boycott Israel; and (ii) will not boycott Israel during the term of this Contract;
- (b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and
- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code Contractor herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of this Contract.

List of Exhibits

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

BRAZOS PAVING, INC.

CITY OF COLLEGE STATION

By: Bily Prewitt

Printed Name: Bily Prewitt

Title: Sr. Vice President

Date: 6/12/2023

By: _____

City Manager

Date: _____

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

Superseded General Decision Number: TX20210007

State: Texas

Construction Types: Heavy and Highway

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

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

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022, Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022, Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at www.dol.gov/whd/govcontracts.

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER Paving & Curb.....	\$ 12.94	
Structures.....	\$ 12.87	
LABORER Asphalt Raker.....	\$ 12.12	
Flagger.....	\$ 9.45	
Laborer, Common.....	\$ 10.50	
Laborer, Utility.....	\$ 12.27	
Pipelayer.....	\$ 12.79	
Work Zone Barricade Servicer.....	\$ 11.85	
PAINTER (Structures).....	\$ 18.34	
POWER EQUIPMENT OPERATOR: Agricultural Tractor.....	\$ 12.69	
Asphalt Distributor.....	\$ 15.55	
Asphalt Paving Machine.....	\$ 14.36	
Boom Truck.....	\$ 18.36	
Broom or Sweeper.....	\$ 11.04	
Concrete Pavement Finishing Machine.....	\$ 15.48	
Crane, Hydraulic 80 tons or less.....	\$ 18.36	
Crane, Lattice Boom 80 tons or less.....	\$ 15.87	
Crane, Lattice Boom over 80 tons.....	\$ 19.38	
Crawler Tractor.....	\$ 15.67	
Directional Drilling Locator.....	\$ 11.67	
Directional Drilling Operator.....	\$ 17.24	
Excavator 50,000 lbs or Less.....	\$ 12.88	
Excavator over 50,000 lbs...	\$ 17.71	
Foundation Drill, Truck Mounted.....	\$ 16.93	
Front End Loader, 3 CY or Less.....	\$ 13.04	
Front End Loader, Over 3 CY.	\$ 13.21	
Loader/Backhoe.....	\$ 14.12	
Mechanic.....	\$ 17.10	
Milling Machine.....	\$ 14.18	
Motor Grader, Fine Grade....	\$ 18.51	
Motor Grader, Rough.....	\$ 14.63	
Pavement Marking Machine....	\$ 19.17	
Reclaimer/Pulverizer.....	\$ 12.88	
Roller, Asphalt.....	\$ 12.78	
Roller, Other.....	\$ 10.50	
Scraper.....	\$ 12.27	
Spreader Box.....	\$ 14.04	

Trenching Machine, Heavy....\$ 18.48

Servicer.....\$ 14.51

Steel Worker

Reinforcing.....\$ 14.00

Structural.....\$ 19.29

TRAFFIC SIGNAL INSTALLER

Traffic Signal/Light Pole

Worker.....\$ 16.00

TRUCK DRIVER

Lowboy-Float.....\$ 15.66

Off Road Hauler.....\$ 11.88

Single Axle.....\$ 11.79

Single or Tandem Axle Dump

Truck.....\$ 11.68

Tandem Axle Tractor w/Semi

Trailer.....\$ 12.81

WELDER.....\$ 15.97

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union, which prevailed in the survey for this classification, which in this example would be Plumbers 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

----- WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Division National Office Branch of Wage Surveys. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

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

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. B-3269734

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

THAT WE, Brazos Paving, Inc, as Principal, hereinafter called "Contractor" and the other subscriber hereto The Cincinnati Casualty Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of eight hundred eighty seven thousand, one hundred eighty six and 20 /100 Dollars (\$ 887,186.20) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for Drainage Improvements at University Oaks and Stallings Drive.

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

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

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

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

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

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

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

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

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

Bond No. B-3269734

FOR THE CONTRACTOR:

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

By: [Signature]
Name: Thomas Alanders
Title: Controller
Date: July 13, 2023

Brazos Paving, Inc.
(Name of Contractor)
By: [Signature]
Name: Billy Prewitt
Title: Sr. Vice President
Date: July 13, 2023

FOR THE SURETY:
ATTEST/WITNESS (SEAL)

By: [Signature]
Name: Stephanie Lucien
Title: Assistant Account Manager
Date: July 13, 2023

The Cincinnati Casualty Company
(Full Name of Surety)
6200 South Gilmore Road
Fairfield, OH 45014-5141
(Address of Surety for Notice)

By: [Signature]
Name: Lisa Marroquin
Title: Attorney-in-Fact
Date: July 13, 2023

FOR THE CITY:

REVIEWED:

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

City Attorney

City Manager

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

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Vladimir Chemadurov; Rob Eppers; Michelle McCall; Russell Gourgues; Lauren Wood; Randi Meche; Lisa Marroquin and/or James R. Jackson

of Houston, Texas

their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Any such obligations in the United States, up to
Fifty Million and No/100 Dollars (\$50,000,000.00).

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.



STATE OF OHIO)
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Stephen A. Ventre

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett

Keith Collett, Attorney at Law
Notary Public – State of Ohio

My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 13th day of July, 2023



Ed H

TEXAS IMPORTANT NOTICE

To obtain information or make a complaint:

You may call our toll-free telephone number for information or to make a complaint at:

1-800-635-7521

You may also write to us at:

The Cincinnati Insurance Companies
6200 South Gilmore Road
Fairfield, Ohio 45014 - 5141

or The Cincinnati Insurance Companies
P.O. Box 145496
Cincinnati, Ohio 45250-5496

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

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
FAX# (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

TEXAS STATUTORY PAYMENT BOND

Bond No. B-3269734

THE STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

THAT WE, aBrazos Paving, Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto The Cincinnati Casualty Company, a corporation organized and existing under the laws of the State of Ohio, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of eight hundred eighty seven thousand, one hundred eighty six and 20/100 Dollars (\$ 887,186.20) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 13th day of July, 2023, for Drainage Improvements at University Oaks and Stallings Drive., referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

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

Bond No. B-3269734

FOR THE CONTRACTOR:

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

By: [Signature]
Name: Thomas Alvarado
Title: Controller
Date: July 13, 2023

Brazos Paving, Inc.
(Name of Contractor)
By: [Signature]
Name: Billy Prewitt
Title: Sr. Vice President
Date: July 13, 2023

FOR THE SURETY:
ATTEST/WITNESS (SEAL)

By: [Signature]
Name: Stephanie Lucien
Title: Assistant Account Manager
Date: July 13, 2023

The Cincinnati Casualty Company
(Full Name of Surety)
6200 South Gilmore Road
Fairfield, OH 45014-5141
(Address of Surety for Notice)

By: [Signature]
Name: Lisa Marroquin
Title: Attorney-in-Fact
Date: July 13, 2023

FOR THE CITY:

REVIEWED:

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

City Attorney

City Manager

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

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Vladimir Chemadurov; Rob Eppers; Michelle McCall; Russell Gourgues; Lauren Wood; Randi Meche; Lisa Marroquin and/or James R. Jackson

of Houston, Texas

their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Any such obligations in the United States, up to
Fifty Million and No/100 Dollars (\$50,000,000.00).

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.



STATE OF OHIO)SS:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Stephen A. Ventre

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett
Keith Collett, Attorney at Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 13th day of July, 2023



Ed H.

TEXAS IMPORTANT NOTICE

To obtain information or make a complaint:

You may call our toll-free telephone number for information or to make a complaint at:

1-800-635-7521

You may also write to us at:

The Cincinnati Insurance Companies
6200 South Gilmore Road
Fairfield, Ohio 45014 - 5141

or The Cincinnati Insurance Companies
P.O. Box 145496
Cincinnati, Ohio 45250-5496

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

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
FAX# (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/05/2023

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 Risk Services of Louisiana 510 N Valley Mills Dr Waco TX 76710		CONTACT NAME: Michelle McCall PHONE (A/C, No, Ext): (254) 772-6074 E-MAIL ADDRESS: michelle_mccall@rslinsurance.com FAX (A/C, No):	
INSURED Brazos Paving, Inc. PO Box 714 Bryan TX 77806		INSURER(S) AFFORDING COVERAGE INSURER A: United Fire & Casualty Company INSURER B: Texas Mutual Insurance Company INSURER C: Westchester Surplus Lines Insurance INSURER D: INSURER E: INSURER F:	
		NAIC # 13021 22945 10172	

COVERAGES**CERTIFICATE NUMBER:** 22-23 LIAB**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:			85315640	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Employee Benefits \$ 1,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY			85315640	11/01/2022	11/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP-Basic \$ 2,500
A	☒ UMBRELLA LIAB ☒ EXCESS LIAB DED RETENTION \$			85315640	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	0001207539	11/01/2022	11/01/2023	☒ PER STATUTE E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Pollution - occurrence form			G71755423003	11/16/2022	11/16/2023	1,000,000

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

General Liability, Automobile, Umbrella policies include blanket additional insured with primary and non contributory wording, waiver of subrogation and 10 day notice of cancellation as required by written contract.
Workers compensation policy includes waiver of subrogation as required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of College Station, its agents, officials employees, and volunteers P O 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
--	---

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AGENCY CUSTOMER ID: 00004899

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Risk Services - Leavitt Insurance Agencies		NAMED INSURED Brazos Paving, Inc.
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

Project: Drainage Improvement at University Oaks Blvd and Stallings Drive

Additional Named Insureds

Other Named Insureds

BPI Materials LLC

Limited Liability Company, Additional Named Insured



AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Risk Services of Louisiana		NAMED INSURED Brazos Paving, Inc.
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

Inland Marine Cvoerage - United Fire & Casualty Co - 11/01/2022 - 11/012023 - Policy #85315640 - Leased / rented equipment - \$600,000

POLICY NUMBER:

85315640

FORMS SUPPLEMENTAL DECLARATIONS

The following coverage form(s) govern coverage that is not limited to any specific state even though they are specifically listed in only one state in the declarations.

Premium

Applicable to the state of Texas

*CG2010(12-19)	ADDL INSURED-OWNERS LESSEES/CONTRACTORS-SCHEDULED	100
*CG2010(12-19)	ADDL INSURED-OWNERS LESSEES/CONTRACTORS-SCHEDULED	100
*CG2010.(07-04)	ADDL INSURED-OWNER/LESSEE/CONTRACTOR-SCHEDULED	150
*CG2037(12-19)	ADDL INSURED-OWNER/LESSEE/CONTRACTOR-COMPLETED OPR	100
*CG2037(12-19)	ADDL INSURED-OWNER/LESSEE/CONTRACTOR-COMPLETED OPR	1,100
*CG2037.(07-04)	ADDL INSURED-OWNER/LESSEE/CONTRACTOR-COMPLETED OPR	250
*CG2038(12-19)	ADDL INSURED-OWNERS LESSEES/CONTRACTORS-AUTOMATIC	400
*CG2417(10-01)	CONTRACTUAL LIAB-RAILROADS	350
*CG7280(07-17)	LIMITED EXTENDED ULTRA LIAB PLUS END	200

Other Forms

Applicable to the state of Texas

CG0001(04-13)	COMM GENERAL LIAB COVG FORM
*CG0103(06-06)	TX-CHGS
*CG0205(12-04)	TX-CHGS AMENDMENT OF CANCEL PROVISIONS/COVG CHG
*CG2001(12-19)	PRIMARY & NONCONTRIBUTORY-OTHER INSURANCE
CG2106(05-14)	EXCL-ACCESS/DISCLOSURE OF CONFIDENTIAL/PERSONAL
CG2132-(05-09)	COMMUNICABLE DISEASE EXCL
*CG2167(12-04)	FUNGI/BACTERIA EXCL
CG2175(01-15)	EXCL OF CERTIFIED ACTS OF TERRORISM & EXCL OF
CG2196(03-05)	SILICA/SILICA-RELATED DUST EXCL
CG2234(04-13)	EXCL-CONST MANAGEMENT E&O
CG2279(04-13)	EXCL-CONTRACTORS-PROFESSIONAL LIAB
*CG2639(12-07)	TX-CHGS EMPLOYMENT RELATED PRACTICES EXCL
CG2646(04-99)	TX-ABUSE/MOLESTATION EXCL
CG2856(11-13)	TX-CHGS-CANCEL & NONRENEW
*CG4015(12-20)	CANNABIS EXCL WITH HEMP EXCEPTION
*CG7001(02-05)	COMMERCIAL GENERAL LIABILITY COVERAGE PART
*CG7004(02-05)	COMM GENERAL LIABILITY SUPPLEMENTAL DECLARATIONS
CG7012(07-10)	SPECIAL EVENTS EXCL END
CG7110(04-05)	LIMITED POLLUTION COVERAGE-WORK SITES-TEXAS
CG7115(09-01)	EXCL-EXTERIOR INSULATION & FINISH SYSTEMS
CG7125(02-12)	PROPERTY DAMAGE DEDUCTIBLE LIABILITY INSURANCE
*IL0017(11-98)	COMMON POLICY CONDITIONS
*IL0021(09-08)	NUCLEAR ENERGY LIAB EXCL END
IL0168(03-12)	TX-CHGS DUTIES
IL0275(11-13)	TX-CHGS-CANCEL & NONRENEW PROVISIONS FOR CASUALTY
*IL7068(01-10)	EXCL-LEAD-HAZARDOUS PROPERTIES
IL7069(01-10)	EXCL-UNDERGROUND STORAGE TANKS
*IL7070(09-12)	ABSOLUTE ASBESTOS EXCL
IL7095(01-20)	INTERNET SECURITY & PRIVACY INSURANCE END
IL7147(01-20)	ONLINE BANKING THEFT INSURANCE END
*ST-1403(09-01)	EXTERIOR INSULATION & FINISH SYSTEMS EXCLUSION

POLICY NUMBER:

85315640

FORMS SUPPLEMENTAL DECLARATIONS

Other Forms

*ST1347(08-06)	WORK PERFORMED BY SUBCONTRACTORS NOTICE
*ST1435-(08-04)	TX-NOTICE GL EXCL ASBESTOS
*ST1436-(08-04)	TX-NOTICE GL EXCL LEAD
*ST1544(01-10)	TX-EXCL UNDERGROUND STORAGE TANKS
*ST1644-(01-12)	POLICY WEBSITE STUFFER
*ST1681(06-22)	TX-NOTICE-RISK CONTROL INFORMATION
*ST1813(01-20)	IMPORTANT NOTICE-INTERNET SECURITY & PRIVACY
*ST1882(06-16)	NOTICE-LOCATION & PREMISES CLARIFICATION
*ST1947(11-19)	TX-NOTICE-HAVE A COMPLAINT OR NEED HELP?
*ST1965(01-21)	NOTICE TO POLICYHOLDERS-COMMUNICABLE DISEASE EXCL
*ST1988(10-21)	NOTICE-2018 GENERAL LIAB END REVISION
*ST2008(02-22)	POLICYHOLDER NOTICE-ADDRESSING CANNABIS
*UW7009(01-15)	CONTINUATION OF NAMED INSUREDS SHOWN ON THE DEC

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TEXAS CHANGES - AMENDMENT OF CANCELLATION
PROVISIONS OR COVERAGE CHANGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCT WITHDRAWAL COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

In the event of cancellation or material change that reduces or restricts the insurance afforded by this Coverage Part, we agree to mail prior written notice of cancellation or material change to:

SCHEDULE

1. Name:	PER SCHEDULE ON FILE
2. Address:	CANCELLATION FOR NONPAYMENT OF PREMIUM 10 DAYS
3. Number of days advance notice:	30 DAYS
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

b. 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.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.1.**; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED EXTENDED ULTRA LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES

A. The following changes are made at **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

1. Extended Property Damage

At **2. Exclusions** exclusion **a. Expected or Intended Injury** is replaced with the following:

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

2. Expanded Fire Legal Liability

At **2. Exclusions** the last paragraph is deleted and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of this owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE.**

3. Non-Owned Watercraft

At **2. Exclusions** exclusion **g. Aircraft, Auto Or Watercraft (2)(a)** is deleted and replaced by the following:

(a) Less than 51 feet long;

4. Property Damage – Borrowed Equipment

At **2. Exclusions** the following is added to paragraph **(4)** of exclusion **j. Damage To Property:**

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

5. Property Damage Liability – Elevators

At **2. Exclusions** the following is added to paragraphs **(3), (4)** and **(6)** of exclusion **j. Damage To Property:**

This exclusion does not apply to "property damage" resulting from the use of elevators. However, any insurance provided for such "property damage" is excess over any valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

B. The following coverages are added:

1. COVERAGE D - VOLUNTARY PROPERTY DAMAGE COVERAGE

"Property damage" to property of others caused by the insured:

- a.** While in your possession; or
- b.** Arising out of "your work".

Coverage applies at the request of the insured, whether or not the insured is legally obligated to pay.

For the purposes of this **Voluntary Property Damage Coverage** only:

Exclusion j. Damage to Property is deleted and replaced by the following:

j. Damage to Property

"Property damage" to:

- (1) Property held by the insured for servicing, repair, storage or sale at premises you own, rent, lease, operate or use;
- (2) Property transported by or damage caused by any "automobile", "watercraft" or "aircraft" you own, hire or lease;
- (3) Property you own, rent, lease, borrow or use.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

2. COVERAGE E - CARE, CUSTODY AND CONTROL PROPERTY DAMAGE COVERAGE

For the purpose of this **Care, Custody and Control Property Damage Coverage** only:

- a. Item (4) of **Exclusion j.** does not apply.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

3. COVERAGE F - ELECTRONIC DATA LIABILITY COVERAGE

For the purposes of this **Electronic Data Liability Coverage** only:

- a. **Exclusion p. of Coverage A – Bodily Injury And Property Damage Liability** in **Section I – Coverages** is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Electronic Data

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

However, this exclusion does not apply to liability for damages because of "bodily injury".

- b. **"Property Damage"** means:

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

For the purposes of this **Electronic Data Liability Coverage**, "electronic data" is not tangible property.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

4. COVERAGE G - PRODUCT RECALL EXPENSE

- a. **Insuring Agreement**

- (1) We will pay 90% of "product recall expense" you incur as a result of a "product recall" you initiate during the coverage period.
- (2) We will only pay for "product recall expense" arising out of "your products" which have been physically relinquished to others.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

b. Exclusions

This insurance does not apply to "product recall expense" arising out of:

- (1) Any fact, circumstance or situation which existed at the inception date of the policy and which you were aware of, or could reasonably have foreseen that would have resulted in a "product recall".
- (2) Deterioration, decomposition or transformation of a chemical nature, except if caused by an error in the manufacture, design, processing, storage, or transportation of "your product".
- (3) The withdrawal of similar products or batches that are not defective, when a defect in another product or batch has been found.
- (4) Acts, errors or omissions of any of your employees, done with prior knowledge of any of your officers or directors.
- (5) Inherent vice, meaning a natural condition of property that causes it to deteriorate or become damaged.
- (6) "Bodily Injury" or "Property Damage".
- (7) Failure of "your product" to accomplish its intended purpose, including any breach of warranty of fitness, quality, efficacy or efficiency, whether written or implied.
- (8) Loss of reputation, customer faith or approval, or any costs incurred to regain customer market, or any other consequential damages.
- (9) Legal fees or expenses.
- (10) Damages claimed for any loss, cost or expense incurred by you or others for the loss of use of "your product".
- (11) "Product recall expense" arising from the "product recall" of any of "your products" for which coverage is excluded by endorsement.
- (12) Any "product recall" initiated due to the expiration of the designated shelf life of "your product".

5. COVERAGE H - WATER DAMAGE LEGAL LIABILITY

The Insurance provided under Coverage H (Section I) applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

The Limit under this coverage shall not be in addition to the Damage To Premises Rented To You Limit. The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

6. COVERAGE I – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

The following exclusion is added to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

- r. This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" for any "consolidated (Wrap-up) insurance program" which has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not a consolidated (Wrap-up) insurance program:

- a. Provides coverage identical to that provided by this Coverage Part; or
- b. Has limits adequate to cover all claims.

This exclusion does not apply if a "consolidated (Wrap-up) insurance program" covering your operations has been cancelled, non-renewed or otherwise no longer applies for reasons other than exhaustion of all available limits, whether such limits are available on a primary, excess or on any other basis. You must advise us of such cancellation, nonrenewal or termination as soon as practicable.

For purposes of this exclusion a "consolidated (wrap-up) insurance program" is a program providing insurance coverage to all parties for exposures involved with a particular (typically major) construction project.

C. SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended:**1. To read SUPPLEMENTARY PAYMENTS****2. Bail Bonds**

Item **1.b.** is amended as follows:

- b.** Up to \$1,000 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.

3. Loss of Earnings

Item **1.d.** is amended as follows:

- d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

4. The following language is added to Item 1.

However, we shall have none of the duties set forth above when this insurance applies only for **Voluntary Property Damage Coverage** and/or **Care, Custody or Control Property Damage Coverage** and we have paid the Limit of Liability or the Aggregate Limit for these coverages.

SECTION II - WHO IS AN INSURED**A. The following change is made:****Extended Reporting Requirements**

Item **3.a.** is deleted and replaced by the following:

- 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. The following provisions are added:**4. BROAD FORM NAMED INSURED**

Item **1.f.** is added as follows:

- f.** Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period only if there is no other similar insurance available to that entity. However:
 - (1)** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired more than 50 percent of the voting stock; and
 - (2)** Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired more than 50 percent of the voting stock.

5. Additional Insured - Vendors

- a.** Any person(s) or organization(s) (referred to throughout this additional coverage as vendor), but only with respect to "bodily injury" or "property damage", which may be imputed to that person(s) or organization(s) arising out of "your products" shown with the Schedule which are distributed or sold in the regular course of the vendor's business is an insured.

However:

- (1)** The insurance afforded to such vendor only applies to the extent permitted by law; and
- (2)** If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

- b.** With respect to the insurance afforded to these vendors, the following additional exclusions apply:

- (1)** This insurance afforded the vendor does not apply to:

- (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b)** Any 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 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.
- (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:
 - i. The exceptions contained in Sub-paragraphs d. or f.; or
 - ii. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

6. Additional Insured – Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You

- a. Any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to your liability for "bodily injury", "property damage" or "personal and advertising injury" directly arising out of the maintenance, operation or use of equipment leased to you, which may be imputed to such person or organization as the lessor of equipment.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the 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.

- b. 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.

7. Additional Insured – Managers or Lessors of Premises

- a. Any person(s) or organization(s), 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:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

8. Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured

- a. Any architects, engineers or surveyors who are not engaged by you are insureds, but only with respect to liability for "bodily injury" or "property damage" or "personal and advertising injury" which may be imputed to that architect, engineer or surveyor arising out of:

(1) Your acts or omissions; or

(2) Your acts or omissions of those acting on your behalf;

in the performance of your ongoing operations performed by you or on your behalf.

But only if such architects, engineers or surveyors, while not engaged by you, are contractually required to be added as an additional insured to your policy.

However, the insurance afforded to such additional insured:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies: This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services, including:

(1) The preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

(2) Supervisory, inspection or engineering services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services.

9. Additional Insured - State or Governmental Agency or Subdivision or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision is an insured, subject to the following provisions:

- a. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

(1) The insurance afforded to such additional insured only applies to the extent permitted by law; and

(2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- b. This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or

(2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

10. Additional Insured Consolidated Insurance Program (Wrap-Up) Off-Premises Operations Only - Owners, Lessees or Contractors

- a. Any persons or organizations for whom you are performing operations, for which you have elected to seek coverage under a Consolidated Insurance Program, 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 is an insured. Such person or organization is an additional insured only with respect to your liability which may be imputed to that person or organization directly arising out of your ongoing operations performed for that person or organization at a premises other than any project or location that is designated as covered under a Consolidated Insurance Program. A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies.

This insurance does not apply to:

"Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- (2) Supervisory, inspection

11. Additional Insured - Employee Injury to Another Employee

With respect to your "employees" who occupy positions which are supervisory in nature:

Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED** is amended to read:

- a. "Bodily injury" or "personal and advertising injury"

- (1) To you, to your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- (2) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph **(1)(a)** above; or
- (3) Arising out of his or her providing or failing to provide professional healthcare services. Paragraph **3.a.** is deleted.

For the purpose of this Item **11** only, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, direct, discipline or discharge.

SECTION III - LIMITS OF INSURANCE

A. The following items are deleted and replaced by the following:

2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**; and
 - d. Damages under Coverage **H**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" and Coverage **G**.
6. Subject to **5.** above, the Damage to Premises Rented to You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage while rented to you or temporarily occupied by you with permission of the owner.

B. The following are added:

8. Subject to Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE** \$25,000 is the most we will pay under Coverage **H** for **Water Damage Legal Liability**.

9. Coverage G - Product Recall Expense

Aggregate Limit \$50,000

Each Product Recall Limit \$25,000

- a. The Aggregate Limit shown above is the most we will pay for the sum of all "product recall expense" you incur as a result of all "product recalls" you initiate during the endorsement period.

- b. The Each Product Recall Limit shown above is the most we will pay, subject to the Aggregate and \$1,000 deductible, for "product recall expense" you incur for any one "product recall" you initiate during the endorsement period.

We will only pay for the amount of Product Recall Expenses which are in excess of the deductible amount. The deductible applies separately to each Product Recall. The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount. Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

10. Aggregate Limits of Insurance (Per Location)

The General Aggregate Limit applies separately to each of your "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

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

11. Aggregate Limits of Insurance (Per Project)

The General Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you.

- 12. With respects to the insurance afforded to additional insureds afforded coverage by items **5** through **11** of **SECTION II – WHO IS AN INSURED** above, the following is added:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement;
- b. Available under the applicable Limits of Insurance shown in the Declarations;

Whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

- 13. Subject to **5.** of **SECTION III – LIMITS OF INSURANCE**, a \$5,000 "occurrence" limit and a \$10,000 "aggregate" limit is the most we will pay under Coverage **A** for damages because of "property damage" covered under **Coverage D - Voluntary Property Damage Coverage**.

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

- 14. Subject to **5.** of **SECTION III – LIMITS OF INSURANCE**, a \$25,000 "occurrence" limit and a \$100,000 "aggregate" limit is the most we will pay under **Coverage E - Care, Custody and Control Coverage** regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

Deductible - Our obligation to pay damages on your behalf applies only to the amount of damages in excess of \$500.

This deductible applies to all damages because of "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence".

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

As respects this coverage "Aggregate" is the maximum amount we will pay for all covered "occurrences" during one policy period.

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

15. Subject to 5. of **SECTION III – LIMITS OF INSURANCE**, the most we will pay for “property damage” under **Coverage F - Electronic Data Liability Coverage** for loss of “electronic data” is \$50,000 without regard to the number of “occurrences”.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

A. The following conditions are amended:

1. Knowledge of Occurrence

- a. Condition 2., Items a. and b. are deleted and replaced by the following:

(1) Duties In The Event Of Occurrence, Offense, Claim Or Suit

- (a) You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. Knowledge of an "occurrence" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee. To the extent possible, notice should include:

- i. How, when and where the "occurrence" took place;
- ii. The names and addresses of any injured persons and witnesses, and
- iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.

- (b) If a claim is made or "suit" is brought against any insured, you must:

- i. Immediately record the specifics of the claim or "suit" and the date received; and
- ii. 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. Knowledge of a claim or "suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee.

2. Where **Broad Form Named Insured** is added in **SECTION II – WHO IS AN INSURED** of this endorsement, Condition 4. **Other Insurance b. Excess Insurance (1).(a)** is replaced by the following:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock, and not withstanding any other language in any other policy. This provision does not apply to a policy written to apply specifically in excess of this policy.

B. The following are added:

10. Condition (5) of 2.c.

- (5) Upon our request, replace or repair the property covered under Voluntary Property Damage Coverage at your actual cost, excluding profit or overhead.

11. Blanket Waiver Of Subrogation

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: premises owned or occupied by or rented or loaned to you, ongoing operations performed by you or on your behalf, done under a contract with that person or organization, “your work”, or “your products”. We waive this right where you have agreed to do so as part of a written contract, executed by you before the “bodily injury” or “property damage” occurs or the “personal and advertising injury” offense is committed.

12. Liberalization

If a revision to this Coverage Part, which would provide more coverage with no additional premium becomes effective during the policy period in the state designated for the first Named Insured shown in the Declarations, your policy will automatically provide this additional coverage on the effective date of the revision.

13. Unintentional Failure to Disclose All Hazards

Based on our reliance on your representations as to existing hazards, if you unintentionally should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

14. The following conditions are added in regard to Coverage G - Product Recall Expense

In event of a "product recall", you must

- a. See to it that we are notified as soon as practicable of a "product recall". To the extent possible, notice should include how, when and where the "product recall" took place and estimated "product recall expense".
- b. Take all reasonable steps to minimize "product recall expense". This will not increase the limits of insurance.
- c. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. Your answers must be signed.
- d. Permit us to inspect and obtain other information proving the loss. You must send us a signed, sworn statement of loss containing the information we request to investigate the claim. You must do this within 60 days after our request.
- e. Cooperate with us in the investigation or settlement of any claim.
- f. Assist us upon our request, in the enforcement of any rights against any person or organization which may be liable to you because of loss to which this insurance applies.

15. Limited Railroad Contractual Liability

The following conditions are applicable only to coverage afforded by reason of the redefining of an "insured contract" in the **DEFINITIONS** section of this endorsement:

- a. Railroad Protective Liability coverage provided by ISO form CG 0035 with minimum limits of \$2,000,000 per occurrence and a \$6,000,000 general aggregate limit must be in place for the entire duration of any project.
- b. Any amendment to the Other Insurance condition of form CG 0035 alters the primacy of the coverage or which impairs our right to contribution will rescind any coverage afforded by the redefined "insured contract" language.
- c. For the purposes of the Other Insurance condition of form CG 0035 you, the named insured, will be deemed to be the designated contractor.

SECTION V – DEFINITIONS

A. At item 12. Mobile Equipment the wording at **f.(1)** is deleted and replaced by the following:

f.(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

except for such vehicles that have a gross vehicle weight less than 1,000 lbs which are not designed for highway use.

B. Item 3. "bodily injury" is deleted and replaced with the following:

3. "bodily injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

C. Item 9. "Insured Contract" c. is deleted and replaced with the following:

- c. Any easement or license agreement;

D. Item 9. **"Insured Contract"** f.(1) is deleted

E. The following definitions are added for this endorsement only:

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

24. "Product recall" means a withdrawal or removal from the market of "your product" based on the determination by you or any regulatory or governmental agency that:

- a. The use or consumption of "your product" has caused or will cause actual or alleged "bodily injury" or "property damage"; and
- b. Such determination requires you to recover possession or control of "your product" from any distributor, purchaser or user, to repair or replace "your product", but only if "your product" is unfit for use or consumption, or is hazardous as a result of:
 - (1) An error or omission by an insured in the design, manufacturing, processing, labeling, storage, or transportation of "your product"; or
 - (2) Actual or alleged intentional, malicious or wrongful alteration or contamination of "your product" by someone other than you.

25. "Product recall expense" means reasonable and necessary expenses for:

- a. Telephone, radio and television communication and printed advertisements, including stationery, envelopes and postage.
- b. Transporting recalled products from any purchaser, distributor or user, to locations designated by you.
- c. Remuneration paid to your employees for overtime, as well as remuneration paid to additional employees or independent contractors you hire.
- d. Transportation and accommodation expense incurred by your employees.
- e. Rental expense incurred for temporary locations used to store recalled products.
- f. Expense incurred to properly dispose of recalled products, including packaging that cannot be reused.
- g. Transportation expenses incurred to replace recalled products.
- h. Repairing, redistributing or replacing covered recalled products with like products or substitutes, not to exceed your original cost of manufacturing, processing, acquisition and/or distribution.

These expenses must be incurred as a result of a "product recall".

Notice to Policyholders — Location and Premises Clarification

This notice does not provide you with any coverage and is intended solely as a clarification of our intent.

Wherever any reference to location is made in the Declarations, Supplemental Declarations, Coverage Forms, or endorsements that comprise this policy, that reference shall also be deemed to apply to premises, and likewise any reference to premises shall be deemed to apply to location.

This notice is provided to you as certain documents that comprise your policy may use these terms interchangeably.

If you have any questions regarding this notice please contact your agent.

Thank you for doing business with United Fire Group.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

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

Primary And Noncontributory Insurance

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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.

BUSINESS AUTO ULTRA ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

COMMON POLICY CONDITIONS

COVERAGE INDEX

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The COVERAGE INDEX set forth above is informational only and grants no coverage.

Terms set forth in ***(Bold Italics)*** are likewise for information only and by themselves shall be deemed to grant no coverage.

(Temporary Substitute Auto Physical Damage)

A. TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE

SECTION I – COVERED AUTOS, paragraph C. Certain Trailers, Mobile Equipment and Temporary Substitute Autos is amended by adding the following at the end of the existing language:

If Physical Damage Coverage is provided under this Coverage form for an "auto" you own, the Physical Damage coverages provided for that owned "auto" are extended to any "auto" you do not own while used with the permission of its owner as a temporary substitute for the covered "auto" you own that is out of service because of its breakdown, repair, servicing, "loss", or destruction

B. BROADENED LIABILITY COVERAGES

SECTION II – LIABILITY COVERAGE in Paragraph A. Coverage at 1. Who Is An Insured is amended to include the following:

(Broad Form Insured)

- d. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- e. Any organization that is acquired or formed by you, during the term of this policy and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (1) That is a joint venture or partnership,
 - (2) That is an "insured" under any other policy,
 - (3) That has exhausted its Limits of Insurance under any other policy, or
 - (4) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation

Coverage does not apply to "bodily injury" or "property damage" that results from an accident that occurred before you formed or acquired the organization.

(Employee as Insureds)

- f. Any employee of yours while acting in the course of your business or your personal affairs while using a covered "auto" you do not own, hire or borrow.

(Additional Insured Status by Contract, Agreement or Permit)

- g. Any person or organization whom you are required to add as an additional insured on this policy under a written contract or agreement; but the written contract or agreement must be:
 - (1) Currently in effect or becoming effective during the term of this policy; and
 - (2) Executed prior to the "bodily injury" or "property damage."

The additional insured status will apply only with respect to your liability for "bodily injury" or "property damage" which may be imputed to that person(s) or organization(s) directly arising out of the ownership, maintenance or use of the covered "autos" at the location(s) designated, if any.

Coverage provided by this endorsement will not exceed the limits of liability required by the written contract or written agreement even if the limits of liability stated in the policy exceed those limits. This endorsement shall not increase the limits stated in **Section II. C. Limits of Insurance.**

For any covered "auto" you own this Coverage Form provides primary coverage.

C. BROADENED SUPPLEMENTARY PAYMENTS

SECTION II. LIABILITY A. Coverage 2. Coverage Extensions a. Supplementary Payments (2) and (4) are replaced by the following:

(Bail Bond Coverage)

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(Loss of Earnings Coverage)

- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

(Amended Fellow Employee Exclusion)

D. AMENDED FELLOW EMPLOYEE EXCLUSION

Only with respect to your "employees" who occupy positions which are supervisory in nature, **SECTION II. LIABILITY B. Exclusion 5. Fellow Employee** is replaced by:

5. Fellow Employee

"Bodily Injury":

- a. To you, or your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- b. To your "executive officers" and directors (if you are an organization other than a partnership, joint venture, or limited liability company) but only with respect to performance of their duties as your officers or directors;
- c. For which there is an obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph a and b above; or
- d. Arising out of his or her providing or failing to provide professional health care services.

For purposes of this endorsement, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, transfer, direct, discipline or discharge.

E. BROADENED PHYSICAL DAMAGE COVERAGES

SECTION III – PHYSICAL DAMAGE COVERAGE A. Coverage is amended as follows:

(Towing and Labor)

2. Towing is deleted and replaced with the following:

2. Towing and Labor

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" is disabled:

- a. For private passenger type vehicles we will pay up to \$100 per disablement.
- b. For all other covered "auto's" we will pay up to \$500 per disablement

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

(Physical Damage Additional Transportation Expense Coverage)

4. Coverage Extensions

- a. **Transportation Expenses** is amended to provide the following limits:

We will pay up to \$60 per day to a maximum of \$1,800. All other terms and provisions of this section remain applicable.

The following language is added to **4. Coverage Extensions**:

(Extra Expense – Theft)

c. Theft Recovery Expense

If you have purchased Comprehensive Coverage on an "auto" that is stolen, we will pay the expense of returning that stolen auto to you. The limit for this coverage extension is \$5,000.

(Rental Reimbursement and Additional Transportation Expense)

d. Rental Reimbursement

We will provide Rental Reimbursement and Additional Expense coverage only for those Physical Damage coverages for which a premium is shown in the Declarations or schedule pages. Coverage applies only to a covered "auto".

- (1)** We will pay for auto rental expense and the expense incurred by you because of "loss" to remove and transfer your materials and equipment from a covered "auto" to a covered "auto." Payment applies in addition to the otherwise applicable coverage you have on a covered "auto." No deductible applies to this coverage.
- (2)** We will pay only for expenses incurred during the policy period and beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:
 - (a)** The number of days reasonably required to repair or replace the covered "auto." If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you, or
 - (b)** 30 days.
- (3)** Our payment is limited to the lesser of the following amounts:
 - (a)** Necessary and actual expenses incurred; or
 - (b)** \$75 per day.
 - (c)** This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
 - (d)** If "loss" results from the total theft of a covered "auto" of the private passenger or light truck type, we will pay under this coverage only that amount of your rental reimbursement expense which is not already provided for under the **SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses.**

(Personal Effects Coverage)

e. Personal Effects

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$500 for Personal Effects stolen with the "auto". The insurance provided under this provision is excess over any other collectible insurance. For this coverage extension, Personal Effects means tangible property that is worn or carried by an "insured".

(Personal Property of Others)

f. Personal Property of Others

We will pay up to \$500 for loss to personal property of others in or on your covered "auto." This coverage applies only in the event of "loss" to your covered "auto" caused by fire, lightning, explosion, theft, mischief or vandalism, the covered "auto's" collision with another object, or the covered "auto's" overturn. No deductibles apply to this coverage.

(Locksmith Coverage)

g. Locksmith Coverage

We will pay up to \$250 per occurrence for necessary locksmith services for keys locked inside a covered private passenger "auto". The deductible is waived for these services.

(Vehicle Wrap Coverage)

h. Vehicle Wrap Coverage

If you have Comprehensive or Collision coverage on an "auto" that is a total loss, in addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

(Airbag Accidental Discharge)

F. SECTION III – PHYSICAL DAMAGE COVERAGE, B. Exclusions is amended at **3.** to include the following language:

If you have purchased Comprehensive or Collision Coverage under this policy, this exclusion does not apply to mechanical breakdown relating to the accidental discharge of an air bag. This coverage applies only to a covered auto you own and is excess of any other collectible insurance or warranty. No deductible applies to this coverage.

G. BROADENED LIMITS OF INSURANCE

(Audio, Visual and Data Electronic Equipment Coverage)

SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance at **1.b.** is amended to provide the following limits:

- b.** Limits of \$1,000 per "loss" is increased to \$5,000 per "loss". All other terms and provisions of this section remain applicable.

(Auto Loan/Lease Total Loss Protection)

SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance is amended by adding the following language:

- 4.** In the event of a total "loss" to a covered "auto" shown in the Schedule pages, subject at the time of the "loss" to a loan or lease, we will pay any unpaid amount due including up to a maximum of \$500 for early termination fees or penalties on the lease or loan for a covered "auto" less:
 - a.** The amount paid under the Physical Damage Coverage Section of the policy; and
 - b.** Any:
 - (1)** Overdue lease / loan payments at the time of the "loss";
 - (2)** Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3)** Security deposits not returned by the lessor;
 - (4)** Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - (5)** Carry-over balances from previous loans or leases.

(Glass Repair – Deductible Amendment)

H. GLASS REPAIR – DEDUCTIBLE

SECTION III – PHYSICAL DAMAGE COVERAGE – D. Deductible is amended by adding the following:

Any deductible shown in the Declarations as applicable to the covered "auto" will not apply to glass breakage if the damaged glass is repaired, rather than replaced.

(Amended Duties in the Event of Accident, Claim, Suit or Loss)

I. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Under **SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions**, the following is added to paragraph **2. Duties In The Event of Accident, Suit or Loss**:

- d. Knowledge of any "accident", "claim", "suit" or "loss" will be deemed knowledge by you when notice of such "accident", "claim", "suit" or "loss" has been received by:
 - (1) You, if you are an individual;
 - (2) Any partner or insurance manager if you are a partnership;
 - (3) An executive officer or insurance manager, if you are a corporation;
 - (4) Your members, managers or insurance manager, if you are a limited liability company; or
 - (5) Your officials, trustees, board members or insurance manager, if you are a not-for-profit organization.

(Waiver of Subrogation by Contract)

J. WAIVER OF SUBROGATION REQUIRED BY CONTRACT

Under **SECTION IV, BUSINESS AUTO CONDITIONS, A. Loss Conditions 5. Transfer of Rights of Recovery Against Others to Us** the following language is added:

However, we waive any rights of recovery we may have against the person or organization with whom you have agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under the policy to which this endorsement is attached. This provision does not apply unless the written contract or written agreement has been executed, or permit has been issued, prior to the "bodily injury" or "property damage."

(Unintentional Failure to Disclose)

K. UNINTENTIONAL FAILURE TO DISCLOSE

Under **SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions**, the following is added to **2. Concealment, Misrepresentation Or Fraud**:

Your unintentional error in disclosing, or failing to disclose, any material fact existing at the effective date of this Coverage Form, or during the policy period in connection with any additional hazards, will not prejudice your rights under this Coverage Form.

(Hired, Leased, Rented or Borrowed Auto Physical Damage)

L. HIRED, LEASED, RENTED OR BORROWED AUTO PHYSICAL DAMAGE

Under **SECTION IV – BUSINESS AUTO CONDITIONS B. General Conditions 5. Other Insurance** Paragraph **5.b.** is replaced by the following:

- b. (1) For "Comprehensive" and "Collision" Auto Physical Damage coverage provided by this endorsement, the following are deemed to be covered "autos" you own:
 - (a) Any Covered "auto" you lease, hire, rent or borrow; and
 - (b) 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"

(2) Limit of Insurance For This Section

The most we will pay for any one "loss" is the lesser of the following:

- (a) \$75,000 per accident, or
- (b) actual cash value at the time of loss, or
- (c) cost of repair.

Minus a \$500 deductible. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. No deductible applies to "loss" caused by fire or lightning.

(3) This Hired Auto Physical Damage coverage is excess over any other collectible insurance.

(4) Definitions For This Section

(a) Comprehensive Coverage: from any cause except the covered "auto's" collision with another object or the covered "auto's" overturn. We will pay glass breakage, "loss" caused by hitting a bird or animal and, "loss" caused by falling objects or missiles.

(b) Collision Coverage: caused by the covered "auto's" collision with another object or by the covered "auto's" overturn.

(Mental Anguish)

M. MENTAL ANGUISH

Under **SECTION V – DEFINITIONS**, **C.** is replaced by the following:

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including mental anguish or death resulting from bodily injury, sickness, or disease.

(Extended Cancellation Condition)

N. EXTENDED CANCELLATION CONDITION

Under **CANCELLATION**, of the **COMMON POLICY CONDITIONS** form, item **2.b.** is replaced by the following:

- b.** 60 days before the effective date of cancellation if we cancel for any other reason.

Workers' Compensation and Employer's Liability Policy

Extension of Information Page

Item 3: Endorsement Schedule

Insured copy

Policy number 0001207539
Issue date 11/1/22
Policy period 11/1/22 to 11/1/23

State	Endorsement	Description
42	TM LRC 2008	Limited Reimbursement for Texas Employees Injured in Other Jurisdictions
42	TM MV 2011	Mutuals - Membership and Voting Notice
42	TM PC 2003	Policy Conditions Endorsement
42	WC 00 00 00 C	Policy Conditions Form
42	WC 00 00 01 B	Policy Coverage Document (Declarations Page)
42	WC 00 03 01	Alternate Employer Endorsement
42	WC 00 03 02	Designated Workplaces Exclusion Endorsement
42	WC 00 04 06	Premium Discount Endorsement
42	WC 00 04 14 A	Notification of Change in Ownership Endorsement
42	WC 00 04 22 C	Terrorism Risk Insurance Act Coverage Endorsement
42	WC 00 04 25	Experience Rating Modification Factor Revision Endorsement
42	WC 42 03 01 J	Texas Amendatory Endorsement
42	WC 42 03 04 B	Blanket Texas Waiver of Our Right To Recover from Others Endorsement
42	WC 42 04 04 A	Group Purchase of Workers' Compensation Insurance Endorsement
42	WC 42 04 07	Texas- Audit Premium and Retrospective Premium Endorsement
42	WC 42 04 08 A	Network Discount Endorsement
42	WC 42 06 01	Specific Texas Notice of Material Change Endorsement

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
 (The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 11/1/22 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001207539 of Texas Mutual Insurance Company effective on 11/1/22

Issued to: BRAZOS PAVING INC



Authorized representative

This is not a bill

NCCI Carrier Code: 29939

11/1/22

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the schedule where you are required by a written contract to obtain this waiver from us.

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. () Specific Waiver

Name of person or organization

(X) Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas operations

3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 11/1/22 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001207539 of Texas Mutual Insurance Company effective on 11/1/22

Issued to: BRAZOS PAVING INC

This is not a bill



Authorized representative

NCCI Carrier Code: 29939

11/1/22

POLICY NUMBER: 85315640

COMMERCIAL GENERAL LIABILITY
CG 20 10 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

ANY PERSON OR ORGANIZATION YOU HAVE AGREED TO NAME AS
ADDITIONAL INSURED BY WRITTEN CONTRACT
OR AGREEMENT IF THE CONTRACT OR AGREEMENT
IS EXECUTED PRIOR TO LOSS

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to "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 site 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.

PREMIUM 200

CG 20 10 10 01

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Page 1 of 1 ☐

09087530



POLICY NUMBER: 85315640

COMMERCIAL GENERAL LIABILITY
CG 20 37 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION YOU HAVE AGREED TO NAME AS ADDIT- IONAL INSURED BY WRITTEN CONTRACT OR AGREEMENT IF THE CONTRACT OR AGREEMENT IS EXECUTED PRIOR TO LOSS	LOCATIONS DESIGNATED AND DESCRIBED IN A WRITTEN CONTRACT OR AGREEMENT WITH THE ADDITIONAL INSURED

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

PREMIUM 350

Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".



EXHIBIT D
PLANS AND SPECIFICATIONS

Drainage Improvements @ University Oaks Blvd. Stallings Dr.
Bid Form

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
GENERAL ITEMS					
1	1	LS	Mobilization, construction staking, bonds and insurance as required in the specifications.	\$85,000.00	\$85,000.00

Subtotal: General Items **\$85,000.00**

REMOVALS					
2	1277	SY	Remove asphalt pavement and stabilized base as shown on plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$13.65	\$17,431.05
3	253	SY	Remove and haul concrete pavement per plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$32.25	\$8,159.25
4	1	EA	Remove sidewalk ramp as shown on plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$1,015.00	\$1,015.00
5	30	SY	Remove sidewalks as shown on plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$60.00	\$1,800.00
6	38	LF	Remove pedestrian rail as shown on plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$21.25	\$807.50
7	572	LF	Remove and haul curb and gutter per plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$17.75	\$10,153.00
8	2	EA	Remove Junction Box and Manholes as shown on plans & specifications and dispose offsite to include all material, labor and equipment to complete the work.	\$1,512.20	\$3,024.40
9	3	EA	Remove inlet as shown on plans & specifications and dispose offsite to include all material, labor and equipment to complete the work.	\$1,590.00	\$4,770.00
10	164	LF	Remove miscellaneous culvert pipe as shown on plans & specifications and dispose offsite to include all material, labor and equipment to complete the work.	\$27.50	\$4,510.00
11	2	EA	Remove headwall and wingwalls as shown on plans & specifications and dispose offsite to include all material, labor and equipment to complete the work.	\$5,936.00	\$11,872.00
12	88	LF	Remove miscellaneous storm sewer pipe as shown on plans & specifications and dispose offsite to include all material, labor and equipment to complete the work.	\$18.25	\$1,606.00
13	1	LS	Remove and haul off trees per plans & specifications and dispose offsite, to include clearing and grubbing in vicinity of removals, all material, labor and equipment to complete the work.	\$5,150.00	\$5,150.00
14	110	LF	Remove 6" cast iron water line as shown on plans & specifications and dispose offsite, to include all material, labor and equipment to complete the work.	\$22.50	\$2,475.00
15	152	LF	Remove 8" sewer line as shown on plans & specifications to include all material, labor and equipment to complete the work.	\$30.20	\$4,590.40

Subtotal: Removals **\$77,363.60**

ROADWAY & EARTHWORK					
16	22	CY	Excavation (in situ) of material in right-of-way to meet design grades of roadway, including hauling, stockpiling, and disposing of excess, to include all material, labor and equipment to complete the work.	\$61.50	\$1,353.00
17	41	CY	Haul in and place select fill material (in situ) for roadway, condition and compact to design standards, to include all material, labor and equipment to complete the work.	\$47.75	\$1,957.75
18	1277	SY	Install 2" thick HMA, Type D, as shown on plans & specifications, including all material, labor and equipment to complete the work, complete in-place.	\$17.00	\$21,709.00
19	1277	SY	Install 4" thick HMA, Type B, as shown on plans & specifications, including all material, labor and equipment to complete the work, complete in-place.	\$27.85	\$35,564.45
20	1560	SY	Install 6" thick chemically stabilized subgrade treatment to be determined by the testing firm, to include proof-rolling, sprinkling, rolling, and stabilization material, all material, labor and equipment to complete the work, complete and in-place.	\$16.50	\$25,740.00
21	544	LF	Install typical combined curb & gutter (ST1-01) as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$33.50	\$18,224.00
22	33	SY	Install 6" thick concrete sidewalk as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$82.50	\$2,722.50
23	1	EA	Install 4' ADA concrete ramps as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$2,670.00	\$2,670.00

Subtotal: Roadway and Earthwork **\$109,940.70**

Drainage Improvements @ University Oaks Blvd. Stallings Dr.
Bid Form

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
DRAINAGE					
24	130	CY	Excavation (in situ) of material to meet design grades of drainage channel, including hauling, stockpiling, and disposing of excess, to include all material, labor and equipment to complete the work.	\$34.00	\$4,420.00
25	116	CY	Haul in and place select fill material (in situ) for drainage channel, condition and compact to design standards, to include all material, labor and equipment to complete the work.	\$42.00	\$4,872.00
26	192	LF	Furnish and Install 8' x 5' precast reinforced concrete box, including rubber gasket joints, with structural backfill as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$1,475.00	\$283,200.00
27	20	LF	Furnish and Install 24" diameter reinforced concrete pipe, Class III, with structural backfill, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$163.80	\$3,276.00
28	48	LF	Furnish and Install 30" diameter reinforced concrete pipe, Class III, with structural backfill, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$200.00	\$9,600.00
29	77	LF	Furnish and Install 36" diameter reinforced concrete pipe, Class III, with structural backfill, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$252.50	\$19,442.50
30	1	EA	Furnish and Install concrete pipe collar, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$1,500.00	\$1,500.00
31	2	EA	Furnish and Install concrete headwall with parallel and/or flared wingwall assemblies, all heights, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$42,600.00	\$85,200.00
32	106	LF	Install pedestrian rail (SW1-01) with black powder coating as shown on plans & specifications, in include all materials, labor and equipment to complete the work, complete in place.	\$272.65	\$28,900.90
33	198	SY	Furnish and Install 6" thick concrete riprap as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$103.50	\$20,493.00
34	2	EA	Furnish and Install 5' x 5' junction box with structural backfill, all depths, as shown on plans & specifications, to include all materials, ring & cover, plate, labor and equipment to complete the work, complete in-place.	\$8,075.00	\$16,150.00
35	4	EA	Furnish and Install 5' curb inlet structures, all depths, including (16) extension(s), ring & cover, and plate, with structural backfill, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$11,170.00	\$44,680.00
36	452	LF	Trench Safety	\$2.25	\$1,017.00

Subtotal: Drainage

\$522,751.40

WATER					
37	115	LF	Furnish and Install 6" diameter DR14 C-900 PVC water pipe by open cut with structural backfill, as shown on plans & specifications, to include all materials (including restrained joints, tracer wire, and snake pit access), testing, disinfection, labor and equipment to complete the work, complete in-place.	\$104.50	\$12,017.50
38	35	LF	Furnish and install 14" steel casing, 3/8" thick, (excluding carrier pipe) as shown on plans & specifications, to include spacers, neoprene seal, and all materials, labor and equipment to complete the work, complete in-place.	\$220.15	\$7,705.25
39	6	EA	Furnish and Install 6"- 45° MJ Bend with thrust blocking as shown on plans & specifications to include all material, labor and equipment to complete the work.	\$1,190.00	\$7,140.00
40	115	LF	Trench Safety	\$2.25	\$258.75
41	2	EA	Connect to existing waterline, all sizes, as shown on plans & specifications to include all required fittings, adapters, etc., all material, labor and equipment to complete the work.	\$2,225.00	\$4,450.00

Subtotal: Water

\$31,571.50

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
SEWER					
42	148	LF	Furnish and Install 8" diameter ductile iron sewer pipe by open cut with restrained joints and structural backfill, as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$170.00	\$25,160.00
43	1	EA	Connect to existing manhole as shown on plans & specifications to include all required fittings, adapters, etc., all material, labor and equipment to complete the work.	\$2,670.00	\$2,670.00
44	1	EA	Furnish and Install standard 4' manhole structure with structural backfill as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete and in place.	\$5,090.00	\$5,090.00
45	1	LS	Furnish and provide all by-pass pumping during the installation of the sanitary sewer system including temporary fittings, plugs, boots, and wet well pumping. To include all materials, labor and equipment to complete the work, complete in-place.	\$6,150.00	\$6,150.00

Subtotal: Sewer **\$39,070.00**

EROSION CONTROL					
46	1	LS	File notice of intent and storm water pollution prevention plan with TCEQ, maintain and post all project information and keep records and report to inspector and engineer. Furnish, install, maintain and remove all sediment control devices including inlet protection (140 LF), construction entrance and exits (2 EA), rock filter dams (40 LF), sediment control fencing (338 LF), and tree protection fencing (132 LF).	\$9,450.00	\$9,450.00
47	1	LS	Hydro mulch disturbed areas (estimated 779 SY) including smoothing, 4" topsoil, grading, fertilizer, watering, maintenance and clean-up as shown on plans & specifications, complete in-place.	\$2,460.00	\$2,460.00
48	1	LS	Block sod disturbed areas (estimated 212 sy) including smoothing, 4" topsoil, fertilizer, watering, maintenance and clean-up as shown on plans & specifications, complete in-place.	\$3,079.00	\$3,079.00

Subtotal: Erosion Control **\$14,989.00**

TCP					
49	1	LS	Furnish and Install and remove all traffic control devices (TCP) to incl: all striping, barricades, and temporary signage required for the TCP as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$6,500.00	\$6,500.00

Subtotal: TCP **\$6,500.00**

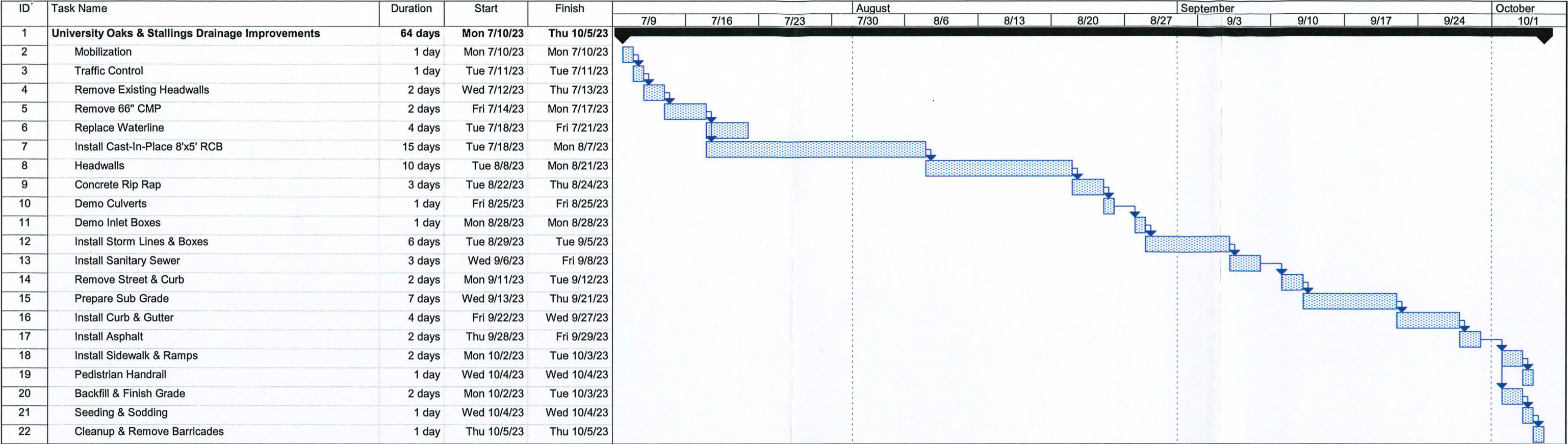
Total Bid **\$887,186.20**

ALTERNATE 1 BID ITEMS - CAST-IN-PLACE REINFORCED CONCRETE BOX					
A1	192	LF	Furnish and Install 8' x 5' cast-in-place reinforced concrete box, with structural backfill as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place.	\$1,150.00	\$220,800.00
A2	-192	LF	Subtract Item 26: "Furnish and Install 8' x 5' precast reinforced concrete box, including rubber gasket joints, with structural backfill as shown on plans & specifications, to include all materials, labor and equipment to complete the work, complete in-place."	\$1,475.00	-\$283,200.00

Total - Bid Alternate 1 (A1+A2=) **-\$62,400.00**

Total Bid + Bid Alternate 1 **\$824,786.20**

EXHIBIT E
CONSTRUCTION SCHEDULE



July 13, 2023
Item No. 7.10.
Viasat EDA Termination

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the termination of an economic development agreement between the City of College Station and Viasat, Inc.

Relationship to Strategic Goals:

- Diverse & Growing Economy

Recommendation(s): Staff recommend that council approve the termination agreement.

Summary: The City of College Station and Viasat, Inc. entered into an economic development agreement in November 2016 to stimulate the development of a new 85,000 square foot facility in the biocorridor to expand company operations. As of 2015, Viasat had 130 FTEs with a payroll of \$7.6 million. Per the agreement, Viasat was to complete construction on a new building and occupy those improvements commercially as an administrative and network operations center. Viasat also entered into agreements with the City of Bryan and Brazos County, as this property is located within the area described in the Interlocal Cooperation and Joint Development Agreement with the City of Bryan, in which the cities agreed to share O&M revenue in an amount equal to the ad valorem tax assessed and collected in the biocorridor.

The total incentive was over six years and included fee waivers, development fast tracking, and a cash incentive in the form of an ad valorem reimbursement annually which mandated certain job/payroll requirements: an increase of 150 FTEs with a corresponding payroll of \$9.6 million. First-year incentives were paid in 2020, but the onset of the pandemic impacted company operations, primarily through the proliferation of remote work. As a result, job/payroll requirements were not met beginning with the second year of compliance (the first year in which those metrics were mandated) and in each subsequent year going forward. Cash incentives were not requested by the company for Compliance Year 2021 and 2022, respectively.

Rather than maintain this agreement through the duration of the remaining two years of compliance, both entities find it desirable to mutually terminate. The company is considering additional options concerning ownership of the building.

Budget & Financial Summary: No additional incentives or funds are due or owed by either party. Total financial contributions from the City through the economic development agreement included \$47,859.75 in fee waivers and \$59,388.40 in 2020 for the first-year incentive compliance payment, which was met per the agreement.

Attachments:

1. Viasat_Mutual_Term_Agreement

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF COLLEGE STATION AND VIASAT, INC.
MUTUAL TERMINATION**

This Termination Agreement ("Agreement") is entered into by and between the City of College Station, Texas, a home-rule municipal corporation ("City"), and Viasat, Inc., a Delaware corporation ("Viasat"), and

WHEREAS, the City and Viasat entered into an Economic Development Agreement ("EDA") dated November 15, 2016 with contract number 17300071; and

WHEREAS, Viasat desires to end the EDA because of a change in their presence in College Station and the sale of their building; and

WHEREAS, the City agrees to terminate the EDA because no further incentives will be paid by the City; and

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and promises in this Agreement the City and Viasat ("Parties") represent and agree as follows:

The Parties mutually consent to terminate the EDA and agree that: (a) neither the City nor Viasat shall have any rights, liabilities or obligations under the EDA; (b) no other incentives or money is due or owed by the City to Viasat; (c) Viasat has no claim or interest in any other incentives or money from the City; and (d) the City has no claim against Viasat.

EFFECTIVE DATE and **EXECUTED** on this the ____ day of _____ 2023.

VIASAT, INC.

By: Robert A. Rota
Robert Rota, VP Facilities & Security
Date: 7/5/2023

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

Assistant City Manager/CFO
Date: _____

City Attorney
Date: _____

July 13, 2023
Item No. 8.1.
Emergency Management Update

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an update from College Station Emergency Management.

Relationship to Strategic Goals:

1. Core Services & Infrastructure – The city will plan for, maintain, and invest in the infrastructure, facilities, services, personnel, and equipment for projected needs and opportunities.
2. Good Governance - Increase transparency and improve the public's ability to participate in government through efforts such as continuing to offer virtual options for public meetings, providing a centralized calendar for public meetings and events, and allowing citizens to book city facilities from the city's website.

Recommendation(s): Staff recommends that Council receive an update regarding Emergency Management. This is an informational presentation only.

Summary: Emergency Management Coordinator, Tradd Mills, will provide an update regarding the actions of emergency management for the City of College Station as well as collaboration with partnering agencies.

Budget & Financial Summary: N/A

Attachments:

None

July 13, 2023

Item No. 9.1.

Resolution of Support -Parks Foundation - Enclosed Tennis Courts

Sponsor: Jennifer Prochazka, Assistant City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution supporting the planning, design and development of enclosed tennis courts by the College Station Parks Foundation.

Relationship to Strategic Goals:

Recommendation(s): Staff recommends the Council consider the Resolution of Support.

Summary: The College Station Parks Foundation was formed earlier this year as a private, tax exempt 501 (c) 3 non-profit corporation, who's mission includes enhancing recreational opportunities and improving recreational facilities in the City of College Station park system. The foundation fundraises in the community to support their mission.

The Foundation has proposed fundraising for the planning, design and construction of an enclosed tennis facility at Bee Creek Park. This item is a Resolution supporting the College Station Parks Foundation and the development of an enclosed tennis facility.

Budget & Financial Summary: N/A

Attachments:

1. Resolution of Support

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, SUPPORTING THE PLANNING, DESIGN AND DEVELOPMENT OF ENCLOSED TENNIS COURTS BY THE COLLEGE STATION PARKS FOUNDATION.

WHEREAS, the College Station Parks Foundation is a private tax exempt 501 (c) 3 non-profit corporation formed to develop parkland and recreational facilities in cooperation with the City of College Station; and

WHEREAS, the College Station Parks Foundation's mission includes enhancing recreational opportunities and improving recreational facilities in the City of College Station park system; and

WHEREAS, the College Station Parks Foundation accepts bequests to further their mission; and

WHEREAS, the College Station Parks Foundation intends to fundraise for the planning, design, and construction of an enclosed tennis facility in the City of College Station's Bee Creek Park; and

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

PART 1: That the College Station City Council supports the College Station Parks Foundation and their fundraising initiative to develop an enclosed tennis facility in Bee Creek Park.

PART 2: That the College Station City Council supports the City of College Station guiding the College Station Parks Foundation as needed for project planning, design, or construction as allowed by law.

ADOPTED this 13th day of July, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

July 13, 2023

Item No. 9.2.

Community Development Update, Program Year 2023 Annual Action Plan, and Fiscal Year 2024 Community Development Budget

Sponsor: David Brower, Raney Whitwell

Reviewed By CBC: City Council

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an update of Community Development activities, current programs, accomplishments, and future opportunities, and an overview of the proposed Program Year 2024 Annual Action Plan and Fiscal Year 2024 Community Development budget.

Relationship to Strategic Goals:

Core Services & Infrastructure, Neighborhood Integrity, Diverse & Growing Economy

Recommendation(s):

Summary: Community Development staff will provide an update regarding Community Development activities, current programs, accomplishments, and future opportunities. The presentation will also include the proposed Program Year (PY) 2023 Annual Action Plan and Fiscal Year (FY) 2024 Community Development Budget.

Community development programming for the City of College Station is currently directed by the 2020-2024 Consolidated Plan. The U.S. Department of Housing and Urban Development requires each grantee to develop a Consolidated Plan that includes a community needs assessment, housing market analysis, housing conditions analysis, and specific goals and objectives to establish a unified vision for actions that will be carried out for the five years.

The City is required to submit a one-year Annual Action Plan describing projects, activities, and budget to be funded with the community development grants received. Annual Action Plan activities must correspond to the 5-Year Consolidated Plan. The total grant funds available next year are \$2,938,761 in Community Development Block Grant (CDBG) funds and \$1,045,450 in HOME Investment Partnership Grant (HOME) funds. These amounts include carry-over funds from previous years, recaptured funds, and new year allocation (PY23) amounts of \$1,180,825 in CDBG and \$527,205 in HOME funding. PY 2023 funding will be available on 10/1/2023. The PY 2023 Annual Action Plan, that includes the FY23 Community Development budget, must be delivered to HUD no later than August 16, 2023. Therefore, this information is a separate process from the Council's consideration of the overall City budget.

CDBG funds may only be used to: (1) benefit low-and moderate-income persons; (2) aid in the elimination of slum and blight influences; and/or (3) meet an urgent community need. Further, CDBG funds may be used to meet local needs through a wide range of community development activities, while HOME funds may only be used for affordable housing activities.

A Public Hearing was held on March 21, 2023 to obtain citizen input concerning goals and objectives, community needs, and fair housing to allow staff to develop the plan. Staff will present the proposed plan and budget to City Council at the July 13, 2023 meeting and include a Public Hearing so that the public will have the opportunity to provide comments regarding the proposed plan. Approval of the plan and budget will be considered by Council at the August 10, 2023 meeting.

A public notice was included in The Eagle and La Voz advertising the meetings, the opportunity to review and comment on the plan and budget. The plan will be made available for review electronically on the Community Development web page and copies of the plan are located at the Community Services office, City Secretary's office, and at the Larry J. Ringer Public Library. A 30-day public comment period will be held from June 20, 2023, through July 20, 2023.

Historically, the City has utilized these funds for a variety of programs and activities, including: affordable housing assistance programs (homebuyer assistance, security deposit assistance, rehabilitation, and minor repair); funding for direct services to low-income families through non-profit programs; demolition; economic development; infrastructure improvements to parks, facilities, and streets; and grant administration.

Budget & Financial Summary: CDBG Budget totaling \$2,938,761 and HOME Budget totaling \$1,045,450.

Attachments:

1. Attachment 1- FY 2024 Proposed Community Development Budget
2. Attachment 2 - FY 2024 Plan Development Process Summary
3. Attachment 3-FY 2024 Public Service Funding
4. Attachment 4 - FY 2024 Income Limits
5. Attachment 5 - 2020-2024 Community Development Goals
6. Attachment 6- Community Development Project Descriptions
7. Attachment 7- Map of LMI Income Area 2023

Attachment 1: FY 2024 Proposed Community Development Budget

PROJECT	CDBG & HOME CARRY-OVER	CDBG & HOME NEW ALLOCATIONS	CDBG & HOME TOTAL PROPOSED
Owner-Occupied Rehabilitation (Minor Repair & Owner-Occupied Rehab)	\$24,446	\$82,513	\$106,959
Rehabilitation Administration	\$24,446	\$82,512	\$106,958
Rental Housing Rehabilitation	\$977,676	\$300,187*	\$1,277,863
Rental Housing Rehabilitation (LULAC Oak Hill)	\$94,640	-	\$94,640
Rental Housing Construction	\$189,650	\$352,511	\$542,161
Acquisition/New Construction (Habitat for Humanity)	\$486,705	\$200,000	\$686,705
Homebuyer Assistance	\$42,250	\$87,750	\$130,000
Tenant Based Rental Assistance Deposit	\$3,498	\$18,531**	\$22,029
Public Service Agency (See Attachment 3)	\$35,160	\$177,124	\$212,284
Public Facility	\$265,665	\$250,000	\$515,665
Grant Administration	-	\$288,945***	\$288,945
Total Community Development Budget	\$2,144,136	\$1,840,074	\$3,984,211
<i>*\$127,672 of Down Payment Assistance Repayments included</i> <i>**\$4,312 of Rehabilitation Loan Repayment included</i> <i>***\$60 of Application fees included</i>			

Attachment 2: Annual Action Plan and Budget Development Process Summary, FY 2024

Event	Date
Community Needs Survey	Mar. & Apr.
Pre-proposal workshop for agencies	Feb. 20, 2023
CDBG Public Service Funding proposals due	March 15, 2023
Public hearing on Annual Action Plan and Budget	March 21, 2023
CDBG Public Service Review Committee Meetings	March 06, 2023 March 22, 2023 March 27, 2023 April 04, 2023 April 10, 2023 April 17, 2023 April 24, 2023
CDBG Public Service Review Committee Vendor Selection	May 3, 2023
Public Notice	June 13, 2023
30-Day Public Comment Period begins	June 20, 2023
First presentation of Consolidated Plan and Budget to City Council / 2 nd public hearing regarding Proposed PY2023 (2024) Annual Action Plan	July 13, 2023
30-Day Public Comment Period ends	July 20, 2023
Request council approval by consent agenda of PY2023 (FY2024) Annual Action Plan, and FY2024 Community Development Budget	Aug. 10, 2023
Due to HUD no later than	Aug. 16, 2023

Attachment 3: FY 2024 CDBG Public Service Funding Summary & Recommendations

Agency	Program	Requested	Recommended Funding	Funded Items	Client #'s/ Cost per Client
Brazos Maternal & Child Health Clinic, Inc.	The Prenatal Clinic	\$77,500	\$77,500	Physician contract with TAMU College of Medicine	425
					\$182
Big Brothers Big Sisters of the Brazos Valley	Youth Mentoring	\$25,000	\$38,384	Program Director	215
					\$178
Catholic Charities of Central Texas	Brazos Valley Financial Stability Program	\$40,000	\$61,239	Financial Stability Case Manager	600
					\$102
Total			\$177,123		

Attachment 4: 2023 Median Income Limits

2023 MEDIAN INCOME LIMITS

City of College Station

Community Development

This list supersedes all other lists of prior dates.

Household	60%	80%
1	\$33,780	\$45,050
2	\$38,640	\$51,450
3	\$43,440	\$57,900
4	\$48,240	\$64,300
5	\$52,140	\$69,450
6	\$55,980	\$74,600
7	\$59,820	\$79,750
8	\$63,720	\$84,900

The left column (Household) refers to the number of people in the home. The two columns on the right refer to the maximum combined income allowed per year by HUD guidelines in order to qualify for a Community Development program at 60% and 80% of the Area Median Income (AMI). Effective 6/15/2023

Source: [Income Limits](#) | HUD USER

Attachment 6: PY 2020-2024 Community Development Goals

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Rental Housing - Rehabilitation	2020	2024	Affordable Housing	City-wide	Rental Housing Special Needs	CDBG: \$1,000,000 HOME: \$575,000	Rental units Acquired and Rehabilitated: 20 Household Housing Unit
2	Rental Housing - Construction	2020	2024	Affordable Housing	City-wide	Rental Housing Special Needs	HOME: \$500,000	Rental units constructed: 10 Household Housing Unit
3	Owner Housing - Rehabilitation/Reconstruction	2020	2024	Affordable Housing	City-wide	Owner-Occupied Housing	CDBG: \$500,000 HOME: \$250,000	Homeowner Housing Rehabilitated: 15 Household Housing Unit
4	Owner Housing - Demolition	2020	2024	Affordable Housing Non-Housing Community Development	City-wide	Owner-Occupied Housing Public Facilities & Infrastructure	CDBG: \$125,000	Buildings Demolished: 4 Buildings
5	Homeownership - Down Payment Assistance	2020	2024	Affordable Housing	City-wide	Homeownership	HOME: \$1,000,000	Direct Financial Assistance to Homebuyers: 25 Households Assisted
6	Homeownership - Financial Literacy	2020	2024	Affordable Housing	City-wide	Homeownership		Other: 375 Other
7	Homeownership - Construction	2020	2024	Affordable Housing	City-wide	Owner-Occupied Housing Homeownership	CDBG: \$500,000	Homeowner Housing Added: 4 Household Housing Unit
8	Homelessness - TBRA Security Deposits	2020	2024	Homeless	City-wide	Rental Housing Homelessness Special Needs	HOME: \$175,000	Tenant-based rental assistance / Rapid Rehousing: 375 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
9	Homelessness - Outreach and Assessment	2020	2024	Homeless Non-Homeless Special Needs Non-Housing Community Development	City-wide	Homelessness Special Needs Public Services	CDBG: \$50,000	Other: 20 Other
10	Homelessness - Services	2020	2024	Homeless	City-wide	Homelessness Public Services	CDBG: \$100,000	Public service activities other than Low/Moderate Income Housing Benefit: 1200 Persons Assisted
11	Special Needs - Services	2020	2024	Non-Homeless Special Needs	City-wide	Special Needs Public Services	CDBG: \$100,000	Public service activities other than Low/Moderate Income Housing Benefit: 1100 Persons Assisted
12	Public Services	2020	2024	Non-Housing Community Development	City-wide	Public Services	CDBG: \$625,000	Public service activities other than Low/Moderate Income Housing Benefit: 10,000 Persons Assisted
13	Public Facilities	2020	2024	Non-Housing Community Development	City-wide	Public Facilities & Infrastructure	CDBG: \$1,500,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 10,000 Persons Assisted
14	Economic Development – Business & Job Development	2020	2024	Non-Housing Community Development	City-wide	Economic Development	CDBG: \$500,000	Jobs created/retained: 25 Jobs

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
15	Disaster Response	2020	2024	Rental Housing Special Needs Public Services Economic Development Program Administration and Compliance Homelessness	City-wide	Homelessness Special Needs Public Services	\$500,000	Public service activities other than Low/Moderate Income Housing Benefit: 600 Persons Assisted
16	Slum and Blight – Demolition	2020	2024	Affordable Housing Non-Housing Community Development	City-wide	Public Facilities & Infrastructure / Spot Slum and Blight	\$100,000	

Goal Descriptions

1	Goal Name	Rental Housing - Rehabilitation
	Goal Description	Encourage and facilitate the rehabilitation of rental units.
2	Goal Name	Rental Housing - Construction
	Goal Description	Encourage and facilitate the construction of new affordable rental units through nonprofit or for-profit partners. Additional sources of funds include tax credits through the State of Texas and private funds.
3	Goal Name	Owner Housing - Rehabilitation/Reconstruction
	Goal Description	Encourage and facilitate maintenance of residential units by low- and moderate-income homeowners through minor repair grants (CDBG) and residential rehabilitation or reconstruction loans (HOME).

4	Goal Name	Owner Housing - Demolition
	Goal Description	Encourage and facilitate the removal of dilapidated residential structures and/or address community emergencies.
5	Goal Name	Homeownership - Down Payment Assistance
	Goal Description	Encourage and support programs and projects that provide financial assistance to low- and moderate-income households purchasing existing or new affordable homes.
6	Goal Name	Homeownership - Financial Literacy
	Goal Description	Encourage and support programs and projects that provide education and counseling to lower-income homeowners and prospective homebuyers.
7	Goal Name	Homeownership - Construction
	Goal Description	Encourage and support programs and projects that construct new housing units for low-and moderate-income homebuyers.
8	Goal Name	Homelessness - TBRA Security Deposits
	Goal Description	Preventing homelessness through the provision of assistance for low-income households to secure and sustain safe, decent affordable housing. This is a coordinated effort among affordable housing providers and the City to provide security deposit assistance to eligible households.
9	Goal Name	Homelessness - Outreach and Assessment
	Goal Description	Fostering coordination, collaboration, and increased resources to assess community needs, available services, and service gaps. This information may be used to target and improve service provision.
10	Goal Name	Homelessness - Services
	Goal Description	Assist homeless persons in meeting health and human service needs; provide training and counseling opportunities to help with the transition to self-sufficiency. This goal will be met through public service provision.
11	Goal Name	Special Needs - Services
	Goal Description	Encourage and facilitate organizations that provide social and/or housing services to special needs populations.

12	Goal Name	Public Services
	Goal Description	Encourage and support nonprofit providers of homeless/AIDS patient programs, senior services, services for persons with disabilities, legal services, youth services, transportation services, substance abuse services, services for victims of domestic violence, employment training, crime awareness, fair housing, tenant/landlord counseling, child care services, health services, abused and neglected children services, mental health services, screening for lead based paint/lead hazards, subsistence payments, homebuyer downpayment assistance, rental housing subsidies, security deposits, housing counseling, neighborhood clean-ups, food banks, housing information and referral, housing counseling to support homebuyer downpayment assistance, or other public services to deliver programs to low- and moderate-income families and individuals.
13	Goal Name	Public Facilities
	Goal Description	Rehabilitation and expansion of street infrastructure, sidewalks, other infrastructure, including water and sewer lines and flood drain improvements, or park facilities including green space, neighborhood parks, and recreation facilities in primarily low- to moderate-income areas.
14	Goal Name	Economic Development – Business & Job Development
	Goal Description	Rehabilitate and/or develop new spaces for businesses to better realize job creation or support and expand community-wide training and employment activities targeting low-and moderate-income households.
15	Goal Name	Disaster Response
		Addressing the needs of families and individuals affected by the response or effect of a local, state, or federal disaster declaration, such as a pandemic or natural disaster.
16	Goal Name	Slum and Blight - Demolition
	Goal Description	Encourage and facilitate activities in an urban renewal area or the prevention or elimination of slum and blight on an area or spot basis.

Attachment 8: Community Development Project Descriptions

Acquisition/Rehabilitation:

CDBG and HOME funds may be used to support the acquisition of property for the development of affordable housing units for sale or rent by income-eligible and otherwise qualified households. This can include vacant land for new construction, or existing housing units, often combined with rehabilitation.

Rental Housing Construction:

CDBG and HOME funds will be used to encourage and facilitate the construction of new affordable rental units through nonprofit or for-profit partners.

Homebuyer Assistance:

Down payment and closing cost assistance provided to eligible, qualified homebuyers through deferred no interest loans, which include a shared equity component, with HOME funds.

Community Housing Development Organization:

HOME funds will be made available to an eligible CHDO for the acquisition, development and construction of affordable housing units or the rehabilitation of existing housing units.

New Construction:

Leveraged Development and Non-Profit Partners:

HOME funds will be used to facilitate the development of new affordable housing or the renovation of existing housing for low-income residents. Activities may include the acquisition of land, soft costs, or construction of single-family or multi-family units.

Rental Rehabilitation:

HOME funds will be matched with private funds to rehabilitate rental properties that will maintain affordable rents for low-income households for a specified period of time following the completion of the project. Projects will be selected based on the following priorities: bringing the unit up to City Codes and HUD standards, upgrade systems, energy conservation upgrades, exterior repairs, and other upgrades that increase marketability.

Tenant Based Rental Assistance:

Using HOME funds, CD staff will administer a security deposit assistance program for low-income individuals and families who will reside in housing units located in a HTC property located in College Station. Current properties include The Haven Apartments, The Heritage at Dartmouth, and Santour Court. Other eligible properties include Terrace Pines Apartments and Villas of Rock Prairie. CD staff will work with the Housing Choice Voucher Program to provide security deposit assistance to qualified voucher holders securing housing in College Station. CD Staff will also work with BVCAP, Twin City Mission, and Family Promise, which offers affordable rental units to lower-income households in College Station or assists homeless individual and families to secure housing.

Public Services:

15% of the City's CDBG fund allocation will be used in partnership with CDBG funds from the City of Bryan to fund non-profit social service agencies in the community. The Joint Relief Funding Review Committee, a Citizen Committee comprised of three members from the City of College Station and three from the City of

Bryan, review program proposals from area nonprofits and recommend funding amounts based on their review. Funds are awarded to nonprofit programs who serve primarily low- and moderate-income residents of College Station and Bryan.

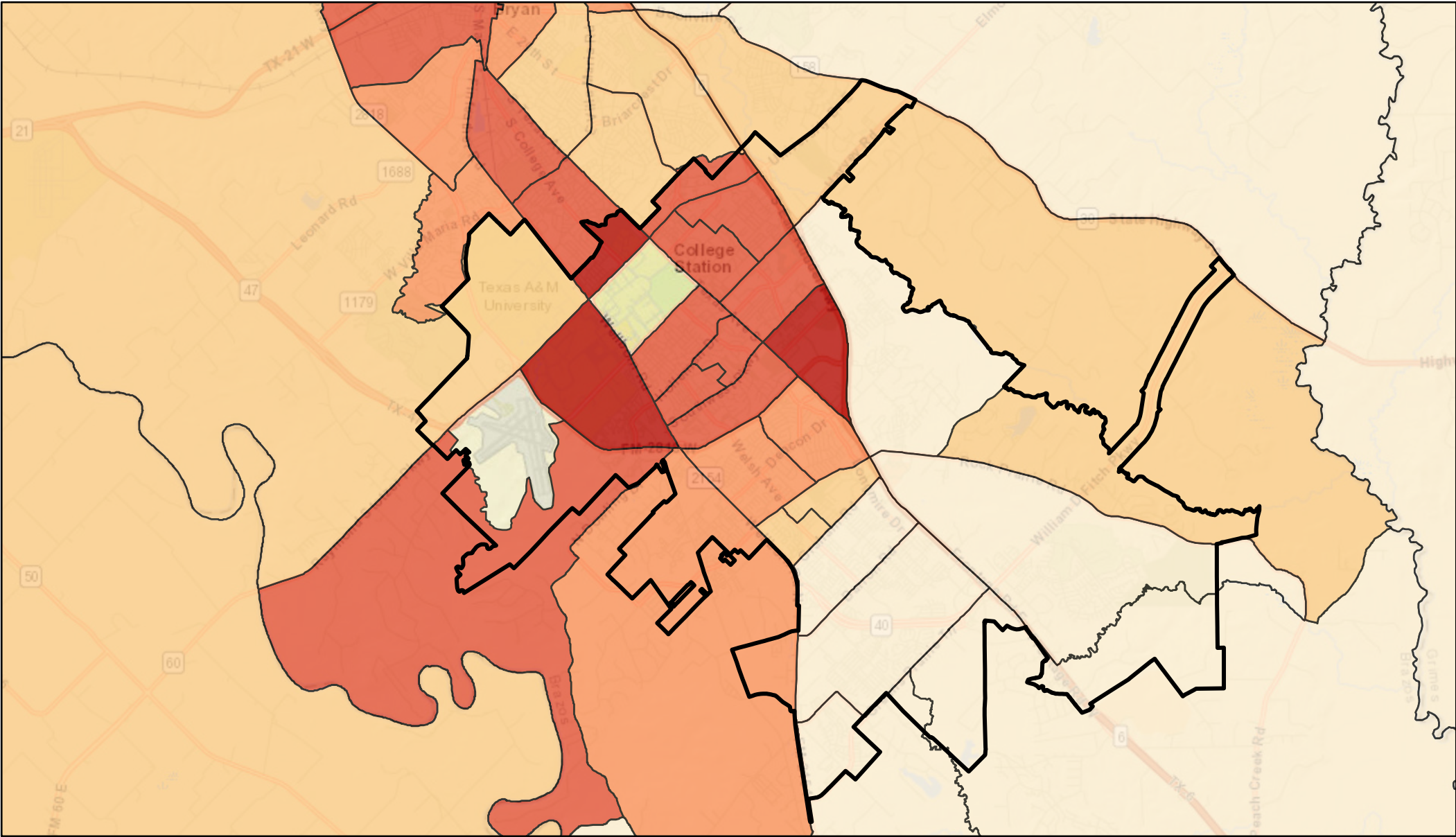
Public Facility:

Funds will be used to design, engineer, construct, or rehabilitate streets, sidewalks, parks, water and wastewater utilities, or other infrastructure improvements in College Station.

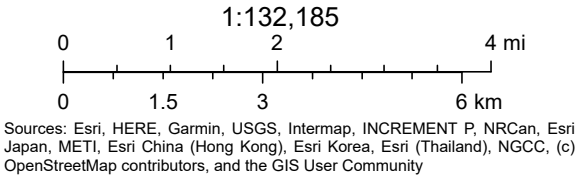
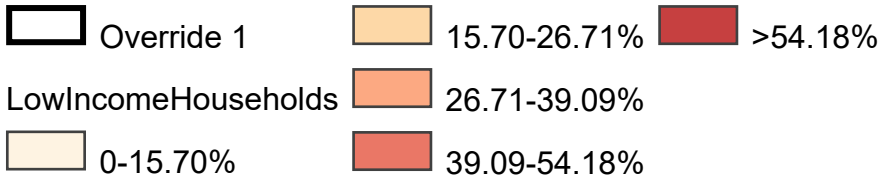
Program Administration:

HOME and CDBG funds will be used for management, planning and administration of the City's PY 2021 CDBG, HOME and other eligible grant programs for LMI citizens. Staff will provide capacity building and technical assistance as needed to citizens, builders, developers, and service providers. Funds from the administrative budget are made available to Project Unity to provide planning and reporting support to CD staff and coordinate a variety of community meetings to address the needs of low- and moderate-income residents, available services, and resources among local service providers. The City will utilize administrative funds to provide education to the community regarding Federal Fair Housing laws and affirmatively further fair housing in College Station.

Low Income Areas in College Station - Consolidated Plan and Continuum of Care Planning Tool



March 27, 2023



July 13, 2023
Item No. 9.3.
Sienna Drive – Right-of-Way Abandonment

Sponsor: Lucas Harper

Reviewed By CBC: City Council

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 0.8236 acre, 60-foot wide Right-of-Way, Sienna Drive, generally located 550 feet southwest of the intersection of Marion Pugh Drive and Holleman Drive West according to the plat recorded in Volume 583, Page 177 and the replat recorded in Volume 705, Page 619, of the Official Records of Brazos County, Texas.

Relationship to Strategic Goals:

- Core Services & Infrastructure
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval.

Summary: The Right-of-Way (ROW) abandonment is being requested by the applicant as a result of a desired change in the lot layout of this area. The public street constructed in the ROW is a cul-de-sac internal to the lot and does not serve the transportation needs of the public. A public utility easement will suffice for the needs of the City's utility infrastructure located in this area.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Ordinance Exhibit A
3. Vicinity Map
4. Location Map
5. Application

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING THE 0.8236 ACRE, CALLED 60-FOOT WIDE RIGHT OF WAY AND STREET DEDICATION OF SIENNA DRIVE, SAID RIGHT OF WAY AND STREET DEDICATION LYING IN LOT 1, BLOCK 2, OF THE WOODWAY WEST PHASE 1 SUBDIVISION, ACCORDING TO THE PLATS RECORDED IN VOLUME 583, PAGE 177 OF THE DEED RECORDS OF BRAZOS COUNTY AND VOLUME 705, PAGE 619 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of the 0.8236 acre, called 60-foot width Right-of-Way and Street Dedication of Sienna Drive, said Right-of-Way and Street Dedication lying in Lot 1, Block 2, of the Woodway West Phase 1 Subdivision, according to the plats recorded in Volume 583, Page 177 of the Deed Records of Brazos County and Volume 705, Page 619, of the Official Records of Brazos County, Texas, as described in **Exhibit “A”**, attached hereto (such portion hereinafter referred to as the “Right-of-Way”); and

WHEREAS, in order for the Right-of-Way to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the Right-of-Way described in **Exhibit “A”** attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the Right-of-Way will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the Right-of-Way.
3. There is no anticipated future public need or use for the Right-of-Way.
4. Abandonment of the Right-of-Way will not impact access for all public utilities to serve current and future customers.

PART 2: That the Right-of-Way as described in **Exhibit “A”** be abandoned and vacated by the City.

PASSED, ADOPTED and APPROVED this _____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney



WINDROSE
LAND SURVEYING | PLATTING

Exhibit A

DESCRIPTION OF RIGHT-OF-WAY ABANDONMENT (SIENNA DRIVE)
0.8236 ACRES OR 35,875 SQ. FT.

A TRACT OR PARCEL CONTAINING 0.8236 ACRES OR 35,875 SQUARE FEET OF LAND SITUATED IN THE CRAWFORD BURNETT LEAGUE, ABSTRACT NO. 7, BRAZOS COUNTY, TEXAS, BEING ALL OF SIENNA DRIVE RIGHT-OF-WAY AND STREET DEDICATION, AS DEPICTED ON THE REVISED PLAT OF WOODWAY WEST – PHASE 1, MAP OR PLAT THEREOF RECORDED UNDER VOL. 705, PG. 619, BRAZOS COUNTY OFFICIAL RECORDS (B.C.O.R.), AND THE PLAT OF WOODWAY WEST-PHASE I, MAP OR PLAT THEREOF RECORDED UNDER VOL. 583, PG. 177, BRAZOS COUNTY DEED RECORDS (B.C.D.R.), WITH SAID 0.8236 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE (NAD 83):

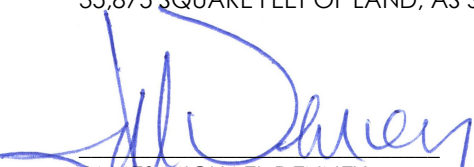
COMMENCING AT THE INTERSECTION OF THE NORTHEAST RIGHT-OF-WAY (R.O.W.) LINE OF JONES BUTLER ROAD (WIDTH VARIES) AND THE NORTHWEST R.O.W. LINE OF HOLLEMAN DRIVE (60 FEET WIDE) FOR THE SOUTH CORNER OF LOT 1, BLOCK 2, OF SAID REVISED PLAT OF WOODWAY WEST – PHASE 1, FROM WHICH POINT CITY OF COLLEGE STATION MONUMENT NO. 220 BEARS FOR REFERENCE NORTH 54 DEG. 15 MIN. 13 SEC. EAST – 5680.88 FEET;

THENCE, NORTH 42 DEG. 00 MIN. 05 SEC. EAST, WITH THE NORTHWEST R.O.W. LINE OF SAID HOLLEMAN DRIVE, A DISTANCE OF 267.50 FEET TO A POINT FOR THE MOST SOUTHERLY CORNER OF SIENNA DRIVE AND THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE EXISTING R.O.W. OF SAID SIENNA DRIVE, THE FOLLOWING TEN (10) COURSES AND DISTANCES:

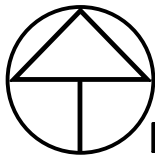
1. WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AN ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 02 DEG. 59 MIN. 55 SEC. WEST, - 35.36 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
2. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 11.52 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE RIGHT;
3. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 237.74 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 234.72 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
4. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, A DISTANCE OF 178.73 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
5. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 62 DEG. 10 MIN. 55 SEC., AN ARC LENGTH OF 27.13 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 47 DEG. 24 MIN. 41 SEC. WEST, - 25.82 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF REVERSE CURVE;
6. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 211.34 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 42 DEG. 35 MIN. 14 SEC. EAST, - 85.64 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
7. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, PASSING A DISTANCE OF 29.31 FEET A FOUND 5/8 INCH IRON ROD, CONTINUING FOR A TOTAL DISTANCE OF 245.07 FEET TO A 1/2 IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
8. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 204.57 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 32 DEG. 09 MIN. 34 SEC. EAST, - 201.97 FEET TO A POINT OF TANGENCY;
9. SOUTH 47 DEG. 59 MIN. 55 SEC. EAST, A DISTANCE OF 11.52 FEET TO A 1/2 IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
10. WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AN ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 87 DEG. 00 MIN. 05 SEC. EAST, - 35.36 FEET TO THE NORTHWEST R.O.W. LINE OF SAID HOLLEMAN DRIVE FOR THE MOST EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 42 DEG. 00 MIN. 05 SEC. WEST, OVER AND ACROSS THE INTERSECTION OF SAID SIENNA DRIVE AND SAID HOLLEMAN DRIVE, A DISTANCE OF 110.00 FEET TO A TO THE **PLACE OF BEGINNING** AND CONTAINING 0.8236 ACRES OR 35,875 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 58457 ROW-ABAND-1, PREPARED BY WINDROSE LAND SERVICES.


JAMES MICHAEL DENNEY
R.P.L.S. NO. 5414
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



04-26-2023
DATE:
REVISED: 05-25-2023



NORTH

SCALE: 1" = 100'



LEGEND

- B.C.D.R. - BRAZOS COUNTY DEED RECORDS
- B.C.O.P.R. - BRAZOS COUNTY OFFICIAL PUBLIC RECORDS
- B.C.O.R. - BRAZOS COUNTY OFFICIAL RECORDS
- B.C.C.F. - BRAZOS COUNTY CLERK'S FILE
- R.O.W. - RIGHT-OF-WAY
- FND - FOUND
- IR - IRON ROD
- MH - MANHOLE
- FH - FIRE HYDRANT
- SAN - SANITARY SEWER LINE
- WTR - WATER LINE

GENERAL NOTES

- SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE MAY DISCLOSE.
- BEARINGS WERE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, (NAD83)
- THIS EXHIBIT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION.
- THIS EXHIBIT DOES NOT IMPLY TO BE A LAND TITLE SURVEY OF THE SUBJECT PROPERTY.

CURVE CHART

CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C1	25.00'	90°00'00"	39.27'	N 02°59'55" W	35.36'
C2	430.00'	31°40'41"	237.74'	N 32°09'34" W	234.72'
C3	25.00'	62°10'55"	27.13'	N 47°24'41" W	25.82'
C4	50.00'	242°10'54"	211.34'	N 42°35'14" E	85.64'
C5	370.00'	31°40'41"	204.57'	S 32°09'34" E	201.97'
C6	25.00'	90°00'00"	39.27'	N 87°00'05" E	35.36'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 47°59'55" W	11.52'
L2	S 16°19'14" E	29.31'
L3	S 47°59'55" E	11.52'
L4	S 42°00'05" W	110.00'

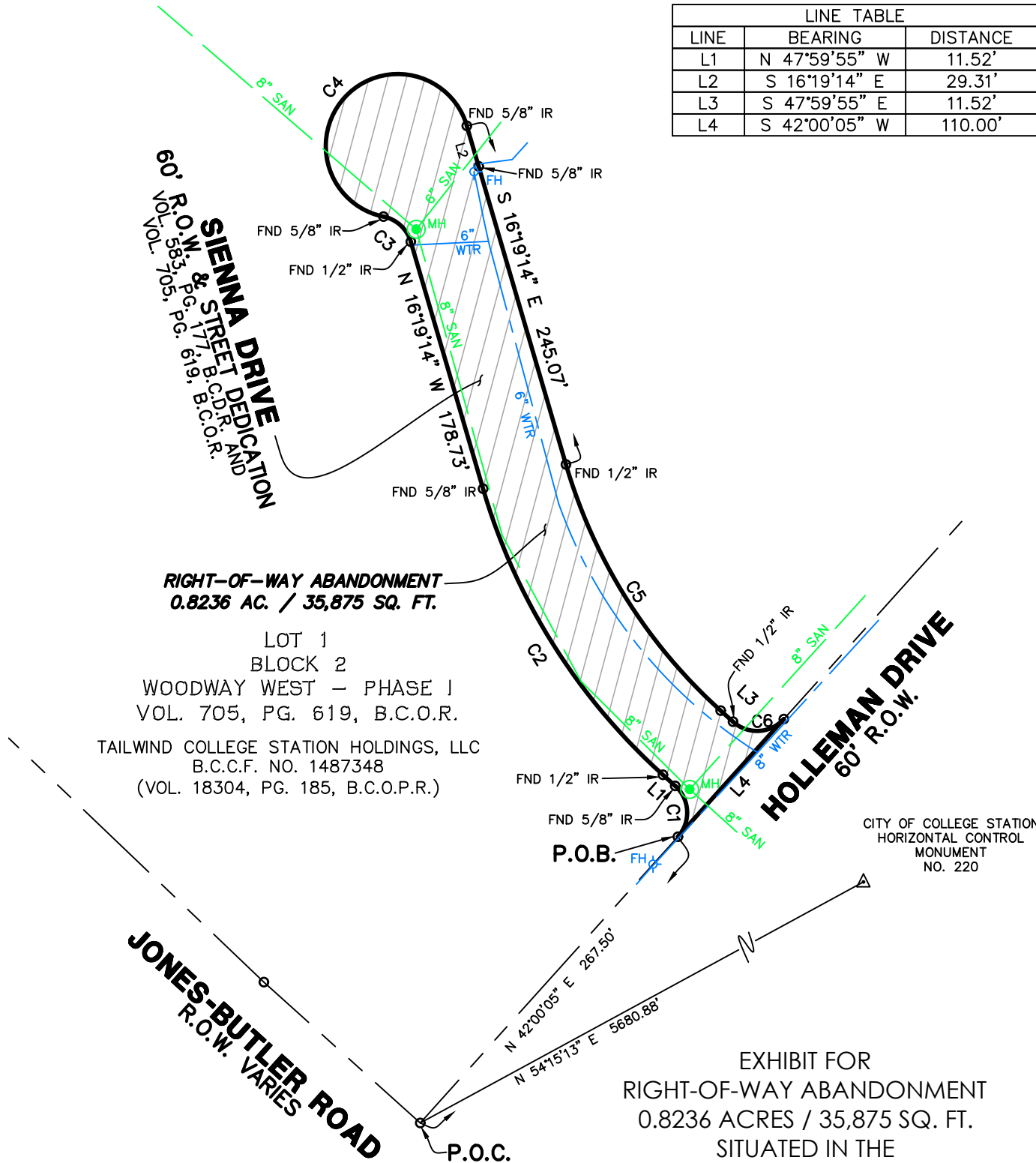
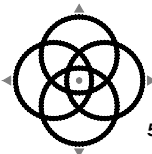


EXHIBIT FOR
RIGHT-OF-WAY ABANDONMENT
0.8236 ACRES / 35,875 SQ. FT.
SITUATED IN THE
CRAWFORD BURNETT LEAGUE, A-7
BRAZOS COUNTY, TEXAS

FIELD BY:	-	DATE:	04-26-2023
DRAWN BY:	LH	REV:	05-25-2023
CHECKED BY:	DG	REV:	
JOB NO.	58457-ROW Aband-1	REV:	
SHEET 1 OF 2		REV:	



WINDROSE
LAND SURVEYING | PLATTING

5353 W SAM HOUSTON PKWY N, STE 150 | HOUSTON, TX 77041 | 713.458.2281
FIRM REGISTRATION NO. 10108800 | WINDROSESERVICES.COM

VICINITY MAP

NORTH

GEORGE BUSH DRIVE WEST
PENBERTHY DRIVE

PARK PLACE
LUTHER STREET

ELEANOR STREET

PHOENIX STREET
ARIZONA STREET

ONEY HERVEY DRIVE

MARION PUGH DRIVE

HOLLEMAN DRIVE WEST

HOLLEMAN DRIVE

SOUTHLAND STREET

WELLBORN ROAD

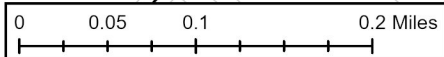
SIENNA DR.

JONES-BUTLER ROAD
GRIDIRON DRIVE

WOODSMAN DRIVE
CORREGIDOR DRIVE

LUTHER STREET WEST

REED DR



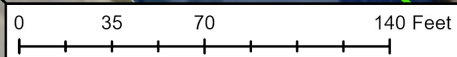
LOCATION MAP



ROW TO BE ABANDONED
0.8236 ACRES

SIENNA DRIVE

HOLLEMAN DRIVE WEST



FOR OFFICE USE ONLY

CASE NO.: _____
 DATE SUBMITTED: _____
 TIME: _____
 STAFF: _____

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☐ Abandonment of Public Right-of-Way/Easement Application Fee. (Refer to the Planning and Development Fee Schedule for all applicable fees)
- ☐ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☐ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☐ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☐ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

See image and precise legal description in Exhibit 1. Commonly known as 800 Marion Pugh Dr., College Station, Texas 77840. The Right-of-Way (Sienna Drive) to be abandoned is located in:
 Lot One (1), Block Two(2), of the Revised Plat of Woodway West - Phase I as recorded in Volume 705, Page 619 of the Deed Records of Brazos County, Texas.

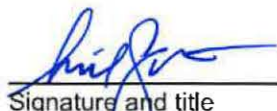
APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name Brian Moser E-mail bmoser@buildcore.net
 Street Address 1544 Greenview Drive SW, Suite 100
 City Rochester State MN Zip Code 55902
 Phone Number (507) 424-2176 Fax Number _____

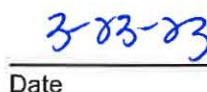
PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name Tailwind College Station Holdings, LLC E-mail kpierce@thetailwindgroup.com
 Street Address: 530 South Front Street, Suite 100
 City Mankato State MN Zip Code 56001
 Phone Number (507) 322-1200 Fax Number _____

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



Signature and title
 Michael Sather, as Chief Manager of Tailwind College Station Manager, LLC,
 the sole member of Tailwind College Station Holdings, LLC



Date

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name None E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: Tailwind owns all of the property abutting the Sienna Drive right-of-way.

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:

The Sienna Drive right-of-way is surrounded on all sides by either (a) a public road or (b) a parcel of property owned by Tailwind.

8. That there is no current public need or use for the easement or right-of-way because:

The Sienna Drive right-of-way's only purpose is for access to Tailwind's privately owned property from a public road. All emergency and other public rights of access will be maintained.

9. That there is no anticipated future public need or use for the easement or right-of-way because:

See response to Question 8. In addition, Tailwind intends to install a gate around its private property where the Sienna Drive right-of-way currently allows access.

10. That all public utilities have access to serve current and future customers because:

The site plan provides access for public utilities along other routes.

11. Such public right-of-way/easement has been and is being used as follows:

The Sienna Drive right-of-way has merely been used as a point of access to the Property Owner's privately owned parcel.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.



Signature and title

Michael Sather, as Chief Manager of Tailwind College
Station Manager, LLC, the sole member of Tailwind
College Station Holdings, LLC

3-13-23

Date

STATE OF ~~TEXAS~~ Minnesota §
COUNTY OF ~~BRAZOS~~ Blue Earth §

ACKNOWLEDGEMENT

Subscribed and sworn to before me, a Notary Public, this 23 day of March, 23 2012 by
Michael Sather, as Chief Manager of Tailwind College Station Manager, LLC, the sole member of Tailwind College Station
Holdings, LLC, on behalf of said limited liability company.





Notary Public in and for
the State of ~~Texas~~ Minnesota

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in
LOT ONE (1), BLOCK TWO (2), REVISED PLAT OF WOODWAY WEST - PHASE 1

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.



WINDROSE
LAND SURVEYING | PLATTING

DESCRIPTION OF RIGHT-OF-WAY ABANDONMENT (SIENNA DRIVE)
0.8236 ACRES OR 35,875 SQ. FT.

A TRACT OR PARCEL CONTAINING 0.8236 ACRES OR 35,875 SQUARE FEET OF LAND SITUATED IN THE CRAWFORD BURNETT LEAGUE, ABSTRACT NO. 7, BRAZOS COUNTY, TEXAS, BEING ALL OF SIENNA DRIVE RIGHT-OF-WAY AND STREET DEDICATION, AS DEPICTED ON THE REVISED PLAT OF WOODWAY WEST – PHASE 1, MAP OR PLAT THEREOF RECORDED UNDER VOL. 705, PG. 619, BRAZOS COUNTY OFFICIAL RECORDS (B.C.O.R.), AND THE PLAT OF WOODWAY WEST-PHASE I, MAP OR PLAT THEREOF RECORDED UNDER VOL. 583, PG. 177, BRAZOS COUNTY DEED RECORDS (B.C.D.R.), WITH SAID 0.8236 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE (NAD 83):

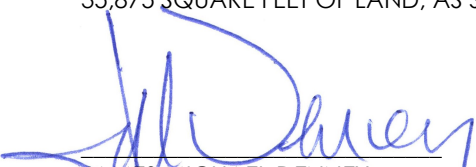
COMMENCING AT THE INTERSECTION OF THE NORTHEAST RIGHT-OF-WAY (R.O.W.) LINE OF JONES BUTLER ROAD (WIDTH VARIES) AND THE NORTHWEST R.O.W. LINE OF HOLLEMAN DRIVE (60 FEET WIDE) FOR THE SOUTH CORNER OF LOT 1, BLOCK 2, OF SAID REVISED PLAT OF WOODWAY WEST – PHASE 1, FROM WHICH POINT CITY OF COLLEGE STATION MONUMENT NO. 220 BEARS FOR REFERENCE NORTH 54 DEG. 15 MIN. 13 SEC. EAST – 5680.88 FEET;

THENCE, NORTH 42 DEG. 00 MIN. 05 SEC. EAST, WITH THE NORTHWEST R.O.W. LINE OF SAID HOLLEMAN DRIVE, A DISTANCE OF 267.50 FEET TO A POINT FOR THE MOST SOUTHERLY CORNER OF SIENNA DRIVE AND THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE EXISTING R.O.W. OF SAID SIENNA DRIVE, THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AN ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 02 DEG. 59 MIN. 55 SEC. WEST, - 35.36 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
2. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 11.52 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE RIGHT;
3. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 237.74 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 234.72 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
4. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, A DISTANCE OF 178.73 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
5. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 62 DEG. 10 MIN. 55 SEC., AN ARC LENGTH OF 27.13 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 47 DEG. 24 MIN. 41 SEC. WEST, - 25.82 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF REVERSE CURVE;
6. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 211.34 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 42 DEG. 35 MIN. 14 SEC. EAST, - 85.64 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
7. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, PASSING A DISTANCE OF 29.31 FEET A FOUND 5/8 INCH IRON ROD, CONTINUING FOR A TOTAL DISTANCE OF 245.07 FEET TO A 1/2 IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
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JAMES MICHAEL DENNEY
R.P.L.S. NO. 5414
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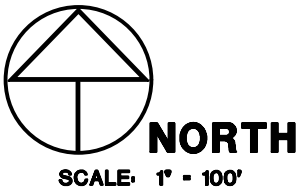
04-26-2023
DATE:
REVISED: 05-25-2023

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.



GENERAL NOTES

- 1. SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE MAY DISCLOSE.
- 2. BEARINGS WERE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, (NAD83)
- 3. THIS EXHIBIT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION.
- 4. THIS EXHIBIT DOES NOT IMPLY TO BE A LAND TITLE SURVEY OF THE SUBJECT PROPERTY.

LEGEND

- B.C.D.R. - BRAZOS COUNTY DEED RECORDS
- B.C.O.P.R. - BRAZOS COUNTY OFFICIAL PUBLIC RECORDS
- B.C.O.R. - BRAZOS COUNTY OFFICIAL RECORDS
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- R.O.W. - RIGHT-OF-WAY
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CURVE CHART					
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LINE TABLE		
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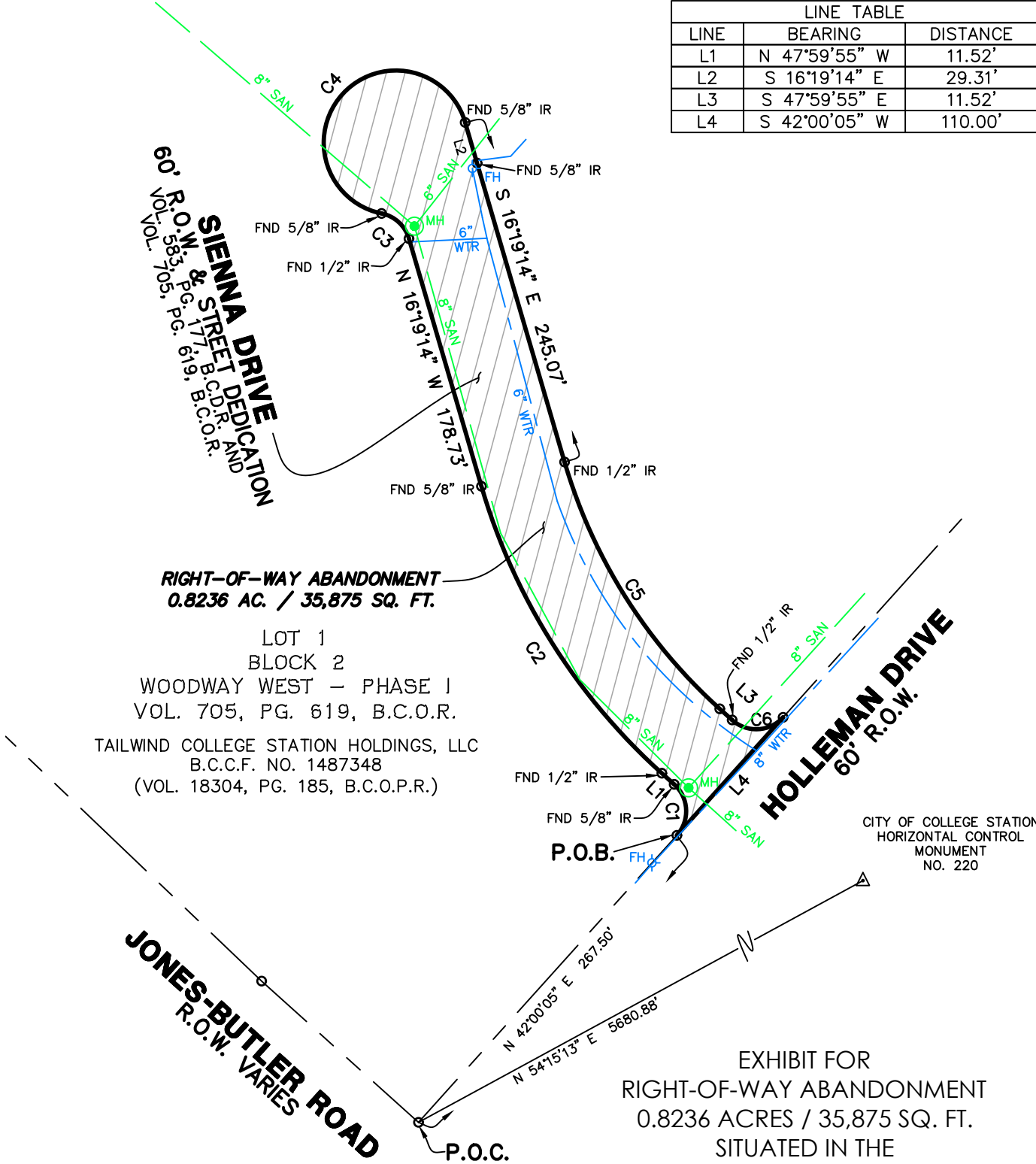
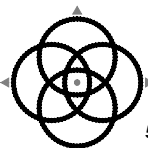


EXHIBIT FOR
RIGHT-OF-WAY ABANDONMENT
0.8236 ACRES / 35,875 SQ. FT.
SITUATED IN THE
CRAWFORD BURNETT LEAGUE, A-7
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FIELD BY:	-	DATE:	04-26-2023
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JOB NO.	58457-ROW Aband-1	REV:	
SHEET 1 OF 2		REV:	



WINDROSE
LAND SURVEYING | PLATTING

5353 W SAM HOUSTON PKWY N, STE 150 | HOUSTON, TX 77041 | 713.458.2281
FIRM REGISTRATION NO. 10108800 | WINDROSESERVICES.COM

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: 
Title: Compliance Supervisor

VERIZON TELEPHONE COMPANY

By: _____
Title: _____

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

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ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By:  _____
Title: Eng. Supervisor

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

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ATMOS ENERGY

By: _____

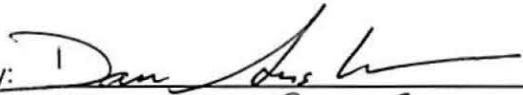
Title: _____

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By:  3.3.2023

Title: SUPERVISOR OPS - Construction

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____

Title: _____

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: _____

Title: _____

BRYAN TEXAS UTILITIES

By: Eric Armke 

Title: Distribution Engineer

Application for Abandonment of a Public Right-of-Way / Easement

Location: 800 Marion Pugh Drive

EXHIBIT NO.4

The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to recent and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X 

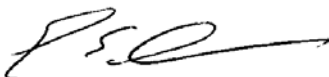
City Engineer
City of College Station

X 

Building Official
City of College Station

X 

Zoning Official
City of College Station

X 

Fire Marshal
City of College Station

X 

Electric Department
City of College Station

X 

Water Services Department
City of College Station

X 

Public Works Director
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: Not Applicable as Tailwind owns all abutting parcels.

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

July 13, 2023

Item No. 9.4.

Sienna Drive - Public Drainage Easement Abandonment

Sponsor: Lucas Harper

Reviewed By CBC: N/A

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning a 0.6922 acre, 25-foot wide Public Drainage Easement abutting Sienna Drive Right-of-Way, said portion lying in Lot 1, Block 2, of the Woodway West Phase 1 Subdivision, according to the replat recorded in Volume 705, Page 619, of the Official Records of Brazos County, Texas.

Relationship to Strategic Goals:

- Core Services and Infrastructure
- Diverse Growing Economy

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

Summary: The public drainage easement (PDE) abandonment is being requested due to an application for abandonment of the adjacent public right-of-way (ROW). The drainage provided for by the easement is internal to the development and will not serve public drainage needs upon abandonment of the associated right-of-way.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Ordinance Exhibit A
3. Vicinity Map
4. Location Map
5. Application

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING THE 0.6922 ACRE, 25 FOOT WIDE PUBLIC DRAINAGE EASEMENT OF SIENNA DRIVE, SAID PORTION LYING IN LOT 1, BLOCK 2, OF THE WOODWAY WEST PHASE 1 SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 705, PAGE 619 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of the 0.6922 acre, 25-foot wide public drainage easement of Sienna Drive, said easement lying in Lot 1, Block 2, of the Woodway West Phase 1 Subdivision, according to the plat recorded in Volume 705, Page 619, of the Official Records of Brazos County, Texas, as described in **Exhibit “A”**, attached hereto (such portion hereinafter referred to as the “public drainage easement”); and

WHEREAS, in order for the public drainage easement to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the public drainage easement described in **Exhibit “A”** attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the public drainage easement will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the public drainage easement.
3. There is no anticipated future public need or use for the public drainage easement.
4. Abandonment of the public drainage easement will not impact access for all public utilities to serve current and future customers.

PART 2: That the public drainage easement as described in **Exhibit “A”** be abandoned and vacated by the City.

PASSED, ADOPTED and APPROVED this 13th day of July, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney



WINDROSE
LAND SURVEYING | PLATTING

Exhibit A

DESCRIPTION OF DRAINAGE EASEMENT ABANDONMENT 0.6922 ACRES OR 30,154 SQ. FT.

A TRACT OR PARCEL CONTAINING 0.6922 ACRES OR 30,154 SQUARE FEET OF LAND SITUATED IN THE CRAWFORD BURNETT LEAGUE, ABSTRACT NO. 7, BRAZOS COUNTY, TEXAS, BEING OUT OF LOT 1, BLOCK 2, REVISED PLAT OF WOODWAY WEST – PHASE 1, MAP OR PLAT THEREOF RECORDED UNDER VOL. 705, PG. 619, BRAZOS COUNTY OFFICIAL RECORDS (B.C.O.R.) ALSO BEING OUT OF A TRACT OF LAND CONVEYED TO TAILWIND COLLEGE STATION HOLDINGS, LLC., AS RECORDED UNDER BRAZOS COUNTY CLERK'S FILE (B.C.C.F.) NO. 1487348, AND BEING ALL OF THAT 25-FOOT DRAINAGE EASEMENT ADJOINING SIENNA DRIVE AS DEPICTED ON SAID REVISED PLAT OF WOODWAY WEST – PHASE 1, WITH SAID 0.6922 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE (NAD 83):

COMMENCING AT THE INTERSECTION OF THE NORTHEAST RIGHT-OF-WAY (R.O.W.) LINE OF JONES BUTLER ROAD (WIDTH VARIES) AND THE NORTHWEST R.O.W. LINE OF HOLLEMAN DRIVE (60 FEET WIDE) FOR THE SOUTH CORNER OF SAID LOT 1, BLOCK 2, FROM WHICH POINT CITY OF COLLEGE STATION MONUMENT NO. 220 BEARS FOR REFERENCE NORTH 54 DEG. 15 MIN. 13 SEC. EAST – 5680.88 FEET;

THENCE, NORTH 42 DEG. 00 MIN. 05 SEC. EAST, WITH THE NORTHWEST R.O.W. LINE OF SAID HOLLEMAN DRIVE, A DISTANCE OF 267.50 FEET TO THE MOST SOUTHERLY CORNER OF SAID SIENNA DRIVE AND THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED TRACT;

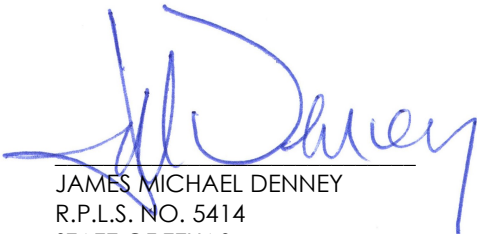
THENCE, OVER AND ACROSS SAID BLOCK 2, ALONG SAID 25-FOOT DRAINAGE EASEMENT, THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

1. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 36.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;
2. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 455.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 251.56 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 248.37 FEET TO A POINT OF TANGENCY;
3. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, A DISTANCE OF 178.73 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;
4. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 75.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 317.02 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 42 DEG. 35 MIN. 14 SEC. EAST, - 128.45 FEET TO A POINT OF TANGENCY;
5. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, A DISTANCE OF 245.07 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;
6. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 345.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 190.75 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 32 DEG. 09 MIN. 34 SEC. EAST, - 188.33 FEET TO A POINT OF TANGENCY;
7. SOUTH 47 DEG. 59 MIN. 55 SEC. EAST, A DISTANCE OF 36.52 FEET TO THE NORTHWEST R.O.W. OF SAID HOLLEMAN DRIVE, THE MOST EASTERLY CORNER OF SAID SIENNA DRIVE, AND THE MOST EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, FOLLOWING THE R.O.W. OF SAID SIENNA DRIVE, THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. WITH A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AND ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 87 DEG. 00 MIN. 05 SEC. WEST – 35.36 FEET TO A POINT OF TANGENCY;
2. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 11.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;
3. WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 204.57 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 201.97 FEET TO A 1/2 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
4. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, PASSING A DISTANCE OF 215.76 FEET A FOUND 5/8 INCH IRON ROD, CONTINUING FOR A TOTAL OF DISTANCE OF 245.07 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
5. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 211.35 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 42 DEG. 35 MIN. 14 SEC. WEST, - 85.64 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF REVERSE CURVE;
6. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 62 DEG. 10 MIN. 55 SEC., AN ARC LENGTH OF 27.13 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEG. 24 MIN. 41 SEC. EAST, - 25.82 FEET TO A POINT OF TANGENCY;

- 7. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, A DISTANCE OF 178.73 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
- 8. WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 237.74 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 32 DEG. 09 MIN. 34 SEC. EAST, - 234.72 FEET TO A 1/2 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
- 9. SOUTH 47 DEG. 59 MIN. 55 SEC. EAST, A DISTANCE OF 11.52 FEET TO A 5/8 INCH IRON ROD FOUND FOR CORNER FOR THE BEGINNING OF A CURVE TO THE RIGHT;
- 10. WITH A CURVE TO RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AN ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 02 DEG. 59 MIN. 55 SEC. EAST – 35.36 FEET TO THE **PLACE OF BEGINNING** AND CONTAINING 0.6922 ACRES OR 30,154 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 58457-DE-ABAND-1, PREPARED BY WINDROSE LAND SERVICES.



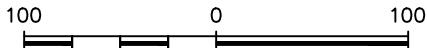
JAMES MICHAEL DENNEY
R.P.L.S. NO. 5414
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



04-26-2023
DATE:
REVISED: 05-25-2023



SCALE: 1" = 100'



LEGEND

B.C.D.R.	—	BRAZOS COUNTY DEED RECORDS	
B.C.O.P.R.	—	BRAZOS COUNTY OFFICIAL PUBLIC RECORDS	
B.C.O.R.	—	BRAZOS COUNTY OFFICIAL RECORDS	
B.C.C.F.	—	BRAZOS COUNTY CLERK'S FILE	
R.O.W.	—	RIGHT-OF-WAY	(
FND	—	FOUND	
IR	—	IRON ROD	
MH	—	MANHOLE	
INL	—	STORMWATER INLET	
STM	—	STORMWATER LINE	

GENERAL NOTES

1. SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABTRACTORS CERTIFICATE MAY DISCLOSE.
2. BEARINGS WERE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE. (NAD83)
3. THIS EXHIBIT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION.
4. THIS EXHIBIT DOES NOT IMPLY TO BE A LAND TITLE SURVEY OF THE SUBJECT PROPERTY.

CURVE CHART

CURVE CHART					
CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C1	455.00'	31°40'41"	251.56'	N 32°09'34" W	248.37'
C2	75.00'	242°10'54"	317.02'	N 42°35'14" E	128.45'
C3	345.00'	31°40'41"	190.75'	S 32°09'34" E	188.33'
C4	25.00'	90°00'00"	39.27'	S 87°00'05" W	35.36'
C5	370.00'	31°40'41"	204.57'	N 32°09'34" W	201.97'
C6	50.00'	242°10'54"	211.35'	S 42°35'14" W	85.64'
C7	25.00'	62°10'55"	27.13'	S 47°24'41" E	25.82'
C8	430.00'	31°40'41"	237.74'	S 32°09'34" E	234.72'
C9	25.00'	90°00'00"	39.27'	S 02°59'55" E	35.36'

LINE TABLE

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 47°59'55" W	36.52'
L2	N 16°19'13" W	178.73'
L3	S 16°19'14" E	245.07'
L4	S 47°59'55" E	36.52'
L5	N 47°59'55" W	11.52'
L6	N 16°19'14" W	245.07'
L7	N 16°19'14" W	215.76'
L8	S 16°19'14" E	178.73'
L9	S 47°59'55" E	11.52'

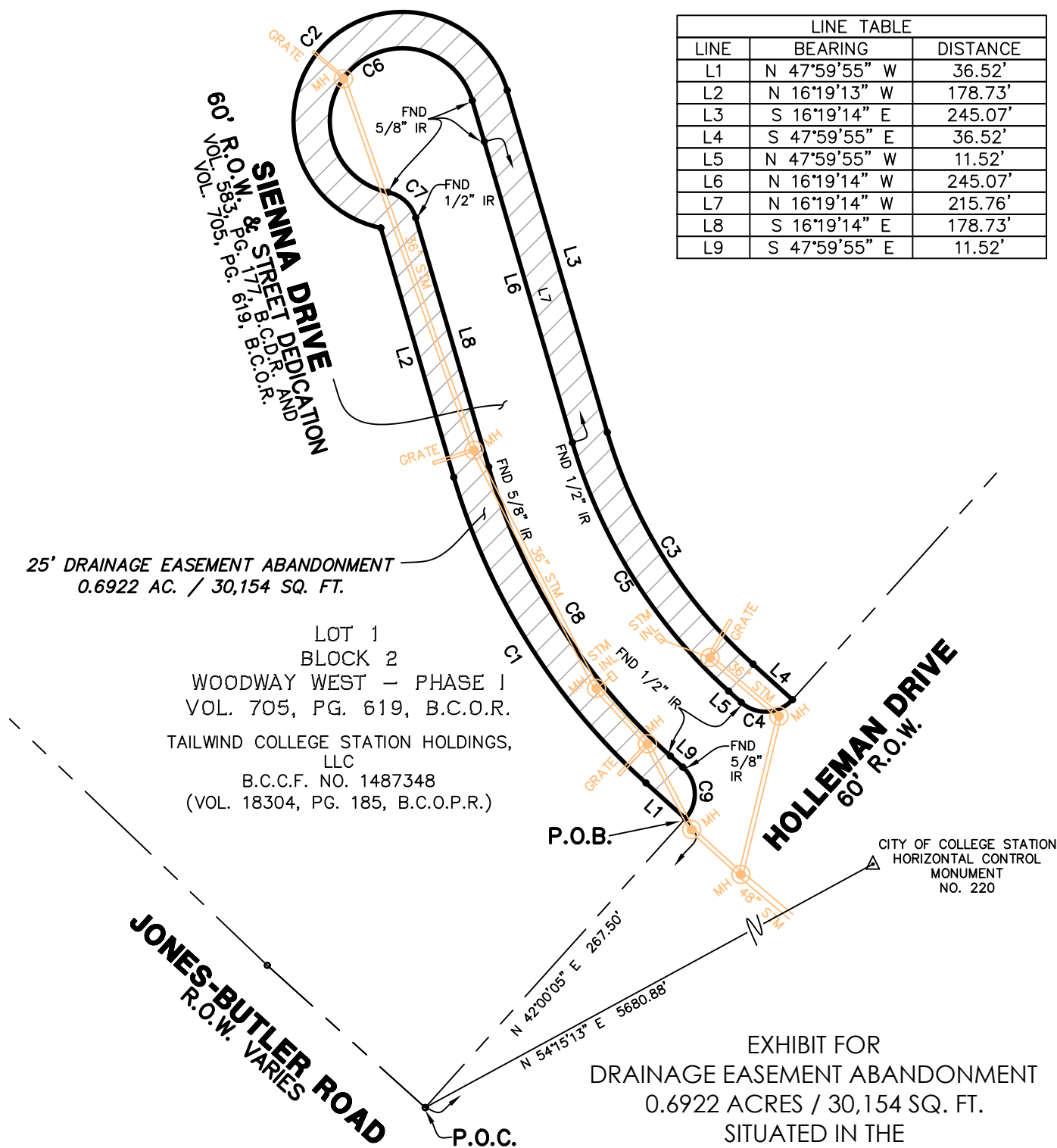
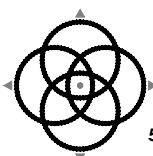


EXHIBIT FOR
DRAINAGE EASEMENT ABANDONMENT
0.6922 ACRES / 30,154 SQ. FT.
SITUATED IN THE
CRAWFORD BURNETT LEAGUE, A-7
BRAZOS COUNTY, TEXAS

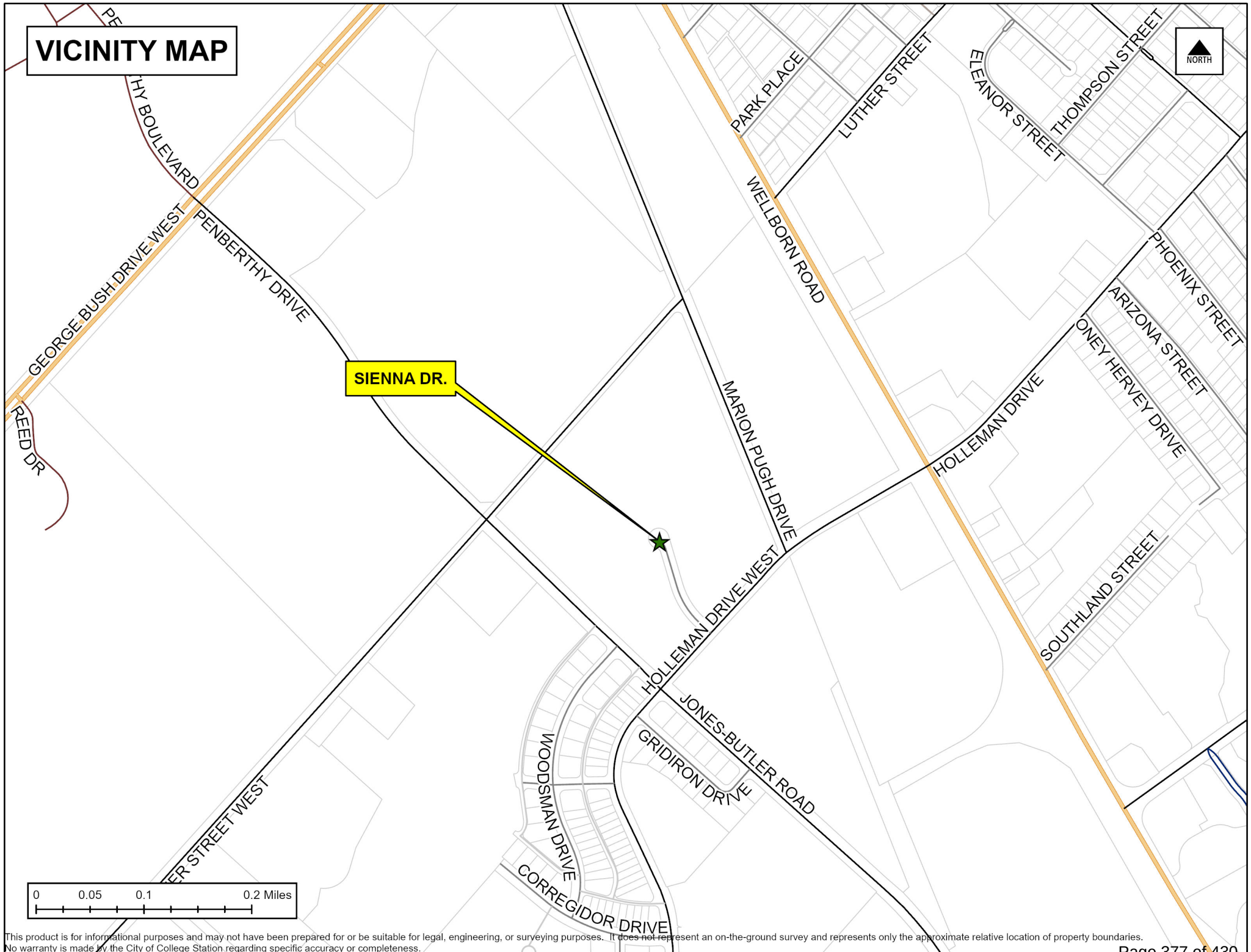
FIELD BY: -	DATE: 04-26-2023
DRAWN BY: LH	REV: 05-25-2023
CHECKED BY: DG	REV:
JOB NO. 58457-DE Aband-1	REV:
SHEET 1 OF 3	REV:



WINDROSE
LAND SURVEYING | PLATTING

5353 W SAM HOUSTON PKWY N, STE 150 | HOUSTON, TX 77041 | 713.458.2281
FIRM REGISTRATION NO. 10108800 | WINDROSESERVICES.COM

VICINITY MAP



LOCATION MAP

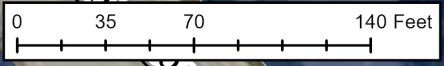


EASEMENT TO BE ABANDONED
0.6922 ACRES

SIENNA DRIVE

HOLLEMAN DRIVE WEST

JONES-BUTTS ROAD



FOR OFFICE USE ONLY

CASE NO.: _____
 DATE SUBMITTED: _____
 TIME: _____
 STAFF: _____

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☐ Abandonment of Public Right-of-Way/Easement Application Fee. (Refer to the Planning and Development Fee Schedule for all applicable fees)
- ☐ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☐ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☐ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☐ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

See image and precise legal description in Exhibit 1. The easement is located in:
 Lot One (1), Block Two(2), of the Revised Plat of Woodway West - Phase I as recorded in Volume 705, Page 619 of the Deed Records of Brazos County, Texas.

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

Name Brian Moser E-mail bmoser@buildcore.net
 Street Address 1544 Greenview Drive SW, Suite 100
 City Rochester State MN Zip Code 55902
 Phone Number (507) 424-2176 Fax Number _____

PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name Tailwind College Station Holdings, LLC E-mail kpierce@thetailwindgroup.com
 Street Address: 530 South Front Street, Suite 100
 City Mankato State MN Zip Code 56001
 Phone Number (507) 322-1200 Fax Number _____

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



Signature and title
 Michael Sather, as Chief Manager of Tailwind College Station Manager, LLC,
 the sole member of Tailwind College Station Holdings, LLC



Date

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name None E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: Tailwind owns all of the property abutting the Sienna Drive right-of-way.

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:

The 25-foot drainage easement along the Sienna Drive right-of-way is surrounded on all sides by either (a) a public road or (b) a parcel of property owned by Tailwind.

8. That there is no current public need or use for the easement or right-of-way because:

The 25-foot drainage easement will be privately maintained.

9. That there is no anticipated future public need or use for the easement or right-of-way because:

See response to Question 8. In addition, Tailwind intends to install a gate around its private property where the Sienna Drive right-of-way currently allows access and the drainage easement will be privately maintained

10. That all public utilities have access to serve current and future customers because:

The site plan provides access for public utilities along other routes.

11. Such public right-of-way/easement has been and is being used as follows:

The Sienna Drive right-of-way with the current 25-foot drainage easement on both sides has merely been used as a point of access to the Property Owner's privately owned parcel.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.



Signature and title

Michael Sather, as Chief Manager of Tailwind College Station Manager, LLC, the sole member of Tailwind College Station Holdings, LLC

3-22-23

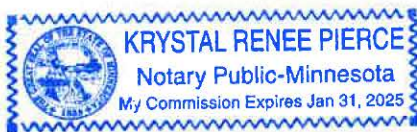
Date

STATE OF ~~TEXAS~~ Minnesota §

COUNTY OF ~~BRAZOS~~ Blue Earth §

ACKNOWLEDGEMENT

Subscribed and sworn to before me, a Notary Public, this 23 day of March, 2023 by Michael Sather, as Chief Manager of Tailwind College Station Manager, LLC, the sole member of Tailwind College Station Holdings, LLC, on behalf of said limited liability company.





Notary Public in and for the
State of Minnesota

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in
LOT ONE (1), BLOCK TWO (2), REVISED PLAT OF WOODWAY WEST - PHASE 1

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.



DESCRIPTION OF DRAINAGE EASEMENT ABANDONMENT
0.6922 ACRES OR 30,154 SQ. FT.

A TRACT OR PARCEL CONTAINING 0.6922 ACRES OR 30,154 SQUARE FEET OF LAND SITUATED IN THE CRAWFORD BURNETT LEAGUE, ABSTRACT NO. 7, BRAZOS COUNTY, TEXAS, BEING OUT OF LOT 1, BLOCK 2, REVISED PLAT OF WOODWAY WEST – PHASE 1, MAP OR PLAT THEREOF RECORDED UNDER VOL. 705, PG. 619, BRAZOS COUNTY OFFICIAL RECORDS (B.C.O.R.) ALSO BEING OUT OF A TRACT OF LAND CONVEYED TO TAILWIND COLLEGE STATION HOLDINGS, LLC., AS RECORDED UNDER BRAZOS COUNTY CLERK’S FILE (B.C.C.F.) NO. 1487348, AND BEING ALL OF THAT 25-FOOT DRAINAGE EASEMENT ADJOINING SIENNA DRIVE AS DEPICTED ON SAID REVISED PLAT OF WOODWAY WEST – PHASE 1, WITH SAID 0.6922 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE (NAD 83):

COMMENCING AT THE INTERSECTION OF THE NORTHEAST RIGHT-OF-WAY (R.O.W.) LINE OF JONES BUTLER ROAD (WIDTH VARIES) AND THE NORTHWEST R.O.W. LINE OF HOLLEMAN DRIVE (60 FEET WIDE) FOR THE SOUTH CORNER OF SAID LOT 1, BLOCK 2, FROM WHICH POINT CITY OF COLLEGE STATION MONUMENT NO. 220 BEARS FOR REFERENCE NORTH 54 DEG. 15 MIN. 13 SEC. EAST – 5680.88 FEET;

THENCE, NORTH 42 DEG. 00 MIN. 05 SEC. EAST, WITH THE NORTHWEST R.O.W. LINE OF SAID HOLLEMAN DRIVE, A DISTANCE OF 267.50 FEET TO THE MOST SOUTHERLY CORNER OF SAID SIENNA DRIVE AND THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED TRACT;

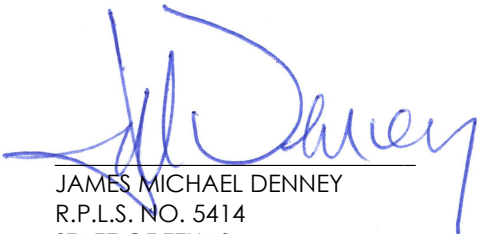
THENCE, OVER AND ACROSS SAID BLOCK 2, ALONG SAID 25-FOOT DRAINAGE EASEMENT, THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

- 1. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 36.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;
- 2. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 455.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 251.56 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 248.37 FEET TO A POINT OF TANGENCY;
- 3. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, A DISTANCE OF 178.73 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;
- 4. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 75.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 317.02 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 42 DEG. 35 MIN. 14 SEC. EAST, - 128.45 FEET TO A POINT OF TANGENCY;
- 5. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, A DISTANCE OF 245.07 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;
- 6. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 345.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 190.75 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 32 DEG. 09 MIN. 34 SEC. EAST, - 188.33 FEET TO A POINT OF TANGENCY;
- 7. SOUTH 47 DEG. 59 MIN. 55 SEC. EAST, A DISTANCE OF 36.52 FEET TO THE NORTHWEST R.O.W. OF SAID HOLLEMAN DRIVE, THE MOST EASTERLY CORNER OF SAID SIENNA DRIVE, AND THE MOST EASTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, FOLLOWING THE R.O.W. OF SAID SIENNA DRIVE, THE FOLLOWING TEN (10) COURSES AND DISTANCES:

- 1. WITH A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AND ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 87 DEG. 00 MIN. 05 SEC. WEST – 35.36 FEET TO A POINT OF TANGENCY;
- 2. NORTH 47 DEG. 59 MIN. 55 SEC. WEST, A DISTANCE OF 11.52 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;
- 3. WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 204.57 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 32 DEG. 09 MIN. 34 SEC. WEST, - 201.97 FEET TO A 1/2 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
- 4. NORTH 16 DEG. 19 MIN. 14 SEC. WEST, PASSING A DISTANCE OF 215.76 FEET A FOUND 5/8 INCH IRON ROD, CONTINUING FOR A TOTAL OF DISTANCE OF 245.07 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
- 5. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 242 DEG. 10 MIN. 54 SEC., AN ARC LENGTH OF 211.35 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 42 DEG. 35 MIN. 14 SEC. WEST, - 85.64 FEET TO A 5/8 INCH IRON ROD FOUND FOR A POINT OF REVERSE CURVE;
- 6. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 62 DEG. 10 MIN. 55 SEC., AN ARC LENGTH OF 27.13 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEG. 24 MIN. 41 SEC. EAST, - 25.82 FEET TO A POINT OF TANGENCY;

- 7. SOUTH 16 DEG. 19 MIN. 14 SEC. EAST, A DISTANCE OF 178.73 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;
- 8. WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 430.00 FEET, A CENTRAL ANGLE OF 31 DEG. 40 MIN. 41 SEC., AN ARC LENGTH OF 237.74 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 32 DEG. 09 MIN. 34 SEC. EAST, - 234.72 FEET TO A 1/2 INCH IRON ROD FOUND FOR A POINT OF TANGENCY;
- 9. SOUTH 47 DEG. 59 MIN. 55 SEC. EAST, A DISTANCE OF 11.52 FEET TO A 5/8 INCH IRON ROD FOUND FOR CORNER FOR THE BEGINNING OF A CURVE TO THE RIGHT;
- 10. WITH A CURVE TO RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90 DEG. 00 MIN. 00 SEC., AN ARC LENGTH OF 39.27 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 02 DEG. 59 MIN. 55 SEC. EAST – 35.36 FEET TO THE **PLACE OF BEGINNING** AND CONTAINING 0.6922 ACRES OR 30,154 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 58457-DE-ABAND-1, PREPARED BY WINDROSE LAND SERVICES.



JAMES MICHAEL DENNEY
R.P.L.S. NO. 5414
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



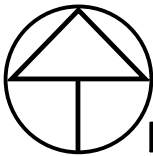
04-26-2023
DATE:
REVISED: 05-25-2023

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

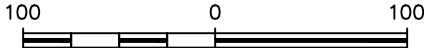
EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.



NORTH

SCALE 1" = 100'



LEGEND

- B.C.D.R. - BRAZOS COUNTY DEED RECORDS
- B.C.O.P.R. - BRAZOS COUNTY OFFICIAL PUBLIC RECORDS
- B.C.O.R. - BRAZOS COUNTY OFFICIAL RECORDS
- B.C.C.F. - BRAZOS COUNTY CLERK'S FILE
- R.O.W. - RIGHT-OF-WAY
- FND - FOUND
- IR - IRON ROD
- MH - MANHOLE
- INL - STORMWATER INLET
- STM - STORMWATER LINE

GENERAL NOTES

- SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE MAY DISCLOSE.
- BEARINGS WERE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE. (NAD83)
- THIS EXHIBIT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION.
- THIS EXHIBIT DOES NOT IMPLY TO BE A LAND TITLE SURVEY OF THE SUBJECT PROPERTY.

CURVE CHART

CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C1	455.00'	31°40'41"	251.56'	N 32°09'34" W	248.37'
C2	75.00'	242°10'54"	317.02'	N 42°35'14" E	128.45'
C3	345.00'	31°40'41"	190.75'	S 32°09'34" E	188.33'
C4	25.00'	90°00'00"	39.27'	S 87°00'05" W	35.36'
C5	370.00'	31°40'41"	204.57'	N 32°09'34" W	201.97'
C6	50.00'	242°10'54"	211.35'	S 42°35'14" W	85.64'
C7	25.00'	62°10'55"	27.13'	S 47°24'41" E	25.82'
C8	430.00'	31°40'41"	237.74'	S 32°09'34" E	234.72'
C9	25.00'	90°00'00"	39.27'	S 02°59'55" E	35.36'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 47°59'55" W	36.52'
L2	N 16°19'13" W	178.73'
L3	S 16°19'14" E	245.07'
L4	S 47°59'55" E	36.52'
L5	N 47°59'55" W	11.52'
L6	N 16°19'14" W	245.07'
L7	N 16°19'14" W	215.76'
L8	S 16°19'14" E	178.73'
L9	S 47°59'55" E	11.52'

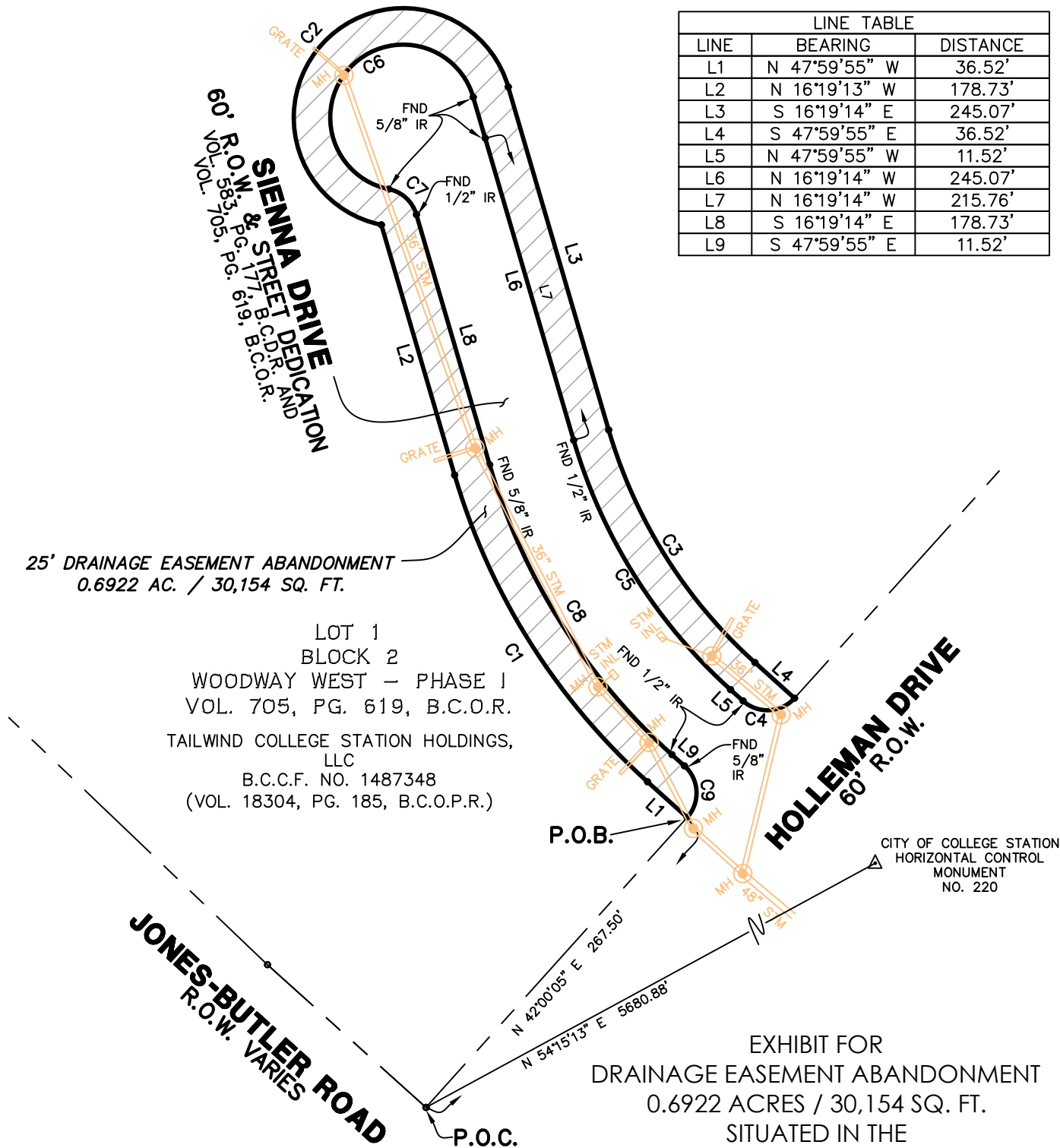
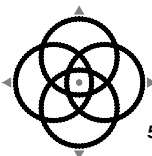


EXHIBIT FOR
DRAINAGE EASEMENT ABANDONMENT
0.6922 ACRES / 30,154 SQ. FT.
SITUATED IN THE
CRAWFORD BURNETT LEAGUE, A-7
BRAZOS COUNTY, TEXAS

FIELD BY:	-	DATE:	04-26-2023
DRAWN BY:	LH	REV:	05-25-2023
CHECKED BY:	DG	REV:	
JOB NO.	58457-DE Aband-1	REV:	
SHEET 1 OF 3		REV:	



WINDROSE
LAND SURVEYING | PLATTING

5353 W SAM HOUSTON PKWY N, STE 150 | HOUSTON, TX 77041 | 713.458.2281
FIRM REGISTRATION NO. 10108800 | WINDROSESERVICES.COM

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: 

Title: Engineer 3

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: _____

Title: _____

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____

Title: _____

VERIZON TELEPHONE COMPANY

By:  _____

Title: Eng. Supervisor _____

SUDDENLINK COMMUNICATIONS

By: _____

Title: _____

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

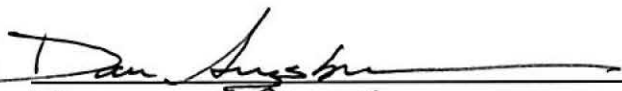
ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By: _____
Title: _____

SUDDENLINK COMMUNICATIONS

By: 
Title: Supervisor OPS - Construction 3.21.23

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____

Title: _____

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: _____

Title: _____

BRYAN TEXAS UTILITIES

By: Eric Armke 

Title: Distribution Engineer

Application for Abandonment of a Public Right-of-Way / Easement

Location: 800 Marion Pugh Drive

EXHIBIT NO.4

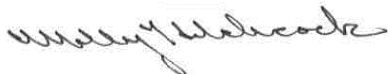
The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to recent and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X 

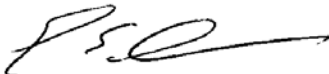
City Engineer
City of College Station

X 

Building Official
City of College Station

X 

Zoning Official
City of College Station

X 

Fire Marshal
City of College Station

X 

Electric Department
City of College Station

X 

Water Services Department
City of College Station

X 

Public Works Director
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 800 Marion Pugh Dr., College Station, TX 77840

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: Not Applicable as Tailwind owns all abutting parcels.

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

July 13, 2023

Item No. 9.5.

Ordinance to Remove Parking On Ponderosa Drive

Sponsor: Emily Fisher, Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance amending Chapter 38 "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, no parking here to corner and no parking any time" by removing parking on the south side of Ponderosa Drive.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Improving Mobility

Recommendation(s): Staff recommends either of the two options presented.

Summary: A business owner concern was received by staff regarding large commercial trucks and trailers parking along Ponderosa Drive, particularly near the intersection with Longmire Drive. Staff investigated the concern and found a number of trucks and other vehicles parked along both sides of the street. At times, trucks were in close proximity to the stop sign at Longmire Drive, decreasing visibility for vehicles on Ponderosa Drive. Concerns about the amount of time trailers had been left in the same space were also raised and staff had noted trailers parked along Ponderosa.

A public meeting was held on May 1, 2023 to collect public input on parking removal along Ponderosa Drive. Several businesses were in attendance as well as a truck driver that utilizes the street for parking. Several concerns were raised, including sight distance at Longmire, the number of crashes at the intersection with Longmire, and the amount of time trucks and trailers are parked. Concerns raised by truck drivers include limited places to park trucks in close proximity to residences. One business does utilize a portion of the street for employee parking near the intersection with SH 6 frontage road.

This item was presented at the June 20, 2023 Council Transportation and Mobility Committee Meeting. The options discussed were a city wide ordinance prohibiting truck parking on public roads, prohibiting parking on the south side of Ponderosa from Longmire to SH 6 frontage road, prohibiting parking on the south side of Ponderosa from Longmire to the first drive way (in front of Party Time Rentals), or prohibiting truck parking from 10 p.m. to 6 a.m. along all of Ponderosa. The committee recommended presenting the two parking prohibitions on the south side of Ponderosa to council for action.

In summary, the two options for the council to consider are:

Option 1 - Remove parking on the south side of Ponderosa from Longmire to SH 6 frontage road

Option 2 - Remove parking on the south side of Ponderosa from Longmire to 280 feet east

Staff is seeking approval of one of the two presented options.

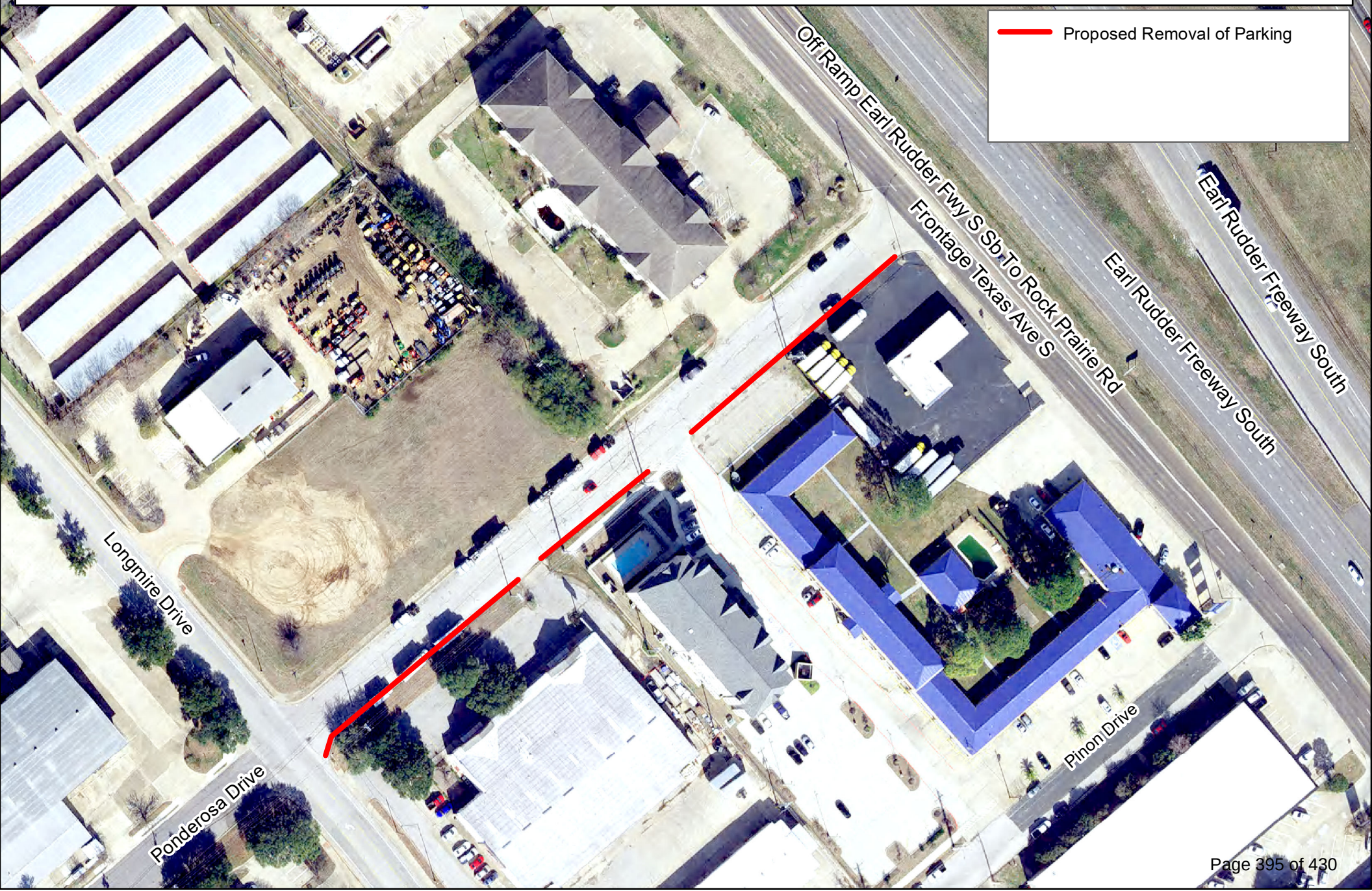
Budget & Financial Summary: The "NO PARKING" signs are planned operation and maintenance expenses accounted for in the Public Works Traffic Operations budget.

Attachments:

1. Ponderosa_No Parking Map OPTION 1
2. Ponderosa Drive Ordinance Form OPTION 1
3. Ponderosa_No Parking Map OPTION 2
4. Ponderosa Drive Ordinance Form OPTION 2

Ponderosa Drive Proposed No Parking

Option #1



Proposed Removal of Parking

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 38, “TRAFFIC AND VEHICLES,” ARTICLE VI “TRAFFIC SCHEDULES,” SECTION 38-1014 “TRAFFIC SCHEDULE XIV, NO PARKING HERE TO CORNER AND NO PARKING AT ANY TIME,” BY REMOVING PARKING ON THE SOUTH SIDE OF PONDEROSA DRIVE BETWEEN THE STATE HIGHWAY 6 FRONTAGE ROAD AND LONGMIRE DRIVE, OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Chapter 38, “Traffic and Vehicles,” Article VI “Traffic Schedules,” Section 38-1014 “Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time,” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** 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 upon a finding of liability thereof shall be deemed liable for a civil offense and punished with a civil penalty of not less than one dollar (\$1.00) and not more than two thousand dollars (\$2,000.00) or upon conviction thereof guilty of a misdemeanor, shall be punished by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00). 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 _____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Chapter 38, “Traffic and Vehicles,” Article VI. “Traffic Schedules”, Section 38-1014 “Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time,” is hereby amended to include as follows:

<i>Traveling on</i>	<i>Between</i>	<i>Travel Direction</i>	
Ponderosa Drive	State Highway 6 Frontage Road and Longmire Drive	East	No parking at Any Time

Ponderosa Drive Proposed No Parking

Option #2



Proposed Removal of Parking

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 38, "TRAFFIC AND VEHICLES," ARTICLE VI "TRAFFIC SCHEDULES," SECTION 38-1014 "TRAFFIC SCHEDULE XIV, NO PARKING HERE TO CORNER AND NO PARKING AT ANY TIME," BY REMOVING PARKING ON THE SOUTH SIDE OF PONDEROSA DRIVE BETWEEN LONGMIRE DRIVE AND 280 FEET EAST OF LONGMIRE DRIVE, OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A"** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** 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 upon a finding of liability thereof shall be deemed liable for a civil offense and punished with a civil penalty of not less than one dollar (\$1.00) and not more than two thousand dollars (\$2,000.00) or upon conviction thereof guilty of a misdemeanor, shall be punished by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00). 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 _____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Chapter 38, “Traffic and Vehicles,” Article VI. “Traffic Schedules”, Section 38-1014 “Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time,” is hereby amended to include as follows:

<i>Traveling on</i>	<i>Between</i>	<i>Travel Direction</i>	
Ponderosa Drive	Longmire Drive and 280 feet east of the intersection with Longmire Drive	East	No parking at Any Time

July 13, 2023
Item No. 9.6.
2022 BVEDC Incentive Compliance

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the 2022 Incentive Compliance Report by the Brazos Valley Economic Development Corporation.

Relationship to Strategic Goals:

- Good Governance
- Diverse & Growing Economy

Recommendation(s): Staff recommend that Council receive and accept the compliance report.

Summary: This item is the annual presentation on project compliance from the Brazos Valley Economic Development Corporation. BVEDC staff, along with representatives of Ryan, LLC, a Texas-based tax services and consulting firm, will be present to provide the report.

Budget & Financial Summary: N/A

Attachments:

1. 2022 Compliance Report - Council Summary



2022 Incentives Compliance Report

July 13, 2023 – City of College Station

Presented By:



Michael Camden
Director
Credits & Incentives



Overview & Executive Summary

- For 2022, six (6) projects under agreement were monitored for performance compliance by the Brazos Valley Economic Development Corporation on behalf of Brazos County, the City of Bryan, and the City of College Station.

Name	Compliance Status	Metric Outstanding	Amount Owed / Not Paid
Axis Pipe & Tube	In Compliance	N/A	30% Personal Property Tax Abatement – Brazos County
Fuji Film (2014)	In Compliance	N/A	\$201,000 Cash Incentive – Brazos County \$57,600 Cash Incentive – City of Bryan \$153,000 Cash Incentive – City of College Station
Fuji Film (2022)	In Compliance	N/A	N/A Until 2026: Cash Incentive – Brazos County N/A Until 2026: Cash Incentive – City of Bryan N/A Until 2026: Cash Incentive – City of College Station
LSPI	In Compliance	N/A	40% Tax Abatement Cash Incentive – Brazos County 40% Tax Abatement Cash Incentive – City of Bryan
Viasat	Not Compliant	Payroll & Employment	30% Chapter 380/381 Cash Incentive – Brazos County – City of Bryan – City of College Station
Wayfair	Not Compliant	Payroll & Employment	N/A: BVEDC Incentives Grants Paid



Overview & Executive Summary

- 2022 report highlights companies across multiple targeted industries with properties valued over **\$522,674,606** and providing more than **1,171** quality jobs with local payrolls in excess of **\$89,668,646**.

2022 Incentives & Combined Impact				
Company	Incentives	Payroll	Property Value 2022	Employment
Axis Pipe & Tube	40% Tax Abatement	\$ 16,627,308.00	\$ 316,317,856	204
Fuji Film (2014)*	\$ 417,600.00	\$ 64,319,141.00	\$ 149,677,329	845
Fuji Film (2022)	-----	\$ 64,319,141.00	\$ 149,677,329	845
LSPI	50% Tax Abatement	\$ 2,517,438.00	\$ 34,685,970	29
Viasat	40% Tax Abatement	-----	\$ 20,454,664	-----
Wayfair	\$ 100,000.00	\$ 6,204,759.00	\$ 1,538,787	93
		\$89,668,646*	\$ 522,674,606*	1,171*

** To avoid duplicating Fuji Film total value between 2014 and 2022 Agreements, county BCAD value included once in total.*



2022 Compliance Report – Axis Pipe & Tube

Incentive:

Brazos County - Tax Abatement			
2013	100%	2018	70%
2014	100%	2019	70%
2015	100%	2020	50%
2016	100%	2021	40%
2017	80%	2022	30%

City of Bryan - Non-Annexation Agreement

During first 3 years of Agreement (2013, 2014 and 2015), no payment to the City. For every year thereafter, the payment is equivalent of 50% of the amount the City would have collected in Ad Valorem tax that year.

Performance

Metrics:

PAYROLL			PROPERTY VALUE		EMPLOYMENT	
	* REQUIRED	ACTUAL	* REQUIRED	BCAD	* REQUIRED	ACTUAL
2013	0	\$37,150	0	\$1,393,920	0	5
2014	0	\$5,176,813	0	\$8,260,230	0	145
2015	0	\$8,396,837	0	\$179,046,540	0	142
2016	\$10,545,000	\$9,562,718	\$120,000,000	\$281,564,050	285	149
2017	\$10,545,000	\$11,472,493	\$120,000,000	\$262,073,740	285	204
2018	\$10,545,000	\$14,957,434	\$120,000,000	\$275,242,110	285	291
2019	\$10,545,000	\$16,844,104	\$120,000,000	\$301,187,830	285	199
2020	\$10,545,000	\$13,169,198	\$120,000,000	\$262,506,253	285	193
2021	\$10,545,000	\$14,340,448	\$120,000,000	\$242,705,373	285	204
2022	\$10,545,000	\$16,627,308	\$120,000,000	\$316,317,856	285	318*

- 2022 performance exceeds contracts' benchmark valuation+salary formula
- *318 is their employee count as of December 31, 2022

2022 Compliance Report – FUJIFILM Diosynth Biotechnologies Texas @ Biocorridor (2014 Agreement)



Incentive:

Brazos County - Cash Incentive				Bryan - Cash Incentive				College Station - Cash Incentive			
2017	\$266.2K	2021	\$207.0K	2017	\$74.0K	2021	\$57.6K	2017	\$196.8K	2021	\$153.0K
2018	\$236.6K	2022	\$207.0K	2018	\$65.8K	2022	\$57.6K	2018	\$174.9K	2022	\$153.0K
2019	\$207.0K	2023	\$147.9K	2019	\$57.6K	2023	\$41.1K	2019	\$153.0K	2023	\$109.3K
2020	\$207.0K			2020	\$57.6K			2020	\$153.0K		

Performance Metrics:

PAYROLL			PROPERTY VALUE		EMPLOYMENT	
	REQUIRED	ACTUAL	REQUIRED	BCAD	REQUIRED	ACTUAL
2015	0	N/A	0	N/A	0	N/A
2016	0	\$7,462,958	0	* \$84,000,000	0	92
2017	0	\$12,000,000	\$70,000,000	\$26,045,160	0	153
2018	\$6,000,000	\$16,800,000	\$70,000,000	\$83,970,590	100	174
2019	\$6,000,000	\$20,800,000	\$70,000,000	\$79,759,250	100	257
2020	\$6,000,000	\$40,500,000	\$70,000,000	\$78,778,248	100	518
2021	\$6,000,000	\$54,900,000	\$70,000,000	\$104,272,717	100	677
2022	\$6,000,000	\$64,319,141	\$70,000,000	\$149,677,329	100	845
2023	\$6,000,000		\$70,000,000		100	

- BCAD 2017 valuation reflected partial facility and only real property – While the Company reported \$73,236,000 improvements (real + personal property), the Company opted not to challenge BCAD 2017 valuation and consequently, 2017 incentives were foregone.
- Since 2018, BCAD reflects the updated valuation of facility complex.



BRAZOS VALLEY
ECONOMIC DEVELOPMENT
CORPORATION

2022 Compliance Report – FUJIFILM Diosynth Biotechnologies Texas @ Biocorridor (2022 Agreement)



Incentive:

Brazos County - Tax Abatement			
2022	0	2026	90%
2023	0	2027	80%
2024	0	2028	70%
2025	0	2028	70%

City of Bryan/College Station 380 Agreements			
Cash Payment (as % of ad valorem taxes assessed/paid)			
2022	0	2025	0
2023	0	2026	90%
2024	0	2027	80%

Performance Metrics:

PAYROLL			PROPERTY VALUE		EMPLOYMENT	
REQUIRED		ACTUAL	REQUIRED	BCAD	REQUIRED	ACTUAL
2022	0	\$64,319,141	0	\$149,677,329	0	845
2023	0		0		0	
2024	0		0		0	
2025	0		\$300,000,000		0	
2026	0		\$300,000,000		0	
2027	0		\$300,000,000		0	
2028	\$60,000,000		\$300,000,000		750	
2029	\$60,000,000		\$300,000,000		750	
2030	\$60,000,000		\$300,000,000		750	

- Commencement of Construction Deadline: January 1, 2023
- Completion of Construction of the Improvements Deadline: January 1, 2025
- 150 New FTE's above the Baseline of 600 for a total of 750



2022 Compliance Report – LSPI



BVEDC Incentive - Paid

- \$31,250 - Bldg Permit
- \$31,250 - CO Issued

CoB 381 Agreement

- \$75K Rebate Development Fees (CO Issued)

Brazos County – Tax Abatement Cash Incentive (as % of ad valorem taxes assessed/paid)

2018	100%	2022	40%
2019	70%	2023	30%
2020	60%	2024	20%
2021	50%	2025	10%

City of Bryan – Tax Abatement Cash Incentive (Application of Tier 1 Percentage / Due to Construction by 12.31.17)

2018	100%	2021	50%	2024	20%
2019	70%	2022	40%	2025	10%
2020	60%	2023	30%		

Performance Metrics:

New PAYROLL			PROPERTY VALUE		New EMPLOYMENT	
	* REQUIRED	ACTUAL	* REQUIRED	BCAD	* REQUIRED	ACTUAL
2016	0	N/A	0	N/A	0	N/A
2017	\$1,500,000	\$1,697,142	0	\$4,489,720	24	28
2018	\$1,500,000	\$2,464,386	\$20,000,000	\$41,962,870	24	59
2019	\$1,500,000	\$1,982,029	\$20,000,000	\$39,367,630	24	31
2020	\$1,500,000	\$2,254,705	\$20,000,000	\$37,826,438	24	25
2021	\$1,500,000	\$2,380,953	\$20,000,000	\$36,560,408	24	32
2022	\$1,500,000	\$2,517,438	\$20,000,000	\$34,685,970	24	29
2023	\$1,500,000		\$20,000,000		24	
2024	\$1,500,000		\$20,000,000		24	
2025	\$1,500,000		\$20,000,000		24	

Contract End Dates

* BVEDC

** County/CoB-1st Tier

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



2022 Compliance Report – Viasat



Incentives:

Brazos County 381 Agreement* and City of Bryan/College Station 380 Agreements			
County and Cities Cash Incentives (as % of ad valorem taxes assessed/paid)		County and Cities Cash Incentives (cont'd) (as % of ad valorem taxes assessed/paid)	
2019	80%	2022	30%
2020	60%	2023	20%
2021	40%	2024	10%

Performance Metrics:

PAYROLL			PROPERTY VALUE		EMPLOYMENT	
	* REQUIRED	ACTUAL	* REQUIRED	BCAD	* REQUIRED	ACTUAL
2016	0	N/A	0	N/A	0	N/A
2017	0	N/A	0	\$1,498,460	0	26
2018	0	\$20,910,000	0	\$12,235,320	0	243
2019	0	\$23,485,933	\$15,000,000	\$22,936,360	0	191
2020	\$17,200,000	\$16,200,000	\$15,000,000	\$22,959,424	280	229*
2021	\$17,200,000	\$10,307,913	\$15,000,000	\$21,263,623	280	120
2022	\$17,200,000	Unknown	\$15,000,000	\$20,454,664	280	Unknown
2023**	\$17,200,000		\$15,000,000		280	
2024***	\$17,200,000		\$15,000,000		280	

Contract End Dates

** County

*** CoB and CoCS

- JAN 19th 2017 groundbreaking
- APR 10th 2018 opening of \$30M facility (\$20M investment requirement)
- * 2020 marks the start of maintaining 280 FTE employees (130 pre-existing and 150 new) and minimum \$17.2M payroll for all FTE employees. Statewide numbers were 262.



2022 Compliance Report – Wayfair



Incentive:

BVEDC Incentives Grant	
MILESTONE	AMOUNT
Lease Execution	\$33,333 Paid
End of 24-mos	\$33,333 Paid
End of 36-mos	\$33,333 Paid

BVEDC-BBC Contribution Agreement

BBC will release to BVEDC three \$16,666.50 tranches that correspond to the company meeting each incentives milestone. All payment tranches were made.

Performance Metrics:

PAYROLL			PROPERTY VALUE		EMPLOYMENT	
	* REQUIRED	ACTUAL	* REQUIRED	BCAD	* REQUIRED	ACTUAL
2016	0	N/A	0	N/A	0	N/A
2017	0	\$10,243,419	\$350,000	\$1,199,940	0	337
2018	\$10,800,000	\$10,957,137	\$350,000	\$1,180,470	300	414
2019	\$10,800,000	\$14,349,920	\$350,000	\$1,227,880	300	396
2020	\$10,800,000	\$15,066,483	\$350,000	\$1,040,510	300	309
2021	\$10,800,000	\$9,953,185	\$350,000	\$1,486,390	300	258
2022	\$10,800,000	\$6,106,979	\$350,000	\$1,538,787	300	93
2023	\$10,800,000		\$350,000		300	

- 1st incentive grant released with \$1.98M investment
- 2nd incentive grant released in July 2018
- 3rd / final incentive grant released in January 2020





2022 Incentives Compliance Report

July 13, 2023 – City of College Station

Thank You

TAB 2

Axis Pipe & Tube



**BRAZOS VALLEY
ECONOMIC DEVELOPMENT
CORPORATION**

**STATEMENT OF COMPLIANCE WITH AGREEMENTS
BETWEEN AXIS PIPE AND TUBE, INC. AND BRAZOS VALLEY ECONOMIC DEVELOPMENT CORPORATION (FORMERLY THE
RESEARCH VALLEY PARTNERSHIP), CITY OF BRYAN, AND BRAZOS COUNTY
FOR ECONOMIC DEVELOPMENT INCENTIVES AND DEVELOPMENT AND TAX ABATEMENT IN BRAZOS COUNTY
REINVESTMENT ZONE TWO (2)**

Company Name: AXIS PIPE AND TUBE, INC.

Agreements: RVP Incentive Agreement – 11/21/2013
Brazos County Development and Tax Abatement Agreement – 11/12/2013
Brazos County DTA Agreement, First Amendment – 7/23/2014
Brazos County DTA Agreement, Second Amendment – 12/29/2015
City of Bryan Non-Annexation Agreement – 4/26/2013
City of Bryan Brazos County EDF Economic Development Agreement – 4/26/2013
City of Bryan Brazos County EDF Economic Development Agreement, First Amendment – 4/27/2016

Employment: Minimum 285 Full-time Employees, by 11/1/2016

Annual Payroll: Minimum \$10,545,000 (Excluding Benefits), by 11/1/2016

Combined Valuation of Facility (Real/Personal Property): Minimum \$120,000,000, by 11/1/2016

AXIS PIPE AND TUBE, INC. acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the property, as called for in the above referenced agreements, have been completed and constructed pursuant to said agreements. Owner further certifies that it is in compliance with every other applicable term of said agreements.

Signed this 30 day of January, 20 23.

Owner (Sign): 

Name (Print): Gerardo Garcia

Title (Print): Director of Operations

Brazos CAD Property Search

Page 1 of 1 - Total: 9 (0.007 seconds)

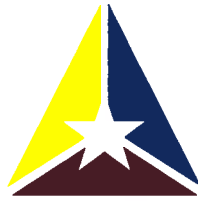
1 - 9 of 9 items						
<u>Property ID</u>	<u>Geo ID</u>	<u>Type</u>	<u>Owner Name</u>	<u>Owner ID</u>	<u>Address</u>	<u>Appraised</u>
376031	003800-0012-0050	Real	AXIS PIPE & TUBE INC	265975	MUMFORD RD TX	\$15,100
382759	000010000020	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$46,111,669
382761	000010000030	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$513,090
382763	000010000040	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$108,139,725
405845	120000-0001-0010	Real	AXIS PIPE & TUBE INC	265975	1451 LOUIS E MIKULIN (PVT) RD TX	\$7,959,762
409427	000010000055	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$13,493,944
409428	000010000065	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$114,378
415925	000010000056	Personal	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$4,968,896

436108	0000100000102	Real	AXIS PIPE AND TUBE INC	317402	1451 LOUIS E MIKULIN (PVT) RD TX	\$135,001,292
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1 - 9 of 9 items

TAB 3

FUJIFILM Diosynth Biotechnologies



**BRAZOS VALLEY
ECONOMIC DEVELOPMENT
CORPORATION**

**STATEMENT OF COMPLIANCE WITH AGREEMENTS
BETWEEN FUJIFILM DIOSYNTH BIOTECHNOLOGIES TEXAS, LLC AND BRAZOS COUNTY, CITY OF BRYAN, AND CITY
OF COLLEGE STATION**

Company Name: FUJIFILM Diosynth Biotechnologies Texas, LLC

Agreements: Brazos County Chapter 381 Economic Development Agreement – 5/25/2022
City of Bryan Ch. 380 Economic Development Agreement – 01/24/2022
City of College Station Ch. 380 Economic Development Agreement – 12/09/2021

Construction of Improvements: Commence by 1/1/2023 and Complete by 1/1/2025

Employment: Minimum 150 Full-time Employees, by 12/31/2028

Average Annual Salary Minimum \$80,000, by 12/31/2028

Investment in Facility Real and/or Personal Property: Minimum \$300,000,000, by 1/1/2025

FUJIFILM DIOSYNTH BIOTECHNOLOGIES TEXAS, LLC acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the property, as called for in the above referenced agreements, are in progress and on target to be completed timely and will be pursuant to said agreements. Owner further certifies that it is in compliance with every other applicable term of said agreements.

Signed this 9th day of February, 2023.

By:

Name (Print):

Gerry Farrell

Title (Print):

COO

Brazos CAD Property Search

Page 1 of 1 - Total: 25 (0.017 seconds)

1 - 25 of 25 items						
<u>Property ID</u>	<u>Geo ID</u>	<u>Type</u>	<u>Owner Name</u>	<u>Owner ID</u>	<u>Address</u>	<u>Appraised</u>
409377	283700-0000-0010	Real	FUJIFILM DIOSYNTH BIOTECHNOLOGIES TEXAS LLC	280419	3939 FUJIFILM WAY TX	\$2,169,288
434863	604870-2501-0030	Real	FUJIFILM DIOSYNTH BIOTECHNOLOGIES TEXAS LLC	280419	FUJIFILM WAY TX	\$1,213,908
366366	892013-0000-1396	Personal	FUJIFILM NORTH AMERICA CORPORATION	263493	VARIOUS LOCATIONS TX	\$36,600
366948	604870-2301-0010	Real	BRYAN TRADITIONS LP	96578	FUJIFILM WAY TX	\$1,324,224
397768	892016-0000-1648	Personal	FUJIFILM NORTH AMERICA CORPORATION	263493	VARIOUS LOCATIONS TX	\$14,169
415947	001450000010	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$13,621,748
415948	001450000030	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$14,947,522
415949	001450000200	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$23,805,465
422898	001450000031	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$413,027
422899	001450000032	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$14,761
422900	001450000033	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$99,920
422901	001450000201	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$549,274

422902	001450000202	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$0
422903	001450000203	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$61,641,147
422904	001450000204	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$39,215
422905	001450000205	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$44,770,229
426900	604870-2402-0000	Real	BIOCORRIDOR PROPERTY OWNERS ASSOC INC	268406	FUJIFILM WAY TX	\$920
433074	001450000011	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	100 DISCOVERY DR (TAMU) TX	\$1,145,001
436110	0014500003002	Real	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$117,188,522
439621	001450000400	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	21930 KATHY FLEMING RD TX	\$54,472,659
439622	001450000500	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	8872 HSC PKY TX	\$3,538,651
439714	001450000233	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$177,677
442437	0014500003012	Real	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3940 BIOMEDIC... WAY TX	\$16,702,711
443051	0014500003022	Real	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$0
443052	001450000303	Personal	FUJIFILM DIOSYNTH BIOTECH TX LLC	341784	3939 BIOMEDIC... WAY TX	\$0

1 - 25 of 25 items

TAB 4

Lubrizol Specialty Products Inc. (LSPI)



**BRAZOS VALLEY
ECONOMIC DEVELOPMENT
CORPORATION**

**STATEMENT OF COMPLIANCE WITH AGREEMENTS
BETWEEN LUBRIZOL SPECIALTY PRODUCTS, INC. AND BRAZOS VALLEY ECONOMIC DEVELOPMENT
CORPORATION (FORMERLY THE RESEARCH VALLEY PARTNERSHIP), CITY OF BRYAN, AND BRAZOS
COUNTY FOR INCENTIVES AND TAX ABATEMENT IN REINVESTMENT ZONE THIRTY TWO (32)**

Company Name: LUBRIZOL SPECIALTY PRODUCTS, INC.

Agreements: RVP Economic Development Agreement – 12/16/2015
City of Bryan Tax Abatement and Chapter 380 Incentive Agreement – 12/6/2015
Brazos County Chapter 381 Economic Development Agreement – 6/28/2016

Employment: Minimum 24 New Full-time Employees, by 12/31/2017

Annual Payroll: Minimum \$1,500,000, by 12/31/2017

Annual Payroll (Excluding Bonuses & Benefits): Minimum \$1,150,000, by 12/31/2017

Combined Valuation of Real & Personal Property:
Minimum \$25,000,000 above 2016 Base Year Value (\$231,380), by 1/1/2018
Minimum \$20,000,000 above 2016 Base Year Value (\$231,380), by 1/1/2019 thereafter

LUBRIZOL SPECIALTY PRODUCTS, INC. acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the property, as called for in the above referenced agreements, have been completed and constructed pursuant to said agreements. Owner further certifies that it is in compliance with every other applicable term of said agreements.

Signed this 10 day of January, 2023.

By: 

Name (Print): Michael W. Brown

Title (Print): CEO

Brazos CAD Property Search

Page 1 of 1 - Total: 11 (0.008 seconds)

1 - 11 of 11 items						
<u>Property ID</u>	<u>Geo ID</u>	<u>Type</u>	<u>Owner Name</u>	<u>Owner ID</u>	<u>Address</u> ↑	<u>Appraised</u>
413994	892018-0000-0802	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	11130 DEMOCRAT RD TX	\$73,617
97407	899600-0000-0736	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	1331 INDEPENDENCE AVE TX	\$29,027,270
98979	146000-0301-0010	Real	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	1331 INDEPENDENCE AVE TX	\$5,405,223
99993	899700-0000-1060	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	1331 INDEPENDENCE AVE TX	\$67,709
414048	892018-0000-0816	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	1710 FOUNTAIN AVE TX	\$125,916
99066	146000-0505-0080	Real	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	1835 SHILOH AVE TX	\$148,126
393572	892016-0000-0074	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	3913 ELAINE DR TX	\$10,921,483
394014	146000-0301-0061	Real	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	722 INDUSTRIAL BLVD TX	\$8,534,844
415907	892018-0000-1376	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	722 INDUSTRIAL BLVD TX	\$26,151,126
98984	146000-0301-0060	Real	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	820 INDUSTRIAL BLVD TX	\$1,170,693
427800	892020-0000-0198	Personal	LIQUIDPOWER SPECIALTY PRODUCTS INC	333133	8301 N SH-6 TX	\$6,212,802
1 - 11 of 11 items						

TAB 5

Viasat



BRAZOS VALLEY
ECONOMIC DEVELOPMENT
CORPORATION

**STATEMENT OF COMPLIANCE WITH AGREEMENTS
BETWEEN VIASAT, INC. AND CITY OF BRYAN AND CITY OF COLLEGE STATION FOR ECONOMIC
DEVELOPMENT INCENTIVES IN BRAZOS COUNTY, TEXAS**

Company Name: VIASAT, INC.

Agreements: City of College Station Chapter 380 Agreement – 11/15/2016
City of Bryan Chapter 380 Agreement – 12/15/2016
County of Brazos Chapter 381 Agreement – 12/17/2016

Construction of Improvements: Commence by 1/31/2017 and Complete by 4/30/2018 ✓

Employment: Minimum 150 New Full-time Employees, by 12/31/2020 } no *
Minimum Total of 280 Full-time Employees, by 12/31/2020 }

Average Annual Salary: Minimum \$64,500 (New Full-time Employees), by 12/31/2020 ✓

Annual Payroll: Minimum \$9,600,000 (New Full-time Employees), by 12/31/2020 } no *
Minimum Total of \$17,200,000 (All Full-time Employees), by 12/31/2020 }

Combined New Real and Personal Property Investment: Minimum \$20,000,000, by 4/30/2018 ✓

Combined Valuation of Facility (Real/Personal Property): Minimum \$15,000,000, by 1/1/2019 ✓

VIASAT, INC. acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the Property, as called for in the above referenced agreements, have been completed and constructed pursuant to said agreements. Owner further certifies that it is in compliance with every other applicable term of said agreements.

Signed this 12 day of April, 20 23.

BY: [Signature]

Name (Print): Gary Dorris

Title (Print): Director, Real Estate

* note - we have not met the employment or payroll projections.
As a result we are not claiming entitlement to any incentives
for 2023 calendar year.

Brazos CAD Property Search

Page 1 of 1 - Total: 7 (0.007 seconds)

1 - 7 of 7 items						
<u>Property ID</u>	<u>Geo ID</u>	<u>Type</u>	<u>Owner Name</u>	<u>Owner ID</u>	<u>Address</u> ↑	<u>Appraised</u>
99532	899700-0000-0556	Personal	VIASAT INC	322997	2908 FINFEATHER RD TX	\$309,287
420765	892019-0000-0440	Personal	VIASAT INC	322997	3902 S TRADITIONS DR TX	\$2,241,879
405919	604870-1011-0010	Real	LEVINE INVESTMENTS LIMITED PARTNERSHIP &	342421	3902 S TRADITIONS DR TX	\$18,212,785
432972	892020-0000-0388	Personal	VIASAT INC	322997	8382 JONES RD TX	\$673,947
413723	103800-0307-0360	Real	60-JONES ASSOCIATES LTD	217267	8382 JONES RD TX	\$1,623,650
355753	892010-0000-1770	Personal	VIASAT INC (CPE)	270127	VARIOUS LOCATIONS TX	\$110,000
355754	892010-0000-1772	Personal	VIASAT INC (CPE)	270127	VARIOUS LOCATIONS TX	\$110,000
1 - 7 of 7 items						

TAB 6

Wayfair



**STATEMENT OF COMPLIANCE WITH AGREEMENT
BETWEEN WAYFAIR, INC. AND BRAZOS VALLEY ECONOMIC DEVELOPMENT CORPORATION (FORMERLY THE
RESEARCH VALLEY PARTNERSHIP) FOR ECONOMIC DEVELOPMENT INCENTIVES IN BRAZOS COUNTY, TEXAS**

Company Name: WAYFAIR, INC.

Agreement: RVP Economic Development Agreement – 1/25/2016

Employment: Minimum 300 Full-time Employees, by 12/31/2018

Annual Payroll: Minimum \$10,800,000, by 12/31/2018

Investment in Facility Personal Property: Minimum \$1,000,000, by 4/30/16

Valuation of Facility Personal Property: Minimum \$350,000, commencing 1/1/2017

WAYFAIR, INC. acting by and through its duly authorized representatives (the "Owner"), hereby certifies any improvements on the Property, as called for in the above referenced agreements, have been completed and constructed pursuant to said agreements. Owner further certifies that it is in compliance with every other applicable term of said agreements.

Signed this ____26____ day of ____January____, 2023 ____.

DocuSigned by:
BY Matthew L. Hooks
733F863BAA8F467...

Name (Print): ____Matthew L. Hooks____

Title (Print): ____Director, Real Estate____

Brazos CAD Property Search

Page 1 of 1 - Total: 2 (0.005 seconds)

1 - 2 of 2 items						
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401945	892017-0000-0014	Personal	WAYFAIR LLC	328960	3101 UNIVERSI... DR E TX	\$1,538,787
106748	491200-0201-0010	Real	ICP FULLER UDE LLC	367498	3101 UNIVERSI... DR E TX	\$8,011,435
1 - 2 of 2 items						